STATE OF THE UNION 2017

FOREIGN DIRECT INVESTMENT – AN EU SCREENING FRAMEWORK

'Let me say once and for all: we are not naïve free traders. Europe must always defend its strategic interests. This is why today we are proposing a new EU framework for investment screening. If a foreign, state-owned, company wants to purchase a European harbour, part of our energy infrastructure or a defence technology firm, this should only happen in transparency, with scrutiny and debate.'

European Commission President Jean-Claude Juncker, State of the Union Address, 13 September 2017

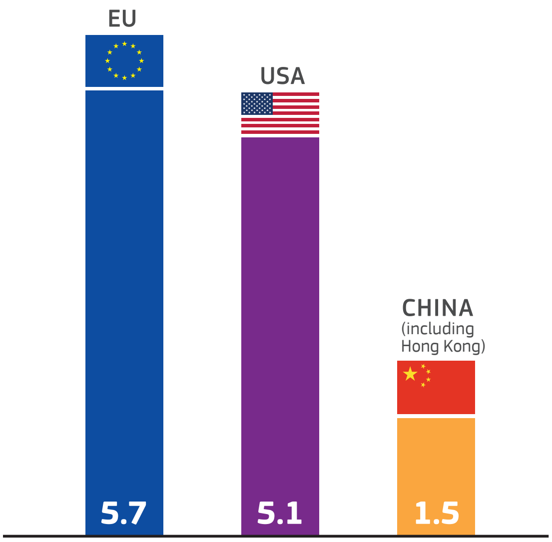
Welcoming foreign direct investment while protecting essential interests

Foreign direct investment from third countries is a source of growth and jobs. The **EU has one of the world's most open investment regimes**, as acknowledged by the OECD, and we will make sure that it will stay just as open in the future.

What is Foreign Direct Investment?

These are investments made by companies or individuals from a third country by setting up or buying a business in the EU.

THE EU IS THE WORLD'S LEADING SOURCE AND DESTINATION OF FOREIGN DIRECT INVESTMENT



Inward investment in trillion EUR (in 2015)

The companies controlled by third country investors are still small in number in the EU, but they have a significant economic impact because of their larger than average size and their focus on high-technology sectors.

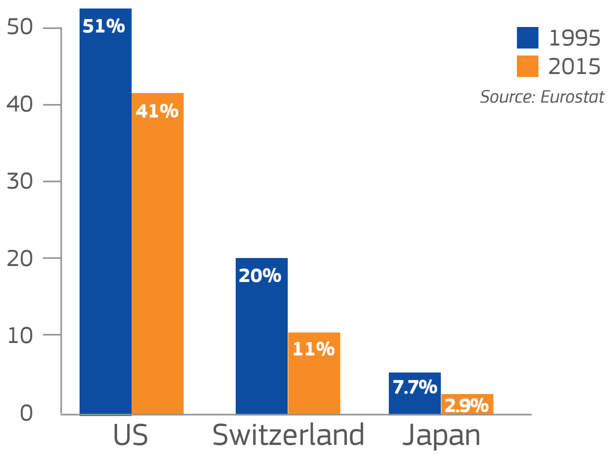
New investment trends are appearing with **some emerging economies, playing an increasing role as providers of foreign direct investment.**

European Commission

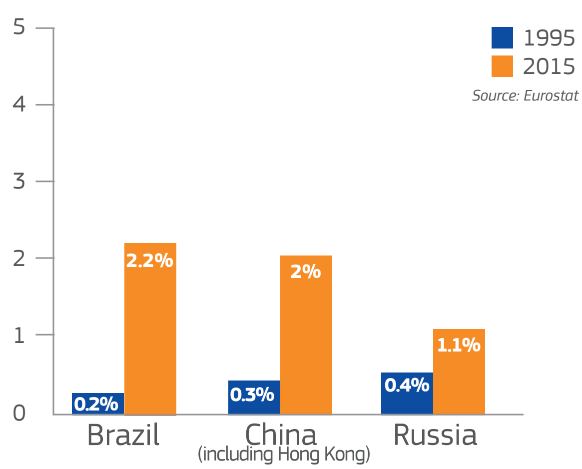
SHARE OF FOREIGN DIRECT INVESTMENT STOCKS IN THE EU

Over the last 20 years, the share of investment by some partners, such as the **US**, **decreased by around 20%**. During the same time period, the share of investment from other countries, such as **Brazil and China, increased significantly, by over 1000% and by 600% respectively**.

Decrease for some partners...



...increase for others

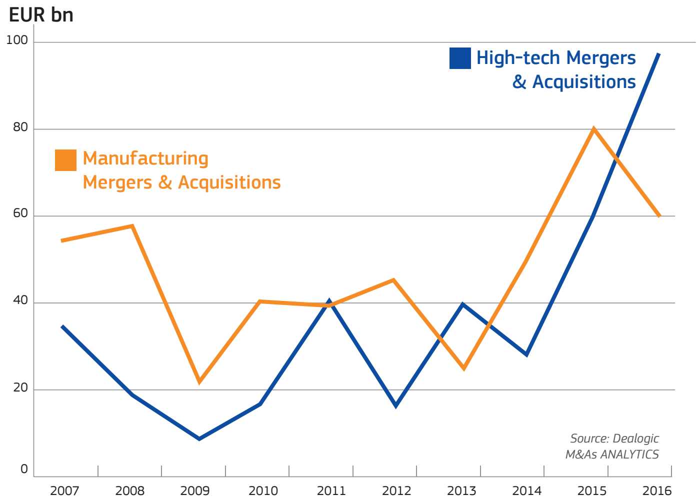


The EU wants to and will remain the most attractive destination for foreign direct investment in the world. However, in exceptional cases, foreign investments can become problematic. This is the case where foreign investors may seek to acquire control of or influence in European undertakings whose activities have repercussions on critical technologies, infrastructure, inputs or sensitive information. In some cases, these investors may be owned or controlled by the state of a third country.

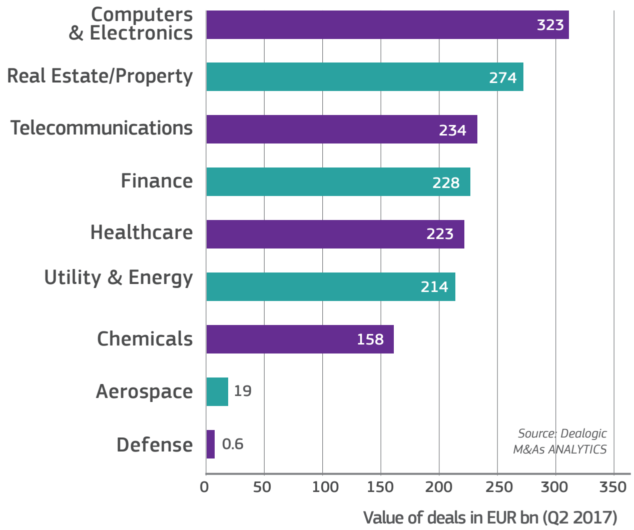
Such acquisitions may allow the states in question to use these assets to the detriment not only of the EU's technological edge but also its **security and public order**.

Since the end of the financial crisis, foreign direct investment into the EU has increasingly been taking the form of **acquisitions in high-tech sectors**.

NON-EU FDI IN HIGH TECHNOLOGY SECTORS AND MANUFACTURING



TOTAL STOCKS OF INWARD MERGERS & ACQUISITIONS BY INDUSTRY



European Commission

EXISTING SCREENING MECHANISMS

Several of the EU's key international partners have screening mechanisms to address possible risks of foreign direct investments: Australia, Canada, China, India, Japan and the US.

12 EU Member States have put in place similar mechanisms: Austria, Denmark, Finland, France, Germany, Italy, Latvia, Lithuania, Poland, Portugal, Spain and the UK. Though they share the same goal, **they differ significantly in their design and scope**.

DIFFERENCES IN SCOPE:

- Differences in screening intra- or extra-EU investment
- Screening threshold from 5 to 50%
- They may or may not define the sectors concerned
- Some screen investment on grounds of national security in the defence sector, others go beyond

TWO DIFFERENT DESIGNS:

- Prior authorisation requires investors to notify the authorities beforehand
- Ex-post screening of already completed investments is carried out by the authorities

EU FRAMEWORK FOR SCREENING INVESTMENTS

The Commission's proposal enables the EU Member States and the Commission to screen foreign direct investment on the grounds of security or public order. The EU screening framework will be transparent, non-discriminatory and predictable.

CRITERIA FOR FOREIGN DIRECT INVESTMENT SCREENING

- Effects on critical infrastructure
- Security of supply of critical inputs
- Access to or ability to control sensitive information
- Effects on critical technologies
- Take into account whether investor is controlled by the government of a third country

SCREENING BY THE EUROPEAN COMMISSION

The Commission will be able to screen foreign investment likely to affect projects or programmes of **Union interest** in the area of research (Horizon 2020), space (Galileo), and transport, energy and telecommunication networks (Trans-European Networks – TEN).

EU COOPERATION MECHANISM

1. The Member State **screens** investment.
2. The Member State **informs** the Commission and other Member States.
3. The Commission and other Member States may **request additional information**.
4. The Member State **shares** additional information.
5. Other Member States may issue **comments**.
   The Commission may issue **opinion**.
6. The Member State **takes into consideration** opinion and comments.
7. The Member State **takes decision**.

Actions by the screening Member State
Actions by the Commission and other Member States

Next steps: The new Regulation needs the approval of the European Parliament and EU Member States.

In addition and with immediate effect, the Commission will:

- Carry out an in-depth analysis of foreign direct investment flows into the EU, focussing on strategic sectors.
- Set up a coordination group with Member States