

Mr. Valdis Dombrovskis  
Executive Vice President of the  
European Commission  
Commissioner for Trade  
European Commission  
200, rue de la loi  
BE – 1049 – Brussels

Brussels, 17 April 2024

**Subject: ESF contribution to Commission Public Consultation on Outbound Investment Monitoring**

Dear Executive Vice President Dombrovskis,

The European Services Forum (ESF) represents the interests of the European services sectors in international trade and investment activities. We are committed to actively promoting the liberalisation of international trade and investment in services.

You will find below our contribution to Commission Public Consultation on Outbound Investment Monitoring.

As an introductory remark, we would like first to highlight the crucial importance of outward foreign direct investment for the EU economy, and in particular for the European services sectors. The EU is by far the world's biggest Investor (US\$ 12.7 trillion outward stocks – 32% of global FDI<sup>1</sup>). According to Eurostat, in 2021 73.8% of total EU Outward FDI comes from services sectors<sup>2</sup>. This not surprising as one of the ways for the services companies to export is to get closer to their customers. This is the main mode of supply of international services, also known as Mode 3 (commercial presence abroad) of the WTO General Agreement on Trade in Services (GATS). According to the [WTO Database TISMOS](#), 57% of all extra-EU trade in services (representing €775 billion of exports in 2022) are provided through Mode 3. Mode 3 is indeed possible only through establishment in a host country, i.e. by investing in the local economy either via a greenfield investment or via investing in an existing business (merger or acquisition). So, export of services and outward FDI are intrinsically related.

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<sup>1</sup> <https://unctadstat.unctad.org/datacentre/dataviewer/US.FdiFlowsStock>

<sup>2</sup> See [Eurostat - BOP FDI6 POS](#): According to Eurostat, EU27 total outward FDI stocks in 2021 was €17.17 trillion; of which €12.09 trillion have been invested by the EU services sectors.

By contributing to economic growth, job creation and integration in global value chains, foreign investment tends to benefit host countries as well as home countries. There is less data available on the employment into the EU related to its outward investment, but it is often considered that for 10 jobs created in the host country by a services business, one or two are created in the EU. Plus of course the employment related to exports of services where, as you know, a significant proportion of the 38 million of jobs in the EU supported by exports to non-EU countries<sup>3</sup> is working in the services sectors.

With this background, you will understand that any policy that would possibly bring legal uncertainty in the EU outward foreign direct investment will have an immediate direct effect on the EU services sectors international activities and must be carefully assessed.

ESF would like to recall the international commitments taken by the European Union both at multilateral level (GATS Mode 3 commitments) and at bilateral level in its trade agreements in favour of market access for capital and investment in services and non-services sectors. Any restriction should strictly be circumscribed to agreed general exceptions related to national security.

This letter is the contribution of the European Services Forum to the consultation launched by the European Commission in the framework of its economic security package and in particular on its White Paper on outbound investment. In this White Paper, the Commission “also acknowledges the growing concerns regarding outbound investments in a narrow set of advanced technologies that could enhance military and intelligence capacities of actors who may use these capabilities against the EU or to undermine international peace and security”.

ESF considers that the debate about potential security risks related to technology and know-how leakage that might possibly happen from outbound investments is still in its very initial phase in the EU. The problem is not yet clearly identified and the information and data that would help in identifying risks are not available. Such a knowledge gap needs first to be filled before the EU decides on any next legislative or non-legislative steps on outbound investments.

ESF understands that the EU and the Member States will essentially focus in identifying a narrow set of advanced technologies that could be at the basis of the monitoring efforts. ESF supports this approach. These efforts will need to be well harmonized across all EU countries. As this exercise is intrinsically linked to the sanctions’ regime, the possible measures to be identify might need as well to focus on a specific list of countries that might present more risks, instead of covering all investment partners. Indeed, the vast majority of EU Outbound FDI goes to developed like-minded countries<sup>4</sup>.

ESF strongly supports the view that the currently ongoing risk assessment only for the four technology areas (identified in the European Commission’s Recommendation of October

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<sup>3</sup> [Trade and jobs – DG Trade](#)

<sup>4</sup> 34% of EU outward investment in 2022 are in top 5 countries: USA, UK, Switzerland, Canada and Singapore. See [Eurostat bop its6 det](#).

2023) should be concluded before discussing their possible inclusion under the scope of the monitoring exercise in the context of outbound investments. ESF recommends prioritising the monitoring, in these four technology areas, by using the risk criteria that are already implemented by the export control authorities in the assessment of exports of dual-use products. Once the parameters of the monitoring will be set, the information that will be captured for new or ongoing outbound investment operations will have to be used exclusively for the purpose of the regulation (monitoring outbound investment) and not break confidentiality of the investment transactions.

Given that some of the EU's like-minded countries (U.S.) are also considering the possible introduction of measures on outbound investment, it would be important to organise an international cooperation on that matter as early as possible so as to avoid inconsistencies in policy that would potentially divert foreign direct investment from their original destination.

Finally, we want to draw the attention on possible retaliations by targeted countries which might raise barriers to EU outbound investment (for instance by setting automatic inward investment authorisation or/and screening) and create more tension on economic relationship.

In short, ESF supports a cautious approach on the matter. In these difficult economic times for the EU, this initiative, while allowing a proportionate response to clearly identified security-related risks triggered by outbound investment, should not lead to additional burden for economic operators, including in terms of reporting requirements.

ESF reserves the right to come back on additional issues at a later stage and remains at disposal for any further information on the above. ESF also replied to the Commission's questionnaire online.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Annette Meijer', written in a cursive style.

Annette Meijer  
ESF Chairman

## List of members supporting the above position

- Amazon
- Amfori
- Apple
- Architects' Council of Europe –ACE
- BDO
- Bureau International des Producteurs et Intermédiaires d'Assurances – BIPAR
- BUSINESSEUROPE
- BUSINESSEUROPE WTO Working Group
- BSA The Software Alliance – BSA
- Danish Shipping
- Deutsche Post DHL
- Digital Europe
- EK - Confederation of Finnish Industries
- EuroCommerce
- European Banking Federation - EBF
- European Community Shipowners' Associations – ECSA
- European Express Association – EEA
- Fédération de l'Industrie Européenne de la Construction – FIEC
- FratiniVergano European Lawyers
- General Council of the Bar of England & Wales
- Google
- Huawei Europe
- IBM Europe, Middle East & Africa
- Institute of Chartered Accountants in England and Wales (ICAEW)
- Insurance Europe
- Irish Business and Employers' Confederation - IBEC
- Le Groupe La Poste
- Microsoft Corporation Europe
- Mouvement des entreprises de France – MEDEF
- PostEurop
- Svenskt Näringsliv (Confederation of Swedish Enterprise)
- TechUK
- Telenor Group
- TheCityUK
- UPS
- Vodafone
- Zurich Insurance