



**Position of the European Sea Ports Organisation**  
**on the Commission's proposal for the Regulation on**  
**the screening of foreign investments in the Union**  
**(2024/0017(COD))**

July 2024

The European Sea Ports Organisation (ESPO) welcomes the proposal to revise Regulation (EU) 2019/452 establishing a framework for the screening of foreign direct investments into the Union. Based on the experience with the application of this Regulation and taking into account the new geopolitical and geoeconomic context, which has underlined the need to protect EU critical assets, **Europe's ports support the new proposal as a means to strengthen the efficiency and effectiveness of the current Regulation while safeguarding an open investment climate.**

The Commission's proposal for a Regulation on the screening of foreign investments in the Union (2024/0017(COD)), published in January 2024, obliges all EU Member States to have a system in place to screen investments that may pose risks to the security and public order in the Union and harmonises certain elements of the national screening procedures. **ESPO strongly supports the more harmonised approach to investment screening. It will avoid loopholes and fragmentation among the Member States, ensures a level playing field across the EU and creates a clear and more predictable framework for investing in the EU.**

**ESPO highly appreciates that the Commission underlines the importance of foreign investments and of preserving an open investment environment in the Union.** The European port sector is highly capital intensive and has high investments needs<sup>1</sup>. Over the last decades, ports have benefitted from substantial investment from outside the EU, contributing to the development and competitiveness of Europe's ports. Only with sufficient investments – be it European or foreign – European ports will be able to retain their competitive position, to implement and progress as fast as possible towards meeting the Green Deal ambitions and to fulfil the critical role they have in enhancing Europe's resilience. Over the years, ports in Europe have been attracting a variety of investors and operators in the port, stimulated by and in line with European legislation<sup>2</sup>. As such, while ESPO welcomes the EU to take measures to strengthen the resilience and protection of Europe's critical infrastructure, the port sector believes that having an open and attractive investment environment should remain one of the basic principles of Europe's Trade policy.

For ESPO, **legal certainty, confidentiality during the investigations and clear and consistent timeframes are paramount** in any screening mechanism, in order to ensure that Europe is not pushing

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<sup>1</sup> A recent [ESPO study](#) reveals that Europe's port managing bodies have more than 80 billion EUR investments needs for the coming 10 years. This number excludes port investments made exclusively by private investors, which implies that the investments needs of the entire European port sector are significantly higher.

<sup>2</sup> Including the Port Services Regulation ((EU)2017/352)

back the majority of investors with good intentions to invest in Europe's ports, motivating them to go to ports outside Europe. In this context, ESPO welcomes that the proposed Regulation obliges the Member States and Commission to ensure confidentiality during the screening processes and exchanges within the Union Cooperation Mechanism.

ESPO believes the proposed Regulation could be further improved by addressing the following elements:

- **ESPO understands the rationale of the Commission's proposal to have a targeted approach and focus the scope of the proposed screening system on those port investments in transport-related facilities, as these are the ones of strategic importance from a security and public order point of view.** Ports and port areas are very diverse and comprise of a high variety of port actors. These actors can vary from transport-related facilities and terminals, to production units, restaurants and even hotels. By having a targeted approach, the Union and Member States make sure that administrations at all levels use their time, efforts and resources in an efficient and effective way, which is in line with the "risk-based filter" proposed by the Commission. Moreover, a targeted focus and a clear understanding of the "Union target" should avoid overlapping screening procedures.
- **ESPO pleads in favour of setting more concrete timelimits for finalising the screening procedures at national level.** Despite the deadlines for notification and comments and/or opinions as part of the Union Cooperation Mechanism, **the proposed Regulation does not foresee a maximum duration for the national screening procedures** carried out by the Member States' authorities. The absence of concrete timelimits for the national screening procedure may risk a long period of uncertainty, both for the investor and for the EU undertaking receiving the investment. Instead, screening procedures at national level should take place in an efficient manner, in order to avoid deterring investors willing to invest in Europe. **ESPO therefore proposes to urge the Member States to carry out their screening procedures as swiftly as possible within a reasonable timeframe.** Delays in the procedure and/or exceeding the timelimits should be duly motivated by the respective Member State.
- **While ensuring the screening mechanisms are effective, Member States should also avoid introducing too much administrative burden for incoming investors.**
- Other aspects of importance to any screening mechanism are to ensure the screening processes are clear and objective on the basis of concrete and qualitative assessment criteria as well as to ensure authorities employ sufficient staff in order to allow for thorough but swiftly screening procedures. ESPO believes that the assessment criteria should be transparent and publicly available.
- Finally, in ongoing discussions it seems important for Europe's ports to differentiate between foreign investments that are subject to screening under this Regulation and the economic activities that are in scope of other EU tools, such as the Foreign Subsidies Regulation (EU) 2022/2560. As such, a foreign investment in Europe's critical infrastructure, which may establish a lasting economic link between the foreign investor and the EU target, and the import or acquisition of foreign dual-use or risk products to be used by critical infrastructure are two different economic activities and will be addressed by different pieces of European legislation.