



Plenary sitting

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PROPOSAL FOR A UNION ACT

submitted under Rule 46(2) of the Rules of Procedure

on the screening of foreign investment in strategic sectors

Daniel Caspary (PPE), Manfred Weber (PPE), Tokia Saïfi (PPE), Iuliu Winkler (PPE), Salvatore Cicu (PPE), Franck Proust (PPE), Godelieve Quisthoudt-Rowohl (PPE), Viviane Reding (PPE), Andreas Schwab (PPE), Adam Szejnfeld (PPE)

Proposal for a Union act on the screening of foreign investment in strategic sectors

The European Parliament,

- having regard to Article 225 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Article 5 of the Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament¹,
 - having regard to Rule 46(2) of its Rules of Procedure,
- A. whereas the European Union is one of the most open economies in the world, and whereas it is essential to ensure fair competitiveness for European companies;
- B. whereas freedom of investment is a core principle for the European Union and its Member States; whereas non-EU investors have, in principle, the right to make direct investments within the EU; whereas, however, there is a lack of reciprocity in the openness of third countries, where EU investors often have only limited access and meet various hurdles which reduce the possibilities of investment;
- C. whereas the playing field is even less level if such investment is subsidised by state bodies;
- D. whereas, in some cases, non-EU investment can lead to the acquisition of entire European companies as part of strategic industrial policies, potentially causing significant damage to the EU economy, particularly in sensitive areas as regards security or industrial policy;
- E. whereas EU law gives Member States the right to prohibit foreign investments that threaten public security and public order; whereas additional protection at EU level based on economic criteria, with reference to the Commission's expertise, is needed when an investor acquires a sufficient share of a company to wield economic influence; whereas such a screening mechanism must follow clearly defined and transparent criteria in order not to inadvertently dissuade foreign investors from going ahead with legitimate, market-driven bids;
- F. whereas national instruments already existing in some Member States cannot guarantee reciprocity and fair competitiveness; whereas it is therefore necessary and important to adopt a common European approach on this matter;
- G. whereas this proposal is without prejudice to the Commission's commitment to negotiate for EU investments to have equal access to third countries in order to create a level playing field, and for strong provisions that restrict state-subsidised investments in multilateral and bilateral negotiations on investment agreements;

¹ OJ L 262, 7.10.2005, p. 1.

1. Considers that an intervention to lay down rules governing this matter at EU level is needed when the envisaged direct investment by the third country does not comply with market rules or is facilitated by state subsidies, resulting in a likely market disturbance, or when similar investment opportunities are not offered, whereby European companies are not permitted to make equivalent investments in the home country of the potential investor;
2. Requests the Commission to submit, (by ...) on the basis of Article 207 of the Treaty of the Functioning of the European Union, a proposal for an act on this matter and without prejudice to existing bilateral and multilateral agreements;
3. Believes that such a proposal should: extend the scope of existing protections to strategic sectors such as energy, transport, telecommunications, health and water; establish a principle of reciprocity in the EU's investment policy; and provide for the establishment of a European Committee on Foreign Investment, tasked with reviewing, investigating and controlling sensitive foreign investments;
4. Instructs its President to forward this resolution to the Commission, the Council and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

Freedom of investment is a core principle for the EU. However, too often EU investors face unnecessary hurdles in third countries. Furthermore, the playing field is even less level if foreign investment in the EU is subsidised by state bodies. Member States can restrict foreign investment that threatens public security and order, but national instruments cannot guarantee fair competition and similar investment opportunities. The EU has therefore need of additional protection when a foreign investor acquires a significant part of a company, leading to economic influence, particularly in sensitive sectors as regards energy, transport and telecommunications. In parallel, the Commission should continue to negotiate for EU investments to have equal access to third countries in order to create a level playing field in multilateral, bilateral and investments agreements. Taking these elements into account, the signatories ask the Commission to present a legislative proposal on this matter on the basis of Article 207 TFEU.