Council of the European Union
General Secretariat

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**Brussels, 26 June 2026**

**WK 9477/2026 INIT**

**LIMITE**

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| **COMPET** | **CLIMA** |
| **IND** | **ENV** |
| **MI** | **ENER** |
| **MAP** | **ECOFIN** |
| **FDI** | **UD** |
| **TRANS** | **POLCOM** |
| | **CODEC** |

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**WORKING DOCUMENT**

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| From: | General Secretariat of the Council |
| To: | Delegations |
| Subject: | Regulation for Industrial Accelerator Act:<br>- General comments and questions on Chapter IV by : BE, CZ, DE, DK, EE, EL, FI, FR, IT, LT, LU, MT, NL, PL, PT, SE, SI, SK |

Delegations will find in Annex to this note, a version of the consolidation of comments received on Chapter IV of the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a framework of measures for the acceleration of industrial capacity and decarbonisation in strategic sectors and amending Regulations (EU) 2018/1724, (EU) 2024/1735 and (EU) 2024/3110.

Comments received on other parts of the proposal will be published at a later stage, together with the respective partial Presidency compromise.

**Proposal for a Regulation on establishing a framework of measures for accelerating industrial capacity and decarbonisation in strategic sectors (Industrial Accelerator Act)** Deadline: ***03 June 2026***

**From: BE, CZ, DE, DK, EE, EL, FI, FR, IT, LT, LU, MT, NL, PL, PT, SE, SI, SK** **Updated: 26/06/2026 14:35**

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# Guidelines to be followed

*Please kindly provide your contributions in the table below.*

***Drafting suggestions:*** you may use '**track changes**'* or formatting (for example **bold-underline** for additions and ~~strike-through~~ for deletions, **where necessary, in a different colour**). *Track changes can only be connected once the cursor is placed in editable areas (Drafting or Comments columns).

To make it feasible to consolidate all contributions, the structure of the table must not be changed, so **no rows can be added or deleted.**

New provisions may only be added in any of the **'existing cells'.**

***Name of document:*** please add the **two initials** of your delegation's country followed by a space (to the MS Word document name), followed by any optional text, for example, for Austria: **AT comments on … .docx**

Thank you for your cooperation!

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| | IT<br>(Comments):<br>***Italy welcomes the opportunity to provide comments on this version of the text.***<br>***Drafting suggestions are reported in bold.***<br>***The absence of any comment does not imply the Italy's agreement or disagreement with any proposed new wording.***<br>***Italy reserves its rights to submit further written comments at a later stage.***<br>MT<br>(Comments):<br>General: From an industry perspective, Malta supports in principle initiatives that accelerate industrial capacity and decarbonization in strategic sectors. Yet, |

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| | for a small state economy like Malta, international trade relations and sustained FDI flows are of strategic importance. Our economic structure is deeply integrated into global value chains and external markets. Therefore, special attention should be given to avoiding provisions that could have FDI repercussions or higher procurement related costs which could disproportionately affect us. As a country, despite being part of the EU, we remain geared to doing business and attracting business from outside the Union.<br><br>From Malta's side, the greatest concerns are placed in the implications for Malta, namely on cost and competition, supply chain resilience and the added administrative burden.<br><br>On the first issue, limiting the number of bidders in public procurement processes would result in shrinking the possible suppliers, resulting in artificially high prices that do not reflect market conditions. This is especially important for us as we are heavily import-dependent. Apart from this, public projects could become increasingly more expensive if no compliant bids are made.<br><br>On supply chain resilience, this could disrupt the supply chains that already exist, and additionally increase vulnerability where EU supply does not meet our demand. Finally, complex origin verification and ownership/control checks risk delays and inconsistent application across Member States.<br><br>There is also a critical legal argument due to existing public procurement commitments under the EU FTA and WTO GPA commitments. If we have a de facto EU-only procurement system, it would be legally inconsistent with EU obligations. It is thus not clear how the proposal addresses this matter. Apart from this, the EU would be risking retaliation by trading partners and |

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| | undermining EU trade credibility, which would influence any current and future negotiations.<br><br>In terms of foreign direct investment, Malta has reservations regarding the overall governance framework established under this Regulation for the assessment, approval, monitoring and enforcement of foreign direct investments.<br><br>Malta notes that this proposal is intended to establish a framework for accelerating industrial capacity and decarbonisation in strategic sectors. However, a number of provisions introduce extensive assessment, approval, monitoring and enforcement mechanisms relating to foreign direct investments which resemble elements of an FDI screening framework.<br><br>Malta considers that, as currently drafted, the proposal risks creating a de facto Union-level investment assessment and approval mechanism, including through mandatory approval criteria, Commission involvement in investment decisions, monitoring obligations and enforcement powers. Such provisions may unduly limit Member State discretion and affect national institutional arrangements and competences in the area of foreign direct investment.<br><br>Malta recalls that Regulation (EU) 2019/452 establishes a coordination and cooperation framework while preserving Member State competence with regard to decisions to screen, authorise, condition or prohibit foreign direct investments.<br><br>**Malta therefore considers that any provisions relating to foreign direct investments under this Regulation should remain proportionate, risk-based and clearly without prejudice to Member State competences, institutional arrangements and administrative autonomy.**<br><br>SI |

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| | (Comments):<br><br>The following comments are provisional in nature, as the official position of the Republic of Slovenia is still undergoing interministerial coordination. Due to the parliamentary elections held in March, the official position will be considered by the Government once constituted and subsequently submitted for parliamentary scrutiny. |
| 2026/0068 (COD) | |
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| Proposal for a<br>**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**<br>**establishing a framework of measures for the acceleration of industrial capacity and**<br>**decarbonisation in strategic sectors and amending Regulations (EU) 2018/1724,**<br>**(EU) 2024/1735 and (EU) 2024/3110**<br>(Text with EEA relevance) | |
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| THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, | |
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| Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 and 207(2) thereof, | IT<br>(Comments):<br><br>*Strengthening European industrial capacity, reducing strategic dependencies, and enhancing the resilience of value chains are legitimate objectives.*<br><br>*At the same time, provisions set out by Chapter IV do not seem adequately justified on the basis of Article 114 TFEU. In fact, these appear to pursue these* |

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| | *objectives through a centralization of powers within the Commission that goes beyond the coordination and support permitted in industrial matters.*<br><br>*From the perspective of subsidiarity and proportionality, the Commission should therefore demonstrate precisely why such centralized powers are necessary and why less invasive instruments—such as minimum common criteria, reporting requirements, non-binding opinions, coordination between national authorities, or enhanced cooperation mechanisms—are not sufficient.*<br><br>*Furthermore, Chapter IV involves national security issues that should fall into the sole responsibility of Member States according to 4(2) TEU.* |
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| Having regard to the proposal from the European Commission, | |
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| After transmission of the draft legislative act to the national parliaments, | |
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| Having regard to the opinion of the European Economic and Social Committee[1],<br><br>1 […] | |
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| Having regard to the opinion of the Committee of the Regions[2],<br><br>2 […] | |
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| Acting in accordance with the ordinary legislative procedure, | |
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| Whereas: | |

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| (1) The global COVID-19 pandemic, Russia's illegal and unprovoked war of aggression against Ukraine, hostile economic actions, cyberattacks, foreign interference, the weaponisation of Union economic dependencies, arbitrary deployment of trade measures, the increasing effects of climate change and rising geopolitical tensions have exposed the Union's vulnerabilities and pose a serious threat to the Union's societies, economies, and undertakings. The Union's economic security is therefore inextricably linked to its capacity to strengthen resilience and mitigate risks arising from hostile economic interconnections. The Union is committed to protecting its economic security and addressing threats to its supply chains, infrastructure, key technologies and threats coming from the weaponisation of its economic dependencies[3]. The Union's economic security and social cohesion are inextricably linked to its capacity to strengthen its resilience and mitigate the risks arising from economic interconnections. That requires the strengthening of the resilience of its supply chains and the safeguarding of its internal market and industrial capacity, while maintaining territorial, social and economic cohesion, including by fostering a strong and competitive industrial base in selected strategic sectors, such as clean and digital technologies, energy-intensive industries and the automotive sector, to secure access to strategic materials and technologies and retain high-quality jobs in the Union.<br><br>3 https://www.consilium.europa.eu/en/policies/european-economic-security/ | |
| | |
| (2) The European Economic Security Strategy[4], and the Economic Security Communication of 3 December 2025[5] clearly set the Union's pathway towards addressing geo-economic tensions and technological shifts to avoid economic dependencies in critical industrial supply chains, technologies and infrastructures which can lead to local shortages and threaten the Union's competitiveness, economy and ultimately its social cohesion. | |

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| 4 Joint Communication to the European Parliament, the European Council and the Council on "European Economic Security Strategy" (JOIN/2023/20 final).<br><br>5 Joint Communication to the European Parliament and the Council on Strengthening EU economic security (JOIN(2025)977 final). | |
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| (3) Despite the Union's objectives of economic security, resilience, quality jobs and climate neutrality, manufacturing capacity has decreased over the last 20 years. The share of manufacturing in total GDP has declined from 17.4% to 14.3% between 2000 and 2024. It is therefore necessary to strengthen economic resilience, competitiveness and job creation, while also ensuring that the Union's climate and energy targets are met. The Union's manufacturing capacity should aim to account for at least 20% of the Union's gross domestic product by 2035. The development of industrial manufacturing projects within the Union should be facilitated to contribute to that objective. | |
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| (4) The challenges posed by the need for industrial decarbonisation and for a resilient industrial production are complex and transcend national borders. Fragmented national measures aimed at tackling those challenges risk undermining the functioning of the internal market. Measures adopted by individual Member States could lead to divergent requirements imposed on market operators, inconsistent procurement practices and divergent permit-granting procedures across Member States. Such measures could create obstacles to cross-border trade within the Union and distortions on the internal market, undermining investor confidence, increasing costs, and redirecting investment flows within the Union. It is therefore necessary to establish harmonised measures to ensure the proper functioning of the internal market. | |
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| (5) To ensure legal certainty, reference should be made to the most recent revision of the European Classification of Economic Activity (NACE, Rev. 2). | |

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| In order to ensure consistency with existing Union legislation and enable the uniform application of this Regulation across the Union, industrial manufacturing as well as energy-intensive industries should be defined by referring to the NACE classification codes[6].<br><br>6 With the exception of NACE Code C12, e-liquids used in vaping devices and nicotine-containing products under C20.59 and manufacture of electronic cigarettes and tobacco heating devices under C32.99 (unless they are authorised as medicinal products or certified as medical devices). | |
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| (6) Energy-intensive industries are a key pillar of the Union's prosperity. They enable a wide range of downstream industries and contribute to the Union's economy by creating jobs, supporting growth and fostering innovation. However, they also account for around 22.3% of the Union's greenhouse gas emissions and require substantial investments in decarbonisation, leading also to reduced pollution. The combination of high energy prices, the need for large-scale decarbonisation investments and unfair global competition places energy-intensive industries at a competitive disadvantage, and there are growing signs of industrial decline. | |
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| (7) Net-zero technologies are pivotal to achieving the Union's energy and climate targets. They play a crucial role in reducing greenhouse gas emissions and enabling the decarbonisation of a wide range of economic sectors, including building, transport and the industry. They are also key in advancing sustainable energy solutions, by enabling the decarbonisation of the energy supply and providing innovative solutions to enable the needed expansion and digitalisation of electricity grids and the energy system as a whole. However, the Union's net-zero technology manufacturing sector faces significant challenges, including increasing global competitive pressures and supply chain vulnerabilities which endangers the Union's competitiveness and economic resilience. | |

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| (8) The bioeconomy is able to provide sustainable biomass and bio-based solutions for industrial production. The Commission communication "A Strategic Framework for a Competitive and Sustainable EU Bioeconomy"[7] identifies lead markets, such as bio-based plastics and polymers, bio-based chemicals and biobased construction products, as well as lead technologies that can support the Union's strategic autonomy and the decarbonisation of the industrial sectors identified in this initiative.<br><br>7 Communication from the Commission to the European, the Council, the European Economic and Social Committee and the Committee of the Regions, A Strategic Framework for a Competitive and Sustainable EU Bioeconomy (COM(2025)960). | |
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| (9) The automotive industry is a cornerstone of the Union economy. With a view to delivering on the Union's climate policy objectives, over the past years, the European automotive industry has been investing heavily in the development of cleaner vehicles and innovative components. Electric vehicles and electric vehicle components, including traction batteries, e-powertrain components and electronic systems, are essential technologies for advancing the decarbonisation of road transport. However, as a result of costs disadvantage and the transformation of the value chain with an increasing value share for batteries, e-powertrain and electronics, the level of Union content in vehicles produced in the Union is decreasing. It is no longer possible to postpone effective measures to avoid the risk of local production being displaced. In the absence of such measures, the current circumstances would lead to a full reliance on third countries for key vehicle components. That would be a serious threat to the Union's economic security and future resilience, as well as for its climate goals. | |
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| (10) The unpredictability, complexity and, at times, excessive length of national permit-granting procedures undermine the cost-effectiveness of investments necessary for the development of industrial activities. Therefore, and in order to ensure and speed up the effective implementation of industrial manufacturing activities, Member States should apply streamlined and digitalised permit-granting processes. A competent authority should coordinate all permit granting processes and issue a comprehensive decision within the applicable time limit. | |
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| (11) The implementation of single access points should be based on the European Business Wallets established pursuant to [Proposal for a Regulation on the establishment of European Business Wallets[8]], as they provide a secure, standardised, and interoperable platform for businesses to interact with public sector bodies. This should enable the efficient and effective submission of applications, while ensuring a high level of data protection, cybersecurity, and integrity of information. The European Business Wallets will also enable the streamlining of investments that were made and the avoidance of unnecessary duplications, allowing for the optimisation of resources and the reduction of administrative burdens for businesses. The implementation of single access points should also, to the extent possible, use existing Union digital infrastructures, catalogues and building blocks, including those developed under the Once-Only Technical System and its implementing acts. This would promote complementarity, interoperability and the efficient use of public resources, while avoiding duplication of existing digital solutions.<br><br>8 Proposal for a Regulation of the European Parliament and of the Council on the establishment of European Business Wallets (COM/2025/838 final). | |
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| (12) In order to ensure streamlined and simplified permit-granting procedures, a single application covering all necessary permits should be | |

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| provided for all industrial manufacturing projects except for the manufacturing sector under the C12 code. It should not apply where specific permit-granting or licensing procedures or requirements are established in Union harmonisation legislation for industrial manufacturing projects, such as pursuant to Regulations (EU) 2024/1735[9] and (EU) 2024/1252[10] of the European Parliament and of the Council. Sectorial Union legislation governing medicines and medical devices has recently undergone or is undergoing further streamlining of harmonised rules and timelines for authorisations and certifications, with options to speed up the process if necessary. Those rules should therefore not be considered permit-granting procedures within the context of this initiative.<br><br>9 Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 (OJ L, 2024/1735, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1735/oj).<br><br>10 Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 (OJ L, 2024/1252, 3.5.2024, ELI: http://data.europa.eu/eli/reg/2024/1252/oj). | |
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| (13) Regulation (EU) [202X/XX] of […][11] establishes a common acceleration framework for environmental assessments in order to boost the Union's roll out of key technologies, reduce dependencies and strengthen competitiveness. Procedures linked to environmental assessments should be accelerated and streamlined for plans, programmes and projects across all sectors of the economy while maintaining high levels of protection of human health and of the environment. Some sectors may, however, require yet faster environmental assessments. Therefore, and in order to safeguard the coherence | |

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| of the legal framework of environmental assessments, while allowing for the additional needs for acceleration in certain strategic sectors, Regulation (EU) [202X/XX] establishes a dedicated toolbox that should therefore be used in the context of this Regulation. Given their essential role in ensuring the achievement of the Union's climate objectives, and their contribution to the Union's resilience and economic security, energy-intensive industry decarbonisation projects, industrial manufacturing projects located in industrial manufacturing acceleration areas, and net-zero technology projects should be considered strategic projects within the meaning of Regulation (EU) [202X/XX] and therefore benefit from the dedicated toolbox established under that Regulation.<br><br>11 Proposal for a Regulation of the European Parliament and of the Council on speeding-up environmental assessments (COM/2025/984 final, 10.12.2025). | |
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| (14) Regulation (EU) 2024/1735 sets out provisions that streamline administrative and permit-granting processes for net-zero technology manufacturing projects. Some specific components in the supply chain of net-zero technologies are produced through energy-intensive production processes. Energy-intensive industry decarbonisation projects fall within the scope of Regulation (EU) 2024/1735 where the relevant facilities produce components that are part of the supply chain of a net-zero technology. However, energy-intensive facilities that do not produce components that are used in net-zero technologies are currently excluded from the scope of Regulation (EU) 2024/1735. This creates the risk of uneven conditions of between energy-intensive industries and slows down decarbonisation efforts. All energy-intensive decarbonisation projects should therefore be subject to the same permit-granting processes. | |
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| (15) The Union should adopt a more strategic approach in leveraging its economic weight and the value of access to its internal market. In that context, the strategic use of public intervention is essential to prevent critical dependencies in the Union. Public procurement amounts to 15% of the Union's GDP. Contracting authorities and entities should therefore, where appropriate, ensure that public procurement requirements foster economic security and resilience of supply chains. Public support schemes also play an important role in stimulating demand in downstream sectors that account for a significant share of demand for certain strategic products and technologies. Such schemes should therefore favour beneficiaries that make a greater contribution to strengthening the Union's resilience and advancing its decarbonisation objectives. Auctions are crucial for the deployment of net-zero technologies and should be designed to foster demand for such technologies including components originating from the Union. | |
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| (16) The Union and Member States maintain an open investment environment, as enshrined in the Treaty on the Functioning of the European Union (TFEU) and embedded in their international commitments. This includes commitments under the World Trade Organisation Agreement on Government Procurement (GPA)[12], as well as bilateral trade agreements, to open public procurement procedures and other forms of public intervention. At the same time, the Union retains the right to apply general or security exceptions. The Commission will regularly assess whether the conditions for excluding a third country from the scope of the provisions deeming content originating in third countries to be equivalent to Union origin, are in place, and will take appropriate action. Economic security aims at protecting and strengthening the internal market. Member States cannot rely on economic security to prevent, condition, or otherwise hinder in any way investments coming from other Member States. | |

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| 12 World Trade Organisation (WTO), Agreement on Government Procurement 2012, available at https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.pdf. | |
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| (17) The progressive integration of candidate countries and potential candidates into the Union's internal market, including through their gradual participation in Union policies and programmes, is essential to support their alignment with the acquis, strengthen their competitiveness, promote their deeper integration into Union value chains and enhance the Union's economic security. This Regulation should therefore contribute to fostering such gradual integration, including by facilitating the participation of economic operators from those countries in Union-wide value chains, Union public procurement, public support schemes and auctions where appropriate and in line with the Union's interests and objectives. | |
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| (18) Acknowledging the importance of the Union's advancing towards greater strategic autonomy and resilience, the Union should also recognise for reasons of coherence the proactive efforts of partner countries to prioritise domestic participation in economic activities, similar to the measures established within this Regulation. In the context of implementing Union origin requirements within certain categories of public procurement and public schemes procedures, the Union should thoughtfully consider partner countries' content conditions for strategic Union-funded or supported investments in these partner countries, accepting its presence. This strategic approach is expected to enhance mutual economic benefits, strengthen strategic partnerships, and align with the Union's overarching objectives of international partnerships. | |
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| (19) Demand-side measures should focus on establishing low-carbon requirements for steel, cement and aluminium used | |

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| in buildings, infrastructure and motor vehicles, where appropriate, since those sectors are the most energy-intensive industries. Targeted Union wide demand-side measures can help create lead markets for low-carbon and Union-produced energy-intensive industrial products, supporting decarbonisation while strengthening the Union's industrial base. | |
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| (20) Downstream sectors that account for a large share of demand for certain energy-intensive materials, such as the construction and automotive sectors, should be prioritised under this Regulation when establishing low-carbon requirements, Union origin requirements, or both. That is particularly appropriate given that such sectors are significantly subject to public procurement and support schemes, while the share of energy-intensive input in total production value is relatively small and therefore minimises the impact of any price premium. | |
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| (21) In order to ensure regulatory consistency with existing Union product legislation, steel, concrete and aluminium in construction should be considered low-carbon in compliance with the requirements set out in the implementing measures adopted pursuant to Regulations (EU) 2024/3110[13] and (EU) 2024/1781[14] of the European Parliament and of the Council.<br><br>13 Regulation (EU) 2024/3110 of the European Parliament and of the Council of 27 November 2024 laying down harmonised rules for the marketing of construction products and repealing Regulation (EU) No 305/2011 (OJ L, 2024/3110, 18.12.2024, ELI: http://data.europa.eu/eli/reg/2024/3110/oj).<br><br>14 Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC (OJ L, 2024/1781, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1781/oj). | |
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| (22) The Clean Industrial Deal Communication[15] highlighted the need to create lead markets for industrial products with a low greenhouse gas emissions intensity, including by promoting such products on the internal market through the establishment of a Union labelling scheme, starting with the steel sector. That should be seen in the context of Union products legislation already designed to introduce labelling and information requirements, including comprehensive product labelling requirements to be established under the delegated acts pursuant to Regulations (EU) 2024/3110 and (EU) 2024/1781. Considering the importance of both primary and secondary steel production for the long-term resilience of the Union industrial base, such requirements should be based on classes of performance that acknowledge the different decarbonisation effort of the technologies' routes, also rewarding circularity, adjusting emission intensity thresholds based on percentage of scrap metal used in production for those product categories that typically require primary steel production, as necessary. It should also be possible to complement the delegated acts adopted pursuant to Regulations (EU) 2024/3110 and (EU) 2024/1781 in order to support the creation of lead markets by informing investment decisions towards products granted a lower greenhouse gas intensity performance class, for industrial products not yet regulated by a Delegated Act under Regulation (EU) 2024/1781, or covered in the scope of products included in the working plan adopted in accordance with that Regulation. To do so, it should be possible to establish voluntary classification systems based on the greenhouse gas intensity of industrial products. To provide environmental integrity and administrative feasibility, it is important to rely on well-established and monitored emissions accounting methodologies. For domestic installations and sub-installations, the EU Emissions Trading System (EU ETS) provides relevant products benchmarks and system boundaries in Annex I to Commission Delegated Regulation (EU) 2019/331[16] and sound emissions accounting rules in Commission Implementing Regulation (EU) 2018/2066[17]. Concerning imported products, in order to limit administrative burden, it is appropriate to enable the use of | |

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| data already verified in the context of the Carbon Border Adjustments Mechanism (CBAM), in accordance with implementing rules adopted pursuant to Article 7(a) of Regulation (EU) 2023/956 of the European Parliament and of the Council[18]. In view of reflecting accurately the greenhouse gas intensity of the industrial product, in addition to covering the direct emissions typically related to the installation's activities covered by Annex I of Directive 2003/87/EC of the European Parliament and of the Council[19], it is appropriate to also account for the most important sources of indirect emissions, including those from electricity, hydrogen and heat production used in the manufacturing process. To ensure consistency and limit administrative burden, methodologies used to define low-carbon requirements under this Regulation should make use of emissions of data reported under the EU ETS and CBAM, where available and relevant.<br><br>15 Communication From the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of The Regions, A Green Deal Industrial Plan for the Net-Zero Age (COM/2023/62 final, 1.2.2023).<br><br>16 Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8, 27.2.2019, ELI: http://data.europa.eu/eli/reg_del/2019/331/oj).<br><br>17 Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1, 31.12.2018, ELI: http://data.europa.eu/eli/reg_impl/2018/2066/oj).<br><br>18 Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism (OJ L 130, 16.5.2023, p. 52, 16.5.2023, ELI: http://data.europa.eu/eli/reg/2023/956/oj). | |

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| 19 Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, 25.10.2003, ELI: http://data.europa.eu/eli/dir/2003/87/oj). | |
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| (23) In order to ensure the attainment of the objectives of this Regulation, in particular the creation of lead markets for European low-carbon industrial products, minimum mandatory technical specifications should be provided for low-carbon and Union origin requirements in public procurement procedures Those requirements should apply to the procurement of those products in public supply contracts and in public works, public services contracts and concessions, where those products will be used for activities conducted under those contracts. In compliance with the public procurement framework, those minimum mandatory technical specifications should avoid artificially restricting competition and avoid favouring a specific economic operator. Contracting authorities and contracting entities should conduct the public procurement procedures in compliance with Directives 2014/23/EU[20], 2014/24/EU[21] and 2014/25/EU[22] of the European Parliament and of the Council and applicable sectoral legislation. The Union origin of products and components should be determined in accordance with the Union customs legislation.<br><br>20 Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, pp. 1-64, ELI: http://data.europa.eu/eli/dir/2014/23/oj).<br><br>21 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65, ELI: http://data.europa.eu/eli/dir/2014/24/oj). | |

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| 22 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243). | |
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| (24) In order to ensure the feasibility of the requirements at reasonable cost and avoid restricting competition, it is necessary to lay down the conditions under which contracting authorities may, on an exceptional basis, decide not to apply the low-carbon and Union origin requirements. Those conditions should cover cases where the application of such requirements would result in technical incompatibilities in the operation or maintenance of a project such as situations where the use of such products would risk compromising the fulfilment of basic requirements for construction works of the building or infrastructure, set out in Regulation (EU) 2024/3110. The requirements laid down in this Regulation should apply exclusively to procurement procedures falling within the scope of Directive 2014/23/EU, Directive 2014/24/EU and Directive 2014/25/EU, that is, to procedures whose estimated value reaches or exceeds the thresholds set out in those Directives. Accordingly, procurement procedures not covered by those Directives, including those below the applicable thresholds, should not be subject to the requirements established by this Regulation, thereby avoiding disproportionate obligations for low-value procurements carried out by contracting authorities, including at local level. | |
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| (25) The Automotive package adopted on 16 December 2025 includes a proposal to amend Regulation (EU) 2019/631 of the European Parliament and of the Council[23] to provide, *inter alia*, for the granting of super-credits for small affordable electric vehicles made in the Union prior to 2035 and amends the 2035 emissions reduction target, with the remaining emissions to be compensated through the use of low-carbon steel made in the Union or renewable and low-carbon fuels. The Automotive package also includes a [proposal for a Regulation on clean corporate vehicles] which limits financial | |

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| support for corporate vehicles to zero- and low-emissions corporate vehicles 'made in the European Union'. In order to ensure legal certainty and consistency with Regulation (EU) 2019/631 as amended and the [proposal for a Regulation on clean corporate vehicles], this Regulation should lay down definitions of 'small affordable electric vehicles made in the Union', 'low-carbon steel made in the Union' and 'corporate cars and vans made in the European Union'.<br><br>23 Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO2 emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 (OJ L 111, 25.4.2019, p. 13, ELI: http://data.europa.eu/eli/reg/2019/631/oj). | |
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| (26) In order to simplify procedures and reduce administrative burden, the verification of compliance with the requirements laid down in this Regulation should not impose a disproportionate burden on economic operators or contracting authorities. The verification system should therefore be based on a self-declaration by economic operators. Such approach is consistent with the general framework for public procurement established by Directive 2014/24/EU, in particular Article 59 thereof, which provides for self-declaration of compliance, subject to subsequent verification of the successful tenderer. For vehicles, manufacturers should, at the time of issuing the certificate of conformity in accordance with Regulation (EU) 2018/858 of the European Parliament and of the Council[24], provide an accompanying document certifying for the vehicles that comply with the relevant Union origin requirements. This document should be equivalent to a self-declaration and form part of the documentary evidence demonstrating compliance with the requirements set out in this Regulation. | |

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| 24 Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1, ELI: http://data.europa.eu/eli/reg/2018/858/oj). | |
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| (27) To ensure that the requirements established by this Regulation remain appropriate even as market conditions, technological developments and the climate and internal market policy objectives of the Union continue to evolve, the Commission should be empowered to revise the requirements based on objective criteria and monitoring results. When assessing whether to revise Union origin requirements, low-carbon requirements, or both, the Commission should take into account developments in the relevant legislative frameworks, including the customs legislation on rules of origin, Emissions Trading System laid down in Directive 2003/87/EC the Carbon Border Adjustment Mechanism laid down in Regulation (EU) 2023/956, and trade defence instruments. | |
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| (28) Investment, including from foreign entities, plays a critical role in fostering a strong internal market and territorial cohesion, particularly by promoting innovation and driving economic growth in the Union which is essential for its competitiveness. However, in exceptional circumstances, particularly large investments originating from third countries that hold a very significant market position in the global risk disrupting important supply chains and the security of emerging strategic sectors that are of particular importance in the development of the internal market. Divergent conditions applied by Member States for such investments fragment the internal market by creating unequal conditions for investors allowing investments that do not contribute genuine added value to the Union economy while creating significant risk for the development and supply security in these sectors and | PT<br>(Comments):<br><br>PT is concerned about the impact on the attractiveness of FDI.<br>How will the IAA interact with national screening mechanisms, under which Member States already assess investments in these sectors based on their domestic regimes? |

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| creating an incentive for "regulatory arbitrage" by investors. Allowing such investments to proceed without any conditions could mean that the added value creation associated with selected strategic technologies and innovative manufacturing activities remains outside the Union, which have detrimental effect for the Union's supply security and technological development in emerging strategic sectors. Moreover, unconditional exposure of the internal market to such large investments risks putting into question the Union's technological advancements necessary for its twin transition and defence capabilities. Therefore, the provisions of this Regulation should ensure that such large investments coming from third countries that hold a particularly significant market position do not disrupt the Union's supply security and economic security, and ensure its technological advancement in emerging strategic sectors. If such investments do not provide for sufficient Union participation and technology transfer, the long-term supply security of emerging strategic sectors is hampered due to lack of Union capacities independent from the country holding a significant share of relevant global supply. Furthermore, it has been observed that certain of such investments do not involve meaningful employment of Union workers, which jeopardizes the development of skills crucial for the development of emerging strategic sectors in the internal market. | |
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| (29) In order to ensure that the internal market remains attractive for investment, and that investment adds value to the Union's economy and society, it is necessary to establish common conditions for foreign direct investment in manufacturing emerging strategic sectors. Those sectors should be manufacturing sectors with innovative potential where Union entities are not at or near the global innovation frontier, and where appropriate Union capacities and participation should be ensured. Harmonised criteria should apply to foreign investors of a third country which holds over 40% of the global manufacturing capacity in emerging strategic sectors. To ensure the effectiveness of the provisions of this Regulation, the Commission should | FR<br>(Drafting suggestions):<br>(29) In order to ensure that the internal market remains attractive for investment, and that investment adds value to the Union's economy and society, it is necessary to establish common conditions for foreign direct investment in manufacturing emerging strategic sectors. Those sectors should be manufacturing sectors with innovative potential where Union entities are not at or near the global innovation frontier, and where appropriate Union capacities and participation should be ensured. Harmonised criteria should |

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| monitor the global manufacturing capacity of those sectors and publish the results. | apply to foreign investors of a third country which holds over 40% of the global manufacturing capacity in emerging strategic sectors. To ensure the effectiveness of the provisions of this Regulation, the Commission should monitor**, on a yearly basis,** the global manufacturing capacity of those sectors and publish the results.<br><br>FR<br>(Comments):<br><br>Monitoring of global production capacity<br>in these sectors and the publication of the results should be carried out on an annual basis to ensure that the report is regularly updated and aligned with the economic assessment, which is generally carried out annually.<br><br>IT<br>(Drafting suggestions):<br><br>(29) In order to ensure that the internal market remains attractive for investment, and that investment adds value to the Union's economy and society, it is necessary to establish common conditions for foreign direct investment in manufacturing emerging strategic sectors. Those sectors should be manufacturing sectors with innovative potential where Union entities are not at or near the global innovation frontier, and where appropriate Union capacities and participation should be ensured. Harmonised criteria should apply to foreign investors of a third country which holds over 40% of the global manufacturing capacity in emerging strategic sectors**, with due regard to the industrial and territorial specificities of Member States and the structural characteristics of their respective national economies.** To ensure the effectiveness of the provisions of this Regulation, the Commission should monitor the global manufacturing capacity of those sectors and publish the results.<br><br>IT |

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| | (Comments):<br><br>*The proposed text introduces an explicit reference to national specificities, consistent with Italy's request to preserve Member States' evaluative flexibility in applying harmonised criteria.*<br><br>NL<br>(Drafting suggestions):<br><br>(29) In order to ensure that the internal market remains attractive for investment, and that investment adds value to the Union's economy and society, it is necessary to establish common conditions for foreign direct investment in manufacturing emerging strategic sectors **which are crucial for the Union's strategic autonomy.** Those sectors should ~~be~~ **only include those** manufacturing sectors with innovative potential where Union entities are not at or near the global innovation frontier, and where appropriate Union capacities and participation should be ensured **in order to safeguard the Union's open strategic autonomy.** Harmonised criteria should apply to foreign investors of a third country which holds over 40% of the global manufacturing capacity in **such** emerging strategic sectors. To ensure the effectiveness of the provisions of this Regulation, the Commission should monitor the global manufacturing capacity of those sectors and publish the results.<br><br>NL<br>(Comments):<br><br>Conditions should apply only to sectors that are essential to the Union's strategic autonomy, namely sectors in which reliance on production located entirely outside the Union would create a major security risk. Electric vehicles would for instance not fall within this category. The IAA should not serve to shield uncompetitive sectors from competition, as this would stifle innovation. |

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| | PL<br>(Drafting suggestions):<br><br>(29) In order to ensure that the internal market remains attractive for investment, and that investment adds value to the Union's economy and society, it is necessary to establish common conditions for foreign direct investment in manufacturing emerging strategic sectors. Those sectors should be manufacturing sectors with innovative potential where Union entities are not at or near the global innovation frontier, and where appropriate Union capacities and participation should be ensured. Harmonised criteria should apply to foreign investors from a third country that has more than 40% of the world's production capacity in emerging strategic sectors, **determined on the basis of transparent, verifiable and regularly updated data and a publicly available methodology**. In order to ensure the effectiveness of the provisions of this Regulation, the Commission should monitor the global production capacity of those sectors and publish the results **together with the methodology used and the date of the most recent update**.'<br><br>PL<br>(Comments):<br><br>Poland supports the inclusion of investments from third countries with a dominant position in global supply chains under a specific control framework. However, the application of the 40% threshold may have a significant impact on the conditions for the implementation of investments in the EU. For this reason, the method of its determination should be transparent, based on verifiable data and regularly updated. The publication of the methodology will reduce the risk of inconsistent interpretation of the rules and increase regulatory predictability for businesses.<br><br>PT |

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| | (Comments):<br><br>The term 'manufacturing emerging strategic sectors' should be specificed. |
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| (30) Greenfield foreign investments occur where the foreign investor or a foreign investor's subsidiary in the Union sets up new facilities or a new undertaking in the Union. Both Greenfield and Brownfield foreign investments should fall within the scope of this Regulation to the extent that they involve the acquisition of control over a Union target or Union asset, as they both have the possibility to impact the well-functioning internal market. | IT<br>(Drafting suggestions):<br><br>(30) Greenfield foreign investments occur where the foreign investor or a foreign investor's subsidiary in the Union sets up new facilities or a new undertaking in the Union. Both Greenfield and Brownfield foreign investments should fall within the scope of this Regulation to the extent that they involve the acquisition of control over a Union target or Union asset, as they both have the possibility to impact the well-functioning internal market. **Particular importance should be accorded to brownfield investments aimed at sustainable industrial conversion, as key instruments for fostering territorial cohesion and safeguarding employment in regions undergoing industrial transition.**<br><br>IT<br>(Comments):<br><br>*The proposed addition also highlights brownfield investments in terms of territorial cohesion, relevant for declining industrial regions.*<br><br>NL<br>(Drafting suggestions):<br><br>Greenfield foreign investments occur where the **a** foreign investor or a foreign investor's subsidiary **establishe**d in the Union establishes ~~sets up~~ new facilities or a new undertaking in the Union. **Brownfield foreign investments occur where a foreign investor acquires, undertakings or assets in the Union**. Both Greenfield and Brownfield foreign investments should fall within the scope of this Regulation to the extent that they involve the acquisition of control **of a** ~~over a~~ Union target or Union asset, as ~~they~~ |

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| | both **may affect** ~~have the possibility to impact the~~ well-functioning **of** internal market.<br><br>NL<br>(Comments):<br><br>The scope is limited to investments involving the acquisition of control in order to focus on investments that can effectively influence strategic assets or activities in the Union. This ensures that the Regulation remains proportionate and does not capture ordinary commercial investments that are unlikely to affect the internal market. |
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| (31) The review of the investments and application of the harmonised conditions should be carried out in accordance with this Regulation. It should take into account all information available and adhere to the principle of proportionality. Moreover, all measures taken by national authorities or the Commission with respect to the review of foreign investments should comply with Union law, and in particular with Articles 49 and 63 TFEU. | NL<br>(Drafting suggestions):<br><br>. |
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| (32) Therefore, the provisions of this Regulation should apply to foreign direct investments in emerging strategic sectors in accordance with the thresholds established by this Regulation, notwithstanding the screening mechanism established under Regulation (EU) 2019/452 of the European Parliament and of the Council[25]. Moreover, the provisions of this Regulation should also apply without prejudice to Union competition law instruments, including Regulation (EU) 2022/2560 of the European Parliament and of the Council[26] and Council Regulation (EC) No 139/2004[27].<br><br>25 Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I, 21.3.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/452/oj). | IT<br>(Drafting suggestions):<br><br>(32) Therefore, the provisions of this Regulation should apply to foreign direct investments in emerging strategic sectors in accordance with the thresholds established by this Regulation, ~~**notwithstanding**~~ **without prejudice** the screening mechanism established under Regulation (EU) 2019/452 of the European Parliament and of the Council[25]. Moreover, the provisions of this Regulation should also apply without prejudice to Union competition law instruments, including Regulation (EU) 2022/2560 of the European Parliament and of the Council[26] and Council Regulation (EC) No 139/2004[27]. |

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| 26 Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market (OJ L 330, 23.12.2022, p. 1, ELI: http://data.europa.eu/eli/reg/2022/2560/oj).<br><br>27 Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ L 24, 29.1.2004, p. 1, ELI: http://data.europa.eu/eli/reg/2004/139/oj). | **This Regulation is without prejudice to each Member State having sole responsibility for its national security, as provided for in Article 4(2) TEU.**<br><br>IT<br>(Comments):<br>*Please refer to comment on Article 1.*<br>NL<br>(Drafting suggestions):<br>(32) Therefore, the provisions of this Regulation should apply to foreign direct investments in emerging strategic sectors in accordance with the thresholds established by this Regulation, notwithstanding the screening mechanism established under Regulation (EU) 2019/452 of the European Parliament and of the Council44. **The mechanism established under this Regulation should remain distinct from the screening mechanisms established pursuant to Regulation (EU) 2019/452, while allowing the assessment of risks related exclusively focused on high risk strategic dependencies affecting the security, resilience or economic security of the Union or one or more Member States.** Moreover, the provisions of this Regulation should also apply without prejudice to Union competition law instruments, including Regulation (EU) 2022/2560 of the European Parliament and of the Council45 and Council Regulation (EC) No 139/200446<br>NL<br>(Comments):<br>The amendment clarifies that the mechanism established under this Regulation is distinct from the screening mechanisms established pursuant to Regulation (EU) 2019/452. This distinction is necessary in order to preserve |

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| | the focus of FDI screening under Regulation (EU) 2019/452 on national security and public order and to avoid overlapping competences, parallel screening regimes and duplicative procedures. By contrast, the mechanism established under this Regulation is intended to address high-risk strategic dependencies in emerging strategic sectors affecting the security, resilience or economic security of the Union or one or more Member States. The references to high-risk strategic dependencies and risk assessments are therefore introduced in order to ensure that the mechanism remains targeted, proportionate and evidence-based, and is applied only where clear strategic vulnerabilities and security risks have been identified. |
| | |
| (33) The foreign direct investment criteria should capture emerging strategic sector investments in the Union by third-country investors ('foreign investors') in the Union. However, it could also be necessary to include investments in the Union by entities that are controlled, directly or indirectly, by a third-country person or entity regardless of the ultimate owner's location ('foreign investor's subsidiary'), as they are equally capable of disrupting the functioning of the internal market, including its supply and economic security, due to the control exercised from the third country having a significant market share Therefore, Investment Authorities should apply the investment criteria where they are clearly needed to effectively ensure the protection of public security, the supply and economic security, and environmental sustainability in the Union, and where it is essential for the technological advancements of the internal market for the green and digital transition and defence purposes. Moreover, to prevent the circumvention of the Regulation's provisions, where no alternative measures are reasonably available. To ensure the proportional application of conditions prescribed to investments made by the foreign investor's subsidiary, the Commission should have the opportunity to assess the notification and request the Investment Authority to prescribe certain conditions. Apart from review of foreign direct investments made by the foreign investor's subsidiary as established by this Regulation, investments | FI<br>(Comments):<br><br>Ref. our comments on Art. 18.4<br><br>FR<br>(Drafting suggestions):<br><br>(33) The foreign direct investment criteria should capture emerging strategic sector investments in the Union by third-country investors ('foreign investors') in the Union. However, it could also be necessary to include investments in the Union by entities that are controlled, directly or indirectly, by a third-country person or entity regardless of the ultimate owner's location ('foreign investor's subsidiary'), as they are equally capable of disrupting the functioning of the internal market, including its supply and economic security, due to the control exercised from the third country having a significant market share Therefore, Investment Authorities should apply the investment criteria where they are clearly needed to effectively ensure the protection of public security, the supply and economic security, and environmental sustainability in the Union, and where it is essential for the technological advancements of the internal market for the green and digital transition and defence purposes. |

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| coming from other Union Member States should not be conditioned or deterred. | Moreover, to prevent the circumvention of the Regulation's provisions, where no alternative measures are reasonably available. To ensure the proportional application of conditions prescribed to investments made by the foreign investor's subsidiary, the Commission should have the opportunity to assess the notification and request the Investment Authority to prescribe certain conditions. Apart from review of foreign direct investments made by ~~the foreign investor's subsidiary~~ **the beneficial owner, who is therefore the actual foreign investor** established by this Regulation, investments coming from other Union Member States should not be conditioned or deterred.<br><br>FR<br>(Comments):<br><br>The text must not be limited to foreign investors and their subsidiaries but, to be effective, must cover all investment channels enabling the monitoring of a foreign investment ultimately made by a third country, including by traceability up the ownership chain. |
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| (34) It is necessary to ensure a lasting link between the foreign investor and the Union target, whether it is carried out directly by a foreign investor or through an entity established in the Union and controlled by a foreign investor. However, that should not apply to the acquisition of company securities that are intended purely for financial investment and without any intention to influence the management or control of the company ('portfolio investments'). | |
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| (35) Restructuring operations within a corporate group and investments made in financial institutions in application of a resolution tool as well as of write down and conversion powers should fall outside of the scope of this Regulation. Internal restructurings should only be excluded from the scope of application to the extent that they are conducted solely for the purpose of the internal reorganisation of a Union target or of the corporate group to which the Union target belongs, without resulting in any changes in the beneficial | |

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| ownership or control of the Union target. In particular, internal restructurings should be excluded where they do not result in a situation where a new foreign investor acquires ownership or control over the Union target or over a company that directly or indirectly owns or controls that Union target, where there is an increase in the shares held by foreign investors, or where the transaction results in additional rights for foreign investors that may lead to a change in the effective participation of one or more foreign investors in the management or control of the Union target. | |
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| (36) The foreign direct investment criteria should only apply to emerging strategic sector foreign direct investments reaching an investment value threshold that is able to disrupt the functioning of the internal market. A threshold of EUR 100 million should be considered as having potential for to impact the well-functioning of the internal market in emerging strategic sectors. Such foreign direct investment covered by the scope of this Regulation would bear high risk on the security and environmental sustainability of the Union, while not producing enough added value including ensuring Union contribution in the investment, enhancement of the Union's technological development, employment of Union workers and contribution to Union value chains for the internal market without compliance with the harmonised conditions. | FR<br>(Drafting suggestions):<br>(36) The foreign direct investment criteria should only apply to emerging strategic sector foreign direct investments reaching an investment value threshold that is able to disrupt the functioning of the internal market. A **thresholds set for each of the emerging strategic manufacturing sectors** ~~threshold of EUR 100 million~~ should be considered as having potential for to impact the well-functioning of the internal market in emerging strategic sectors. **However, this threshold will need to be assessed and adjusted according to the specific characteristics of each sector, as investment levels vary from one sector to another**. Such foreign direct investment covered by the scope of this Regulation would bear high risk on the security and environmental sustainability of the Union, while not producing enough added value including ensuring Union contribution in the investment, enhancement of the Union's technological development, employment of Union workers and contribution to Union value chains for the internal market without compliance with the harmonised conditions.<br>FR<br>(Comments): |

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| | The threshold for the amount of foreign investment, set at €100 million, could prove to be too high and inappropriate for the sectors in question, making it difficult to capture a significant number of investments that may present risks, particularly in sectors where circumvention strategies rely on the fragmentation of projects and, consequently, of investments.<br><br>This €100 million threshold must already be adapted to each emerging strategic manufacturing sectors targeted by Article 17 of the text.<br><br>MT<br>(Drafting suggestions):<br>"...A threshold of EUR ~~1~~2~~0~~0 million should be considered…"<br>MT<br>(Comments):<br>Given Malta's inherent characteristics and constraints (insularity, lack of economies of scale, etc…), it is crucial for us not to further limit the potential to attract foreign direct investment into the country. |
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| (37) In order to ensure the effective application of this Regulation, each Member State should designate an investment authority responsible for assessing the conditions of investment by foreign entities in emerging strategic sectors. Moreover, it should be equipped with the legal, administrative, and financial resources to carry out its tasks effectively and independently, with due regard to the authorities already responsible for implementing Regulation (EU) 2019/452. | MT<br>(Drafting suggestions):<br>In order to ensure the effective application of this Regulation, each Member State should designate an investment authority responsible for assessing the conditions of investment by foreign entities in emerging strategic sectors. Moreover, it should be equipped with the legal, administrative, and financial resources to carry out its tasks effectively and independently. **The designation of an investment authority under this Regulation should be without prejudice to existing national mechanisms and competent authorities** |

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| | **responsible for foreign direct investment screening pursuant to Regulation (EU) 2019/452 and national implementing legislation.**<br><br>MT<br>(Comments):<br><br>Malta considers that the designation of an investment authority under this Regulation should not prejudice existing national institutional arrangements relating to foreign direct investment screening. The proposed amendment is therefore necessary to preserve Member State flexibility and competences in this area. |
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| (38) To enable Member States to effectively identify the investments defined in this Regulation, foreign investors should notify competent authorities prior to acquiring or establishing significant stakes in undertakings or assets within the Union. Setting a threshold at 30 percent ownership or other rights establishing control for both undertakings and assets should ensure that the mechanism captures investments capable of impacting the well-functioning of the internal market. | IT<br>(Drafting suggestions):<br><br>(38) To enable Member States to effectively identify the investments defined in this Regulation, foreign investors should notify competent authorities prior to acquiring or establishing significant stakes in undertakings or assets within the Union. ~~**Setting a threshold at 30 percent ownership or other rights establishing control for both undertakings and assets should ensure that the mechanism captures investments capable of impacting the well-functioning of the internal market.**~~<br><br>IT<br>(Comments):<br><br>*Please refer to comment for Article 19(3).*<br><br>PT<br>(Comments):<br><br>It should be specified by what means, and through which portal foreign investors are required to notify the competent authorities. Are the competent |

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| | authorities required to answer this notification? If so, what is the deadline to provide and answer?<br><br>SE<br>(Drafting suggestions):<br><br>To enable Member States to effectively identify the investments defined in this Regulation, foreign investors should notify competent authorities prior to acquiring or establishing significant stakes in undertakings or assets within the Union **that fall within the scope of article 17.1**. Setting a threshold **for notifications** at 30 percent ownership or other rights establishing control for both undertakings and assets, **in addition to the value threshold of EUR 100 million and the other delimitations to the scope**, should ensure that the mechanism captures investments capable of impacting the well-functioning of the internal market.<br><br>SE<br>(Comments):<br><br>Amendment to recital is necessary to clarify that the control-threshold applies in addition to other limitations to scope when it comes to the obligation of companies to notify. |
| | |
| (39) To minimise the risk of circumvention through fragmented or indirect acquisitions, where several foreign investors act in concert, or where investments are made through affiliated entities or complex ownership structures, their respective interests should be aggregated by the Investment Authority for the purpose of determining the investment value and the notification threshold. Aggregation should also apply to existing holdings in the same Union undertaking or asset, whether direct or indirect, individual or joint, to ensure that successive transactions leading to significant influence or control are duly notified. | |
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| (40) In order to ensure Union participation in large foreign direct investments originating from third countries having a significant global position, this Regulation should establish limits on the extent of ownership and control that foreign investors can acquire in Union undertakings and assets. Accordingly, foreign investors should not, whether directly or indirectly, establish, acquire, hold, or exercise ownership interests exceeding 49% of the share capital, voting rights, or equivalent ownership interests in any Union target, nor establish or obtain equivalent ownership, leasehold, or other rights conferring control over a Union asset. | MT<br>(Comments):<br><br>Malta does not agree with the 49% ownership threshold as this could act as a deterrent to attract an investment. Malta suggests that this clause is only enforced if the project in question is not showing in a tangible manner how it will link within the European ecosystem (referring to the part of having IP, knowhow transfer in Europe, etc...)<br><br>NL<br>(Drafting suggestions):<br><br>(40) In order to ensure Union participation in large foreign direct investments originating from third countries having a significant global position, this Regulation should establish **possible measures to safeguard the Union's open strategic autonomy, including by imposing** limits on the extent of ownership and control that foreign investors can acquire in Union undertakings and assets. Accordingly, foreign investors should not, whether directly or indirectly, establish, acquire, hold, or exercise ownership interests exceeding 49% of the share capital, voting rights, or equivalent ownership interests in any Union target, nor establish or obtain equivalent ownership, leasehold, or other rights conferring control over a Union asset.<br><br>NL<br>(Comments):<br><br>A limit on foreign ownership should not be the sole or main remedy that a MS may impose. A MS should be able to address risks also through a combination of other remedies, while not imposing a control limit per se. |
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| (41) To ensure that foreign investors and Union entities cooperate in emerging strategic sectors while ensuring sufficient participation of Union | NL |

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| partners, joint venture requirements should be prescribed, which should include contractual arrangements. In the joint venture, the foreign investor should not hold more than 49 % of the share capital, voting rights, or equivalent ownership interests or other rights conferring control in any of the Union entities participating in the joint venture. That condition should also contribute to the strategic autonomy of the Union and ensure value added to the internal market. | (Drafting suggestions):<br><br>(41) To ensure that foreign investors and Union entities cooperate in emerging strategic sectors while ensuring sufficient participation of Union partners, joint venture requirements ~~should~~ **may** be prescribed, which should include contractual arrangements. In the joint venture, the foreign investor should not hold more than 49 % of the share capital, voting rights, or equivalent ownership interests or other rights conferring control in any of the Union entities participating in the joint venture. That condition should also contribute to the strategic autonomy of the Union and ensure value added to the internal market.<br><br>NL<br>(Comments):<br><br>Same as above |
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| (42) It is necessary to assess, as part of the conditions for approval of a foreign direct investment, whether the transfer of technology can contribute to achieving the objectives of this Regulation. To that end, the foreign investors should be encouraged to license to the Union Target, the joint venture or the legal entity acquiring or owning the Union asset the relevant intellectual property rights, and know-how, which are necessary for carrying out the concerned economic activity in the context of the foreign direct investment. Appropriate intellectual property licensing agreement(s) should therefore be granted by the foreign investor to the Union Target, the joint venture or the legal entity acquiring or owning the Union asset. The scope and conditions of these agreements, such as the exact IP rights concerned, the exclusive nature of the license, the duration of the license or confidentiality-preserving measures, should be appropriate to the circumstances and to the objective pursued under this Regulation and the relevant investment. The foreign investor should commit to granting the appropriate licenses of intellectual property rights and relevant know-how they hold, as required for the economic | PT<br>(Comments):<br><br>The term ‘should be appropriate’ is too vague and may lead to interpretative uncertainty. |

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| activity concerned. That could be achieved by providing a description of the main aspects of the possible licensing agreements, on a confidential basis, with the Investment Authority. | |
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| (43) Where the Union Target or the legal entity acquiring or owning the Union asset owns intellectual property rights in an invention, a work or any other asset subject to intellectual property protection prior to the foreign investment, those intellectual property rights should fully and exclusively remain under the control of the Union Target or the legal entity acquiring or owning the Union asset. The foreign investor should not claim any intellectual property right nor undertake any activity that would affect the ability of the Union Target or the legal entity acquiring or owning the Union asset to own and exercise the intellectual property rights on their inventions, works, trademarks, designs or any other relevant asset obtained prior to the foreign investment. Where an invention, a work or any other asset subject to intellectual property protection is the result of a collaborative work between the Union Target or the legal entity acquiring or owning the Union asset and the foreign investor or as a result of the joint venture, the intellectual property rights should be owned jointly by the foreign investor, the Union Target or the legal entity acquiring or owning the Union asset, depending on the circumstances. The conditions accompanying the co-ownership of intellectual property rights should, to the extent possible, be defined and communicated to the Investment Authority, ahead of the approval of the foreign direct investment. These conditions should include clarifications as to the possibility for one co-owner to grant a licence and start infringement procedures as well as the financial agreements as regards the filing and registration of intellectual property rights and licensing agreements. In the case of a joint venture without a legal personality, clarifications should be provided to the Investment Authority regarding the ownership of intellectual property. | |
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| (44) It is necessary to ensure that the foreign investors' expertise of the large foreign direct investment under the scope of this Regulation should contribute to enhancing the Union's technological development both within and outside the Union Target, the joint venture or the legal entity acquiring or owning the Union asset. To that end, foreign investors should invest in research and development projects to be executed within the Union while ensuring that the Union will benefit from the results produced. It is therefore necessary to assess, as part of the conditions to be considered for having a foreign direct investment approved, whether the foreign investors' research and development investments are adequate to achieve that objective. Such investments could be directed to the benefit of research institutions established in the Union, including in the context of joint projects with the Union Target, the joint venture or the legal entity acquiring or owning the Union asset. Those investments could also be made within the Union target, the joint venture or the legal entity acquiring or owning the Union asset, for developing or executing specific research and development activities. These investments could also consist in the training of Union workers, or direct or indirect financial support to research and development projects within the Union Target, the joint venture or the legal entity acquiring or owning the Union asset. Any assessment performed in relation to investments in research and development projects to be executed within the Union should be without prejudice to Union competition law instruments, including Regulations (EU) 2022/2560 and (EC) No 139/2004. | PT<br>(Comments):<br>'whether the foreign investors' research and development investments are adequate to achieve that objective': 'adequate' is overly vague and can lead to broad interpretation.<br><br>RO<br>(Drafting suggestions):<br>44) It is necessary to ensure that the foreign investors' expertise of the large foreign direct investment under the scope of this Regulation should contribute to enhancing the Union's technological development both within and outside the Union Target, the joint venture or the legal entity acquiring or owning the Union asset. To that end, foreign investors should invest in research and development projects to be executed within the Union while ensuring that the Union will benefit from the results produced. It is therefore necessary to assess, as part of the conditions to be considered for having a foreign direct investment approved, whether the foreign investors' research and development investments are adequate to achieve that objective. Such investments could be directed to the benefit of research institutions established in the Union, including in the context of joint projects with the Union Target, the joint venture or the legal entity acquiring or owning the Union asset. Those investments could also be made within the Union target, the joint venture or the legal entity acquiring or owning the Union asset, for developing or executing specific research and development activities. These investments could also consist in the training of Union workers, or direct or indirect financial support to research and development projects within the Union Target, the joint venture or the legal entity acquiring or owning the Union asset. **Foreign direct investment in strategic emerging sectors should contribute to employment development, through the creation of** |

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| | **new jobs and education and training programmes, including by financing the skills needed to support the Union's technological and industrial development.** Any assessment performed in relation to investments in research and development projects to be executed within the Union should be without prejudice to Union competition law instruments, including Regulations (EU) 2022/2560 and (EC) No 139/2004.<br><br>RO<br>(Comments):<br><br>To ensure:<br>- the link between investment and job creation in strategic areas;<br>- reflecting the role of training and upskilling programmes financed as part of the investment;<br>- the need for FDI to contribute not only to technology and capital, but also to the development of skills for work, including initial and continuing vocational education and training |
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| (45) To promote sustainable integration of investments by foreign entities to the internal market and the development of skills in emerging strategic sectors, and to ensure meaningful social contribution at the place of the investment, such investments should employ a proportion of Union workers and should provide appropriate training and capacity-building measures, involving education and training providers, as well as social partners. The foreign investor should ensure that the thresholds established in this Regulation are fulfilled across all categories of workforce, including the operational, technical, supervisory, and managerial positions. | FI<br>(Comments):<br><br>Ref. our comments on Art. 18.2(e)<br><br>PT<br>(Drafting suggestions):<br><br>To promote sustainable integration of investments by foreign entities to the internal market and the development of skills in emerging strategic sectors, and to ensure meaningful social contribution at the place of the investment, such investments should employ a proportion of Union workers and should provide appropriate training and capacity-building measures, involving education and training providers, **the employers**, as well as social partners. |

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| | The foreign investor should ensure that the thresholds established in this Regulation are fulfilled across all categories of workforce, including the operational, technical, supervisory, and managerial positions.<br><br>PT<br>(Comments):<br><br>In Portugal, under Article 131(3) of the Labour Code, employers may provide ongoing training for their employees.<br>The term 'appropriate training' should be defined precisely. |
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| (46) To strengthen the industrial capacity of emerging strategic sectors and to integrate foreign direct investment into the Union's industrial ecosystem, a certain share of inputs manufactured in the Union should be included in products placed on the Union market by such investments. | FR<br>(Drafting suggestions):<br><br>(46) To strengthen the industrial capacity of emerging strategic sectors and to integrate foreign direct investment into the Union's industrial ecosystem, a certain share of inputs manufactured in the Union **(without any extension to third-countries granted with equivalence to Union origin for the purpose of Chapter III)** should be included in products placed on the Union market by such investments.<br><br>FR<br>(Comments):<br><br>It shoud be clarified that these inputs are manufactured in the Union only, without extension to countries eligible to the equivalence to Union Origin for the purpose of Chapter III.<br><br>NL<br>(Drafting suggestions):<br><br>(46) To strengthen the industrial capacity of emerging strategic sectors and to integrate foreign direct investment into the Union's industrial ecosystem, a certain share of inputs manufactured in the Union should be included in |

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| | products placed on the Union market by such investments, **<u>in line with the EU's international trade commitments and whilst preserving the openness of the EU market to EU's trading partners</u>**<br><br>NL<br>(Comments):<br><br>In line with the corresponding articles, we wish to clarify that such requirements should respect the EU's international (trade) commitments and limit any potential trade hindering impact on EU trade partners.<br><br>PL<br>(Drafting suggestions):<br><br>(46) To strengthen the industrial capacity of emerging strategic sectors and to integrate foreign direct investment into the Union's industrial ecosystem, a certain share of inputs manufactured in the Union should be included in products placed on the Union market by such investments**, taking into account their actual availability in the Union, the technical and quality requirements for those raw materials, products (e.g. foundry components) and the need to avoid disruptions to strategic supply chains.**<br><br>PL<br>(Comments):<br><br>Poland supports increasing the share of components produced in the EU, including castings. This mechanism can foster the development of European suppliers, including manufacturers of cast iron, steel and aluminium. At the same time, the requirements should take into account the actual availability of components and the need to maintain continuity of supply. Otherwise, they may lead to investment delays or an increase in the costs of the energy transition. |

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| (47) In order to ensure that foreign direct investments fulfil at least 4 of the 6 conditions established by this Regulation, the competent Investment Authority should examine each notification and issue a reasoned decision on its approval or rejection. Investment Authorities should establish the fulfilment of the conditions, or as appropriate, the intent of the foreign investor to comply with the conditions. Such investments should not be implemented without the explicit approval of the Investment Authority. Accordingly, foreign investors should comply with a set of conditions before starting their economic activity regarding the relevant foreign direct investment. Investment Authorities should decide in a timeframe ensuring both procedural efficiency and legal certainty. Where justified by the complexity of the case or the need for additional information, that timeframe could be extended, for justified and duly substantiated reasons. | FR<br>(Comments):<br><br>In order to anticipate the risk of circumvention of the IAA control, and in particular of the minimum threshold for European inputs, and notably to prevent any circumvention through investments originating from satellite countries of third countries or from legal entities established in the EU (particularly if countries bound by free trade agreements are excluded from the mechanism), it is crucial to discuss with the EC and Member States the need and the way of, in this chapter of the IAA, a mechanism to prevent circumvention of these minimum input thresholds.<br><br>For instance, related to the minimum threshold for European inputs, it is risky with respect to circumvention in several ways:<br><br>• The foreign investor may be led to reallocate their resources to source the 'less strategic' or 'low value-added' inputs within the EU in order to meet this threshold, whilst sourcing the 'more strategic ' or 'higher value-added' inputs from outside the continent, thereby reducing the mechanism's effectiveness and local benefits;<br>• The foreign investor may import a near-finished input into the EU for minor processing, thereby counting as 'European' an input whose actual value added originates from a third country;<br>• The foreign investment may be channelled through investments from countries linked to China or through legal entities established within the EU (particularly if countries bound by free trade agreements are excluded from this chapter of the IAA).<br><br>IT<br>(Drafting suggestions): |

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| | (47) In order to ensure that ~~**foreign direct investments**~~ **competent Investment Authority** should take into account ~~**fulfil at least 4 of the 6**~~ **the** conditions established by this Regulation, **it** ~~**the competent Investment Authority**~~ should examine each notification and issue a reasoned decision on its approval or rejection. Investment Authorities should establish the fulfilment of the conditions, or as appropriate, the intent of the foreign investor to comply with the conditions. Such investments should not be implemented without the ~~**explicit**~~ approval of the Investment Authority. Accordingly, foreign investors should comply with a set of conditions before starting their economic activity regarding the relevant foreign direct investment. Investment Authorities should decide in a timeframe ensuring both procedural efficiency and legal certainty. Where justified by the complexity of the case or the need for additional information, that timeframe could be extended, for justified and duly substantiated reasons. **In assessing the fulfilment of conditions, the Investment Authority shall take into account the specific economic and industrial context of the Member State concerned, including the characteristics of local production chains and the development needs of the regions affected by the investment.**<br><br>IT<br>(Comments):<br>*Please refer to comment on Article 18(2).*<br><br>*A territorial contextualisation criterion is introduced in the assessment of conditions, reinforcing the role of national and regional authorities in the evaluation process.*<br>PT<br>(Comments): |

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| | The concept 'for justified and duly substantiated reasons' is overly vague and should be clarified. |
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| (48) Member States should inform the Commission about notifications received to allow the Commission to effectively monitor the investment landscape and ensure a harmonised investment framework across the internal market. | PT<br>(Comments):<br><br>Are MS required to inform the Commission? If so, this should be specified in the text. |
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| (49) In order to ensure the horizontal application of this Regulation in the internal market, the Commission should be able to provide an opinion on whether the investment fulfils the conditions set out in this Regulation. Such opinion should be made publicly available. If the Investment Authority intends to diverge from the Commission opinion in its decision, it should extend the approval process for two additional months in order to properly assess the Commission's arguments. When taking a decision, Member States should justify how they took the Commission's opinion into account. | DK<br>(Comments):<br><br>According to the formulation of this recital, the approval process should automatically be extended by two additional months in case of diverging opinions. We would suggest adding some flexibility to the formulation here so that this extension can in practice be shorter, as suggested in Article 20(4).<br><br>IT<br>(Drafting suggestions):<br><br>(49) In order to ensure the horizontal application of this Regulation in the internal market, the Commission should be able to provide an opinion on whether the investment fulfils the conditions set out in this Regulation. Such opinion should be made publicly available. If the Investment Authority intends to diverge from the Commission opinion in its decision, it should extend the approval process for two additional months in order to properly assess the Commission's arguments. When taking a decision, Member States should ~~**justify how they took the Commission's opinion into account**~~ **set out in a detailed and transparent manner the reasons of divergence with respect to the Commission's opinion**. |

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| | IT<br>(Comments):<br>*The suggestion would balance national autonomy with the transparency needed to maintain investor confidence.*<br>SE<br>(Drafting suggestions):<br>(49) In order to ensure the horizontal application of this Regulation in the internal market, the Commission should be able to provide an opinion on whether the investment fulfils the conditions set out in this Regulation. Such opinion should be made publicly available. **The opinion of the Commission should not be binding for the Investment Authority but i**~~I~~f the Investment Authority intends to diverge from the Commission opinion in its decision, it should extend the approval process for two additional months in order to properly assess the Commission's arguments. When taking a decision, Member States should justify how they took the Commission's opinion into account.<br>SE<br>(Comments):<br>It should be clarified that the written opinion of the Commission is not binding for the Investment Authority. |
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| (50) In order to ensure the horizontal application of this Regulation on the Single Market, the Commission should be able to review foreign direct investments, based on its own initiative or on the initiative of a Member State affected by the foreign direct investment. That should be particularly the case for investments where several member states are impacted, as well as high value investments and investments with particular strategic importance for the Union due to their effect on the Single Market. | IT<br>(Drafting suggestions):<br>~~**(50) In order to ensure the horizontal application of this Regulation on the Single Market, the Commission should be able to review foreign direct investments, based on its own initiative or on the initiative of a Member State affected by the foreign direct investment. That should be**~~ |

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| | ~~**particularly the case for investments where several member states are impacted, as well as high value investments and investments with particular strategic importance for the Union due to their effect on the Single Market**~~.<br><br>IT<br>(Comments):<br>*It is considered appropriate to exclude the attribution of decision-making competences to the Commission over the screening of foreign investments.*<br><br>NL<br>(Drafting suggestions):<br>~~50) In order to ensure the horizontal application of this Regulation on the Single Market, the Commission should be able to review foreign direct investments, based on its own initiative or on the initiative of a Member State affected by the foreign direct investment. That should be particularly the case for investments where several member states are impacted, as well as high value investments and investments with particular strategic importance for the Union due to their effect on the Single Market.~~<br><br>NL<br>(Comments):<br>Member States should maintain the final say on permitting investments within their territory |
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| (51) The Investment Authorities should not only ensure compliance with the conditions at the time of the foreign direct investment's notification, but also throughout its operation, as appropriate, to ensure that the benefits of the foreign direct investment are maximised on the internal market. | |

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| (52) To ensure that foreign direct investment criteria for the emerging strategic sectors remain appropriate even as market conditions, technological developments and the competitiveness policy objectives of the Union continue to evolve, the Commission should monitor the global manufacturing trends of strategic sectors and be empowered to adopt implementing acts imposing foreign investment criteria to additional strategic sectors. The Commission should assess in particular the threshold value, as well as whether all of the investment criteria referred to in this regulation are appropriate and necessary to meet the objectives of this regulation. | DK<br>(Comments):<br><br>It says here the Commission should be empowered to adopt implementing acts as the appropriate instrument to ensure criteria etc. Remain approproate and in line with its monitoring of trends within strategic sectors. Why then does the Commission in article 24 propose it is delegated power to adopt delegated acts?<br><br>It seems very open-ended to allow for implementing acts that reflect “market conditions, technological develoments, and the competitiiviness policy objectives”. How does the Commission justify an implementing act against such a broad background?<br><br>It seems be relevant to hear the CLS’s view on the proposed use of implementing acts and delegated acts<br><br><br>FR<br>(Drafting suggestions):<br><br>(52) To ensure that foreign direct investment criteria for the emerging strategic sectors remain appropriate even as market conditions, technological developments and the competitiveness policy objectives of the Union continue to evolve, the Commission should monitor**, on a yearly basis,** the global manufacturing trends of strategic sectors and be empowered to adopt implementing acts imposing foreign investment criteria to additional strategic sectors. The Commission should assess in particular the threshold value, as well as whether all of the investment criteria referred to in this regulation are appropriate and necessary to meet the objectives of this regulation. |

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| | FR<br>(Comments):<br>To assure relevant and appropriate criteria for the emerging strategic sectors with respect to market conditions, this monitoring should be carried out on an annual basis be regularly updated and aligned with the economic assessment and global manufacturing trends of strategic sectors. |
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| (53) Clustering industrial activity can contribute substantially to achieving the objectives of this Regulation and to strengthening certain strategic sectors in the internal market. It is therefore appropriate to promote the development of industrial manufacturing acceleration areas. Such areas should be limited in geographical scope in order to foster industrial symbiosis. When designating the areas, Member States should, in cooperation with regional authorities where appropriate, take into account industrial production (in particular for certain strategic sectors) and their regions' general level of development, with a focus on the less developed regions and those in transition. Furthermore, in order to strengthen the resilience, strategic autonomy and competitiveness of the Union's industrial base, the designation of industrial manufacturing acceleration areas should align with strategic projects and other Union initiatives such as Net-Zero Acceleration Valleys. | |
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| (54) The industrial acceleration measures within the acceleration areas should seek appropriate synergies with other Union initiatives, including strategic projects recognised in Union legislation, Net-Zero Acceleration Valleys and Union funding opportunities, in order to align the strategic priorities in the internal market and benefit industrial installations vital for the strategic autonomy and competitiveness of the Union. Those benefits should also apply to undertakings awarded with the competitiveness seal under Regulation (EU) XXXX/[XX] [28] (European Competitiveness Fund), unless specifically excluded by the Member State. | |

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| 28 Proposal for a Regulation of the European Parliament and of the Council on establishing the European Competitiveness Fund ('ECF'), including the specific programme for defence research and innovation activities, repealing Regulations (EU) 2021/522, (EU) 2021/694, (EU) 2021/697, (EU) 2021/783, repealing provisions of Regulations (EU) 2021/696, (EU) 2023/588, and amending Regulation (EU) (COM/2025/555 final, 16.7.2025). | |
| | |
| (55) To enable an adequate supply of critical raw materials for projects in the acceleration areas, the European Critical Raw Materials Board established by Article 35 of Regulation (EU) 2024/1252 should provide a platform to exchange information on critical raw materials related supply chain bottlenecks in the acceleration areas. It should be possible for projects in relevant areas to benefit from the Joint purchasing mechanism established in Article 25 of Regulation (EU) 2024/1252 to aggregate their demand for strategic raw materials and increase their negotiating power with potential sellers, especially when they contain small or medium-sized enterprises (SMEs) and small mid-cap companies (SMCs). | |
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| (56) Sufficient and timely energy supply to the acceleration areas constitutes a fundamental enabling condition for their effective deployment and for the development of manufacturing activities. Reliable and accurate information on future energy demand contributes to cost-effective grid development. Member States should therefore prepare an analysis for each acceleration area, identifying its future energy needs. Such analysis should serve the purpose of providing information for the national grid planning thereby contributing to purposeful anticipatory grid investments and faster energy connections for the acceleration area. When defining the scope, Member States should take into account the availability of relevant transport and network infrastructure. The results of these assessments should be | |

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| reflected in national network development plans to adequately capture future points of energy demand in upcoming grid planning. | |
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| (57) Where industrial manufacturing acceleration areas are set up, their designation should correspond to the potential to access or organise education and training opportunities to ensure the availability of skilled labour. | |
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| (58) To promote the development of industrial manufacturing acceleration areas and to expedite the permit-granting procedures necessary for industrial activities within those areas, Member States should establish an aggregated baseline permit reflecting the specific characteristics of each identified industrial acceleration area and tailored to the industrial manufacturing sector or sectors to be deployed therein. That aggregated baseline permit issued by public authorities should cover the permits commonly required for such activities within the area, excluding those permits that are installation specific, such as those required under Directive 2010/75/EU of the European Parliament and of the Council[29] and the grid connection permit. Consequently, project promoters should be required to obtain additional permits only for activities not covered by the aggregated baseline permit as well as environmental assessments where required. In case of activities potentially affecting Union and nationally protected sites, relevant permits should be granted only after having ensured that the activities are compatible with the conservation objectives of these sites. Such approach should significantly accelerate permit-granting procedures and reduce the administrative burden associated with them whilst maintaining high level of environmental standards.<br><br>29 Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17, ELI: http://data.europa.eu/eli/dir/2010/75/oj). | |
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| (59) In order to establish a framework to ensure the Union's strategic autonomy and economic security through access to a secure, sustainable and resilient supply of relevant manufacturing products, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of changes to the list of third countries whose content is not treated as equivalent to Union origin, the introduction or amendment of Union origin and low-carbon requirements, including for additional net-zero technologies and for products and services listed in Annexes II and III, laying down Union-level demand-side measures for products from the chemical industry, taking into account, among others, recommendations from the Critical Chemicals Alliance, the extension of foreign direct investment criteria to additional emerging strategic sectors, the specification of common procedural rules for foreign direct investment criteria, and establishing classification systems based on the greenhouse gas intensity for products. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making[30]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.<br><br>30 OJ L 123, 12.5.2016, p. 1, http://data.europa.eu/eli/agree_interinstit/2016/512/oj. | |
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| (60) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards specifying the method for calculating the proportion of volume of products and components originating in the Union and for verifying the compliance with the conditions laid down in Article 15. Those powers should | |

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| be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[31].<br><br>31 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: http://data.europa.eu/eli/reg/2011/182/oj). | |
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| (61) The Commission should evaluate this Regulation based on the information provided by Member States. Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making of 13 April 2016, such evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and Union value added. It should also serve as the basis for impact assessments of possible further measures. | |
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| (62) To ensure compliance with the obligations laid down in this Regulation, Member States should provide for penalties to be imposed on undertakings that do not comply with their obligations. Such penalties should be without prejudice and in addition to specific penalty requirements set out by this Regulation, for instance on foreign direct investments. It is therefore necessary that Member States lay down effective, proportionate and dissuasive penalties in national law for failure to comply with this Regulation. It is also necessary for Member States to ensure that project promoters have access, where relevant, to administrative or judicial review in accordance with national law. | |
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| (63) When reviewing this Regulation, the Commission should assess the need to amend the provisions included in Chapters III and IV. In particular, it should consider introducing targeted Union origin in transport sectors critical to the Union's economic security, notably building of ships and building of | |

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| rail rolling stock. The Commission should also consider introducing an enhanced review of foreign direct investments for aeronautical products and parts. | |
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| (64) Regulation (EU) 2018/1724 of the European Parliament and of the Council[32], which established the Single Digital Gateway, provides general rules for the online provision of information, procedures and assistance services that are relevant to the functioning of the internal market. In order to allow businesses and manufacturing industry project promoters, including for cross-border projects, to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, the information that needs to be submitted to any relevant authorities as part of the permit-granting process under this Regulation is that set out in Annex I to Regulation (EU) 2018/1724. The related procedures are included in Annex II to that Regulation to ensure that project promoters can benefit from fully online procedures and the Once-Only Technical System Services. In particular, promoters of manufacturing industry projects should be able to fully access and complete any procedure related to the permit-granting process online, in accordance with Article 6(1) of Regulation (EU) 2018/1724 and Annex II of that Regulation. Regulation (EU) 2018/1724 should therefore be amended accordingly.<br><br>32 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1, ELI: http://data.europa.eu/eli/reg/2018/1724/oj). | |
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| (65) Regulation (EU) 2024/1735 introduces resilience requirements for a range of net-zero technology final products. Those requirements aim at reducing dependencies on individual third countries of supply, but they are not | |

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| sufficient to enable Union industries to scale up the potential of the internal market and carry a risk of circumvention. Therefore, in order to address such challenges, the legislative framework should ensure the need to attract and retain technological know-how within the Union, through targeted additional intervention. | |
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| (66) The provisions on public procurement laid down in this Regulation should build on the provisions of Regulation (EU) 2024/1735 on resilience; and complement them by introducing additional requirements for battery energy storage systems, solar photovoltaic technologies, heat pumps, onshore and offshore wind technologies, electrolysers and nuclear fission energy technologies. Such additional requirements should ensure that a certain share of the products and their main specific components originate in the Union. That approach should ensure sufficient diversification while strengthening strategic manufacturing capacity and technological sovereignty within the Union. The system for verification of compliance with the requirements should limit the administrative burden and align with common public procurement practice as well as the existing system of verification of compliance under Regulation (EU) 2024/1735. It should therefore rely on a self-declaration by economic operators. | |
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| (67) In addition to complementing the public procurement provisions of Regulation (EU) 2024/1735, this Regulation should also amend them to provide greater legal certainty. The scope of Article 25 of Regulation (EU) 2024/1735 should be limited to those net-zero technologies for which public procurement of a relevant scale is expected to take place, thereby enhancing the clarity of the provision. | |
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| (68) In line with the same policy objective pursued for renewable energy auctions under Regulation (EU) 2024/1735, this Regulation should extend the additional Union origin requirements to renewable energy auctions for certain | |

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| renewable energy technologies, in order to contribute to strengthening the Union's industrial base and ensuring resilience of net-zero technology supply chains. To reflect the specific characteristics of renewable energy auctions, the additional requirements should apply to the net-zero technologies that are most relevant in the context of auctions, which are battery energy storage systems, solar photovoltaic technologies, electrolysers, as well as on- and offshore wind technologies. Where Union origin requirements apply to auctions, other provisions setting similar requirements for public support schemes should not apply to those auctions. | |
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| (69) To reinforce the effectiveness of the framework, and to reflect recent increases in geopolitical risks and global market distortions, the share of auctions covered by the requirements should be increased and a higher cost threshold for the opt-out from those requirements should be established. That should also prevent excessive use of exemptions and provide an effective incentive to boost Union production of renewable energy technologies. | |
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| (70) Businesses and households are an essential part of the demand for net-zero technologies in the Union. Public support schemes designed to support consumer demand for such products are important tools for strengthening the Union's economic security and accelerating the green transition. In order to build on the provisions of Regulation (EU) 2024/1735 on resilience, it is necessary to complement those provisions introducing additional requirements for battery energy storage systems, solar photovoltaic technologies and heat pumps. Such additional requirements should ensure that certain main specific components and, in some cases, the whole final product, originate in the Union. That approach is in line with the general objective of support schemes to promote socially-desirable outcomes, in view of making progress on the ambitions of the European Pillar of Social Rights as well as environmental and climate objectives. Furthermore, it should ensure sufficient diversification while strengthening strategic manufacturing capacity and technological | |

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| sovereignty within the Union. Public authorities in charge of support schemes should have the possibility either to condition the eligibility of the scheme to the fulfilment of the requirements, or to grant additional financial compensation when the requirements are fulfilled. In the latter case, the additional financial compensation should have an incentivising effect. However, if State aid is involved, the additional financial compensation should not exceed the applicable maximum aid intensity. | |
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| (71) Digital technologies continue to transform the way we generate, distribute, and consume energy. Such digital evolution, while presenting unprecedented opportunities, has also introduced complexity and interdependence within modern energy systems, which are now susceptible to a growing array of cyber threats. The integration of digital technologies into energy systems increases the attack surface for malicious actors, who can exploit vulnerabilities to disrupt operations, steal sensitive data, or manipulate energy markets. Such disruptions not only threaten the security and stability of our energy infrastructure and continuous supply of energy but also have cascading effects on all sectors of the economy that rely on stable energy inputs. Furthermore, energy system disruptions could undermine investor confidence and deter investment in essential modernisation and decarbonisation efforts. Therefore, safeguarding the cybersecurity of these systems is paramount to ensuring economic security, maintaining trust, and fostering resilience against future challenges. | |
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| (72) To ensure a high level of cybersecurity, it is necessary to prevent high-risk suppliers, as identified in accordance with [the proposal for a revised Cybersecurity Act] from supplying critical components to bidders of renewable energy auctions, tenderers of public procurement procedures, and final products supported by government intervention in the scope of this Regulation. | |
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| (73) Furthermore, the cybersecurity provisions of Article 26 of Regulation (EU) 2024/1735 should not only apply to 30%, but to all renewable energy auctions in light that cybersecurity is essential to the stability and integrity of the Union's energy system as a whole. A gap even in just one element of an energy system's cybersecurity could endanger the stability of the whole system. In addition to the high level of cybersecurity ensured in critical sectors by Directive (EU) 2022/2555 and in products with digital elements under Regulation (EU) 2024/2847, extending the scope of the cybersecurity requirements of Regulation (EU) 2024/1735 to all renewable energy auctions should further reduce the vulnerabilities of the Union's energy system and contribute to securing energy and economic stability. | |
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| (74) The application of the requirements on Union origin and cybersecurity for net-zero technologies should complement the requirements on sustainability and resilience set out in Regulation (EU) 2024/1735. They should therefore be inserted in that Regulation to ensure consistency and simplify implementation by the relevant authorities. | |
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| (75) In line with the measures for public procurement, auctions and public support schemes, this Regulation should also complement Regulation (EU) 2024/1735 with Union origin requirements for Member State support to the construction of nuclear power plants and to the manufacturing of hydrogen electrolysers. To secure long term Union sovereignty, energy security, and sector resilience, it is essential that the new nuclear plants, both large scale reactors and small modular reactors, prioritise as much as possible Union sourced technologies and components while maintaining the highest quality standards. Such strategy will not only boost domestic capabilities but also position the Union as a reliable, competitive player in the global nuclear market. However, in order to prevent risks related to technological lock-in, the Union origin requirements for nuclear power plants should only apply to new- | |

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| builds, excluding refurbishments and lifetime extensions of existing nuclear power plants. | |
| | |
| (76) Regulation (EU) 2024/1735 should therefore be amended accordingly. | |
| | |
| (77) Hydrogen is a crucial energy carrier for the energy transition in many industry applications and is instrumental in driving the transition to cleaner energy systems. To accommodate the emergence of gigawatt scale electrolyser deployments in the Union, it is essential to have a concerted, enhanced support system is essential. | |
| | |
| (78) Where Union origin requirements require that a certain number of components should originate in the Union without specifying which ones, the choice should be left to the economic operators. This ensures sufficient competition among suppliers of the required components and enables economic operators to make the most cost-efficient choices while applying the requirements. | |
| | |
| (79) Regulation (EU) 2024/3110 empowers the Commission to adopt delegated acts to establish environmental sustainability labelling requirements for specific product categories and families of construction products, provided that a product is typically chosen by consumers and does not have a different overall environmental performance over its life cycle depending on its installation. Such strict conditions should be removed in order to enable the Commission to set requirements for the labelling of construction products on the basis of their carbon intensity, including for those products that are not typically sold to end consumers. Regulation (EU) 2024/3110 should therefore be amended accordingly. | |
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| (80) To the extent that any of the measures envisaged by this Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 TFEU. | |
| | |
| (81) Since the objective of this Regulation, namely to support resilient and decarbonised industrial production, cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective, | |
| | |
| HAVE ADOPTED THIS REGULATION: | |
| | |
| CHAPTER I<br>**GENERAL PROVISIONS** | |
| | |
| *Article 1*<br>**Subject matter and scope** | |
| | |
| 1. This Regulation aims at improving the functioning of the internal market by establishing a framework to support the development, competitiveness and resilience of the Union's manufacturing sector, with a focus on selected strategic sectors, while contributing to the Union's climate objective, economic security and the creation, retention of, and transition into high-quality jobs. | |
| | |
| 2. To achieve the general objective referred to in paragraph 1, this Regulation lays down measures aiming to | |

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| | |
| (a) speed-up permit-granting procedures for industrial manufacturing projects, including energy-intensive industry decarbonisation projects; | |
| | |
| (b) create lead market for certain products in strategic sectors, by laying down Union origin requirements, low-carbon requirements, or both, in the context of public procurement, public support schemes; | |
| | |
| © set conditions on foreign direct investments in emerging strategic sectors; | MT<br>(Comments):<br>See position under Chapter IV |
| | |
| (d) designate industrial manufacturing acceleration areas by Member States for the purposes of boosting industrial activities. | |
| | IT<br>(Drafting suggestions):<br>**3. This Regulation is without prejudice to each Member State having sole responsibility for its national security, as provided for in Article 4(2) TEU.**<br><br>IT<br>(Comments):<br>*A general clause safeguarding the responsibility of Member States for the protection of national security, pursuant to Article 4(2) of the Treaty on European Union, should be introduced.*<br><br>*In fact, the nature of the authorisation set out by this regulation would concern also issues of national security (e.g. disrupting of the security of supplies and security in more than one Member States). These issues shall only fall into the* |

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| | *scope of the procedures provided Regulation (EU) 2019/452 and of the new regulation on foreign investments and national screening mechanims.*<br><br>*Recitals should be amended accordingly.* |
| *Article 2*<br>**Industrialisation objective** | |
| | |
| The Union and Member States shall seek to ensure that by 2035 the manufacturing industry of the Union accounts for at least 20% of the Union's gross domestic product. | |
| | |
| *Article 3*<br>**Definitions** | |
| | |
| For the purposes of this Regulation, the following definitions apply: | |
| | |
| (1) 'industrial manufacturing project' means the construction, conversion or extension of an industrial site intended for carrying out an economic activity classified under NACE Code C (Manufacturing), with the exception of NACE Code C12; | |
| | |
| (2) 'energy- intensive industries' means the industries listed in point 1 of Annex I; | |
| | |
| (3) 'energy'energy-intensive industry decarbonisation projects' means the construction or conversion of the commercial facility of an energy-intensive business as defined in Article 17(1), point (a), of Council Directive 2003/96/EC[33] in the energy- intensive industries listed in point 1 of Annex I to this Regulation that reduce emission rates of CO2 -eq of industrial processes significantly and permanently to an extent which is technically feasible; | |

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| 33 Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, pp. 51–70, ELI: http://data.europa.eu/eli/dir/2003/96/oj). | |
| | |
| (4) 'permit-granting procedure' means a process that covers all relevant permits to build, expand, convert and operate industrial manufacturing projects, including building, chemical and grid connection permits as defined in Article 1 of [the Proposal for a Directive amending Directives (EU) 2018/2001, (EU) 2019/944, (EU) 2024/1788 as regards acceleration of permit-granting procedures[34]], and environmental assessments and authorisations where required, and encompassing all applications and procedures from the acknowledgement that the application is complete to the notification of the comprehensive decision on the outcome of the procedure;<br><br>34 Proposal for a Directive of the European Parliament and of the Council amending Directives (EU) 2018/2001, (EU) 2019/944, (EU) 2024/1788 as regards acceleration of permit-granting procedures ((2025/0400 (COD)). | |
| | |
| (5) 'comprehensive decision' means the decision or set of decisions taken by a Member State authority or authorities, that determines whether or not a project promoter is authorised to build, expand, convert and operate an industrial manufacturing project; | |
| | |
| (6) 'contract' means public contract as defined in Article 2(1), point (5), of Directive 2014/24/EU[35], supply, works and service contracts as defined in Article 2, point (1), of Directive 2014/25/EU[36], and concessions as defined in Article 5, point (1), of Directive 2014/23/EU; | |

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| 35 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, pp. 65–242, ELI: http://data.europa.eu/eli/dir/2014/24/oj).<br><br>36 Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, pp. 243–374, ELI: http://data.europa.eu/eli/dir/2014/25/oj). | |
| | |
| (7) 'contracting authority' means a contracting authority as defined in Article 6 of Directive 2014/23/EU, Article 2(1), point (1), of Directive 2014/24/EU and Article 3 of Directive 2014/25/EU; | |
| | |
| (8) 'contracting entity' means a contracting entity as defined in Article 7 of Directive 2014/23/EU and Article 4 of Directive 2014/25/EU; | |
| | |
| (9) 'economic operator' means the manufacturer, the authorised representative, the importer, the distributor, the dealer and the fulfilment service provider and, for the purposes of public procurement procedures, it means economic operator as set out in Article 5, point (2), of Directive 2014/23/EU, Article 2(1), point (10), of Directive 2014/24/EU and Article 2, point (6), of Directive 2014/25/EU; | |
| | |
| (10) 'public procurement procedure' means either of the following: | |
| | |
| (a) a procedure for the award of works or a service concession covered by Directive 2014/23/EU; | |
| | |

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| (b) any type of award procedure covered by Directive 2014/24/EU for the conclusion of a public contract or Directive 2014/25/EU for the conclusion of a supply, works and service contract; | |
| | |
| (11) 'greenhouse gas intensity' means emissions (measured in tCO2eq) released during the production of industrial products referred to in Article 10(2); | |
| | |
| (12) 'manufacturer' means any natural or legal person that manufactures a product or that has a product designed or manufactured, and markets that product under their name or trademark; | |
| | |
| (13) 'system boundary' means the group of chemical or physical processes included in the calculation of the greenhouse gas intensity of products; | |
| | |
| (14) 'precursor' means any input material into a production process that is part of the system boundaries. | |
| | |
| (15) 'chemical industry' means activities classified under NACE Rev. 2, Code C20 (Manufacture of chemicals and chemical products), carried out by manufacturers established in the Union; | |
| | |
| (16) 'sustainable carbon sources' means biomass that complies with the sustainability criteria laid down in Article 29 of Directive (EU) 2018/2001, waste and carbon from capturing carbon dioxide emissions. | |
| | |
| (17) 'substance' means substance as defined in Article 2, point (7), of Regulation (EC) No 1272/2008; | |
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| (18) 'mixture' means a mixture as defined in Article 2, point (8), of Regulation (EC) No 1272/2008; | |
| | |
| (19) 'made available on the market' means any supply of a product for distribution, consumption or use on the Union market during a commercial activity, whether against payment or free of charge; | |
| | |
| (20) 'fuel cell vehicle' or 'FCV' means a vehicle equipped with a powertrain containing exclusively energy converters transforming chemical energy (input) into electrical energy (output), or vice versa, and electric machines as propulsion energy converters; | |
| | |
| (21) 'motor vehicle' means any vehicle of categories M and N referred to in Article 4(1), points (a) and (b), of Regulation (EU) 2018/858 of the European Parliament and of the Council[37];<br><br>37 Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1, ELI: http://data.europa.eu/eli/reg/2018/858/oj). | |
| | |
| (22) 'off-vehicle charging hybrid electric vehicle' or 'OVC-HEV' means a vehicle equipped with a powertrain containing at least two different categories of propulsion energy converters where one of the propulsion energy converters is an electric machine that can be charged from an external source'; | |
| | |
| (23) 'pure electric vehicle' or 'PEV' means a vehicle equipped with a powertrain containing exclusively electric machines as propulsion energy | |

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| converters and exclusively rechargeable electric energy storage systems as propulsion energy storage systems; | |
| | |
| (24) 'main specific components' means the main specific components as listed in the Annex to Commission Implementing Regulation 2025/1178[38];<br><br>38 Commission Implementing Regulation (EU) 2025/1178 of 23 May 2025 on laying down rules for the application of Regulation (EU) 2024/1735 of the European Parliament and of the Council as regards the list of net-zero technology final products and their main specific components for the purposes of assessing the contribution to resilience (OJ L, 2025/1178, 18.6.2025, ELI: http://data.europa.eu/eli/reg_impl/2025/1178/oj). | |
| | |
| (25) 'vehicle's traction battery' means the electric vehicle battery specifically designed to provide electric power for traction as defined in Article 3(14) of Regulation (EU) 2023/1542[39].<br><br>39 | |
| | |
| (26) 'e-powertrain components' means power electronics, transport propulsion electric motors and e-axles and their components, rotors and stators; | |
| | |
| (27) 'main electronic systems' means advanced driver assistance systems (including lidars, radars, sensors, cameras, ECUs and integration platforms), central computing units, wireless access systems, in-vehicle infotainment head units and chassis electronics; | |
| | |
| (28) 'vehicle component' means any part of a vehicle, including processed material; | |

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| | |
| (29) 'assembled' means the process of the final assembly of the vehicle; | |
| | |
| (30) 'vehicle manufacturer' means a natural or legal person who is responsible for all aspects of the type-approval of a vehicle, system, component or separate technical unit, or the individual vehicle approval, or the authorisation process for parts and equipment, for ensuring conformity of production and for market surveillance matters regarding that vehicle, system, component, separate technical unit, part and equipment produced, irrespective of whether or not that person is directly involved in all stages of the design and construction of that vehicle, system, component or separate technical unit concerned; | |
| | |
| (31) 'foreign direct investment' means an investment, including greenfield investments, into a Union target or a Union asset by a foreign investor or by the foreign investor's subsidiary aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available, or at using an Union asset, in order to carry on an economic activity in a Member State, including investments which enable effective participation in the management or control of a company carrying out an economic activity; | ES<br>(Drafting suggestions):<br><br>foreign direct investment' means an investment of **any kind,** including greenfield investments, into a Union target or a Union asset by a foreign investor or by the foreign investor's subsidiary aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available, or at using an Union asset, in order to carry on an economic activity in a Member State, including investments which enable effective participation in the management or control of a company carrying out an economic activity;<br><br>ES<br>(Comments):<br><br>This modification is necessary to align the definition of investments under IAA and under FDI Screening Regulation, so it does not generate two different definitions for the same investments under EU Law. |

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| | IT<br>(Drafting suggestions):<br>**(31) 'foreign direct investment' means an investment of any kind, including greenfield investments, carried out either by a foreign investor itself or through a foreign investor's subsidiary in the Union, aiming to establish or to maintain lasting and direct links between the foreign investor and a Union target, to which the foreign investor makes capital available in order to carry out an economic activity in a Member State, enabling effective participation in the management or control of that Union target;**<br>IT<br>(Comments):<br>*It is considered appropriate to use the corresponding definitions as set out in the new Regulation on the screening of foreign investments.*<br>NL<br>(Drafting suggestions):<br>(31) 'foreign direct investment' means an investment, including greenfield investments **and investments involving the acquisition, expansion, modernisation or restructuring of existing facilities, undertakings or assets,**, into a Union target or a Union asset by a foreign investor or by the foreign investor's subsidiary aiming to establish or to maintain lasting and direct links between the foreign investor and the entrepreneur to whom or the undertaking to which the capital is made available, or at using an Union asset, in order to carry on an economic activity in a Member State, including investments which enable effective participation in the management or control of a company carrying out an economic activity; |

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| | PL<br>(Comments):<br>Greenfield investment requires either a separate definition as „an establishment of an entity" (as written in art. 19(4)) since it is not explicitly covered by wording "an investment into a Union target or a Union asset", or the definition of a Union target needs to be properly adjusted. The explanation given in recital 30 is correct, but it should also be cleared up in the main text of the regulation. |
| | IT<br>(Drafting suggestions):<br>**31-*bis* 'greenfield investment' means a foreign investment carried out through the establishment of new facilities or of an undertaking for the performance of an economic activity in the Union;**<br><br>IT<br>(Comments):<br>*An explicit definition of greenfieldd investment should be included.* |
| (32) 'foreign investor' means a natural person of a third country who does not hold the nationality of a Member State or an undertaking of a third country, intending to make or having made a foreign direct investment; | IT<br>(Drafting suggestions):<br>(32) 'foreign investor' means a natural person ~~of a third country~~ who does not hold the nationality of a Member State or an undertaking **or entity established or otherwise organised under the laws** of a third country;<br><br>IT<br>(Comments):<br>*It is considered appropriate to use the corresponding definitions as set out in the new Regulation on the screening of foreign investments* |

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| | NL<br>(Drafting suggestions):<br>'foreign investor' means a natural person of a third country ~~**who does not hold the nationality of a Member State**~~ or an undertaking of a third country, intending to make or having made a foreign direct investment;<br>NL<br>(Comments):<br>Language aligned with Art 2(2) of Regulation (EU) 2019/452 |
| | |
| (33) 'foreign investor's subsidiary' means an undertaking controlled, directly or indirectly, by a foreign investor regardless of its place of establishment; | FI<br>(Comments):<br>Ref. our comments on Art. 18.4.<br>IT<br>(Drafting suggestions):<br>(33) 'foreign investor's subsidiary' means an undertaking **which is established under the laws of a Member State and directly or indirectly** controlled~~, directly or indirectly~~, by a foreign investor ~~regardless of its place of establishment;~~<br>IT<br>(Comments):<br>*It is considered appropriate to use the corresponding definitions as set out in the new Regulation on the screening of foreign investments*<br>PL<br>(Comments): |

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| | For the proper implementation of chapter IV, the definition should be more precise to indicate that foreign investor's subsidiary needs to be engaged in significant economic activity (e.g., manufacturing). Subsidiaries of foreign investors registered in the EU often engage exclusively in financial or commercial activities and should not be treated the same as manufacturers.<br><br>SE<br>(Drafting suggestions):<br><br>(33) 'foreign investor's subsidiary' means an undertaking controlled, directly or indirectly, by a foreign investor regardless of its place of establishment **in the Union**;<br><br>SE<br>(Comments):<br><br>A subsidiary established outside the Union should follow the rules that applies for foreign investors. This clarifies that point. |
| | |
| (34) 'Union target' means an undertaking established under the laws of a Member State; | IT<br>(Drafting suggestions):<br><br>(34) 'Union target' means an undertaking established **or intended to be established** under the laws of a Member State<br><br>IT<br>(Comments):<br><br>*It is considered appropriate to use the corresponding definitions as set out in the new Regulation on the screening of foreign investments*<br><br>PL<br>(Drafting suggestions): |

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| | (34) 'Union target' means an undertaking established **or planned to be established** under the laws of a Member State;<br><br>PL<br>(Comments):<br><br>PL proposal as a follow-up to the comment on definition 31 – in order to include greenfield investment the definition of an Union Target needs to be adjusted to include an entity, that will be established as a result of a greenfield investment. |
| | |
| (35) 'Union asset' means an immovable asset used or intended to be used for manufacturing products in the territory of the Union; | SE<br>(Drafting suggestions):<br><br>(35) 'Union asset' means an immovable asset used or intended to be used for manufacturing products**, recycling or extracting raw materials** in the territory of the Union;<br><br>SE<br>(Comments):<br><br>Chapter IV includes the extraction and recycling of critical raw material and therefore extraction, i.e. mines, and recycling need to be clearly covered by the definition. |
| | NL<br>(Drafting suggestions):<br><br>**(35a) a high-risk strategic dependencies' means dependencies affecting the security, resilience or economic security of the Union or one or more Member States, in particular in relation to critical supply chains, critical technologies, critical raw materials or other strategic sectors, where such dependencies are likely to create significant vulnerabilities or risks of disruption** |

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| (36) 'Union worker' means any natural person who has an employment contract or employment relationship as defined by law, a collective agreement or practice in force in a Member State and is either a citizen of the Union or a third country national legally residing in a Member State with a valid work permit at the moment of recruitment; | FI<br>(Comments):<br>Ref. our comments on Art. 18.2(e) |
| | |
| (37) 'portfolio investment' means the acquisition of company securities that are intended purely for financial investment and without any intention to influence the management or control of the company; | CZ<br>(Comments):<br>We propose to include an additional definition of "investments targeted at providing services" referred to in Art. 17(3)(b) to mainly clarify the status of high-tech services (such as those provided by technology centres, data centres, high-tech repair centres, and software centres). |
| | |
| (38) 'turnover' means the amount derived by an undertaking within the meaning of Article 5(1) of Council Regulation (EC) No 139/2004[40];<br><br>40 Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (OJ L 24, 29.1.2004, p. 1). | |
| | |
| (39) 'active material' means a material which reacts chemically to produce electric energy when the battery cell discharges or to store electric energy when the battery is being charged; | |
| | |
| (40) 'electric vehicle battery' means an electric vehicle battery as defined in Article 3(1), point (14), of Regulation (EU) 2023/1542 of the European Parliament and of the Council[41];<br><br>41 Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and | |

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| Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (OJ L 191, 28.7.2023, p. 1, ELI: http://data.europa.eu/eli/reg/2023/1542/oj). | |
| | |
| (41) 'supplier' means a manufacturer established in the Union, the authorised representative of a manufacturer who is not established in the Union, or an importer, who places a product on the Union market; | |
| | FR<br>(Drafting suggestions):<br>**(42) "Beneficial owner" refers to the natural person or persons who ultimately own or control a legal entity, or on whose behalf a transaction or activity is carried out. In practical terms, the concept of 'beneficial owner' aims to ensure the accurate identification of natural persons exercising actual control or deriving substantial benefit from economic flows, in order to ensure the effectiveness of rules on transparency, the fight against abuse and the prevention of optimisation or circumvention practices. In accordance with the approach adopted in EU law (and in particular Directive (EU) 2015/849), the beneficial owner is defined as the natural person who exercises effective control, directly or indirectly, over an entity, in particular through the holding of a significant shareholding or by any other means conferring decision-making power. From an economic and functional perspective, the concept also covers the person who has the power to enjoy and dispose of the relevant income or assets, and who bears, where applicable, the economic risks. In this regard, an intermediary acting on behalf of a third party, with no discretion as to the use of the income received, cannot be classified as a beneficial owner.**<br><br>**(43) "Significant influence" refers to an entity's ability to exercise decisive power over the behaviour of another entity, such that the latter does not determine its own conduct in the market. In practical terms, decisive** |

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| | **influence is characterised by the ability to guide an entity's strategic, commercial and financial decisions, regardless of whether that power is actually exercised. It may be exercised exclusively or jointly. This concept is clearly linked to that of control, defined in competition law by Article 3 of Regulation (EC) No 139/2004 on the control of concentrations between undertakings, as the ability to exercise such influence.** |
| CHAPTER II<br>**ENABLING CONDITIONS FOR INDUSTRIAL PRODUCTION AND DECARBONISATION** | |
| | |
| *Article 4*<br>**Single access points** | |
| | |
| 1. Member States shall set up a single access point at national level for the submission by project promoters of the single application for industrial manufacturing projects referred to in Article 5(1). | |
| | |
| 2. The single access points shall automatically attribute the permit applications to the relevant authority, inform the applicant about all steps of the permit-granting procedure, the status of the procedure and of the decisions of the relevant authorities, and enable the applicant to check compliance with applicable deadlines. To that effect the single access points shall use the European Business Wallets established pursuant to [Proposal for a Regulation on the establishment of European Business Wallets]. | |
| | |
| Through the use of European Business Wallets, the single access points shall enable: | |
| | |
| (a) interoperability and automated data exchange between competent authorities; | |

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| | |
| (a) re-use of data and documents already held by public authorities; | |
| | |
| (b) a high level of cybersecurity, and integrity of information; | |
| | |
| © transparency and accountability of the permit-granting procedure. | |
| | |
| 3. When setting up the single access points, Member States shall, where appropriate, make use of existing Union digital infrastructure, catalogues and building blocks established by Union law. | |
| | |
| *Article 5*<br>**Permit-granting procedure** | |
| | |
| 1. Member States shall establish a single permit-granting procedure based on a single application covering all permits required for industrial manufacturing projects. | . |
| | |
| 2. Member States shall designate a competent authority to coordinate the permit-granting procedure referred to in paragraph 1 in order to ensure the adoption and issue of a comprehensive decision within the applicable time limit. | |
| | |
| 3. No later than 45 days from the receipt of the application for a permit for industrial manufacturing projects, the competent authority shall either acknowledge that the application is complete or request any missing information needed to process the application. | |
| | |
| Where, after the submission of any missing information, the application is still deemed to be incomplete, the competent authority may, within 30 days of the | |

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| submission of the requested missing information, make a second request for any information still missing. The competent authority shall not request information in areas not covered in the first request for additional information and shall request further information only as necessary to cover the missing information. | |
| | |
| 4. The provisions of this Article shall not apply where rules to streamline the administrative and permit-granting processes are established in other Union legislative acts for specific industrial manufacturing sectors. | |
| | |
| *Article 6*<br>**Energy-intensive industry decarbonisation projects** | |
| | |
| 1. Chapter II, Section II, of Regulation (EU) 2024/1735 shall apply to all energy-intensive industry decarbonisation projects. | |
| | |
| 2. All energy-intensive industry decarbonisation projects shall be considered strategic projects contributing to resilience and decarbonisation or resource efficiency for the purposes of [Article 14 of Proposal for a Regulation on speeding-up environmental assessment]. Points 1, 2 and 3 of the Annex in that Regulation shall apply. | |
| | |
| CHAPTER III<br>**STRENGTHENING THE UNION'S STRATEGIC INDUSTRIAL VALUE CHAINS** | |
| | |
| *Article 7*<br>**Union origin** | |
| | |

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| 1. For the purposes of this Chapter, content of Union origin refers to content originating in the Union. | |
| | |
| 2. The origin of products and components shall be determined in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council. | |
| | |
| *Article 8* | |
| | |
| **Content equivalent to Union origin in public procurement** | |
| | |
| 1. With respect to the Union origin requirements referred to in Article 11, content originating in third countries with which the Union has concluded an agreement establishing a free trade area or a customs union, or that are parties to the Agreement on Government Procurement, where relevant obligations of the Union exist under that agreement, shall be deemed to be of Union origin. | |
| | |
| 2. The Commission shall adopt delegated acts in accordance with Article 30 to exclude, in whole or in part, a third country from the scope of paragraph 1 based on any of the following criteria: | |
| | |
| (a) that third country has failed to provide national treatment related to Union products or entities under the agreements referred to in paragraph 1 in relation to any of the sectors listed in Annex I; | |
| | |
| (b) such exclusion is justified to avoid dependencies or any other developments that may threaten the security of supply in the Union of the products in question; | |
| | |

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| © such exclusion is justified under any other exception under the applicable agreement. | |
| | |
| *Article 9* | |
| | |
| **Content equivalent to Union origin in other forms of public intervention** | |
| | |
| 1. With respect to the Union origin requirements set out in Article 12, content originating in third countries with which the Union has concluded an agreement establishing a free trade area or a customs union shall be deemed to be of Union origin. | |
| | |
| 2. The Commission shall adopt delegated acts in accordance with Article 30 to exclude, in whole or in part, a third country from the scope of paragraph 1 based on any of the following criteria: | |
| | |
| (a) that third country has failed to provide national treatment related to Union products or entities under the agreements referred to in paragraph 1 in relation to any of the sectors listed in Annex I; | |
| | |
| (b) such exclusion is justified to avoid dependencies or any other developments that may threaten the security of supply in the Union of the products in question; | |
| | |
| © such exclusion is justified under any other exception under the applicable agreement. | |
| | |
| *Article 10*<br>**Low-carbon products** | |
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| 1. For the purposes of this Chapter, a product covered by Annex II shall be considered low-carbon when it complies with the requirements set out in delegated acts, as follows: | |
| | |
| (a) for construction products referred to in Regulation (EU) 2024/3110 and covered by a harmonised technical specification or a European Technical Assessment, the delegated acts adopted pursuant to Article 5(5) or Article 22(9) of Regulation (EU) 2024/3110; | |
| | |
| (b) for all other products, delegated acts adopted pursuant to Article 4 of Regulation (EU) 2024/1781, as applicable. | |
| | |
| 2. To support the creation of lead markets by informing investment decisions towards products granted a lower greenhouse gas intensity performance class, the Commission is empowered to adopt delegated acts in accordance with Article 30 in order to supplement this Regulation by establishing voluntary classification systems based on the greenhouse gas intensity for products manufactured through activities listed in Annex I of Directive 2003/87/EC ('industrial products') when they are placed on the Union market, to the extent that these products are not already regulated by a Delegated Act under Regulation (EU) 2024/1781 or included in the working plans adopted in accordance with that Regulation. | |
| | |
| Emissions and all other relevant data used for the calculation of the greenhouse gas intensity shall be verified by verifiers accredited under Commission Implementing Regulation (EU) 2018/2067 of the European Parliament and of the Council[42] or verifiers accredited under the delegated acts adopted pursuant to Article 18 of Regulation (EU) 2023/956, as appropriate. Emissions shall be monitored in accordance with the rules laid down in Chapter III of Commission Implementing Regulation (EU) 2018/2066 and the data monitoring methods and quality requirements set out in Annex VII to | |

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| Delegated Regulation (EU) 2019/331. For imported products, emissions may be monitored in accordance with Annex IV to Regulation (EU) 2023/956 and the data monitoring methods and quality requirements established by implementing acts adopted pursuant to Article 7(7), point (a), of Regulation (EU) 2023/956, where it provides for an equivalent dataset.<br><br>42 Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 334, 31.12.2018, pp. 94, ELI: http://data.europa.eu/eli/reg_impl/2018/2067/oj). | |
| | |
| Such delegated acts shall specify, as appropriate, the following elements: | |
| | |
| (a) the identification of the product for which a manufacturer may apply for a label on greenhouse gas intensity; | |
| | |
| (b) the relevant system boundaries, covering emissions from the industrial manufacturing process, emissions from relevant precursors and emissions from electricity consumption. These emissions are considered independently of whether these emissions occur in the manufacturer's facility or in other facilities, recognising that certain precursors might be acquired from other installations; | |
| | |
| © the methodology for the calculation of the greenhouse gas intensity of the product | |
| | |
| (d) a classification with performance classes; | |
| | |
| (e) complementary rules concerning the governance of the label, including competent entities; and | |

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| | |
| (f) complementary rules on accreditation, monitoring and verification, | |
| | |
| In developing those rules, the Commission shall at least take into account: | |
| | |
| (a) the latest applicable product benchmark values as defined under Directive 2003/87/EC; | |
| | |
| (b) data already available under the EU ETS and CBAM; | |
| | |
| © new Union rules concerning accounting for emissions, including from electricity consumption, low-carbon fuels and renewable fuels of non-biological origin; | |
| | |
| (d) emerging low-carbon production technologies, as well as the estimated emissions' reduction potential of emerging technologies; | |
| | |
| (e) the need to incentivise the uptake of recycled materials in all production routes; and | |
| | |
| (f) the alignment with climate neutrality objectives, as laid down in Regulation (EU) 2021/1119 of the European Parliament and of the Council[43].<br><br>43 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/1119/oj). | |
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| *Article 11*<br>**Public procurement** | |
| | |
| 1. Contracting authorities and contracting entities shall exclude from access to procurement procedures referred to in Part I of Annex II and Part I of Annex III tenders submitted by economic operators owned or controlled by an entity established in third countries which have not concluded an international agreement with the Union guaranteeing such access. | |
| | |
| 2. For public procurement procedures referred to in Part I of Annex II and Part I of Annex III, contracting authorities and contracting entities shall apply the Union origin requirements and low-carbon requirements laid down therein in accordance with Articles 8 and 10. | |
| | |
| 3. Contracting authorities and contracting entities may decide not to apply the requirements set out in Annexes II and III where any of the following conditions are fulfilled: | |
| | |
| (a) the required products or services can only be supplied by one specific economic operator, and no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the public procurement procedure; | |
| | |
| (b) no suitable tenders or no suitable requests to participate were submitted, including in response to a similar former public procurement procedure launched by the same contracting authority or contracting entity in the two years preceding the start of the planned new procurement procedure; | |
| | |
| © their application would require a contracting authority or contracting entity to acquire goods, services or works having disproportionate costs or would result in technical incompatibility in their operation and maintenance. | |

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| Estimated cost differences exceeding 25%, based on objective and transparent data, may be presumed by contracting authorities and contracting entities to be disproportionate. | |
| | |
| 4. Contracting authorities and contracting entities shall require economic operators supplying products or services to submit a self-declaration, or an equivalent document, demonstrating compliance with the requirements set out in this Article. | |
| | |
| *Article 12*<br>**Other forms of public intervention** | |
| | |
| 1. Without prejudice to Articles 107 and 108 TFEU, Member States shall design public support schemes in a way that they contribute to the objective of strengthening the Union's strategic industrial value chains through the Union origin requirements, low-carbon content requirements, or both, laid down in Part II of Annex II and Part II of Annex III, in accordance with Articles 9 and 10 and without prejudice to Article 13. | |
| | |
| Member States shall apply the requirements referred to in the first subparagraph to public support schemes accounting for at least 45% of the total national budget allocated to the public support schemes covered by Part II of Annex II and accounting for 100% of the total national budget allocated to the public support schemes covered by Part II of Annex III. | |
| | |
| 2. When designing and implementing a public support scheme covered by Part II of Annex II and Part II of Annex III, the competent authority shall assess the contribution of products and technologies to the overall target laid down therein on the basis of an open, non-discriminatory and transparent process. | |
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| 3. The competent authority may still implement support schemes that do not meet the requirements laid down in Part II of Annex II and Part II of Annex III, in whole or in part, if the application of such requirements: | |
| | |
| (a) would lead to significant delays due to the unavailability of the required components or final products. Estimated delays in excess of seven months, based on objective, transparent and verifiable data, may be presumed to be significant; | |
| | |
| (b) would incur disproportionate costs. Disproportionate costs shall be presumed to exist where, based on objective, transparent and verifiable data, compliance would increase the cost of the underlying final product or technology by more than 30%. | |
| | |
| *Article 13* | |
| | |
| **Financial support for corporate vehicles** | |
| | |
| For the purposes of Article 4 of the [Proposal for a Regulation of 16 December 2025 on clean corporate vehicles], the 'made in the European Union' criterion for providing financial support for the uptake of corporate cars and vans shall comply with the criteria set out in Part II of Annex III to this Regulation. | |
| | |
| This 'made in the European Union' criterion shall be considered equivalent to the 'Union origin' referred to in Article 7 of this Regulation. | |
| | |
| *Article 14*<br>**CO2 emission performance standards credits** | |
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| 1. For the purposes of Article 5(1) and (2) of Regulation (EU) 2019/631 [as amended by the Proposal for a Regulation of 16 December 2025 amending Regulation (EU) 2019/631 as regards CO2 emission performance standards for new light duty vehicles and vehicle labelling], the 'made in the EU' criterion for small zero-emission vehicles shall comply with the criteria set out in Part III of Annex III to this Regulation. | |
| | |
| This 'made in the EU' criterion shall be considered equivalent to the 'Union origin' referred to in Article 7 of this Regulation. | |
| | |
| 2. For the purposes of Article 5b of Regulation (EU) 2019/631 [as amended by the Proposal for a Regulation of 16 December 2025 amending Regulation (EU) 2019/631 as regards CO2 emission standards for new light duty vehicles and vehicle labelling], 'low-carbon steel made in the EU' shall be understood as follows: | |
| | |
| (a) 'low-carbon' shall comply with the conditions referred to in Article 10(1) of this Regulation; | |
| | |
| (b) 'made in the EU' shall be equivalent to the 'Union origin' referred to in Article 7 of this Regulation. | |
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| | |
| *Article 15*<br>**Certification of a vehicle's compliance with Union origin requirements** | |
| | |
| From [OP please insert date: six months after entry into force], when issuing a vehicle's certificate of conformity in accordance with Articles 36 and 37 of Regulation (EU) 2018/858, for vehicles in compliance with the relevant Union | |

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| origin requirements laid down in Annex III to this Regulation, manufacturers shall provide an accompanying document certifying the compliance of the vehicle. | |
| | |
| *Article 16*<br>**Delegation of powers** | |
| | |
| 1. The Commission is empowered to adopt delegated acts in accordance with Article 30 to supplement this Regulation by laying down Union-level demand-side measures for products from the chemical industry in order to promote the following activities: | |
| | |
| (a) the production and sales of substances and mixtures of Union origin derived from sustainable carbon sources; | |
| | |
| (b) the use in products made available on the market of substances and mixtures of Union origin derived from sustainable carbon sources. | |
| | |
| In the preparation of the delegated acts, the Commission should take into account: | |
| | |
| (a) the contribution of the requirements to the Union's objective of economic security, resilience and climate neutrality set out in Regulation (EU) 2021/1119; | |
| | |
| (b) the market situation at Union level, as identified through monitoring activities, including declining Union market shares and Union industry producing at below capacity | |
| | |

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| © the impact of setting such measures on the overall competitiveness and greenhouse gas emissions of the relevant sectors, as well as on costs for downstream consumers and small and medium enterprises and public budgets. | |
| | |
| 2. The Commission is empowered to adopt delegated acts in accordance with Article 30 in order to amend Annex II or Annex III concerning the Union origin requirements, low-carbon requirements or both set out for products referred to therein, taking into account the following criteria: | |
| | |
| (a) the market situation at Union level, as identified through monitoring activities, including declining Union market shares and Union industry producing below capacity; | |
| | |
| (b) technological progress; | |
| | |
| © the contribution of the requirements to the Union's objective of public order, economic security, resilience and climate neutrality set out in Regulation (EU) 2021/1119; | |
| | |
| (d) demand for the relevant products or technologies driven by the downstream sectors' growth; | |
| | |
| (e) share of product or technology in total production value of the downstream sector; | |
| | |
| (f) the impact of setting Union origin requirements, low-carbon requirements, or both on the overall competitiveness and greenhouse gas emissions of the relevant sectors, including on costs for downstream consumers and small and medium enterprises and public budgets. | |
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| 3. The Commission is empowered to adopt implementing acts in accordance with Article 31(2) to specify the method for calculating the proportion of volume of products and components originating in the Union in accordance with Regulation (EU) No 952/2013, and where appropriate, to provide for the use of standardised templates for certificates of compliance. | |
| | |
| Implementing acts referred to in subparagraph 1 may also establish the methods and procedures to be applied by the relevant competent national authorities, including contracting authorities and contracting entities, to verify compliance with the requirements laid down in this Regulation and, where appropriate, to make use of digital tools for the purposes of calculation, verification and demonstration of compliance. | |
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| CHAPTER IV<br>**FOREIGN INVESTMENT CONTRIBUTION** | BE<br>(Comments):<br><br>How does the Commission regard the political and legal impact of the proposed Chapter considering its own stance on matters pertaining to JV-requirements, FTT and local content requirements? (as illustrated in WT/DS549, for example)<br>Has the Commission done an impact assessment of the Chapter as proposed, as the original impact assessment does not take this version of the Chapter into account? If not, can an ex post impact assessment be provided?<br><br>CZ<br>(Comments):<br><br>We recommend to use same reference "foreign direct investment" throughout the chapter in order to ensure clarity about the scope.<br><br>The proposed amendments aim to transform Chapter IV from a **mandatory restrictive regime** into a **risk-based framework**.<br><br>EL<br>(Comments):<br><br>In line with our intervention at COMPET 28.05.2026 for the provisions on the contribution of foreign investment, it is important to strike the right balance in defining the scope both in terms of thresholds, and in terms of sectors of economic activity, so as to avoid harming the attractiveness of EU as an investment destination, and gain maximum benefits for the EU's economic security.<br><br>We would like to ask the Commission about the inteplay of this proposal with the Foreign Subsidies Regulation (EU) 2022/2560, and FDI screening Regulation (EU) 2019/452, and other existing instruments, and about the need to specify their relations in the operative part of the regulation? Council Legal Service contribution on this issue is highly welcome. |

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| | FI<br>(Comments):<br><br>In the current IAA proposal, the provisions concerning foreign direct investment and Union origin do not play well together and could potentially weaken the current market situation. While new FDI restrictions would constrain investments in the EU in certain industry sectors such as batteries, products produced in FTA countries could simultaneously benefit from Union origin equivalence without any FDI restrictions. We consider it is important to keep the FTAs within the scope of the Union origin criteria, but we are cautious on the FDI restrictions.<br><br>Proposal is based on an assumption that EU would be attractive to draw foreign investments even with the proposed strict conditioning. We, however, see there is a risk that the proposed measures would direct investments elsewhere, e.g. on batteries, keeping us even more dependent on imports.<br><br>It is of great concern that no thorough impact assessment has been made on Chapter IV.<br><br>WTO compliance of the proposed measures should be assessed, as well as risks of escalating trade disputes and retaliatory measures by third countries.<br><br>LU<br>(Comments):<br><br>**Please note that these are our preliminary comments. We are still evaluating the text, and our internal coordination is currently ongoing.**<br><br>MT<br>(Comments): |

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| | When it comes to the Chapter on Foreign Direct Investment Malta underlines the importance of the two principles of subsidiarity and proportionality as per EU Treaties. It is paramount that ultimately, it remains at the Member State perogative of decisions to be taken. Malta does understand that the current stock of foreign direct investment and any agreements entered into by national / regional competent authorities and foreign direct investment are out of scope and there will be no retroactive. This is essential to avoid the creation of any legal uncertainty. Malta does believe that the legislative has left a lacuna in forgetting to safeguard expansion projects from the current stock of foreign direct investment. Malta would like to recommend a phase in approach by which a transitional period of five years would apply for expansion projects derived from the current stock of foreign directive investment. It is much easier to have investment from the current stock of investors compared to getting new investment. There is a global intense competition for new foreign direct investment. Therefore, it is of interest to the Member States to offer stability and legal certainty to the current stock of foreign direct investment that intends to carry out expansion projects. It is essential that one clearly spells out that there are no retroactive aspects in this piece of legislation at the core of the text.<br><br>Malta stresses the need to strike a balance, noting that foreign direct investment remains an important source of financing. Malta calls for WTO-compliant rules, a level playing field, and safeguards against unintended side effects.<br><br>PL<br>(Comments):<br><br>General comment: The provisions of Chapter IV grant the European Commission a significant role and responsibility in deciding whether to approve foreign investments in the Union. Poland supports a procedure whereby the European Commission issues an opinion in specific cases and |

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| | advocates that Member States apply the "comply or explain" principle. The role of the EC in relation to that of the supervisory authorities in Member States requires further clarification. It is essential to specify what powers regarding monitoring and potential intervention in the decision-making process concerning investments will be entrusted to the EC.<br>**Additionally, PL raises concerns as to whether Chapter IV is properly drafted from the perspective of BITs.**<br><br>SI<br>(Comments):<br><br>Slovenia generally supports the objective of protecting strategic industrial sectors that are key to the green transition and digitalization, with the aim of increasing resilience and strengthening the EU's economic security.<br><br>In drafting provisions intended to introduce greater transparency and oversight of foreign investments exceeding the threshold of EUR 100 million and originating from a country that accounts for more than 40% of global production, we call for a thoughtful approach to the proposed concept, so that, due to excessive restrictiveness, we do not reduce the EU's investment attractiveness and encourage the diversion of investments to other markets, or lead to the introduction of retaliatory measures.<br><br>Slovenia would like to highlight the possibility of increased administrative burdens due to stricter verification of conditions, reporting, and oversight of foreign direct investment.<br>It will also be necessary to avoid duplication or overlap with provisions in existing EU legislation (Regulation (EU) 2024/1356 on screening).<br><br>Slovenia draws attention to the unclear time limits regarding reporting on foreign direct investment and the verification of investor compliance, as well as the need to establish clear criteria for assessing data verification. We are |

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| | also opposed to granting overly broad powers to the European Commission in the area of screening foreign direct investments. We are also concerned about the unclear provisions regarding breaches of monitoring obligations and penalties, as well as the short deadlines (30 days) for deciding on complex applications.<br><br>In this regard as well, Slovenia emphasizes the need for clear provisions that will enable direct implementation and the extension of deadlines.<br><br>Regarding provisions on foreign investments, in addition to technology transfer and local value, cybersecurity risks related to remote management, software, updates, and the impact on critical infrastructure should also be taken into account. |
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| *Article 17*<br>**Scope** | CZ<br>(Drafting suggestions):<br>In Article 17(1), replace "40%" with "50%". In Article 17, amend to provide that FDI screening shall be at the discretion of each Member State rather than mandatory. In Article 17, add: "The Investment Authority shall issue a final decision within 90 days of receipt of a complete notification. This deadline shall not be extended except by written agreement of the notifying investor."<br>PL<br>(Comments):<br>The chemical sector as a whole is not specifically identified in Article 17 as an emerging strategic sector subject to special rules governing foreign direct investment controls. At the same time, chemicals, materials, precursors, intermediates, and process technologies are essential to the strategic sectors identified in that provision. Therefore, we recommend a selective approach: not automatically subjecting the entire chemical industry to an additional control mechanism, but explicitly including those segments of the chemical industry that are critical to the resilience of emerging strategic sectors.<br>That approach should as well be taken to any new addition of sectors, where thorough verification of the feasibility and application should be conducted. |
| | |
| 1. This Chapter shall apply to foreign direct investments exceeding a value of EUR 100 million in the emerging strategic manufacturing sectors referred to in paragraph 2, where more than 40 % of the global manufacturing capacity is held by the third country of which the foreign investor is a national or undertaking. | BE<br>(Comments):<br>Has the Commission done desk research on historical investments into the Union that would have fallen within this scope? If so, can the Commission share this list with an estimation of the extent to which the investments had a distortive impact on the competitiveness of Union industry?<br>CZ |

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| | (Drafting suggestions):<br><br>replace "40%" with "50%". In Article 17, amend to provide that FDI screening shall be at the discretion of each Member State rather than mandatory<br><br>CZ<br>(Comments):<br><br>The link between the 100 MEUR threshold under Article 17(1) and the notification obligation under Article 19(1) needs to be clarified. Under the latter provision, FDIs establishing a control, as defined below, are to be notified. Is is not clear whether FDIs exceeding 100 MEUR, or FDIs of any amount are meant to establish a control under Article 19(1).<br><br>DE<br>(Drafting suggestions):<br><br>1. This Chapter shall apply to foreign direct investments exceeding**,** **within a limited time period (to be determined), an aggregated** ~~a~~ value of EUR 100 million in the emerging strategic manufacturing sectors referred to in paragraph 2, where more than 40 % of the global manufacturing capacity is held**, at the time of the review,** by the third country of which the foreign investor is a national or undertaking.<br><br>DE<br>(Comments):<br><br>Aggregation of investments must be limited in time, otherwise the criteria becomes meaningless and would disincentive follow-up investments and expansions.<br><br>In our understanding this criteria applies to any future investment into the same company by the same investor. **As an example:** If it any moment, |

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| | aggregated investments over the course of the previous 3 years exceed the threshold of 100m EUR, the investment falls under the scope of this chapter.<br><br>DK<br>(Comments):<br><br>Has the Commission considered explicitly refering to the ultimate owner of the foreign investor, instead of only to the foreign investor itself? (e.g. to cover sitautions where a foreign investor is located in a country that does not account for 40%+ of world production, but is ultimately controlled by an entity that is located in a country that does?)<br><br>How would the regulation deal with situations where a foreign investor is not a national or undertaking in a country covered, but ultimate control is vested with an undertaking in a third country?<br><br>EE<br>(Comments):<br><br>Estonia is cautious about possible changes to the EUR 100 million threshold, especially reducing it. Any changes need a thorough assessment on the impacts of the change.<br><br>EL<br>(Comments):<br><br>Regarding article 17, on scope, we would like some clarifications: According to your estimations, how many cases of FDI are expected to be covered by the 100 million EUR threshold? Can you provide us with some documentation on the distribution of the FDI in EU per value, in order to evaluate if the 100 million EUR is the right threshold? |

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| | At technical level, have you considered the possibility to apply a multilateral structure in the scope, in order to capture the most harmful FDIs in all strategic sectors covered by the proposal?<br>For example, we could discuss the possibility to design the scope as follows, running a multi-level control at three stages:<br>- at first level to cover all sectors of Annex I with a higher threshold, for instance 200 million €, in order to limit the cases,<br>- at second level to cover the 4 selected sectors of para 2 with the proposed threshold of 100 million EUR, and<br>- at third level to focus on the sector that faces the most stressing challenges, let's say solar PV technologies, applying a much lower threshold, in order to provide more protection to the most sensitive sector?<br>A sensitivity analysis of the possible threshold-sector combinations would be indespensable in order to strike the right balance.<br><br>FR<br>(Drafting suggestions):<br><br>This Chapter shall apply to foreign direct investments exceeding ~~a value of EUR 100 million in~~ **the thresholds set for each of** the emerging strategic manufacturing sectors referred to in paragraph 2, where more than 40 % of the global manufacturing capacity is held by the third country of which the foreign investor is a national or undertaking.<br><br>FR<br>(Comments):<br><br>The threshold for the amount of foreign investment, set at €100 million, could prove to be too high and inappropriate for the sectors in question, making it difficult to capture a significant number of investments that may present risks, particularly in sectors where circumvention strategies rely on the fragmentation of projects and, consequently, of investments. |

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| | Consequently, the €100 million threshold should be adapted to the sectors targeted by Article 17 of the text as part of a sector-by-sector approach.<br><br>IT<br>(Drafting suggestions):<br><br>1. This Chapter shall apply to foreign direct investments exceeding a value of EUR 100 million in the emerging strategic manufacturing sectors referred to in paragraph 2, where more than 40 % of the global manufacturing capacity is held by the third country of which the foreign investor is a national or undertaking. **This is without prejudice to the possibility for Member States to set lower thresholds in sectors of particular strategic importance for the national economy. Member States shall notify the Commission within 30 days of the entry into force of the newly adopted threshold**<br><br>IT<br>(Comments):<br><br>*The possibility for Member States to apply lower thresholds is consistent with the subsidiarity principle and the need to protect national strategic supply chains below the EU threshold (e.g. national champion SMEs in CRM sectors).*<br><br>LT<br>(Drafting suggestions):<br><br>This Chapter shall apply to **new** foreign direct investments exceeding a value of EUR 100 million in the emerging strategic manufacturing sectors referred to in paragraph 2, where more than 40 % of the global manufacturing capacity is held by the third country of which the foreign investor is a national or undertaking **according to [OP please insert methodology or official source]**.<br><br>LT<br>(Comments): |

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| | An explanation is needed either in the Regulation (in the recitals) or in the specific guidelines on its application, clarifying who will be responsible for assessing whether a given country holds more than 40% of capacity in a specific industry — whether this assessment will be carried out centrally at EU level or individually by national authorities. A harmonised methodology or an official source would be necessary.<br><br>MT<br>(Drafting suggestions):<br><br>This Chapter shall apply to foreign direct investments exceeding a value of EUR ~~1~~ 200 million in the emerging strategic manufacturing sectors referred to in paragraph 2, where more than 40 % of the global manufacturing capacity is held by the third country of which the foreign investor is a national or undertaking.<br><br>**Furthermore, there shall be a transitional period of five years for expansion projects that already existed prior to the entry into force and exceeding a value of EUR 200 million in the emerging strategic manufacturing sectors referred to in paragraph 2, where more than 40 % of the global manufacturing capacity is held by the third country of which the foreign investor is a national or undertaking.**<br><br>**There will be grandfathering for the stock of foreign direct investment and or any agreements entered into between national competent authorities and investors of foreign direct investment till the entry into force of this legislation.**<br><br>MT<br>(Comments):<br><br>Malta proposes an increase in threshold to EUR 200 million for FDI. It is also of extreme importance to ensure that there would be no retroactive impact on |

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| | the current stock of FDI and that the regulation would allow a 12-month breathing space from entry into force. Retrospectivity will send the wrong message and add uncertainty to doing business in Europe. Furthermore, the administrative burden for FDI and for national competent authorities needs to be kept in check. Additionally, apart from greenfield developments, further clarification is needed regarding brownfield expansions.<br><br>Futhermore, Malta is calling for a transitional arrangment of five years for existing investment that is going to undertake and expansion of over EUR 200 million. The scope of the transitional arrangement is to create a certain amount of predictability for current investment and not change the conditions. It is important to highlight that it is much easier for a current invest to undertake an expansion compared to the significant resource needed to attract a brand new foreign direct investment.<br><br>Request for clarification: The proposal does not shed light on what happens if an initial investment is less than Eur100m (say Eur90m) but over the years through expansion projects the value of investment exceeds this threshold. In this regard we require the Commission to elaborate on this scenario.<br><br>Malta has also inserted a paragraph that clearly states that the current stock of foreign direct investment and any agreements entered into between national competent authorities and investors of foreign direct investment are out of scope. The concept of this grandfather clause is intended to provide legal certainty.<br><br>NL<br>(Drafting suggestions):<br><br>1. This Chapter shall apply to foreign direct investments exceeding a value of [EUR 100 million] in the emerging strategic manufacturing sectors referred to in paragraph 2, where more than 40 % of the global manufacturing |

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| | capacity is held by the third country of which the foreign investor is a national or undertaking.<br><br>NL<br>(Comments):<br><br>NL has doubts about the 100 million treshhold? We are wondering if this is not too low and should for example not be 200 million?<br><br>PL<br>(Comments):<br><br>There is a need to be more scpecific in explaining what "global manufacturing capacity" means; how to define a production metric: quantity, value, other metrics, and methods for calculating capacity. The information on monitoring contained in Article 23 does not provide answers to these questions. Such explanation can be added in the recital.<br><br>PT<br>(Comments):<br><br>How will the IAA interact with national screening mechanisms, under which Member States already assess investments in these sectors based on their domestic regimes?<br><br>SE<br>(Comments):<br><br>Essential for SE that the value-threshold of EUR 100 million is <u>not</u> lowered as this would go against the targeted purpose and nature of the proposal.<br><br>SI<br>(Drafting suggestions):<br><br>This Chapter shall apply to foreign direct investments exceeding a value of EUR 100 million in the emerging strategic manufacturing sectors referred to in paragraph 2, where more than ~~40~~**25** % of the global manufacturing |

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| | capacity is held by the third country of which the foreign investor is a national or undertaking.<br><br>SI<br>(Comments):<br><br>A limit of 40% of global production capacity held by a third country appears somewhat too high – a proposal to lower it. |
| | PL<br>(Comments):<br><br>The notion of control over an Union target or asset should be moved from para 19 to 17 for a greater clarity – this is one of the general conditions for the investments to which IAA applies |
| Such investments shall not be implemented unless explicitly approved by the Investment Authority or the European Commission, referred to in Article 19, in accordance with the provisions laid down in this Chapter. | CZ<br>(Drafting suggestions):<br><br>Such investments shall not be implemented unless explicitly approved by the Investment Authority ~~**or the European Commission**~~, referred to in Article 19, in accordance with the provisions laid down in this Chapter.<br><br>CZ<br>(Comments):<br><br>Removing Commission approval preserves the competence of Member States.<br>FDI screening is already governed by Regulation (EU) 2019/452.<br>The proposal should **complement, not duplicate** existing frameworks.<br><br>DE<br>(Drafting suggestions): |

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| | Such investments shall not be implemented unless explicitly approved by the Investment Authority ~~or the European Commission, referred to in Article 19,~~ in accordance with the provisions laid down in this Chapter.<br><br>DE<br>(Comments):<br><br>In Germany's view the final decision about the approval of foreign direct investments needs to remain with MS. KOM should be allowed to give a statement.<br><br>FI<br>(Drafting suggestions):<br><br>Such investments shall not be implemented unless explicitly approved by the Investment Authority ~~or the European Commission~~, referred to in Article 19, in accordance with the provisions laid down in this Chapter.<br><br>FI<br>(Comments):<br><br>We consider the only eligible authority to approve/decline investments and to pose conditions over them should be the national authority. This would be in line with the Member States autonomy over investments.<br><br>IT<br>(Drafting suggestions):<br><br>Such investments shall not be implemented unless ~~**explicitly**~~ approved by the Investment Authority ~~**or the European Commission**~~, referred to in Article 19, in accordance with the provisions laid down in this Chapter.<br><br>IT<br>(Comments):<br><br>*The term 'explicitly' could be cancelled as it is unnecessary.* |

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| | *It is also considered appropriate to exclude the attribution of decision-making competences to the Commission over the screening of foreign investments.*<br><br>NL<br>(Drafting suggestions):<br><br>Such investments shall not be implemented unless explicitly approved by the Investment Authority or the European Commission, referred to in Article 19, in accordance with the provisions laid down in this Chapter. |
| | |
| 2. This chapter shall apply to foreign direct investment in manufacturing in any of the following emerging strategic sectors: | BE<br>(Comments):<br><br>To what level of granularity can these sectors be split up when determining the sector and the 40% production capacity threshold? (e.g. a country may hold 40% of production capacity of a small sub-sector involved in the larger value chain)<br><br>CZ<br>(Comments):<br><br>We want to point out that scope and the procedure in this Chapter overlaps with recently concluded revision of the Regulation on investment screening. Therefore same investors might be subjected to two different screening mechanisms. We would welcome if the overlaps are limited and if the sectors are more specified, currently the wording is vague. The proposal should complement, not duplicate existing frameworks.<br><br>DE<br>(Drafting suggestions): |

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| | 2. This chapter shall apply to foreign direct investment **(FN)** in manufacturing in any of the following emerging strategic sectors:<br><br>**FN: For clarification, "foreign direct investments" under the scope of this chapter include greenfield investments.**<br><br>DE<br>(Comments):<br>Clarification concerning the definition of FDI.<br><br>Question: For clarification, what is COM's understanding of the scope of "manufacturing in … emerging strategic sectors"? Would that also include mechanical and plant engineering - as one could argue that this forms the basis for the production capacities of the technologies mentioned? Or are we talking about manufacturing in the respective sectors themselves?<br><br>EL<br>(Comments):<br>During the wp meeting on 01.06.2026 Commission mentioned that services due to GATS, medicines and medicinal products are excluded from the scope of the article. Can you please specify the provisions that set these exclusions?<br><br>NL<br>(Drafting suggestions):<br>2. This chapter shall apply to foreign direct investment in manufacturing ~~in any of the following emerging strategic sectors~~:in strategic value chains within sectors identified as presenting high-risk strategic dependencies on the basis of risk assessments. This shall include among others: ~~of the following emerging strategic sectors~~: |

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| | NL<br>(Comments):<br><br>Conditions should apply only to value chains that have been identified as high-risk strategic dependencies. This requires moving away from a broad sectoral approach, which is overly generic and insufficiently targeted. Instead, the focus should be on identifying specific value chains within broader technological or industrial domains.<br>Such value chains should be identified through an assessment of their strategic importance, the degree of dependency and the risks associated with that dependency. This methodology distinguishes between dependencies, strategic dependencies and high-risk strategic dependencies. Only where these elements cumulatively point to a high-risk strategic dependency should consideration be given to mitigation measures under this Chapter.<br><br>The purpose of this assessment is not to eliminate dependencies as such. Rather, it is to identify high-risk strategic dependencies and determine appropriate mitigating measures, such as diversification, innovation, substitution or the development of alternative supply chains. At the same time, strategically important sectors and value chains should continue to invest in innovation, productivity and competitiveness in order to remain globally competitive. Public intervention should therefore focus on addressing high-risk strategic dependencies rather than shielding sectors from legitimate market competition. The existence of a dependency alone should not automatically justify intervention under the IAA.<br><br>In practice, this means value chains whose loss, disruption or exploitation could give rise to significant security or resilience risks for the Union. For example, certain value chains within the battery technology domain could fall within this category, given their importance for the energy transition, defence capabilities and other critical applications. |

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| | The IAA should not serve as an instrument to shield less competitive sectors from market competition, as this would risk undermining innovation and competitiveness. Where competition is distorted through unfair practices, existing trade defence instruments, such as the Foreign Subsidies Regulation, provide the appropriate response. |
| | |
| (a) battery technologies and its value chain for battery energy storage systems; | DE<br>(Drafting suggestions):<br>battery technologies and its value chain for battery energy storage systems **including services relevant for the production of this technolgy;**<br>DE<br>(Comments):<br>Propose to define services in regard to the production to the mentoined technologies to avoid misunderstanding with respect to article 17.3 (b)<br>FR<br>(Drafting suggestions):<br>(a) battery technologies and its value chain for battery energy storage systems with foreign direct investment **exceeding a value of EUR *[to be assessed for setting]* million;**<br>PL<br>(Drafting suggestions):<br>(a) battery technologies and their value chain for battery energy storage systems**, including active materials, precursors, refining, recycling, specialist chemicals, process materials and process technologies where they are essential for the development of the Union battery value chain**; |

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| | PL<br>(Comments):<br>The scope of emerging strategic sectors should not be limited to final products or assembly. In the battery value chain, strategic dependencies may arise in upstream stages, including active materials, precursors, refining, recycling, specialist chemicals and process technologies. The proposal does not imply automatic coverage of the entire chemical sector, but it should ensure that critical chemical and material segments enabling batteries, electromobility, photovoltaics and critical raw materials are not omitted. |
| | |
| (b) pure electric vehicles, off-vehicle charging hybrid electric vehicles and fuel-cell electric vehicles, including components related to electrification and digitalisation; | DE<br>(Drafting suggestions):<br>pure electric vehicles, off-vehicle charging hybrid electric vehicles and fuel-cell electric vehicles, including components related to electrification and digitalisation; **including services relevant for the production of this technolgy**<br>DE<br>(Comments):<br>Propose to define services in regard to the production to the mentoined technologies to avoid misunderstanding with respect to article 17.3 (b)<br>FR<br>(Drafting suggestions):<br>(b) pure electric vehicles, off-vehicle charging hybrid electric vehicles and fuel-cell electric vehicles, including components related to electrification and digitalisation **exceeding a value of EUR *[to be assessed for setting]* million;**<br>FR |

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| | (Comments):<br><br>With regard to electric vehicles, the proposed investment threshold of €100 million risks excluding a significant proportion of investments made by the automotive components industry, failing to reflect industrial realities.<br><br>IT<br>(Drafting suggestions):<br><br>(b) **for any kind of vehicle** ~~pure electric vehicles, off-vehicle charging hybrid electric vehicles and fuel-cell electric vehicles~~, including components related to electrification and digitalisation;<br><br>IT<br>(Comments):<br><br>For Italy the support to this chapter is conditioned to the extension to all vehicles - not only electric ones – as Europe is facing a massive influx of non made in Eu vehicles from third countries (not only EV).<br><br>LT<br>(Drafting suggestions):<br><br>pure electric vehicles, off-vehicle charging hybrid electric vehicles and fuel-cell electric vehicles, including components related to electrification and digitalisation **except chips and semiconductors which are covered by Regulation (EU) 2023/1781.**<br><br>LT<br>(Comments):<br><br>Article 17, point 2 (b) term 'digitalisation' too wide – digitalisation should be specified in this article or guidance. Include systems related to outside vehicles body related to ITS, transport monitoring systems and etc. If a sector-specific document already regulates the market in this area and the provisions of this Regulation should not apply to it—for example, chips and semiconductors— |

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| | in such cases, these specific sectors should be listed as exceptions in the legislation under Article 17(2)(b)<br><br>NL<br>(Drafting suggestions):<br><br>PL<br>(Drafting suggestions):<br><br>(b) pure electric vehicles, off-vehicle charging hybrid electric vehicles and fuel-cell electric vehicles, including components related to electrification, **electrical steel** and digitalisation; |
| | PL<br>(Drafting suggestions):<br><br>**c) wind component manufacturing**<br><br>PL<br>(Comments):<br><br>It is important to include strategic sectors such as wind component manufacturing and components made from electrical steel in the FDI scope, as they face risks from face increasing risks from non-market economy investment strategies. Including, semi-finished components such as laminations, stacks and transformers as well as finished e-propulsion motor components, where foreign investments may manufacture assembled components in the EU but using imported electrical steel. |
| © solar PV technologies; | DE<br>(Drafting suggestions):<br><br>solar PV technologies **including services relevant for the production of this technolgy** |

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| | DE<br>(Comments):<br>Propose to define services in regard to the production to the mentoined technologies to avoid misunderstanding with respect to article 17.3 (b)<br>FR<br>(Drafting suggestions):<br>(c) solar PV technologies **exceeding a value of EUR 20 million;**<br>FR<br>(Comments):<br>In the renewable energy sector, given the history of foreign investment in this sector, this €100 million threshold appears too high to ensure the control of the foreign investments concerned and the text's objective. Indeed, this threshold was set to target only large-scale greenfield investments, thereby excluding from the mechanism foreign investments in small-scale European assets and/or targets that are nonetheless strategic for the EU. More specifically, in the photovoltaic panel sector, the average value of foreign investment cases in France is €100 million, with a significant standard deviation ranging from €20 million to €300 million.<br>NL<br>(Drafting suggestions): |
| | |
| (d) extraction, processing and recycling of critical raw materials. | DK<br>(Comments):<br>It says above the provisions will apply to "foreign direct investment in manufacturing" but "exctraction, processing and recycling" are not (at least |

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| | all) manufacturing activities, so was the idea to intentionally narrow the scope, e.g. only to setting up new refining plants, or similar?<br><br>FR<br>(Drafting suggestions):<br><br>(d) extraction, processing and recycling of critical raw materials **exceeding a value of EUR 20 million;**<br><br>**(e) nuclear exceeding a value of EUR *[to be assessed for setting]* million;**<br><br>**(f) wind power exceeding a value of EUR 40 million;**<br><br>**(g) equipment for electricity grids exceeding a value of EUR *[to be assessed for setting]* million;**<br><br>**(h) heat pumps exceeding a value of EUR *[to be assessed for setting]* million;**<br><br>**(i) all components used in the application of hydrogen as an energy source or in processing industries, including fuel cells, exceeding a value of EUR *[to be assessed for setting]* million;**<br><br>**(j) industrial robotics exceeding a value of EUR *[to be assessed for setting]* million;**<br><br>**(l) rolling stock exceeding a value of EUR *[to be assessed for setting]* million; and**<br><br>**(m) shipbuilding exceeding a value of EUR *[to be assessed for setting]* million.** |

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| | FR<br>(Comments):<br><br>The scope of the sectors selected appears too narrow in light of the industrial and geo-economic challenges facing the EU. Several additional strategic sectors exhibit similar vulnerabilities, characterised by a high concentration of production capacity at global level and an increased risk of the development of artificial activities within the European Union.<br><br>In this regard, it is crucial for the effectiveness of this strand of the IAA to extend the scope of the mechanism immediately to a broader set of so-called 'net-zero' technologies, without waiting for a possible future extension via delegated acts, and without establishing an order of priority.<br><br>In particular, the nuclear sector is of strategic importance in terms of fission technologies, both for energy security and for the decarbonisation of the European economy.<br><br>Concerning the thresholds, this €100 million threshold must already be adapted to the sectors initially targeted by Article 17 of the text, and in particular:<br>- for critical raw materials, some foreign investment projects start at €20 million, whilst others, on a more ad hoc basis, can reach €2 billion in the case of greenfield investments. The threshold therefore requires further assessment, particularly with regard to the acquisition of existing plants (brownfield), whether stand-alone or joint ventures, where proprietary and strategic technologies supported by the State are developed and which may be subject to predatory acquisition attempts by non-European players;<br>- for wind power sector, the average value of foreign investment cases in France stands at €40 million. |
| | DE |

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| | (Comments):<br><br>As GER is in favour of deleting Art. 24, we suggest to include wording here clarifying that regular reviews foreseen under this regulation should also address possible updates of the sectoral coverage with regard to already covered sectors and possible new sectors critical to the Union's economic security.<br><br>IT<br>(Drafting suggestions):<br><br>**<u>(e) advanced electric propulsion technologies for heavy commercial vehicles, including the related supply chains for high-technology components</u>**<br><br>**<u>(f) domestic appliances</u>**<br><br>IT<br>(Comments):<br><br>*The extension to heavy commercial vehicles would address an evident gap: the green transition of heavy transport is a priority of EU industrial policy and involves strategic supply chains in several Member States, including Italy (e.g. metalworking and automotive components sectors).*<br><br>In light of the increasing pressure experienced by European domestic appliances manufacturers as a result of unfair competition from non-European operators, it is necessary to recognise the sector as a strategic industrial ecosystem. This ecosystem contributes significantly to competitiveness, electrification, and the green transition, and therefore warrants appropriate protection from non-European investments. |
| 3. This Chapter shall not apply to: | EL |

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| | (Comments):<br><br>We have a scrutiny reservation on paragraph 3 of article 17, as this is connected with the discussion regarding the geographical scope of the whole Regulation. We should add the appropriate safeguards to avoid circumvention. |
| | |
| (a) investors and investments covered by economic partnership and free trade agreements in force or provisionally applied by the Union to the extent relevant commitments have been made under those agreements, including investments made by the Union subsidiaries of such foreign investors; | BE<br>(Comments):<br><br>In the interest of legal certainty for our partners, can the Commission clarify which agreements it considers to contain relevant commitments?<br><br>DK<br>(Comments):<br><br>We seek clarification as to the status of direct Union subsidiaries. Would a direct Union subsidiary in one MS be comprised of the requirements in Chapter IV, if it is a subsidiary of a Union target in another MS that met the criteria? Even if that subsidiary in itself only had limited economic activity and perhaps would simply be a sales office?<br>It will have severe implications for the number of individual cases that would have to be coordinated in relation to investments comprised under Chapter IV, hence also for the obligation to coordinate and agree on conditions amongst EU MS, even if the concrete targets in each EU MS might be rather different in their risk profile and economic activity implications.<br><br>FI<br>(Comments):<br><br>We strongly support including this exemption to the text.<br><br>FR<br>(Drafting suggestions): |

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| | (a) investors and investments covered by economic partnership and free trade agreements in force or provisionally applied by the Union to the extent relevant commitments have been made under those agreements, including investments made by the Union subsidiaries of such foreign investors;<br>**To ensure that these investments, which fall outside the scope of this new IAA monitoring mechanism, are monitored, the European Commission *can monitor investments from final beneficial owners which are a legal or naturel person from a country having 40 % or more of the global manufacturing capacity.***<br><br>FR<br>(Comments):<br><br>If these are investment commitments that do not involve substantial reciprocal measures (e.g. technology transfer, local industrial presence or the employment of European staff), excluding them from the scope of this chapter of the IAA could create a significant risk of this new mechanism being circumvented. More specifically, this would mean that foreign investments channelled through 'friendly' third countries—which would then serve as relay points for dominant actors from third countries initially covered by the IAA—would be excluded from scrutiny. These actors could then redirect their investments to the EU under a different origin. Such a situation would create a risk of circumvention of the mechanism provided for by the IAA and would result in low-value-added assembly plant projects slipping through the new screening process, even though they correspond precisely to the risks the mechanism seeks to prevent.<br>Consequently, it is crucial to specify:<br>(1) the list of countries that would benefit from such an exemption; and<br>(2) the means to ensure some form of monitoring or supervision of these exempted investments to guarantee that they do indeed contribute to the creation of added value within the EU.<br><br>IT |

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| | (Drafting suggestions):<br>(a) investors and investments covered by economic partnership ~~and~~ **or** free trade agreements in force or provisionally applied by the Union to the extent relevant commitments have been made under those agreements, including investments made by the Union subsidiaries of such foreign investors;<br><br>IT<br>(Comments):<br><br>*EPA and FTA constitute two distinct categories of agreements.*<br><br>SE<br>(Drafting suggestions):<br>investors and investments covered by economic partnership**, association** and free trade agreements in force or provisionally applied by the Union to the extent relevant commitments have been made under those agreements, including investments made by the Union subsidiaries of such foreign investors;<br>SE<br>(Comments):<br>Countries that have entered into association agreements should receive equal treatment to countries that have economic partnerships for the sake of coherence and predictability. |
| | DE<br>(Comments):<br>Addition to clarify how the information will be provided and by whom. |
| (b) investments targeted at providing services, including investments made by the Union subsidiaries of investors; | CZ |

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| | (Comments):<br><br>It should be clarified whether high-tech services (such as services provided by technology centres, data centres, high-tech repair centres, and software centres) are expressly excluded from the scope of Article 17(3(b) as well. Therefore, we propose to include in Article 3 Definitions a definition of the "investments targeted at providing services".<br><br>FI<br>(Drafting suggestions):<br><br>investments targeted at providing services, ~~including investments made by the Union subsidiaries of investors~~;<br><br>FI<br>(Comments):<br><br>Why is "including investments made by the Union subsidiaries of investors" included in this exception? If we understand correctly, this does not bring any added value as all investments targeted at providing services should be excluded from the scope. We suggest removing this to make it more simple.<br><br>What if the investment concerns both manufacturing and service provision? We consider the scope of service provision exemption is not totally clear.<br><br>PT<br>(Comments):<br><br>The text should specify which 'services' are included.<br><br>SI<br>(Comments):<br><br>We ask the Commission to clarify why investments targeting at providing services, including investments made by Union subsidiaries of investors are excluded. |

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| | |
| © portfolio investments. | DE<br>(Drafting suggestions):<br>~~portfolio investments.~~ **Investments outside of the scope of 'foreign direct investment' as defined under Regulation 2019/452.**<br><br>DE<br>(Comments):<br>"portfolio investment" is not clearly defined legal term and not fully equivalent to "non-direct investments". Germany proposes to follow the approach applied under the FDI Screening Regulation with regard to the scope |
| | NL<br>(Drafting suggestions):<br>Add] **4. The Commission shall adopt an implementing act to develop the necessary risk assessments as established in paragraph 2 to specify strategic value chains in sectors listed in paragraph 2 above. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).**<br><br>**5. To specify the applicable strategic value chains, a Council implementing act shall be adopted in accordance with the following procedure:**<br><br>**The Commission shall submit a proposal to the Council for an implementing act to specify the strategic value chains, within the sectors specified in paragraph 2 above and on the basis of the risk assessments established on the basis of paragraph 4 above. In its proposal, the** |

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| | **Commission shall explain its reliance on Member State information provided and motivate its selection of strategic value chains for their strategic significance based on risk assessments.**<br>**The Council shall adopt the implementing act, acting by qualified majority.**<br>**The Council may amend the proposals referred to in paragraphs 1 and 2, acting by qualified majority.**<br>**The Council shall act expeditiously**<br><br>**6. The Commission can request Member States to supply information on strategic value chains within the sectors specified in paragraph 2 above, where necessary. Member States shall act upon that request expeditiously. Member States may request confidential treatment of information before supplying any. The Commission shall provide confidential treatment such as necessary. By way of exception, Member States may withhold pieces of information on the ground of national security if reasonable confidentiality is insufficiently provided. Upon refusal, Member States must sufficiently motivate which pieces of information cannot be submitted for national security reasons.**<br><br>NL<br>(Comments):<br><br>To determine which specific value chains constitute high-risk strategic dependencies, further specification of the scope is required. The Netherlands considers a Council implementing act essential for this purpose.<br>First, Member States possess valuable knowledge of their industrial capabilities, vulnerabilities and strategic dependencies, which complements the Commission's expertise. Second, the assessment of strategic dependencies often involves commercially sensitive and security-relevant information that requires an appropriate degree of confidentiality. Third, |

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| | targeted intervention requires a common understanding of which specific value chains constitute high-risk strategic dependencies and therefore warrant mitigation measures. A broad sectoral approach is too generic and abstract to achieve this objective.<br>For these reasons, the Netherlands considers that strategic assessments, the sensitivity of the information involved and geopolitical considerations provide sufficient justification, within the meaning of Article 291 TFEU, for conferring implementing powers on the Council in this regard. |

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| *Article 18*<br>**Value added foreign direct investment criteria** | CZ<br>(Comments):<br><br>We would like to ask, if Commission also analyzed compliance of proposed legislation and restriction of FDI with the Codexes of Lliberalization of OECD and their rules regarding the movement of capital.<br><br>DE<br>(Comments):<br><br>Conditions must be limited in time and have a logical link to the investment. Otherwise the use of discriminatory conditions vi-à-vis other EU companies could not be justified. Moreover, monitoring of compliance would amount to excessive burden for MS.<br><br>MT<br>(Comments):<br><br>First, Malta notes that Member States could not in practice designate an investment authority until the necessary national legislation had been adopted. On substance, Malta argues that the conditions in Article 18(2)(a) and (b) should not apply to greenfield investments, as this would not reflect the nature of such projects, though it suggested that greater flexibility might be acceptable under Article 18(2)(f). Malta also asks for clarification of the undefined term "Union entity", including whether this referred simply to a company registered in a Member State or whether ownership and control structures, including indirect non-EU ownership, would also need to be assessed, warning that this could create a significant administrative burden.<br><br>More broadly, Malta questions whether the conditions in paragraph 2 were intended to apply indefinitely or whether a clear cut-off period should be provided for legal certainty. Malta also asks whether some conditions should be framed as future commitments rather than requirements to be met already at the time of the investment decision, given that certain obligations, such as |

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| | workforce commitments or publication of a strategy, can only be implemented over time. Malta further seeks clarification on the consequences of non-compliance, asking whether penalties would be the only consequence or whether an approval could later be withdrawn. Malta also asks who would determine which four of the six conditions had to be met, whether the investor could change those conditions over time, and whether this would require the consent of the investment authority. On the workforce condition, Malta raises detailed questions on the definition of "Union workforce", including whether workers obtaining permits after the investment would count, how the 50% threshold should be applied across categories, and whether the benchmark should be based on absolute numbers or proportional shares if the workforce later contracts.<br>The Commission is kindly requested to clarify or broaden the definition of Union workers ideally to include **legally employed** at Member State level in the text.<br><br>Malta also asks how the conditions would apply to an expansion of an existing project, such as a new production line, and whether compliance should be assessed only for the expanded part or for the investment as a whole.<br><br>NL<br>(Comments):<br><br>Comment on whole Article 18: The timelines are extremely short, especially considering that national coordination is also required.<br><br>SI<br>(Comments):<br><br>The correspondence between the Investment Authority and the Commission seems highly bureaucratic. We are of the opinion thatthe Iinvestment |

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| | Authority should have full autonomy and independence in its decision-making. |
| | |
| 1. Member States shall, by [OP insert date: 1 month after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter. | BE<br>(Comments):<br>Will the Commission consider extending the time allotted to MS to implement this Regulation?<br>Has the Commission envisaged to perform the review of foreign direct investment itself?<br>Has the Commission considered providing technical support to Investment Authorities, especially on (but not limited to) the methodology and data to calculate the different tresholds (in particular the global manufacturing capacity)?<br>CZ<br>(Drafting suggestions):<br>Member States shall, by [OP insert date: **12 months** after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter.<br>CZ<br>(Comments):<br>We do not see feasible to have Investment Authority designated one month after entry into force of the Regulation. It might be necessary to set the authority in national legislation, especially given that the process of investment approval, for which the authority would be responsible, may also require changes in national law.<br><br>DE |

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| | (Drafting suggestions):<br><br>Member States shall, by [OP insert date: ~~1~~ **3** month**s** after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter.<br><br>DE<br>(Comments):<br><br>The timeframe of one month is too short, Germany proposes 3 months for the designation of an authority<br><br>EE<br>(Drafting suggestions):<br><br>Member States shall, by [OP insert date: **3** month**s** after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter.<br><br>EE<br>(Comments):<br><br>Member States require more time than 1 month for designating an Investment Authority.<br><br>EL<br>(Comments):<br><br>Concerning article 18, on Value added FDI criteria we have a scrutiny rerervation on the one month time limit for the designation of Investment Authority.<br><br>FI<br>(Drafting suggestions): |

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| | Member States shall, by [OP insert date: ~~1 month~~ **18 months** after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter.<br><br>FI<br>(Comments):<br><br>The appointment of the Investment Authority requires new legislation and due to new required resources, the legislation may need to be approved in connection with a state budget. This is not a process that can be carried out within 1 month. Most efficient would be to streamline the deadline with the deadlines for other FDI restrictions.<br><br>LT<br>(Drafting suggestions):<br><br>Member States shall, by [OP insert date: ~~1~~**3** month after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter.<br><br>LT<br>(Comments):<br><br>Given that the requirements of Section IV of the Regulation will take effect on the day following its publication, we believe that it will be difficult for Member States to designate an investment authority within one month. We therefore propose considering the possibility of granting Member States a **three-month deadline** for the designation of an investment authority.<br><br>LU<br>(Drafting suggestions):<br><br>1. Member States shall, by [OP insert date: ~~1~~ **18** month after entry into force of this Regulation], designate an Investment Authority which shall |

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| | perform the review of foreign direct investment and implement the provisions of this Chapter.<br><br>LU<br>(Comments):<br><br>The proposed one-month timeframe for designating a competent authority is unrealistic. In Luxembourg, such a designation requires the adoption of formal legislation. We therefore propose an 18 month timeframe to properly accommodate our national legislative process.<br>This timeframe is also consistent with the timeframe of the recently adopted revision of the FDI screening regulation (Article 3, paragraph 2)<br><br>NL<br>(Comments):<br><br>A one-month period for only designation appears feasible. To perform a review/ assessment is considered as too short<br><br>PL<br>(Drafting suggestions):<br><br>1. Member States shall, by [OP insert date: ~~1~~ **3 months** after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter.<br><br>PL<br>(Comments):<br><br>The one-month deadline for designating and operationalizing a new supervisory authority, as provided for in the draft IAA, is far too short from a public administration perspective.<br><br>SE<br>(Drafting suggestions): |

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| | 1. Member States shall, by [OP insert date~~: 1 month~~ **6 months** after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter.<br><br>Member States shall provide that Investment Authority with the necessary resources, legal and administrative means for performing the tasks set out in this Regulation.<br><br>SE<br>(Comments):<br><br>One month is too short.<br><br>SI<br>(Drafting suggestions):<br><br>Member States shall, by [OP insert date: ~~1~~**3** month**s** after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter.<br><br>SI<br>(Comments):<br><br>The deadline for designating Investment Authority should be longer, taking into consideration that procedures for addopting such an act takes time. We suggest extending it up to 3 months.<br><br>SK<br>(Drafting suggestions):<br><br>Member States shall, by ~~[OP insert date: 1 month~~ **6 months** after entry into force of this Regulation], designate an Investment Authority which shall perform the review of foreign direct investment and implement the provisions of this Chapter. |

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| | SK<br>(Comments):<br>A one-month period is absolutely insufficient. We propose extending the deadline for designating the Investment Authority to at least 6 months. Proper integration into the MS's administrative structure requires several complex steps that can only be implemented after the IAA is officialy adopted (securing financial resources, technical infrastructure, personnel capacities). |
| | |
| Member States shall provide that Investment Authority with the necessary resources, legal and administrative means for performing the tasks set out in this Regulation. | |
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| 2. From [OP insert date: 12 month after entry into force of this Regulation], Investment Authorities shall only approve foreign direct investments made directly by foreign investors that fulfil either four or more of the following six conditions: | BE<br>(Comments):<br>Does the Commission consider that a proportional case-by-case approach is possible under the Chapter as proposed?<br>CZ<br>(Drafting suggestions):<br>From [OP insert date: 12 month after entry into force of this Regulation], Investment Authorities shall assess~~only approve~~ foreign direct investments made directly by foreign investors that fulfil either four or more of the following six conditions: **Investment Authorities may require commitments addressing the objectives of this Chapter, taking into account the specific risks and characteristics of the investment.**<br>CZ<br>(Comments): |

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| | Given that changes in national law may be necessary to lay down proper procedure for approval process, the 12-months postponement of the application of para 2 would not be sufficient. It is not clear whether Member States will follow Rules of Administrative Procedure or will need to deviate from them. We would prefer to defer the entry into application of the whole chapter and not only para 2.<br><br>DE<br>(Comments):<br><br>Scrutiny Reservation<br><br>DK<br>(Drafting suggestions):<br><br>2. From [OP insert date: 12 month after entry into force of this Regulation], Investment Authorities shall only approve foreign direct investments made directly by foreign investors**, where the foriegn investor** ~~that~~ fulfil**s the condition referred to in paragraph 2(e)** and **at least three additional** ~~either four or more~~ of the following six conditions:<br><br>DK<br>(Comments):<br><br>These changes aims to provide two clarrifications:<br><br>1) It is the investor who decides which of the conditions to apply. It is not the Investment Authority who can decide for the investor.<br>2) The condition in para 2.e is mandatory<br><br>Have we understood the text cirrectly?<br><br>FI<br>(Drafting suggestions): |

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| | From [OP insert date: ~~12 month~~ **18 months** after entry into force of this Regulation], Investment Authorities **shall investigate investments falling into the scope of this Chapter, and may, at their own discretion, require the foreign investor to fulfil some or all of the follwing conditions:** ~~shall only approve foreign direct investments made directly by foreign investors that fulfil either four or more of the following six conditions~~:<br><br>FI<br>(Comments):<br><br>Taking into account the implementation of a new FDI regime will require new legislation (e.g., re. Investment Authority and sanctions), the deadline should be extended to guarantee Member States will be able to comply with this requirement.<br><br>As stated, we consider preserving the Member States autonomy over investments is extremely important. We consider the national Investment Authorities must have full discretion over whether conditions will be imposed. This would be in line with the currently applicable FDI screening mechanism. We understand the need for screening industrial investments, but we do not agree regulating the fact how the Member States must treat these investments. Needed measures may also vary significantly between Member States depending on the investment and national investment environment.<br><br>FR<br>(Drafting suggestions):<br><br>2. From [OP insert date: 12 month after entry into force of this Regulation], Investment Authorities shall only approve foreign direct investments made **as of [*OP insert date: 36 months before entry into force of this Regulation*]** directly by foreign investors that fulfil either four or more of the following six conditions:<br><br>FR |

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| | (Comments):<br><br>It is crucial to anticipate any windfall effects linked to the date on which the scheme comes into force. Indeed, given that many foreign investments in the sectors covered by Article 17 of the IAA are currently underway or imminent, the absence of specific provisions on this point could lead to an acceleration, prior to the IAA's entry into force, of projects aimed at circumventing this future measure, as in the automotive or battery sectors.<br><br>IT<br>(Drafting suggestions):<br><br>2. From [OP insert date: 12 month after entry into force of this Regulation], Investment Authorities ~~**shall only**~~ approve foreign direct investments made directly by foreign investors, **taking into account the** ~~**fulfil either four or more of**~~ the following six conditions.<br><br>IT<br>(Comments):<br><br>*It is considered appropriate that the concurrent presence of a minimum 4 conditions to be fulfilled should not create an undue burden for Member States when approving a foreign investment.*<br><br>LU<br>(Drafting suggestions):<br><br>2. From [OP insert date: ~~12~~ **18** month after entry into force of this Regulation], Investment Authorities shall only approve foreign direct investments made directly by foreign investors that fulfil either four or more of the following six conditions:<br><br>LU |

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| | (Comments):<br><br>For the sake of consistency, we propose aligning the deadline for entry into force with the timeframe for designating the competent authority set out in paragraph 1.<br><br>MT<br>(Drafting suggestions):<br><br>From [OP insert date: 12 month after entry into force of this Regulation], Investment Authorities ~~shall only~~ **may take into account whether** ~~approve~~ foreign direct investments made directly by foreign investors ~~that~~ fulfil either four or more of the following six conditions:<br><br>MT<br>(Comments):<br><br>**This Article is a Red Line for Malta**. From a legal perspective, Malta considers that these provisions raise important questions in relation to the limits of Union competence, as set out in Article 5 TEU, which governs the principles of conferral, subsidiarity and proportionality. In particular, while foreign direct investment forms part of the Common Commercial Policy under Article 207 TFEU, the scope of this competence must be carefully interpreted. The introduction of mandatory operational conditions, such as ownership caps, workforce composition requirements, joint venture obligations, and technology or local content conditions, appears to go beyond the traditional regulation of market access or treatment of investment and may encroach into areas that remain primarily within Member State competence or are governed by internal market principles.<br><br>Malta notes that this proposal is intended to establish a framework for accelerating industrial capacity and decarbonisation in strategic sectors. However, a number of provisions in this Chapter introduce extensive |

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| | assessment, approval, monitoring and enforcement mechanisms relating to foreign direct investments which resemble elements of an FDI screening framework.<br><br>Malta considers that, as currently drafted, the proposal risks creating a de facto Union-level investment assessment and approval mechanism, including through mandatory approval criteria, Commission involvement in investment decisions, monitoring obligations and enforcement powers. Such provisions may unduly limit Member State discretion and affect national institutional arrangements and competences in the area of foreign direct investment.<br><br>This concern is further reinforced by the existing framework under Regulation (EU) 2019/452 on the screening of foreign direct investment, which establishes a system based on coordination and cooperation, rather than Union-level decision-making. The Regulation explicitly preserves the right of Member States to decide whether or not to screen, authorise, condition or prohibit a specific investment and confirms that national security remains the sole responsibility of Member States, in line with Article 4(2) TEU. Article 18(2), as currently drafted, risks altering this balance by introducing a de facto EU-level framework for conditioning investment decisions, which may not be fully consistent with the existing legal architecture.<br><br>Moreover, the proposed requirements may raise issues under primary Union law, particularly **Article 63 TFEU on the free movement of capital**, which prohibits restrictions on capital movements between Member States and third countries. While restrictions may be justified on grounds of public policy or public security, such measures must remain proportionate and must not constitute arbitrary discrimination or disguised restrictions. In this regard, the prescriptive nature of the requirements set out in Article 18(2) may risk going |

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| | beyond what is necessary to achieve the stated objectives and could create barriers to investment that are difficult to justify under the Treaties.<br><br>Malta also notes that certain elements of Article 18(2), in particular those relating to workforce composition, may raise questions as to the appropriateness of the use of Article 114 TFEU as a legal basis, given the limitations set out in Article 114(2) TFEU, notably in areas linked to employment. Furthermore, the introduction of such conditions may create legal uncertainty and practical implementation challenges for Member States, especially small and open economies, where labour market structure, investment patterns, and economic scale differ significantly from larger Member States.<br><br>In light of the above, Malta considers this Chapter should be **revisited to ensure full alignment with the principles of conferral, subsidiarity and proportionality**, as well as with the existing EU framework on FDI screening, and is proposing a textual amendment to reflect this.<br><br>Malta recalls that Regulation (EU) 2019/452 establishes a coordination and cooperation framework while fully preserving Member State competence in the screening of foreign direct investment, including decisions to screen, authorise, condition or prohibit investments.<br><br>Malta therefore considers that provisions relating to foreign direct investment under this Regulation should remain clearly distinct from the existing FDI screening framework, taking into account the different scope and objectives of the respective instruments. Such provisions should remain proportionate, risk-based and without prejudice to Member State competences, institutional arrangements and administrative autonomy. |

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| | A more appropriate approach would be to frame "value-added" considerations as **non-binding or principles-based criteria**, to be assessed on a case-by-case basis by Member States, rather than as prescriptive conditions attached to the approval of foreign investment.<br><br>NL<br>(Comments):<br><br>A twelve-month period before entry into force is considered too short. An eighteen-month period should be pursued; this was also the outcome under the FDI Regulation.<br><br>PL<br>(Comments):<br><br>Unless the definition of a foreign investor's subsidiary is adjusted in accordance with PL comment to definition 32, this par. should also include investments made by foreign investor's subsidiary in the Union. Additionally, there are no criteria regarding **cybersecurity measures** to be implemented by foreign businesses within supply chains for investments in all sectors listed in Article 17(2), as well as sectors that the Commission may add to the list of emerging strategic sectors pursuant to Article 24 (data processing within the EU, servers within the EU) – the requirements of the Cyber Resilience Act should be taken into account for all such sectors specified in Article 17.<br><br>PT<br>(Comments):<br><br>PT underlines the rigidity and operationalization of the criteria with a potential negative impact on investment attractiveness.<br><br>SI |

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| | (Comments):<br><br>We are of the opinion that these conditions are too complicated and burdensome, therefore we suggest their simplification. Commission will adopt implementing acts at a later stage, what makes this provision even more difficult to understand from the implementation point of view.<br><br>SK<br>(Drafting suggestions):<br><br>From ~~[OP insert date: 12 month~~ **24 months** after entry into force of this Regulation], Investment Authorities shall only approve foreign direct investments made directly by foreign investors that fulfil either four or more of the following six conditions **for [insert defined time period]**:<br><br>SK<br>(Comments):<br><br>We propose extending the deadline for commencing activities to 24 months. The proper exercise of competencies requires the adoption of comprehensive national legislation, making 12 months insufficient.<br><br>Furthermore, we propose establishing a clear time period during which individual investors are obliged to fulfill the set obligations. The absence of a time limit will likely deter investments and places a disproportionate burden on both investors and national authorities. |
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| (a) foreign investors do not acquire, hold, or exercise ownership interests representing more than 49% of the share capital, voting rights, or equivalent ownership interests in any Union target, or equivalent ownership, leasehold or other rights conferring control over a Union asset; | CZ<br>(Drafting suggestions):<br><br>(a) foreign investors do not acquire, hold, or exercise ownership interests representing more than 49% of the share capital, voting rights, or equivalent ownership interests in any Union target, or equivalent ownership, leasehold or other rights conferring control over a Union asset; **Investment** |

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| | **<u>Authorities may, where proportionate and justified, require commitments on governance, effective participation, or joint ventures, including ownership limitations, to address identified risks.</u>**<br><br>CZ<br>(Comments):<br><br>**Removal of rigid requirements (49%, joint ventures, etc.)**<br><br>The current text introduces **quasi-industrial policy obligations on investors**. Could deter investment conflict with internal market freedoms (Art. 49, 63 TFEU)<br><br>DE<br>(Comments):<br><br>Scrutiny Reservation<br><br>DK<br>(Comments):<br><br>Setting a 49% threshold will effectively prevent a foreign investor from holdning the majority share.<br><br>Could the same effect of encouraging knowledge transfer to European undertakings etc. be accomplished by a different treshold that still allowed the foreign investor to maintain a majority share?<br><br>Has the Comission tried to assess what the impact will be on Europe's ability to attract FDI in a scenario where a joint venture is required, but where the foreign investor is not prohibited from being the majority shareholder? Relative to this scenario where joint ventures are required, and the foreign investor is also prohibited from holdning the majority share?<br><br>FI |

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| | (Comments):<br><br>We consider the definition of control is strongly case-by-case assessment that can culminate into e.g., interpreting shareholders' agreements. We consider the reference to 49% is clear (and also somewhat grounded as 50% is a good indication of control), but the rest of this paragraph remains unclear and subject to different interpretation by Member States. We have not come up with a suggestion for this yet, but will continue searching for a clearer solution.<br><br>We also consider any references to "control" might be ambiguous due to differest existing interpretations. Also in the current proposal the notion of "control" is used in different contexts with different meaning each time. We therefore primarily suggest determining "control" in the proposal and removing any contradicting references. |
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| (b) foreign investor undertakes the direct investment through a joint venture with one or more Union entities, with the foreign investor holding no more than 49% of the share capital, voting rights, or equivalent ownership interests or other rights conferring control in any of the Union entities participating in the joint venture. Such joint ventures shall be structured to ensure effective participation of Union partners in management, technology transfer, and capacity building; | DE<br>(Comments):<br><br>Scrutiny Reservation<br><br>DK<br>(Comments):<br><br>Conditions regarding the establishment of joint ventures coupled with, for example, demands about directing spending to research and development (as listed in d)) could mean that the foreign investor gains insight into sensitive information in both the Union target as well as partner companies. To what extent have these risks beens considered?<br><br>FI<br>(Comments): |

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| | Ibid. We also want to point out the following:<br><br>- We don't currently see difference between paras (a) and (b). We suggest formulating these into one condition so that joint ventures and possible indirect ownership through other Union entities is covered also in paragraph (a)<br>- Reference to 49% herein does not effectively exclude situations where the foreign investor would obtain effective control over the Union targets, as the paragraph refers to situations where there can be one or "more" Union entities participating in the joint venture. In situations where there are two Union entities with e.g., 25% ownership for each and the foreign investor with 49% ownership, it is quite clear the foreign investor obtains control. Such situations are now not covered by this paragraph.<br><br>The latter also concerns paragraph (a) where there are complex structures involved in the investment.<br><br>MT<br>(Drafting suggestions):<br><br>~~(b) foreign investor undertakes the direct investment through a joint venture with one or more Union entities, with the foreign investor holding no more than 49% of the share capital, voting rights, or equivalent ownership interests or other rights conferring control in any of the Union entities participating in the joint venture. Such joint ventures shall be structured to ensure effective participation of Union partners in management, technology transfer, and capacity building~~<br><br>MT<br>(Comments): |

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| | Malta would recommend to delete this paragraph . It would be feasible to eliminate the 49% ownership threshold as this would be a showstopper in the case we are attracting an investment of such magnitude. We are suggesting that this clause is only enforced if the project in questions is not showing tangibly how it will link within the European ecosystem, this refers to the part of having IP, knowhow transfer in Europe, etc.<br><br>PT<br>(Comments):<br><br>The concept of 'effective participation' is vague and may be difficult to measure.<br><br>SE<br>(Comments):<br><br>The term "Union entities" risks creating legal ambiguity because it lacks a definition in IAA and commonly refers to an official institution, body, or agency of the European Union. Consider adding a definition of "Union entities". Precise definition can be discussed but should, to the extent possible, align with other EU-legislation.<br><br>SK<br>(Comments):<br><br>We request a precise definition of the term "Union entity" mentioned in Article 18(2)(b). |
| | |
| © foreign investors have entered into agreements providing for the licensing of their intellectual property rights and of their know-how to the benefit of the Union Target, or the Union asset, to enable it to carry out its economic activities in the context of the foreign direct investment. All intellectual property rights or assets developed by the Union Target or the legal entity owning the Union asset prior to the foreign investment or without the | BE<br>(Comments):<br><br>How does the Commission estimate the likelihood of WTO dispute settlement proceedings being established against the Union on the basis of this article? (regards potential incompatibility with TRIPS Art. 28) |

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| collaboration of the foreign investor shall be fully and exclusively owned by the Union Target or the legal entity of the Union asset. All intellectual property rights or assets either developed in that context as a result of a collaboration with the foreign investor's other business assets, or in the case of point b, developed by the joint venture, shall be owned jointly by the Foreign Investor and the Union Target, the joint venture defined in point b or the legal entity owning the Union asset; | CZ<br>(Comments):<br>Is compatibility with the WTO TRIPS Agreement guaranteed in this case?<br>DE<br>(Comments):<br>Scrutiny Reservation<br>FI<br>(Comments):<br>We consider assessment of compatibility with WTO rules is needed regarding IPR and technology transfer provisions in relation to Articles 3, 28, 33 and 39 of TRIPS (EU has also requested consultations on similar measures, see DS549).<br>PL<br>(Comments):<br>The provision regarding IP licensing is vague and poses a risk of legal disputes. The provision on joint ownership of IP developed through collaboration is difficult to enforce, and corporations have tools at their disposal to structure intellectual property in ways that circumvent such requirements.<br>In practice, the enforceability of license agreements depends on the efficiency of individual judicial systems and the terms of the license agreements themselves. In PL's view, Article 18(2)(c) may serve as a basis for challenging intellectual property rights under BITs. PL also has reservations about these provisions under TRIPS.<br>From the perspective of the practical enforceability of the regulation, attention should be paid to the need to further clarify the rules for applying these provisions or to issue appropriate guidelines so that Member States can assess in a uniform manner whether the scope and terms of these |

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| | agreements—such as the specific intellectual property rights involved, the exclusive nature of the license, the duration of the license, or confidentiality measures, are appropriate to the circumstances and the purpose of this Regulation and the investment in question. Provisions of an evaluative nature, such as "appropriate to the circumstances," may lead to inconsistent interpretive practices among Member States |
| | |
| (d) the foreign investor annually directs to research and development spending in the Union an amount equivalent to at least 1% of the gross annual revenue of the Union target, or the gross annual revenue generated by the Union asset, as applied in proportion to the foreign investor's share of control; | DE<br>(Comments):<br>Scrutiny Reservation<br>DK<br>(Comments):<br>Can the research and development spending be directed to any sector or is it the intention that the foreign investor directs the means to the sector that the target operates in?<br>FI<br>(Comments):<br>If the foreign investor shall not have control over the Union target as required by the conditions set out in points (a) and (b), the foreign investor may not be able to fulfill this criteria merely due to lack of control. This requirement therefore extends also to the coinvestors that may possibly be of EU origin.<br>IT<br>(Drafting suggestions):<br>(d) the foreign investor annually directs to research and development spending in the Union an amount equivalent to at least ~~1~~ **2**% of the gross annual revenue of the Union target, or the gross annual revenue generated by the Union asset, as applied in proportion to the foreign investor's share of control; |

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| | IT<br>(Comments):<br>*1% appears modest in sectors such as batteries and solar PV, characterised by intense innovation dynamics. 2% with an adjustment clause rewards investors already active in EU R&D and introduces a behavioural incentive.*<br>PL<br>(Comments):<br>The requirement to allocate 1% of revenue to R&D in the EU is not geographically specified. For Poland, it would be crucial to link this requirement to the actual location of R&D activities in the host country. Furthermore, investments in R&D should have a long-term, tangible impact on the innovation ecosystem. |
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| (e) at least 50% of the workforce employed in the context of the foreign direct investment, at the time of its implementation and continuously throughout its operation, shall be made up of Union workers across all categories of the workforce, including operational, technical, supervisory, and managerial positions. Such employment shall be accompanied by adequate training and capacity-building measures. Where a Union target or Union asset already performing manufacturing activities before the investment is acquired, including after bankruptcy, maintaining the existing workforce or re-employment of the former workforce shall be prioritised, in accordance with national law and the application of collective agreements. In the event that the foreign investor, the Union target or the Union asset receives public funding, notwithstanding article 107 TFEU, it shall commit not to decrease the number Union workers for a period of five years on pain of recovery by the relevant national authorities, the funding awarded; | CZ<br>(Drafting suggestions):<br>at least 50% of the workforce employed in the context of the foreign direct investment, at the time of its implementation and continuously throughout its operation, shall be made up of Union workers **having the Union worker status upon the start of the implementation of the foreign direct investment. Those already established Union workers shall be spread** across all categories of the workforce, including operational, technical, supervisory, and managerial positions. Such employment shall be accompanied by adequate training and capacity-building measures. Where a Union target or Union asset already performing manufacturing activities before the investment is acquired, including after bankruptcy, maintaining the existing workforce or re-employment of the former workforce shall be prioritised, in accordance with national law and the application of collective |

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| | agreements. In the event that the foreign investor, the Union target or the Union asset receives public funding **for the maintenance of existing jobs**, notwithstanding article 107 TFEU, it shall commit not to decrease the number **of** Union workers for a period of five years on pain of recovery by the relevant national authorities, the **Such commitments shall be proportionate, time-limited and consistent with national labour law** ~~**the funding awarded**~~;<br><br>CZ<br>(Comments):<br><br>Foreign workers brought to the EU to work on the FDI implementation obtain the status of "Union workers" in the sense of the definition in Art. 3(36) once they obtain the necessary work permit, employment contract etc. Therefore, only Union workers can be employed on the FDI implementation in the EU, the only difference being the moment of their obtaining the Union-worker status. That is why we propose to insert a feature distinguishing the two categories of workers.<br><br>Regarding public support of FDIs, it is fair to only withdraw the support if the supported FDI aspect is not complied with. A general obligation to maintain the current number of Union workers is highly likely to deter investors.<br><br>DE<br>(Comments):<br><br>Scrutiny Reservation<br><br>DK<br>(Comments):<br><br>What is the Commission's rationale behind setting this threshold at 50%? |

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| | EE<br>(Drafting suggestions):<br><br>at least 50% of the workforce employed in the context of the foreign direct investment, at the time of its implementation and continuously throughout its operation, shall be made up of Union workers across all categories of the workforce, including operational, technical, supervisory, and managerial positions. Such employment shall be accompanied by adequate training and capacity-building measures **by the foreign investor**. Where a Union target or Union asset already performing manufacturing activities before the investment is acquired, including after bankruptcy, maintaining the existing workforce or re-employment of the former workforce shall be prioritised, in accordance with national law and the application of collective agreements. In the event that the foreign investor, the Union target or the Union asset receives public funding, notwithstanding article 107 TFEU, it shall commit not to decrease the number Union workers for a period of five years on pain of recovery by the relevant national authorities, the funding awarded<br><br>EE<br>(Comments):<br><br>The aim of the addition is to specify that in case of the foreign direct investment, it is the foreign investor that is responsible for providing the necessary training and capacity-building measures.<br><br>EL<br>(Comments):<br><br>Regarding again para 2(e), we would like the Commission to elaborate on the interplay with national law, namely regarding the references to insolvency law, labour law (i.e. *shall be prioritised*) and public funding (i.e. *shall commit not to decrease the number Union workers for a period of five years* |

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| | *on pain of recovery by the relevant national authorities, the funding awarded*).<br><br>-Could we consider specifying them in a stand-alone article in order to be able to enforce them?<br><br>FI<br>(Comments):<br><br>How this article relates to the freedom to provide services? (art. 57 TFEU)<br><br>How is subcontracting within value chains taken into account, especially when it often involves the use of foreign or temporary/agency labour?<br><br>We consider this requirement is very hard to be implemented in practise.<br><br>- At the time of searching for approval for the investment, the foreign investor has no control to decide over what worforce is used.<br>- Sourcing Union workforce for all levels of categories (including management) will be no easy task and will require time.<br><br>There must therefore at least be adequate time for the investor to pursue these targets **after** the investment has been approved.<br><br>Even in that case, if the foreign investor shall not have control over the Union target as required by the conditions set out in points (a) and (b), the foreign investor may not be able to fulfill this criteria merely due to lack of control. This requirement therefore extends also to the coinvestors that may possibly be of EU origin. |

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| | We consider EU-level rule is not reasoned, as Member States have already labor market needs tests available and power to evaluate work permits through their national laws. We are also in the process of assessing whether this obligation might be considered discriminatory.<br><br>IT<br>(Drafting suggestions):<br><br>(e) at least 50% of the workforce employed in the context of the foreign direct investment, at the time of its implementation and continuously throughout its operation, shall be made up of Union workers across all categories of the workforce, including operational, technical, supervisory, and managerial positions. Such employment shall be accompanied by adequate training and capacity-building measures. Where a Union target or Union asset already performing manufacturing activities before the investment is acquired, including after bankruptcy, maintaining the existing workforce or re-employment of the former workforce shall be prioritised, in accordance with national law and the application of collective agreements. In the event that the foreign investor, the Union target or the Union asset receives public funding, notwithstanding article 107 TFEU, it shall commit not to decrease the number Union workers for a period of five years on pain of recovery by the relevant national authorities, the funding awarded. **The 50% share shall be calculated on the entire workforce employed, including fixed-term workers, agency workers and quasi-subordinate contract workers, excluding personnel temporarily seconded by the foreign investor**;<br><br>IT<br>(Comments):<br><br>*The proposed inclusive definition prevents recourse to atypical contracts to circumvent the 50% threshold, consistent with European labour policy priorities.* |

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| | LT<br>(Comments):<br><br>An explanation is needed either in the regulation (in the recitals) or in specific guidelines on the application of this regulation:<br>- Does it apply to FTEs or contractors, part-time workers etc ;<br>- Does this mean 50% in **each** category;<br>- Is the 50% assessed at the **entity level** (the whole company), the **project level** (the specific investment site), or the **activity level** (only roles functionally connected to the FDI);<br>- Is there a grace period, or does the 50% threshold apply from day one of any employment activity. Who should monitor the threshold;<br>- How often should it be monitored;<br>- What happens if the threshold is temporarily breached.<br><br>MT<br>(Drafting suggestions):<br><br>(e) at least 50% of the workforce employed in the context of the foreign direct investment, at the time of its implementation and continuously throughout its operation, shall be made up of ~~Union~~ workers **authorised by Member States** across all categories of the workforce, including operational, technical, supervisory, and managerial positions. Such employment shall be accompanied by adequate training and capacity-building measures. Where a Union target or Union asset already performing manufacturing activities before the investment is acquired, including after bankruptcy, maintaining the existing workforce or re-employment of the former workforce shall be prioritised, in accordance with national law and the application of collective agreements. In the event that the foreign investor, the Union target or the Union asset receives public funding, notwithstanding article 107 TFEU, it shall commit not to decrease the number Union workers for a period of five |

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| | years on pain of recovery by the relevant national authorities, the funding awarded;<br><br>MT<br>(Comments):<br><br>Malta is recommending to delete Union and replace it with authorised by Member States. The concept authorised by Member States means workers both from the European Union and third country nationals that have a right or have been granted a work permit to work in the said Member State prior to the foreign direct investment taking place. One needs to take into consideration the different economic and market realities of different Member States. For example in the case of Malta, the economy has been growing at a real rate of four percent per annum. The unemployment rate in Malta is at a historical low level of 3.5 percent. Due to need to fill in new employment opportunities that are being generated Malta is recruiting employees both from within the European Union and third country nationals<br><br>PL<br>(Comments):<br><br>It is advisable to clarify the rules for applying the 50% EU employee criterion—particularly regarding how to calculate full-time equivalents (whether FTE—Full-Time Equivalent—is the key factor) and the classification of forms of employment (including employment contracts, service contracts, specific-task contracts, B2B contracts, and seasonal employment contracts) in order to limit potential discrepancies in interpretation between Member States.<br><br>SE<br>(Drafting suggestions):<br><br>(e) at least 50% of the workforce employed in the context of the foreign direct investment, at the time of its implementation and continuously |

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| | throughout its operation, shall be made up of Union workers across all categories of the workforce, including operational, technical, supervisory, and managerial positions. **The foreign direct investment may apply for temporary derogations from the 50% threshold in case of critical shortage of required expertise.** Such employment shall be accompanied by adequate training and capacity-building measures. Where a Union target or Union asset already performing manufacturing activities before the investment is acquired, including after bankruptcy, maintaining the existing workforce or re-employment of the former workforce shall be prioritised, in accordance with national law and the application of collective agreements. In the event that the foreign investor, the Union target or the Union asset receives public funding, notwithstanding article 107 TFEU, it shall commit not to decrease the number Union workers for a period of five years on pain of recovery by the relevant national authorities, the funding awarded;<br><br>SE<br>(Comments):<br><br>During the working party meeting on 1 June the Commission stated that "Union workers" refers to individuals who already have the right to work within the Union at the time of the investment. Workers who obtain a work permit only after the time of the investment should not be included in the assessment. This is not made clear in Articles 18(2) (e) or 3(36).<br><br>Amendment to add temporary flexibility in case critical of shortage of expertise that e.g. could risks the ramp up of a facility or it's operation.<br><br>The categories of the workforce needs to be more precise. SE welcome suggestions for clarifications.<br><br>SK<br>(Drafting suggestions): |

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| | at least 50% of the workforce employed in the context of the foreign direct investment, at the time of its implementation and continuously throughout its operation, shall be made up of Union workers ~~across all categories of the workforce~~ **in accordance with predefined employment categories**, including operational, technical, supervisory, and managerial positions. Such employment shall be accompanied by adequate training and capacity-building measures. Where a Union target or Union asset already performing manufacturing activities before the investment is acquired, including after bankruptcy, maintaining the existing workforce or re-employment of the former workforce shall be prioritised, in accordance with national law and the application of collective agreements. In the event that the foreign investor, the Union target or the Union asset receives public funding, notwithstanding article 107 TFEU, it shall commit not to decrease the ~~number~~ **average annual full-time equivalents (FTEs) of** Union workers for a period of five years **from [defined starting point]** on pain of recovery by the relevant national authorities, the funding awarded;<br><br>SK<br>(Comments):<br><br>We request clarification and definition of "across all categories of the workforce" as it lacks methodology for objective evaluation.<br><br>Furthermore, the commitment of maintaining jobs must be explicitly time-bound (including defining the start of the 5-year period) and evaluated based on predefined rules reflecting standard fluctuation (e.g., via average annual FTEs), otherwise standard labor market fluctuation could formally trigger state aid recovery. |
| | |
| (f) in the context of the foreign direct investment, the foreign investor prepares and publishes on its website a strategy for enhancing Union value chains and prioritising the sourcing of inputs for the manufacturing activity | BE<br>(Comments): |

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| from the Union and endeavours to source from the Union a minimum of 30% of inputs used for the products placed on the Union market. | How does the Commission estimate the likelihood of WTO dispute settlement proceedings being initiated against the Union with regards to this article? (referring to potential incompatibility with Article X:3(a) of the GATT 1994 and WTO panel conclusions in Canada-Autos (2000))<br><br>DE<br>(Comments):<br><br>Scrutiny Reservation<br><br>EL<br>(Comments):<br><br>What is the value added of the provisions in para 2(f)? We read it as a publicity condition rather than an obligation for sourcing.<br><br>Do you consider that the information made published according to this condition can be regarded as sensitive or trade secret by the foreign investor?<br><br>FI<br>(Comments):<br><br>We consider assessment of compatibility with WTO rules is needed in relation to Article III of GATT 1994 and TRIMS.<br><br>FR<br>(Drafting suggestions):<br><br>(f) in the context of the foreign direct investment, the foreign investor prepares and publishes on its website a strategy for enhancing Union value chains and prioritising the sourcing of inputs for the manufacturing activity from the Union and ~~endeavours to~~ **shall** source from the Union a minimum of 30% of inputs **manufactured in the Union** ~~.~~ **and more specifically :** |

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| | • **30% for battery technologies and its value chain for battery energy storage systems;**<br>• ***[threshold to be discussed and assessed]*% for pure electric vehicles, off-vehicle charging hybrid electric vehicles and fuel- cell electric vehicles, including components related to electrification and digitalisation;**<br>• **50% for solar PV technologies;**<br>• ***[threshold to be discussed and assessed]*% for extraction, processing and recycling of critical raw materials;**<br>• ***[threshold to be discussed and assessed]*% for nuclear ;**<br>• **50% for wind power;**<br>• ***[threshold to be discussed and assessed]*% for power grid equipment;**<br>• ***[threshold to be discussed and assessed]*% for heat pumps;**<br>• ***[threshold to be discussed and assessed]*% for all components used in the application of hydrogen as an energy source or in processing industries, including fuel cells;**<br>• ***[threshold to be discussed and assessed]*% for industrial robotics;**<br>• ***[threshold to be discussed and assessed]*% rolling stock ;** |

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| | • ***[threshold to be discussed and assessed]*****% for shipbuilding.**<br><br>**In the case of subsidiaries of foreign investors already established in the EU or when extending the mechanism to new strategic sectors, the European Commission and/or the relevant investment authority will ensure that certain key conditions are met, in particular the creation of joint ventures, the use of a European workforce and a minimum supply of components produced within the EU.**<br><br>FR<br>(Comments):<br><br>In order to strengthen the framework and support production within the EU, a requirement level more suited to the needs of the sectors covered by this chapter must be established. Consequently, it is necessary to set a minimum threshold for European inputs tailored to each of the sectors concerned.<br><br>• For electric vehicles, the minimum European input threshold must be consistent with that proposed in the automotive package (i.e. CO2 regulation), which proposes significantly higher thresholds (e.g. 70% of the vehicle's value added within the EU).<br>• For the battery sector, applying a threshold of 30% European inputs from the date the legislation comes into force (N+1) seems appropriate, insofar as it requires active cathode materials to be sourced from Europe. An upward revision of the threshold to 40% from the third year following the entry into force of the text (N+3) therefore appears appropriate.<br>• For renewable energy (wind power and photovoltaic panels), the threshold is too low, given that European operators already exceed this |

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| | threshold. It is proposed to increase this threshold to 50% as soon as the mechanism comes into force.<br>• For critical raw materials, compliance with the minimum threshold of 30% European inputs is likely to depend primarily on the type of project and the critical raw material to be produced (processed or recycled) within it. In the case of a project to recycle critical raw materials from pre- and post-consumer waste, the minimum threshold of 30% should be met due to the collection and recovery of the 'urban mine' located within the European territory, provided that the waste is not exported for further recovery operations at facilities located in third countries. Conversely, a project for the production of critical raw materials might – for certain critical raw materials – be unable to meet this threshold due to the absence of mineral resources to be extracted from the geological subsoil of the EU territory and the production of mineral concentrates to be processed. In this case, it would be counterproductive to raise the threshold. The relevant thresholds must be discussed and assessed.<br><br>The option given to Member States to apply only four of the six criteria introduced carries a significant risk of fragmentation of the internal market and forum shopping. Consequently, this flexibility must be carefully regulated, with a view to harmonising the implementation of these provisions across the EU.<br><br>IT<br>(Drafting suggestions):<br><br>(f) in the context of the foreign direct investment, the foreign investor ~~prepares and publishes on its website a strategy for enhancing Union value chains and prioritising~~ **shall priorities** the sourcing of inputs for the manufacturing activity from the Union and endeavours to source from the Union a minimum of 30% of inputs used. |

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| | IT<br>(Comments):<br><br>*The condition, which relates to mere conduct of the investor on publicising strategies on its own website, appears to be of limited effectiveness.*<br><br>LT<br>(Comments):<br><br>An explanation is needed either in the regulation (in the recitals) or in specific guidelines on the application of this regulation:<br>- shall 30% be interpreted as a best endeavour;<br>- Who should monitor it and what happens if 30% are not met.<br><br>PL<br>(Drafting suggestions):<br><br>(f) in the context of the foreign direct investment, the foreign investor prepares and publishes on its website a strategy for enhancing Union value chains and prioritising the sourcing of inputs for the manufacturing activity from the Union and endeavours to source from the Union a minimum of 30% of inputs used for the products placed on the Union market. **During the first three years from the entry into force of this Regulation or from the start of operations, where relevant inputs are not commercially available in sufficient scale, quality or technical specification within the Union, this requirement may also be fulfilled by inputs originating in third countries, provided that they demonstrate meaningful Union participation, including through ownership, control, technology contribution, sourcing from the Union or integration with Union value chains.**<br><br>PL<br>(Comments): |

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| | The condition should be clarified to prevent it from being circumvented in practice, and key components for the project should be manufactured within the EU.<br>Additionally, the sourcing requirement should create real demand for Union suppliers and strengthen Union value chains, but it should also reflect the current stage of development of certain strategic sectors, including the battery value chain. During the ramp-up phase, some inputs may not yet be available in sufficient scale or quality within the Union. A transitional mechanism based on meaningful Union participation would preserve the objective of building European value added while avoiding disruptions to investment and supply chains. Ownership may be one relevant indicator of Union participation, but it should not be the only criterion.<br><br>SE<br>(Drafting suggestions):<br><br>(f) in the context of the foreign direct investment, the foreign investor prepares and publishes on its website a strategy for enhancing Union value chains and prioritising the sourcing of inputs for the manufacturing activity from the Union and **to make its best** endeavours to source from the Union a minimum of 30% of inputs used for the products placed on the Union market.<br><br>SE<br>(Comments):<br><br>To ensure that the foreign investor, to the extent possible, adheres to the goal of EU-sourcing.<br><br>SK<br>(Drafting suggestions):<br><br>in the context of the foreign direct investment, the foreign investor prepares and publishes on its website a strategy for enhancing Union value chains and prioritising the sourcing of inputs for the manufacturing activity from the |

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| | Union and ~~endeavours to~~ **shall** source from the Union a minimum of 30 % of inputs used for the products placed on the Union market, **of which at least [insert value] % must be sourced from regions eligible for regional investment aid.**<br><br>SK<br>(Comments):<br><br>This condition is currently optional, weakening enforceability and lacking any real added value. We propose strengthening it and introducing a mechanism to account for territorial disparities within the EU to uphold the cohesion principle. |
| | IT<br>(Drafting suggestions):<br><br>**2-BIS.** ***"Member States should provide for the necessary measures to prevent circumvention of the 49% threshold.***<br><br>SK<br>(Drafting suggestions):<br><br>[*Add as a seprate point after Article 18(2)]:*<br>**For greenfield investments, the conditions in points (a) and (b) shall not apply if the investor demonstrably fulfills conditions (c) through (f).**<br><br>SK<br>(Comments):<br><br>We propose deleting the mandatory JV and maximum 49% share condition for greenfield investments. Greenfield investments generally do not utilize existing corporate structures as they involve establishing an entirely new facility. This requirement represents a fundamental deviation from the nature |

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| | of greenfield investments, appears disproportionate, and may deter potential investors. |
| 3. The foreign direct investment shall comply with the condition referred to in paragraph 2(e) to be approved by the Investment Authority pursuant to paragraph 2. | CZ<br>(Drafting suggestions):<br>3. The foreign direct investment shall comply with the condition referred to in paragraph 2(e) **where required by the Investment Authority and justified in the reasoned decision** ~~**to be approved**~~ by the Investment Authority pursuant to paragraph 2.<br>DE<br>(Comments):<br>Scrutiny Reservation<br>DK<br>(Drafting suggestions):<br>3. ~~The foreign direct investment shall comply with the condition referred to in paragraph 2(e) to be approved by the Investment Authority pursuant to paragraph 2.~~<br>DK<br>(Comments):<br>Moved up to 18(2), to make it clearer that 2(e) is an obligatory condition for the investor to apply.<br>FI<br>(Drafting suggestions):<br>~~The foreign direct investment shall comply with the condition referred to in paragraph 2(e) to be approved by the Investment Authority pursuant to paragraph 2.~~ |

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| | FI<br>(Comments):<br><br>We suggest removing any obligations set for the Investment Authority to implement conditions.<br><br>IT<br>(Drafting suggestions):<br><br>**The Investment Authority may, where it considers this necessary for the protection of national strategic assets, require the investor to comply with additional conditions beyond those set out in the preceding paragraphs, having regard to the specificities of the sector and of the region concerned.**<br><br>MT<br>(Drafting suggestions):<br><br>The foreign direct investment **may take into account** ~~shall comply with~~ the condition referred to in paragraph 2(e) ~~to be approved by the Investment Authority pursuant to paragraph 2.~~, **where appropriate and proportionate, having regard to the characteristics of the relevant sector, labour market conditions and the size of the Member State concerned.**<br><br>MT<br>(Comments):<br><br>Due to the different market realities of Member States, Malta is recommending delete ***shall comply with*** and add ***may take into account.*** Furthermore, Malta is recommending to delete ***to be approved by the Investment Authority pursuant to paragraph 2.,*** and replace it with ***where appropriate and proportionate, having regard to the characteristics of the relevant sector,*** |

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| | ***labour market conditions the economies of scope and scale of the Member State concerned.***<br><br>PL<br>(Comments):<br><br>There is a need to specify whether the condition set out in 2(e) is obligatory for investments done by foreign investor's subsidiary as well. |
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| 4. Investment Authorities may apply some or all of the conditions set out in paragraph 2 to direct investments made within the Union by a foreign investor's subsidiary where it is essential to achieve the objectives of this Regulation, under the following conditions: | FI<br>(Drafting suggestions):<br><br>~~Investment Authorities may apply some or all of the conditions set out in paragraph 2 to direct investments made within the Union by a foreign investor's subsidiary where it is essential to achieve the objectives of this Regulation, under the following conditions:~~<br><br>FI<br>(Comments):<br><br>Taking into account our suggestions above, we do not consider any exceptions are necessary, as the Investment Authority should in all events be able to decide whether conditions are applied.<br><br>We also consider the notion of 'foreign subsidiary' is not clear enough. Does it cover all EU companies with majority foreign ownership, i.e., also those that are not subsidiaries as such? E.g., if a foreign-majority owned joint venture established in the EU makes a follow-up investment and no new entity is established, but rather an additional investment is made in an existing company, could this fall within the scope of Art. 18.4?<br><br>It needs to be assessed whether the proposed option might be considered discriminatory (TFEU Art. 18, TFEU Art. 49), as, although a foreign parent |

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| | company owns or controls it, the subsidiary has its own distinct legal EU personality, meaning it is treated as a separate company under local host-country laws.<br><br>Also if such conditions would be applied on entities already established in the EU ("foreign investor's subsidiaries") they might be contrary to commitments in the bilateral investment protection agreements.<br><br>FR<br>(Drafting suggestions):<br><br>Investment Authorities ~~may~~ **shall** apply some or all of the conditions set out in paragraph 2 to direct investments made within the Union by ~~a foreign investor's subsidiary~~ **any natural or legal person where at least one of its beneficial owners is a national or an undertaking of a third country, or where a decisive influence, within the meaning of Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings ("merger Regulation"), is exercised over the activities of that natural or legal person by a national or an undertaking of a third country** ~~where it is essential to achieve the objectives of this Regulation, under the following conditions:~~<br><br>**The term "beneficial owner" refers to the natural person or persons who ultimately own or control a legal entity, or on whose behalf a transaction or activity is carried out. In practical terms, the concept of 'beneficial owner' aims to ensure the accurate identification of natural persons exercising actual control or deriving substantial benefit from economic flows, in order to ensure the effectiveness of rules on transparency, the fight against abuse and the prevention of optimisation or circumvention practices. In accordance with the approach adopted in EU law (and in particular Directive (EU) 2015/849), the beneficial owner is defined as the natural person who exercises effective control, directly or indirectly, over** |

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| | **an entity, in particular through the holding of a significant shareholding or by any other means conferring decision-making power. From an economic and functional perspective, the concept also covers the person who has the power to enjoy and dispose of the relevant income or assets, and who bears, where applicable, the economic risks. In this regard, an intermediary acting on behalf of a third party, with no discretion as to the use of the income received, cannot be classified as a beneficial owner.**<br><br>**The concept of "significant influence" refers to an entity's ability to exercise decisive power over the behaviour of another entity, such that the latter does not determine its own conduct in the market. In practical terms, decisive influence is characterised by the ability to guide an entity's strategic, commercial and financial decisions, regardless of whether that power is actually exercised. It may be exercised exclusively or jointly. This concept is clearly linked to that of control, defined in competition law by Article 3 of Regulation (EC) No 139/2004 on the control of concentrations between undertakings, as the ability to exercise such influence.**<br><br>FR<br>(Comments):<br><br>The flexibility of these provisions carries the risk of a lack of clarity regarding the scope of the control mechanism, and of allowing investments that appear to fall 'outside the scope' to slip through, even though a more detailed analysis might lead to the conclusion that they benefit a foreign investor. Furthermore, leaving the assessment to Member States risks creating a distortion of competition between them, fuelled by regulatory arbitrage, and thus further fragmenting the internal market.<br><br>The text must not be limited to foreign investors and their subsidiaries but, to be effective, must cover all investment channels enabling the monitoring of a |

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| | foreign investment ultimately made by a third country, including by traceability up the ownership chain.<br><br>The notion of "decisive influence" and "beneficial owner" could be integrated in Article 3 of the IAA dedicated to definitions.<br><br>SE<br>(Drafting suggestions):<br><br>4. **From [OP insert date: 12 month after entry into force of this Regulation],** Investment Authorities may apply some or all of the conditions set out in paragraph 2 to direct investments made within the Union by a foreign investor's subsidiary where it is essential to achieve the objectives of this Regulation, under the following conditions:<br><br>SE<br>(Comments):<br><br>Article 18(2) only referes to "investments made directly by foreign investors", hence clarification that investments by a foreign investor's subsidiary may only be assessed after 12 months, in line with the implementing timeline in Article 18(2).<br><br>SI<br>(Comments):<br><br>The text "some or all" allows different practices of MS. We suggest determining equal conditions for all MS. |
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| (a) preventing the circumvention of this Regulation by the foreign investor; or | FI<br>(Comments):<br><br>Ibid.<br><br>FR |

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| | (Drafting suggestions):<br><br>~~(a) preventing~~ **to prevent** the circumvention of this Regulation by the foreign investor**.**~~; or~~<br><br>FR<br>(Comments):<br><br>In order to anticipate the risk of circumvention of the IAA control, and in particular of the minimum threshold for European inputs, and notably to prevent any circumvention through investments originating from satellite countries of third countries or from legal entities established in the EU (particularly if countries bound by free trade agreements are excluded from the mechanism), it is crucial to discuss with the EC and Member States the need and the way of, in this chapter of the IAA, a mechanism to prevent circumvention of these minimum input thresholds.<br><br>For instance, related to the minimum threshold for European inputs, it is risky with respect to circumvention in several ways:<br><br>• The foreign investor may be led to reallocate their resources to source the 'less strategic' or 'low value-added' inputs within the EU in order to meet this threshold, whilst sourcing the 'more strategic ' or 'higher value-added' inputs from outside the continent, thereby reducing the mechanism's effectiveness and local benefits;<br>• The foreign investor may import a near-finished input into the EU for minor processing, thereby counting as 'European' an input whose actual value added originates from a third country;<br>• The foreign investment may be channelled through investments from countries linked to China or through legal entities established within the EU (particularly if countries bound by free trade agreements are excluded from this chapter of the IAA). |

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| | SI<br>(Comments):<br>Not clear how to implement it. Commission's additional clarification or guidance is needed. Possibility to include it in the immplementing act from paragraph 5 of this Article |
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| (b) where no alternative measures, including commitments proposed by the foreign investor or the foreign investor's subsidiary, are reasonably available and less restrictive of direct investment within the Union in order to meet the objectives of the Regulation. | DE<br>(Drafting suggestions):<br>.<br>FI<br>(Comments):<br>Ibid.<br>FR<br>(Drafting suggestions):<br>~~(b) where no alternative measures, including commitments proposed by the foreign investor or the foreign investor's subsidiary, are reasonably available and less restrictive of direct investment within the Union in order to meet the objectives of the Regulation.~~<br>LT<br>(Comments):<br>An explanation is needed either in the regulation (in the recitals) or in specific guidelines on the application of this regulation.<br>SI<br>(Comments): |

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| | Not clear how to implement it. Commission's additional clarification or guidance is needed. Possibility to include it in the immplementing act from paragraph 5 of this Article |
| | SE<br>(Drafting suggestions):<br>**In its evaluation, the Investment Authority shall consider the foreign investor's subsidiaries current and historical level of employment of Union workers .**<br>SE<br>(Comments):<br>To ensure that large, well-established EU-based companies that historically always has reached the targets of Art 18.2(c-f) are not hit by the regulation. |
| 5. The Commission shall adopt an implementing act, by [OP please insert date: 6 months after entry into force of this Regulation]) to specify the detailed rules for verifying the compliance with the conditions laid down in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3). | IT<br>(Drafting suggestions):<br>**5. ~~The Commission shall adopt an implementing act, by [OP please insert date: 6 months after entry into force of this Regulation]) to specify the detailed rules for verifying the compliance with the conditions laid down in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).~~ Member States shall ensure that they have the necessary legal means and powers to effectively address, within their territory, the conditions laid down in paragraph 2.**<br>IT<br>(Comments):<br>*It should be responsibility of Member States ensuring to have a mechanism consistent and compliant with the Regulation.* |

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| | LT<br>(Comments):<br>If a separate implementing act is required at the national level or if existing ones need to be amended, we must consider whether the deadline set for the Commission and whether we will be able to adapt the legislation at the national level<br><br>We believe that Article 18 of Chapter IV shall apply only once the methodology has been adopted.<br>NL<br>(Drafting suggestions):<br>5. The Commission shall adopt an implementing act~~, by [OP please insert date: 6 months after entry into force of this Regulation]~~ to specify the detailed rules for verifying the compliance with the conditions laid down in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).<br><br>NL<br>(Comments):<br>setting a deadline for the adoption of implementing acts may violate the procedures laid down in Reg. 182/2011. Those procedures must be followed and may not be by-passed given a time constraint imposed by the IAA. Should timely implementation prove crucial, the Commission should motivate the emergency procedure within the meaning of article 7 of Reg. 182/2011. |
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| *Article 19*<br>**Prior notification of planned foreign direct investments** | EL<br>(Comments):<br><br>With regard to article 19, on prior notification of planned FDI, and taking into consideration the similar provisions in Foreign Subsidies Regulation (EU) 2022/2560, we would like to discuss the possibility of adding a safeguard and grant to the Investment Authorities and the Commission the right to request the prior notification of any foreign direct investment which is not notifiable within the meaning of article 17, where there are valid suspicions that the specific foreign investment bears high risk on the well functioning of the internal market in all sectors covered in Annex I.<br><br>It is vital to protect strategic sectors from killer aquisitions that fall under the thresholds.<br><br>We have added this kind of safeguard also to the Foreign Subsidies Regulation article 21 Prior notification of concentrations para 5. «The Commission may request the prior notification of any concentration which is not a notifiable concentration within the meaning of Article 20 at any time prior to its implementation where the Commission suspects that foreign subsidies may have been granted to the undertakings concerned in the three years prior to the concentration. Such concentration shall be deemed to be a notifiable concentration for the purposes of this Regulation.»<br><br>LT<br>(Comments):<br><br>General observation: More guidance would be useful in terms of the suggested process or best practices of obtaining and monitoring such information<br><br>MT<br>(Comments):<br><br>Malta recalls that Regulation (EU) 2019/452 establishes a coordination and cooperation framework, while fully preserving Member State competence in |

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| | the screening of foreign direct investment, including decisions to screen, authorise, condition or prohibit investments.<br><br>Malta therefore considers that provisions relating to foreign direct investment under this Regulation should remain clearly distinct from the existing FDI screening framework, taking into account the different scope and objectives of the respective instruments, and should remain proportionate, risk-based and without prejudice to national competences and institutional arrangements. |
| | |
| 1. A foreign investor shall notify any planned direct investment within the scope of Article 17 to the Investment Authority of the Member State where the Union target or Union asset is located, and which would result in control over the Union target or Union asset as laid down in paragraph 3. | CZ<br>(Comments):<br><br>The link between the 100 MEUR threshold under Article 17(1) and the notification obligation under Article 19(1) needs to be clarified. Under the latter provision, FDIs establishing control, as defined below, are to be notified. Is is not clear whether FDIs exceeding 100 MEUR, or FDIs of any amount are meant to establish control under Article 19(1).<br>The Commission, in its replies, explained that both the investments made directly by foreign investors and the investments made through the investor's subsidiary should be subject to notification obligation. However, it is not clear at which point the process for the investments made through the the investor's subsidiary is meant to stop in case Art. 18(4) does not apply, i. e. where no conditions are applied (as there is no circumvetnion or alternative measures can be used). Is there going to be a decision on admissibility? Should the notification be transmitted to the Commission? Is there going to be an opinion?<br>Would there be any official document that would end the review for such transactions? How and at which point in time would the subsidiaries get the legal certainty that there will be no ex officio review leading to conditions pursuant to Art. 18? |

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| | LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation:<br>- What is considered as a "all necessary information" – will there be a list of information that is required;<br>- When exactly must an investor **notify** the Investment Authority of a specific country?<br>What happens, if the investor does not notify the Investment Authority on time;<br>- Presumably, the investor will be aware that they need to notify the MS. Who will ensure this information is spread among the companies.<br><br>SE<br>(Drafting suggestions):<br><br>1. A foreign investor **or, where relevant, the foreign investor's subsidiary** shall notify any planned direct investment within the scope of Article 17 to the Investment Authority of the Member State where the Union target or Union asset is located, and which would result in control over the Union target or Union asset as laid down in paragraph 3.<br><br>SE<br>(Comments):<br><br>Amendment to clarify the notification process for foreign investor's subsidiary, which is not specified in the paragraph. Important that investments made by foreign investor's subsidiaries subject to a mandatory pre-closing notification should be handled by the subsidiary itself and not its parent company. Otherwise the procedure risks removing autonomy from the European-based operator and slowing investments. |

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| | Further, it needs to be clarified at what point in an investment process a nofitication should be submitted by an investor and assessed by the Investment authority.<br><br>SK<br>(Drafting suggestions):<br><br>A foreign investor shall notify any planned direct investment within the scope of Article 17 to the Investment Authority of the Member State where the Union target or Union asset is located, and which would result in ~~control over~~ **participation in** the Union target or Union asset as laid down in paragraph 3.<br><br>SK<br>(Comments):<br><br>We propose replacing the term "control" with "participation". A 30 % threshold in share capital or voting rights does not constitute control in the true sense of corporate law. |
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| The notification shall contain all necessary information to allow the Investment Authority to perform the investment review pursuant to Article 20. | EE<br>(Comments):<br><br>The meaning of “all necessary information” must be clarified in the text of the regulation to ensure that the foreign investor knows what information they need to provide in the notification and that the Investment Authority knows what kind of information their review will have to rely on.<br><br>LT<br>(Drafting suggestions):<br><br>The notification shall contain all necessary information to allow the Investment Authority to perform the investment review pursuant to Article 20 **at least once per two years**. |

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| | LT<br>(Comments):<br>It should be indicated at least the minimum frequency with which foreign investors will be required to submit reports. |
| | DE<br>(Drafting suggestions):<br>**The Commission shall adopt an implementing act, by [OP please insert date: 6 months after entry into force of this Regulation]) to specify which information have to be provided at leat by the investor to fulfill the information condition laid down in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).**<br>**The desginated national authority may request more information with 30 days of receiving the notification.**<br>DE<br>(Comments):<br>It is not clear what is covered by relevant information. The commission should provide a minium list of information that have to be provided by the investor |
| 2. For the purposes of determining whether the investment value reaches the threshold set out in Article 17(1), only previous investments of a foreign investor made in the same Union target or Union asset by the foreign investor from [OP please insert the date = the date of the entry into force of this Regulation] shall be aggregated. | CZ<br>(Drafting suggestions):<br>2. For the purposes of determining whether the investment value reaches the threshold set out in Article 17(1), only previous investments of a foreign investor made in the same Union target or Union asset by the foreign investor from [OP please insert the date = the date of the entry into force of this Regulation] shall be aggregated. **Aggregation shall also take into account** |

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| | **investments by affiliated entities or foreign investors acting in concert, where this is necessary to prevent circumvention.**<br><br>DK<br>(Comments):<br><br>As per Article 17.3, we seek clarification as to the status of direct Union subsidiaries. Would a direct Union subsidiary in one MS be comprised of the requirements in Chapter IV, if it is a subsidiary of a Union target in another MS that met the criteria? Even if that subsidiary in itself only had limited economic activity and perhaps would simply be a sales office?<br><br>FR<br>(Drafting suggestions):<br><br>2. For the purposes of determining whether the investment value reaches the threshold set out in Article ~~17(1)~~ **17(2)**, only previous investments of a foreign investor made in the same Union target or Union asset by the foreign investor from [OP please insert the date = the date of the entry into force of this Regulation] shall be aggregated.<br><br>NL<br>(Comments):<br><br>Under study.<br><br>PL<br>(Comments):<br><br>The article refers only to a “foreign investor” but does not mention foreign investor’s subsidiary—this distinction is made in the text of the IAA, and the issue of how to treat the combined value of investments made by a foreign investor and a subsidiary of a foreign investor within the EU should be clarified. |

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| | SK<br>(Drafting suggestions):<br>For the purposes of determining whether the investment value reaches the threshold set out in Article 17(1), only previous investments of a foreign investor **for a period of [2] years** made in the same Union target or Union asset by the foreign investor from [OP please insert the date = the date of the entry into force of this Regulation] shall be aggregated.<br>SK<br>(Comments):<br>We propose defining a timeframe (e.g., 2 years) for cumulating investments to assess the EUR 100 million threshold. Without temporal limitation, standard organic company growth could also be subject to assessment. |
| | |
| 3. Foreign investors shall be considered to have control, where the investment in question reaches either of the following threshold: | FI<br>(Drafting suggestions):<br>Foreign investors shall ~~be considered~~ **notify the investment** ~~to have control,~~ where the investment in question reaches either of the following threshold:<br>FI<br>(Comments):<br>We do not think the notion of control should be blended with the filing obligation threshold. We think those are two different things and mentioning 'control' here creates confusion with the requirements set out in Art. 18.<br>FR<br>(Comments):<br>Control shall be constituted by rights, contracts or any other means which, either separately or in combination and having regard to the relevant facts |

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| | and legal considerations, confer the possibility of exercising decisive influence over an undertaking, in particular through:<br>(a) ownership or the right to use all or part of the assets of an undertaking;<br>(b) rights or contracts which confer decisive influence over the composition, voting or decisions of the governing bodies of an undertaking.<br><br>IT<br>(Drafting suggestions):<br><br>3. Foreign investors shall be considered to have control, where ~~**the investment in question reaches either of the following threshold , aiming to**~~ **they acquire decisive influence over the Union target, meaning the capacity to solely or jointly determine the commercial policy of the Union target either de facto or de jure. Control of the Union target exist where the foreign investor, without having decisive influence over the Union target, can nonetheless materially impact its commercial policy, behaviour or decisions, for example through shareholding, voting rights, contracts, including leverage resulting from supplier relationships, and significant board representation.**<br><br>IT<br>(Comments):<br><br>*It is deemed appropriate to defer the definition of 'control' to Member States, in line with the provisions of the current FDI Regulation and the subsequent revision thereof.*<br><br>*In any event, a rigid application of the 30% thresholds, considered independently of the broader ownership structure and applicable governance rules, does not appear to constitute an effective metric.* |

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| | PL<br>(Comments):<br>The article does not take into account situations where the increase in shareholding occurs gradually, through several successive transactions. The current wording refers exclusively to the point at which the investment reaches or exceeds the 30% threshold, without addressing the possibility of gradually increasing the shareholding over a longer period. Such sequential increases in shareholdings should also be subject to notification and assessment.<br>SK<br>(Drafting suggestions):<br>Foreign investors shall be considered to have ~~control~~ **participation**, where the investment in question reaches either of the following threshold:<br>SK<br>(Comments):<br>We propose replacing the term "control" with "participation". A 30 % threshold in share capital or voting rights does not constitute control in the true sense of corporate law. |
| | |
| (a) 30 percent or more share capital or voting rights in a Union target; | FI<br>(Drafting suggestions):<br>30 percent ~~or more share capital or~~ of the voting rights **or any other rights conferring equivalent powers** in a Union target;<br>FI<br>(Comments):<br>Is there a reason why ownership of share capital should be monitored, even if the shares would create no voting right whatsoever? We primarily consider |

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| | only voting rights should be relevant, as they entitle the foreign investor to participate in the decision making in the Union target. Voting rights can of course be conferred by share capital, but as this is not automatic, we suggest reference to share capital is removed.<br><br>IT<br>(Drafting suggestions):<br>~~**(a) 30 percent or more share capital or voting rights in a Union target;**~~<br><br>NL<br>(Drafting suggestions):<br><u>A cumalative of</u> 30 percent or more share capital or voting rights in a Union target;<br><br>NL<br>(Comments):<br>With regard to the proposed 30% threshold, attention should be paid to its cumulative effect, particularly where multiple shareholdings or partial interests within a company are involved. |
| | |
| (b) 30 percent or more of ownership of a Union asset, and leasehold or other rights conferring control over a Union asset. | FI<br>(Drafting suggestions):<br>~~30 percent or more of~~ ownership ~~of a Union asset~~, ~~and~~ leasehold or other rights conferring 30 percent or more of ~~control~~ **<u>the voting rights or other equivalent rights</u>** over a Union asset.<br><br>FI<br>(Comments):<br>Similar idea as above – also ‘control’ mentioned here, even though 30% does not signify control. |

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| | FR<br>(Drafting suggestions):<br><br>(b) 30 percent or more of ownership of a Union asset, and leasehold or other rights conferring control over a Union asset.<br><br>**The notion of control shall be understood as rights, contracts or any other means which, either separately or in combination and having regard to the relevant facts and legal considerations, which confer the possibility of exercising decisive influence over an undertaking, in particular through:**<br>**(a) ownership or the right to use all or part of the assets of an undertaking;**<br>**(b) rights or contracts which confer decisive influence over the composition, voting or decisions of the governing bodies of an undertaking.**<br><br>FR<br>(Comments):<br><br>The notion of control mst be precisely defined (in line with Merger Regulation) in order to avoid any misinterpretation of these provisions.<br><br>IT<br>(Drafting suggestions):<br><br>~~**(b) 30 percent or more of ownership of a Union asset, and leasehold or other rights conferring control over a Union asset.**~~<br><br>NL<br>(Drafting suggestions):<br><br>A cumalative of 30 percent or more of ownership of a Union asset, and leasehold or other rights conferring control over a Union asset.<br><br>NL<br>(Comments): |

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| | With regard to the proposed 30% threshold, attention should be paid to its cumulative effect, particularly where multiple shareholdings or partial interests within a company are involved. |
| | |
| 4. Where a foreign investor's acquisition or establishment of an investment would result in foreign investors collectively holding more than the ownership or control thresholds laid down in paragraph 3, that acquisition or establishment shall be notified. | FI<br>(Drafting suggestions):<br>Where a foreign investor's acquisition or establishment of an investment would result in foreign investors collectively exceeding ~~holding more than the ownership or control~~ thresholds laid down in paragraph 3, that acquisition or establishment shall be notified.<br>FI<br>(Comments):<br>Differentiation between control/filing threshold.<br>FR<br>(Comments):<br>Does this article cover the scenario of an investment by a unique investor made in several installments, each of which is below the threshold? |
| | |
| 5. For the purposes of calculating whether either of the thresholds laid down in paragraph 3 have been reached, aggregated interests held directly or indirectly, including through affiliates, chains of ownership or by foreign investors acting in concert, shall be considered. | BE<br>(Comments):<br>Can the Commission clarify whether the period over which investment values shall be aggregated is limited in time? (regards legal certainty for investors and proportionality)<br>CZ<br>(Comments): |

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| | Para 5 is not clear, it refers only to para 3, but not to para 2 that also refers to thresholds.<br><br>LT<br>(Comments):<br><br>An explanation is needed either in the regulation (in the recitals) or in specific guidelines on the application of this regulation.<br><br>SI<br>(Comments):<br><br>Not clear how to implement it. Commission's additional clarification or guidance is needed. How should MS obtain data to verify compliance with the conditions set forth in this paragraph? |
| | DE<br>(Drafting suggestions):<br><br>**A Member State which duly considers that a foreign direct investment in its territory reaches the threshold through interest held directly or indirectly, may request the Commission to issue an opinion.**<br><br>DE<br>(Comments):<br><br>Since it is not clear how member states should be able to evaluate the shareholder structure, including chains of ownership or affiliates, member staes should have the possibiliy to ask for assistance of the commission. |
| 6. Where the relevant Union targets or assets are located in more than one Member State, the foreign investor shall notify the competent Investment Authorities of all Member States concerned and the Commission on the same day with reference to the other notifications. The Member States concerned shall coordinate the review of such notifications and agree on the conditions | BE<br>(Comments):<br><br>Does the Commission intend for there to be coordination between MS as well as simultaneity in the remainder of the procedure, with MS proceeding through a multi-country case in lockstep? (regards feasibility) |

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| imposed with the other Member States concerned, as well as with the Commission. | CZ<br>(Comments):<br><br>The Commission, in its replies, explained that the *"investor can choose which four of six criteria to comply with"*. However, at least from the formulation of this and the following provision, it seems to us that it will not always be on the investor to choose. Is a discussion on the specific criteria between the Investment Authority/Commission and the investor foreseen? At which point in time?<br><br>DE<br>(Drafting suggestions):<br><br>Where the relevant Union targets or assets are located in more than one Member State, the foreign investor shall notify the competent Investment Authorities of all Member States concerned and the Commission **within 15 days** ~~on the same day~~ with reference to the other notifications. The Member States concerned shall coordinate the review of such notifications and**, where applicable, endeavour** agree on the conditions imposed with the other Member States concerned, as well as with the Commission.<br><br>DE<br>(Comments):<br><br>one day for notification is too short.<br><br>DK<br>(Drafting suggestions):<br><br>Where the relevant Union targets or assets are located in more than one Member State, the foreign investor shall **endeavour to** notify the competent Investment Authorities of all Member States concerned and the Commission on the same day with reference to the other notifications. |

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| | The Member States concerned shall coordinate the review of such notifications and, **where relevant,** agree on the conditions imposed with the other Member States concerned, as well as with the Commission. **The Commission will facilitate the coordination process**.<br><br>DK<br>(Comments):<br><br>As per the language of the revised Foreign Investment Screening Regulation, it would be advisable to soften the language to allow for impracticalities in one or more Member States, e.g. national holidays. Alternatively to "endeavour", we can suggest "shall notify within a few days".<br><br>Will member states also need to agree on the conditions that shall apply if the character of the investment differs between the relevant Union targets? E.g. if an investment in a Union target in member state A focuses on mostly on research and development and the investment in a Union target in member state B focuses on manufacturing or is simply a sales office / subsidiary?<br><br>Are all subsidiaries comprised by the Regulation regardless of the economic activities by these entities?<br><br>Will the Commission in practice help with the coordination? How do Member States contact each other? How do Member States know which other Member States are concerned?<br><br>FI<br>(Drafting suggestions):<br><br>Where the relevant Union targets or assets are located in more than one Member State, the foreign investor shall notify the competent Investment Authorities of all Member States concerned and the Commission on the same day with reference to the other notifications. The Member States concerned |

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| | shall coordinate the review of such notifications and ~~agree on the~~ conditions imposed with the other Member States concerned~~, as well as with the Commission.~~ In such coordination, Member States must give due regard to confidentiality<br><br>FI<br>(Comments):<br><br>We consider each Member State shall ultimately be allowed to decide on their own whether conditions are imposed or not, and what those conditions are. Coordinated process between Member States should be enough to ensure the process is streamlined. In international investments the investors are already coping with the investment environment where each state can impose conditions on their own. There is no reason to deviate from this.<br><br>Suggest removing unclear reference to the role of the Commission herein.<br><br>Also, there are currently different practises between Member States concerning the secrecy of FDI applications and processes. Where coordinated procedure will be applicable, we deem all applications and information must be kept secret by all national authorities. Also the final published decision should not include any business secrets.<br><br>IT<br>(Drafting suggestions):<br><br>6. Where the relevant Union targets or assets are located in more than one Member State, the foreign investor shall **endeavour to** notify the competent Investment Authorities of all Member States concerned and the Commission on the same day with reference to the other notifications. The Member States concerned **shall endeavour to** coordinate the review of such notifications ~~**and agree on the conditions imposed**~~ with the other Member States concerned. ~~**as well as with the Commission.**~~ |

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| | LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation what is the timeline for Member States to reach an agreement.<br><br>PL<br>(Drafting suggestions):<br><br>6. Where the relevant Union targets or assets are located in more than one Member State, the foreign investor shall notify the competent Investment Authorities of all Member States concerned and the Commission on the same day with reference to the other notifications. The Member States concerned shall coordinate the review of such notifications and agree on the conditions **proposed by the investor** ~~imposed~~ with the other Member States concerned, as well as with the Commission.<br><br>PL<br>(Comments):<br><br>Investor is proposing the conditions in it's notification – therefore the wording should reflect this and be "conditions proposed by the investor" vs. currently "conditions imposed"<br><br>PT<br>(Comments):<br><br>Whether this requirement is necessary should be assessed, or whether existing information-sharing mechanisms between Member States and the Commission would be sufficient.<br><br>SE<br>(Drafting suggestions):<br><br>6. Where the relevant Union targets or assets are located in more than one Member State, the foreign investor shall notify the competent Investment |

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| | Authorities of all Member States concerned and the Commission on the same day with reference to the other notifications. The Member States concerned shall coordinate the review of such notifications and **seek an** agree**ment** on the conditions imposed with the other Member States concerned, as well as with the Commission.<br><br>SE<br>(Comments):<br><br>The proposed changes seek to clarify the respective roles of Member States Investment Authorities and the Commission.<br><br>Para 6, first subparagraph, is amended to clarify that the Member States should seek to find an agreement. It is clear from the second subparagraph in the Commission proposal that the coordination does not necessarily result in an agreement.<br><br>SI<br>(Comments):<br><br>Not clear how to implement this provision. Which MS starts the coordination of review?<br><br>SK<br>(Drafting suggestions):<br><br>Where the relevant Union targets or assets are located in more than one Member State, the foreign investor shall **endevour to** notify the competent Investment Authorities of all Member States concerned and the Commission on the same day with reference to the other notifications. The Member States concerned shall coordinate the review of such notifications and agree on the conditions imposed with the other Member States concerned, as well as with the Commission |

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| | SK<br>(Comments):<br><br>We propose aligning this wording with the FDI Screening Regulation. The strict requirement of notifying multiple MS on the same day encounters technical and logistical obstacles. |
| | SE<br>(Drafting suggestions):<br><br>**<u>If there is an agreement, the Investment Authorities of the Member States concerned shall decide which conditions shall be applied to the foreign direct investment in accordance with that agreement.</u>**<br><br>SE<br>(Comments):<br><br>Where an agreement on the conditions imposed is reached, the Investment Authorities should decide which conditions shall be applied. Only where no agreement is reached, the Commission should decide on those conditions. |
| The Commission shall decide which conditions shall be applied to the foreign direct investment in case there is no agreement between the Member States concerned. | BE<br>(Comments):<br><br>Referring to Art. 18(2), can the Commission confirm whether MS authorities/ Commission shall determine which conditions to apply to which case or whether investors can choose which of the 5 (aside from the labour requirement) to fulfill?<br><br>CZ<br>(Drafting suggestions):<br><br>The Commission shall ~~**decide**~~ **issue an opinion** which conditions shall be applied to the foreign direct investment ~~**in case there is no agreement between the Member States concerned**~~. **<u>Member States concerned shall coordinate with a view to reaching agreement. Where no agreement is</u>** |

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| | **reached, each Member State shall adopt decision within its competence, which shall take into account the Commission's non-binding opinion.**<br><br>CZ<br>(Comments):<br><br>The Commission opinion should be non-binding and not delay decisions.<br><br>**Justification:**<br>- Avoids **double-layer approval system**.<br>Ensures legal certainty for investors.<br><br>DE<br>(Comments):<br><br>Scrutiny Reservation<br><br>DK<br>(Comments):<br><br>We should work towards making it clearer, when the Commission can, may or should take over an approval in practice.<br>For instance, what concrete steps would lead to the Commission taking over a case?<br><br>FI<br>(Drafting suggestions):<br><br>~~The Commission shall decide which conditions shall be applied to the foreign direct investment in case there is no agreement between the Member States concerned.~~<br><br>FI<br>(Comments): |

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| | We do not consider the Commission should have the powers referred to herein.<br><br>IT<br>(Drafting suggestions):<br><br>~~**The Commission shall decide which conditions shall be applied to the foreign direct investment in case there is no agreement between the Member States concerned.**~~<br><br>IT<br>(Comments):<br><br>*It is considered appropriate to exclude the attribution of decision-making competences to the Commission over the screening of foreign investments.*<br><br>MT<br>(Drafting suggestions):<br><br>The Commission **may issue a non-binding opinion with a view to facilitating coordination**, ~~shall decide which conditions shall be applied to the foreign direct investment~~ in case there is no agreement between the Member States concerned.<br><br>MT<br>(Comments):<br><br>Malta is pushing forward the principle of subsidiarity and proportionality in the area particularly when it comes to foreign direct investment. Malta does not agree with this final subparagraph which would empower the Commission to determine the conditions applicable to a foreign direct investment in the absence of agreement between the Member States concerned.<br><br>Malta considers that the role of the Commission should remain facilitative and advisory in nature, without prejudice to Member State competences and final |

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| | decision-making powers. Therefore we strongly propose to delete it or to reword it.<br><br>NL<br>(Drafting suggestions):<br><br>~~The Commission shall decide which conditions shall be applied to the foreign direct investment in case there is no agreement between the Member States concerned.~~<br><br>NL<br>(Comments):<br><br>the Commission effectively introduces a delegated power without the necessary legal safeguards. This is contrary to EU law.<br>Instead, the choice for conditions applied is a matter of uniform execution of enforcement of rules, which means they should be established in an implementing act following article 291 TFEU. Given that investment screening concerns trade policy, article 2(2)(b)(i) of Reg. 182/2011 indicates an examination procedure should be prescribed in that case.<br><br>PL<br>(Comments):<br><br>If the intention is to give the Commission the right to decide it has to be clearly stated that in case of disagreement between M.S. the Commission takes over the review of the notification and decides on the conditions imposed.<br><br>SE<br>(Comments):<br><br>- |
| | |
| Foreign direct investment notified pursuant to the first subparagraph shall fulfil the conditions laid down in Article 18 in all Member States concerned. | DE |

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| | (Drafting suggestions):<br><br>~~Foreign direct investment notified pursuant to the first subparagraph shall fulfil the conditions laid down in Article 18 in all Member States concerned.~~<br><br>DE<br>(Comments):<br><br>To be removed together with the previous sentence.<br><br>FI<br>(Drafting suggestions):<br><br>~~Foreign direct investment notified pursuant to the first subparagraph shall fulfil the conditions laid down in Article 18 in all Member States concerned.~~<br><br>IT<br>(Drafting suggestions):<br><br>~~**Foreign direct investment notified pursuant to the first subparagraph shall fulfil the conditions laid down in Article 18 in all Member States concerned.**~~<br><br>MT<br>(Drafting suggestions):<br><br>Foreign direct investment notified pursuant to the first subparagraph **may be assessed by the Mamber States comcered taking into account the conditions laid down in Article 18**. ~~shall fulfil the conditions laid down in Article 18 in all Member States concerned.~~<br><br>MT<br>(Comments):<br><br>In line with our comments/ proposed amendments under Article 18. |

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| | NL<br>(Drafting suggestions):<br>~~Foreign direct investment notified pursuant to the first subparagraph shall fulfil the conditions laid down in Article 18 in all Member States concerned~~<br>NL<br>(Comments):<br>See comment above |
| | NL<br>(Drafting suggestions):<br>ADD] The Commission shall adopt an implementing act to determine the conditions to be applied to foreign direct investments in cases there is no agreement between Member States concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(3).<br>NL<br>(Comments):<br>See comment above: proposal for this new amendment |
| *Article 20*<br>**Review and approval** | BE<br>(Comments):<br>Would the Commission not consider it opportune to to simplify the process and to clarify the exact role /power of the Commission in the process, and how it articulates with Art. 21? The described process could potentially come across as confusing for both for investors and MS. |
| | |
| 1. The Investment Authority shall decide on the admissibility of the notification pursuant to Articles 17 and 19 within 30 days of receiving the notification. That deadline may be extended by a further 15 days where the | DE<br>(Drafting suggestions): |

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| Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances. | The Investment Authority shall decide on the admissibility of the notification pursuant to Articles 17 and 19 within ~~30~~ **45** days of receiving the **complete** notification. That deadline may be extended by a further ~~15~~ **45** days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances.<br><br>DE<br>(Comments):<br><br>Coherent period with period set in the revised FDI screening regulation (applicable from January 2028) for screening phase 1. Also, the deadline must only start when the notification is complete, i.e. contains all documents required for the Investment Authority's decision. Investment Authorities should be able to extend the deadline by 45 days for very complex cases to be able to properly examine and assess all relevant details, in particular when the assessment is done e.g. over the Christmas holidays.<br><br>DK<br>(Comments):<br><br>These deadlines do not match the deadlines under the Regulation for Screening of Foreign Investments. Why is this and should we not work to align them?<br><br>FR<br>(Drafting suggestions):<br><br>1. The Investment Authority shall decide on the admissibility of the notification pursuant to Articles 17 and 19 within 30 days of receiving the **complete** notification. That deadline may be extended by a further 15 days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances.<br><br>FR<br>(Comments): |

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| | We suggest this amendment in order to secure the implementation with this provision (aligned with competition law procedures and especially merger Regulation).<br><br>IT<br>(Drafting suggestions):<br><br>1. The Investment Authority shall decide on the admissibility of the notification pursuant to Articles 17 and 19 within 30 days of receiving the notification. That deadline may be extended by a further 15 days where ~~**the Investment Authority demonstrates satisfactorily that**~~ an extension is justified by the circumstances.<br><br>IT<br>(Comments):<br><br>*The proposed wording is intended to enhance consistency with the terminology applicable to administrative procedures.*<br><br>LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation:<br>- What are the consequences if the country's Investment Authority fails to detect a case of abuse;<br>- How will penalties and sanctions be imposed;<br>- What is the minimum period for monitoring an investor (5, 10, or 20 years, or until the targets are met) – indefinite so far.<br><br>LU<br>(Drafting suggestions):<br><br>1. The Investment Authority shall decide on the admissibility of the notification pursuant to Articles 17 and 19 within ~~30~~ **45** days of receiving the notification. That deadline may be extended by a further 15 days where the |

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| | Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances.<br><br>LU<br>(Comments):<br><br>Change to align the timeframe with the FDI screening regulation<br><br>MT<br>(Comments):<br><br>Malta has serious reservations regarding this Article, in particular concerning the role and powers attributed to the 'Investment Authority' and the relationship of this new mechanism with the existing framework established under Regulation (EU) 2019/452.<br><br>As currently drafted, the Article introduces a highly prescriptive approval and review process for foreign direct investments, including mandatory approval criteria and a significant role for the Commission in the assessment process. Malta considers that further clarification is required regarding the nature of the 'Investment Authority', its interaction with existing national frameworks and competences, and the extent of Member State discretion in investment decisions.<br><br>Malta recalls that Regulation (EU) 2019/452 is based on a coordination and cooperation mechanism and fully preserves Member State competence with regard to decisions on foreign direct investment screening. In this regard, Malta considers that any framework established under this Regulation should remain proportionate, risk-based and without prejudice to national institutional arrangements and competences.<br><br>NL<br>(Comments): |

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| | 30 days maybe duable for admission. However to write an assessment in 30 days is not possiblr<br><br>PT<br>(Comments):<br><br>In cases of coordination between MS, is this deadline sufficient? 'justified by circumstances' should also be further defined.<br><br>SI<br>(Drafting suggestions):<br><br>The Investment Authority shall decide on the admissibility of the notification pursuant to Articles 17 and 19 within ~~30~~ **60** days of receiving the notification. That deadline may be extended by a further 15 days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances.<br><br>SI<br>(Comments):<br><br>The deadline for decision on the admissibility of the notification should be longer, taking into consideration that notifications are often subject to amendments which require time. Based on practical experiences from the Screening Regulation, the proposed deadline is too short. We suggest extending it up to 60 days. |
| | |
| Where the Investment Authority decides a notification is admissible, it shall immediately transmit the full notification to the Commission including all documents received. | IT<br>(Drafting suggestions):<br><br>Where the Investment Authority decides a notification is admissible, it shall ~~**immediately**~~ transmit the full notification to the Commission including all documents received.<br><br>SI |

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| | (Drafting suggestions):<br><br>Where the Investment Authority decides a notification is admissible, it shall ~~immediately~~**within three working days** transmit the full notification to the Commission including all documents received.<br><br>SI<br>(Comments):<br><br>Term "immediately" is not clear. We suggest defining a clear deadline. |
| | |
| 2. Within 30 days after receiving the notification, the Commission may issue a written opinion on whether the foreign direct investment falls within the scope of Articles 17 and 19, whether it fulfils the conditions laid out in Article 18(2), and whether the Investment Authority is to approve the investment or not. | CZ<br>(Drafting suggestions):<br><br>2. Within 30 days after receiving the notification, the Commission may issue a written opinion on whether the foreign direct investment falls within the scope of Articles 17 and 19, whether it fulfils the conditions laid out in Article 18(2), and whether the Investment Authority is to approve the investment or not. **The Commission's opinion shall be non-binding.**<br><br>CZ<br>(Comments):<br><br>It is not clear, why according to para 2, written opinion of the Commission should include the fact, whether the Investment Authority is to approve the investment or not. Given the possibility for the Investment Authority to divert from the Commission opinion (see also para 4), we propose to use a language from which it would be clear that the opinion is only a recommendation.<br><br>DE<br>(Drafting suggestions):<br><br>2. Within 30 days after receiving the notification, the Commission may issue a written opinion on whether the foreign direct investment falls within |

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| | the scope of Articles 17 and 19, whether it fulfils the conditions laid out in Article 18(2), and whether the Investment Authority ~~is to~~ **should** approve the investment or not.<br><br>DE<br>(Comments):<br><br>The Commission shall inform member states, but not share confidential information. Suggest same wording that is used in FDI screening regulation<br><br>DK<br>(Comments):<br><br>These deadlines do not match the deadlines under the Regulation for Screening of Foreign Investments. Why is this and should we not work to align them?<br><br>FI<br>(Drafting suggestions):<br><br>Within 30 days after receiving the notification, the Commission may issue a written opinion on whether the foreign direct investment falls within the scope of Articles 17 and 19, ~~whether it fulfils the conditions laid out in Article 18(2),~~ and whether the Investment Authority is to approve the investment or not.<br><br>FI<br>(Comments):<br><br>Amendments as per our suggestions to Articles 17 and 19 above.<br><br>FR<br>(Drafting suggestions):<br><br>2. Within 30 days after receiving the **complete** notification, the Commission may issue a written opinion on whether the foreign direct investment falls within the scope of Articles 17 and 19, whether it fulfils the |

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| | conditions laid out in Article 18(2), and whether the Investment Authority is to approve the investment or not.<br><br>FR<br>(Comments):<br><br>We suggest this amendment in order to secure the implementation with this provision (aligned with competition law procedures and especially merger Regulation).<br><br>IT<br>(Drafting suggestions):<br><br>2. Within 30 days after receiving the notification, the Commission may issue a written opinion ~~**on**~~ whether the foreign direct investment falls within the scope of Articles 17 and 19, whether it fulfils the conditions laid out in Article 18(2)~~**, and whether the Investment Authority is to approve the investment or not**~~<br><br>IT<br>(Comments):<br><br>*It is considered appropriate for assessments on the transaction to remain within the competence of the Member State.*<br><br>MT<br>(Drafting suggestions):<br><br>2. Within 30 days after receiving the notification, the Commission may issue a written opinion on whether the foreign direct investment falls within the scope of Articles 17 and 19, whether it fulfils the conditions laid out in Article 18(2)~~, and whether the Investment Authority is to approve the investment or not.~~ **The Commission opinion shall be non-binding.**<br><br>MT<br>(Comments): |

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| | The opinion of the Commission shall be advisory in nature and shall not affect the competence of Member States to decide whether to approve or refuse a foreign direct investment.<br><br>SI<br>(Comments):<br><br>It is determind that the Commission may issue a writen opinion. What happens if it doesn't issue such an opinion? Is this tacid consent? What are the criteria for issuing or not issuing an opinion? |
| | |
| Where the Commission issues a written opinion, it shall transmit it to the Investment Authority without delay. The Commission may share the written opinion with the Investment Authorities of other Member States or publish the written opinion on its official website, with due regard to confidentiality. | CZ<br>(Drafting suggestions):<br><br>Where the Commission issues a written opinion, it shall transmit it to the Investment Authority without delay. The Commission may share the written opinion with the Investment Authorities of other Member States or publish the written opinion on its official website, with due regard to confidentiality. **Publication shall only occur with the prior agreement of the notifying Member State and with due regard to ~~business~~ confidentiality of the information.**<br><br>CZ<br>(Comments):<br><br>It is also not clear, why the Commission should have the discretion to share the opinion with the Investment Authorities of other Member States and in which situation it should do that.<br>Above all, we do not agree with its discretion to publish the opinion on the official website. Information about the investment might be confidential. It should be left for the investor itself to inform about the investment.<br><br>DE |

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| | (Drafting suggestions):<br><br>~~The Commission may share the written opinion with the Investment Authorities of other Member States or publish the written opinion on its official website, with due regard to confidentiality.~~<br>**The Commission shall notify the other Member States that an opinion was issued and share the written opinion with other member states if requested.**<br><br>DE<br>(Comments):<br><br>The Commission shall inform member states, but not share confidential information. Suggest same wording that is used in FDI screening regulation<br><br>DK<br>(Comments):<br><br>What is the reason behind the Commission's possibility of sharing or publishing the written opinion this early in the process? And how is confidentiality ensured? Complete confidentiality could prove difficult especially in sectors where there are only a limited number of possible investors?<br><br>FI<br>(Drafting suggestions):<br><br>Where the Commission issues a written opinion, it shall transmit it to the Investment Authority without delay. The Commission may share the written opinion with the Investment Authorities of other Member States ~~or publish the written opinion on its official website,~~ with due regard to confidentiality.<br><br>FI<br>(Comments): |

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| | We consider all investments must be considered strictly confidential before they are published by investors. Premature publicity could damage both the foreign company's and potential EU partner's reputation, reduce their market value, and prevent the trancation from closing. This could also increase the risk of politicising the investment environment.<br><br>Even after the investment has been made public by the investor and approved/declined by the Investment Authority, we consider that authorities should not disclose any business secrets to public to preserve Europe as a secure investment environment.<br><br>IT<br>(Comments):<br><br>*It is appropriate to mirror, mutatis mutandis, the safeguards laid down in the new FDI Regulation concerning the confidentiality of information. In particular, it is proposed to introduce a specific provision modelled on Article 17 of the aforementioned Regulation. See below:*<br><br>*1. Information received as a result of the application of this Regulation shall be used only for the purpose for which it was provided, unless the originator of the information explicitly agrees to another use.*<br>*2. Member States and the Commission shall ensure the confidentiality of the information they provide or receive in application of this Regulation, in accordance with Union and national law. When dealing with requests for access to documents provided or received in application of this Regulation, Member States and the Commission shall refrain from disclosing any information that would undermine the purpose of the investigations conducted pursuant to this Regulation.*<br>*3. Member States and the Commission shall ensure that classified information provided or exchanged under this Regulation is not downgraded or declassified without the prior written consent of the originator.* |

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| | LU<br>(Drafting suggestions):<br><br>Where the Commission issues a written opinion, it shall transmit it to the Investment Authority without delay. The Commission may share the written opinion with the Investment Authorities of other Member States ~~or publish the written opinion on its official website,~~ with due regard to confidentiality.<br><br>LU<br>(Comments):<br><br>We propose removing the publication of the opinion in order to protect investor's confidentality.<br><br>SI<br>(Drafting suggestions):<br><br>Where the Commission issues a written opinion, it shall transmit it to the Investment Authority ~~without delay~~**within three working days**. The Commission may share the written opinion with the Investment Authorities of other Member States or publish the written opinion on its official website, with due regard to confidentiality.<br><br>SI<br>(Comments):<br><br>Term "withoud delay" is not clear. We suggest defining a clear deadline. What are the criteria based on which the Commission decides to share or publsih an opinion? It is unclear.<br><br>SK<br>(Drafting suggestions):<br><br>Where the Commission issues a written opinion, it shall transmit it to the Investment Authority without delay. The Commission may share the written |

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| | opinion with the Investment Authorities of other Member States ~~or publish the written opinion on its official website, with due regard to confidentiality~~.<br><br>SK<br>(Comments):<br><br>We request the deletion of the EC's authorization to publish its opinions online. The mere publication of a negative opinion poses an extreme reputational risk and could constitute a premature "announcement" of the investment, potentially disrupting sensitive business strategies. |
| | |
| 3. No sooner than receiving the opinion of the Commission or the lapse of the deadline referred to in paragraph 2 and no later than 60 days, or 75 days if the deadline was extended in accordance with paragraph 1, after receipt of the notification, the Investment Authority shall issue a reasoned decision approving or declining the foreign direct investment. The Investment Authority shall approve the foreign direct investment if it fulfils 4 out of 6 conditions set out in Article 18. The deadline for issuing the reasoned decision may be extended by a further 30 days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances. | CZ<br>(Comments):<br><br>Timelines in para 3 are not reasonable. Member States should have time to study the Commission opinion and prepare a decision.<br><br>DE<br>(Drafting suggestions):<br><br>No sooner than receiving the opinion of the Commission or the lapse of the deadline referred to in paragraph 2 and no later than ~~60~~ **75** days, or ~~75~~ **120** days if the deadline was extended in accordance with paragraph 1, after receipt of the notification, the Investment Authority shall issue a reasoned decision approving or declining the foreign direct investment. The Investment Authority shall approve the foreign direct investment if it fulfils **the** ~~4 out of 6~~ conditions set out in Article 18. The deadline for issuing the reasoned decision may be extended by a further ~~30~~ **60** days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances. **The Investment Authority may request the foreign investor provide additional information in case this information is required to take a reasoned decision. Once such an information request** |

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| | **is issued, the deadlines set out in this paragraph start running again once the investor provides the complete requested information.**<br><br>DE<br>(Comments):<br>Adjusting the deadlines accordingly to the changes in para. 1.<br><br>Changing 30 to 60 days given the experience in FDI screening: In very complex cases the Investment Authority will often need more time than an addition 30 days. In addition, FDI screening shows that complex cases often require the Investment Authority to request further information on case-specific details to be able to issue an informed and reasoned decision. As long as the request is pending, the deadlines must be stopped, otherwise the investor could "sabotage" orderly proceedings by not providing this information in a complete and timely fashion.<br>DK<br>(Comments):<br>These deadlines do not match the deadlines under the Regulation for Screening of Foreign Investments. Why is this and should we not work to align them?<br><br>How would investments that involve several Member States be treated and coordinated in practice? How would coordination take place and who would be in the lead?<br>FI<br>(Drafting suggestions):<br>No sooner than receiving the opinion of the Commission or the lapse of the deadline referred to in paragraph 2 and no later than 60 days, or 75 days if |

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| | the deadline was extended in accordance with paragraph 1, after receipt of the notification, the Investment Authority shall issue a reasoned decision approving or declining the foreign direct investment. ~~The Investment Authority shall approve the foreign direct investment if it fulfils 4 out of 6 conditions set out in Article 18.~~ The deadline for issuing the reasoned decision may be extended by a further 30 days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances.<br><br>FI<br>(Comments):<br><br>Amendments as per our suggestions to Articles 17 and 19 above.<br><br>IT<br>(Drafting suggestions):<br><br>3. No sooner than receiving the opinion of the Commission or the lapse of the deadline referred to in paragraph 2 and no later than 60 days, or 75 days if the deadline was extended in accordance with paragraph 1, after receipt of the notification, the Investment Authority shall issue a reasoned decision approving or declining the foreign direct investment. **~~The Investment Authority shall approve the foreign direct investment if it fulfils 4 out of 6 conditions set out in Article 18.~~** The deadline for issuing the reasoned decision may be extended by a further 30 days where **~~the Investment Authority demonstrates satisfactorily that~~** an extension is justified by the circumstances.<br><br>IT<br>(Comments):<br><br>*The Commission's opinion should not limit the outcome of the decision of the national authority.* |

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| | *In any case, the proposed wording is intended to enhance consistency with the terminology applicable to administrative procedures.*<br><br>LU<br>(Drafting suggestions):<br><br>3. No sooner than receiving the opinion of the Commission or the lapse of the deadline referred to in paragraph 2 and no later than ~~60~~ **75** days, or ~~75~~ **90** days if the deadline was extended in accordance with paragraph 1, after receipt of the notification, the Investment Authority shall issue a reasoned decision approving or declining the foreign direct investment. The Investment Authority shall approve the foreign direct investment if it fulfils 4 out of 6 conditions set out in Article 18. The deadline for issuing the reasoned decision may be extended by a further 30 days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances<br><br>LU<br>(Comments):<br><br>Change to align the timeframe at article 20, paragraph 1.<br><br>MT<br>(Drafting suggestions):<br><br>3. No sooner than receiving the opinion of the Commission or the lapse of the deadline referred to in paragraph 2 and no later than 60 days, or 75 days if the deadline was extended in accordance with paragraph 1, after receipt of the notification, the Investment Authority shall issue a reasoned decision approving or declining the foreign direct investment. The Investment Authority ~~shall~~ **may** approve the foreign direct investment if it fulfils 4 out of 6 conditions set out in Article 18. The deadline for issuing the reasoned decision may be extended by a further 30 days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances. |

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| | MT<br>(Comments):<br>Malta has changed shall to may.<br>PT<br>(Comments):<br>'justified by circumstances' should be further defined.<br>SE<br>(Drafting suggestions):<br>3. No sooner than receiving the opinion of the Commission or the lapse of the deadline referred to in paragraph 2 and no later than 60 days, or 75 days if the deadline was extended in accordance with paragraph 1, after receipt of the notification, the Investment Authority shall issue a reasoned decision approving or declining the foreign direct investment. ~~The Investment Authority shall approve the foreign direct investment if it fulfils 4 out of 6 conditions set out in Article 18.~~ The deadline for issuing the reasoned decision may be extended by a further 30 days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances.<br>SE<br>(Comments):<br>The conditions for approving investments are already spelled out in article 18.2/18.4. There is no need to duplicate the information, which also may cause confusion with regards to cases handled under article 18.4.<br>SI<br>(Drafting suggestions):<br>No sooner than receiving the opinion of the Commission or the lapse of the deadline referred to in paragraph 2 and no later than ~~60~~**90** days, or ~~75~~**105** |

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| | days if the deadline was extended in accordance with paragraph 1, after receipt of the notification, the Investment Authority shall issue a reasoned decision approving or declining the foreign direct investment. The Investment Authority shall approve the foreign direct investment if it fulfils 4 out of 6 conditions set out in Article 18. The deadline for issuing the reasoned decision may be extended by a further 30 days where the Investment Authority demonstrates satisfactorily that an extension is justified by the circumstances.<br><br>SI<br>(Comments):<br><br>Please see comment to paragraph one. |
| | IT<br>(Drafting suggestions):<br><br>**<u>In adopting the decision, the Investment Authority shall duly take into account the investment's impact on local production chains, qualified employment and territorial cohesion, in addition to the criteria in Article 18.</u>** |
| The Investment Authority shall communicate such reasoned decisions to the Commission within three days of adoption. | IT<br>(Drafting suggestions):<br><br>The Investment Authority shall communicate such ~~**reasoned**~~ decisions to the Commission ~~**within three days of adoption**~~<br><br>IT<br>(Comments):<br><br>*It is considered appropriate not to increase the burden placed on the Member State.* |

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| | SI<br>(Drafting suggestions):<br>The Investment Authority shall communicate such reasoned decisions to the Commission within ~~three~~**ten** days of adoption.<br>SI<br>(Comments):<br>The deadline should be longer. We suggest extending it up to 10 days. |
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| 4. Where the Investment Authority gives a decision which diverts from the Commission opinion as regards compliance of the foreign direct investment with the conditions laid down in Article 18, the Investment Authority shall assess the notification in greater detail within an additional period of two months and the decision shall only enter into force after the lapse of this deadline. | BE<br>(Comments):<br>Can the Commission elaborate on the usefulness of the added 2 month review period with regards to proportionality and efficacy of the procedure? (regards administrative burden and investment climate)<br>CZ<br>(Drafting suggestions):<br>Where the Investment Authority gives a decision which diverts from the Commission opinion as regards compliance of the foreign direct investment with the conditions laid down in Article 18, the Investment Authority shall assess the notification in greater detail within an additional period of ~~two~~ **one** month~~s~~ and the decision shall only enter into force after the lapse of this deadline.<br>CZ<br>(Comments):<br>Timelines in para 4 are not reasonable. Further assessment of the notification can be done earlier than in 2 months, therefore the provision should include |

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| | possibility to finalise assessment earlier. Otherwise, the investment will be unnecessarily delayed.<br><br>DE<br>(Drafting suggestions):<br><br>~~Where the Investment Authority gives a decision which diverts from the Commission opinion as regards compliance of the foreign direct investment with the conditions laid down in Article 18, the Investment Authority shall assess the notification in greater detail within an additional period of two months and the decision shall only enter into force after the lapse of this deadline.~~<br><br>DE<br>(Comments):<br><br>obligations the the Investment Authority should be in line with the FDI screening regualtion and not introduce further buracratic bruden. Suggest to use same wording as in FDI screening regulation.<br><br>DK<br>(Drafting suggestions):<br><br>Where the Investment Authority gives a decision which diverts from the Commission opinion as regards compliance of the foreign direct investment with the conditions laid down in Article 18, the Investment Authority shall assess the notification in greater detail within an additional period of **up to** two months and the decision shall only enter into force after the lapse of this deadline.<br><br>DK<br>(Comments):<br><br>According to the formulation, the approval process should automatically be extended by two additional months in case of diverging opinions. We would |

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| | suggest adding some flexibility to the formulation here so that this extension can in practice be shorter, as suggested in Article 20(4).<br><br>FI<br>(Drafting suggestions):<br><br>Where the Investment Authority gives a decision which diverts from the Commission opinion ~~as regards compliance of the foreign direct investment with the conditions laid down in Article 18,~~ the Investment Authority shall assess the notification in greater detail. **This assessment can take a maximum of 60 days.** ~~within an additional period of two months and the decision shall only enter into force after the lapse of this deadline.~~<br><br>FI<br>(Comments):<br><br>Amendments as per our suggestions to Articles 17 and 19 above.<br><br>We also consider deviating from the Commission's opinion should not automatically delay the process by two months, but that the reassessment could take a maximum of two months. Otherwise this could delay the approval significantly.<br><br>IT<br>(Drafting suggestions):<br><br>4. Where the Investment Authority gives a decision which diverts from the Commission opinion as regards compliance of the foreign direct investment with the conditions laid down in Article 18, the Investment Authority ~~**shall assess the notification in greater detail within an additional period of two months and the decision shall only enter into force after the lapse of this deadline.**~~ **explain how the opinion of the Commission was taken into account.** |

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| | IT<br>(Comments):<br><br>*The extension period of two months provided by this article would be an undue burden for economic operators.*<br><br>LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation:<br>- What if the final decision of the Member State still differs from that that issued by the Commission;<br>- Who has the final say;<br>- And does the acknowledgement by the Commission is required before the Member State issues a final communication to the investor.<br><br>LU<br>(Drafting suggestions):<br><br>~~4. Where the Investment Authority gives a decision which diverts from the Commission opinion as regards compliance of the foreign direct investment with the conditions laid down in Article 18, the Investment Authority shall assess the notification in greater detail within an additional period of two months and the decision shall only enter into force after the lapse of this deadline~~<br><br>LU<br>(Comments):<br><br>The extension of the deadline following the opinion of the Commission constitutes a source of legal uncertainty. Indeed, this provision creates the risk of extending a procedure that may have already been validated under other rules currently in force (for instance FDI screening regulation, EU |

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| | merger control regulation and Foreign subsidies regulation), without creating added value.<br><br>MT<br>(Drafting suggestions):<br><br>~~4. Where the Investment Authority gives a decision which diverts from the Commission opinion as regards compliance of the foreign direct investment with the conditions laid down in Article 18, the Investment Authority shall assess the notification in greater detail within an additional period of two months and the decision shall only enter into force after the lapse of this deadline.~~<br><br>MT<br>(Comments):<br><br>Malta wants to delete para 4. Malta has concerns regarding this paragraph, which may unduly constrain Member State discretion where a national authority reaches a different assessment from the Commission. We strongly push for the deletion of this paragraph in its entirety.<br><br>PT<br>(Comments):<br><br>The "double check" mechanism implies a limitation on Member States' autonomy, as any divergence from the Commission's opinion must be duly justified. Although the text appears to formally preserve the final decision at national level, it effectively introduces additional constraints on the exercise of national decision-making.<br><br>SE<br>(Drafting suggestions):<br><br>4. Where the Investment Authority gives a decision which diverts from the Commission opinion as regards compliance of the foreign direct investment with the conditions laid down in Article 18, the Investment |

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| | Authority shall assess the notification in greater detail **and, if it deems it appropriate based on that assessment, amend the decision** within an additional period of two months**.** ~~and t~~**T**he decision shall only enter into force after the lapse of this deadline.<br><br>SE<br>(Comments):<br><br>It should be clarified that the decision of the Investment Authority may be amended as a result of the detailed assessment, but that it is based on whether the Investment Authority deems it appropriate.<br><br>Also see amendment to the preambular text, para 49, where we propose to clarify that the written opinion of the Commission is not binding for the Investment Authority. |
| | |
| Investment Authorities shall, in their reasoned decision issued pursuant to paragraph 3, justify how the opinion of the Commission was taken into account. | CZ<br>(Drafting suggestions):<br><br>Investment Authorities shall **communicate to the Comission** ~~, in their reasoned decision issued pursuant to paragraph 3, justify~~ how the opinion of the Commission was taken into account.<br><br>CZ<br>(Comments):<br><br>Justification should not be part of the reasoned decision shared with the investor, rather it should be communicated to the Commission separately.<br><br>DE<br>(Drafting suggestions):<br><br>~~Investment Authorities shall, in their reasoned decision issued pursuant to paragraph 3, justify how the opinion of the Commission was taken into~~ |

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| | ~~account~~. **The Member State undertaking the screening shall give due consideration to the opinion of the Commission referred to in paragraph 2.**<br><br>DE<br>(Comments):<br><br>obligations the the Investment Authority should be in line with the FDI screening regualtion and not introduce further buracratic bruden. Suggest to use same wording as in FDI screening regulation<br><br>IT<br>(Drafting suggestions):<br><br>~~**Investment Authorities shall, in their reasoned decision issued pursuant to paragraph 3, justify how the opinion of the Commission was taken into account.**~~ |
| | |
| 5. The Investment Authority shall, in its approval decision, set out reporting obligations on the investor concerned, with a view to assessing the continuous fulfilment of the conditions laid down in Article 18. | CZ<br>(Drafting suggestions):<br><br>The Investment Authority shall, in its approval decision, set out reporting obligations on the investor concerned, with a view to assessing the continuous fulfilment of the conditions laid down in Article 18. **These obligations shall be set up to a maximum of XX years.**<br><br>CZ<br>(Comments):<br><br>Reporting obligations seem to be too restrictive creating unnecessary burden. We suggest to limit this obligation in time or to relevant cases – i. e. to incorporate certain flexibility into the provision. |

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| | FI<br>(Drafting suggestions):<br><br>**Where conditions are imposed**, the Investment Authority shall, in its approval decision, set out reporting obligations on the investor concerned, with a view to assessing the continuous fulfilment of the conditions laid down in Article 18.<br><br>FI<br>(Comments):<br><br>Amendments as per our suggestions to Articles 17 and 19 above.<br><br>FR<br>(Drafting suggestions):<br><br>5. The Investment Authority shall, in its approval decision, set out reporting obligations **and a schedule** on the investor concerned, with a view to assessing the continuous fulfilment of the conditions laid down in Article 18 **and under the conditions set out in Article 22**.<br><br>FR<br>(Comments):<br><br>We suggest this amendment in order to secure the implementation with this provision and secure foreign investments.<br><br>MT<br>(Drafting suggestions):<br><br>5. The Investment Authority ~~shall~~**may**, in its approval decision, set out reporting obligations on the investor concerned, with a view to assessing the continuous fulfilment of the conditions laid down in Article 18.<br><br>MT |

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| | (Comments):<br>Amendment aims to remove the obligation and gives more discretion to Member States. |
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| 6. Any party subject to a decision issued pursuant to paragraphs 1 or 3 shall have the right to seek judicial recourse against such decision. | BE<br>(Comments):<br>Can the Commission clarify what role the Commission will play in case of an appeal considering the weight given to the Commission opinion in the procedure as described in this article? |
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| *Article 21*<br>**Review of foreign direct investment by the Commission** | DE<br>(Drafting suggestions):<br>~~Article 21~~<br>~~**Review of foreign direct investment by the Commission**~~<br><br>FI<br>(Drafting suggestions):<br>~~Article 21~~<br>~~**Review of foreign direct investment by the Commission**~~<br><br>FI<br>(Comments):<br>In line with our comments above, we consider this article should be removed.<br><br>We also note that the possibility given in subparagraph (b) for another Member State to request the Commission to initiate a review of a foreign direct investment in the host Member State carries a risk of politicising the investment environment. This combined with the self-initiation powers given to the Commission opens the door to political maneuvering.<br><br>IT<br>(Drafting suggestions):<br>~~**Article 21**~~<br>~~**Review of foreign direct investment by the Commission**~~<br><br>MT<br>(Comments):<br>During the Industry Working Party of the 5th June 2026, Malta asked the Council Legal Service for its opinion if article 21 goes beyond the principle of subsidiarity in terms of the additional powers being granted to the CION and watering down Member State competences. Malta is very much concerned with article 21. |

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| | Malta fundamentally opposed the Commission having a direct role in reviewing investments, arguing that this should remain the sole responsibility of national authorities and that the Commission should be limited to issuing opinions. Should Article 21 be retained, it should either be significantly narrowed or linked to clearly defined thresholds. Malta also raised a number of questions about paragraph 3, including what information the Commission could rely on, whether it could request additional information, and whether it could impose conditions that are otherwise left to the investor's choice under Article 18. Malta also questions whether another Member State could misuse the procedure to interfere in investment decisions and asked for clarification on the timeline and on whether the Commission could intervene once an investment is already under way.<br><br>Malta stresses that investment screening often involves lengthy informal contacts and trust-building among public authorities, and warned that a late intervention by the Commission could disrupt ongoing processes and investment pipelines. While it saw some value in an arbitration or legal-opinion role for the Commission in cross-border cases, it expressed serious concern about the Commission stepping into an ongoing national process and taking over the decision. |
| | |
| 1. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of the foreign direct investment in the following circumstances: | CZ<br>(Drafting suggestions):<br>Following the **transmission of the** notification referred to in Article 19(1),...<br>CZ<br>(Comments): |

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| | The reference to notification is not correct, it should state "following the transmission of the notification referred to in Article 19(1)". To take into account the fact that Member state transmitted the notification to the Commission.<br><br>DE<br>(Drafting suggestions):<br>~~1. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of the foreign direct investment in the following circumstances.~~<br><br>DE<br>(Comments):<br>Investments within the scope of this chapter can be of high importance for the Member States and their regions. We consider it the right of the member state to decide on the conditions applied to investments in its territory. We strongly advise against giving the Comission the right to block investments or impose conditions that deter an investor from making the investment, after all. This is of particular importance for MS with a federal system where it is mainly the federal states / regions and not the central government that are tasked with attracting investments and that benefit on a regional level from the investment.<br>A level playing field across the MS can already be achieved with the harmonised set of criteria in Article 18 and harmonised procedures without given the Commision the right to decide on the investment instead of the MS.<br><br>EE<br>(Comments):<br>The criteria in Art 21 para 1 and 2 need to be further clarified to ensure that they can be implemented in practice. In particular, the meaning of |

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| | "significantly impact" and "particular strategic importance" needs to be defined.<br><br>FI<br>(Drafting suggestions):<br><br>~~1. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of the foreign direct investment in the following circumstances:~~<br><br>IT<br>(Drafting suggestions):<br><br>**~~1. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of the foreign direct investment in the following circumstances:~~**<br><br>IT<br>(Comments):<br><br>*Consistent with earlier observations, it is deemed appropriate for Member States to maintain competence over decisions concerning the outcome of screening procedures.*<br><br>*In fact, the nature of the authorisation set out by this regulation would concern also issues of national security (e.g. disrupting of the security of supplies and security in more than one Member States). These issues shall only fall into the scope of the procedures provided Regulation (EU) 2019/452 and of the new regulation on foreign investments and national screening mechanims.*<br><br>LU<br>(Drafting suggestions): |

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| | 1. **Within 30 days** ~~Following~~ **of the receipt of** the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of the foreign direct investment in the following circumstances:<br><br>LU<br>(Comments):<br><br>For reasons of legal certainty and predictability, it is proposed to establish a time limit for the Commission's decision on whether to intervene or not. The proposed deadline is consistent with the deadline for issuing an opinion set out in Article 20, paragraph 2 of the proposal.<br><br>NL<br>(Drafting suggestions):<br><br>Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of the foreign direct investment in the following circumstances:<br><br>PL<br>(Comments):<br><br>What does the "assessment" mean? This needs to be explicitly stated that the Commission takes over the assessment or alternatively be changed to "review" as in art.20.<br>Article 19(1) requires that the investor notifies the Member State and not the Commission. The wording of this paragraph should clarify how the Commission is notified to take a decision to undertake a review.<br>Additionally, PL is of the opinion that the Commission can only take over the assessment at the request of a Member State, unless the investment involves several Member States and they are unable to reach a common position.<br><br>PT<br>(Comments): |

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| | These scenarios may reduce MS's decision-making margin regarding investments carried out in its territory.<br><br>SE<br>(Comments):<br><br>SE cannot accept the review of investment from the Commission as presented in the draft, especially given the close connection these transactions have to national security. We also oppose any possibility for authorities in other Member States to request the commission to take over a case in another Member State.<br><br>Admittedly, the IAA has a different purpose than the recently negotiated Regulation on screening of foreign investments, but it is important to keep in mind that it is often the same transaction that will be subject to review under both investment screening and IAA. Also considering the close relationship between competitiveness and national security, we would urge the commission to draw on the compromises found in the negotiation of the investment screening regulation. For example, we see it is a quite problematic that the Commission would be in a position to take over a case under IAA but that the national authority would be in charge of the case under the investment screening framework.<br><br>SE however agrees that the Commission has an important role in ensuring a harmonised application of this regulation in all Member States in the following capacity:<br>• To provide non-binding recommendations and advise to MS authorities (see article 20).<br>• To take over cases on the request of the MS authority handling the case.<br>• To provide information to MS authorities (article 23.1). |

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| | • To start infringement cases should a MS not follow the rules on investment conditionalities.<br><br>SK<br>(Drafting suggestions):<br><br>Alternative 1: Following the notification referred to in Article 19(1), the Commission may decide to ~~undertake the assessment of~~ **provide an opinion on** the foreign direct investment in the following circumstances:<br><br>Alternative 2: Following the notification referred to in Article 19(1), the Commission ~~may decide to~~ **shall** undertake the assessment of the foreign direct investment ~~in the following circumstances~~ **upon the request of an Investment Authority handling the notification or where a foreign direct investment exceeds [insert value].**<br><br>SK<br>(Comments):<br><br>The assessment should remain primarily within the competence of the MS. We propose narrowing the EC's powers so it cannot conduct direct assessments but only provide opinions.<br><br>Alternatively, if retained, it should be formulated as an obligation ("shall undertake") strictly limited to cases requested by the affected MS or of significant amount. |
| | |
| (a) on its own initiative, where the foreign direct investment has the potential to significantly impact added value creation in the Union market; | CZ<br>(Drafting suggestions):<br><br>~~(a) on its own initiative, **only where the investment meets the threshold in point (c) or where duly substantiated cross-border effects**~~ |

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| | ~~**are demonstrated;**where the foreign direct investment has the potential to significantly impact added value creation in the Union market;~~<br><br>CZ<br>(Comments):<br><br>Term "significantly impact" is not clear and therefore should be explained.<br><br>DE<br>(Drafting suggestions):<br><br>~~(a) on its own initiative, where the foreign direct investment has the potential to significantly impact added value creation in the Union market;~~<br><br>DK<br>(Comments):<br><br>What added value could the involvement of the Commission have alongisde the national authority, if there are no cross-border impact - which is already covered under article 21 (1b), as well as article 21 (2a-d)?<br><br>FI<br>(Drafting suggestions):<br><br>~~(a) on its own initiative, where the foreign direct investment has the potential to significantly impact added value creation in the Union market;~~<br><br>FR<br>(Comments):<br><br>We suggest to determine ans define the notion of "significant impact" to clarify the cas where the EC may undertake this assessment.<br><br>IT<br>(Drafting suggestions): |

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| | ~~**(a) on its own initiative, where the foreign direct investment has the potential to significantly impact added value creation in the Union market;**~~<br><br>LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation what 'potential to significantly impact added value creation in the Union market' term means.<br><br>MT<br>(Comments):<br><br>Malta would like to have a clear definition of significant impact added value creation. The current text is too vague. How will the CION determine an FDI having the 'potential to significantly impact added value creation in the Union market'? Will there be benchmarks developed or established thresholds following an analysis of the market or an Impact Assessment? Would these uniformally apply to all sectors regardless of the MS in question?<br><br>NL<br>(Drafting suggestions):<br><br>~~(a) on its own initiative, where the foreign direct investment has the potential to significantly impact added value creation in the Union market;~~<br><br>PL<br>(Drafting suggestions):<br><br>~~(a) on its own initiative, where the foreign direct investment has the potential to significantly impact added value creation in the Union market;~~<br><br>SE<br>(Drafting suggestions): |

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| | ~~(a) on its own initiative, where the foreign direct investment has the potential to significantly impact added value creation in the Union market;~~<br><br>SK<br>(Drafting suggestions):<br><br>~~(a) on its own initiative, where the foreign direct investment has the potential to significantly impact added value creation in the Union market;~~<br><br>SK<br>(Comments):<br><br>To be deleted in case of Alternative 2 (see above). |
| | |
| (b) on the request of an Investment Authority handling a notification, or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory; or | CZ<br>(Comments):<br><br>Term “significan impact” is not clear and therefore should be explained.<br><br>DE<br>(Drafting suggestions):<br><br>~~(b) on the request of an Investment Authority handling a notification, or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory; or~~<br><br>FI<br>(Drafting suggestions):<br><br>~~(b) on the request of an Investment Authority handling a notification, or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory; or~~<br><br>IT<br>(Drafting suggestions): |

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| | ~~**(b) on the request of an Investment Authority handling a notification, or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory; or.**~~<br><br>LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation how would such a request from a MS impact the timelines of the assessment.<br><br>LU<br>(Drafting suggestions):<br><br>(b) ~~on the request of an Investment Authority handling a notification, or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory; or~~<br><br>LU<br>(Comments):<br><br>We propose to move this sub-paragraph to a new separate paragraph (1a).<br><br>NL<br>(Drafting suggestions):<br><br>(b)on the request of an Investment Authority handling a notification, ~~or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory;~~<br><br>SE<br>(Drafting suggestions): |

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| | (b) on the request of an Investment Authority handling a notification, ~~or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory; or~~<br><br>SK<br>(Drafting suggestions):<br><br>~~(b) on the request of an Investment Authority handling a notification, or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory; or~~<br><br>SK<br>(Comments):<br><br>To be deleted in case of Alternative 2 (see above). |
| | |
| © on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion. | CZ<br>(Drafting suggestions):<br><br>on its own initiative, **only** where the foreign direct investment has value exceeding EUR 1 billion, **or where duly substantiated cross-border effects are demonstrated.**<br><br>DE<br>(Drafting suggestions):<br><br>~~(c) on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion.~~<br><br>FI<br>(Drafting suggestions):<br><br>~~© on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion.~~<br><br>IT |

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| | (Drafting suggestions):<br><br>~~© on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion.~~<br><br>LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation how value is calculated.<br><br>LU<br>(Drafting suggestions):<br><br>~~©~~ **(b)** on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion.<br><br>LU<br>(Comments):<br><br>The structure of this paragraph has been modified to reflect the relocation of point (b) to a new paragraph 1a.<br><br>NL<br>(Drafting suggestions):<br><br>~~(c) or on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion.~~<br><br>PL<br>(Drafting suggestions):<br><br>~~on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion.~~<br><br>SE |

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| | (Drafting suggestions):<br>~~© on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion.~~<br>SK<br>(Drafting suggestions):<br>~~© on its own initiative, where the foreign direct investment has value exceeding EUR 1 billion.~~<br>SK<br>(Comments):<br>To be deleted in case of Alternative 2 (see above). |
| | LU<br>(Drafting suggestions):<br>**1a**. ~~on~~ **The** Investment Authority ~~the~~ **handling the notification may request the Commission to assess a foreign direct investment occuring within its territory** ~~of an Investment Authority handling a notification, or an Investment Authority of another Member State, in which the foreign direct investment in question would have a significant impact on its territory~~; or<br>LU<br>(Comments):<br>It is proposed to maintain the possibility for Investment Authorities to request an assessment from the Commission.<br><br>For reasons of legal certainty, only Investment Authorities handling the notification should be competent to seize the Commission.<br>PL<br>(Drafting suggestions): |

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| | **(x) on the request of an Investment Authority of one of the Member States concerned, in case that the relevant Union targets or assets are located in more than one Member State, in accordance with art. 19 (6).**<br><br>PL<br>(Comments):<br><br>PL is of the opinion that the Commission can only take over the assessment at the request of a Member State, unless the investment involves several Member States and they are unable to reach a common position. |
| 2. For the purposes of paragraph 1, the foreign direct investment shall be deemed to have the potential to significantly impact the added value creation in the internal market, in any of the following cases: | DE<br>(Drafting suggestions):<br><br>~~2. For the purposes of paragraph 1, the foreign direct investment shall be deemed to have the potential to significantly impact the added value creation in the internal market, in any of the following cases:~~<br><br>DK<br>(Comments):<br><br>We should work towards making it clearer, when the Commission can, may or should take over an approval in practice.<br><br>Will the following cases/criteria for added value creation be described in greater detail or defined? Will there, for example, be a risk assessment?<br><br>FI<br>(Drafting suggestions):<br><br>~~2. For the purposes of paragraph 1, the foreign direct investment shall be deemed to have the potential to significantly impact the added value creation in the internal market, in any of the following cases:~~<br><br>IT<br>(Drafting suggestions): |

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| | ~~**2. For the purposes of paragraph 1, the foreign direct investment shall be deemed to have the potential to significantly impact the added value creation in the internal market, in any of the following cases:**~~<br><br>MT<br>(Comments):<br><br>Malta considers that the triggering criteria set out in this paraphraph are overly broad and may create legal uncertainty regarding the circumstances in which the Commission may intervene in the assessment of foreign direct investments.<br><br>NL<br>(Drafting suggestions):<br><br>~~For the purposes of paragraph 1, the foreign direct investment shall be deemed to have the potential to significantly impact the added value creation in the internal market, in any of the following cases:~~<br><br>PL<br>(Comments):<br><br>Terms like “strategic importance” or “considerable economic impact” or “particularly high value” are too vague and open – this needs to be better and more precisely defined<br><br>SE<br>(Drafting suggestions):<br><br>~~2. For the purposes of paragraph 1, the foreign direct investment shall be deemed to have the potential to significantly impact the added value creation in the internal market, in any of the following cases:~~<br><br>SK<br>(Drafting suggestions): |

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| | ~~2. For the purposes of paragraph 1, the foreign direct investment shall be deemed to have the potential to significantly impact the added value creation in the internal market, in any of the following cases:~~<br><br>SK<br>(Comments):<br><br>To be deleted in case of Alternative 2 (see above). |
| | |
| (a) it is of particular strategic importance for the internal market; | CZ<br>(Comments):<br><br>Term "particular strategic importance" is not clear and therefore should be explained.<br><br>DE<br>(Drafting suggestions):<br><br>~~(a) it is of particular strategic importance for the internal market;~~<br><br>FI<br>(Drafting suggestions):<br><br>~~(a) it is of particular strategic importance for the internal market;~~<br><br>IT<br>(Drafting suggestions):<br><br>~~**(a) it is of particular strategic importance for the internal market;**~~<br><br>LT<br>(Comments):<br><br>It is unclear which projects are considered strategically important, as the criteria in Article 21(2)(a) are vague (the term 'particular strategic importance for the internal market' is not defined). |

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| | NL<br>(Drafting suggestions):<br>~~it is of particular strategic importance for the internal market;~~<br>PL<br>(Comments):<br>as in comment to par. 2<br>SE<br>(Drafting suggestions):<br>~~(a) it is of particular strategic importance for the internal market;~~<br>SK<br>(Drafting suggestions):<br>~~(a) it is of particular strategic importance for the internal market;~~<br>SK<br>(Comments):<br>To be deleted in case of Alternative 2 (see above). |
| | |
| (b) it has considerable economic impact on the territory of more than one Member State; | BE<br>(Comments):<br>Can the Commission clarify how MS will be sufficiently involved in determining whether this clause applies?<br>DE<br>(Drafting suggestions):<br>~~(b) it has considerable economic impact on the territory of more than one Member State;~~ |

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| | FI<br>(Drafting suggestions):<br>~~(b) it has considerable economic impact on the territory of more than one Member State;~~<br>IT<br>(Drafting suggestions):<br>**~~(b) it has considerable economic impact on the territory of more than one Member State;~~**<br>LT<br>(Comments):<br>The term 'considerable economic impact' should be defined in this regulation or in specific guidelines on the application of this regulation.<br>NL<br>(Drafting suggestions):<br>~~it has considerable economic impact on the territory of more than one Member State;~~<br>PL<br>(Comments):<br>as in comment to par. 2<br>PT<br>(Comments):<br>Consider clarifying how 'considerable economic impact' is to be defined.<br>SE<br>(Drafting suggestions): |

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| | ~~(b) it has considerable economic impact on the territory of more than one Member State;~~<br><br>SK<br>(Drafting suggestions):<br><br>~~(b) it has considerable economic impact on the territory of more than one Member State;~~<br><br>SK<br>(Comments):<br><br>To be deleted in case of Alternative 2 (see above). |
| | |
| © it has high potential of disrupting the security of supply of that emerging strategic sector or related value chains in the Union, or security in more than one Member State; | BE<br>(Comments):<br><br>Can the Commission clarify how MS will be sufficiently involved in determining whether this clause applies?<br><br>CZ<br>(Drafting suggestions):<br><br>it has high potential of disrupting the security of supply of that emerging strategic sector or related value chains in the Union, or security **of supply** in more than one Member State;<br><br>DE<br>(Drafting suggestions):<br><br>~~© it has high potential of disrupting the security of supply of that emerging strategic sector or related value chains in the Union, or security in more than one Member State;~~<br><br>FI<br>(Drafting suggestions): |

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| | ~~© it has high potential of disrupting the security of supply of that emerging strategic sector or related value chains in the Union, or security in more than one Member State;~~<br><br>IT<br>(Drafting suggestions):<br><br>**~~© it has high potential of disrupting the security of supply of that emerging strategic sector or related value chains in the Union, or security in more than one Member State;~~**<br><br>LT<br>(Comments):<br><br>The term 'high potential of disrupting the security of supply' should be defined in this regulation or in specific guidelines on the application of this regulation.<br><br>NL<br>(Drafting suggestions):<br><br>~~it has high potential of disrupting the security of supply of that emerging strategic sector or related value chains in the Union, or security in more than one Member State;~~<br><br>SE<br>(Drafting suggestions):<br><br>~~© it has high potential of disrupting the security of supply of that emerging strategic sector~~<br><br>SK<br>(Drafting suggestions):<br><br>~~© it has high potential of disrupting the security of supply of that emerging strategic sector or related value chains in the Union, or security in more than one Member State;~~ |

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| | SK<br>(Comments):<br>To be deleted in case of Alternative 2 (see above). |
| | |
| (d) it has high potential of having detrimental environmental effect in more than one Member State; | BE<br>(Comments):<br>Can the Commission clarify how MS will be sufficiently involved in determining whether this clause applies?<br>DE<br>(Drafting suggestions):<br>~~(d) it has high potential of having detrimental environmental effect in more than one Member State;~~<br>FI<br>(Drafting suggestions):<br>~~(d) it has high potential of having detrimental environmental effect in more than one Member State;~~<br>IT<br>(Drafting suggestions):<br>**~~(d) it has high potential of having detrimental environmental effect in more than one Member State;~~**<br>LT<br>(Comments):<br>The term 'detrimental environmental effect' should be defined in this regulation or in specific guidelines on the application of this regulation.<br>NL |

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| | (Drafting suggestions):<br>~~it has high potential of having detrimental environmental effect in more than one Member State;~~<br>SE<br>(Drafting suggestions):<br>~~(d) it has high potential of having detrimental environmental effect in more than one Member State;~~<br>SK<br>(Drafting suggestions):<br>~~(d) it has high potential of having detrimental environmental effect in more than one Member State;~~<br>SK<br>(Comments):<br>To be deleted in case of Alternative 2 (see above). |
| | |
| (e) it is of a particularly high value compared to other investments in that emerging strategic sector. | BE<br>(Comments):<br>How will this be determined?<br>DE<br>(Drafting suggestions):<br>~~(e) it is of a particularly high value compared to other investments in that emerging strategic sector.~~<br>DK<br>(Comments): |

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| | What added value could the involvement of the Commission have if there are no signfiicant cross-border impacts, which is already covered in article 21 (2a-d)?<br><br>FI<br>(Drafting suggestions):<br><br>~~e) it is of a particularly high value compared to other investments in that emerging strategic sector~~<br><br>IT<br>(Drafting suggestions):<br><br>~~**(e) it is of a particularly high value compared to other investments in that emerging strategic sector.**~~<br><br>LT<br>(Comments):<br><br>The term 'particularly high value' should be defined in this regulation or in specific guidelines on the application of this regulation<br><br>NL<br>(Drafting suggestions):<br><br>~~it is of a particularly high value compared to other investments in that emerging strategic sector~~<br><br>PL<br>(Comments):<br><br>as in comment to par. 2<br><br>SE<br>(Drafting suggestions):<br><br>~~(e) it is of a particularly high value compared to other investments in that emerging strategic sector~~ |

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| | SK<br>(Drafting suggestions):<br>~~(e) it is of a particularly high value compared to other investments in that emerging strategic sector.~~<br>SK<br>(Comments):<br>To be deleted in case of Alternative 2 (see above). |
| | |
| 3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment referred to in Article 18(4). The Commission may carry out its assessment on its own initiative, or at the request of an Investment Authority handling a notification, or an Investment Authority of another Member State on which the foreign direct investment in question would have a significant impact. | CZ<br>(Drafting suggestions):<br>Following the **transmission of the** notification referred to in Article 19(1),...<br>CZ<br>(Comments):<br>The reference to notification is not correct, it should state "following the transmission of the notification referred to in Article 19(1)". To take into account the fact that Member state transmitted the notification to the Commission.<br><br>DE<br>(Drafting suggestions):<br>~~3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment referred to in Article 18(4). The Commission may carry out its assessment on its own initiative, or at the request of an Investment Authority handling a notification, or an Investment Authority of another Member State on which the foreign direct investment in question would have a significant impact.~~ |

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| | FI<br>(Drafting suggestions):<br>~~3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment referred to in Article 18(4). The Commission may carry out its assessment on its own initiative, or at the request of an Investment Authority handling a notification, or an Investment Authority of another Member State on which the foreign direct investment in question would have a significant impact~~<br>IT<br>(Drafting suggestions):<br>~~**3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment referred to in Article 18(4). The Commission may carry out its assessment on its own initiative, or at the request of an Investment Authority handling a notification, or an Investment Authority of another Member State on which the foreign direct investment in question would have a significant impact.**~~<br>LU<br>(Drafting suggestions):<br>3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment referred to in Article 18(4). The Commission may carry out its assessment on its own initiative, or at the request of an Investment Authority handling a notification **occuring within its territory** ~~, or an Investment Authority of another Member State on which the foreign direct investment in question would have a significant impact~~<br>LU<br>(Comments): |

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| | For reasons of legal certainty, only Investment Authorities handling the notification should be competent to seize the Commission.<br><br>NL<br>(Drafting suggestions):<br><br>~~3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment referred to in Article 18(4). The Commission may carry out its assessment on its own initiative, or at the request of an Investment Authority handling a notification, or an Investment Authority of another EN 50 Member State on which the foreign direct investment in question would have a significant impact.~~<br><br>PL<br>(Drafting suggestions):<br><br>3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment referred to in Article 18(4). The Commission may carry out its assessment ~~on its own initiative, or~~ at the request of an Investment Authority handling a notification, or an Investment Authority of another Member State on which the foreign direct investment in question would have a significant impact.<br><br>PL<br>(Comments):<br><br>As in comment to art. 21 (1)<br><br>SE<br>(Drafting suggestions):<br><br>~~3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment~~ |

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| | ~~referred to in Article 18(4). The Commission may carry out its assessment on its own initiative, or at the request of an Investment Authority handling a notification, or an Investment Authority of another Member State on which the foreign direct investment in question would have a significant impact.~~<br><br>SK<br>(Drafting suggestions):<br><br>~~3. Following the notification referred to in Article 19(1), the Commission may decide to undertake the assessment of an investment referred to in Article 18(4). The Commission may carry out its assessment on its own initiative, or at the request of an Investment Authority handling a notification, or an Investment Authority of another Member State on which the foreign direct investment in question would have a significant impact.~~<br><br>SK<br>(Comments):<br><br>We propose to delete this competence of the Commission. |
| | |
| Based on its assessment, the Commission may require the Investment Authority to apply in a proportionate manner, or not to apply, some or all the conditions set out in Article18(2). | CZ<br>(Comments):<br><br>We would appreciate an explanation on the intended legal power of the requirement mentioned in para 3. What is the difference between this requirement and the recommendations in Commission opinion?<br><br>DE<br>(Drafting suggestions):<br><br>~~Based on its assessment, the Commission may require the Investment Authority to apply in a proportionate manner, or not to apply, some or all the conditions set out in Article18(2).~~<br><br>DK |

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| | (Comments):<br><br>What exactly is meant here, and how would this work in practice?<br>It needs to be clarified that the Member State still retains the ultimate decision as to whether or not allow the investment.<br><br>Would the Commission for example be able to decide (arbitrarily/ based on a different motivations than laid out in article 18 (2)), that some criteria should not apply to a particular case? Or is the intention rather that the Commission should have a role in making sure the actual implementation, i.e. how the article 18 criteria are interpreted, measured and so on, is proportionate and fairly imposed?<br><br>FI<br>(Drafting suggestions):<br><br>~~Based on its assessment, the Commission may require the Investment Authority to apply in a proportionate manner, or not to apply, some or all the conditions set out in Article18(2)~~<br><br>IT<br>(Drafting suggestions):<br><br>~~**Based on its assessment, the Commission may require the Investment Authority to apply in a proportionate manner, or not to apply, some or all the conditions set out in Article18(2).**~~<br><br>LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation whether the Commission will have a possibility to enforce a member state to apply the conditions in case the MS came to a different conclusion.<br><br>MT |

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| | (Drafting suggestions):<br><br>Based on its assessment, the Commission **may issue a non-binding opinion to** ~~may require the~~ the Investment Authority regarding the proportionate application of some or all of the conditions set out in Article 18(2<br><br>MT<br>(Comments):<br><br>Malta wants to safeguard the principle of subsidiarity and retain Member State competence. Therefore, Malta is deleting ***may require the*** and replacing it with ***may issue a non-binding opinion to.***<br><br>NL<br>(Drafting suggestions):<br><br>~~Based on its assessment, the Commission may require the Investment Authority to apply in a proportionate manner, or not to apply, some or all the conditions set out in Article18(2).~~<br><br>PL<br>(Drafting suggestions):<br><br>Based on its assessment, the Commission may ~~require~~ **propose** the Investment Authority to apply in a proportionate manner, or not to apply, some or all the conditions set out in Article18(2).<br><br>PL<br>(Comments):<br><br>The Commission should not be given the right to decide – therefore the wording should be changed from “require” to “request” or “propose” |
| | |
| 4. Where the Commission decides to assess the foreign direct investment pursuant to this Article, the provisions set out in Article 18 shall apply, mutatis mutandis, starting from its decision to undertake the assessment. | CZ<br>(Comments): |

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| | Para 4 needs to be explained. It is not clear, what is meant by "…the provisions set out in Article 18 shall apply, mutatis mutandis,…".<br><br>DE<br>(Drafting suggestions):<br>~~4.Where the Commission decides to assess the foreign direct investment pursuant to this Article, the provisions set out in Article 18 shall apply, mutatis mutandis, starting from its decision to undertake the assessment.~~<br><br>FI<br>(Drafting suggestions):<br>~~4. Where the Commission decides to assess the foreign direct investment pursuant to this Article, the provisions set out in Article 18 shall apply, mutatis mutandis, starting from its decision to undertake the assessment.~~<br><br>IT<br>(Drafting suggestions):<br>~~**4. Where the Commission decides to assess the foreign direct investment pursuant to this Article, the provisions set out in Article 18 shall apply, mutatis mutandis, starting from its decision to undertake the assessment**~~<br><br>MT<br>(Drafting suggestions):<br>**The application of Article 18 shall remain subject to the assessment and discretion of the relevant Member States.**<br><br>MT<br>(Comments): |

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| | This is also problematic because it automaitcally applies the conditions in Article 18. We suggest to remove it or reword it completely.<br><br>PL<br>(Comments):<br><br>As above in art. 21 (1)<br>Additionally, it needs to be clarified that the European Commission is bound by the process for review and approval from Art. 20, in particular para 6 (judicial recourse against decision) |
| | CZ<br>(Drafting suggestions):<br><br>In Article 21, **add paragraph 5: "The total period for the FDI review and decision process, including any Commission opinion stage, shall not exceed 90 calendar days from receipt of a complete notification. This deadline shall be fixed and non-extendable unless the investing party agrees in writing.**<br><br>PL<br>(Comments):<br><br>The article should be supplemented with the relevant timeframe for the Commission to take a decision to take over the review and to issue a reasoned decision approving or declining the foreign direct investment, in accordance with art. 20. |
| *Article 22*<br>**Monitoring and enforcement by the Investment Authority** | |
| | |
| 1. The Investment Authority shall regularly monitor the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall regularly report to the Investment Authority on compliance with the conditions. | DE<br>(Comments):<br><br>Scrutiny reservation |

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| | DK<br>(Drafting suggestions):<br><br>The Investment Authority shall regularly monitor the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall regularly report to the Investment Authority on compliance with the conditions **within a specific time frame after which they will be obsolete.**.<br><br>DK<br>(Comments):<br><br>The reporting obligations for foreign direct investments should include a sunset clause so that they will not continue indefinitely.<br><br>FI<br>(Drafting suggestions):<br><br>**Where conditions are imposed**, the Investment Authority shall regularly monitor the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall regularly report to the Investment Authority on compliance with the conditions. **When the foreign investor has been compliant with the conditions for five years in a row, the regularly monitoring and reporting obligation ceases. Penalties pursuant to paragraph 22(3) may be imposed for non-compliance even after this period.**<br><br>FI<br>(Comments):<br><br>Amendments as per our suggestions to Articles 17 and 19 above.<br><br>We consider the Investment Authority's administrative burden will stack up if the reporting and monitoring obligations are in force indefinitely. We |

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| | consider regular monitoring should be limited to five years, after which the authority has freedom to decide how monitoring will be handled.<br><br>FR<br>(Drafting suggestions):<br><br>1. The Investment Authority shall ~~regularly~~ **on a yearly basis** monitor the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall ~~regularly~~ **on a yearly basis** report to the Investment Authority on compliance with the conditions.<br><br>**The Investment Authority shall verify the accuracy and validity of the information provided by the foreign investor in order to prevent circumvention measures pertaining to, notably, Article 18 (f).**<br><br>**A delegated act of the Commission shall specify, for each condition laid down in Article 18, the information that must be included in the reports submitted by investors**<br><br>FR<br>(Comments):<br><br>We suggest this amendment in order to secure the implementation with this provision and secure foreign investments.<br><br>The second amendment is sugested to reinforce the monitoring and the verification of foreign investors' declarations.<br><br>This amendment is suggested to avoid a lack of monitoring by competent authorities which could induce forum shopping. |

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| | LT<br>(Comments):<br><br>An explanation should be provided in the specific guidelines on the application of this Regulation, indicating in particular (1) **the information requirements** and (2) **the minimum frequency** with which foreign investors will be required to submit reports.<br><br>LU<br>(Drafting suggestions):<br><br>1. The Investment Authority shall regularly monitor the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18 **for a period of five years following the approval of the foreign direct investment**. For that purpose, the foreign investor shall regularly report to the Investment Authority on compliance with the conditions.<br><br>LU<br>(Comments):<br><br>The aim is to ensure consistency with article 4, paragraph 4, of the revised FDI screening regulation.<br><br>MT<br>(Drafting suggestions):<br><br>The Investment Authority ~~shall regularly~~ **may monitor, where appropriate and proportionate** ~~monitor~~ the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall regularly report to the Investment Authority on compliance with the conditions.<br><br>MT<br>(Comments): |

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| | Malta is putting forward this textual amendment as the current wording creates a blanket permanent monitoring obligation for all investments.<br><br>PL<br>(Drafting suggestions):<br><br>1. The Investment Authority shall regularly monitor, at least the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall regularly report **at intervals proportionate to the scale and risk profile of the investment and using standardised reporting templates** to the Investment Authority on compliance with the conditions.<br><br>PL<br>(Comments):<br><br>The concept of regular reporting needs to be clarified. The frequency of reporting should be proportional to the scale of the investment and the actual level of risk. Harmonised forms should be used to reduce administrative costs and ensure comparability of data.<br><br>SE<br>(Drafting suggestions):<br><br>The Investment Authority shall**, over a period of [X] years after the approval of a foreign direct investments,** regularly monitor the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall regularly report to the Investment Authority on compliance with the conditions.<br><br>SE<br>(Comments):<br><br>A cut-off date is required to prevent a build-up of cases at the Investment Authority over an unlimited time period. A reasonable time period is open to discussion. |

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| | SI<br>(Drafting suggestions):<br><br>The Investment Authority shall regularly monitor the foreign direct investment to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall ~~regularly~~**on a yearly basis** report to the Investment Authority on compliance with the conditions.<br><br>SI<br>(Comments):<br><br>Term "regularly" is not clear and may lead to divergent interpretations among MS. This provision is linked to paragraph five of Article 20 which stipulates that the Investment Authority shall define reporting obligations in its approval decision in order to assess the investor's continuous compliance with the conditions set out in Article 18. therefore, to ensure consistency and legal certainty, we recommend establishing a uniform reporting period applicable across all MS<br><br>SK<br>(Drafting suggestions):<br><br>The Investment Authority shall ~~regularly~~ monitor the foreign direct investment **for a period of [insert number] years** to ensure that it continues to fulfil the conditions laid down in Article 18. For that purpose, the foreign investor shall regularly report to the Investment Authority on compliance with the conditions.<br><br>SK<br>(Comments):<br><br>The proposal does not define the monitoring period. We propose establishing a precise time period (e.g. five years) during which investors must fulfill conditions and authorities monitor. |

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| | |
| 2. Upon request by the Commission, the Investment Authority shall transmit the investor's reports submitted pursuant to paragraph 1 to the Commission together with its own assessment on each report. | IT<br>(Drafting suggestions):<br>2. Upon request by the Commission, the Investment Authority shall transmit the investor's reports submitted pursuant to paragraph 1 to the Commission ~~**together with its own assessment on each report**~~.<br><br>IT<br>(Comments):<br>*It is considered appropriate not to increase the burden placed on the Member State.*<br><br>LU<br>(Drafting suggestions):<br>~~2. Upon request by the Commission, the Investment Authority shall transmit the investor's reports submitted pursuant to paragraph 1 to the Commission together with its own assessment on each report.~~<br><br>LU<br>(Comments):<br>The ability of the Commission to request the investor's reports from the Investment Authority may constitute an administrative burden for Investment Authorities. Furthermore, this paragraph does not appear to provide any added value, as the Commission does not play a role in monitoring foreign investments once they have been approved.<br><br>MT<br>(Drafting suggestions): |

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| | **Upon a duly justified request by the Commission, the Investment Authority may transmit the investor's reports submitted pursuant to paragraph 1 together with its assessment thereof.**<br><br>MT<br>(Comments):<br><br>Malta considers that ongoing monitoring and assessment of investments should remain primarily within the competence of Member States and that any exchange of information with the Commission should be limited, proportionate and duly justified |
| | |
| 3. The Investment Authority shall establish penalties in case of non-compliance with the provisions of this Chapter, in particular where foreign investors or investments fail to comply with the following requirements: | BE<br>(Comments):<br><br>How does this part articulate with Art. 32?<br><br>LT<br>(Drafting suggestions):<br><br>~~The Investment Authority~~ **Member states** shall establish penalties in case of non-compliance with the provisions of this Chapter, in particular where foreign investors or investments fail to comply with the following requirements:<br><br>LT<br>(Comments):<br><br>The Regulation should not encroach upon the level of competence of Member States institutions by stipulating that only the investment authority is responsible for imposing fines for non-compliance with the Regulation's requirements. In the case of Lithuania, the establishment of rules for imposing fines falls within the competence of ministries, while their application falls within the remit of the implementing investment authority. In view of this, we propose that the obligation be defined using the general term 'Member States'. |

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| | MT<br>(Drafting suggestions):<br>The Investment Authority ~~shall~~ **may** establish penalties in case of non-compliance with the provisions of this Chapter, in particular where foreign investors or investments fail to comply with the following requirements:<br>MT<br>(Comments):<br>Malta changed ***shall*** to **m*ay***.<br>SE<br>(Drafting suggestions):<br>3. The **Member State or** ~~Investment Authority~~ shall establish penalties in case of non-compliance with the provisions of this Chapter, in particular where foreign investors or investments fail to comply with the following requirements:<br>SE<br>(Comments):<br>Addition to enable the establishment of penalties at Member State level. |
| | |
| (a) the notification requirements in accordance with Article 19; | |
| | |
| (b) the conditions laid down in Article 18; | |
| | |
| © the monitoring obligations established by this Article. | CZ<br>(Drafting suggestions):<br>© the ~~**monitoring**~~ **reporting** obligations established by this Article.<br>CZ |

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| | (Comments):<br><br>Para 3.c should mention "reporting obligations". Monitoring is done by Member States. |
| | IT<br>(Drafting suggestions):<br><br>**<u>(d) obligations relating to technology transfer, R&D and value chains under Article 18(2)(c), (d) and (f), where the Investment Authority finds systematic or intentional non-compliance.</u>**<br><br>IT<br>(Comments):<br><br>*Sanctions for substantive breaches: IP, R&D and supply chain conditions are the most relevant from a value-added perspective. Their inclusion among sanctionable violations strengthens their effectiveness.* |
| 4. Penalty payments established by the Investment Authority shall not amount to less than 5 % of the average daily aggregate turnover of the foreign investor undertaking in case of a violation pursuant to paragraph 3, point (a). | BE<br>(Comments):<br><br>How did the Commission arrive at this particular penalty threshold?<br>Can the Commission clarify how the distribution of collected financial penalties will be divided between Commission and MS authorities? Does this depend on whether cases were reviewed under Art. 21?<br><br>CZ<br>(Drafting suggestions):<br><br>4. Penalty payments established by the Investment Authority shall **amount to up to 5%** ~~**not amount to less than 5 %**~~ of the average daily |

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| | aggregate turnover of the foreign investor undertaking in case of a violation pursuant to paragraph 3, point (a).<br><br>CZ<br>(Comments):<br><br>Replacing "at least" with "up to" restores proportionality.<br><br>Mandatory minimum penalties risk:<br>- legal challenges<br>disproportional sanctions.<br><br>DK<br>(Drafting suggestions):<br><br>~~Penalty payments established by the Investment Authority shall not amount to less than 5 % of the average daily aggregate turnover of the foreign investor undertaking in case of a violation pursuant to paragraph 3, point (a).~~<br><br>DK<br>(Comments):<br><br>We suggest a more open list of sanctions in order to allow for not only penalty payments, but also e.g. the cancellation of the investment.<br><br>MT<br>(Drafting suggestions):<br><br>Penalty payments established by the Investment Authority **may take into account the gravity, duration and nature of the infringement, as well as the principle of proportionality**. ~~shall not amount to less than 5 % of the average daily aggregate turnover of the foreign investor undertaking in case of a violation pursuant to paragraph 3, point (a).~~<br><br>MT<br>(Comments): |

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| | Malta has reservations regarding the introduction of mandatory minimum penalties, which may unduly restrict Member State discretion and may not sufficiently take into account national enforcement systems, proportionality considerations and the specific circumstances of the infringement.<br><br>PT<br>(Comments):<br><br>Why is the amount of the penalty only defined in relation to infringement of point a)?<br><br>SE<br>(Drafting suggestions):<br><br>4. Penalty payments established by the **Member State** ~~Investment Authority~~ shall not amount to less than 5 % of the average daily aggregate turnover of the foreign investor undertaking in case of a violation pursuant to paragraph 3, point (a).<br><br>SE<br>(Comments):<br><br>Addition to enable the establishment of penalties at Member State level.<br><br>SI<br>(Comments):<br><br>Penalties should be established for point (b) and (c) of this paragraph as well. In their absence, there will be different practices among MS. Perhaps consideration could be given to harmonising penalties. |
| | |
| Where the foreign investor is a private person, the Investment Authority shall establish a penalty payment of at least 5 % of the investment value in case a violation pursuant to paragraph 3, point (a). | CZ<br>(Drafting suggestions):<br><br>Where the foreign investor is a private person, the Investment Authority shall **establish a penalty payment of up to 5%** ~~**establish a penalty payment of**~~ |

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| | ~~**at least 5 %**~~ of the investment value in case a violation pursuant to paragraph 3, point (a).<br><br>LT<br>(Drafting suggestions):<br><br>Where the foreign investor is a ~~private~~ **natural** person, the Investment Authority shall establish a penalty payment of at least 5 % of the investment value in case a violation pursuant to paragraph 3, point (a).<br><br>LT<br>(Comments):<br><br>For the sake of legal certainty and consistency with the definition of "foreign investor" in Article 3(32), we suggest replacing the term "private person" with "natural person". Article 3(32) distinguishes between a natural person of a third country and an undertaking of a third country. The term "private person" may be interpreted differently across Member States and could create ambiguity as to whether it refers only to natural persons or could also include private legal persons. The use of "natural person" would therefore ensure consistency with the Regulation's own terminology.<br><br>MT<br>(Drafting suggestions):<br><br>~~Where the foreign investor is a private person, the Investment Authority shall establish a penalty payment of at least 5 % of the investment value in case a violation pursuant to paragraph 3, point (a).~~<br><br>MT<br>(Comments):<br><br>Malta wants to delete all this paragraph.<br><br>SE<br>(Drafting suggestions): |

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| | Where the foreign investor is a private person, the **Member State** ~~Investment Authority~~ shall establish a penalty payment of at least 5 % of the investment value in case a violation pursuant to paragraph 3, point (a).<br><br>SE<br>(Comments):<br><br>Addition to enable the establishment of penalties at Member State level. |
| | |
| The penalty payments established by the Investment Authority shall be effective and proportionate to the violations laid down in paragraph 3. | IT<br>(Drafting suggestions):<br><br>The penalty payments established by the Investment Authority shall be effective and proportionate to the violations laid down in paragraph 3. **Pecuniary shall be determined having regard to the gravity and duration of the infringement, its intentional or negligent character, any previous infringements by the foreign investor, as well as the degree of cooperation shown by the foreign investor during the proceedings. The Investment Authority shall state the reasons on which the penalty imposed is based.**<br><br>IT<br>(Comments):<br><br>*Proportionality and transparency in sanctioning: Gradation of penalties by gravity and intentionality is a cardinal principle of European punitive law. Motivational transparency protects legal certainty for investors.*<br><br>SE<br>(Drafting suggestions):<br><br>The penalty payments established by the **Member State** ~~Investment Authority~~ shall be effective and proportionate to the violations laid down in paragraph 3. |

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| | SE<br>(Comments):<br>Addition to enable the establishment of penalties at Member State level. |
| | |
| The Investment Authority shall inform the Commission without undue delay of any non-compliance referred to in paragraph 3 and of the consequential penalties imposed. | IT<br>(Drafting suggestions):<br>The Investment Authority shall inform the Commission ~~**without undue delay**~~ of any non-compliance referred to in paragraph 3 and of the consequential penalties imposed. |
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| *Article 23*<br>**Monitoring by the Commission** | MT<br>(Comments):<br>Malta asks how the Commission intends to monitor global manufacturing capacity, and whether this would cover all countries or only the main ones concerned. It stressed that, for legal certainty, Member States need to know which countries are covered and what data the Commission would rely on. Malta also questions why the article includes a reference to penalties, considering that this does not appear to fit naturally within the provision<br><br>NL<br>(Comments):<br>Comment on whole article 23: Seeing as proposed article 17(5) established information supply from Member States to the Commission and that information may require confidential treatment, such confidentiality should be maintained in publication of data afterwards.<br><br>Monitoring and enforcement under Article 22 should remain proportionate, targeted and predictable in order to avoid unnecessary administrative burdens and legal uncertainty.<br><br>SE<br>(Drafting suggestions):<br>Article 23<br>**Monitoring ~~and Enforcement~~ by the Commission**<br><br>SE<br>(Comments):<br>To align with the previous Article. Enforcement is covered below. |
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| 1. For the purposes of Article 17, the Commission shall monitor the global manufacturing capacity for each of the emerging strategic sectors, building on existing monitoring activities performed, in particular pursuant to Regulation (EU) 2024/1735. | BE<br>(Comments):<br><br>Can the Commission elaborate on the methodology and data used? (regards legal certainty)<br><br>FR<br>(Drafting suggestions):<br><br>1. For the purposes of Article 17, the Commission shall monitor **on a yearly basis** the global manufacturing capacity for each of the emerging strategic sectors, building on existing monitoring activities performed, in particular pursuant to Regulation (EU) 2024/1735.<br><br>FR<br>(Comments):<br><br>We suggest this amendment in order to secure the implementation with this provision and secure foreign investments.<br><br>IT<br>(Drafting suggestions):<br><br>1. For the purposes of Article 17, the Commission shall monitor the global manufacturing capacity for each of the emerging strategic sectors, building on existing monitoring activities performed, in particular pursuant to Regulation (EU) 2024/1735. **In carrying out monitoring activities, the Commission shall use data provided by Member States, national Investment Authorities and specialised Union agencies, ensuring that data collection and analysis methodologies are transparent and verifiable. Member States shall provide the Commission with the necessary data at least annually.**<br><br>IT |

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| | (Comments):<br><br>*Effective monitoring relies on the availability of reliable and up-to-date data. To this end, annual reporting obligations for Member States, together with methodological transparency, are essential prerequisites.*<br><br>LT<br>(Drafting suggestions):<br><br>For the purposes of Article 17**(2)**, the Commission shall monitor the global manufacturing capacity for each of the emerging strategic sectors **and third countries**, building on existing monitoring activities performed, in particular pursuant to Regulation (EU) 2024/1735.<br><br>LT<br>(Comments):<br><br>An explanation is needed in specific guidelines on the application of this regulation will the Commission monitor global manufacturing capacity for each of the emerging strategic sectors **as well as** all third countries.<br><br>SE<br>(Drafting suggestions):<br><br>.<br><br>SK<br>(Drafting suggestions):<br><br>. |
| | |
| 2. The Commission shall provide and publish updated information on the most recent year for which data is available for each of the emerging strategic sectors referred to in Article 17(2). | PL<br>(Drafting suggestions):<br><br>2. The Commission shall provide and publish updated information on the most recent year for which data is available for each of the emerging |

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| | strategic sectors referred to in Article 17(2)**, together with the methodology used, the sources of data and the date of the most recent update. The information shall be reviewed and updated at least annually**.<br><br>PL<br>(Comments):<br><br>Regular publication of data is necessary because the scope of Chapter IV depends on the third country's share of global production capacity. Data should be up-to-date, transparent and comparable.<br><br>SE<br>(Drafting suggestions):<br><br>2. **By [entry into force of this Regulation and on an annual basis thereafter the** Commission shall provide and publish updated information on the most recent year for which data is available for each of the emerging strategic sectors referred to in Article 17(2).<br><br>SE<br>(Comments):<br><br>Clear and transparent information on global manufacturing capacity is required in order to facilitate preparations and harmonise the assessments of different Investment Authorities as well as to enhance transparency for investors. The first report should at the latest be published by the entry into force of the regulation. |
| | EE<br>(Drafting suggestions):<br><br>**The Commission shall publish on its official website a list of third countries whose investors and investments fall within the scope of Article 17(3)(a).** |

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| | EE<br>(Comments):<br>The scope of Chapter IV of IAA needs to be clear for the Member State authorities as well as for investors and companies to ensure predictability and legal certainty when applying the regulation. |
| Where the Commission decides to assess the foreign direct investment pursuant to Article 21, it may by decision impose penalties if the foreign investor provides false or misleading information in their notification, or if it does not supply the information required for the Commission to perform its review obligation. | DE<br>(Comments):<br>Scrutiny reservation<br>FI<br>(Drafting suggestions):<br>~~Where the Commission decides to assess the foreign direct investment pursuant to Article 21, it may by decision impose penalties if the foreign investor provides false or misleading information in their notification, or if it does not supply the information required for the Commission to perform its review obligation.~~<br>FI<br>(Comments):<br>Amendments as per our suggestions to Articles 17 and 19 above.<br>IT<br>(Drafting suggestions):<br>**~~Where the Commission decides to assess the foreign direct investment pursuant to Article 21, it may by decision impose penalties if the foreign investor provides false or misleading information in their notification, or if it does not supply the information required for the Commission to perform its review obligation.~~** |

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| | MT<br>(Drafting suggestions):<br><br>Where the Commission decides to assess the foreign direct investment pursuant to Article 21~~, it may by decision impose penalties if the foreign investor provides false or misleading information in their notification, or if it does not supply the information required for the Commission to perform its review obligation.~~**and considers that false or misleading information has been provided in the notification, or that the information required for the performance of its review has not been supplied, it may inform the relevant Investment Authority.**<br><br>MT<br>(Comments):<br><br>Malta considers that any enforcement and sanctioning should remain primarily within the competence of Member States.<br><br>PL<br>(Comments):<br><br>The right for the Commission to impose penalties can only be given after its role in decision making process is finally agreed in art. 21.<br><br>SK<br>(Drafting suggestions):<br><br>~~Where the Commission decides to assess the foreign direct investment pursuant to Article 21, it may by decision impose penalties if the foreign investor provides false or misleading information in their notification, or if it does not supply the information required for the Commission to perform its review obligation~~<br><br>SK<br>(Comments): |

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| | In connection with our proposal to narrow the scope of the European Commission's powers regarding direct assessments of investments under Article 21(1), we also propose restricting the Commission's power to impose fines under Article 23(2), second and third subparagraphs. The enforcement and penalization competencies should remain appropriately within the jurisdiction of the national Investment Authorities. |
| | |
| The penalties imposed by the Commission shall not exceed the 5% average daily turnover of the foreign investor, or in case of a private person foreign investor, 5% of the investment value. | DE<br>(Drafting suggestions):<br>~~The penalties imposed by the Commission shall not exceed the 5% average daily turnover of the foreign investor, or in case of a private person foreign investor, 5% of the investment value.~~<br>DE<br>(Comments):<br>Deleted, as the Commission should not have this right, see our deletion of Article 21.<br>FI<br>(Drafting suggestions):<br>~~The penalties imposed by the Commission shall not exceed the 5% average daily turnover of the foreign investor, or in case of a private person foreign investor, 5% of the investment value.~~<br>IT<br>(Drafting suggestions):<br>The penalties imposed by the Commission shall not exceed the 5% average daily turnover of the foreign investor, or in case of a private person foreign investor, 5% of the investment value. **Penalties for false or misleading information shall take into account the intentionality of the conduct, the** |

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| | **extent of potential harm to the internal market and the level of cooperation provided by the investor during the proceedings.**<br><br>IT<br>(Comments):<br>*The principles of proportionality and personalisation of penalties apply equally to Commission sanctions*<br>LT<br>(Drafting suggestions):<br>The penalties imposed by the Commission shall not exceed the 5% average daily turnover of the foreign investor, or in case of a ~~private~~ **natural** person foreign investor, 5% of the investment value.<br>LT<br>(Comments):<br>For the sake of legal certainty and consistency with the definition of "foreign investor" in Article 3(32), we suggest replacing the term "private person" with "natural person". Article 3(32) distinguishes between a natural person of a third country and an undertaking of a third country. The term "private person" may be interpreted differently across Member States and could create ambiguity as to whether it refers only to natural persons or could also include private legal persons.<br>MT<br>(Drafting suggestions):<br>**Member States shall ensure that penalties applicable under this Article are effective, proportionate and dissuasive, taking into account the nature, gravity and duration of the infringement.**<br>MT |

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| | (Comments):<br><br>Malta considers that any enforcement and sanctioning should remain primarily within the competence of Member States.<br><br>NL<br>(Comments):<br><br>We have difficulty with the 5% without knowing where the number comes from.<br><br>SK<br>(Drafting suggestions):<br><br>~~The penalties imposed by the Commission shall not exceed the 5% average daily turnover of the foreign investor, or in case of a private person foreign investor, 5% of the investment value.~~ |
| | IT<br>(Drafting suggestions):<br><br>**Investment authorities and the Commission shall publish annual reports on the state of foreign direct investment in emerging strategic sectors, including an analysis of the evolution of global productive capacities, the application of this Regulation by Member States and emerging trends that may require updates to the regulatory framework.**<br><br>IT<br>(Comments):<br><br>*A periodic reporting instrument strengthens system accountability and enables timely regulatory adjustments, reducing the risk of the framework becoming obsolete.* |

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| *Article 24*<br>**Delegation of powers** | DE<br>(Drafting suggestions):<br><br>~~Article 24~~<br>~~**Delegation of powers**~~<br><br>DE<br>(Comments):<br><br>Propose to delete Article 24, all relevant technologes should either be directly listed in Article 17 or should be subject to the review, where member states are included in the discussion process.<br><br>DK<br>(Comments):<br><br>What is the rationale behind allowing the scope of the regulation/this chapter to be expanded through a delegated act (rather than not at all, or at the very least though an implementing act)?<br>This seems to be a significant and deeply non-technical decision.<br><br>It seems relevant to hear the CLS's view on the proposed use of implementing acts and delegated acts<br><br>EL<br>(Comments):<br><br>As to article 24 on delegation of powers we have a scrutiny reservation on supplementing the list of emerging strategic sectors. We should discuss the possibility of adding all sectors of Annex I at the primary regulation.<br><br>FI<br>(Comments):<br><br>We have a cautious stance towards delegated acts in this context. Potential rapid changes to the scope of sectors could undermine legal certainty for companies, with possible negative impacts on companies' willingness to invest in EU. |

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| | IT<br>(Drafting suggestions):<br>~~**Article 24**~~<br>~~**Delegation of powers**~~<br>NL<br>(Comments):<br>NL believe that article 24 should be scrapped entirely. The power to adopt these delegated acts undermines coherence with the FDI-screening regulation (incl. potential recasts) given references to economic security as a motive for expansion of the scope of FDI-screening. Given that economic security should not be a motive for FDI screening under the IAA, expansion of scope in that light should be left out entirely.<br>PL<br>(Comments):<br>In order to ensure a better control of the Council over the Commission's proposals, the Commission should be given powers to adopt implementing acts rather than delegated acts. |
| | |
| 1. The Commission is empowered to adopt delegated acts in accordance with Article 30 of this Regulation to supplement the list of emerging strategic sectors to be covered by this Chapter to sectors critical to the Union's economic security including net-zero technologies listed in Article 4(1), points (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point (i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors. | BE<br>(Comments):<br>Can the Commission clarify why it chose to propose the use of delegated acts as opposed to implementing acts?<br>CZ<br>(Drafting suggestions):<br>1. ~~**The Commission is empowered to adopt delegated acts in accordance with Article 30 of this Regulation to supplement the list of emerging strategic sectors to be covered by this Chapter to sectors**~~ |

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| | ~~**critical to the Union's economic security including net-zero technologies listed in Article 4(1), points (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point (i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors.**~~<br><br>CZ<br>(Comments):<br><br>Scope is an essential element of the regulation; therefore, we do not see as appropriate to amend it through delegated acts.<br><br>What is the reason for excluding digital technologies, AI, quantum technologies and semiconductors from para 1?<br><br>Expansion of sectors should require legislative act.<br>- Sector scope is an **essential element.**<br>Delegation would overstep Art. 290 TFEU.<br><br>**<u>Any extension of the scope to additional sectors shall be made by means of a legislative proposal, not by delegated acts.</u>**<br><br>DE<br>(Drafting suggestions):<br><br>~~1. The Commission is empowered to adopt delegated acts in accordance with Article 30 of this Regulation to supplement the list of emerging strategic sectors to be covered by this Chapter to sectors critical to the Union's economic security including net-zero technologies listed in Article 4(1),~~ |

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| | ~~points (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point (i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors~~<br><br>DK<br>(Comments):<br><br>We have doubts if it will be legally sound to delegate to the Commission the power to expand the scope of the regulation which is a fundamental element of the regulation and its effect. We request an opinion from the CLS in this regard.<br><br>EE<br>(Comments):<br><br>Estonia is concerned about the extent of delegation of powers in this article. In general, we prefer implementing acts to delegated acts to ensure stronger involvement of Member States.<br>We support the request of several other Member States for an opinion of the Council Legal Service on whether the scope of the delegation in the proposal goes further than what is permitted under Article 290 TFEU.<br><br>FR<br>(Drafting suggestions):<br><br>1. The Commission is empowered to adopt delegated acts in accordance with Article 30 of this Regulation to supplement the list of emerging strategic sectors to be covered by this Chapter to sectors critical to the Union's economic security including net-zero technologies listed in Article 4(1), points |

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| | (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point (i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors.<br><br>**The Commission shall, one year after the adoption of the regulation, assess the need to extend the sectoral coverage of the regulation in ordrer to revise it. The Commission shall report to the Council the resultat of this need assesmment.**<br><br>FR<br>(Comments):<br><br>In accordance with Article 17, semiconductors must be included int the scope of sectors of this chapter.<br><br>IT<br>(Drafting suggestions):<br><br>~~**1. The Commission is empowered to adopt delegated acts in accordance with Article 30 of this Regulation to supplement the list of emerging strategic sectors to be covered by this Chapter to sectors critical to the Union's economic security including net-zero technologies listed in Article 4(1), points (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point (i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors.**~~<br><br>IT |

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| | (Comments):<br><br>*Any amendment should ensure the adequate involvement of Member States, for instance through the ordinary legislative procedure.*<br><br>LU<br>(Drafting suggestions):<br><br>~~1. The Commission is empowered to adopt delegated acts in accordance with Article 30 of this Regulation to supplement the list of emerging strategic sectors to be covered by this Chapter to sectors critical to the Union's economic security including net-zero technologies listed in Article 4(1), points (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point (i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors.~~<br><br>LU<br>(Comments):<br><br>According to Article 290(1) of the Treaty on the Functioning of the European Union (TFEU), delegated acts may only supplement or amend *non-essential* elements of a legislative act. In our view, any modification to the scope of application of the act touches upon its essential elements. Consequently, the power to amend the scope cannot be delegated to the Commission.<br><br>MT<br>(Drafting suggestions):<br><br>1. The Commission is empowered to adopt ~~delegated~~ **implementing** acts in accordance with Article 30 of this Regulation to supplement the list of |

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| | emerging strategic sectors to be covered by this Chapter to sectors critical to the Union's economic security including net-zero technologies listed in Article 4(1), points (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point (i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors.<br><br>MT<br>(Comments):<br><br>Malta is against delegated acts and has inserted implementing acts to ensure that both Member States and the European Parliament are actively involved in the process. Malta also raises two main concerns. First, it questions whether the sectors identified as critical to the Union's economic security might already be covered by the foreign direct investment screening framework, and asks whether the proposal therefore duplicates an existing legal instrument. Second, Malta points out that the power conferred on the Commission may go beyond what is permissible for delegated acts, since defining economic security criteria could amount to setting an essential element of the legislation, which under the Treaties must remain for the legislator.<br><br>NL<br>(Drafting suggestions):<br><br>~~The Commission is empowered to adopt delegated acts in accordance with Article 30 of this Regulation to supplement the list of emerging strategic sectors to be covered by this Chapter to sectors critical to the Union's economic security including net-zero technologies listed in Article 4(1), points (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point~~ |

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| | ~~(i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors.~~<br><br>SE<br>(Drafting suggestions):<br><br>~~1. The Commission is empowered to adopt delegated acts in accordance with Article 30 of this Regulation to supplement the list of emerging strategic sectors to be covered by this Chapter to sectors critical to the Union's economic security including net-zero technologies listed in Article 4(1), points (b), (d), (e), (g), (h), (j), (k), (n), (p), and (s), of Regulation (EU) 2024/1735, nuclear fuel cycle technologies referred to in Article 4(1), point (i), of Regulation (EU) 2024/1735, electric propulsion technologies for transport referred to in Article 4(1), point ®, of Regulation (EU) 2024/1735, and excluding digital technologies, artificial intelligence, quantum technologies and semiconductors.~~<br><br>SE<br>(Comments):<br><br>The scope of the regulation should not be amended through delegated acts. |
| | |
| These delegated acts shall be without prejudice to other Union acts establishing investment criteria for these sectors. | CZ<br>(Drafting suggestions):<br><br>**~~These delegated acts shall be without prejudice to other Union acts establishing investment criteria for these sectors.~~**<br><br>CZ<br>(Comments):<br><br>Expansion of sectors should require legislative act. |

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| | **Justification:**<br>- Sector scope is an **essential element.**<br>Delegation would overstep Art. 290 TFEU.<br><br>DE<br>(Drafting suggestions):<br><br>~~These delegated acts shall be without prejudice to other Union acts establishing investment criteria for these sectors.~~<br><br>IT<br>(Drafting suggestions):<br><br>~~**These delegated acts shall be without prejudice to other Union acts establishing investment criteria for these sectors.**~~<br><br>LU<br>(Drafting suggestions):<br><br>~~These delegated acts shall be without prejudice to other Union acts establishing investment criteria for these sectors.~~<br><br>MT<br>(Drafting suggestions):<br><br>These ~~delegated~~ **implementing** acts shall be without prejudice to other Union acts establishing investment criteria for these sectors.<br><br>MT<br>(Comments):<br><br>Malta is against delegated acts and has inserted implementing acts to ensure that both Member States and the European Parliament are actively involved in the process<br><br>NL |

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| | (Drafting suggestions):<br><br>~~These delegated acts shall be without prejudice to other Union acts establishing investment criteria for these sectors.~~<br><br>SE<br>(Drafting suggestions):<br><br>~~These delegated acts shall be without prejudice to other Union acts establishing investment criteria for these sectors.~~<br><br>SK<br>(Drafting suggestions):<br><br>These delegated acts shall be without prejudice to other Union acts establishing investment criteria for these sectors. **The adoption of such delegated acts shall be conditional upon prior consultations with the Member States.**<br><br>SK<br>(Comments):<br><br>To enhance legal certainty, we propose specifying in greater detail the conditions for amending delegated acts, as well as the factors the Commission must consider when modifying them. Given the direct impact of these acts on national legislation and the obligations of national authorities, Member States should be involved in the amendment process, at a minimum through prior consultations. |
| | PL<br>(Drafting suggestions):<br><br>**Any expansion of the scope of Chapter IV to additional strategic sectors shall be preceded by an impact assessment covering access to finance,** |

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| | **competitiveness, investment attractiveness, administrative burden and the functioning of the internal market.**<br><br>PL<br>(Comments):<br><br>The proposed amendment is necessary to ensure that any future expansion of Chapter IV remains evidence-based, proportionate and consistent with the functioning of the internal market. Extending foreign direct investment criteria to additional strategic sectors may have significant implications for access to finance, investment attractiveness, administrative burden and the competitiveness of Union industry. This is particularly important for sectors with complex and capital-intensive value chains, including selected chemical segments. Any expansion should therefore be preceded by a comprehensive impact assessment and should be targeted only at those areas where there is a clearly demonstrated risk to Union economic security, supply security or strategic value chains. The mechanism should not create legal uncertainty or discourage investments that genuinely strengthen Union industrial capacity, technology development and value creation in the Union. |
| 2. The delegated acts referred to in paragraph 1 shall be based on the following factors: | CZ<br>(Drafting suggestions):<br><br>~~**2. The delegated acts referred to in paragraph 1 shall be based on the following factors:**~~<br><br>DE<br>(Drafting suggestions):<br><br>~~The delegated acts referred to in paragraph 1 shall be based on the following factors:~~<br><br>IT<br>(Drafting suggestions): |

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| | ~~**2. The delegated acts referred to in paragraph 1 shall be based on the following factors:**~~<br><br>LU<br>(Drafting suggestions):<br><br>~~2. The delegated acts referred to in paragraph 1 shall be based on the following factors:~~<br><br>MT<br>(Drafting suggestions):<br><br>2. The ~~delegated~~ **implementing** acts referred to in paragraph 1 shall be based on the following factors:<br><br>MT<br>(Comments):<br><br>Malta is against delegated acts and has inserted implementing acts to ensure that both Member States and the European Parliament are actively involved in the process<br><br>NL<br>(Drafting suggestions):<br><br>~~The delegated acts referred to in paragraph 1 shall be based on the following factors:~~<br><br>SE<br>(Drafting suggestions):<br><br>~~2. The delegated acts referred to in paragraph 1 shall be based on the following factors:~~ |
| | |
| (a) an assessment of whether modifying the list of emerging strategic sectors would unduly deter or discourage foreign direct investment in the Union; | CZ<br>(Drafting suggestions): |

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| | ~~**(a) an assessment of whether modifying the list of emerging strategic sectors would unduly deter or discourage foreign direct investment in the Union;**~~<br><br>DE<br>(Drafting suggestions):<br><br>~~(a) an assessment of whether modifying the list of emerging strategic sectors would unduly deter or discourage foreign direct investment in the Union;~~<br><br>IT<br>(Drafting suggestions):<br><br>~~**(a) an assessment of whether modifying the list of emerging strategic sectors would unduly deter or discourage foreign direct investment in the Union;**~~<br><br>LU<br>(Drafting suggestions):<br><br>~~(a) an assessment of whether modifying the list of emerging strategic sectors would unduly deter or discourage foreign direct investment in the Union;~~<br><br>NL<br>(Drafting suggestions):<br><br>~~an assessment of whether modifying the list of emerging strategic sectors would unduly deter or discourage foreign direct investment in the Union~~<br><br>SE<br>(Drafting suggestions):<br><br>~~(a) an assessment of whether modifying the list of emerging strategic sectors would unduly deter or discourage foreign direct investment in the Union~~ |

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| | |
| (b) number of foreign direct investments in that sector, taking into account their contribution to the Union's security of supply and their added value to the Union's economy; | CZ<br>(Drafting suggestions):<br>~~**(b) number of foreign direct investments in that sector, taking into account their contribution to the Union's security of supply and their added value to the Union's economy;**~~<br>DE<br>(Drafting suggestions):<br>~~(b) number of foreign direct investments in that sector, taking into account their contribution to the Union's security of supply and their added value to the Union's economy;~~<br>IT<br>(Drafting suggestions):<br>~~**(b) number of foreign direct investments in that sector, taking into account their contribution to the Union's security of supply and their added value to the Union's economy;**~~<br>LU<br>(Drafting suggestions):<br>~~(b) number of foreign direct investments in that sector, taking into account their contribution to the Union's security of supply and their added value to the Union's economy;~~<br>NL<br>(Drafting suggestions):<br>~~number of foreign direct investments in that sector, taking into account their contribution to the Union's security of supply and their added value to the Union's economy;~~ |

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| | SE<br>(Drafting suggestions):<br>~~(b) number of foreign direct investments in that sector, taking into account their contribution to the Union's security of supply and their added value to the Union's economy;~~ |
| | |
| © market situation and conditions, including supply chain disturbances, on Union level; | CZ<br>(Drafting suggestions):<br>~~**c) market situation and conditions, including supply chain disturbances, on Union level;**~~<br>DE<br>(Drafting suggestions):<br>~~market situation and conditions, including supply chain disturbances, on Union level;~~<br>IT<br>(Drafting suggestions):<br>~~**© market situation and conditions, including supply chain disturbances, on Union level;**~~<br>LU<br>(Drafting suggestions):<br>~~© market situation and conditions, including supply chain disturbances, on Union level;~~<br>NL<br>(Drafting suggestions):<br>~~market situation and conditions, including supply chain disturbances, on Union level;~~ |

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| | SE<br>(Drafting suggestions):<br>~~© market situation and conditions, including supply chain disturbances, on Union level~~ |
| | |
| (d) technological developments and the Union's competitiveness in that sector in comparison to third countries; | CZ<br>(Drafting suggestions):<br>~~**d) technological developments and the Union's competitiveness in that sector in comparison to third countries;**~~<br>DE<br>(Drafting suggestions):<br>~~d) technological developments and the Union's competitiveness in that sector in comparison to third countries;~~<br>IT<br>(Drafting suggestions):<br>~~**(d) technological developments and the Union's competitiveness in that sector in comparison to third countries;**~~<br>LU<br>(Drafting suggestions):<br>~~(d) technological developments and the Union's competitiveness in that sector in comparison to third countries;~~<br>NL<br>(Drafting suggestions):<br>~~technological developments and the Union's competitiveness in that sector in comparison to third countries;~~ |

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| | SE<br>(Drafting suggestions):<br>~~(d) technological developments and the Union's competitiveness in that sector in comparison to third countries;~~ |
| | |
| (e) supply chain dependence in the relevant sector on one or more countries. | CZ<br>(Drafting suggestions):<br>~~**(e) supply chain dependence in the relevant sector on one or more countries.**~~<br>DE<br>(Drafting suggestions):<br>~~(e) supply chain dependence in the relevant sector on one or more countries~~<br>IT<br>(Drafting suggestions):<br>~~**(e) supply chain dependence in the relevant sector on one or more countries.**~~<br>LU<br>(Drafting suggestions):<br>~~(e) supply chain dependence in the relevant sector on one or more countries.~~<br>NL<br>(Drafting suggestions):<br>~~supply chain dependence in the relevant sector on one or more countries.~~<br>SE |

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| | (Drafting suggestions):<br>~~(e) supply chain dependence in the relevant sector on one or more countries.~~ |
| | SK<br>(Drafting suggestions):<br>**(f) a detailed impact assessment study evaluating the specific effects of the modification on each Member State.**<br>SK<br>(Comments):<br>The modification of sectors should always be conditional on the preparation of an impact assessment study for each Member State. See comment for Article 24(1) |
| 3. The delegated acts adopted pursuant to paragraph 1 shall contain: | CZ<br>(Drafting suggestions):<br>~~**3. The delegated acts adopted pursuant to paragraph 1 shall contain:**~~<br>DE<br>(Drafting suggestions):<br>~~3. The delegated acts adopted pursuant to paragraph 1 shall contain:~~<br>IT<br>(Drafting suggestions):<br>~~**3. The delegated acts adopted pursuant to paragraph 1 shall contain:**~~<br>LU<br>(Drafting suggestions):<br>~~3. The delegated acts adopted pursuant to paragraph 1 shall contain:~~ |

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| | MT<br>(Drafting suggestions):<br>3. The ~~delegated~~ **implementing** acts adopted pursuant to paragraph 1 shall contain:<br>MT<br>(Comments):<br>Malta is against delegated acts and has inserted implementing acts to ensure that both Member States and the European Parliament are actively involved in the process<br>NL<br>(Drafting suggestions):<br>~~The delegated acts adopted pursuant to paragraph 1 shall contain:~~<br>SE<br>(Drafting suggestions):<br>~~3. The delegated acts adopted pursuant to paragraph 1 shall contain:~~ |
| | |
| (a) the threshold value referred to in Article 17(1) for each of those additional sectors; | BE<br>(Comments):<br>Has the Commission considered that varying thresholds per sector may further complicate the regulatory landscape, if so, what was its evaluation?<br>CZ<br>(Drafting suggestions):<br>~~**a) the threshold value referred to in Article 17(1) for each of those additional sectors;**~~<br>CZ |

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| | (Comments):<br><br>According to para 3.a, the delegated acts shall contain threshold value referred to in Article 17(1). Does it mean that the Commission will define these thresholds? We are hesitant to give these powers to the Commission. Any change in the scope has to be duly discussed with Member States.<br><br>DE<br>(Drafting suggestions):<br><br>~~(a) the threshold value referred to in Article 17(1) for each of those additional sectors;~~<br><br>IT<br>(Drafting suggestions):<br><br>~~**(a) the threshold value referred to in Article 17(1) for each of those additional sectors;**~~<br><br>LU<br>(Drafting suggestions):<br><br>~~(a) the threshold value referred to in Article 17(1) for each of those additional sectors;~~<br><br>NL<br>(Drafting suggestions):<br><br>~~the threshold value referred to in Article 17(1) for each of those additional sectors;~~<br><br>SE<br>(Drafting suggestions):<br><br>~~(a) the threshold value referred to in Article 17(1) for each of those additional sectors;~~ |
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| (b) whether the investment conditions referred to in Article 18 are appropriate and necessary to meet the objectives of this Regulation with respect to the sector concerned, and if not, which of those criteria is to be applied. | CZ<br>(Drafting suggestions):<br>**~~b) whether the investment conditions referred to in Article 18 are appropriate and necessary to meet the objectives of this Regulation with respect to the sector concerned, and if not, which of those criteria is to be applied.~~**<br>CZ<br>(Comments):<br>It is not clear whether the delegated acts shall contain possibly new conditions, different from those referred to in Article 18. This may make the Regulation quite complex and cause confusion. Also, what is meant by "criteria" at the end of the sentence? This might be linked to the terminological inconsistency of Article 18<br>DE<br>(Drafting suggestions):<br>~~(b) whether the investment conditions referred to in Article 18 are appropriate and necessary to meet the objectives of this Regulation with respect to the sector concerned, and if not, which of those criteria is to be applied.~~<br>IT<br>(Drafting suggestions):<br>**~~(b) whether the investment conditions referred to in Article 18 are appropriate and necessary to meet the objectives of this Regulation with respect to the sector concerned, and if not, which of those criteria is to be applied.~~**<br>LU<br>(Drafting suggestions): |

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| | ~~(b) whether the investment conditions referred to in Article 18 are appropriate and necessary to meet the objectives of this Regulation with respect to the sector concerned, and if not, which of those criteria is to be applied.~~<br><br>NL<br>(Drafting suggestions):<br><br>(b) ~~whether the investment conditions referred to in Article 18 are appropriate and necessary to meet the objectives of this Regulation with respect to the sector concerned, and if not, which of those criteria is to be applied.~~<br><br>SE<br>(Drafting suggestions):<br><br>~~(b) whether the investment conditions referred to in Article 18 are appropriate and necessary to meet the objectives of this Regulation with respect to the sector concerned, and if not, which of those criteria is to be applied.~~ |
| | |
| CHAPTER V<br>**INDUSTRIAL MANUFACTURING ACCELERATION AREAS** | |
| | |
| *Article 25*<br>**Designating national industrial manufacturing acceleration areas** | |
| | |
| 1. Member States shall designate at least one industrial manufacturing acceleration area on their territory by [OP please insert date: 12 months following the entry into force of this Regulation] to cluster industrial | |

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| manufacturing projects in one or several of the strategic sectors listed in Annex I. | |
| | |
| 2. Member States shall designate industrial manufacturing acceleration areas by decision, on the basis of the following elements: | |
| | |
| (a) the impact of the industrial manufacturing acceleration area's production on the security of the Union's supply for the strategic sectors listed in Annex I; | |
| | |
| (b) the potential of the industrial manufacturing acceleration area to support the deployment of production capacity in the strategic sectors listed in Annex I, to strengthen Union value chains and the Union's innovation potential to accelerate sustainable manufacturing industrial activities, including decarbonisation and circular business practices, and to foster the functioning of the internal market, in alignment with strategic projects and other initiatives, including as Net Zero Acceleration Valleys, carried out pursuant to other Union legislation; | |
| | |
| © the number of SMEs and SMCs that would benefit from the provisions of this Chapter within the industrial acceleration area; | |
| | |
| (d) the Member State's regions' level of development, including least developed areas, regions in transition, and those undergoing industrial transformation. | |
| | |
| 3. When designating industrial manufacturing acceleration areas, Member States shall: | |
| | |
| (a) define a clear geographic scope for the acceleration area; | |

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| (b) prioritise locations where the deployment of a specific sector or sectors of industrial manufacturing projects is not expected to have a significant environmental impact; | |
| | |
| © prioritise locations outside Natura 2000 sites and outside areas designated under national protection schemes for nature and biodiversity conservation, as well as other areas identified on the basis of sensitivity maps and outside protected areas as referred to in Article 6 of Directive 2000/60/EC; | |
| | |
| (d) take into account climate risks in the areas designated; | |
| | |
| (e) prioritise artificial and built surfaces, industrial sites, and brownfield sites, as well as already identified strategic projects pursuant to other Union legislation. | |
| | |
| 4. When designating industrial manufacturing acceleration areas, Member States shall take into account, as relevant, the following considerations: | |
| | |
| (a) the infrastructural needs of the acceleration area; | |
| | |
| (b) the financing needs of manufacturing industry located in the acceleration area and the possibility to support that industry, where applicable, in accordance with applicable State aid rules; | |
| | |
| © the supply chain needs within the acceleration area and the essential materials, particularly secondary materials, necessary for manufacturing activities; | |
| | |

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| (d) the feasibility of connecting the acceleration area with sufficient low-carbon energy supply for the acceleration of industrial manufacturing activity; | |
| | |
| (e) skill needs, the shortages and employment trends and support measures to achieve the adequate reskilling and upskilling of the local workforce; | |
| | |
| (f) the need, as relevant, for depollution of the acceleration area to facilitate the commencement of new industrial activities; | |
| | |
| (g) research and innovation needs for accelerating the manufacturing industrial activity in the area; | |
| | |
| (h) relevant location-specific information made publicly available by industry, including corporate climate transition plans, related targets and actions, investment needs, and required enabling policy frameworks. | |
| | |
| 5. Before their adoption, the plans or programmes on the designation of the industrial manufacturing acceleration areas shall be subject to an environmental assessment pursuant to Directive 2001/42/EC of the European Parliament and of the Council[44], and, if they are likely to have a significant impact on Natura 2000 sites, to the appropriate assessment pursuant to Article 6(3) of Council Directive 92/43/EEC[45] and, where applicable, to the relevant assessment to comply with Article 4(7) of Directive 2000/60/EC of the European Parliament and of the Council[46].<br><br>44 Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30, ELI: http://data.europa.eu/eli/dir/2001/42/oj).<br><br>45 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: | |

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| http://data.europa.eu/eli/dir/1992/43/oj).<br><br>46 Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1, ELI: http://data.europa.eu/eli/dir/2000/60/oj). | |
| | |
| 6. Member States shall inform the Commission of the designation of an industrial manufacturing acceleration area, within 30 days from the adoption of the relevant decision. | |
| | |
| *Article 26*<br>**Enabling conditions** | |
| | |
| Member States shall take the following measures, where appropriate, to facilitate the development of industrial manufacturing acceleration areas: | |
| | |
| (a) facilitate financing of projects in the acceleration areas by ensuring coordination between authorities and streamlining internal procedures, in synergy with Union programmes and in accordance with existing State aid rules where applicable, taking into account the participation of SMEs and SMCs; | |
| | |
| (b) promote research and innovation investments to accelerate the innovative potential and Union's competitiveness and technology leadership in the acceleration areas; | |
| | |
| © conduct, and review at least every three years, a comprehensive analysis of the energy needs of each acceleration area and identifying the required energy infrastructure capacity for the proper functioning and | |

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| development of industrial manufacturing projects located in the acceleration area. | |
| | |
| Such analysis shall be conducted, at least, when designating the industrial acceleration area and for the milestones of years 2030, 2040 and 2050, ensuring alignment with the Union's decarbonisation pathway; | |
| | |
| (d) ensure that the network development plans prepared by transmission system operators pursuant to Article 51 of Directive (EU) 2019/944 of the European Parliament and of the Council[47] and distribution system operators pursuant to Article 32 of Directive (EU) 2019/944 take due account of the analysis prepared pursuant to point © of this paragraph, considering the potential of anticipatory investments to accommodate future system needs;<br><br>47 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125, ELI: http://data.europa.eu/eli/dir/2019/944/oj). | |
| | |
| (e) exchange information on relevant supply chains, identify potential bottlenecks, and strengthen coordination between acceleration areas on critical raw materials issues within the framework of the European Critical Raw Materials Board established by Article 35 of Regulation (EU) 2024/1252; | |
| | |
| (f) promote entities in the acceleration areas and facilitate their participation, where relevant, in the joint purchasing mechanism established by Article 25 of Regulation (EU) 2024/1252, including by providing guidance, support, and information to ensure effective engagement; | |
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| (g) support the development and availability of a highly skilled workforce and provide appropriate training and apprenticeship opportunities, thereby contributing to high-quality employment within those acceleration areas; | |
| | |
| (h) exchange information on the necessary skills, potential shortages of those skills and best practices applied in the acceleration areas within the framework of the Industrial Forum expert group established by COM/2020/102[48];<br><br>48 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions a New Industrial Strategy for Europe (COM/2020/102 final). | |
| | |
| (i) ensure synergies and promote the benefits provided under the Pact for Skills[49] or entities established in the acceleration areas, with particular attention to Large-Scale Skill Partnerships and Regional Skills Partnerships included therein.<br><br>49 Communication from the Commission to the European Parliament, the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, European Skills Agenda for sustainable competitiveness, social fairness and resilience ((COM(2020) 274 final). | |
| | |
| *Article 27*<br>**Permit-granting procedures in acceleration areas** | |
| | |
| 1. For each designated industrial manufacturing acceleration area, Member States shall prepare and issue an aggregated baseline permit authorising industrial activities located within that area. This aggregated baseline permit shall cover the permits and administrative authorisations | |

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| required for the industrial manufacturing projects located within the acceleration area, excluding those permits that are installation specific. | |
| | |
| 2. Before issuing the aggregated baseline permit referred to in paragraph 1, Member States shall carry out all necessary assessments, including relevant environmental assessments, planning procedures and evaluations applicable at the level of the acceleration area. Member States shall take into account the assessment carried out pursuant to Article 25(5). | |
| | |
| 3. Industrial manufacturing projects located within an industrial manufacturing acceleration area shall be required to obtain only those additional permits or authorisations that fall outside the scope of the aggregated baseline permit referred to in paragraph 1. | |
| | |
| 4. All industrial manufacturing projects located within an acceleration area shall be considered strategic projects contributing to resilience and decarbonisation or resource efficiency for the purposes of [Article 14 of Proposal for a Regulation on speeding-up environmental assessment]. Points 1, 2 and 3 of the Annex to that Regulation shall apply. | |
| | |
| CHAPTER VI<br>**FINAL PROVISIONS** | |
| | |
| *Article 28*<br>**Evaluation** | |
| | |
| By [OP: Please insert the date = two years after the date of entry into force of this Regulation], and every three years thereafter, the Commission shall carry out an evaluation of this Regulation and of its contribution to the functioning of the internal market. The evaluation shall consider: | |

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| | |
| (a) progress made in achieving the objectives specified in Article 1, particularly on resilience, economic security and decarbonisation of industrial production; | |
| | |
| (b) progress made in achieving the industrialisation objective pursuant to Article 2, taking into account the challenges and opportunities in the internal market and global markets; | |
| | |
| © the related administrative costs, economic impacts on downstream sectors, small and medium enterprises and impacts on public budgets. | |
| | |
| *Article 29*<br>**Review** | |
| | |
| By [OP: Please insert the date three years after the date of entry into force this Regulation], the Commission shall assess the necessity of amending Chapters III and IV. The Commission may submit a legislative proposal in order to repeal or amend this Regulation. That review shall be carried out periodically every three years after the first review. | |
| | |
| When carrying out its review, the Commission shall pay particular attention to the effectiveness of this Regulation and the persistence of the circumstances that have justified the adoption of this Regulation and to the necessity to introduce Union origin requirements for products from certain sectors critical to the Union's economic security, notably the building of ships and of rail rolling stock. | |
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| *Article 30*<br>**Exercise of the delegation** | |
| | |
| 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article. | |
| | |
| 2. The power to adopt delegated acts referred to in Articles 8, 9, 10, 16 and 24shall be conferred on the Commission for an indeterminate period of time from [OP please insert the date = the date of the entry into force of this Regulation]. | |
| | |
| 3. The delegation of power referred to in Articles 8, 9, 10, 16 and 24 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force. | |
| | |
| 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. | |
| | |
| 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council. | |
| | |
| 6. A delegated act adopted pursuant to Articles 8, 9, 10, 16 and 24shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the | |

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| Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council. | |
| | |
| *Article 31*<br>**Committee procedure** | |
| | |
| 1. The Commission shall be assisted by a Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011. | |
| | |
| 2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply. | |
| | |
| 3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. | |
| | |
| *Article 32*<br>**Penalties** | |
| | |
| Member States shall lay down rules on penalties applicable to infringements of the provisions of this Regulation and shall take all necessary measures to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, without delay, notify the Commission of those rules and measures and shall notify it, without delay, of any subsequent amendment affecting them. | |
| | |
| *Article 33*<br>**Amendments to Regulation (EU) 2018/1724** | |
| | |
| Annexes I and II to Regulation (EU) 2018/1724 are amended in accordance with Annex V to this Regulation. | |

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| | |
| *Article 34*<br>**Amendments to Regulation (EU) 2024/1735** | |
| | |
| Regulation (EU) 2024/1735 is amended as follows: | |
| | |
| (1) in Article 3 the following points (34), (35) and (36) are added: | |
| | |
| (a) '(34) 'industrial battery' means an industrial battery as defined in Article 3(1), point (13), of Regulation (EU) 2023/1542 of the European Parliament and the Council*;' | |
| | |
| (b) '(35) 'stationary battery energy storage system' means a stationary battery energy storage system as defined in Article 3(1), point (15), of Regulation (EU) 2023/1542;' | |
| | |
| © '(36) 'hydronic heat pump' means a space heater using ambient heat from an air source, water source or ground source, and/or waste heat for heat generation and heating space through a water circuit.' | |
| | |
| ___ | |
| | |
| * Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (OJ L 191, 28.7.2023, p. 1, ELI: http://data.europa.eu/eli/reg/2023/1542/oj).; | |
| | |
| (2) in Article 9, the following paragraph (14) is added: | |
| | |

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| 14. All net-zero technology manufacturing projects shall be considered strategic projects contributing to resilience and decarbonisation or resource efficiency for the purpose of Article 14(1) of [Proposal for a Regulation on speeding-up environmental assessment].’; | |
| | |
| (3) Article 25 is amended as follows: | |
| | |
| (a) paragraph 1 is replaced by the following: | |
| | |
| ‘1. For public procurement procedures falling within the scope of Directive 2014/23/EU, 2014/24/EU or 2014/25/EU, where contracts have net-zero technologies listed in Article 4(1), points (a) to (d), (h) and (i), of this Regulation as part of their subject matter, or in the case of works contracts and works concessions including said technology, contracting authorities and contracting entities shall apply minimum mandatory requirements regarding environmental sustainability established in the implementing act referred to in paragraph 5 of this Article.’; | |
| | |
| (b) in paragraph 7, the first subparagraph is replaced by the following: | |
| | |
| ‘The tender’s resilience contribution shall be taken into account in the case of public procurement procedures, work contracts and works concessions referred to in paragraph 1, in accordance with this paragraph.’ | |
| | |
| © in paragraph 7, point (a) is replaced by the following: | |
| | |
| ‘(a) an obligation for the duration of the contract not to supply more than 50 % of the value of the specific net-zero technology final product referred to in this paragraph from each individual third country as determined by the Commission; | |

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| | |
| (d) in paragraph 7, point (b) is replaced by the following: | |
| | |
| '(b) an obligation for the duration of the contract that no more than 50 % of the value of all the main specific components of the specific net-zero technology referred to in this paragraph taken together is supplied or provided directly by the successful tenderer or by a subcontractor from each individual third country as determined by the Commission;'; | |
| | |
| (4) The following Article 25a is inserted: | |
| | |
| *'Article 25a*<br>**Origin requirements for public procurement procedures** | |
| | |
| 1. For public procurement procedures referred to in Annex II, contracting authorities and contracting entities shall exclude from access to such procurement procedures tenders submitted by economic operators owned or controlled by an entity established in third countries which have not concluded an international agreement with the Union guaranteeing such access. | |
| | |
| 2. For public procurement procedures referred to in Annex II, contracting authorities and contracting entities shall apply the Union origin requirements laid down therein. Requirements relating to specific main specific components shall only apply to the extent that those components are included in the final product. | |
| | |
| 3. Contracting authorities and contracting entities may decide not to apply one or several requirements set out in Annex II where any of the following conditions are fulfilled: | |
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| (a) the required products can only be supplied by one specific economic operator, and no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the public procurement procedure; | |
| | |
| (b) no suitable tenders or no suitable requests to participate have been submitted, including in response to a similar former public procurement procedure launched by the same contracting authority or contracting entity in the two years preceding the start of the planned new procurement procedure; | |
| | |
| © their application would require a contracting authority or contracting entity to acquire goods, services or works having disproportionate costs or would result in technical incompatibility in operation and maintenance. Estimated cost differences in excess of 25%, based on objective and transparent data, may be presumed by contracting authorities and contracting entities to be disproportionate. | |
| | |
| (d) their application would lead to significant delays to the delivery of the project due to the unavailability of the required components or final products. Estimated delays in excess of seven months, based on objective, transparent and verifiable data, may be presumed to be significant. | |
| | |
| 4. Contracting authorities shall require economic operators supplying products falling within the scope of this Article to submit a self-declaration, or an equivalent document, demonstrating compliance with the requirements set out in this Article.' | |
| | |
| (5) Article 26 is amended as follows: | |
| | |

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| (a) the heading is replaced by the following: 'Auctions for net-zero technologies' | |
| | |
| (b) paragraph 1 is amended as follows: | |
| | |
| the introductory wording is replaced by the following: | |
| | |
| 'When designing auctions for net-zero technologies listed in Article 4(1), points (a) to (g), (i) and (j), Member states shall include:' | |
| | |
| in point (a), the following point (iv) is added: | |
| | |
| ' (iv) high-risk suppliers as defined in Article 2 point (39) of Regulation xxxx/xxxx [CSA2]: For auctions that include control systems, management control systems, supervisory control and data acquisition systems, remote access systems or firewalls, suppliers identified as high-risk suppliers in accordance with Regulation xxxx/xxxx [CSA2]shall not be involved in the following processes: | |
| | |
| (1) the supply of those products or systems; | |
| | |
| (2) the design, development or production of those products or systems; | |
| | |
| (3) the management, control or operation of those products or systems; | |
| | |
| (4) the development, maintenance, operation, or updating of their software | |
| | |
| point (b), is replaced by the following: 'pre-qualification criteria or award criteria as referred to in paragraphs 2 and 2a'. | |
| | |

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| © The following paragraph 2a is inserted: '2a. Where the auctions have net-zero technologies listed in Annex II as part of their subject-matter, Member States shall include the pre-qualification or award criteria laid down in Annex II.' Criteria relating to specific main specific components shall only apply to the extent that those components are included in the final product.'; | |
| | |
| (d) in paragraph 3, the first subparagraph is replaced by the following: 'The Commission is empowered to adopt an implementing act further specifying the pre-qualification and award criteria referred to in paragraph 1points (a), (i), (ii) and (iii), and paragraph 2.' | |
| | |
| (e) paragraph 4 is replaced by the following: '4. Member States shall give to each of the criteria referred to in paragraphs 2 and 2a, when applied as award criteria, a minimum weight of 5 % and a combined weight of between 15 % and 30 % of the award criteria. That is without prejudice to the possibility to give a higher weighting to the criteria referred to in the fourth subparagraph of paragraph 2, in accordance with any limit for non-price criteria set out in State aid rules.'. | |
| | |
| (f) paragraph 5 is replaced by the following: '5. Member States shall not be required to apply one or several of the pre-qualification and award criteria laid down in paragraph 1, points (a), (i), (ii) and (iii), and paragraph 1, point (b), where the application of those criteria would result in disproportionate costs or in significant delays to the delivery of the project due to the unavailability of the required components or final products. Estimated cost differences in excess of 20% per auction, based on objective and verifiable data, may be presumed by Member States to be disproportionate. Delays in excess of seven months, based on objective, transparent and verifiable data, may be presumed to be significant.' | |
| | |

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| (g) paragraph 7 is replaced by the following: '7. Paragraphs 1 to 5 shall apply to at least 40% of the volume auctioned per year per Member State or alternatively to at least 8 Gigawatt per year per Member State. Paragraph 1, points (a)(ii) and (iv), shall apply to 100% of the volume auctioned per Member State.' | |
| | |
| (h) in paragraph 8, the introductory wording is replaced by the following: 'By 31 December 2027, the Commission shall carry out a comprehensive assessment of the application of the criteria referred to in paragraph 2 and their effect on the accelerated deployment of renewable energy technologies. By 31 December 2029 and every two years thereafter, the Commission shall carry out a comprehensive assessment of the application of the criteria referred to in paragraphs 2 and 2a and their effect on the accelerated deployment of renewable energy technologies. In particular, the Commission shall assess the impact of the criteria on:' | |
| | |
| (6) The following Articles 28a to 28e are inserted: | |
| | |
| *Article 28a*<br>**Origin requirements for other forms of public intervention** | |
| | |
| 1. Without prejudice to Articles 107 and 108 TFEU, support schemes referred to in Annex II shall include the requirements laid down therein. Requirements relating to specific main specific components shall only apply to the extent that those components are included in the final product. | |
| | |
| 2. When designing and implementing a scheme pursuant to paragraph 1, the authority shall assess the fulfilment of the requirements on the basis of an open, non-discriminatory and transparent process. | |
| | |

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| 3. When additional financial compensation is granted, it shall not exceed 15% of the cost of the final product for the consumer, including transport and installation costs where relevant, with the exception of schemes targeting citizens living in energy poverty, as defined in Article 2, point (1), of Regulation (EU) 2023/955 of the European Parliament and of the Council ([57]), for which the limit shall be 20 %. | |
| | |
| *Article 28b*<br>**Limitations to high-risk suppliers for other forms of public intervention** | |
| | |
| For support schemes within the scope of Articles 28 and 28a that include control systems, management control systems, supervisory control and data acquisition systems, remote access systems or firewalls, Member States shall design those schemes in such a way as to ensure that beneficiaries shall be eligible to the scheme only where suppliers identified as high-risk suppliers in accordance with Regulation xxxx/xxxx [CSA2] are not be involved in the following processes: | |
| | |
| (a) the supply of those products or systems; | |
| | |
| (b) the design, development or production of those products or systems; | |
| | |
| © the management, control or operation of those products or systems; | |
| | |
| (d) the development, maintenance, operation, or updating of their software. | |
| | |

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| *Article 28c*<br>**Union origin requirements for Member State support to construction and manufacturing of net-zero technologies** | |
| | |
| 1. Without prejudice to Articles 107 and 108 TFEU and in accordance with the Union's international commitments, when supporting the construction or manufacturing of net-zero technology final products referred to in Annex II of this Regulation, Member States shall ensure that the Union origin requirements laid down in that Annex are met. Requirements relating to specific main specific components shall only apply to the extent that those components are included in the final product. | |
| | |
| 2. Member States may decide not to apply one or several requirements referred to in paragraph 1 where any of the following conditions are fulfilled: | |
| | |
| (a) the required components can only be supplied by one specific economic operator, and no reasonable alternative or substitute exists, and the absence of competition is not the result of an artificial narrowing down of the parameters of the public procurement procedure; | |
| | |
| (b) their application would result in disproportionate costs or technical incompatibility in operation or maintenance. Estimated cost differences in excess of 25%, based on objective and transparent data, may be presumed to be disproportionate; | |
| | |
| © their application would jeopardise the project or lead to significant delays to the delivery of the project due to the unavailability of the required components or final products. Delays in excess of seven months, based on objective, transparent and verifiable data, may be presumed to be significant. | |
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| 3. Without prejudice to Articles 107 and 108 TFEU and in accordance with the Union's international commitments, when supporting the manufacturing of net-zero technology final products referred to in Annex II of this Regulation and that include control systems, management control systems, supervisory control and data acquisition systems, remote access systems or firewalls, Member States shall ensure that suppliers identified as high-risk suppliers in accordance with Regulation xxxx/xxxx [CSA2] are not involved in the following processes: | |
| | |
| (a) the supply of those products or systems; | |
| | |
| (b) the design, development or production of those products or systems; | |
| | |
| © the management, control or operation of those products or systems; | |
| | |
| (d) the development, maintenance, operation, or updating of their software. | |
| | |
| *Article 28d*<br>**Union origin** | |
| | |
| 1. For the purposes of Articles 25a, 26 and 28a and 28c, content of Union origin refers to content originating in the Union. | |
| | |
| 2. The origin of products and components shall be determined in accordance with Regulation (EU) No 952/2013 of the European Parliament. | |
| | |
| *Article 28e* | |
| | |

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| **Content equivalent to Union origin in public procurement** | |
| | |
| 1. With respect to the Union origin requirements referred to in Article 25a, content originating in third countries with which the Union has concluded an agreement establishing a free trade area or a customs union, or that are parties to the Agreement on Government Procurement, where relevant obligations of the Union exist under that agreement, shall be deemed to be of Union origin . | |
| | |
| 2. The Commission shall adopt delegated acts in accordance with Article 44 to exclude, in whole or in part, a third country from the scope of paragraph 1 based on any of the following criteria: | |
| | |
| (e) that third country has failed to provide national treatment related to Union products or entities under the agreements referred to in paragraph 1 in relation to any of the net-zero technologies listed in Article 4, point (1); | |
| | |
| (f) such exclusion is justified to avoid dependencies or any other developments that may threaten the security of supply in the Union of the products in question; | |
| | |
| (g) such exclusion is justified under any other exception under the applicable agreement. | |
| | |
| *Article 28f* | |
| | |
| **Content equivalent to Union origin in auctions** | |
| | |
| 3. With respect to the Union origin requirements referred to in Article 26, content originating in third countries with which the Union has concluded an | |

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| agreement establishing a free trade area or a customs union shall be deemed to be of Union origin. | |
| | |
| 4. The Commission shall adopt delegated acts in accordance with Article 44 to exclude, in whole or in part, a third country from the scope of paragraph 1 based on any of the following criteria: | |
| | |
| (h) that third country has failed to provide national treatment related to Union products or entities under the agreements referred to in paragraph 1 in relation to any of the net-zero technologies listed in Article 4, point (1); | |
| | |
| (i) such exclusion is justified to avoid dependencies or any other developments that may threaten the security of supply in the Union of the products in question; | |
| | |
| (j) such exclusion is justified under any other exception under the applicable agreement. | |
| | |
| | |
| | |
| *Article 28g* | |
| | |
| **Content equivalent to Union origin in other forms of public intervention** | |
| | |
| 1. With respect the Union origin requirements set out in Article 28a, content originating in third countries with which the Union has concluded an agreement establishing a free trade area or a customs union shall be deemed to be of Union origin. | |
| | |

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| 2. The Commission shall adopt delegated acts in accordance with Article 44 to exclude, in whole or in part, a third country from the scope of paragraph 1 based on any of the following criteria: | |
| | |
| (k) that third country has failed to provide national treatment related to Union products or entities under the agreements referred to in paragraph 1 in relation to any of the net-zero technologies listed in Article 4, point (1); | |
| | |
| (l) such exclusion is justified to avoid dependencies or any other developments that may threaten the security of supply in the Union of the products in question; | |
| | |
| (m) such exclusion is justified under any other exception under the applicable agreement. | |
| | |
| *Article 28h*<br>**Delegation of power** | |
| | |
| 1. The Commission is empowered to adopt delegated acts in accordance with Article 44 to amend the Union origin requirements laid down in Annex II, taking into account the following criteria: | |
| | |
| (a) the market situation at Union level including declining Union market shares and Union industry producing below capacity; | |
| | |
| (b) the contribution of the requirements to the Union's objective of public order, economic security, resilience and climate neutrality set out in Regulation (EU) 2021/1119; | |
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| © technological progress; | |
| | |
| (d) demand for the relevant net-zero technologies; | |
| | |
| (e) the impact of setting Union origin requirements on the overall competitiveness and greenhouse gas emissions of the relevant sectors. | |
| | |
| 2. The Commission is empowered to adopt delegated acts to supplement Annex II with Union origin requirements for additional specific net-zero technology final products referred to in Article 4(1), points (g), (h), (j), (k), (n), (p), and (s), as well as solar thermal technologies referred to in Article 4(1), point (a), nuclear fuel cycle technologies referred to in Article 4(1), point (i), and electric propulsion technologies for transport referred to in Article 4(1), point ®, which shall be required in accordance with Articles 25a, 26, 28a and 28c. In doing so, the Commission shall take the following into account: | |
| | |
| (a) the market situation at Union level, as identified through monitoring activities, including declining Union market shares and Union industry producing below capacity; | |
| | |
| (b) the contribution of the requirements to the Union's objective of public order, economic security, resilience and climate neutrality; | |
| | |
| © the impact of setting Union origin requirements, low-carbon requirements, or both on the overall competitiveness and greenhouse gas emissions of the relevant sectors, as well as on downstream costs for consumers and small and medium enterprises and on public budgets. | |
| | |
| (d) demand for the relevant products or technologies. | |
| | |

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| 1. The delegated acts referred to in paragraph 2 shall set out: | |
| | |
| (a) the products and components to which the minimum Union origin requirements shall apply; | |
| | |
| (b) the scope of application of the minimum Union origin requirements; | |
| | |
| (7) Article 42 is amended as follows: | |
| | |
| (a) the following paragraph 2a is inserted: | |
| | |
| '2a. Member States, public authorities, procuring authorities and procuring entities applying Chapter IV of this Regulation shall report on the application of exemptions in accordance with the provisions of that Chapter.' | |
| | |
| (b) paragraph 3 is replaced by the following: | |
| | |
| '3. Where they are not already included in, or in accordance with the elements of, the national energy and climate plans, each Member State shall submit to the Commission a report setting out the data referred to in paragraphs 2 and 2a by 15 March 2027 and every three years thereafter.'; | |
| | |
| (8) The following Annex II is added: | |
| | |
| 'ANNEX II<br>Union origin requirements for net-zero technologies | |
| | |
| **Part I – Public procurement** | |
| | |

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| 1. In accordance with Article 25a, for public procurement procedures published after the entry into force of this Regulation falling within the scope of Directives 2014/23/EU, 2014/24/EU or 2014/25/EU where contracts, works contracts or work concessions include the procurement of the following net-zero technologies, procurement documents shall include the requirements laid down below: | |
| | |
| (a) Battery energy storage systems: | |
| | |
| From [OP: Please insert the date = 1 year after entry into force of this Regulation] until [3 years after entry into force of this Regulation], the battery energy storage systems shall originate in the Union and, for projects including battery energy storage exceeding 1 Megawatt-hour, contain a battery management system that originates in the Union. | |
| | |
| From [OP: Please insert the date = 3 years after entry into force of this Regulation], the battery energy storage systems shall originate in the Union and contain battery cells, a battery management system as well as one additional main specific component that originate in the Union. | |
| | |
| (b) Solar PV technologies: From [OP: Please insert the date = 3 years after entry into force of this Regulation], the PV inverter and the PV cells or equivalent shall originate in the Union. | |
| | |
| © Hydronic heat pumps: From [OP: Please insert: 3 years after the entry into force of this Regulation] the hydronic heat pump shall originate in the Union. | |
| | |
| (d) Onshore and offshore wind technologies: | |
| | |

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| From [OP: Please insert the date = 1 year after the entry into force of this Regulation] until [OP: Please insert the date = 3 years after entry into force of this Regulation], one main specific component shall originate in the Union. | |
| | |
| From [OP: Please insert the date = 3 years after the entry into force of this Regulation], two main specific components shall originate in the Union. | |
| | |
| (e) Nuclear fission technologies: | |
| | |
| For public procurement procedures published after [OP: Please insert the date = 4 years after entry into force of this Regulation] where works contracts or work concessions include the construction on a new-build nuclear power plant, including small modular nuclear reactors (SMR), at least two main specific components shall originate in the Union. | |
| | |
| For public procurement procedures published after [OP: Please insert the date = 6 years after entry into force of this Regulation] where works contracts or work concessions include the construction on a new-build nuclear power plant, including small modular nuclear reactors (SMR), at least three main specific components shall originate in the Union. | |
| | |
| These requirements shall not apply to research, development and innovation projects including first industrial deployment of nuclear power plants. | |
| | |
| **Part II – Auctions** | |
| | |
| In accordance with Article 26, when auctions have the following net-zero technologies as part of their subject-matter, Member States shall include the pre-qualification or award criteria laid down below: | |
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| (a) Battery energy storage systems: | |
| | |
| For auctions published from [OP: Please insert the date = 1 year after entry into force of this Regulation] until [OP: Please insert the date = 3 years after entry into force of this Regulation], the battery energy storage system shall originate in the Union and, for projects including battery energy storage exceeding 1 Megawatt-hour, contain a battery management system that originates in the Union. | |
| | |
| For auctions published after [OP: Please insert the date = 3 years after entry into force of this Regulation], the battery energy storage system shall originate in the Union and contain battery cells, a battery management system as well as one additional main specific components that originate in the Union. | |
| | |
| (b) Solar PV technologies: For auctions published after [OP: Please insert the date = 3 years after entry into force of this Regulation], PV inverter and the PV cells or equivalent shall originate in the Union. | |
| | |
| © Hydrogen: | |
| | |
| For auctions published after [OP: Please insert the date = 1 year after the entry into force of this Regulation], the electrolysers used to produce the hydrogen shall originate in the Union, and the stacks as well as one additional main specific component shall originate in the Union. | |
| | |
| For auctions published after [OP: Please insert the date = 3 years after the entry into force of this Regulation], the electrolysers used to produce the hydrogen shall originate in the Union, and the stacks as well as two additional main specific components shall originate in the Union. | |
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| (d) Onshore and offshore wind technologies: | |
| | |
| For auctions published from [OP: Please insert the date = 1 year after entry into force of this Regulation] until [OP: Please insert the date = 3 years after entry into force of this Regulation], one main specific component of the wind turbine shall originate in the Union. | |
| | |
| For auctions published after [OP: Please insert the date = 3 years after entry into force of this Regulation], two main specific components of the wind turbine shall originate in the Union. | |
| | |
| **Part III – Other forms of public intervention** | |
| | |
| In accordance with Article 28b, when deciding to set up new schemes or to update existing schemes benefitting households or companies that support the demand for net-zero technology final products listed in this paragraph, Member States, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, shall design the schemes in such a way as to ensure that beneficiaries shall be eligible to the scheme or to additional financial compensation only where the requirements laid down below are fulfilled: | |
| | |
| (a) Battery energy storage systems: | |
| | |
| For schemes set up or updated between [OP: Please insert the date = 1 year after entry into force of this Regulation] and [OP: Please insert the date = 3 years after entry into force of this Regulation], the battery energy storage systems shall originate in the Union and, for projects including battery energy storage exceeding 1 Megawatt-hour, contain a battery management system that originates in the Union. | |

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| | |
| For schemes set up or updated from [OP: Please insert the date = 3 years after entry into force of this Regulation], the battery energy storage systems shall originate in the Union and contain battery cells, a battery management system as well as one additional main specific components that originate in the Union. | |
| | |
| (b) Solar PV technologies: For schemes set up or updated from [OP: Please insert the date = 3 years after entry into force of this Regulation], the PV inverter and the PV cells or equivalent shall originate in the Union. | |
| | |
| © Hydronic heat pumps: For schemes set up or updated from [OP: Please insert the date = 3 years after entry into force of this Regulation], the hydronic heat pump shall originate in the Union. | |
| | |
| **IV – Member State support to construction or manufacturing of net-zero technologies** | |
| | |
| In accordance with article 28c, when supporting the construction or manufacturing of the following net-zero technology final products, Member States shall ensure that the Union origin requirements laid down below are fulfilled: | |
| | |
| (a) Hydrogen: | |
| | |
| From [OP: Please insert the date = 1 year after entry into force of this Regulation] when setting up new support schemes for investments into supporting the manufacturing capacity of electrolysers, Member States shall ensure that the electrolyser originates in the Union and the stack and at least one additional main specific component of the electrolyser originate in the Union. | |

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| | |
| From [OP: Please insert the date = 3 years after entry into force of this Regulation] when setting up new support schemes for investments into supporting the manufacturing capacity of electrolysers, Member States shall ensure that the electrolyser originates in the Union and the stack and at least two additional main specific components of the electrolyser originate in the Union. | |
| | |
| (b) Nuclear: | |
| | |
| For projects for which the application for support takes place after [OP: Please insert the date = 4 years after entry into force of this Regulation] when supporting the construction of new-build nuclear power plants, including small modular nuclear reactors (SMR), Member States shall ensure that at least two main specific components of the nuclear fission technology final products originate in the Union. | |
| | |
| For projects for which the application for support takes place after [OP: Please insert the date = 6 years after entry into force of this Regulation] when supporting the construction of new-build nuclear power plants, including small modular nuclear reactors (SMR), Member States shall ensure that at least three main specific components of the nuclear fission technology final products originate in the Union. | |
| | |
| These requirements shall not apply to research, development and innovation projects including first industrial deployment of nuclear power plants. | |
| | |
| *Article 35*<br>**Amendments to Regulation (EU) 2024/3110** | |
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| In Article 22(9) of Regulation (EU) 2024/3110, the first subparagraph is replaced by the following: | |
| | |
| 'In order to ensure transparency for users and to promote sustainable products, the Commission is empowered to adopt delegated acts in accordance with Article 89 to supplement this Regulation, by establishing specific environmental sustainability labelling requirements for particular product families and product categories.'. | |
| | |
| *Article 36*<br>**Entry into force and application** | |
| | |
| This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*. | |
| | |
| Articles 4 and 5 shall apply from [OP: Please insert the date = [one] year after the date of entry into force of this Regulation]. | SI<br>(Drafting suggestions):<br>Articles 4 and 5 shall apply from [OP: Please insert the date = [one] year after the date of entry into force of this Regulation].<br>**Chapter IV shall apply from [OP: Please insert the date = [six] months after the date of entry into force of this Regulation].**<br>SI<br>(Comments):<br>The Commission will adopt implementing act 6 months after entry into force of this Regulation. Please see paragraph five of Article 18. |
| | |
| This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties. | |
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| Done at Brussels, | |
| | |
| *For the European Parliament*<br>*The President* | |
| | |
| *For the Council*<br>*The President* | |
| | |