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BLOG POST

SCREENING FOREIGN DIRECT INVESTMENT IN EUROPE

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All EU member states want to remain attractive for foreign investment, a necessary component of economic dynamism. But recent Chinese asset acquisitions in strategic network infrastructures (e.g. the Portuguese electricity distribution network by the Chinese State Grid Corporation, 49.9% of Toulouse airport by the Chinese firm Casil Europe, …) raised serious concern.

The US remains by far the most important foreign investor in the EU, representing in 2015, 41% of direct investment stocks coming from third countries. In comparison, the stock of Chinese direct investment in the EU is still limited (2% in 2015). But a sharp year-on-year increase (more than 90% between 2015 and 2016) and China's public investment reserves (40% of GDP) have drawn attention to the targets of these takeovers.

In some cases, the priority given to short-term economic interests may expose not only a member state, but the whole of the European Union to security risks if the takeover of strategic infrastructure works to the advantage of a third country which – be it China or any other country – was to prove hostile.

A zoom-out on strategic sectors targeted by Chinese FDI all over Europe is even more alarming. Let's just have a look at European ports: the list of large Ports in which Chinese investors have acquired or planned to acquire from 20% to as much as 75% share is already long (Antwerp, Zeebrugge, Piraeus, Rotterdam, Savona-Vado Ligure, Valencia, Bilbao, Venice, Trieste, Genoa, Klaipeda, Kirkenes, …). Keeping in mind that the "One Belt One Road" (OBOR) Chinese initiative extends to Europe, it calls for a better anticipation of irrevocable dropouts of strategic European infrastructures.

The current lack of transparency in the financial structure of Chinese investment and the difficulties in tracking Chinese public subsidies, to which should be added the insufficient exchange of information between Europeans, does not allow us to provide a screening mechanism covering the whole of the EU. Moreover, the asymmetry between China's openness to European direct investment and the conditions proposed by the European Union is at the heart of the ongoing bilateral negotiations conducted by the European Commission. In China, foreign investment is subject to two kinds of checks. The first

enables the authorities to veto any foreign investment if it is likely to affect the country's economic security, to involve a major industrial sector or to entail the transfer of traditional Chinese trademarks abroad. The second is to verify whether the investment targets a sector that is off-limits or to which access is restricted in accordance with a list established in light of the objectives of Chinese economic policy.

Jean-Claude Juncker was thus well advised in his *State of the Union* speech to highlight the creation of a European screening mechanism for FDI in strategic sectors as a priority of his ending mandate. The issue is all the more pressing in the absence of multilateral investment disciplines: only bilateral channels are available.

To overcome the reluctance of countries such as Sweden, Ireland and Finland, the path is of course narrow as it needs to take ground on a clear narrative that such an FDI screening does not pave the way for either indirect forms of protectionism or the adoption of protectionist measures in other domains. Yet the European Commission struck a balance proposal between the preservation of member states' decision-making authority over FDI and the harmonisation of member states' foreign investment control capacities for national security reasons. It is an interesting attempt of a proportionate protection without protectionism, as the national security clause enshrined in Article XXI of the GATT agreements, while subject to interpretation, limits some trade without falling into protectionism.

The objective of Brussels is to rebuild the necessary consensus for a proactive trade and investment policy at a time of growing protest in some member states. Along with the ongoing reinforcement of trade defense instruments, this initiative would contribute to foster citizens' confidence in the EU ability to protect European interests from a lack of reciprocity in third countries (in areas such as FDI openness as well as public procurement, subsidies, social and environmental dumping, the fight against corruption, etc.).

While not only pointing at China, setting this screening mechanism should also be taken as a starting point for a European strategy on OBOR, currently sorely lacking. Real massive investments are happening under this label and Europeans need to identify opportunities and risks for themselves more clearly. It remains a challenge to assess where OBOR is heading and to anticipate its potential impact on Europe. The data provided by a screening European setup would thus be most helpful to monitor what is as much a geopolitical as a massive trade initiative launched by Beijing.

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