



Mr. Valdis Dombrovskis
Executive Vice-President
of the European Commission
European Commission
Rue de la Loi 200
B-1049, Brussels
BELGIUM

14 July 2023

Dear Executive Vice-President,

I am writing to you in the context of the public consultation for the evaluation and possible revision of the current EU framework for the screening of investments into the Union. In addition to our reply to the questionnaire, we would like to share with you our broader position and suggestions.

A balanced and proportionate instrument

Over the past two years, in an increasingly complex environment from a geopolitical and geoeconomic perspective, the EU's FDI screening framework has contributed to ensuring that legitimate security and public order objectives are respected, while the EU continues to remain open to FDI. Making sure that this balance is maintained in a revised FDI screening framework is key. This is a fundamental premise for the European business community as the Regulation becomes an important tool in the context of protecting the economic security of the EU, including by promoting the EU's economic base and competitiveness.

Creating value through improved processes

Since the current FDI screening framework has entered into force, we have gained a better understanding of FDI in the EU – in terms of volume, sectoral and geographical distribution. This information is crucial in identifying risks and taking the necessary measures to address them.

In this respect, the cooperation mechanism established in the Regulation works. However, its effectiveness could be further improved. What we observe, for instance, is that the level of information shared within the cooperation mechanism is uneven, very much depending on whether a Member State has or has not a screening mechanism in place. This needs to be rectified. BusinessEurope is of the view that all EU member States should establish an FDI screening mechanism, provided that these are better coordinated among the Member States, in line with uniform criteria introduced in the Regulation, for instance as discussed in the section below.

When it comes to the notification process under the cooperation mechanism, we consider worth considering whether the involvement of the Commission could be further



supported in cases where EU critical assets are involved, for instance during investigations. Having said that and given that national security remains a competence of the Member States, we continue to support that the ultimate screening decision lies with the Member States competent authorities.

Maintaining investment confidence

One area where we believe that harmonization can be achieved is the screening process itself. The current Regulation already sets a number of – design – criteria that national mechanisms should follow, including on transparency, confidentiality of commercially sensitive information, setting up timelines in which the screening process takes place, or the possibility to seek recourse against screening decisions. However, even if these criteria are generally respected by Member States, the procedures vary significantly in practice, especially when it comes to timelines and transparency. These are important elements for investors who need to have a better understanding of the different systems and anticipate the screening process. We understand that these concerns become particularly prominent in cases where an investment is taking place in different EU Member States, therefore it has to go through different screening mechanisms.

More specifically on transparency, we would like to note that the European Commission's annual report on the implementation of the Regulation helps by offering the general picture on FDI screening in the EU. Nevertheless, it should be complemented by national reports. When it comes to national reports the level of information provided is also unequal. In this respect, we would welcome the introduction of criteria that could help standardize national reports.

To conclude, BusinessEurope supports the process of revising the EU's framework of screening of FDIs into the Union and we hope that the European Commission will find our suggestions useful. We would be happy to discuss further with you and your Services.

Yours sincerely,

Markus J. Beyrer