



Council of the
European Union

Brussels, 22 February 2019
(OR. en, it)

**Interinstitutional File:
2017/0224(COD)**

**6551/19
ADD 2**

**CODEC 467
COMER 31
FDI 9
COMPET 152
IND 53**

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework for the screening of foreign direct investments into the Union (first reading) - Adoption of the legislative act - Statement

Statement by Italy

On 13 September 2017 the European Commission presented the draft Regulation (COM (2017) 487 final - 2017/2204 (COD)). The draft has been amended and developed by the Council and Parliament and subsequently discussed in the trilogue which ended on 20 November 2018.

The current Italian Government notes the outcome of the negotiations, based on texts which had in fact already been completed when it took office. While agreeing with the initial objective of the exercise, which aimed to protect the Member States and the European Union against potentially predatory foreign investment, it intends to abstain from today's vote on the co-legislative process and wishes to emphasise the following points.

In the Italian Government's view, the proposal for a Regulation raises concerns regarding the correct division of competence between the EU and the Member States and inefficiently overlaps with existing national screening procedures. Under the legislation in force in Italy, the Government is already constantly engaged in the rigorous exercise of national powers to monitor foreign investment and in cooperating in very good faith to prevent 'predatory investment' which harms or threatens the strategic interests of Italy and of the European Union as a whole.

The system which is to enter into force, defined as a 'control mechanism', in reality consists merely in an exchange of information which does not guarantee that all Member States will acquire the capacity to block predatory acquisitions.

Furthermore, since it provides for the circulation of information on a 'suspect' acquisition without effective and uniform protective measures, it risks attracting new potential buyers who may learn of the existence of a company subject to a hostile offer, despite the confidential nature of the exchange of information.

Once this Regulation is approved, there is a risk that the issue of FDI screening will be considered to have been solved and will be removed for some time from the work agenda in Brussels: this would continue to expose those Member States that lack a national screening mechanism ('golden power') to the real danger of predatory acquisitions. Priority should rather be given to a regulatory instrument that creates uniformity among Member States in terms of monitoring of foreign direct investments aimed at strategic assets, where necessary by creating national screening mechanisms and setting minimum standards.

The Italian Government reserves the right to promote any useful initiative in the future aimed at adequately opposing unfair practices and protecting the European Union from predatory acquisitions by third countries.

In addition, with the involvement of the Italian Parliament, it will carry out constant and timely monitoring of the Regulation's implementation, once it enters into force, and invites the Commission to do the same.