

EU's Economic Security Package

ASD



White Paper on Outbound Investment

On 24 January 2024, the European Commission adopted a White Paper on the control of outbound investments as part of its Economic Security Strategy published on 20 June 2023.

ASD welcomes the European Union's commitment to strengthening its economic security, protecting European technological leadership, and preventing critical technologies developed in the civilian field from being diverted for military purposes against the interests of the European Union and its industry.

The assessment of investment decisions of EU undertakings in third countries is solely a matter for their internal assessment, taking into account a number of factors such as the local political situation, the level of infrastructure, the services provided, the availability of a skilled workforce and, of course, the protection of their innovation.

The risk assessment associated with an investment with regard to the transfer of technology or know-how is always carried out according to the state of technological developments of the companies and with a view to protecting them. It also takes into account companies' commitments in terms of corporate social responsibility (CSR) and is carried out in accordance with applicable European and local regulations.

In particular, with regard to the most strategic industrial sectors such as aeronautics, space or defence, this analysis is carried out taking into account the security and defence requirements specific to these sectors and the specific export control competences of member states.

The freedom of an undertaking to invest according to their own interests in accordance with European regulations must be preserved.

With regard to the proposals made in the White Paper, ASD thanks the European Commission for raising the subject with all stakeholders before any European initiative in this area. In particular, ASD supports the cautious approach proposed by the European Commission, which aims to first understand the phenomenon in order to assess the risks.. These proposals call for the following remarks.

The implementation of such a mechanism entails a proven risk for companies to forego certain types of partnerships or acquisitions of key technologies for decarbonization aviation, strategic autonomy, and the EU's defence. While such control of foreign direct investments is justified in order to safeguard the free movement of capital and the right of establishment in the EU's internal market, it is inappropriate in the case of investments located outside the European territory. From

this point of view, ASD wants to preserve the external growth of European companies;

- wants to promote international industrial cooperation;
- wants to avoid adding New prior regulatory approvals to merger control, foreign subsidy control for example. A new regulatory approval procedure would make investment operations more cumbersome or even discouraged, particularly in venture capital on disruptive technologies or mergers and acquisitions.
- does not want to add new costs and administrative burden for companies that would be required to comply;
- wishes to prevent all risks of leakage of sensitive information for European companies (trade secrets, risks of market disruption for listed companies in particular) with regard to investments they make outside the EU;
- In particular, as regards the most strategic sectors such as aeronautics, space or defence, such a mechanism run the risk of having their investments systematically controlled and then blocked because of the very nature of the activities concerned. In this regard, ASD calls on the Member States and the Commission to exercise the utmost caution with regard to these sectors.

It is the responsibility of companies investing in third countries to carry out the necessary prior analyses to prevent the risks of technology and know-how leakage. This is particularly true in industrial groups that are subject to risk management requirements. Determining whether or not these risks exist and take appropriate mitigation measures are exclusive prerogatives of companies.

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In any case, the competence of Member States to control arms exports and dual-use goods must not be called into question.

In view of the above, industrialists in the aeronautics, space and defence sectors are not in favour of developing such an instrument.

Lastly, it would be useful for the Commission to create a specific support tool for SMEs and SMIs that are sensitive to the risk of critical technology leaks, in order to provide them with better support and prevent upstream risks to subcontracting operations.

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**Aerospace, Security and
Defence Industries
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ASD represents the Aerospace, Security and Defence Industries in Europe with the objective of promoting and supporting the competitive development of the sector.

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