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## Current Development of the European FDI Screening Mechanism and its Policy Implications

## 欧盟建立外来投资监控机制进展及其政策意涵

*Articles in our Policy Forum series are commentaries on current political issues. They reflect the opinion of the authors and – although researched to our best knowledge – are not scientific papers. If there are CFDS papers on related issues, they will be referred to in the text.*

On 13 September 2017, the European Commission adopted a proposal for a regulation establishing a framework for screening foreign direct investment (FDI) inflows into the EU on grounds of security or public order. Officially the framework serves to enhance cooperation on FDI screening between the Commission and Member States, to increase legal certainty and transparency. However, the cases and relevant statistics shown in the official documents reveal that the EU mainly focuses on the capital from China's enterprises.

As (for example) mentioned in "China's International Behaviors" (Medeiros 2009), China tended to contact European countries individually rather than EU since 2005. The

2017年9月欧盟执委会决定建立欧盟层级的外来投资监控机制，以兼顾国家安全与公共秩序。官方说法是为了强化欧盟与成员国间的合作机制，以增进法规确定性与透明度。然而目前可见的官方文献与统计数据均以中国作为范例，可以想见欧盟主要是针对来自中国的投资进行规范。

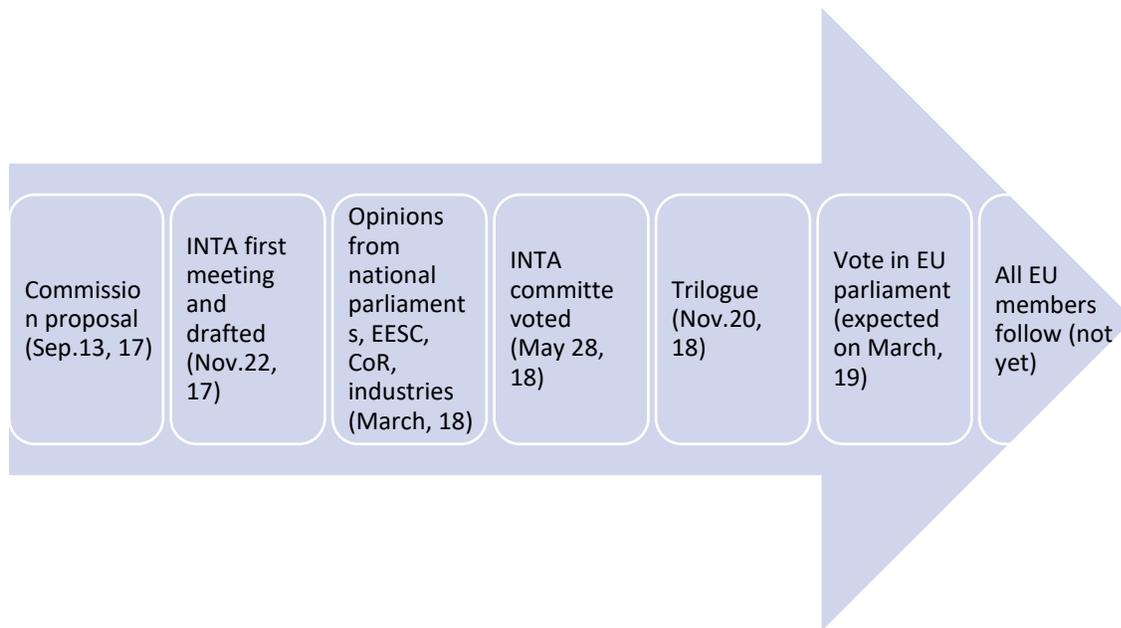
曾在欧巴马政府担任要职的 Medeiros 在其「中共的国际行为」一书中，评论自 2005 年起欧中关系蜜月期结束并产生一系列争议，中国转与欧盟各成员国接触对话，而欧盟执委会对此十余年来几毫无有效因应策



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European Commission can do nothing when China only contacts the member states regardless of the EU's requests. However, the EU's decision making has been unusually efficient this time (see Figure 1): the EU level FDI screening mechanism will most likely be finished in 2019, less than three years since Jean Claude Juncker's statement of "we are not naïve free traders" in 2017.

略。然而图 1 所显示的欧盟层级外来投资监控机制立法进程，却打破外界对于欧盟决策无效率的刻板观点：自 2017 年执委会主席 Jean-Claude Juncker 发表「我们并非天真的自由贸易者」盟情咨文以来，不到三年时间进展相当迅速，预计于 2019 年完成欧洲议会立法并于各成员国一体施行。



**Figure 1: The Progress of the EU Level FDI Screening Mechanism**

(Source: Author's compilation according to European Parliament (2018). EU Framework for FDI Screening, Briefing EU Legislation in Progress)

How does it happen? Figures 2 and 3 summarize some key information regarding mutual FDI between the EU and China. In the past China received large amount of FDI and received technological transfers in a mostly passive way. But now China invests a lot in the foreign countries including the EU, which means it can also get foreign technologies actively. In contrast, the EU's investment in China is decreasing because of unequal market access according to European companies' accusations.

Moreover, Figure 3 indicates an interesting phenomenon: in 2016 Chinese

上述进展孰令致之？图 2 与图 3 对于背景提供简要说明。以往中国为接受外资最大国家之一，某种程度而言可谓以较被动方式接受国外技术。图 2 则显示现在已有能力进行海外投资并购，等于是主动选择所需要的技术资源，如此双管齐下加速国内产业升级增长。另一方面欧盟企业在华投资却呈现迟滞现象，而根据欧商的指控，并非欧方对中国市场不感兴趣，而是市场准入不平等所致。

图 3 则是依据欧方观点，指出在

companies switched their FDI towards EU countries suddenly to machinery manufacturing and AI for industrial upgrade purposes. It can therefore be doubted that those mergers and acquisitions were led by official orders to create a self-sufficient economy through import substitution.

For China the key is to continue the process of industrial upgrading under the informal coalition among the U.S., EU, Japan and other western economies. In addition to market opening, the following strategies might be taken into account.

The first is to make merger and acquisition abroad more efficient. Future FDI might decrease due to RMB exchange rate stabilization and foreign screening, but it can still be worth trying focusing on selected sectors helpful to upgrading.

2015年前中国企业在欧洲并购的偏好，到了2016年突然呈现巨幅的转变，由房地产与能源之类转而集中于机械设备制造与人工智能等项目，于是出现背后可能有官方政策与资金指引等非市场因素的议论，认为其目的在于达成产业升级、进口替代、经济自给自足等规划。

即使在美、欧、日等西方国家的疑虑下，产业升级进程需要仍不能停止。未来除了适时调整市场开放进程外，仍可考虑几项策略：首先是海外投资并购可更有效率，尽管在国外投资监控机制且兼顾汇率稳定需要下，海外投资金额增长势必受限，但对于有助于产业升级的选择性标的仍应持续尝试。



Figure 2: EU-China Bilateral Investment, 2000-2016 (in million Euros)

Note: The red and blue lines are China's investment in the EU and EU's investment in China, respectively.

(Source: Hanemann, Thilo & Mikko Huotari (2017): Record Flows and Growing Imbalances: Chinese Investment in Europe in 2016, MERIC Papers on China 3.)

Investment over 1 Billion USD in 2016	<b>Real Estate</b>	<b>Energy</b>	<b>Mech. Equipment</b> <b>IT</b> <b>Public Infrastructure</b>
Investment over 500 million USD in 2016	Financial service <b>Automobile</b>		Amusement Consumer Products and Services Medical and Biology
Investment less than 500 million USD in 2016	Agriculture Electronics	Material, Mining, Metal	Aviation
Growth rates in 2016 compared with the average in 2013-2015	Decreasing	Increasing by 0-150%	Higher than 150%

*Figure 3: The Dramatic Changes of China's Interests in the EU*

Note: The sectors bolded in frames mean the accumulated amount has been over 10 billion USD.

Source: Same as Figure 1 and author's compilation.

Secondly, 100% merger and acquisition should be avoided, but getting 5% to 10% shareholdings could have an impact on a foreign enterprise's decision making. This can be done through foreign mutual funds or investment companies. Note that since December 2018, Germany has lowered the threshold of FDI screening to 10% and covered a variety of sectors related to national security and public interest.

Finally, the EU-level FDI screening mechanism is expected to be finished in 2019, but China's strategy of "contacting EU individual members" has worked well so far. Investment in the Balkan corridor and Central Eastern European countries can be a hub to achieve Chinese needs in Europe.

其次承上述，高比例甚至百分之百的高调并购或应避免，但 5%-10% 无控制力但可能具实质影响力的股权持有则可进行。附带一提者，德国政府已不待欧盟监控机制完成，于 2018 年底调降各重点产业外资监控门坎为 10%。

最后，前述自 2005 年以来与欧盟各成员国的密切接触的策略仍应持续下去，因为在欧盟治理机制的结构性问题仍存下，对于中东欧与巴尔干走廊国家的投资，仍将成为前进欧盟并获取所需的重要管道。

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