

FDI SCREENING IN THE DIGITAL AGE: ADDRESSING ECONOMIC SECURITY CONCERNS AMID GROWING INTERNATIONAL INSTABILITY

ROUNDTABLE
THE DIGITAL ECONOMY AMID RISING INTERNATIONAL TENSIONS

Federica Marconi, Ph.D., Researcher in the Multilateralism and Global Governance Programme, IAI
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FDI: a double-edged sword

FDI serves as a cornerstone of the **global economy**, driving:

- ❏ Economic growth;
- ❏ Development/prosperity across countries;
- ❏ Competitiveness (e.g. technological and digital advancement).

“Foreign direct investment (FDI) is a category of **cross-border investment** in which an **investor resident in one economy** establishes a lasting interest in and a significant degree of influence over an **enterprise resident in another economy**”

- ❏ Investor can gain significant political and economic influence within the host country;
- ❏ Investor can grant access to **sensitive sectors** or **strategic assets** vital to a **state's sovereignty**, such as those related to critical infrastructure and sensitive technologies;
- ❏ This can result in a potential risks to **national security**.

FDI control and national security

- ❏ Intertwining of economic interests with geopolitical ambitions has led to the growing **use of trade and investment for strategic competition** (“geopoliticisation”).
- ❏ FDI screening mechanisms have become one of the most common instrument to manage the security implications of FDI **amid geopolitical instability**.
- ❏ FDI screening mechanisms grants Governments the authority to control investments (impose conditions to or block transactions) in companies active in **sectors deemed strategic for national security and public order**.

Not something new: the United States was the first western Country to adopt a FDI screening mechanism back in the 1970s (i.e. Committee on foreign investment in the United States, CFIUS).

As of now, FDI screening is a central tool for both member states and the EU as a whole.

1. **Member states** retain sole responsibility for the regulation of FDI due to their exclusive competence in matters of national security and public order pursuant Article 4, par. 2 TEU “[...] *national security remains the sole responsibility of each Member State*”, Articles 65, par. 1(b) and 346 TFEU.
2. **The FDI Regulation (EU) 2019/452** serves as a framework for cooperation between member states and between them and the European Commission, as it “[...] *merely authorises, and thus does not even oblige*” them to introduce legislation that governs the screening of FDI.

Telling example of how the stance towards FDI has evolved over the last decades in the face of a changing international landscape + complex dialogue between the EU and its member states:

From Internal Market Protection to broader security concerns

❖ Turn of the century-early 2000s:

the European Commission frequently challenged domestic rules, arguing violations of the free movement of capital and the freedom of establishment provided for by EU Treaties → *shield the internal market from national discriminatory provisions.*

❖ 2011 onwards:

debates on the need to protect the strategic interests of the EU as a whole, rather than national interests alone → *shield the internal market from external threats:*

- Increase in acquisitions by Russian and Chinese sovereign funds.
- EU's increasingly growing awareness of China as a “systemic rival” – especially due to the heavy politicisation of the Chinese business environment.
- Recognition of the opportunity/necessity for EU-level rules on FDI screening.

2017-2020: towards the EU FDI Regulation

❖ 2016:

Discussions on creating a European regulatory framework for FDI screening (or even a single EU-level mechanism).

❖ 2017:

- (May) *Reflection Paper on Harnessing Globalisation* → concerns about state-owned enterprises acquiring **EU companies with key technologies** for strategic reasons.
- (September) *European Commission's proposal for a regulation establishing a framework for screening of FDI into the EU on grounds of security or public order to protect the EU's essential interests* (part of a package of trade and investment proposals for an EU trade agenda to harness globalisation).

❖ **10 April 2019:** the FDI Regulation entered into force.

❖ **11 October 2020:** the FDI Regulation became fully operational.

At that time, many Member States already had national investment screening systems, but there were concerns about the **effectiveness of a decentralised and fragmented approach** in addressing cross-border risks.

The FDI Regulation was not aimed to harmonise or replace national mechanisms, but rather to **enhance cooperation, foster information sharing, and increase legal certainty and transparency through:**

- ❏ a greater proceduralisation of FDI control (Article 3);
- ❏ the institutionalisation of a formal cooperation mechanism between Member States and the European Commission (Articles 6-8);
- ❏ the objectivization of the criteria to be used in the FDI screening on the ground of security and public order (Article 4)

i.e. potential effects on critical infrastructures, critical technologies and dual use items - including AI, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum and nuclear technologies as well as nanotechnologies and biotechnologies -, supply of critical inputs, access to sensitive information.

2020-2022: FDI in time of crisis

The European Commission urged Member States to either strengthen the screening mechanisms already in place or to establish new ones to protect EU's strategic assets vis-à-vis:

- ❖ **COVID-19:** *“Guidance to the Member States concerning foreign direct investment and free movement of capital from third countries, and the **protection of Europe's strategic assets, ahead of the application of Regulation** (EU) 2019/452 (FDI Screening Regulation)” (26 March 2020)*
- ❖ **Russia's war of aggression against Ukraine:** *“Guidance to the Member States **concerning foreign direct investment from Russia and Belarus** in view of the military aggression against Ukraine and the restrictive measures laid down in recent Council Regulations on sanctions” (4 April 2022)*

Many member states reinforced their national FDI screening systems by broadening the scope, both in terms of **sectors considered strategic** and the **nationality of the investors subjected to review.**

2023 onwards: towards the revision of the EU FDI Regulation

- ❖ **October 2023:** first periodic evaluation of the Regulation was completed (OECD and the European Court of Auditors) and key weaknesses capable of jeopardising a unified EU response were identified.
 - ❖ **24 January 2024:** the Commission adopted five initiatives to strengthen the **EU's economic security** at a time of **growing geopolitical tensions** and **profound technological shifts**.
- One of these initiatives concerned further strengthening the protection of EU security and public order by proposing improved screening of foreign investment into the EU.

Ongoing negotiations

The revision of the FDI Regulation aims to
“further strengthening the protection of EU security and public order by proposing improved screening of foreign investment into the EU”,
by address existing shortcomings and improving the efficiency of the system:

- ❖ Ensuring that all Member States have a screening mechanism in place, with better harmonised national rules.
- ❖ Identifying minimum sectoral scope where all Member States must screen foreign investments.
- ❖ Extending EU screening to investments by EU investors that are ultimately controlled by individuals or businesses from a non-EU country.

Interinstitutional negotiations, which began on 17 June 2025, are still ongoing and results are expected by the end of the year.

Italy's “golden power”

Law-Decree No. 21/2012

Initially, its scope was limited to five sectors:
defence, national security, communications, transport and energy.

Over time,
the scope of golden power
has been broadened:

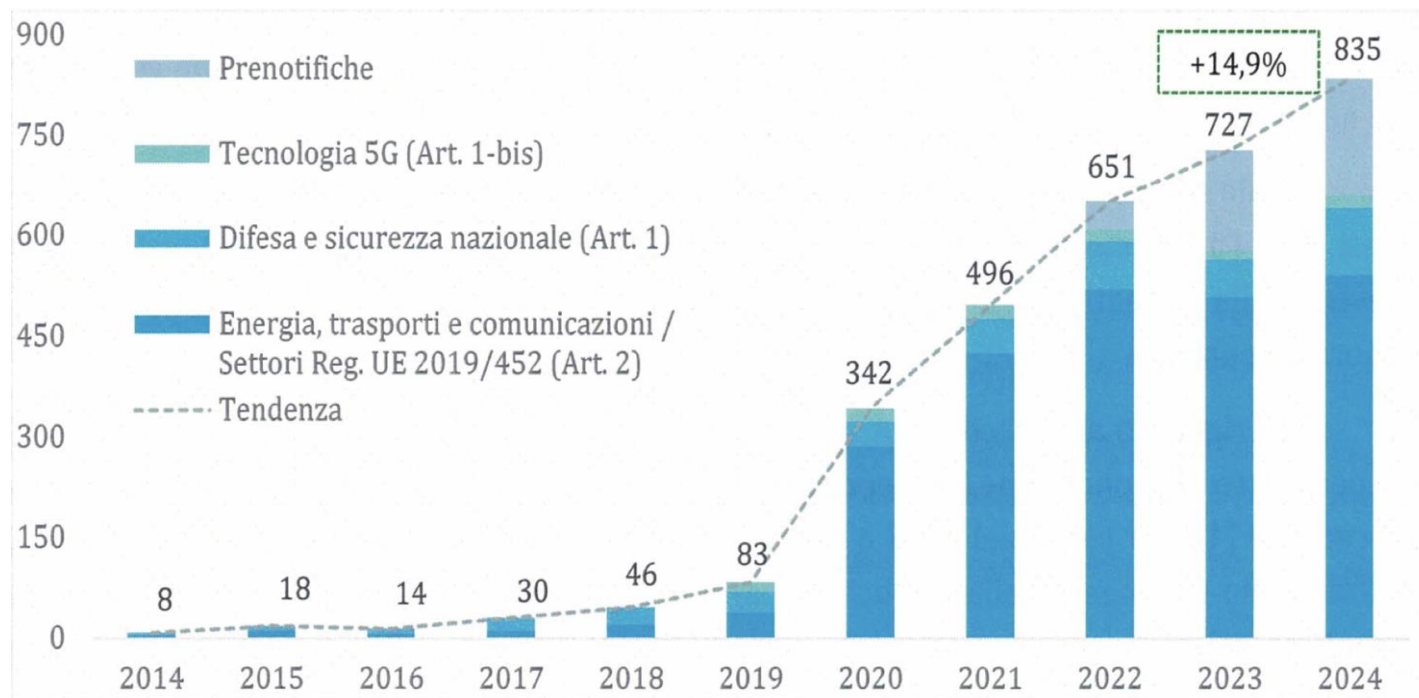
Law-Decree 16 Oct
2017, No. 148:
extended to high-tech
sectors.

Law-Decree 25 Mar
2019, No. 22: extended
to 5G electronic
communication
networks.

Law-Decree 21 Sep
2019, No. 105:
extended to critical
infrastructures and
technologies

Law-Decree 8 Apr 2020,
No. 23 (response to
COVID-19 crisis):
extended to finance,
credit and insurance

Decree-Law 25 Feb
2022, No. 14 (response
to Russia's invasion of
Ukraine): procedural
adjustments



Number of notifications by sector and year.
Source: <https://www.senato.it/service/PDF/PDFServer/BGT/1465564.pdf>

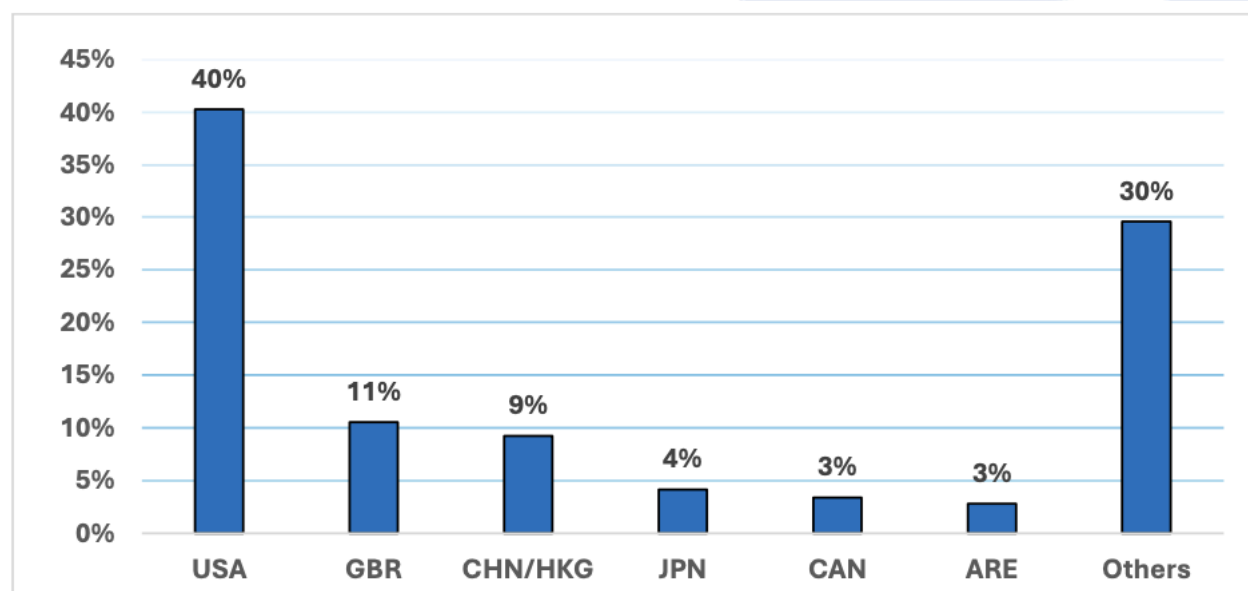
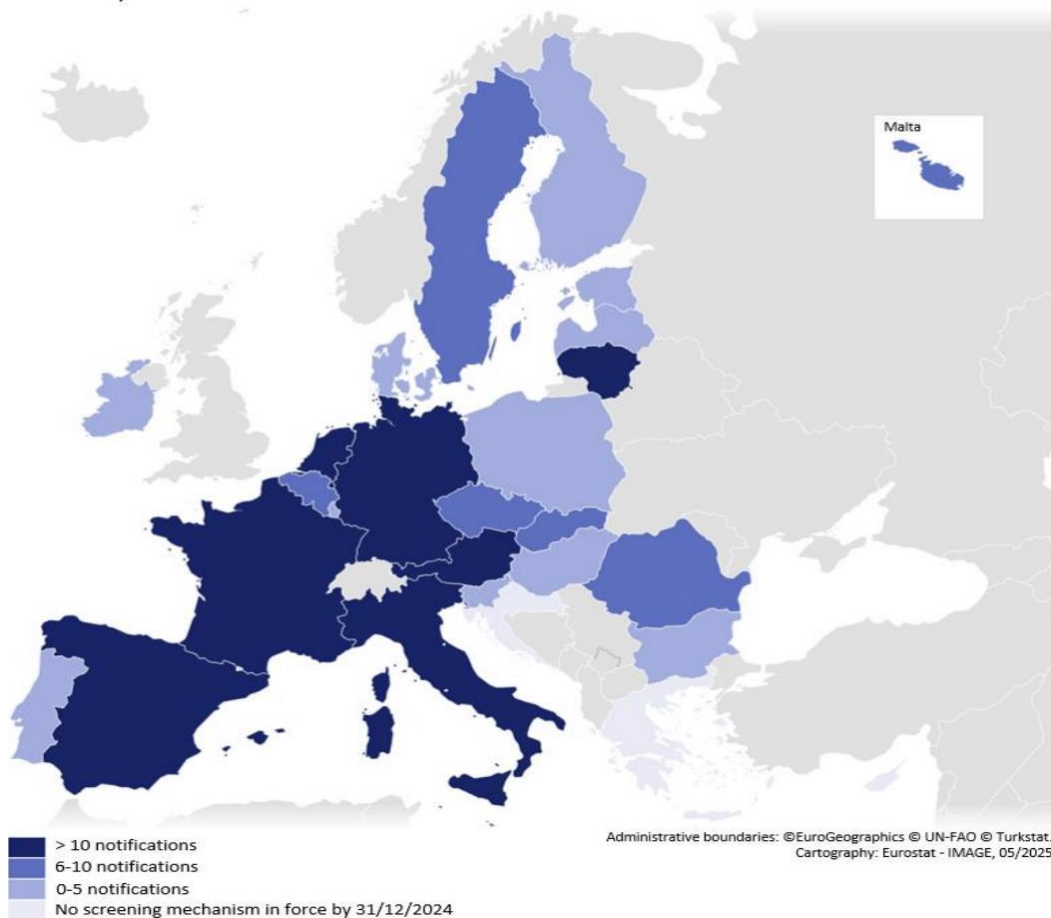
- 2016-2018** • **11 cases** (out of 92 notifications): **1 veto, 10 prescriptions.**
- 2019** • **13 cases** (out of 83 notifications): **all prescriptions.**
- 2020** • **42 cases** (out of 342 notifications): **2 vetoes, 40 prescriptions.**
- 2021** • **26 cases** (out of 496 notifications): **3 objections, 23 prescriptions.**
- 2022** • **22 cases** (out of 608 notifications): **1 veto, 3 objections, 18 prescriptions.**
- 2023** • **30 cases** (out of 577 notifications): **2 objections, 28 prescriptions.**
- 2024** • **32 cases** (out of 660 notifications): **1 veto, 1 objection, 30 prescriptions.**

2017 (Veto)	Engineering Consultancy	Altran Italia S.p.A./Next Ast S.r.l.
2020 (Veto)	Communication technology	Fastweb S.p.A./Huawei Technologies Italia S.r.l.
2020 (Veto)	Communication technology	Telecom Italia S.p.A./Impulse I Sarl
2021 (Objection)	Semiconductors	Shenzen Invenland Holdings/Lpe S.p.A
2021 (Objection)	Global seed production	Syngenta Crop Protection Ag/PSP Verisem Luxembourg Holding S.a.R.l.
2021 (Objection)	Energy (photovoltaic panels and systems)	Zhejiang Kesheng Intelligent Equipment Company Ltd/Applied Materials Italia
2022 (Objection)	Design and production of light and ultralight aircraft, including both manned and unmanned aerial vehicles	Mars (HK) Information Technology Co. Limited/Alpi Aviation S.r.l.
2022 (Veto)	Robotics (automotive equipment and robotic system integrator)	Efort Intelligent Equipment Co. Ltd./Robox S.p.A.
2022 (Objection)	Energy (gas)	Rusatom Gastech LLC/Faber Industrie S.p.A..
2022. (Objection)	Research and development of IT solutions software, social networks, and products related to artificial intelligence, as well as the development of IT platforms, robotics, and the design, planning, and development of drones	Nebius B.V./Tecnologia Intelligente S.r.l.
2023 (Objection)	Aerospace (flight implementation and control activities)	Safran USA, Inc./Microtecnica S.r.l.
2023 (Objection)	Heat exchangers and high-pressure equipment for oil and gas, oil refining, petrochemicals, chemicals,	Petro MAT FZCO/FBM Hudson Italiana S.p.A.
2024 (Veto)	Hybrid-electric eV/STOL	Manta Aircraft S.r.l./Shenyang Aviation Industry Group Co. Ltd.
2024 (Objection)	Heat exchangers and high-pressure equipment for oil and gas, oil refining, petrochemicals, chemicals,	BM Carpenterie Oil & Gas S.r.l. and Officine Piccoli S.p.A./FBM Hudson Italiana S.p.A.

5th Annual Report on the screening of foreign direct investments into the Union

Notifications to the EU cooperation on FDI screening

Calendar year 2024



As for the sectors, the highest number of transactions in 2024 involved: manufacturing (25%), ICT (22%), wholesale and retail (14%), financial activities (10%) and professional activities (9%), energy (6%) and transports (5%).

Brief conclusions

- ❖ As of now, Europe's trajectory reflects a broader attempt to redefine the traditional notions of national security and sovereignty to safeguard its role in the competition with other major actors, in an era characterised by increasing geopolitical instability and weaponised interdependencies.
- ❖ However, unlike jurisdictions such as the United States, where investment control is managed at the federal level, the EU must navigate a far more complex institutional landscape, with structural constraints that limit the scope for centralised action.
- ❖ Member states, in the face of current challenging, increasingly rely on national FDI screening mechanisms → *shield the internal market also from internal pressure?*
- ❖ Can the growing overlap between economic and national security matters be leveraged to expand the “commercialization of security competence”, thereby reshaping the distribution of competences within the EU?