bitkom

Position Paper

On the European monitoring of outbound investments

Trade and geopolitics seem more and more inseparable. Whether it is access to rare earths from China or US export restrictions on semiconductors and outbound investments, access to new technologies, financing opportunities and markets have long become a policy issue under the heading of security.
But protecting the free market and entrepreneurial freedom of investment is essential to Europe's prosperity. Outbound investments are a necessary tool for European businesses to grow and remain competitive. In 2022, German businesses alone invested 169 billion EUR abroad, highlighting this fact.[1]

Establishing an outbound investment screening would create additional bureaucracy, put a chilling effect on European investments abroad, and would thus threaten European economic growth. This might even be true for investments in countries that are not within the scope of the monitoring process. However, we observe that there has only been a hasty and short discussion by a small number of experts on this matter. We believe that this insufficient to create a widely shared understanding of potential threats and benefits posed by outbound foreign investments.
Considering the economic importance of investments, we therefore welcome the chance to provide the view of the German digital economy to this discussion. In addition, **we urge the Commission and member states to promote a more comprehensive stakeholder dialogue before kicking off the analysis of European outbound investments.**

Regarding the White Paper on Foreign Outbound Investments, Bitkom would like to recommend the following points:

- **Including the benefits of outbound investments in the analysis:** Investing in foreign destinations is crucial for European businesses to capture market trends, thrive economically and drive innovation forward. The White Paper currently only requires assessing risks and their context, but not specifically the benefits of any investment to the Union. Europe lags behind in developing digital technologies, such as Artificial Intelligence (AI), and faces a shortage of skilled labour. These and other economic factors require European companies to invest abroad to maintain their

[1] Bundesbank 2023.

competitive edge and remain part of their respective value chain. Although investing abroad may be perceived as a risk, it can contribute to Europe's economic security.
Companies do not invest abroad lightly, especially if certain conditions, like the rule of law, are not met. Rather, businesses take every possible step to protect their intellectual property, and they carefully weigh the cost, benefits, and associated risks of any investment carefully. It is important to stress, that the protection of their assets and know-how is a key part of the economic self-interest of any business.
We therefore argue that the monitoring of the process should also include an analysis of the benefits that foreign outbound investments bring to the European Union. Relevant indicators could for instance include the capturing of foreign market share, employment associated with the investment and the innovation output of a business.
In addition, **the analysis should include a projection of the economic damages caused by chilling effects on outbound investments** of any policy measure, be it as a reporting obligation or a prohibition of investments. This is especially important in cases of early-stage technologies, like quantum, where investment restrictions might prevent European companies from achieving market leadership and being able to set global standards, thus diminishing European economic growth and political power long term. Notably, we recommend discussing these findings publicly.

- **Promoting European High Tech:** Particularly in the case of disruptive and innovative technologies, it is important to assess the benefits of investments to achieve global market leadership, even as a counterweight to potential and unclear risks. We need to acknowledge that in some areas of early-stage technologies such as in quantum, it is too early to focus on restrictions. Instead, the EU member states should focus on supporting companies, SMEs, and researchers to achieve market leadership in their areas. In early-stage technologies, standards are being set by the global market leaders. If we want EU industry to set global benchmarks, we need to focus on enablement of the European industry to develop a global market. Companies are hubs of creativity and development. Ensuring their security requires consideration of their products and investments within a political environment that strategically addresses market dissemination, expansion, and the promotion of deep technology. It is crucial for companies in the deep-tech sector that their innovations find market traction. **Therefore, aligning an outbound strategy with a strategy for disseminating European products or services is essential.**
  As of yet, there has been a lot of attention for the “Protect” part of the European economic security. In turn, the “Promote” section of the strategy has seen little development. While there have been efforts, projects like the STEP-program have not delivered in terms of the originally announced funding. **We therefore urge the Commission to substantially strengthen the “Promote” column of the European**

Economic Security Strategy and substantially increase funding for technologies deemed risky by the EU.[2]

- **Analysing tangible risks:** In order for member states to conduct meaningful and comparative analyses, a clear and common definition of the risks and benefits of any investment is necessary.
  Unfortunately, the White Paper only proposes an analysis of risks and potential vulnerabilities in vague terms, which could prevent comparative analyses and diminish the epistemic value of the project. Furthermore, the White Paper does not clearly recommend the inclusion of economic benefits as part of the analysis. To address this issue, the Commission and Member States should agree on specific criteria for assessing risks. Notably, this discussion should include relevant stakeholders from the business community. **We recommend that these risks should be tangible, such as potential human rights violations or military threats.**
  In regards to less tangible risk criteria, like economic damages, we recommend comparing these to the benefits of any investments for the European Union. Importantly, any additional outbound investment screening mechanism requirement needs to **prove its value-added to already existing regulations such as export controls**. This is even more important since most European investments abroad are commonly of a nature where existing export controls for dual-use technologies should be able to sufficiently mitigate any risks.

- **Clearer definitions of technologies:** The Commission's current categories for investment screening, which include AI, advanced semiconductors, quantum technologies, and biotechnologies, are too broad and not clearly defined. This could lead to a risk assessment that obscures actually relevant findings regarding potential threats. For instance, the definitions of the category of AI includes unspecific terms such as 'cloud and edge technology', or 'data analytics'. In the case the category “semiconductors”, there exists the subcategory “microelectronics”, here it is unclear, why “microelectronics” are considered a subcategory of “semiconductors” and not vice versa.
  To avoid any vagueness, to reduce the costs of the project, and to achieve a more comparative result, **we recommend limiting the analysis of outbound investments to technologies that are likely to create a tangible security risk in the foreseeable future and that are clearly defined.** In this case, existing inbound investment screening regulations can provide established definitions for the analysis.

- **A flexible timeframe**: Analysing economic dependencies, gathering data, and understanding the impact of investments on the global flow of technology and knowledge takes time. Bitkom **welcomes the fact that the Commission has adjusted their timeframe for the possible implementation of an outbound investment screening**. This decision allows to **engage in a stakeholder dialogue.** As there is currently no common European understanding on the matters at hand, we stress the importance of a flexible proposed schedule for possible implementation. This will allow for the possibility of extensions to give room for the necessary debate.

[2] COM 2023.

- **Coherent risk mitigation**: The White Paper recommends that member states mitigate any verified risks through the unilateral application of existing instruments, in particular export controls. As it is unclear what constitutes a sufficient risk and the Commission has acknowledged the various issues generated by unilateral export controls, we suggest a more coherent approach.[3] Any findings regarding risk discovered during the analysis should be included in the ongoing debate regarding the harmonization of national control lists and the reform of export controls. Following the agreement in this forum, **any additional export restrictions or screening requirements should be implemented coherently, involving the EU and any relevant global partners, such as the G7 or GEEC-States.**

- **Close dialogue with industry**: Investing in foreign destinations is crucial for businesses to thrive economically and drive innovation forward. Discussions of screening or controlling investments in sensitive technologies require technological knowledge that can only be provided by companies. These points highlight the need for close cooperation between industry and policymakers. As a meaningful cooperation with businesses requires a shared understanding of political visions and threats, we believe that a broad and transparent debate is necessary. **Crucially, we believe that this debate has not taken place until now.**
  Although the White Paper acknowledges that stakeholder consultations could be useful, it only mentions them marginally and as an optional tool. To ensure the success of the task at hand, we believe that stakeholder dialogues should be prioritized. Therefore, **Bitkom encourages the Commission and member states to engage in a broad stakeholder dialogue** on outbound investments and to have regular exchanges with stakeholders on all relevant issues and during all steps of the process. Particularly, we recommend a more in-depth discussion of the definition of sufficient risks that would ultimately require legislative action, the definition of technologies to be included in the process, and the risks and benefits of investments that will be included. In Bitkom's view, this requires both national and trans-European public dialogue formats on foreign investment as well as in-depth discussions with individual stakeholders while maintaining the necessary confidentiality.

[3] COM 2024

Bitkom represents more than 2,200 companies from the digital economy. They generate an annual turnover of 200 billion euros in Germany and employ more than 2 million people. Among the members are 1,000 small and medium-sized businesses, over 500 start-ups and almost all global players. These companies provide services in software, IT, telecommunications or the internet, produce hardware and consumer electronics, work in digital media, create content, operate platforms or are in other ways affiliated with the digital economy. 82 percent of the members' headquarters are in Germany, 8 percent in the rest of the EU and 7 percent in the US. 3 percent are from other regions of the world. Bitkom promotes and drives the digital transformation of the German economy and advocates for citizens to participate in and benefit from digitalisation. At the heart of Bitkom's concerns are ensuring a strong European digital policy and a fully integrated digital single market, as well as making Germany a key driver of digital change in Europe and the world.

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