



Investments by EU companies in non-EU countries – monitoring for further risk assessment

In summary, it is evident that non-European foreign investments strengthen prosperity and growth in Europe. There are also many existing instruments, such as export control instruments, for monitoring critical technologies or key industries. The broad scope of the proposed monitoring not only restricts economic freedom but also hinders innovation, thereby enforcing discriminatory practices by third countries. Instead of new bureaucratic requirements, it would be necessary to more effectively integrate existing regulations and monitoring tools in order to improve the conditions of the EU – especially by reducing overregulation – as an attractive investment location.

Foreign investments are essential for securing prosperity in Europe

The European Commission's intention to strengthen the resilience of the European economy as part of a comprehensive European strategy for economic security is commendable. However, any planned measurements should also take into account all potential negative economic consequences and must not lead to ineffective bureaucratic hurdles. Foreign investments are a crucial part of economic activity, contributing to asset diversification, higher returns, and thus to economic growth and employment in the investment countries. They also promote international trade and economic cooperation, which are vital pillars for securing long-term prosperity in Europe. Non-European foreign investments are often necessary to ensure and enhance supply capability through diversification at internationally competitive conditions, or to take into account local specifications close to the customers. Many countries additionally require significant value creation within the country (localization/local content requirements) from companies participating in public tenders. This is particularly an increasing burden for companies in the field of medical devices as well as analytical, bio, and laboratory technology, which we represent.

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It is understandable that the loss of valuable knowledge and critical technology due to geopolitical developments can pose a security risk for Europe, and therefore, there is a desire to protect against this. However, these areas are already regulated and controlled very strictly, for example through export controls on EU-level. The need for more protection should not further impair entrepreneurial freedom and lead to additional, excessive bureaucratic burdens for European companies, which are already a significant competitive disadvantage in many areas and especially put pressure on Small and Medium Sized Enterprises (SMEs). The EU Commission should consider this aspect in all decisions regarding additional bureaucratic requirements and reporting obligations.

Impact assessment

Very likely negative economic consequences are retaliatory measures by third countries, which could restrict or block market access for European companies in certain countries. In the current economically challenging situation in many EU countries, it is important to set growth impulses through all channels, with free trade negotiations being an effective key tool. Therefore, global opening and equal access to markets and investment locations must be a top priority.

SPECTARIS is fundamentally very critical of the introduction of state audits of European foreign investments in the form of direct investments (so-called outbound investment screening), as this is a further encroachment on entrepreneurial freedom of action and represents a further step towards state-controlled foreign trade.

Scope

Regarding the activities and technologies that might be focused on, the scope should be narrowly limited and clearly defined. A precise definition of terms and boundaries must be established to ensure clear and transparent application. Should the work on this project continue, it would be important to provide a review tool that transparently clarifies whether a company's activities will fall under the regulation. Previous similar laws (e.g., Dual-Use Regulation) have shown unclear boundaries and definitions of the scope which became a major challenge for companies. This should be avoided from the outset.

The Commission's proposal also allows for the possibility that member states monitor the knowledge transfer in research cooperations and the transfer of highly specialized professionals, which represents an infringement on the personal freedom of movement of European companies and their employees, consequently further restricting companies' innovation capabilities. Another critical point is data protection – how will the collected data be used, and who will have access to it, will be crucial questions. Transparency regarding data usage and the protection of privacy in information exchange must be a top priority.

Which countries? Even though certain countries are not excluded at this time, the Commission proposes that member states should prioritize their monitoring based on their own risk assessment of certain countries. This risk assessment should consider the past behavior of the respective countries and the potential of the technology for war or conflict situations, human rights violations, or the use of weapons. This definition is very vague, and the question of target countries remains unclear and blurry - not only in terms of which countries should be focused on but also how a selection of countries can be made. Ultimately, the Commission's proposal would lead to monitoring of foreign investments in all third countries, not just in regions that could pose a security risk. This therefore brings a high risk of countermeasures by third countries (in the fields of market access or investment restrictions, exclusion from public contracts, etc.).

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Which data? The Commission suggests that member states should review transactions that were completed before January 1, 2019. We clearly oppose retrospective data collection, as this would lead to high internal workload for companies, which are already subject to a large number of reporting obligations. Therefore, existing data sources of the EU member states should first be analyzed to determine if the data already captured is sufficient for a risk assessment before involving companies.

SPECTARIS is the German industry association for optics, photonics, analytical and medical technology based in Berlin. The association represents 400 predominantly medium-sized German companies. The consumer optics (ophthalmic optics), photonics, medical technology and analytical, biotechnology and laboratory technology sectors generated a total turnover of around 84 billion euros in 2022 and employed around 342,000 people.

*SPECTARIS – German Industry Association for Optics, Photonics,
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