



PROPOSAL FOR A REGULATION ESTABLISHING A FRAMEWORK FOR SCREENING FOREIGN DIRECT INVESTMENTS (FDI) INTO THE EU

SEA EUROPE POSITION PAPER

Executive Summary:

- *SEA Europe - representing the strategic sector of European maritime technology industry with complex shipbuilding, advanced and high-tech maritime equipment manufacturing and service providers – welcomes the European Commission’s proposal¹ for a Regulation to establish a framework for screening of foreign direct investments (FDIs) into the EU.*
- *SEA Europe believes that while it is vital that the EU remains open to FDIs from non-EU countries, higher transparency is needed for strategic, industrial policy-led acquisitions from third country investors into European companies with key technologies.*
- *SEA Europe therefore welcomes the proposal to enhance transparency and cooperation on FDI screening at European level, while supporting that EU Member States should retain their final decision-making power on FDIs in their territory.*
- *In light of their strategic dimension, SEA Europe supports the European Parliament’s (EP) request to include “shipyards” and the “defence sector” in the proposed non-exhaustive list of critical and strategic infrastructures and technologies. This inclusion will require possible scrutiny on the potential effects of FDIs from non-EU countries.*
- *SEA Europe also supports the EP proposal to add the new European Defense Fund and the EU Defense Industrial Development Program (DIDP) to the indicative list of funding programmes of interest to the EU since these programs may be affected by foreign direct investments and hence requires specific scrutiny.*

¹ COM(2017)487. The text of the Commission’s proposal can be found [here](#)

SEA EUROPE POSITION IN VIEW OF THE EU INTER-INSTITUTIONAL NEGOTIATIONS (“TRILOGUES”)

a. INTRODUCTION

On 9 September 2017, the European Commission published a proposal for a Regulation establishing a framework at EU level for analysing Foreign Direct Investments (FDIs) from third countries in strategic sectors on grounds of security or public order to protect EU's essential interests. The EU Council, European Parliament and Commission have recently started inter-institutional negotiations (so called “trilogues”) with a view to reaching an agreement on the proposal. With the present paper, SEA Europe would like to provide the views of the European maritime technology industry (a strategic sector encompassing shipbuilding, advanced and high-tech maritime equipment manufacturing and service providers both in the civilian and military segment) in view of the ongoing negotiations.

b. SEA EUROPE POSITION AND RECOMMENDATIONS

SEA Europe **strongly supports the openness of the EU market to foreign direct investments (FDI) based on non-discrimination**. FDIs are sources for growth and employment in EU countries and they contribute to innovation in and competitiveness of European industry and business.

At the same time, SEA Europe believes that it is crucial to **ensure higher transparency around strategic acquisitions from third country investors into European companies with key technologies**. This is particularly relevant for investments made possible or facilitated by state subsidies and/or by state-led industrial policies aiming at acquiring cutting-edge technological know-how or at facilitating a transfer of dual-use technologies in support of strategic national interests.

SEA Europe welcomes that the proposal does not aim at harmonising the FDI screening mechanisms currently used by some of EU Member States nor at replacing them with a single EU mechanism. The new mechanism should aim at **enhancing cooperation on FDI screening and information exchanges between the European Commission and Member States and at increasing legal certainty and transparency**.

SEA Europe, therefore, calls upon the European Parliament and the Council to **strike a reasonable balance in the ongoing inter-institutional negotiations between maintaining the EU's openness to FDI inflows and safeguarding the EU's essential interests**. These include the strategic autonomy of the EU as well as the know-how and global technological leadership of its key, innovative industries including the highly strategic maritime technology sector.

To this end, SEA Europe would like to urge the negotiators to support the following proposals:

1. **SEA Europe supports the Commission’s proposal that the ultimate decision to allow, condition or block FDIs still lies with the Member State where the investment project is planned/competed**. This is important to secure the sovereignty of the Member States and this prerogative should not be altered or weakened during the negotiations.
2. With regard to the sector it represents, SEA Europe believes that it is important that **effective safeguards are in place in Europe to preserve the global leadership of the European maritime technology industry**, including in terms of advanced technological maritime know-how, the building of complex ship types and the production of advanced and high-tech

maritime equipment, systems and technologies. Hence, SEA Europe fully supports the proposal from the European Parliament's International Trade Committee (INTA)² to include "Shipyards" in the non-exhaustive list of "critical and strategic infrastructures" (see amendment to Article 4.1.a in the footnote below³). SEA Europe also draws attention to the strategic dimension of Europe's shipyards and their extensive supply chain of equipment manufacturers and service providers. The European maritime technology sector – with its 300 shipyards and more than 22,000 maritime equipment manufacturers and service providers – is a global leader in the building of complex ship types – used both for commercial and military purposes – and the production of the most advanced systems, equipment, and technologies. These segments are key for a competitive and sustainable sea-borne transport as well as for the wide range of business activities linked to the exploration and exploitation of the oceans, seas and inland waterways (Blue Economy). The ship types and equipment made in Europe is also key for Europe's energy, security and defence interests (i.e. Navy and coastguards) and thus for the strategic autonomy of Europe.

3. Because of its role in the building of military ships and the production of military equipment, systems and technologies, SEA Europe welcomes the inclusion of the "defence" sector and the related supply chain in the non-exhaustive list of "critical and strategic technologies" as proposed by the European parliament (EP's INTA amendment to Article 4.1.b⁴).
4. Finally, following the adoption of the [European Defense Fund](#) and the [EU Defense Industrial Development Program \(DIDP\)](#), there are serious concerns that companies being controlled by third country's investors, could be eligible for these programs and thus receive European funding. Hence, SEA Europe also supports their proposed inclusion in the indicative list of funding programmes of interest to the EU that may be affected by foreign direct investments and hence require specific scrutiny⁵.

SEA Europe trusts that the Council and the European Parliament will take into account the above-mentioned points and looks forward to a close cooperation in the forthcoming discussions.

About SEA Europe:

SEA Europe, the European Ships and Maritime Equipment Association, is the voice of the European maritime technology industry. SEA Europe promotes and supports European business enterprises which are involved in the building, construction, maintenance and repair of all types of ships and other relevant maritime structures, including the complete supply chain of systems, equipment and services. The EU 28 maritime technology industry is currently the leading global region in terms of aggregated production value of shipbuilding and ship systems production (EUR 112.5 Billion), and an important generator of employment (900.000 direct and indirect jobs).

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² EP INTA REPORT (available [here](#)).

³ According to the EP INTA Committee amendment to Article 4.1.a of the Commission's proposal (see text in bold), "In screening a foreign direct investment on the grounds of security or public order, Member States and the Commission may consider the potential effects on, inter alia: (...)" (a) critical and strategic infrastructure, whether physical or virtual, including inter alia energy and water distribution, transport networks, ports, rails, airports and shipyards, transport services, communications and media, aerospace and space infrastructure, data storage facilities, large-scale data analysis, election-infrastructure, financial services infrastructure as well as sensitive facilities."

⁴ EP INTA Amendment to Article 4.1.b of the proposal (see text in bold): "(b) critical and strategic technologies, including, inter alia (...) dual use items, defence, (...) research and development facilities;"

⁵ According to the Article 3 of the Commission proposal "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 (...) 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 to the proposal" (...)