



29.1.2018

## **DRAFT OPINION**

of the Committee on Industry, Research and Energy

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council  
establishing a framework for screening of foreign direct investments into the  
European Union  
(COM(2017)0487 – C8-0309/2017 – 2017/0224(COD))

Rapporteur: Reinhard Bütikofer

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## SHORT JUSTIFICATION

Your rapporteur supports the overall objectives and the main elements of the proposal for Regulation to establish a framework for the screening by the Member States and the Commission of the Foreign Direct Investments (FDI) originating from third-countries in the EU. Although FDI are often an opportunity for the EU's economy, there can also be some instances where allowing certain investments can bear a risk to the Union's and Member State's security and public order.

The EU is far from speaking with a single voice on foreign investment in Europe, thus streamlining the convergences, where possible, will be a crucial first step in formulating solid and complementary policy positions at EU level. It will enable the EU to have a common response to the rapidly evolving and increasingly complex investment landscape while at the same time positioning the EU in line with other global trade and investment partners that already operate FDI screening mechanisms.

Setting up a fully functioning coordination framework across the EU will however be a long-term endeavour, as Member States have today different approaches, some having no screening mechanism in place at all. Your rapporteur therefore supports that the establishment of such a screening mechanism by the Member States should remain voluntary, as put forward in the Commission proposal, while on the other hand enabling those countries that perform such a screening to cooperate more closely. In addition your rapporteur believes that there is a need to streamline the information processes, while at the same time reduce the administrative burdens for all the Member States.

The amendments and clarification proposal include:

- Clarifying the definition of foreign investor with regards to its ownership and effective control, as the location of an undertaking does not necessarily reveal from where the investment is effectively coming from;
- In line with screening frameworks established across OECD countries, enlarge the non-exhaustive list of areas of critical technologies, infrastructure and sectors that may be taken into consideration and on which potential foreign investment may have an effects on grounds of security or public order,
- Possibility of enabling screening mechanisms of the Member States and the Commission to be activated by Trade Unions, taking example from the current system in the United States;
- Possibility for the European Parliament to request the activation of the cooperation mechanism for projects and programmes of Union interest;
- Ensure that the Commission performs its screening on relevant projects and programmes of Union interest financed under the current, but also the future, Multi-Annual Financial Frameworks;
- To limit the possible misuse or abuse of such a framework by ensuring that Member States provide justified explanations on how a foreign direct investment planned in

another Member State is likely to affect their security or public order, as well as by strengthening the coordination function of the Commission;

- The introduction of an Investment Screening Coordination Group where Member States that have a screening a mechanism in place would exchange information and opinions of ongoing screening by Member States and the Commission;
- Reduce burden of information requirements on the Member States and set the reporting requirements to every three years after two years from the entry into force of the Regulation;

## AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on International Trade, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation

##### Recital 7

*Text proposed by the Commission*

(7) It is important to provide legal certainty and to **ensure** EU wide **coordination and** cooperation by establishing a framework for the screening of foreign direct investment in the Union on grounds of security or public order. This is without prejudice to the sole responsibility of the Member States for the maintenance of national security.

*Amendment*

(7) It is important to provide legal certainty and to **aim at** EU wide cooperation by establishing a framework for the screening of foreign direct investment in the Union on grounds of security or public order. This is without prejudice to the sole responsibility of the Member States for the maintenance of national security **and public order**.

Or. en

### Amendment 2

#### Proposal for a regulation

##### Recital 8

*Text proposed by the Commission*

(8) The framework for the screening of foreign direct investment should provide the Member States and the Commission with the means to address risks to security or public order in a comprehensive manner,

*Amendment*

(8) The framework for the screening of foreign direct investment should provide the Member States and the Commission with the means to address risks to security or public order in a comprehensive manner,

and to adapt to changing circumstances, whilst *maintaining the necessary flexibility for* Member States to screen foreign direct investments on grounds of security and public order taking into account their individual situations and national circumstances.

and to adapt to changing circumstances, whilst *fully safeguarding the prerogatives of the* Member States to screen foreign direct investments on grounds of security and public order taking into account their individual situations and national circumstances.

Or. en

### Amendment 3

#### Proposal for a regulation Recital 9

*Text proposed by the Commission*

(9) *A broad range of* investments which establish or maintain lasting and direct links between investors from third countries and undertakings carrying out an economic activity in a Member State should be covered.

*Amendment*

(9) Investments which establish or maintain lasting and direct links between investors from third countries and undertakings carrying out an economic activity in a Member State should be covered, *to the extent they relate to security and public order.*

Or. en

### Amendment 4

#### Proposal for a regulation Recital 12

*Text proposed by the Commission*

(12) In determining whether a foreign direct investment may affect security or public order, Member States and the Commission should be able to consider all relevant factors, including the effects on critical infrastructure, technologies, including key enabling technologies, and inputs which are essential for security or the maintenance of public order, and the disruption, loss or destruction of which would have a significant impact in a

*Amendment*

(12) In determining whether a foreign direct investment may affect security or public order, Member States and the Commission should be able to consider all relevant factors, including the effects on critical infrastructure, technologies, including key enabling technologies, and inputs which are essential for security or the maintenance of public order, and the disruption, loss or destruction of which would have a significant impact in a

Member State or in the Union. In that regard, Member States and the Commission should also be able to take into account whether a foreign investor is controlled directly or indirectly (e.g. through significant funding, including subsidies) by the government of a third country.

Member State or in the Union. In that regard, Member States and the Commission should also be able to take into account whether a foreign investor is controlled directly or indirectly (e.g. through significant funding, including subsidies) by the government of a third country *or whether the foreign direct investment could lead to a monopolistic structure.*

Or. en

## Amendment 5

### Proposal for a regulation

#### Recital 13

##### *Text proposed by the Commission*

(13) It is appropriate to lay down the essential elements of the procedural framework for the screening of foreign direct investment by Member States to allow investors, the Commission and other Member States to understand how such investments are likely to be screened and to ensure that these investments are screened in a transparent manner and that they are non-discriminatory between third countries. Those elements should at least include the establishment of timeframes for the screening and the possibility for foreign investors to seek judicial redress of screening decisions.

##### *Amendment*

(13) It is appropriate to lay down the essential elements of the procedural framework for the screening of foreign direct investment by Member States to allow investors, the Commission and other Member States to understand how such investments are likely to be screened and to ensure that these investments are screened in a transparent manner and that they are non-discriminatory between third countries. Those elements should at least include the establishment of timeframes for the screening and the possibility for foreign investors to seek judicial redress of screening decisions. *The Member States may also allow trade unions to request the activation of the screening mechanisms.*

Or. en

## Amendment 6

### Proposal for a regulation

#### Recital 14

*Text proposed by the Commission*

(14) A mechanism which enables Member States to cooperate and assist each other where a foreign direct investment in one Member State may affect the security or public order of other Member States should be set up. Member States should be able to provide comments to ***a Member State in which the investment is planned or has been completed, irrespective of whether the Member States providing comments or the Member States in which the investment is planned or has been completed maintain a screening mechanism or are screening the investment. The comments of Member States should also be forwarded to the Commission.*** The Commission should also have the possibility, where appropriate, to issue ***an opinion*** to the Member State in which the investment is planned ***or has been completed, irrespective of whether this Member State maintains a screening mechanism or is screening the investment and irrespective of whether other Member States have provided comments.***

*Amendment*

(14) A mechanism which enables Member States ***maintaining screening mechanisms*** to cooperate and assist each other where a foreign direct investment in one Member State may affect the security or public order of other Member States should be set up. Member States should be able to provide comments to ***the Commission on investments undergoing screening in other Member States. The Commission should then forward all comments to the Member State where the investment is planned. The Commission should also have the possibility, where appropriate, to issue comments to the Member State in which the investment is planned. Based on the comments received, the Commission may request to discuss planned investments in the framework of the Investment Screening Coordination Group.***

Or. en

## **Amendment 7**

### **Proposal for a regulation**

#### **Recital 15**

*Text proposed by the Commission*

(15) Furthermore, the Commission should ***have the possibility to*** screen foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. This would give the Commission a tool to protect projects and programmes which serve the Union as whole and represent an important contribution to its economic

*Amendment*

(15) Furthermore, the Commission should screen foreign direct investments likely to affect projects and programmes of Union interest on grounds of security or public order. This would give the Commission a tool to protect projects and programmes which serve the Union as whole and represent an important contribution to its economic growth, jobs

growth, jobs and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical infrastructure, critical technologies or critical inputs. For greater clarity, an indicative list of projects or programmes of Union interest in relation to which foreign direct investment can be subject to a screening by the Commission should be listed in an Annex.

and competitiveness. This should include in particular projects and programmes involving a substantial EU funding or established by Union legislation regarding critical infrastructure, critical technologies or critical inputs. For greater clarity, an indicative list of projects or programmes of Union interest in relation to which foreign direct investment can be subject to a screening by the Commission should be listed in an Annex.

Or. en

## Amendment 8

### Proposal for a regulation Recital 15 a (new)

*Text proposed by the Commission*

*Amendment*

***(15a) The European Parliament should have the possibility to request from the Commission the activation of the cooperation mechanism for projects and programmes of Union interest on grounds of security or public order. The Commission should take utmost account of the European Parliament's position and provide explanations in case it is not taken into account.***

Or. en

## Amendment 9

### Proposal for a regulation Recital 16

*Text proposed by the Commission*

*Amendment*

(16) Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public

(16) Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public

order, the Commission should **have the possibility to** address an opinion to the Member States in which such investment is planned **or completed** within a reasonable timeframe. The Member States should take **utmost** account of the opinion and provide an explanation to the Commission if they do not follow this opinion, in compliance with their duty of sincere cooperation under Article 4(3) TEU. The Commission should also have the possibility to request from those Member States the information necessary for its screening of such investment.

order, the Commission should address an opinion to the Member States in which such investment is planned within a reasonable timeframe. The Member States should take account of the opinion and provide an explanation to the Commission if they do not follow this opinion, in compliance with their duty of sincere cooperation under Article 4(3) TEU. The Commission should also have the possibility to request from those Member States the information necessary for its screening of such investment.

Or. en

## Amendment 10

### Proposal for a regulation

#### Recital 17

##### *Text proposed by the Commission*

(17) In order to facilitate the cooperation with other Member States and the screening of foreign direct investment by the Commission, Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening mechanisms on a regular basis. **For the same reason**, Member States that do not have a screening mechanism should also report on the foreign direct investments that took place in their territory, on the basis of the information available to them.

##### *Amendment*

(17) In order to facilitate the cooperation with other Member States and the screening of foreign direct investment by the Commission, Member States should notify their screening mechanisms and any amendment thereto to the Commission, and should report on the application of their screening mechanisms on a regular basis. **However**, Member States that do not have a screening mechanism should also report on the foreign direct investments that took place in their territory **only when they pertain to projects and programmes of Union interest**, on the basis of the information available to them. **All reporting obligations should be applicable from ... [two years after entry into force of this Regulation].**

Or. en

## Amendment 11

### Proposal for a regulation Recital 18

*Text proposed by the Commission*

(18) To that end, it is also important to ensure a minimum level of information and coordination with regard to foreign direct investments falling under the scope of this Regulation in all Member States. ***This information should be made available by the Member States in which the foreign direct investment is planned or has been completed upon request of the Member States or of the Commission.*** Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned ***or completed*** investment, including, when available, information about subsidies granted by third countries.

*Amendment*

(18) To that end, it is also important to ensure a minimum level of information and coordination with regard to foreign direct investments falling under the scope of this Regulation in all Member States. Member States in which the foreign direct investment is planned ***should endeavour to make this information available*** upon request of the Commission ***or the Investment Screening Coordination Group***. Relevant information includes aspects such as the ownership structure of the foreign investor and the financing of the planned investment, including, when available, information about subsidies granted by third countries.

Or. en

## Amendment 12

### Proposal for a regulation Recital 19

*Text proposed by the Commission*

(19) The communication and cooperation at Member State and Union level should be enhanced through the establishment of contact points for the screening of foreign direct investments in each Member State.

*Amendment*

(19) The communication and cooperation at Member State and Union level should be enhanced through the establishment of contact points for the screening of foreign direct investments in each Member State, ***as well as through the establishment of an Investment Screening Coordination Group. The group should be formed of representatives of Member States that maintain screening mechanism and may serve as a platform to exchange views and information and to assist each other on foreign direct investment. The group may also consider***

*investments planned in Member States that do not maintain a screening mechanism and those Member States should be invited to the meetings of the group.*

Or. en

## **Amendment 13**

### **Proposal for a regulation**

#### **Recital 21**

*Text proposed by the Commission*

(21) No later than **three** years after the entry into force of this Regulation, the Commission should present to the European Parliament and the Council a report on the application of this Regulation. Where the report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal.

*Amendment*

(21) No later than ... [**five** years after the entry into force of this Regulation], **and every five years thereafter**, the Commission should present to the European Parliament and the Council a report on the application of this Regulation. Where the report proposes modifying the provisions of this Regulation, it may be accompanied, where appropriate, by a legislative proposal.

Or. en

## **Amendment 14**

### **Proposal for a regulation**

#### **Recital 21 a (new)**

*Text proposed by the Commission*

*Amendment*

**(21a) In order to amend or supplement non-essential elements of the provisions of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the indicative list of the projects and programmes of Union interest referred to in Article 3(3) and listed in Annex 1. It is**

*of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>1a</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.*

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<sup>1a</sup> OJ L 123, 12.5.2016, p. 1.

Or. en

## Amendment 15

### Proposal for a regulation Article 1 – paragraph 1

#### *Text proposed by the Commission*

This Regulation establishes a framework for the screening by the Member States *and the Commission of foreign direct investments in the Union* on the grounds of security or public order.

#### *Amendment*

This Regulation establishes a framework for the screening *of foreign direct investment in the Union* by the Member States on the grounds of security or public order *and sets out the role of the Commission in such screening.*

Or. en

## Amendment 16

### Proposal for a regulation Article 2 – paragraph 1 – point 2

*Text proposed by the Commission*

2. 'foreign investor' means a natural person of a third country or an undertaking of a third country intending to make or having made a foreign direct investment;

*Amendment*

2. 'foreign investor' means a natural person of a third country or an undertaking ***effectively controlled or owned by nationals*** of a third country, intending to make or having made a foreign direct investment;

Or. en

**Amendment 17**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 6**

*Text proposed by the Commission*

6. 'undertaking of a third country' means an undertaking constituted or otherwise organised under the laws of a third country.

*Amendment*

6. 'undertaking of a third country' means an undertaking constituted or otherwise organised under the laws of a third country ***or an undertaking effectively controlled or owned by nationals of a third country.***

Or. en

**Amendment 18**

**Proposal for a regulation**

**Article 3 – paragraph 2**

*Text proposed by the Commission*

2. The Commission ***may*** screen foreign direct investments that are likely to affect projects or programmes of Union interest on the grounds of security or public order.

*Amendment*

2. The Commission ***shall*** screen foreign direct investments that are likely to affect projects or programmes of Union interest on the grounds of security or public order.

Or. en

## Amendment 19

### Proposal for a regulation

#### Article 3 – paragraph 3

*Text proposed by the Commission*

3. Projects or programmes of Union interest shall include *in particular* those projects and programmes which involve a substantial amount or a significant share of EU funding, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs. An indicative list of projects or programmes of Union interest is included in Annex 1.

*Amendment*

3. Projects or programmes of Union interest shall include those projects and programmes which involve a substantial amount or a significant share of EU funding *under current and future Multiannual Financial Frameworks*, or which are covered by Union legislation regarding critical infrastructure, critical technologies or critical inputs. An indicative list of projects or programmes of Union interest is included in Annex 1.

Or. en

## Amendment 20

### Proposal for a regulation

#### Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

**3a** *The Commission is empowered to adopt delegated acts in accordance with Article 13a in order to amend projects and programmes listed in Annex I.*

Or. en

## Amendment 21

### Proposal for a regulation

#### Article 4 – paragraph 1 – indent 1

*Text proposed by the Commission*

- critical infrastructure, including energy, transport, communications, data storage, space or financial infrastructure, as

*Amendment*

- critical infrastructure, including energy, *water*, transport, communications *and the media*, data storage, space, *health services, research* or financial

well as sensitive facilities;

infrastructure, as well as sensitive facilities;

Or. en

## Amendment 22

### Proposal for a regulation

#### Article 4 – paragraph 1 – indent 2

##### *Text proposed by the Commission*

- critical technologies, including artificial intelligence, robotics, semiconductors, technologies with potential dual use applications, cybersecurity, space or nuclear technology;

##### *Amendment*

- critical technologies, including artificial intelligence, robotics, semiconductors, ***advanced materials, critical raw materials, nanotechnologies, biotechnologies, medical technologies,*** technologies with potential dual use applications, ***defence,*** cybersecurity, ***aerospace and*** space or nuclear technology;

Or. en

## Amendment 23

### Proposal for a regulation

#### Article 4 – paragraph 2

##### *Text proposed by the Commission*

In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may take into account whether the foreign investor is controlled by the government of a third country, including through significant funding.

##### *Amendment*

In determining whether a foreign direct investment is likely to affect security or public order, Member States and the Commission may take into account whether the foreign investor is controlled by the government of a third country, including through significant funding, ***or whether the foreign direct investment could lead to a monopolistic structure.***

Or. en

## Amendment 24

### Proposal for a regulation Article 6 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. Trade unions may be allowed to request to the competent authorities of the Member States the activation of their screening mechanisms.**

Or. en

## Amendment 25

### Proposal for a regulation Article 7 – title

*Text proposed by the Commission*

*Amendment*

Notification by Member States of screening mechanisms and **annual** reporting

Notification by Member States of screening mechanisms and reporting

Or. en

## Amendment 26

### Proposal for a regulation Article 7 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall notify to the Commission their existing screening mechanisms by [...] (30 days of the entry into force of this Regulation) at the latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism at the latest.

1. Member States shall notify to the Commission their existing screening mechanisms by [...] **90** days of the entry into force of this Regulation at the latest. Member States shall notify to the Commission any amendment to an existing screening mechanism or any newly adopted screening mechanism within 30 days of entry into force of the screening mechanism at the latest.

## Amendment 27

### Proposal for a regulation

#### Article 7 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. Member States that maintain screening mechanisms shall provide the Commission with **an annual** report on the application of their screening mechanisms. For each reporting period, the report shall include in particular information on:

*Amendment*

2. **By ... [2 years after the entry into force of this Regulation], and every three years thereafter,** Member States that maintain screening mechanisms shall provide the Commission with **a** report on the application of their screening mechanisms. For each reporting period, the report shall include in particular information on:

Or. en

## Amendment 28

### Proposal for a regulation

#### Article 7 – paragraph 2 – point a

*Text proposed by the Commission*

(a) **foreign direct investments screened and undergoing screening;**

*Amendment*

**Deleted**

Or. en

*Justification*

*The aim is to reduce the administrative burden for the Member States. This information will already be provided to the Commission (provision Article 8 paragraph 1) who will be able to aggregate the data.*

## Amendment 29

### Proposal for a regulation

#### Article 7 – paragraph 2 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) screening decisions regarding projects and programmes of Union interest;**

Or. en

### **Amendment 30**

#### **Proposal for a regulation**

#### **Article 7 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

**(d) the sectors, origin, and value of foreign direct investment screened and undergoing screening.**

**Deleted**

Or. en

#### *Justification*

*The aim is to reduce the administrative burden for the Member States. This information will already be provided to the Commission (provision Article 8 paragraph 1) who will be able to aggregate the data.*

### **Amendment 31**

#### **Proposal for a regulation**

#### **Article 7 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. Member States that do not maintain screening mechanisms shall provide the Commission with **an annual** report covering foreign direct investments that took place in their territory, on the basis of information available to them.

3. **By ... [2 years after the entry into force of this Regulation], and every three years thereafter,** Member States that do not maintain screening mechanisms shall provide the Commission with **a** report covering foreign direct investments that took place in their territory **when these pertain to projects and programmes of Union interest**, on the basis of information available to them.

## Amendment 32

### Proposal for a regulation

#### Article 8 – title

*Text proposed by the Commission*

Cooperation mechanism

*Amendment*

Cooperation mechanism *for Member States maintaining a screening mechanisms.*

Or. en

## Amendment 33

### Proposal for a regulation

#### Article 8 – paragraph 1

*Text proposed by the Commission*

1. Member States shall inform the Commission *and the other Member States* of any foreign direct investments that are undergoing screening within the framework of their screening mechanisms, within 5 working days from the start of the screening. As part of the information, and when applicable, the screening Member States shall endeavour to indicate whether *it considers* that the foreign direct investment undergoing screening is likely to fall within the scope of Regulation (EC) No 139/2004.

*Amendment*

1. Member States shall inform the Commission of any foreign direct investments that are undergoing screening within the framework of their screening mechanisms, within 5 working days from the start of the screening. As part of the information, and when applicable, the screening Member States shall endeavour to indicate whether *they consider* that the foreign direct investment undergoing screening is likely to fall within the scope of Regulation (EC) No 139/2004. *The Commission shall then share such information with other Member States that maintain a screening mechanism within 5 working days from its receipt.*

Or. en

## Amendment 34

### Proposal for a regulation

#### Article 8 – paragraph 2

*Text proposed by the Commission*

2. Where *a* Member *State considers* that a foreign direct investment planned *or completed* in another Member State is likely to affect *its* security or public order, *it may* provide *comments to* the Member State *where* the foreign direct investment is planned *or has been completed*. *The* comments *shall be forwarded to the Commission in parallel*.

*Amendment*

2. Where *one or more* Member *States consider* that a foreign direct investment planned in another Member State is likely to affect *their* security or public order, *they shall inform the Commission within 10 working days*. *Those Member States shall provide exhaustive explanations of how the foreign direct investment planned in another Member State is likely to affect their security or public order*. *The Commission shall inform within 10 working days* the Member State *in which* the foreign direct investment is planned *of all* comments *received as well as those Member States maintaining a screening mechanism*.

Or. en

## Amendment 35

### Proposal for a regulation

#### Article 8 – paragraph 3

*Text proposed by the Commission*

3. Where the Commission considers that a foreign direct investment is likely to affect security or public order in one or more Member States, it may issue *an opinion* addressed to the Member State in which the foreign direct investment is planned *or has been completed*. The Commission may *issue an opinion* irrespective of whether other Member States have provided comments.

*Amendment*

3. Where the Commission considers that a foreign direct investment is likely to affect security or public order in one or more Member States, it may issue *comments* addressed to the Member State in which the foreign direct investment is planned. The Commission may *provide any comments* irrespective of whether other Member States have provided *any* comments.

Or. en

## Amendment 36

### Proposal for a regulation Article 8 – paragraph 4

*Text proposed by the Commission*

4. The Commission *or a Member State which duly considers that a foreign direct investment is likely to affect its security or public order* may request from the Member State where the foreign direct investment is planned *or has been completed, any information necessary to provide comments referred to in paragraph 2, or to issue the opinion referred to in paragraph 3.*

*Amendment*

4. *On basis of the comments provided under paragraph 2 and 3, the Commission may request additional information as referred to in Article 10 from the Member State where the foreign direct investment is planned. Additionally, the Commission may request the issue to be discussed in the framework of the Investment Screening Coordination Group referred to in Article 12a within 30 days.*

Or. en

## Amendment 37

### Proposal for a regulation Article 8 – paragraph 5

*Text proposed by the Commission*

5. *Comments pursuant to paragraphs 2 or opinions pursuant to paragraph 3 shall be addressed to the Member State where the foreign direct investment is planned or has been completed within a reasonable period of time, and in any case no later than 25 working days following receipt of the information referred to in paragraphs 1 or 4. In cases where the opinion of the Commission follows comments from other Member States, the Commission shall have 25 additional working days for issuing the opinion.*

*Amendment*

*deleted*

Or. en

## Amendment 38

### Proposal for a regulation Article 8 – paragraph 6

*Text proposed by the Commission*

6. The Member States where the foreign direct investment is planned ***or has been completed*** shall give due consideration to the comments of the other Member States referred to in paragraph 2 and ***to the opinion*** of the Commission referred to in paragraph 3.

*Amendment*

6. The Member States where the foreign direct investment is planned shall ***in their final decision*** give due consideration to the comments of the other Member States referred to in paragraph 2 and of the Commission referred to in paragraph 3 ***as well as to comments expressed within the framework of the Investment Screening Coordination group referred to in paragraph 4.***

Or. en

## Amendment 39

### Proposal for a regulation Article 8 – paragraph 7

*Text proposed by the Commission*

7. Cooperation between Member States pursuant to this Article shall take place through the contact points referred to in Article 12.

*Amendment*

7. Cooperation between Member States pursuant to this Article shall take place through the ***Investment Screening Coordination Group referred to in Article 12a and the*** contact points referred to in Article 12.

Or. en

## Amendment 40

### Proposal for a regulation Article 9 – title

*Text proposed by the Commission*

***Framework for Commission screening***

*Amendment*

***Cooperation mechanism for projects or programmes of Union interest***

#### **Amendment 41**

##### **Proposal for a regulation Article 9 – paragraph 1**

*Text proposed by the Commission*

1. Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission *may* issue an opinion addressed to the Member State where the foreign direct investment is planned *or has been completed*.

*Amendment*

1. Where the Commission considers that a foreign direct investment is likely to affect projects or programmes of Union interest on grounds of security or public order, the Commission *shall* issue an opinion addressed to the Member State where the foreign direct investment is planned.

Or. en

#### **Amendment 42**

##### **Proposal for a regulation Article 9 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Trade unions may request the Commission to screen foreign direct investment affecting project and programmes of Union interest.***

Or. en

#### **Amendment 43**

##### **Proposal for a regulation Article 9 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***1b. The European Parliament may request the activation of the cooperation mechanism for projects and programmes***

*of Union interest on grounds of security or public order. The Commission shall take utmost account of the European Parliament's position and provide an explanation in case it is not taken into account.*

Or. en

## Amendment 44

### Proposal for a regulation Article 9 – paragraph 2

*Text proposed by the Commission*

2. The Commission may request from the Member State where the foreign direct investment is planned *or has been completed any* information *necessary to issue the opinion referred to in paragraph 1.*

*Amendment*

2. The Commission may request *additional information as referred to in Article 10* from the Member State where the foreign direct investment is planned. *When requesting such information, the Commission shall explain how security and public order may be affected by the foreign direct investment planned or under consideration.*

Or. en

## Amendment 45

### Proposal for a regulation Article 9 – paragraph 5

*Text proposed by the Commission*

5. The Member States where the foreign direct investment is planned *or has been completed* shall take *utmost* account of the Commission's opinion and provide an explanation to the Commission in case its opinion is not followed.

*Amendment*

5. The Member States where the foreign direct investment is planned shall take account of the Commission's opinion and provide an explanation to the Commission in case its opinion is not followed. *The Commission shall share this explanation with the other Member States.*

Or. en

## Amendment 46

### Proposal for a regulation Article 10 – title

*Text proposed by the Commission*

Information *requirements*

*Amendment*

Information *exchange*

Or. en

## Amendment 47

### Proposal for a regulation Article 10 – paragraph 1

*Text proposed by the Commission*

1. Member States shall ensure that the information requested by the Commission *and other Member States* pursuant to Articles 8(4) and 9(2) is made available *to the Commission and the requesting Member States* without undue delay.

*Amendment*

1. Member States shall *endeavour to* ensure that the information requested by the Commission *or the Investment Screening Coordination Group* pursuant to Articles 8(4) and 9(2) is made available without undue delay.

Or. en

## Amendment 48

### Proposal for a regulation Article 10 – paragraph 2 – introductory part

*Text proposed by the Commission*

2. The information referred to in paragraph 1 of this Article *shall* include *in particular*:

*Amendment*

2. The information referred to in paragraph 1 of this Article *may* include:

Or. en

## Amendment 49

### Proposal for a regulation

#### Article 10 – paragraph 2 – point a

*Text proposed by the Commission*

(a) The ownership structure of the foreign investor and of the undertaking in which the foreign direct investment is planned *or has been completed*, including information on the ultimate controlling shareholder or shareholders;

*Amendment*

(a) The ownership structure of the foreign investor and of the undertaking in which the foreign direct investment is planned, including information on the ultimate controlling shareholder or shareholders;

Or. en

## Amendment 50

### Proposal for a regulation

#### Article 10 – paragraph 2 – point c

*Text proposed by the Commission*

(c) The products, services and business operations of the foreign investor and of the undertaking in which the foreign direct investment is planned *or has been completed* ;

*Amendment*

(c) The products, services and business operations of the foreign investor and of the undertaking in which the foreign direct investment is planned;

Or. en

## Amendment 51

### Proposal for a regulation

#### Article 10 – paragraph 2 – point d

*Text proposed by the Commission*

(d) The Member States in which the foreign investor and the undertaking in which the foreign direct investment is planned *or has been completed* conduct business operations;

*Amendment*

(d) The Member States in which the foreign investor and the undertaking in which the foreign direct investment is planned conduct business operations;

Or. en

## **Amendment 52**

### **Proposal for a regulation Article 12 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 12a**

##### ***Investment Screening Coordination Group***

- 1. An Investment Screening Coordination Group chaired by a representative of the Commission shall be set up. Each Member State that maintains a screening mechanism shall appoint a representative/expert to this group.***
- 2. The group may exchange views and information on any foreign direct investment that is undergoing screening within the framework of Member States' screening mechanisms and for which a cooperation mechanism has been activated under Article 8 or 9.***
- 3. At the request of the Member States the Commission may put on the agenda investments planned in Member States that do not maintain a screening mechanism and invite the member State where the investment is planned to the Investment Screening Coordination Group.***
- 4. The Commission shall submit an annual report in writing to the European Parliament on the activities, examinations and exchange of views of the Investment Screening Coordination Group.***

Or. en

## **Amendment 53**

### **Proposal for a regulation Article 13 – paragraph 1**

*Text proposed by the Commission*

1. The Commission shall evaluate and present to the European Parliament and the Council a report on the application of this Regulation no later than **3** years after *its* entry into force. Member States shall be involved in this exercise and shall provide the Commission with necessary information for the preparation of that report.

*Amendment*

1. The Commission shall evaluate and present to the European Parliament and the Council a report on the application of this Regulation no later than ... **[5** years after *the* entry into force **of this Regulation], and every 5 years thereafter**. Member States shall be involved in this exercise and shall provide the Commission with necessary information for the preparation of that report.

Or. en

**Amendment 54**

**Proposal for a regulation**  
**Article 13 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 13a**

***Exercise of the delegation***

1. ***The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
2. ***The power to adopt delegated acts referred to Article 3(3a) shall be conferred on the Commission for a period of five years from ... [date of the entry into force of this Regulation].***
3. ***The delegation of power referred to in Article 3(3a) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***

**4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.**

**5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.**

**6. A delegated act adopted pursuant to Article 3(3a) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.**

Or. en

## **Amendment 55**

### **Proposal for a regulation Annex – indent 3 a (new)**

*Text proposed by the Commission*

*Amendment*

**- Joint technology initiatives of the Union including: Fuel Cells and Hydrogen, Aeronautics and Air Transport, Innovative Medicines Initiative, Electronic Components and Systems for European Leadership, Bio-based Industries, Shift2Rail, Single European Sky (SESAR);**

Or. en

## **Amendment 56**

### **Proposal for a regulation Annex I – indent 3 b (new)**

*Text proposed by the Commission*

*Amendment*

- ***Connecting Europe Facility:  
Regulation (EU) No 1316/2013 of the  
European Parliament and of the Council  
of 11 December 2013 establishing the  
Connecting Europe Facility, amending  
Regulation (EU) No 913/2010 and  
repealing Regulations (EC) No 680/2007  
and (EC) No 67/2010.***

Or. en

## **Amendment 57**

### **Proposal for a regulation Annex I – indent 6 a (new)**

*Text proposed by the Commission*

*Amendment*

- ***European Defence Fund and EU  
Defence Industrial Development  
Programme:***
- ***Regulation of the European  
Parliament and the Council establishing  
the European Defence Industrial  
Development Programme aiming at  
supporting the competitiveness and  
innovative capacity of the EU defence  
industry;***
- ***European Commission Decision  
on the financing of the Preparatory  
Action on Defence Research (PADR);***

Or. en

## **Amendment 58**

### **Proposal for a regulation Annex I – indent 6 b (new)**

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- ***European Fund for Strategic Investments***
- ***Regulation (EU) 2015/1017 of the European Parliament and of the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013;***
- ***Regulation of the European Parliament and of the Council amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub;***

Or. en