



December 12<sup>th</sup>, 2017

**FEPORT reply to the consultation concerning  
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)487)**

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FEPORT, the organization which represents the interests of 1200 private port companies, terminal operators and stevedoring companies performing operations and carrying out activities over 400 terminals in the seaports of the European Union and Turkey welcomes the opportunity to provide comments regarding 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)487).

It is essential that the European Union continues to remain a market that is attractive and open to trade. Yet, this objective has to be accompanied by efficient mechanisms that safeguard and bring significant benefits to the EU economy.

FEPORT is very much in favour of all initiatives aiming at instoring a level playing field within the EU as well as between the EU and its trading partners. Screening policies in a number of non EU countries such as US, Canada, Australia, China, Russia and Japan are already in place.

Without prejudice of additional comments that shall be expressed in the framework of the legislative procedure that will concern the above mentioned proposed Regulation, FEPORT would like to provide the following general comments:

- It is important that any Foreign Direct Investments in the EU are driven by an objective of proportionality and homogeneity of the EU Member States' responses as well as the definition of transparent and predictable rules.
- The adoption of a less fragmented regulatory approach will be crucial and this supposes a commitment from Member States to better coordinate. It will be also essential to promote a positive and favourable reciprocity rather than a harmful negative one.
- Openness to foreign investment has to go hand in hand with an appropriate scrutiny of the potential national security impacts of the commercial deals.
- As private investors, FEPORT members are seeking for certainty and the elimination of inconsistencies between the existing regulatory frameworks of the EU Member States.
- To avoid that national security criteria are characterized by high levels of subsidiarity leading to a patchwork of national systems that may discourage private investors, it will be very important that Member States agree to apply the same rules regarding national security, strategic assets etc....
- With respect to the qualification of “critical infrastructure”, FEPORT considers that the Critical Infrastructure Directive (2008/114/EC) applies to European ports.
- In all cases, it is essential that EU competition rules equally apply to European companies and Foreign ones.
- FEPORT has taken note of the European Commission’s intention to screen foreign direct investments which are likely to affect projects of Union interests or which relate to projects involving substantial amounts of EU funding. It will be crucial that such screening is characterized by full transparency.

- FEPORT would welcome a real thorough analysis with the support of Member States, of the FDI investments in all sectors that are targeted by the above mentioned proposed Regulation with the aim of assessing whether reciprocity is actually prevailing between the EU and its trading partners or not and how this could be improved.
- It would probably be useful to also have a clearer idea about FDI that concern the immediate EU neighboring countries given its impact, for instance in terms of infrastructure, on the EU.
- Last but not least, it would also be useful to assess whether the current EU mergers and takeovers rules needs to be reviewed for a better efficiency of the objectives of the proposal for a Regulation of the European Parliament and of the Council establishing a establishing a framework for screening of foreign direct investments into the European Union.