

EN
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Answer given by Ms Malmström
on behalf of the Commission
(30.1.2018)

The Interinstitutional Agreement in force¹ requires the Commission to carry out impact assessments of its legislative initiatives which are expected to have significant economic, environmental or social impacts. The Commission considers that the proposal for a regulation establishing a framework for screening of foreign direct investment into the EU² will primarily have an impact on preserving the security and public order of the EU through the establishment of a framework for cooperation. Given the context with regard to Foreign Direct Investment (FDI) that raises concerns for security or public order of the EU or its Member States, the Commission decided exceptionally to make a proposal without an impact assessment. The proposal, which limits itself to establishing a framework for enabling screening and for exchange of information, would not result in any conflicts between the implementation of Member States' national screenings, and the Commission exercising its right to issue an opinion, as the final decision regarding a specific FDI stays with a Member State concerned. This approach, together with the sense of urgency, justifies the choice made by the Commission not to carry out an impact assessment.

To further inform the debate, the Commission in the Communication "Welcoming foreign direct investment while protecting essential interests"³ committed to carrying out by the end of 2018 further in-depth analysis of foreign direct investment flows into the EU.

The Commission considers that existing instruments in other policy areas are not suitable for enabling Member States' screening on the grounds of security and public order, nor to establish and implement a cooperation mechanism as foreseen by the proposed regulation.

¹ Interinstitutional Agreement of 13 April 2016 on Better Law-Making, paragraph 13

² COM(2017) 487 final

³ COM(2017) 494 final