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**COMMISSION DECISION**

**of 29.11.2017**

**setting up the group of experts on the screening of foreign direct investments into the  
European Union**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

- (1) Article 3(1)(e) of the Treaty on the Functioning of the European Union assigned the Union exclusive competence with respect to common commercial policy, and foreign direct investment is included in the list of matters falling under the common commercial policy;
- (2) With a view to ensuring effectiveness of the EU investment policies applicable to third countries, and in particular the protection of essential interests related to security and public order, in accordance with its Communication (2017)494 on Welcoming Foreign Direct Investment while Protecting Essential Interests, the Commission needs to call upon the expertise of specialists in an advisory body.
- (3) It is therefore necessary to set up a group of experts in the field of foreign direct investments and to define its tasks and its structure.
- (4) The group should help to develop and implement comprehensive and effective policies concerning foreign direct investments into the European Union.
- (5) The group should be composed of representatives of Member States' competent authorities.
- (6) Rules on disclosure of information by members of the group should be laid down.
- (7) Personal data should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>1</sup>.
- (8) The documents and information to be discussed within the Group will often be related to sensitive matters such as public security, public order, defence and military issues, the economic policy of the Union or the Member States or the commercial interests of both investors and target companies. It would therefore be inappropriate to require that all documents of the group be made available, either on the Register of Commission experts groups and other similar entities ('the Register of expert groups') or via a link from the Register of expert groups to a dedicated website. Access to those documents may be granted only in accordance with Regulation (EC) No 1049/2001.

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<sup>1</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

HAS DECIDED AS FOLLOWS:

*Article 1*

***Subject matter***

The group of experts on the screening of foreign direct investments into the European Union (“the group”), is set up.

*Article 2*

***Tasks***

The group’s role shall be to provide the Commission with advice and expertise on matters relating to foreign direct investments into the European Union, and its tasks shall include in particular:

- (a) identify assets that have strategic implications from a security, public order and/or control of critical assets and technologies point of view at national level, cross-border level (e.g. assets situated in one Member State that may have strategic implications on another Member State) or at EU level (with regard to projects or programmes of Union interest);
- (b) exchange information and analysis on foreign direct investments, including motives for investment, geographic origin and sources of financing (public or private);
- (c) discuss issues of common concern, including level playing field issues such as subsidies and other practices by third countries facilitating strategic acquisitions, and reasons preventing European investors from acquiring and maintaining critical European technologies and inputs;
- (d) share best practices and lessons learned among Member States for screening foreign direct investments;
- (e) discuss the opportunity of cooperation with third countries with shared interests and shared challenges in respect of the impact of foreign direct investments on security and public order;
- (f) promote convergence in policies, while respecting Member States' autonomy in choosing whether to screen foreign direct investments or not;
- (g) further reflect on the means to protect European strategic assets, including through an EU-level screening mechanism;
- (h) consider any question relating to screening of foreign direct investments into the European Union.

*Article 3*

***Consultation***

The Commission may consult the group on any matter relating to foreign direct investments.

*Article 4*

***Membership***

1. Members shall be Member States' authorities in charge of foreign direct investments.

2. Member States' authorities shall nominate their representatives and shall be responsible for ensuring that their representatives provide a high level of expertise.

#### *Article 5*

##### ***Chair***

The group shall be chaired by a representative of the Commission's Directorate General for trade ('DG Trade').

#### *Article 6*

##### ***Operation***

1. The group shall act at the request of DG Trade.
2. Meetings of the group shall, in principle, be held on Commission premises.
3. DG Trade shall provide secretarial services. Commission officials from other departments with an interest in the proceedings may attend meetings of the group.
4. In agreement with DG Trade, the group may, by simple majority of its members, decide that deliberations shall be public.
5. Minutes of the discussion of each point on the agenda and of the opinions delivered by the group shall be meaningful and complete. Minutes shall be drafted by the secretariat under the responsibility of the Chair.
6. The group shall adopt any opinions, recommendations or reports by consensus. In the event of a vote, the outcome of the vote shall be decided by simple majority of the members. Members who have voted against shall have the right to have a document summarising the reasons for their position annexed to the opinions, recommendations or reports.

#### *Article 7*

##### ***Invited experts***

DG Trade may invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the group on an ad hoc basis.

#### *Article 8*

##### ***Rules of procedure***

On a proposal by and in agreement with DG Trade the group shall adopt its rules of procedure by simple majority of its members, on the basis of the standard rules of procedure for expert groups, in compliance with the horizontal rules.

#### *Article 9*

##### ***Professional secrecy and handling of classified information***

The members of the group and their representatives, as well as invited experts and observers, are subject to the obligation of professional secrecy as laid down in Article 339 TFEU, as well as to the Commission's rules on security regarding the protection of Union classified

information, laid down in Commission Decisions (EU, Euratom) 2015/443<sup>2</sup> and 2015/444<sup>3</sup>. Should they fail to respect these obligations, the Commission may take all appropriate measures.

*Article 10*

***Transparency***

The group shall be registered in the Register of expert groups.

*Article 11*

***Meeting expenses***

1. Participants in the activities of the group shall not be remunerated for the services they offer.
2. Travel expenses incurred by participants in the activities of the group shall be reimbursed by the Commission. Reimbursement shall be made in accordance with the provisions in force within the Commission and within the limits of the available appropriations allocated to the Commission departments under the annual procedure for the allocation of resources.

Done at Brussels, 29.11.2017

*For the Commission*  
*Cecilia MALMSTRÖM*  
*Member of the Commission*

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<sup>2</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

<sup>3</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).