CHARLES UNIVERSITY

FACULTY OF SOCIAL SCIENCES

Institute of Political Studies

Department of International Relations

Security Studies

Master's thesis

2021 **Ing. Petra Neumanová**

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EU member states FDI policies and Chinese investments

Master's thesis

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Declaration

1. I hereby declare that I have compiled this thesis using the listed literature and resources only.
2. I hereby declare that my thesis has not been used to gain any other academic title.
3. I fully agree to my work being used for study and scientific purposes.

In Prague on 27.7.2021 Petra Neumanová

References

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Abstract

The topic of this master thesis are the EU FDI policies and their development specifically in the period 1999 – 2019. The aim of this master thesis is to answer the research question: "Why the European FDI policies have changed during 1999-2019?" In April 2019, a new regulation regarding a framework for screening of foreign direct investment in the European Union has passed. The process of screening should be applied in case a foreign direct investment would pose a threat to security or public order. The EU has been traditionally a promoter of the liberal trade and free movement of capital. Yet, the proposal presents a new tool in the FDI policy that can be seen as restrictive. In this thesis author analyzes what processes led to the introduction of this new framework. Following the theoretical framework regarding security concepts and evolution of new threats, the author elaborates on the first hypothesis that "It is possible to identify strengthening of the concept of security and more restrictive approach in the FDI policies of EU member states during 1999-2019" by analyzing the evolution of EU FDI policy and policies of Germany and France as ones of the biggest recipients of FDI in the EU. Furthermore, the author uses the theoretical framework of realism and international political economy to analyze the state's behavior in the international arena and its relation to FDI. By this, author constructs the second hypothesis that "The qualitative change in FDI policies was caused by the influx of FDI from emerging countries" which is elaborated via analysis of FDI inflows in the EU in the reviewed period and specifics of the new investors from the emerging countries (specifically China). Author concludes that the concept of security was evolving and appeared increasingly significantly especially in the context of introduction of screening mechanisms during the reviewed period. Moreover, author concludes that this change in the FDI policies was not caused only by the sheer quantity of incoming FDI but that the qualitative characteristics of the new investors from the emerging countries played a role.

Abstrakt

Tématem této diplomové práce jsou politiky EU v oblasti přímých zahraničních investic a jejich vývoj konkrétně v období 1999–2019. Cílem této diplomové práce je odpovědět na výzkumnou otázku: „Proč se evropské politiky přímých zahraničních investic změnily v letech 1999–2019?“ V dubnu 2019 bylo přijato nové nařízení týkající se rámce pro prověřování přímých zahraničních investic v Evropské unii. K prověřování příchozích investic se má přistoupit, pokud by přímá zahraniční investice představovala hrozbu pro bezpečnost nebo veřejný pořádek. EU se tradičně staví liberálně k otázkám mezinárodního obchodu a volného pohybu kapitálu. Návrh přesto představuje nový nástroj v politice přímých zahraničních investic, který lze považovat za restriktivní. Autorka v této práci analyzuje, jaké procesy vedly k zavedení tohoto nového rámce. V návaznosti na teoretický rámec týkající se bezpečnostních konceptů a vývoje nových hrozeb autorka rozpracovává první hypotézu, že „Je možné identifikovat posílení konceptu bezpečnosti a restriktivnější přístup v politikách přímých zahraničních investic členských států EU v letech 1999–2019“ analýzou vývoje politiky EU v oblasti přímých zahraničních investic a politik Německa a Francie jakožto největších příjemců přímých zahraničních investic v EU. Autorka dále používá teoretický rámec realismu a mezinárodní politické ekonomie k analýze chování státu na mezinárodní scéně a jeho vztahu k PZI. Autorka následně vyvozuje druhou hypotézu, že „Kvalitativní změna v politikách PZI byla způsobena přílivem PZI z rozvíjejících se zemí“, kterou rozpracovává na základě analýzy toků PZI do EU v daném období a specifik nových investorů z rozvíjejících se zemí (konkrétně z Číny). V závěru autorka shrnuje, že koncept bezpečnosti se během sledovaného období vyvíjel a objevoval se stále významněji, zejména v souvislosti se zavedením screeningových mechanismů. Dále autorka shrnuje, že tato změna v politikách přímých zahraničních investic nebyla způsobena pouze samotným množstvím příchozích přímých zahraničních investic, ale že roli hrály i kvalitativní charakteristiky nových investorů z rozvíjejících se zemí.

Keywords

Foreign direct investment, FDI, EU-China relations, FDI policy, Chinese investments, securitization of FDI

Klíčová slova

Přímé zahraniční investice, PZI, vztahy EU-Čína, investiční politika, rozvíjející se země, čínské investice, sekuritizace

Title

EU member states FDI policies and Chinese investments

Název práce

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Table of content

Table of figures

List of abbreviations

BIT	Bilateral Investment Treaty
CCP	Common Commercial Policy
CFIUS	The Committee on Foreign Investment in the United States
EC	European Commission
EFTA	European Free Trade Association
EU	European Union
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GNP	Gross National Product
IBRD	International Bank for Reconstruction and Development
IMF	International Monetary Fund
IPE	International Political Economy
ISDS	Investor-state dispute settlement
ITO	International Trade Organization
M&A	Mergers and Acquisitions
MNC	Multinational Company
OECD	Organisation for Economic Co-operation and Development
R&D	Research and Development
SOE	State-owned enterprise
SWF	Sovereign Wealth Fund
TFEU	Treaty on the Functioning of the European Union
TNC	Transnational Corporation
UK	The United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
USD	US Dollar
WTO	World Trade Organization

Introduction

In April 2019, a new regulation regarding a framework for screening of foreign direct investment in the European Union has passed. The process of screening should be applied in case a foreign direct investment would "pose a threat to security or public order." The EU has been traditionally a promoter of the liberal trade and free movement of capital. Moreover, based on the OECD Restrictiveness Index, the European countries have fewest restrictions on foreign direct investment in the world and very open investment regimes in general. Yet, the proposal presents a new tool in the FDI policy that can be seen as restrictive.

China recently became the world's second largest economy[1] after three decades of substantial growth started by Deng Xiaoping's reforms in 1978. With its unique economic system of socialism with Chinese characteristics is through its activities already shaping the world's economic but also political and security structures. After years of being rather a destination of FDI, China has become one of the world's largest investors.

Firstly, China invested heavily into developing countries which represents so called South-South FDI trend. Nowadays, Chinese investment is part of yet a new global trend of growing outward FDI from the emerging countries towards the developed ones. Their surge can be observed since the turn of the century and early 2000s till nowadays. The flow of the investment is pouring the other direction and it basically represents an adjustment to the global directions of capital as we can speak of so-called South-North investments.

However, the Chinese investments, their underpinnings and impacts are a very live and interesting topic given their specifics of state-owned companies, Five Year Plan strategies and backing by the wealth of the world's first economy. The motives behind and impacts of these investments has been addressed by academics, economists, and politicians. An ongoing discussion is led about the security threat these investments may pose to recipient states.

The master thesis' project included also the elaboration of Russian investments in the EU and the specifics of the Russian investors in the EU as another example of emerging country investors, however, due to the length of the thesis I ultimately focused specifically on the example of Chinese investments and their influence on the FDI policy in the EU.

[1] GDP (current US$): All Countries and Economies. The World Bank [online]. [cit. 2021-7-10]. Available at: https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?most_recent_value_desc=true.

In my thesis I would like to firstly explore the concept of security, its historical development and understanding of new types of threats. At the same time, I will discuss the study of foreign direct investment in their historical perspective mainly building upon the studies by OECD and UNCTAD. Based on the fact that national security has been present in the long term and connected to the foreign direct investment and generally has been registering development after the start of the new millennium, my first hypothesis for the diploma thesis will be that "It is possible to identify strengthening of the concept of security and more restrictive approach in the FDI policies of EU member states during 1999-2019." The selected member states will be Germany and France as they are the biggest recipients in the EU and also one of the most influential actors on the EU level. The United Kingdom is one of the most important FDI recipients in the world as well, however, due to the Brexit I have decided to focus on current members of the EU. I will also look at the development of the EU FDI policy as a whole.

To elaborate on the first hypothesis, I will use qualitative method of analysis of historical development of the FDI policies of Germany, France, and the EU during the reviewed period. Furthermore, I will rely on the studies of FDI policies performed by OECD and UNCTAD.

Secondly, I will discuss the main realist approaches to the state's behavior in the international arena which are also cornerstone for international political economy. Important concepts of IPE will be also discussed to provide insights for my second hypothesis that "The qualitative change in FDI policies was caused by the influx of FDI from emerging countries (specifically Chinese)."

To elaborate on the second hypothesis, I will analyze the development and quantity of the incoming FDI to the EU and specifically to the selected countries over the reviewed period. I will rely on the data by UNCTAD, Eurostat and national statistics. I will also focus on specifics of the new investors in the EU, specifically regarding new types of MNCs and their behavior. Both hypotheses will help me to address the research question of the thesis: "Why the European FDI policies have changed during 1999-2019?"

1. Theoretical underpinnings and key concepts

Foreign direct investments represent significant financial cross-border movements that may influence the economic environment in the state directly or indirectly (more details regarding definition and impacts of the FDI will be elaborated in Chapter 2). Such external financial flows may inspire state's reaction be it positive or negative which influences other external actors (companies) and consequently states and their behavior in the international relations. Key concepts explaining the reasoning behind the state's behavior in the international arena will be elaborated in this chapter.

Firstly, key concepts of security studies in relation to FDI will be discussed, as the state may regulate the acceptance of entry of foreign financial flows in such way to ensure its stability. Different types of security and threats will be elaborated.

Secondly, the realist and neorealist approaches to the state's behavior will be elaborated to examine why the states implement certain behavior to ensure its survival and security and further to pave the way for international political economy (IPE) which largely builds upon the realist and neorealist approaches. The IPE will be the last theoretical concept elaborated to examine the relation of state and incoming FDI.

1.1 Concept of security

Generally, there is not one definition of security, different authors come with different views. There are however some common characteristics which can be summarized to two main approaches – negative and positive understanding of the security concept. A negative understanding of the concept of security is that security is an absence or non-existence of a threat. A positive understanding of security concept is always linked to a particular subject whose survival and possibilities of further development are ensured. To ensure security, measures are taken to minimize or eliminate all possible threats.[2]

In the field of international relations and security studies, security as a concept has been for a long time viewed as a relatively narrow concept. As Buzan explains, until 1970s a traditionalist approach for the concept of security persisted. This approach viewed the military

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[2] EICHLER, Jan. Mezinárodní bezpečnost na počátku 21. století. Praha: Ministerstvo obrany České republiky - AVIS, 2006. ISBN n80-7278-326-2, p. 7.

security as the one and only aspect to ensure survival of the state. Stephen Walt defined security studies as „the study of the threat, use, and control of military force.“[3]

Stephen Walt further provides an alternative theory to balance of power (see in later subchapter) – balance of threats. In this theory he explains that states tend to face the greatest present threat to them by forming alliances with other states to balance the threat. The threat might be represented by expansionist efforts of other states, even though the expansionist states need not be the most powerful states in the system (as opposed in the balance of power theory). According to Walt, forming alliance to balance threat is much more common throughout history than bandwagoning – joining the more powerful force and not balancing the threat. The bandwagoning was observed rather in cases of weak states and appearing in specific circumstances.[4]

With the end of Cold war and fading of the imminent threat of nuclear annihilation, new, non-military aspects of security started to be recognized. In the 1970s and 1980s, the topics of economic and environmental security gained importance and paved the way for a broadened concept of security as presented by Barry Buzan. The concept has evolved in several directions:

- widening of the security concept – meaning encompassing more types of security under the umbrella (e.g. politics, economic, environmental, or societal security).
- deepening of the security concept – departure from the strict state centric view to other referential objects (e.g. ethnic groups, individuals, companies).[5]

Following widening and deepening of the security concept, security can be distinguished to "hard" (conventional) security and "soft" (unconventional) security. Hard security is understood as responding primarily to external, interstate threats and involving a use of (military) force or at least a credible ability to use it. This require a state to build up its military abilities. Soft security on the other hand does not focus strictly on interstate relations, but rather encompasses trans-border or internal threats. The military force is not the main decisive element in tackling these threats. Internal forces and social, financial, or other policy planning and implementation are primarily used in order to address and ensure the soft security. Because of its nature, soft security is harder to grasp, its ensuring or failure to ensure is in fact much harder to quantify or observe than in case of hard security, where casualties or material

[3] BUZAN, Barry, Ole WÆVER a Jaap de WILDE. Security: a new framework for analysis. Boulder, Colo.: Lynne Rienner Pub., 1998. ISBN 9781555876036, p. 3.
[4] WALT, Stephen M. The Origins of Alliances. New York: Cornell University Press, 1990. ISBN 978-0-8014-9418-5, p. 147-180, 262-264.
[5] BUZAN, Barry, Ole WÆVER a Jaap de WILDE. Security: a new framework for analysis. Boulder, Colo.: Lynne Rienner Pub., 1998. ISBN 9781555876036, p. 2-4.

damages are easier to be seen. However, in reality, the borderline between hard and soft threats is often unclear as both types are interlinked and present at once. Their tackling therefore requires an interdisciplinary approach. [6]

The need to address new, more elusive challenges emerging after the end of Cold War was clear. The Copenhagen school paved a way for it and suggested alternatives to state as referent object such as societal or individual security. New types of threats and vulnerabilities emerged, as human or societal security could not be ensured only by military means. The demilitarization of the security concept and a development of understanding of the soft security was particularly present during the 1990s. The new threats call for more cooperative approach by states in ensuring the security in these areas. Illegal migration, trafficking, illegal weapon trade or corruption are often cited as threats to soft security.[7]

Economic security in itself also became in important topic, especially for instance after economic crises in 1998. With currency speculation and government instability, the state structures were directly threatened, proving an example of soft threats quickly transforming to hard ones.[8] As Buzan further explains, "economic threats are more difficult to relate to national security than military and political ones" [9] reason being that economic affairs are in its nature a risky business. When the risk is inherently present, it is harder to distinguish when the threat deserves a special status and poses a threat to national security. In this area, state is only one of many other actors and its responsibilities are harder to define than in military and political sector. National economy is a physical flow of money and products but also a philosophical concept of ideology and institutions. The threats to it are therefore again combination of hard and soft, as elaborated earlier. Economic security of the state helps to generate financial means which consequently can contribute for instance to military buildup but also to other state's means of spreading its influence (e.g. prestige). The ability to ensure resources that are not available on the state's territory via trade or the general interdependence on the international production and trade flows are another examples of economic national security that state needs to tackle by economic policies. Buzan adds however, that any elevation of the economic threat

[6] FATIĆ, Aleksandar. Conventional and unconventional - 'hard' and 'soft' security: the distinction. Journal for Labour and Social Affairs in Eastern Europe [online]. 2002, 5(3) [cit. 2021-7-11]. Available at: https://www.jstor.org/stable/43292068.
[7] VREŸ, Francois. REVISITING THE SOFT SECURITY DEBATE: FROM EUROPEAN PROGRESS TO AFRICAN CHALLENGES. Scientia Militaria - South African Journal of Military Studies [online]. 2011, 33(2) [cit. 2021-7-11]. ISSN 2224-0020. Available at: doi:10.5787/33-2-9.
[8] ALDIS, Anne a Graeme HERD. Managing Soft Security Threats: Current Progress and Future Prospects. European Security [online]. 2004, 13(1-2), 169-186 [cit. 2021-7-11]. ISSN 0966-2839. Available at: doi:10.1080/09662830490484863.
[9] BUZAN, Barry. People, states and fear: an agenda for international security studies in the post-cold war era / by Barry Buzan. 1991. ISBN 0745007198, p. 79.

to a threat to national security should be closely examined and stresses the raised point that all economic relations bear a certain portion of risk involved.[10]

1.2 Realist and Neorealist approach the state's behavior

As state's policy and behavior toward foreign direct investment is part of international relations, realist and neorealist approaches explaining the reasoning behind the state's behavior will be elaborated. Furthermore, realist approach to the international relations is at the foundation of the international political economy, that will be elaborated in the following subchapter.

Overall, realist theories assume that state is the primary unit of the international system. The main interest of state is to ensure its survival and enforce its agenda. To secure these goals, states struggle for power to improve their position in the international arena. According to realists, struggle for power leads inevitably to prevailing presence of conflict in the international relations.[11]

As one of the key figures of classical realism, Hans Morgenthau presented core principles of the realist paradigm in his book Politics among Nations. Struggle for power is according to Morgenthau "universal in time and space and is an undeniable fact of experience."[12] No matter what the ultimate goals are, in the international politics, power is always the mean how to achieve them. Power is always a relational factor, build on comparison of several units.[13]

Morgenthau understood power as a control over thoughts and actions of others, the ability to influence the behavior of the recipient to the will of the power owner. Political power is a mutual relation of representant of public authority and general population, a psychological relation between power owners and recipients where owners are able to control the recipients' actions through their influence. Even though the physical or military power must be differentiated of the political power, according to Morgenthau the physical or military power is the most important underlying factor in gaining the political power. The interconnection

[10] BUZAN, Barry. People, states and fear: an agenda for international security studies in the post-cold war era / by Barry Buzan. 1991. ISBN 0745007198, p. 79 - 82.
[11] DRULÁKOVÁ, Radka. Mezinárodní vztahy I: úvod do studia. Praha: Oeconomica, 2008. ISBN 978-80-245-1449-9; p. 19.
[12] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 17.
[13] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 112.

between military and political power is crucial. According to Morgenthau military power is the most important factor to maximize state's power. The ability to use a physical power builds up and support power of the state without exercising the physical power per se. It is only the notion of the ability to enforce one's will, that can influence the behavior of the opponent. [14]

It is important to differentiate which economic, financial, or military policies undertaken by state in the international arena are performed to achieve their respective goals and which of these policies are introduced to increase the political power of the state.[15]

As another argument for conflict being the natural part of international system, Morgenthau further states that the international politics merely mirrors the situation on the domestic level which is also characterized as struggle for power. Struggle for power is present on all levels of social interactions. Even though the goals may differ, the way to achieve them always leads through attaining power.[16] The three types of state's policies generally exist: policies to maintain power, increase power and demonstrate power.[17] When state seeks to maintain its power, it seeks to maintain the current status quo, to preserve the current distribution of power among the units. States which seek to increase their power and challenge the current status quo Morgenthau called imperialist states (later called revisionist). Such state seeks to overthrow current state of affairs. A state which chooses to demonstrate power pursue the policy of prestige. According to Morgenthau, as opposed to increase or maintaining of power, policy of prestige is rarely an end itself. This policy is usually used to attain the goals of the two previous policies mentioned. Main vehicles of this policy are diplomatic relations and display of military force. The reason for practicing this policy is that the prestige gained can influence the reputation for power of the state.[18]

Morgenthau further argues that the continuous aspirations of states for power lead to a constellation of balance of power. This type of situation is the inevitable outcome of the general principle of states' behavior in the international arena.[19] Term expresses the equilibrium within a system of separate units. Whenever there is an inside or an outside impetus for change, system

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[14] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 13.
[15] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 15.
[16] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 18.
[17] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 21.
[18] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 50-57.
[19] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 125.

has the tendency to absorb the change and establish the previous or a new state of equilibrium.[20] The ability of the system to maintain such equilibrium is closely linked to the ability to prevent any one unit from the system from gaining prevalence over the other units.[21]

The end of the Cold war presented a challenge for the realist approach to the international relations as it was not able to predict the demise of the USSR. Therefore, new theoretical approach developed for instance by Kenneth Waltz and John Mearsheimer prevailed – neorealism.

According to Waltz, realism is a reductionist or a traditionalist theory which provide theoretical approach based on behavior of parts of the system – states. Outcomes of international relations are then explained as a sum of actions of the involved units, the principal actors.[22] Waltz argued, however, that such theory is incapable to explain or predict why certain types of outcomes and events tend to repeat throughout the history, why some relations between countries are similar across centuries. “If the same effects follow from different causes, then constraints must be operating on the independent variables in ways that affect outcomes.”[23] Waltz argues that the answer lies in the structure of the system in which the states operate.

The neorealism did not see the inherence of the conflict in the international relations in relation to human nature (nor state, as a unit of the system) but in the systemic environment of the international arena. The nature of the system is considered the driving force behind states’ behavior. System theory presented by Waltz is able to explain how the organization of the structure serves as a constraining and disposing force on the interacting units within it. Units (states) are limited in their behavior in a way that produces narrowing, similar outcomes, even though their goals and efforts vary.[24] Structure is not agent itself, acting, producing, and influencing the actions of its units directly. The environment defined by such structure influences the behavior of the units indirectly. At the same time, structure according to Waltz is not defined based on the qualities of its units but is defined based on their order, specification of function and distribution of capabilities.[25]

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[20] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 126.
[21] MORGENTHAU, Hans. Politics Among Nations: The Struggle for Power and Peace. 2nd printing. New York: Alfred A. Knopf, 1949; p. 127.
[22] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 60-61.
[23] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 68.
[24] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 74.
[25] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 101.

Waltz paints the difference on the comparison of domestic politics and international politics. The domestic politics is highly centralized and hierarchic – its units are either bound to command or accept the commands. The legitimate use of force is attributed to the government, if a private force is used, others may appeal to government.[26] In the international arena though, the relation of its units is rather coordination then super- or subordination. Formally, all units in the system are equal with no universal superior power as a judge or decision maker. The structure of the international arena by Waltz is therefore anarchic and decentralized. State can rely only on itself and so has to spend a portion of means to ensure its protection against others. [27]

States' main interest is therefore to ensure their survival and prevalence by exercising their power in the international arena even at the detriment of others. Contrary to Morgenthau's approach, power is a mean to achieve the end, not the end itself. Apart from survival, the states' goals may significantly differ, however, survival is the necessary condition to achieve them. [28]

Waltz further elaborates on the concept of balance of power: "Balance-of-power politics prevail wherever two, and only two requirements are met: that the order be anarchic and that it be populated by units wishing to survive."[29] A state can maximize its power to build up its capabilities to a level superior to all other units in the system. Prevention of this outcome is in the interest of the other units in the system which react by forming alliances whose objective is to balance the growing power of their opponent to ensure their security. States seek to maintain their position in the system and by doing so they help to maintain the balance.[30] Waltz is the promoter of so-called defensive realism.

1.3 International Political Economy and the concept of FDI

International political economy can be characterized as a method of analysis of economic and political phenomena in international arena, and their mutual relations. Gilpin defines it as "the interaction of the market and such powerful actors as states, multinational firms, and international organizations." Robert Gilpin adopts the realist philosophical position in analyzing the economic and political relations. He argues that even though process of

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[26] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 104.
[27] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 88.
[28] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 91.
[29] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 121.
[30] WALTZ, Kenneth. Theory of International Politics. Addision-Wesley Publishing Company, 1979. ISBN 3-201-08349-3, p. 126.

globalization largely influences the international economic environment, the national policies and domestic economies are the principal determinants of economic affairs as the state remains the principal actor in the international arena.[31] He disagrees with the statement that global world economic is now led by economic and technological forces, that the influence of the nation state has disappeared. Quite contrary, states keep using their power to implement policies to influence economic and technological forces to function in the interest of the state.[32] States' mission is to safeguard the political and economic independence. To achieve and maintain economic independence and growth, state must ensure a lead – a competitiveness of their national economy. Functioning of world economy is therefore influenced by both – market forces and policies of nation state: "The relationship of economics and politics is interactive."[33]

Gilpin further elaborates on the relation between study of politics and study of economy. Political economy as a connection between those two approaches has brought different meanings over the time and also has assigned different meanings to certain terms as opposed to economic approach. Political economy defines the economy as "a sociopolitical system composed of powerful economic actors and institutions" who compete in formulating policies in order to advance their own interests. Most important of these actors are national governments.[34] As opposed to neoclassical economic interpretation where economy is "market or a collection of markets composed of impersonal economic forces over which individual actors, including states and corporations, have little or no control."[35]

International political economy does not regard market as a self-regulating mechanism but as being highly influenced by international institutions and regimes. The distribution of gains from market activities is IPE's primary concern. Economics is usually concerned with the absolute gains stemming from a transaction. If there were no mutual gain, the transaction would not occur. However, IPE is mostly concerned with relative gains, absolute gain of a one actor in relation to the absolute gain of another actor. [36]

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[31] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 3, 4.
[32] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 21.
[33] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 23.
[34] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 38.
[35] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 38.
[36] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 77.

The interests of states are determined by political elite, influential groups within national society and nature of the system of national political economy. Even though Gilpin considers states as primary actors, he adds that role of other non-state actors needs to be taken into account, e.g. International Monetary Fund, World Bank or European Commission.[37]

The new economic theories increasingly stress the importance of technological innovation in the economic development. Foreign direct investment is often considered as a transmitter of know-how and technological innovation across economies.

Historically, together with liberalization of trade barriers, liberalization of investment flows worldwide followed (see Chapter 2.5 for more detail). Gilpin further elaborates that state can create policies to discourage or attract FDIs and therefore influence behavior of the Multinational companies (MNCs). Moreover, it is argued that MNCs have the power to influence the environment to change and consequently undermine the position of state as the decisive factor constituting the environment.[38]

According to Gilpin, MNCs are a key ingredient in the world economy. MNCs establish their presence in different national economies via FDIs. Despite their significance, Gilpin explains that classical economist do not address the problematic of MNCs very often and offers several reasons: either, the international flow of the factors of production through FDI is interchangeable with the amount of produced goods and therefore MNCs do not present any specific case; or due to the fact that MNCs actually operate in oligopolist structures and therefore do not fit into "perfect" market theories; or that MNCs themselves are actually product of market imperfections. Business economists look at the study of MNCs specifically through their production capabilities and development of the company, they do not elaborate on their relation to state (e.g. Vernon's Product Cycle Theory or Dunning's and the Reading School's Eclectic Theory).[39]

Gilpin further elaborates on political economy approach to MNCs and mentions Marxist and state-centric interpretation. Marxist (or radical) theories focus on the critique of the MNCs, generally stating that expansion of MNCs is based on exploitation of the host country that are the poor periphery world areas whereas the countries of origin (and final recipients of profits)

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[37] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 17-18.
[38] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 278 – 303.
[39] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 279 – 286.

are rich developed countries; and that due to their size and financial capital, MNCs are able to exercise power and exploit the host countries to their (MNCs) advantage.[40] State-centric theories state that the MNCs owe their success to the favorable political environment in which they were able to emerge and flourish. They challenge the theories of business economists, that MNCs originate purely due to economic forces. "While economic factors are obviously important for the emergence and success of MNCs, they could not exist without a favorable international political environment created by a dominant power whose economic and security interests favor an open and liberal international economy."[41] Example follows, when the Pax Britannica era in the 19th century provided environment with special advantages for creation and success of British firms and investors, similarly as after World War II when the United States have established their position as world hegemon and provided a good source of opportunities for American investors (history of FDI will be briefly elaborated in the Chapter 2.5). Gilpin therefore agrees that even though MNCs seem to be stateless structures, due to the fact that they are (to an extent) dependent on the conditions ensured by their home state, they are still a product of their home country culture, history and politics.[42]

Gilpin further argues that MNCs have drastically influenced the structure of global economy due to their trade and investment flows and strategies. MNCs direct their investment particularly in technology-intensive sectors and thus have become a crucial transmitter of know-how and new technologies. This increased ability and possibility to influence national economies via their financial and technological resources transferred them from mere economic actors to political and social level. That is why "The role of MNCs in the world economy remains highly controversial."[43] The commonly discussed impacts of TNCs FDI on the host economy are more elaborated in the Chapter 2.2.

Similarly, Susan Strange elaborates more on the topic of what structural change has happened in the international relations and how it influenced it in her article "States, firms and diplomacy."[44] She constructs three main propositions out of a case study and current development of international relations.

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[40] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 286 – 288.
[41] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 288.
[42] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 288.
[43] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 290 – 291.
[44] STRANGE, Susan. States, firms and diplomacy. International affairs [online]. 1992, 68(1) [cit. 2021-7-17].

Firstly, that a change in production structure was registered, specifically the internationalization of production and spread of manufacturing capabilities across the world together with increased capital mobility and knowledge transfer. All these changes have according to Strange contributed to the fact, that state needs to demonstrate the ability of economic flexibility in order to compete for global market share and to be successful in negotiation with other actors. The economic flexibility is not really easy for display for command economies, that is why there is more demand for democracy. The internalization is no longer the domain of only western large companies, but due to globalization and overall pressure to minimize costs, other firms were forced to join the global competition as well. Other factors contributing to it were the capital mobility and decreasing costs of transportation.[45]

Secondly, the negotiation with investing companies has become the new standard part of diplomacy. The increased competition between states for the economic advantages (technology, capital, market access) possessed by investor companies forced the states to prioritize industrial policies to foreign policy. ”States are therefore competing with other states to get the value-added done in their territory and not elsewhere.”[46]

Thirdly, companies are now standard actors of international relations. This aspect is important because it is in opposition with standard realist thinking of states generally being the actors in the international arena. Strange adds, that TNCs already have overwhelming influence on global political economy and the trend will continue. Strange continues that states have to adapt to this reality and apply similar standards as in negotiation with other state actors to negotiation with companies. Companies' history, strengths and weaknesses should be known to state to perform a good negotiation. Further, state should inquire about the long-term objectives of the investor and compare them with its expectations to be able to define the negotiation strategy and possible concessions on both sides.[47]

Furthermore, Susan Strange discusses the concept of power in international political economy in her book “States and markets.” She claims that: “It is power that determines the relationship between authority and market.”[48] Market does not function in isolation, it is always influenced by the authority which exercises power over the market. Moreover, Strange claims, that the direct power is not the only decisive factor, but also the indirect effect of power of the

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[45] STRANGE, Susan. States, firms and diplomacy. International affairs [online]. 1992, 68(1) [cit. 2021-7-17], p.1-6.
[46] STRANGE, Susan. States, firms and diplomacy. International affairs [online]. 1992, 68(1) [cit. 2021-7-17], p.7.
[47] STRANGE, Susan. States, firms and diplomacy. International affairs [online]. 1992, 68(1) [cit. 2021-7-17], p.11-13.
[48] STRANGE, Susan. States and markets. London: Pinter Publishers, 1988. ISBN 0861879422, p. 23.

authority, the context. Context comes not only out of the question who is the authority/has the power but also from why this particular authority has the power. The reasons can vary – ability to exercise force, possession of material/financial resources, moral authority, etc.[49]

She then provides a distinction between two kinds of power in political economy – structural and relational. According to her, the structural power plays more important role in today's world than the relational power. The relational power, according to Strange, is rather similar to the concept of power presented by realist (see above) – the ability of one actor to persuade another actor to perform an act they otherwise would not do. The structural power is a power to set rules and conditions under which all actors in the international relations arena are forced to operate. It is power to "shape frameworks within which states relate to each other, relate to people, or relate to corporate enterprises."[50] Those who possess the structural power can also determine the pool of choices that is available to other actors. In this notion, Strange adopts the neorealist paradigm of anarchic structure.

Furthermore, Strange argues that the structural power is exercised in four different structures which are interconnected, four sources of the structural power.

- Control over security
- Control over production
- Control over credit
- Control over knowledge, beliefs, and ideas

The structural power is therefore owned by those who are able to exercise power over people's security, power on decision-making regarding the production, ability to control financial credit flows and those who possess knowledge and are able to decide about their spread or limit the access to it.[51]

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[49] STRANGE, Susan. States and markets. London: Pinter Publishers, 1988. ISBN 0861879422, p. 23.
[50] STRANGE, Susan. States and markets. London: Pinter Publishers, 1988. ISBN 0861879422, p. 24-25.
[51] STRANGE, Susan. States and markets. London: Pinter Publishers, 1988. ISBN 0861879422, p. 25-27.

2. Foreign direct investments

In this chapter we will focus on the definition of FDI and summarize their impacts on the host economy. Further we will elaborate on the policy instruments that determine FDI and we will look at the summary of the development in the area of FDI until the beginning of 21st century.

2.1 Foreign direct investment definition

Foreign direct investment is generally a cross-border investment of monetary funds from a company in one country to a company in another country, with an intent to gain rights to participate in the decision-making process of such company. World bank defines foreign direct investment as: "The net inflows of investment to acquire a lasting management interest (10 percent or more of voting stock) in an enterprise operating in an economy other than that of the investor. It is the sum of equity capital, reinvestment of earnings, other long-term capital, and short-term capital as shown in the balance of payments."[52] Such investment is called direct because the investor seeks its execution actively to gain participation in the managing process, as opposed to portfolio investments, which entitles its owner to profit gains, however, it does not provide him with any managing rights or responsibility. Thomas Oatley provides more narrow definition that "Foreign direct investment (FDI) occurs when a firm based in one country builds a new plant or a factory, or purchases an existing one, in a second country."[53] Following the fact that the FDI are more frequently understood in the broader sense, we will work with the broader definition provided by World Bank. Foreign direct investments are registered at the country's balance of payments at the capital account.

One way to distinguish FDIs types is based on their ultimate goal – what investors seek to achieve when executing the investments.[54]

1) Resource-seeking FDI: The FDI is invested with aim to gain access and control over natural resources and raw materials.

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[52] Metadata Glossary: Foreign direct investment, net inflows (% of GDP). DataBank [online]. [cit. 2021-5-29]. Available at: https://databank.worldbank.org/metadataglossary/jobs/series/BX.KLT.DINV.WD.GD.ZS#:~:text=Foreign%20direct%20investment%20are%20the,than%20that%20of%20the%20investor.
[53] OATLEY, Thomas. International political economy / Thomas Oatley. 2016. ISBN 9780205060634, p.224.
[54] LIM, Timothy. International Political Economy: An Introduction to Approaches, Regimes, and Issues. The Saylor Foundation's Open Textbook Challenge, 2014, p. 186.

2) Efficiency-seeking FDI: The goal of this type of investment is to pursue lowering production costs to increase competitiveness (also called offshoring).
3) Strategic asset seeking FDI: This type of FDI aims to gain access to assets such as technology, organizational abilities, and markets.
4) Market-seeking FDI: The goal is to access local or regional markets be it for economic or political reasons.

The resource-seeking FDI was prevalent until the beginning of 20th century, where money was directed mostly to developing countries for harvesting resources and building the infrastructure for its transportation. Nowadays, efficiency-seeking and strategic-asset seeking FDIs are more dominant.[55]

2.2 FDI and their impacts

There are different views on the impact of incoming foreign direct investment on the host country economy. However, the economic impact of FDI on the host economy is hard to quantify precisely.[56]

Among positive effects, FDI is expected to enhance growth through encouraging of involvement of new inputs and technologies in the production process. Via promoting the usage of new technologies and via their transfer into the host economy, it can benefit the home country companies by technological spillovers.[57] FDI can also mean stable long-term financial resources invested to the host country. The presence of TNC can open access to other markets for host country companies helping them to become export oriented. Another positive spillover effect can be registered in employment and development of skills of human capital. Host country population can via employment gain access to managerial skills and techniques developed by the TNC. Local companies that are forced to adapt quality standards of the TNC

[55] LIM, Timothy. International Political Economy: An Introduction to Approaches, Regimes, and Issues. The Saylor Foundation's Open Textbook Challenge, 2014, p. 186.
[56] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 184.
[57] LI, Xiaoying a Xiaming LIU. Foreign Direct Investment and Economic Growth: An Increasingly Endogenous Relationship. World Development [online]. 2005, 33(3), 393-407 [cit. 2021-04-11]. ISSN 0305750X. Available at: https://linkinghub.elsevier.com/retrieve/pii/S0305750X04002013, p. 394.

to become its suppliers or competitors can benefit from the increased competitiveness and new technology advancements. [58]

On the other hand, host country should consider also possible negative effect of the incoming FDI. The presence of TNC can lead to discouragement of domestic investments, due to increased competition on the market. The increased competition on the market can also lead to crowding out of local companies out of business, due to their higher production costs or due to entry factor costs, since the TNC is more likely to have access to financing (as a policy incentive) or to skilled personnel (as a result of its reputation and size). [59]

It can also jeopardize the companies operating in "infant industry", industry area which is not yet so well developed compared to international level. In this case, positive effect of spillover of knowledge is expected, however, when local company is not able to stay functioning due to raised competition, it cannot participate in this learning process. Such companies can be important for the state because of the strategic importance of the industry in which they operate.[60]

TNC's mode of operating can also minimize another positive spillover effect – for instance, the TNC can decide to offshore only low-value inducing jobs which do not benefit the human capital sufficiently and the technology is kept in the TNC home country, research and development is not addressed in the host country, thus the host country is not able to benefit from it.

Moreover, TNCs possess substantial negotiating power with regard to host country government. TNCs usually have several alternatives as investment opportunities (relating to the Susan Strange's statement that states need to compete in the international economy arena for their global market share) and work with better information portfolio than is accessible to the host country government. Host country suffers from weakened position when negotiating the conditions of TNC in the host country and its inability to establish rules beneficial for the state's

[58] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 1999: Foreign Direct Investment and the Challenge of Development [online]. New York and Geneva, 1999 [cit. 2021-04-11]. ISBN 92-1-112440-9. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xxvi.
[59] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 1999: Foreign Direct Investment and the Challenge of Development [online]. New York and Geneva, 1999 [cit. 2021-04-11]. ISBN 92-1-112440-9. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xxix.
[60] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 1999: Foreign Direct Investment and the Challenge of Development [online]. New York and Geneva, 1999 [cit. 2021-04-11]. ISBN 92-1-112440-9. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xxix.

development is decreased.[61] According to critics, the TNCs have thus even the ability to undermine nation state's government.[62]

2.3 FDI policy instruments

The environment in which the FDI flow in international economy is shaped heavily by the legal framework. The legal framework consists of rules and principles, the most important according to UNCTAD are: a) national laws and regulations, b) customary international law, c) multilateral international instruments and d) soft law.[63]

National laws and regulations are the most articulate and defined part of the structure and also most important for the future investor. It concerns both, the laws and regulation specifically concerned with FDI as well as general legal system in the country. Customary international law is the historical basis upon which the regulation usually develops. As will be elaborated later, two fundamental principles of customary international law concerns FDI – the principle of territorial sovereignty and principle of nationality. As opposed to laws and regulation, this type of law is not usually specific and its usage in the day-to-day operation is limited. However, it helps with interpreting and understanding of the established norms. [64]

There is no binding multilateral agreement regarding FDI, several agreements exist which concern topic issues related to FDI (e.g. GATT) or that are dealing with specific topics of FDI (e.g. Convention on the Settlement of Investment Disputes between States and Nationals of Other States, 1965). However, the most important aspect of international agreements is represented by the bilateral investment treaties (BITs).[65] This practice speaks to the importance for state to establish and maintain clear rules set by the state itself, to ensure protection of its interests. Given the fact that the foreign direct investments are not governed by any multilateral regulation, the environment for investors is quite complex and hard to navigate.

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[61] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 1999: Foreign Direct Investment and the Challenge of Development [online]. New York and Geneva, 1999 [cit. 2021-04-11]. ISBN 92-1-112440-9. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xxix.
[62] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 291.
[63] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 15.
[64] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 15.
[65] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 17-18.

Soft law is not legally binding in traditional sense but may rose to widely expected customs that are held. In this category belong for instance resolutions of General Assembly UN (e.g. Charter of Economic Rights and Duties of States from 1970s and 1980s), or the declarations of OECD (1976 Declaration on International Investment and Multinational Enterprise).[66]

As stated by UNCTAD: "Managing FDI policy effectively in the context of a broader competitiveness strategy is a demanding task."[67] The state can decide to adopt a "laissez-faire" approach, however, such approach may not succeed in attracting the FDIs or may lead to harm because of the market failures or institutional deficiencies.[68] On the other hand, significant interventions of state regarding the conditions for the TNCs entrance or in an attempt to shield local companies from the raised competition may distort the economic environment of the host country as well as dissuade the TNCs from entering in the first place.[69]

All in all, "the right to control admission and establishment remains the single most important instrument for the regulation of FDI."[70] At the start of the new millennium, no country offered free unconditional access to foreign investors. Situation also varied between sectors and industries: natural resources sector was historically highly regulated, but the regulation has eased. Services also tend to differ based on specific industry, while tourism is usually less regulated, financial services and media are of higher concern of government regulation.[71] State has further options how to attract FDI, for instance investment incentives.[72]

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[66] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 20.

[67] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 1999: Foreign Direct Investment and the Challenge of Development [online]. New York and Geneva, 1999 [cit. 2021-04-11]. ISBN 92-1-112440-9. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xxxiii

[68] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 1999: Foreign Direct Investment and the Challenge of Development [online]. New York and Geneva, 1999 [cit. 2021-04-11]. ISBN 92-1-112440-9. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xxxiii

[69] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 1999: Foreign Direct Investment and the Challenge of Development [online]. New York and Geneva, 1999 [cit. 2021-04-11]. ISBN 92-1-112440-9. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xxix.

[70] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2003: FDI Policies for Development: National and International Perspectives [online]. New York and Geneva, 2003 [cit. 2021-04-11]. ISBN 92-1-112580-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 102.

[71] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2003: FDI Policies for Development: National and International Perspectives [online]. New York and Geneva, 2003 [cit. 2021-04-11]. ISBN 92-1-112580-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 102.

[72] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2013: GLOBAL VALUE CHAINS: INVESTMENT AND TRADE FOR DEVELOPMENT [online]. New York and Geneva, 2013 [cit. 2021-5-8]. ISBN 978-92-1-112868-0. Available at: https://unctad.org/topic/investment/world-investment-report, p. 110.

About 80% of states worldwide have an investment policy that prohibits foreign ownership in at least one industry.[73] Foreign ownership is an important aspect in the state's investment policy to differentiate between domestic and foreign investors, affecting them positively or negatively vis-à-vis investment possibilities. Nationality of the investor may play a role when legal consequences or benefits apply only to investors from specific countries (for instance based on international agreements or sanctions).[74]

Following areas are generally affected by investment policy: [75]

- Entry restrictions and ownership caps
  These measures can restrict the size of foreign ownership or can prevent foreign investors from investing into specific areas, sectors
- Operating restrictions
  Imposed fees or performance threshold that has to be met by business financed by foreigners.
- Investment incentives
  Financial, fiscal, or regulatory benefits that apply only to foreign investors.
- Investment protection
  Laying out the rights of the foreign investor and set up rules for dispute settlement mechanism.

2.4 FDI policy and national security exceptions

In general, states tend to keep their right to reject a foreign investment for "national security" reasons. This is ensured either by the investment agreement or by national laws. The investment agreements usually do not provide the national treatment obligation[76] during the admission period, host state can therefore during this period accept or reject the investment transaction. Even if the investment agreements contain the national treatment obligation in the

[73] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2016: Investor Nationality: Policy Challenges [online]. New York and Geneva, 2016 [cit. 2021-5-8]. ISBN 978-92-1-112902-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 125.
[74] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2016: Investor Nationality: Policy Challenges [online]. New York and Geneva, 2016 [cit. 2021-5-8]. ISBN 978-92-1-112902-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 159.
[75] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2016: Investor Nationality: Policy Challenges [online]. New York and Geneva, 2016 [cit. 2021-5-8]. ISBN 978-92-1-112902-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 159.
[76] Principle to treat foreign investors the same as the domestic investors. National treatment. See GLOSSARY TERM [online]. [cit. 2021-5-29]. Available at: https://www.wto.org/english/thewto_e/glossary_e/national_treatment_e.htm.

admission period, there are still exceptions based on which the state can interfere. These exceptions usually currently include:[77]

- risk to a national security
- risk to public order or
- risk to public health, life, and environment.

Broadly defined exceptions provide the state with a space to maneuver and interpret them, as the host state has the final say. Public policy exceptions can be further specified e.g. by exhaustive list of sectors that are not open for foreign transactions or are open under specific conditions.

However, national security is usually not further specified or defined. Ordinarily, national security comprises economic activities relating to military sector (arms trade, ammunition trade/manufacture, services or technology related to military operations). Another example are the investments to an infrastructure which is considered of strategic importance. These can include e.g. nuclear energy sector or media broadcasting services.[78] Another example are industries with public service operations deemed as critical for functioning of the society (e.g. infrastructure, transportation, water or energy supply) that can be kept from foreign investment to ensure their national ownership.[79]

As OECD further states, "Investment policies related to national security have existed for decades, but it is only since the early 2000s that this area has received broad attention among investment policy makers." During the 20th century, mostly the sectors directly related to military and army equipment were considered of national importance. More importantly, strategic sectors remained for a lot of part of 20th century state-owned. With increase privatization and technological development, the perceptions of what it is of national importance and can influence national security, have changed. More sectors are now viewed as security sensitive, such as energy, telecommunications, and healthcare. This development is registered mainly after 2000s.[80]

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[77] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 225.

[78] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 225-226.

[79] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2016: Investor Nationality: Policy Challenges [online]. New York and Geneva, 2016 [cit. 2021-5-8]. ISBN 978-92-1-112902-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 159.

[80] WEHRLÉ, Frédéric a Joachim POHL. Investment Policies Related to National Security: A Survey of Country Practices: OECD Working Papers on International Investment 2016/02 [online]. 0ECD, 2016 [cit. 2021-6-13]. Available at: https://www.oecd-

Following this proposition by OECD, the first hypothesis for my diploma thesis is that "It is possible to identify strengthening of the concept of security and more restrictive approach in the FDI policies of EU member states during 1999-2019." I will address this hypothesis in the Chapter 3.1, where I will elaborate on the development of policies specifically of Germany and France and policy of the EU.

2.5 Brief history of FDI policies and flows

Two opposing principles generally take place when dealing with the foreign direct investment. Firstly, the territorial sovereignty of the state. On its land, the state has the full and exclusive right to act over people and events. On the other hand, the principal of nationality, where each state assumes the right to have its citizen treated justly and fairly even abroad, by any other state's authorities. [81] Both principles closely correspond to realist perception of the world. A state is a territorial sovereign and has the ability to impose and enforce rules on its territory and at the same time state should be able to ensure that its citizens (nationals) are treated properly even outside its territory.

Generally, the capital exporting countries are mostly concerned with the second principle, whereas the countries importing/receiving the capital highlight mostly the right to execute their sovereignty. For instance, even though the United States of America acknowledged the right of state of Mexico to nationalize natural resources related business, since these businesses were American owned, they also demanded the right for compensation. The examples were therefore solved individually, the rules were still evolving. The aforementioned principles are still valid to this day and still present the merit of the evolved practice and standardization of FDI settlement.[82] It testifies to the proposition of IPE, that states are still the most important actors that need to act in order to safeguard their needs. It is highly doubtable that such situations would be rectified purely thanks to market economy.

The most important source of the foreign direct investments are the Multinational Corporations (MNC) or Transnational Corporations (TNC). The two terms are often used

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ilibrary.org/docserver/5jlwrrf038nx-en.pdf?expires=1623575716&id=id&accname=guest&checksum=80B5B7CC2846724E6251B854A57F09DD, p. 10.

[81] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 6.

[82] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 6.

interchangeably, even though there can be a difference. MNCs usually have a centralized organizational structure and strategy with powerful parental company. TNCs have more decentralized structure where the subsidiaries also can participate in more value-added parts of production, such as for instance the research and development function.[83] For this thesis, the difference is not determinative, and we will use the term interchangeably.

The British East India Trading Company founded in 1600 is usually described as the world's first MNC, demonstrating that this kind of company has been present on the global market well over several centuries.[84] First wave of the MNCs were British companies with resource-seeking investments across the British colonial empire, thus expanding into developing countries.[85] Another examples of British pioneering MNCs were: the Hudson's Bay Company, the Royal African Company, the London company and Plymouth company.[86] British exported about 5-10% of their GNP abroad. However, these investments mostly covered infrastructure, such as railroads and port facilities.[87] Following British examples, other countries have also established East India Trading companies: Dutch East India Company (1602), Danish East India Company (1616), Portuguese East India Company (1628), Genoese East India Company (1649), French East India Company (1664), Swedish East India Company (1731), Austrian East India Company (1775),[88] nevertheless, the British and Dutch were the most successful.

Until the beginning of the 20th century, there was no specific regulation dealing with the foreign direct investment, "States did not by and large attempt systematically to control or restrict international private capital transactions."[89] In this era, rather the indirect investment such as bonds and loans were more common. In this liberal environment, the private equity movements were not much regulated. Given that the existing direct investment were mostly

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[83] TIGARI, Harish & CHANDRASHEKHAR, R. (2019). Multi National Companies in India– A Critical Review. Shanlax International Journal of Economics, p. 54.
[84] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 278.
[85] OATLEY, Thomas. International political economy / Thomas Oatley. 2016. ISBN 9780205060634, p. 223
[86] MCLEAN, Janet. The Transnational Corporation in History: Lessons for Today? Indiana Law Journal [online]. 2004, 79(2) [cit. 2021-7-18]. Available at: https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1732&context=ilj.
[87] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 262.
[88] East India Company (disambiguation). Wikipedia [online]. 2021 [cit. 2021-7-26]. Available at: https://en.wikipedia.org/wiki/East_India_Company_(disambiguation).
[89] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 5

comprising of property and natural resources exploitation, the only regulation was mostly concerning with the limitation of armed force that could be used for their recovery (if needed).[90]

However, the flows of direct investment grew stronger around the turn of 20th century. "FDI started acquiring increased importance and assuming the forms prevalent today as the nineteenth century neared its end."[91] As a striking example the D'Arcy oil concession granted by Persia (Iran) to British entrepreneur William Knox D'Arcy in 1901 for 60 years is worth mentioning. The British entrepreneur has been granted access to natural resources exploration in exchange for royalties and negotiated fixed payments (after successful discovery).[92] This concession paved a way for later creation of Anglo-Persian Oil Company in 1908, a predecessor of today's British Petroleum.

As already noted, capital exporting countries advocated largely for the principle of nationality and fair treatment of all its nationals, capital receiving countries stressed the principle of sovereignty, especially e.g. Latin American countries. Generalized policies affecting the foreign investment started to be more common, example being for instance a nationalization of natural resources in Mexico. [93]

After the World War II, the negotiation regarding international monetary cooperation took place. It attempted to rectify the mistakes made before the World War II when states have retreated to isolationism and protectionist measure and to boost the economic development after the war. International Monetary Fund (IMF) and International Bank for Reconstruction and Development (IBRD; part of the World Bank) were established during the negotiation in Bretton Woods conference in 1944.[94] The objective of IMF is among others to "facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy" and to "To promote international monetary cooperation through a permanent institution

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[90] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 5.
[91] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 6.
[92] WITTON, Trevor. The concession and oil in Iran: the evolution of a concept. Journal of Energy & Natural Resources Law [online]. 2016, 34(4), 455-460 [cit. 2021-7-18]. ISSN 0264-6811. Available at: doi:10.1080/02646811.2016.1211433.
[93] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 6.
[94] OCAMPO, José Antonio. A brief history of the international monetary system since Bretton Woods. World Institute for Development Economic Research Working Paper Series [online]. 2016 [cit. 2021-7-25]. Available at: https://ideas.repec.org/p/unu/wpaper/wp-2016-97.html.

which provides the machinery for consultation and collaboration on international monetary problems".[95] In practice, states usually seek the financial assistance of IMF in case after economic crisis and experiencing national debt growth and balance of payments imbalances. Financial stimulus should be able to improve the balances, improve future prospects for future potential investors and by that attract FDI.[96] IBRD was established mainly to help with the reconstruction after the war and help with infrastructural projects. Now it is one of the World Bank bodies which objective is to provide loans, guarantees and advisory services to middle-income and creditworthy low-income countries.[97]

Several attempts were made to establish basic principles of FDI into multilateral agreements after World War II. These agreements were negotiated along with the establishing of International Trade Organization (ITO). Havana Charter included provisions on promotion on principles on direct investment and should have become the founding document of ITO. However, the founding charter never entered into effect. During the lengthy negotiations (1945 – 1948) regarding ITO, the General Agreement on Tariffs and Trade (GATT) has been successfully negotiated in 1947. This agreement was at first deemed provisional and to be replaced by finalized ITO Charter. After failure to approve the Havana Charter it stayed in effect until 1995 when the World Trade Organization was set up (now still bearing the relevant concepts in the WTO structure). However, GATT focuses particularly on trade of products (and later services), not specifically on the investment.[98] The countries generally exporting capital were during the negotiation enforcing the investor safety in the first place, the receiving countries (mostly developing, such as Latin America) strengthened the sovereignty approach. Because of the strong opinions of both group of countries, the efforts have failed for Havana Charter of 1948 and similarly for Agreement of Bogota in 1948.[99]

Over the next two decades, especially developing states (along with those with newly embraced sovereignty) nationalized mostly key natural resources related businesses in pursuit of gaining its economic independence and control. These times did not favor the establishing

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[95] INTERNATIONAL MONETARY FUND. Articles of Agreement [online]. 2020 [cit. 2021-7-25]. ISBN 978-1-51353-082-6. Available at: https://www.imf.org/external/pubs/ft/aa/pdf/aa.pdf.
[96] WOO, Byungwon. Conditional on Conditionality: IMF Program Design and Foreign Direct Investment. International Interactions [online]. 2013, 39(3), 292-315 [cit. 2021-7-25]. ISSN 0305-0629. Available at: doi:10.1080/03050629.2013.782303.
[97] International Bank for Reconstruction and Development. The World Bank: International Bank for Reconstruction and Development [online]. 2021 [cit. 2021-7-25]. Available at: https://www.worldbank.org/en/who-we-are/ibrd.
[98] VANDEVELDE, Kenneth J. The First Bilateral Investment Treaties [online]. Oxford University Press, 2017 [cit. 2021-7-19]. ISBN 9780190679576. Available at: doi:10.1093/acprof:oso/9780190679576.001.0001.
[99] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 6.

of rules protecting the investor, moreover, most countries have established rules to exclude investors from specified industries and/or codifying that local nationals would be part of such investment. During the 1960s, another attempt was made to introduce a multilateral agreement over the protection of foreign investments against expropriation but did not find enough support. However, in 1965 Convention on the Settlement of Investment Disputes between States and Nationals of other States succeeded in laying out basic principles on how to settle disputes once the investment is already done. Only limited number of states have signed the agreement at first, but considerable number of them joined later during the 1980s and 1990s.[100]

Even though the efforts to establish international rules regarding FDI failed, starting in the 1960s, many states (especially developed) began to liberalize the investment flows. As a mean of establishing the mutual relation, bilateral investment treaties guiding the relation of the recipient and exporting country began gaining momentum. Previously, e.g. the Havana Charter recommended to include such treaty as part of the broader treaty regarding the overall trade relations (historically "treaties of friendship, commerce and navigation", evolved to nowadays more used "free trade agreements"), however, the trend was established to close the investment treaties separately.[101] First bilateral investment treaty was negotiated and signed between Pakistan and Germany in 1959.[102] The surge of number of BITs occurred during 1980s and 1990s, sixty years later there are about 2300 BITs currently in effect, see Figure 1.[103]

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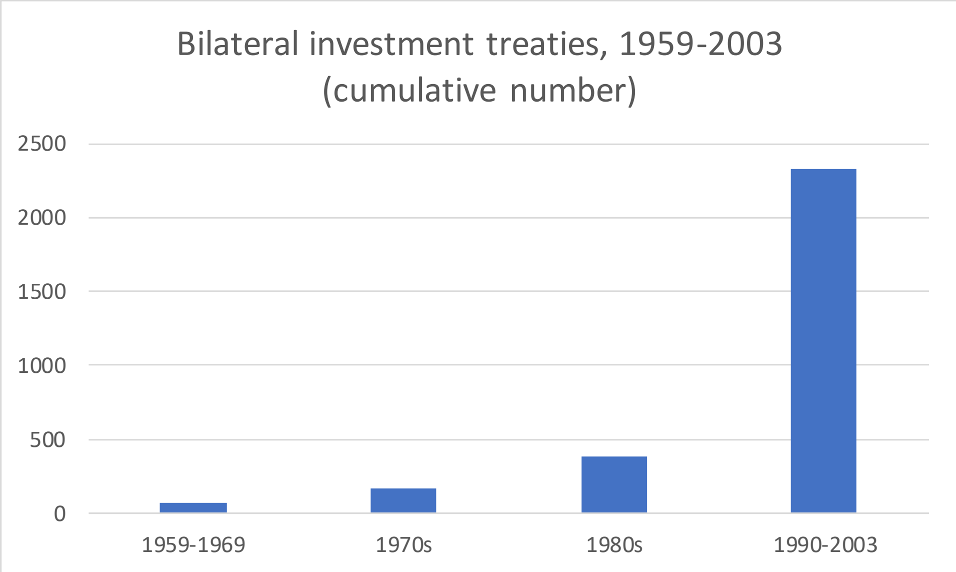
100 UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 7.

101 UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 7-9.

102 Database of Bilateral Investment Treaties. ICSID: Resources [online]. [cit. 2021-5-29]. Available at: https://icsid.worldbank.org/resources/databases/bilateral-investment-treaties.

103 International Investment Agreements Navigator. Investment Policy Hub [online]. [cit. 2021-5-29]. Available at: https://investmentpolicy.unctad.org/international-investment-agreements/by-economy.

Figure 1: Bilateral investment treaties, 1959-2003 (cumulative number)



Source: UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 9.

During the 1970s, the developing states were gaining momentum at the international arena to promote their objectives thanks to energy crises which weakened the economics of western states. The topic of transnational corporations began to occur frequently. The perception of TNCs differed.

To ensure that TNCs' establishment in developing countries does not infringe the development of the country, strict and elaborate rules of investment approval were introduced. For instance, Andean Pact introduced in 1970 contained rules on screening mechanism, control of FDI and "fadeout" provision, requiring the disinvestment of foreign firms after a number of years. In the meantime, United Nations Code of Conduct negotiation took place since 1970 till 1980s, however, this document was never adopted, even as non-binding. [104]

In the period of 1980s-2000s, the climate for FDI has changed and has been more favorable with growing liberalization trends. Moreover, the industries in which the FDI has changed – from the previously oil and other natural resources-oriented industries trend shifted toward manufacturing, high-tech production, and services. Developing countries again lost momentum in agenda setting, since the consequences of oil crises were fading out and debt-crises in developing countries were setting in. The FDI have become more appealing for

[104] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 10.

developing countries' economies, more market-oriented approach to attract debt-burdened countries has prevailed. Furthermore, the number of TNCs has grown considerably which further increased the need for regional integration of markets. According to UNCTAD, 94% FDI policy changes identified since 1990s to early 2000s were rather in the direction of liberalization, the previously introduced screening mechanisms or entry regulations were either removed or eased.[105] Host countries were more interested in attracting foreign capital which also became the center point of policy makers discussions.

Until the Second World War, France, and Germany (and UK) were the home countries of FDI, they were not particularly worried about inflows, but rather the outflows of capital. Because of that they used usually foreign currency exchange control.[106] The modern surge of MNCs can be predominantly linked to the post Second World War era, specifically 1970s. At this time, MNCs were typically American companies. Later in 1980's other origin countries arrived (e.g. Japan or Western Europe). MNCs established themselves as new actors in the political arena since 1980's.[107] For France and Germany in that era, most common form of regulations were therefore formal mechanisms of regulation in sensitive sectors or informal regulation like state ownership or other restrictions.[108] Gilpin argues that the term globalization has become popular with the start of MNCs and their investments in 1980's as well. Since then, foreign direct investments flowing through these multinational companies have become a significant factor in the international economy. Gilpin further summarizes that over the last decades, biggest FDI flows were from developed countries to developed countries (North-North direction).[109] The United States, European Union and Japan were considered as "the Triad" as the three biggest recipients of global inward FDI (about 60-70%). Since the 1980s, the European Union gained on importance as the world recipient of the FDI and replaced the United States. The positions inside the Triad has shifted. [110]

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[105] UNITED NATIONS PUBLICATION. INTERNATIONAL INVESTMENT AGREEMENTS: KEY ISSUES. Volume I [online]. New York and Geneva, 2004 [cit. 2021-03-14]. ISBN 92-1-112663-0. Available at: https://unctad.org/system/files/official-document/iteiit200410_en.pdf, p. 11-12.

[106] CHANG, Ha-Joon. Foreign Investment Regulation in Historical Perspective. Global Policy Forum [online]. 2003 [cit. 2021-7-11]. Available at: https://archive.globalpolicy.org/component/content/article/213-financing-for-development/45615.html.

[107] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 4.

[108] CHANG, Ha-Joon. Foreign Investment Regulation in Historical Perspective. Global Policy Forum [online]. 2003 [cit. 2021-7-11]. Available at: https://archive.globalpolicy.org/component/content/article/213-financing-for-development/45615.html.

[109] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 7.

[110] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 6.

However, developing countries' importance as recipients has grown significantly. During the 1980s, the share of developing countries as recipients of FDI was about 20%. In 2005, about 35% of global inward FDI was headed to the developing countries. This change was driven mainly by focus on South, East and South-East Asia, particularly China. The main sources remained the developed countries. [111]

The emerging countries as the source of FDI also gained importance over the years. The stream of FDI from these economies have grown already since 1960s with several breaks.[112] Flows from developing countries were insignificant in the 1980s. In 2005, they amounted to 15% of global FDI outflows. Once again, the trend was previously represented primarily by Latin American TNCs, later by Asian TNCs.[113] Since the 1990s, the outflows of FDI from developing countries have grown with faster pace than the FDI from developed countries. Another aspect is the location; the developing countries' FDI were again mostly flowing to developing countries, registering the so-called South-South FDI trend. The South-South FDI trend outpaced the North-South FDI flows in the late 1990s.[114]

Since 1990s the growth has accelerated. The geographical source of it changed considerably – Asian countries grew their share of developing countries' FDI from 23% in 1980 to 62% in 2005. From the Latin American and Caribbean countries, the Newly industrialized countries (Hong Kong, South Korea, Singapore) took over the baton along with China. In 2005, the Russian Federation seized a 3rd place as a developing home country of FDI (FDI stock amounting to 120 billion USD, 6 times more than in 2000). The flows amounted to 13 billion USD, its direction being mostly the South-East Europe and Commonwealth of Independent States. Closely followed by China, whose FDI outflows reached 11 billion USD in 2005. 81% of all FDI stock from developing countries and countries in transition were placed in services.[115]

[111] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 6.

[112] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 103-121.

[113] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 103-121.

[114] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2004: The Shift Towards Services [online]. New York and Geneva, 2004 [cit. 2021-04-17]. ISBN 92-1-112644-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 3-20.

[115] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 103-121.

These developments of course changed the landscape of the TNCs, 25% of TNCs were coming from developing countries in 2005. According to UNCTAD, the TNCs from developing countries demonstrate higher inclination toward state ownership. Quarter of all TNCs from developing countries were state-owned in 2005. 80% of all emerging countries TNCs were from Asia in 2005 (mostly East and South-East Asia). First generation TNCs from China have developed in 1970s mostly as state-owned in monopolized industries (financial services, shipping, international trading, and natural resources). Second generation TNCs started in 1990s especially in electronics and manufacturing industries (e.g. Lenovo, Huawei, ZTE). The ownership structure of this generations TNCs is more diverse – private ownership, local government ownership or international participation can be present. [116]

"State-owned TNCs are defined as enterprises comprising parent enterprises and their foreign affiliates in which the government has a controlling interest (full, majority, or significant minority), whether or not listed on a stock exchange." [117] Generally, control stake is considered over 10% of voting rights. 28 TNCs from the TOP100 developing and transition country economies were SOEs in 2010. Even though the number of state-owned TNCs is not particularly high, their share on global FDI flows amounted to 11%. These actors have significant role in the South-South trend. [118]

TNCs from Russian Federation are mostly natural resources based. The biggest TNCs are Gazprom and Lukoil, Gazprom being majority state-owned. UNCTAD highlights the fact, that technological aspirations are missing from the Russian TNCs, the only exception being telecommunications sector into which the Russian companies expanded via M&A. "The internalization strategies of resource-based companies, especially the State-owned ones, are influenced by Russian foreign policy."[119] UNCTAD notes that albeit historically the activities

[116] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 126-130.
[117] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2011: NON-EQUITY MODES OF INTERNATIONAL PRODUCTION AND DEVELOPMENT [online]. New York and Geneva, 2011 [cit. 2021-4-24]. ISBN 978-92-1-112828-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 28.
[118] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2011: NON-EQUITY MODES OF INTERNATIONAL PRODUCTION AND DEVELOPMENT [online]. New York and Geneva, 2011 [cit. 2021-4-24]. ISBN 978-92-1-112828-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 28.
[119] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 135.

of Russian TNCs have usually mostly targeted primary sector (natural resources), more often they are headed to other activities as well, e.g. telecommunications.[120]

The growing involvement of emerging countries TNCs FDI has sparked reactions in the host countries. The most controversial deals included China and Russian Federation but also Hong Kong, Taiwan, and United Arab Emirates. Several concerns are mostly stated: fears of loss of control over natural resources, fear of job cuts, however, most controversial deals have ignited the concerns over national security. Such concerns were expressed particularly in cases where the investing TNC showed close ties with the home country government. The deals were also directed into industries deemed as sensitive: oil and mining, ICT or infrastructure and services.[121]

Several examples are listed in the by UNCTAD: 1) 2005 Proposition of Chinese CNOOC to invest in the United State Unocal (oil firm) which was ultimately blocked by government; 2) United Arab Emirates take-over of United States port operator; 3) Chinese Minmetals acquisition of Canadian metal company Noranda; etc. All of them were blocked.[122] Whereas the natural resources sector or infrastructure could be considered as an area of hard threats, we can see that the perception of what can constitute a threat is changing over time, sectors as ICT or services are much harder to link to the hard security, therefore we can see that shift to soft security threats is actually happening. Examples of blocked or scrutinized deals in the EU are explored in the Subchapters 3.1.3 and 3.1.4.

Apart from that, other new trends in FDI were detected in the new millennium: For instance, internalization of Research and Development (R&D). The R&D activities have been generally located in home countries of the TNCs. After 2000, new centers were established in developing countries for the first time.[123] Further, apart from SOE, Sovereign wealth funds (SWF) were identified as the new important trend in FDI. Even though the amount of FDI reached only 10 billion USD in 2007, the pace of their growth was dramatic. There is no universally accepted definition of a SWF but generally they are "government investment

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[120] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2005: Transnational Corporations and the Internationalization of R&D [online]. New York and Geneva, 2005 [cit. 2021-04-17]. ISBN 92-1-112667-3. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 77.
[121] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 222-224.
[122] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 224.
[123] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2005: Transnational Corporations and the Internationalization of R&D [online]. New York and Geneva, 2005 [cit. 2021-04-17]. ISBN 92-1-112667-3. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xix – xxiv.

vehicles that are funded by the accumulation of foreign exchange assets and managed separately from the official reserves of the monetary authorities."[124] SWF existed already since 1950s, managing wealth of states for instance rich in natural resources. However, it was in the 2000s decade when their assets rose considerably (due to current account surpluses on balance of payments of many countries). Main sources of SWFs are: China, Hong Kong, Kuwait, Norway, Russia, Saudi Arabia, Singapore, and the United Arab Emirates.[125] Once again, SWF sparked controversy as vehicles closely integrated with government. Developed and developing countries alike expressed their concerns over seizing control of infrastructure or other strategic industries (energy, national defense, oil and gas, electricity, ports or airports).[126] In spite of the rise of capital movements internationally, financial systems tend to be still rather national based, consisting of closely connected but still separated national financial systems. Moreover, no internationally agreed rules to govern the nature and handling of foreign direct investments exist. "There are national, bilateral, regional, and multinational agreements on MNCs and FDI, but no overall comprehensive agreement."[127]

Following the brief historical excursion, we can see that foreign direct investment have been always closely linked with the actions of state in the international arena. The fact there is no comprehensive international agreement regarding FDI and states resolve their issue in this area on the bilateral basis speaks of the importance to preserve the right of state to act and decide in this area. With the raising volumes of the financial capital flowing across the international economy, we can see that the MNCs have definitely become important actors in the IPE with which it is necessary to negotiate given their power. Borrowing the concept presented by Susan Strange, MNCs can definitely generally rely on control over production, knowledge and credit giving them significant power for the negotiation.

Vis-a-vis the elaborated trends throughout the history of FDI flows and policies, my second hypothesis for this diploma thesis is (given that the first hypothesis would be true) that "The qualitative change in FDI policies was caused by the influx of FDI from emerging

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[124] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2008: Transnational Corporations, and the Infrastructure Challenge [online]. New York and Geneva, 2008 [cit. 2021-4-24]. ISBN 978-92-1-112755-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 22.

[125] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2008: Transnational Corporations, and the Infrastructure Challenge [online]. New York and Geneva, 2008 [cit. 2021-4-24]. ISBN 978-92-1-112755-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 20-24.

[126] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2008: Transnational Corporations, and the Infrastructure Challenge [online]. New York and Geneva, 2008 [cit. 2021-4-24]. ISBN 978-92-1-112755-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 25.

[127] GILPIN, Robert. Global political economy: understanding the international economic order. Princeton, New Jersey: Princeton University Press, 2001. ISBN 0-691-08676-1, p. 300.

countries (specifically Chinese).” I will address this hypothesis in the Chapter 3.2. where I will elaborate on the amount of FDI inflows in the EU (specifically of Germany and France) and specifics of Chinese investors in the EU. My two hypotheses will help me to address the research question of “Why the European FDI policies have changed during 1999-2019?”.

3. EU FDI policy development 1999-2019

In this last chapter I will address the research question of the thesis "Why the European FDI policies have changed during 1999-2019?", as well as both hypotheses. Firstly, I will elaborate on the first hypothesis "It is possible to identify strengthening of the concept of security and more restrictive approach in the FDI policies of EU member states during 1999-2019." Chapter 3.1 will address this topic. I will discuss the monitoring of FDI policies by UNCTAD, then I will elaborate on the restrictiveness index maintained by OECD and followingly I will analyze the FDI policy of Germany, France and the EU separately.

Furthermore, I will elaborate on the second hypothesis "The qualitative change in FDI policies was caused by the influx of FDI from emerging countries." Chapter 3.2 will address this topic. I will rely on the conclusions from the previous part and analyze the incoming FDI flows to the EU and their specifics. I will built on the theoretical approaches elaborated in the Chapter 1.

3.1 Policy developments

In this chapter I will examine the FDI policies of the EU states and their changes in the 1999-2019 period. I will use the OECD and UNCTAD approaches to evaluation of restrictiveness of FDI policy and then I will elaborate in detail on the selected EU member states Germany and France as they are the biggest recipients of FDI in the EU. Further I will also discuss the development of the common EU FDI policy.

3.1.1 OECD FDI Restrictiveness index

OECD monitors changes in FDI policy and in 2003 has designed a tool for benchmarking countries based on the restrictiveness of a state's policy towards incoming FDI. The tool is called "FDI Regulatory Restrictiveness Index" (further "FDI index") and it measures statutory restrictions on FDI across 69 countries (incl. segmentation of 22 sectors). FDI index evaluates four different types of statutory restrictions: [128]

[128] OECD. FDI Regulatory Restrictiveness Index. OECD [online]. [cit. 2021-5-15]. Available at: https://www.oecd.org/investment/fdiindex.htm.

1. Foreign equity limitations

   Sector can be for example fully closed for foreign investors (no foreign equity is allowed), or majority control by foreign investor in the business is not allowed, or there is a limit for foreign equity investment in the company.[129]

2. Screening or approval mechanisms

   Screening or approval mechanisms may have various forms – they may include some economic testing analyses to perform and evaluate the acquisition by foreign investment, or at their minimum they may serve only as a formal step in the process and require a notification from the investor. A threshold above which the screening mechanism is applied can be introduced (e.g. acquisitions below 50% of total equity are not screened). Importantly, in this type of restriction the screening mechanism applied out of national security reason is not taken into account and therefore does not influence the FDI index value. Furthermore, for this type of restriction, the level of implementation and transparency or discretion of the whole process are not taken into account either.[130]

3. Restrictions on the employment of foreigners as key personnel

   These restrictions may include rules for key personnel (managers, directors, other key personnel) regarding the economic needs to employ foreign managers or nationality requirements for the board of directors' members.[131]

4. Other restrictions on the operation of foreign controlled entities

   This may include restrictions on the establishment of branches, acquisition of land (foreign investor may not own land but only lend), reciprocity clauses in particular sector, restrictions on capital/profit repatriation.[132]

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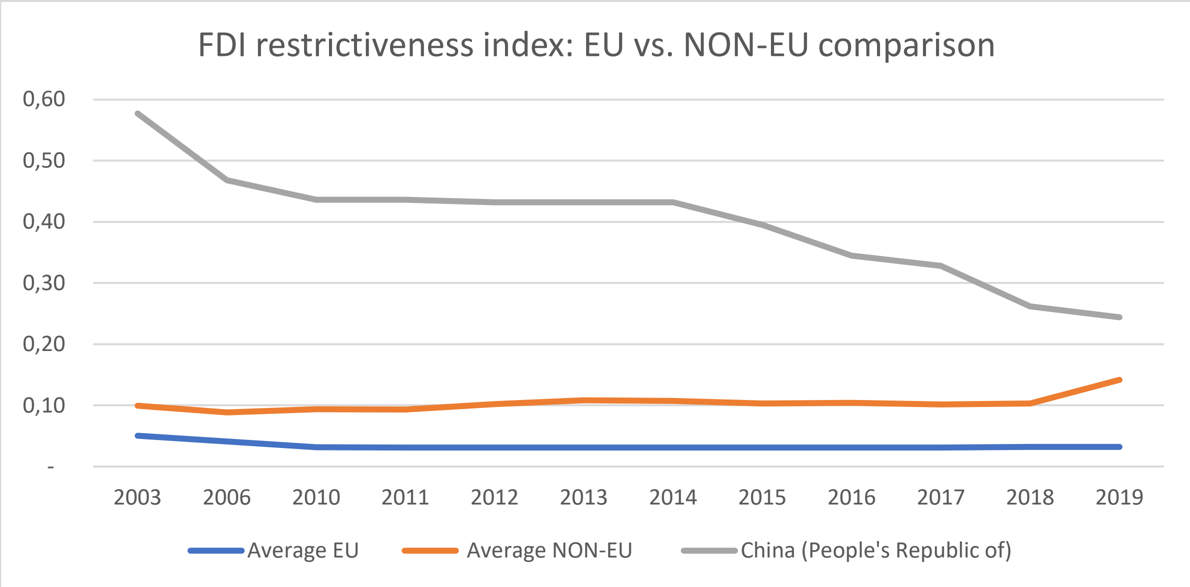
[129] KALINOVA, Blanka, Angel PALERM a Stephen TOMSEN. OECD's FDI Restrictiveness Index: 2010 Update: OECD Working Papers on International Investment 2010/03 [online]. OECD, 2010 [cit. 2021-5-15]. Available at: https://dx.doi.org/10.1787/5km91p02zj7g-en, p. 10.

[130] KALINOVA, Blanka, Angel PALERM a Stephen TOMSEN. OECD's FDI Restrictiveness Index: 2010 Update: OECD Working Papers on International Investment 2010/03 [online]. OECD, 2010 [cit. 2021-5-15]. Available at: https://dx.doi.org/10.1787/5km91p02zj7g-en, p. 11-12.

[131] KALINOVA, Blanka, Angel PALERM a Stephen TOMSEN. OECD's FDI Restrictiveness Index: 2010 Update: OECD Working Papers on International Investment 2010/03 [online]. OECD, 2010 [cit. 2021-5-15]. Available at: https://dx.doi.org/10.1787/5km91p02zj7g-en, p. 12.

[132] KALINOVA, Blanka, Angel PALERM a Stephen TOMSEN. OECD's FDI Restrictiveness Index: 2010 Update: OECD Working Papers on International Investment 2010/03 [online]. OECD, 2010 [cit. 2021-5-15]. Available at: https://dx.doi.org/10.1787/5km91p02zj7g-en, p. 12.

Figure 2: OECD FDI restrictiveness index



Source: OECD. FDI Regulatory Restrictiveness Index. OECD [online]. [cit. 2021-5-15]. Available at: https://www.oecd.org/investment/fdiindex.htm, author's analysis

The score of FDI Index is on the scale of 0 (there are no regulatory obstacles for incoming FDI) to 1 (incoming FDI are fully restricted). For the purpose of the thesis, calculated countries were divided into categories "NON-EU" and "EU" countries.[133]

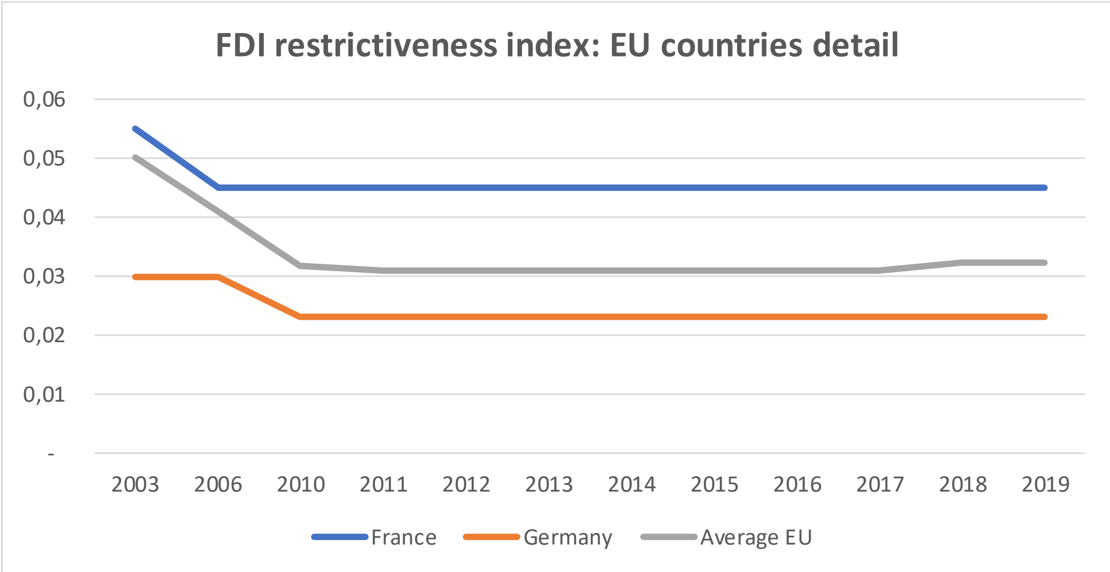
As the Figure 2 shows, the EU countries registered over the selected period significantly lower levels of the FDI index, meaning that according to OECD, EU countries generally pose fewer regulatory restrictions on incoming FDI. On the other hand, China registered higher than the average levels of the FDI index in the category NON-EU countries. China is an important emerging country investor (see Chapter 3.2), its FDI index is therefore shown for comparison. China has shown gradual decrease of the FDI index value over the selected period, indicating faster easing of FDI restrictions in the beginning of 2000s. Financial crisis of 2008 kept the FDI policy restrictiveness on the same level until 2014, after that another gradual decrease of the FDI index is registered. In 2015, a new version of *Catalogue for the Guidance of Foreign Investment Industries* was published. This document states the restrictions and possibilities of investors for FDI in particular sectors in China. In this particular issue, easing conditions for incoming FDI especially in distribution and rail transport occurred.[134] Further reforms followed

[133] All current (2021) members of the EU were included in the segment EU (the United Kingdom was included as it was a member for majority of the reviewed period), except for Cyprus and Malta for which the OECD does not possess the data.

[134] OECD. China Policy Brief: FOSTERING FOREIGN DIRECT INVESTMENT IN SERVICES SECTORS [online]. 2017 [cit. 2021-5-15]. Available at: https://www.oecd.org/china/china-investment-fostering-foreign-direct-investment-in-services-sectors.pdf.

by 2016, however, China is still among the most restrictive regimes for FDI in the world (together with Philippines, Indonesia, and Saudi Arabia).

Figure 3: FDI restrictiveness index: EU countries detail



Source: OECD. FDI Regulatory Restrictiveness Index. OECD [online]. [cit. 2021-5-15]. Available at: https://www.oecd.org/investment/fdiindex.htm, author's analysis

The detail of the FDI index for the EU countries is shown in Figure 3. As for the EU countries, the FDI index has overall decreased during the 2000s as well. Roughly from 2010 the index has maintained the same level. From the chart above we can see that France has registered overall higher than the average values of the FDI index. On the other hand, Germany maintains in the long run lower than the average value of the index, a decrease was registered also after the beginning of financial crisis 2008 to attract investors.

Based on the OECD FDI index data,[135] during the reviewed period (1999-2019), there were only few instances when the index value year-on-year increased (See Annex 1 for excerpt from data analysis of the OECD FDI restrictiveness index data): In 2003 Belgium imposed equity restrictions in several industries (legal, accounting and business services), Czech republic registered slight increase of index value in category Other restrictions in financial services. In 2006, Portugal and Slovenia also registered increase in index value in financial services (Other restrictions category). In 2010, Sweden registered value increase in the Screening & approval category for transport sector. In 2017, Latvia registered increase in index value for category Other restrictions for agriculture and forestry industries. In this case, Latvia

135 OECD. FDI Regulatory Restrictiveness Index. OECD.Stat [online]. [cit. 2021-5-15]. Available at: https://stats.oecd.org/Index.aspx?datasetcode=FDIINDEX#.

amended the rules for acquisition of agriculture land.[136] For the rest of the cases, the explanation of the index increase was not found.

Based solely on the OECD FDI index value, there was not an observable increase of restrictions in FDI policies among the EU countries. EU countries tend to have open and liberalized regimes for FDI (the overall value of FDI restrictions is low). The value of the FDI index for EU countries was generally steady during the reviewed period. Based on the FDI index, we cannot confirm the hypothesis that we can observe a strengthening concept of security and more restrictive approach in the FDI policies. However, we note that the settings of FDI index disclaimed that it cannot capture qualitative changes in the exercising of the implemented measures and moreover that it does not consider screening mechanism applied out of national security reasons. That is why we continue to analyze the EU, German and French FDI policy in further subchapters.

3.1.2 UNCTAD – FDI policy development overview

UNCTAD is another organization that monitors foreign direct investment in general and relating policies in particular. Based on analysis of gathered introduced changes to country's investment regimes it does segmentation to changes more favorable for FDI and less favorable to FDI.

Following the period of 1990s, where the undertaken measures were mostly directed to attracting investors and therefore liberalizing, in 1999, UNCTAD registered 140 changes in FDI laws. Out of those, 131 were liberalizing the current FDI policies, making the environment more favorable for investors. Overall, the trend to attract investors globally prevailed.[137]

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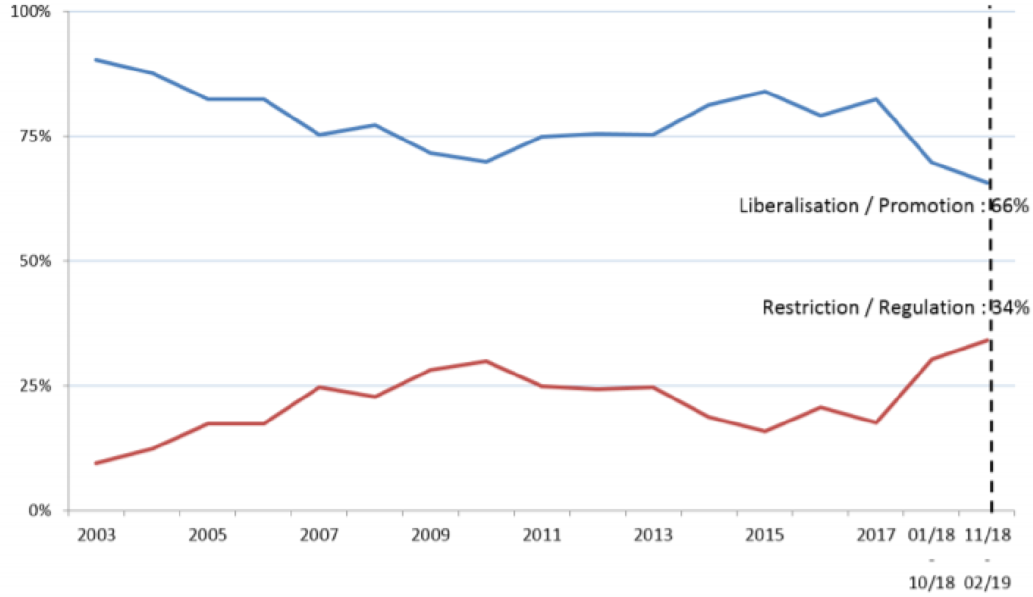
[136] Latvia: Amends rules on the acquisition of agricultural land. Investment Policy Hub: Investment Policy Monitor [online]. 2017 [cit. 2021-5-15]. Available at: https://investmentpolicy.unctad.org/investment-policy-monitor/measures/3167/latvia-amends-rules-on-the-acquisition-of-agricultural-land.

[137] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2000: Cross-border Mergers and Acquisitions and Development [online]. New York and Geneva, 2000 [cit. 2021-04-11]. ISBN 92-1-112490-5. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 6.

Figure 4: Changes in national investment policies, 2003 - February 2019



Source: Investment Policy Monitor No. 21. *United Nations Conference on Trade And Development* [online]. 2019 [cit. 2021-5-29]. Available at: https://unctad.org/system/files/official-document/diaepcbinf2019d2_en.pdf, p.3.

Figure 4 above shows changes in national investment policies in the period 2003 – 2019 (Figure 4 prepared by UNCTAD). As represented in the Figure 4, in the period of 2003 – 2009 the share of more restrictive measures globally rose. In 2004, 271 policy measures regarding FDI were introduced according to UNCTAD, 87% of which were liberalizing the entry for investors or introducing incentives to attract FDI. However, a relatively high share of less favorable policies was also introduced mainly in Latin America and Africa.[138] Discussions regarding the needs of economic protectionism arose in 2005. The trend for liberalization of FDI policies prevailed, however, the number of regulatory changes less favorable for investors continued to move up, making 20% share of negative regulatory changes (as opposed to 5% in 2002). The trend was mainly represented by Latin American countries. The changes were mostly directed at natural resources sector. Several protectionist moves were spotted also in developed countries in the course of 2005 (see further subchapters).[139]

In 2006, 80% of registered national policy changes were directed towards preparing more favorable climate for investors, typically comprising of implementing incentives and lowering taxes. Restrictive measures were registered mainly in the domain of extraction

[138] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2005: Transnational Corporations and the Internationalization of R&D [online]. New York and Geneva, 2005 [cit. 2021-04-17]. ISBN 92-1-112667-3. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 22.
[139] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 23-25.

industry, where countries for instance conditioned the maximum of foreign ownership. However, e.g. the Russian Federation and China have implemented a list of restricted industries (strategic sectors) into which the investment is greatly limited or restricted fully.[140]

In 2007, the trend of liberalization prevailed, again about 20% of measures taken were found restrictive, mostly concerning the extraction industry (as in previous year). However, the Sovereign Wealth Funds (SWF) as a new investor have sparked a controversy and led to further debates regarding national security concerns, new policies were implemented in the USA and Russia. Germany was actively seeking floor on the European union level to implement clear rules for investments of SWF. Greatest concern related to SWF is regarding buying of strategic assets to gain access to sensitive information or latest technology knowledge.[141] In 2008 the debate over SWF investment continued, the EU urged states to accept a common framework. Germany and France introduced new measures to their investment policies (see further).

In 2009, 30% of registered FDI measures were of more regulatory/restrictive nature, which is the highest share since 1990. However, given the worldwide financial crisis affecting all countries, fear that it will lead to more general protectionism did not fulfil.[142] Quite contrary, as the Figure 4 shows the period of 2010 – 2015 can be seen as in favor of further liberalization. In 2011, the trend to liberalization prevailed once again as countries introduced more liberalizing than restricting policies. No particular change was observed in the EU.[143] 2012 offered once again an increase of percentage of FDI restriction measures introduced worldwide, moreover, 31% of those restriction measures appeared in developed countries. However, EU countries were not among them.[144]

Since 2016, there is an observable trend of rising restrictions worldwide again (see Figure 4). In 2016, UNCTAD registered 124 policy measures directing foreign investment. The share of liberalizing measures declined to 79% out of all policy measures taken which is the

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[140] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2007: Transnational Corporations, Extractive Industries and Development [online]. New York and Geneva, 2007 [cit. 2021-4-24]. ISBN 978-92-1-112718-8. Available at: https://unctad.org/topic/investment/world-investment-report, p. 14-15.
[141] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2008: Transnational Corporations, and the Infrastructure Challenge [online]. New York and Geneva, 2008 [cit. 2021-4-24]. ISBN 978-92-1-112755-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 13-14.
[142] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2010: Investing in a Low-Carbon Economy [online]. New York and Geneva, 2010 [cit. 2021-4-24]. ISBN 978-92-1-112806-2. Available at: https://unctad.org/topic/investment/world-investment-report, p. 76-77.
[143] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2012: TOWARDS A NEW GENERATION OF INVESTMENT POLICIES [online]. New York and Geneva, 2012 [cit. 2021-5-1]. ISBN 978-92-1-112843-7. Available at: https://unctad.org/topic/investment/world-investment-report, p. 76-83.
[144] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2013: GLOBAL VALUE CHAINS: INVESTMENT AND TRADE FOR DEVELOPMENT [online]. New York and Geneva, 2013 [cit. 2021-5-8]. ISBN 978-92-1-112868-0. Available at: https://unctad.org/topic/investment/world-investment-report, p. 92-96.

lowest share ever registered. Cases of mergers and acquisitions that were to happen were further examined by government (France and Germany were among them, see further).[145]

In the beginning of 2019, new regulation entered into force, providing framework for security screening of investments from non-EU countries in the European Union. Under this framework, member states should share the information about investors and include EU institutions in the process of investor's screening.[146] Based on UNCTAD monitoring, between 2011 and 2019 at least 11 countries established new screening mechanisms for foreign investors and 15 countries amended their already established mechanisms. This type of measure seems to be on the rise overall. 80% of such implemented measures were less favorable to investor. Over 50 million USD worth acquisitions were blocked or withdrawn out of national security reasons in 2018.[147]

Based on this analysis we can identify several subperiods of the examined period 1999-2019. At the beginning of the new millennium, the trend for liberalization of FDI policy still prevailed from the ambience of 1990s. Since 2003 – 2009, inclination towards more restrictive approach can be detected. Then again period 2010 – 2015 was characterized by liberalization, possibly in effort to attract investors following the global crisis. Since 2016, restrictive measures towards FDI are again on the rise. These were the global trends, in following subchapters we continue with the analysis of particularly German, French, and overall EU FDI policy to see whether common trends can be detected in their cases as well.

3.1.3 Germany FDI policy development

Germany foreign direct investment regime is considered one of the most open investment regimes in the world, as already examined, the value of the investment restrictiveness index is very low (see Chapter 3.1.1 OECD FDI Restrictiveness index). The liberal rules for investors are a cornerstone of German economic policy overall, and it can be judged as quite successful given that Germany is in long-term one of the world's biggest recipients of FDI in the world (see Chapter 3.2 EU and international FDI flows). According to

[145] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2017: INVESTMENT AND THE DIGITAL ECONOMY [online]. New York and Geneva, 2017 [cit. 2021-5-8]. ISBN 978-92-1-112911-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 99-105.
[146] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2019: SPECIAL ECONOMIC ZONES [online]. New York and Geneva, 2019 [cit. 2021-5-8]. ISBN 978-92-1-112949-6. Available at: https://unctad.org/topic/investment/world-investment-report, p. 96.
[147] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2019: SPECIAL ECONOMIC ZONES [online]. New York and Geneva, 2019 [cit. 2021-5-8]. ISBN 978-92-1-112949-6. Available at: https://unctad.org/topic/investment/world-investment-report, p. 94-96.

UNCTAD, Germany has now 207 signed bilateral investment treaties or treaties with investment provisions.[148]

The FDI regime is governed by German Foreign Trade and Payments Act and German Foreign Trade and Payments Regulation. The relevant government body for foreign investments is the Federal Ministry for Economic Affairs and Energy (Bundesministerium für Wirtschaft und Energie). Germany has always had the "authority to regulate and/or restrict foreign investment on the basis of national security, but it has never used that authority." Until 2004, it did not implement any administrative controls, bodies, or practices for FDI monitoring, screening, or restricting them.[149] Based on US governmental report from 1996, Germany treated all companies registered under German legal forms as domestic (apart from tax duties). Germany restricted 100% ownership only in air transport, maritime transport, and broadcasting. It also stressed strict labor laws that are applicable for all companies based in Germany that can discourage the investment.[150] Whereas transport can be attributed to the hard threats group, restricting access to broadcasting services is an example of soft threats.

In 2003, Germany eliminated the tax disadvantages for foreign investors and implemented rules to avoid double taxation.[151] Since than it has negotiated number of double taxation treaties.[152]

The mechanism for reviewing incoming FDI in Germany was introduced in 2004 (Section 7 of the German Foreign Trade and Payments Act). This has installed rules to "protection of security and external interests." It was specifically directed towards military equipment and cryptographic systems. The introduction of the mechanism was caused by acquisition German submarine manufacturer by US company, when German politicians raised concerns there are no established rules to effectively block the transaction in case of need of protecting national security interests.[153] However, until roughly 2015, the mechanism was not

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[148] UNCTAD. International Investment Agreements Navigator. Investment Policy Hub: Germany [online]. [cit. 2021-5-30]. Available at: https://investmentpolicy.unctad.org/international-investment-agreements/countries/72/france?type=tips.
[149] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Foreign Laws and Policies Addressing National Security Concerns: Report to the Chairman, Committee on National Security, House of Representatives [online]. 1996 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/nsiad-96-61, p. 33.
[150] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Foreign Laws and Policies Addressing National Security Concerns: Report to the Chairman, Committee on National Security, House of Representatives [online]. 1996 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/nsiad-96-61, p. 34.
[151] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2004: The Shift Towards Services [online]. New York and Geneva, 2004 [cit. 2021-04-17]. ISBN 92-1-112644-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 84-88.
[152] See e.g. Investment policy monitor series: UNCTAD. Latest Investment Policy Trends. Investment Policy Hub: Publications [online]. [cit. 2021-5-30]. Available at: https://investmentpolicy.unctad.org/publications/series/1/latest-investment-policy-trends.
[153] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Laws and Policies Regulating Foreign Investment in 10 Countries: Report to the Honorable Richard Shelby, Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate [online]. 2008 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/gao-08-320, p. 60.

rigorously applied. The specifically protected sectors comprised of defense and IT security.[154] As part of other sector restrictions, purchase of controlling stake in banking sector would be subject to review as well.[155]

Based on the mechanism, a non-EU investor can notify the Ministry for Economic Affairs and Energy which has two months period to open investigation, whether the investment endanger national security or public order. Minimum stake to qualify for such inspection is if the non-EU resident invests more than 25% of voting rights. After the investigation, it has four months to impose restrictions or stop transaction from beginning. If no action is taken, it is considered that the transaction is approved. If the investor fails to notify authorities, authorities have up to three months to begin investigation the issue and then up to five years to investigate.[156] In this case the investor can also face a fine or even criminal offense.[157]

Several protectionist moves were spotted in developed countries in the course of 2005. France and Germany (with Italy and Japan) enabled companies that become a target of a hostile takeover to use a "poison pill" strategy – strategy that reduces the company's value significantly if the transaction succeeds. The strategy is introduced in order to force the acquirer to negotiate a fair price.[158]

In 2007, Germany was actively seeking floor on the European union level to implement clear rules for investments of Sovereign Wealth Funds (SWF). Greatest concern related to SWF is regarding buying of strategic assets to gain access to sensitive information or latest technology knowledge.[159] We can see, that as the new actors (SWF) became being active and possibly investing in Germany, Germany sought support to establish common rules to counter the perceived possible threat. As other European countries could be targeted as well, this can be observed as an example of alliance building as proposed by Stephen Walt.

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[154] PINSENT MASONS. Germany's foreign investment regime: OUT-LAW GUIDE [online]. 2020 [cit. 2021-5-23]. Available at: https://www.pinsentmasons.com/out-law/guides/germanys-foreign-investment-regime.

[155] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Laws and Policies Regulating Foreign Investment in 10 Countries: Report to the Honorable Richard Shelby, Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate [online]. 2008 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/gao-08-320, p. 64.

[156] PINSENT MASONS. Germany's foreign investment regime: OUT-LAW GUIDE [online]. 2020 [cit. 2021-5-23]. Available at: https://www.pinsentmasons.com/out-law/guides/germanys-foreign-investment-regime.

[157] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Laws and Policies Regulating Foreign Investment in 10 Countries: Report to the Honorable Richard Shelby, Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate [online]. 2008 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/gao-08-320, p. 63.

[158] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 93.

[159] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2008: Transnational Corporations, and the Infrastructure Challenge [online]. New York and Geneva, 2008 [cit. 2021-4-24]. ISBN 978-92-1-112755-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 13-14.

Germany introduced new rules regarding incoming FDIs that every transaction over 25% of voting rights is subject to the German Foreign Trade and Payments Act (previously limited to specified sectors).[160]

In 2008 the debate over SWF investment continued, the EU urged states to accept a common framework. Germany has adopted further amendments to its German Foreign Trade and Payments Act under which the Ministry of Economics and Technology can initiate the review an FDI transaction from investors outside EU (or EFTA investor seeking to acquire more than 25% of voting rights). The transaction can be stopped by ministry in case it "threaten to impair public security or public order" with effectiveness since April 2009.[161]

In 2009, the debate over re-evaluation of the rules was triggered by growing investments by state-owned enterprise (SOEs) especially from China, Russia and Middle East.[162] The number of deals by Chinese investors in Germany increased from 48 cases between 2001 – 2009 to 106 cases in the period 2010 – 2014.[163]

In 2013, the changes in the review mechanism were approved which eased the requirements for the notification which has to be submitted to the Ministry. On the other hand, it included companies even historically producing cryptographic equipment among the sectors that can be subjected to a review.[164] In 2016, tax rules for foreign investors were simplified and foreign investors no longer have to pay income tax on revenue related to dividends and real estate (previously 15%).[165]

In the course of 2015, several high-profile investment cases by foreign investors in Germany have taken place. Two successful transactions of Kuka and Daimler, and two terminated transactions of 50Hertz and Leifeld.[166]

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160 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2008: Transnational Corporations, and the Infrastructure Challenge [online]. New York and Geneva, 2008 [cit. 2021-4-24]. ISBN 978-92-1-112755-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 77.

161 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2009: Transnational Corporations, Agricultural Production and Development [online]. New York and Geneva, 2009 [cit. 2021-4-24]. ISBN 992-1-112775-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 85.

162 PINSENT MASONS. Germany's foreign investment regime: OUT-LAW GUIDE [online]. 2020 [cit. 2021-5-23]. Available at: https://www.pinsentmasons.com/out-law/guides/germanys-foreign-investment-regime.

163 PWC. Chinese Investors in Germany [online]. 2015 [cit. 2021-5-23]. Available at: https://www.pwc.de/de/internationale-maerkte/german-business-groups/assets/chinese-investors-in-germany.pdf.

164 UNCTAD. Germany: Introduces changes to the review mechanism for foreign investment. Investment Policy Hub [online]. [cit. 2021-5-23]. Available at: https://investmentpolicy.unctad.org/investment-policy-monitor/measures/2593/germany-introdcues-changes-to-the-review-mechanism-for-foreign-investment.

165 UNCTAD. Germany: Parliament revises corporate tax rules placing foreign and domestic investors on equal footing. Investment Policy Hub [online]. [cit. 2021-5-23]. Available at: https://investmentpolicy.unctad.org/investment-policy-monitor/measures/2902/germany-parliament-revises-corporate-tax-rules-placing-foreign-and-domestic-investors-on-equal-footing.

166 KING&WOOD MALLESONS. Recent development to German Foreign Investment Control. King&Wood Mallesons [online]. [cit. 2021-5-23]. Available at: https://www.kwm.com/en/de/knowledge/insights/germany-further-tightens-transaction-environment-for-foreign-investors-20190205.

In 2015, Chinese manufacturer of appliances initiated a takeover of the German high-tech automation equipment company Kuka. Kuka is an important supplier to e.g. Volkswagen, Airbus, or Fiat. It raised high level of public disagreement with the case due to concerns over loss of jobs, however, it raised also political questions regarding selling one of the most innovative high-tech German companies to an oversee investor. Even though the German government actively sought other ways to avoid the transaction, ultimately the takeover went through displaying a relative powerlessness of the German government in the case when it has overtly displayed concerns regarding the transaction.[167]

Chinese car manufacturer Geely quietly acquired (almost) 10% stake at a German company Daimler. Through a series of financial transactions, it exploited grey areas of German legislation and avoided the notification of government bodies.[168]

After these experiences, out of announced security reasons, in 2018 German government acquired 20% stake at the German power distributing company 50Hertz, in order to drive away Chinese state investor company, the State Grid Corporation of China. Germany considers the company 50Hertz as a critical infrastructure.[169]

Similarly, the acquisition of machine tool maker Leifeld for aerospace and nuclear industry by Chinese company Yantai was effectively blocked by German government when Chinese investor backed out of the deal before the government block was announced.[170] The veto was prepared again out of security reasons due to the industry in which company operates.[171]

The trend continued also in 2016, when German government raised objection to the takeover of Aixtron by Chinese company for national security reasons. Followingly, the German Federal Ministry of Economic Affairs and Energy ultimately withdrawn approval to the takeover of the semiconductor manufacturer Aixtron by the Chinese firm Fujian Grand

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167 BLOOMBERG. Merkel Confronts China Ambitions in Clash Over Robot Maker Kuka. Industry Week [online]. 2016 [cit. 2021-5-23]. Available at: https://www.industryweek.com/the-economy/trade/article/21973496/merkel-confronts-china-ambitions-in-clash-over-robot-maker-kuka.

168 FINANCIAL TIMES. Backlash grows over Chinese deals for Germany's corporate jewels. Financial Times [online]. 2018 [cit. 2021-5-23]. Available at: https://www.ft.com/content/391637d2-215a-11e8-a895-1ba1f72c2c11.

169 DW. Berlin beats Chinese firm to buy stake in 50Hertz power company. DW [online]. 2018 [cit. 2021-5-23]. Available at: https://www.dw.com/en/berlin-beats-chinese-firm-to-buy-stake-in-50hertz-power-company/a-44848676.

170 BBC. Chinese takeover of German firm Leifeld collapses. BBC [online]. 2018 [cit. 2021-5-23]. Available at: https://www.bbc.com/news/world-europe-45030537.

171 REUTERS. Germany prepared to veto Chinese bid for Leifeld: government source. Reuters [online]. 2018 [cit. 2021-5-23]. Available at: https://www.reuters.com/article/us-leifeld-yantai-m-a-veto-idUSKBN1KM4D6.

Chip.[172] A 670 million USD deal was halted due to received "security-related information" and amid concerns regarding growing number of German high-tech companies targeted by Chinese investors.[173] The information in question related to the examination of the company by CFIUS (US Committee on Foreign Investments) which reviewed Aixtron due to their connection as key supplier to NATO defense contractors. Even though the deal was not overtly rejected, the Chinese company withdrew from the process. [174] The national security provision is frequently mentioned in connection with such transactions, however, is never specifically defined.

Until this case, 337 cases of review were performed by German Ministry, all of them initiated by investors as a precaution measure.[175]

The same year, similarly, Chinese investor Sanan Optoelectronics withdrew from a business proposition (might amount over 5 billion EUR) of takeover of German light manufacturing company Osram, registering a growing opposition from public and political representation.[176]

Furthermore, in the same year, Germany together with France and Italy proposed to European Commission to establish new measures to "restrict or prohibit investments by non-EU persons in order to ensure a level playing field, including reciprocity in investment relations". [177] On the other hand, in 2016 Germany has decided to grant foreign investors the same tax status as the domestic ones, reducing the tax burden and made them eligible for tax rebate.[178]

In 2017, Germany together with Italy and France urged European Commission to act on reciprocity of the FDI agreements and there has been tightening of restrictions in Germany. New amendment to German Foreign Trade Regulation was passed (9th regulation),[179] which

[172] UNCTAD. Germany: Withdrawal of the approval of the acquisition of Aixtron by Chinese investors. Investment Policy Hub [online]. 2016 [cit. 2021-5-23]. Available at: https://investmentpolicy.unctad.org/investment-policy-monitor/measures/3045/germany-withdrawal-of-the-approval-of-the-acquisition-of-aixtron-by-chinese-investors.

[173] FINANCIAL TIMES. Germany withdraws approval for Chinese takeover of tech group. Financial Times [online]. 2016 [cit. 2021-5-23]. Available at: https://www.ft.com/content/f1b3e52e-99b0-11e6-8f9b-70e3cabccfae.

[174] STANZEL, Angela. Germany's turnabout on Chinese takeovers. European Council on Foreign Affairs [online]. 2017 [cit. 2021-5-23]. Available at: https://ecfr.eu/article/commentary_germanys_turnabout_on_chinese_takeovers_7251/.

[175] STANZEL, Angela. Germany's turnabout on Chinese takeovers. European Council on Foreign Affairs [online]. 2017 [cit. 2021-5-23]. Available at: https://ecfr.eu/article/commentary_germanys_turnabout_on_chinese_takeovers_7251/.

[176] REUTERS. Chinese bidders walk away from Osram takeover: sources. Reuters [online]. 2016 [cit. 2021-5-23]. Available at: https://www.reuters.com/article/us-osram-licht-m-a-china-idUSKBN1421RR.

[177] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2017: INVESTMENT AND THE DIGITAL ECONOMY [online]. New York and Geneva, 2017 [cit. 2021-5-8]. ISBN 978-92-1-112911-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 99-105.

[178] Investment Policy Monitor No. 16. United Nations Conference on Trade And Development [online]. 2016 [cit. 2021-5-29]. Available at: https://unctad.org/system/files/official-document/webdiaepcb2015d14_en.pdf, p. 14.

[179] UNCTAD. Germany: Expands the scope of foreign investment screening. Investment Policy Hub [online]. 2017 [cit. 2021-5-23]. Available at: https://investmentpolicy.unctad.org/investment-policy-monitor/measures/3107/germany-expands-the-scope-of-foreign-investment-screening-.

further imposed: notification duty for transaction in critical business sectors, extension of time periods for authorities to assess the transaction and extension of the time period, when the partners in the transaction need to share information.[180] Before that some of the rules were already in place, however, it was not until recently when they started to be actually followed by authorities. The 2017 amendment again stressed that "foreign direct investment may threaten public order or security." The amendments described the increasing importance and vulnerability of key infrastructure and specified that threats to public order or security may arise from foreign ownership in companies that host critical infrastructure, produce industry-specific software for it, work with surveillance mechanisms, cloud computing-services or telematic infrastructure."[181]

Further amendments were introduced at the end of 2018, which empowered the German Federal Ministry for Economic Affairs and Energy with expanded competencies.[182] Firstly, it lowered the threshold upon which the transaction can be subjected to review. Formerly set 25% of voting rights has been decreased to 10% of voting rights, even though only in selected critical sectors: armaments and defense industry, critical infrastructure and related software or cloud computing services. The direct or indirect acquisition of at least 10% of voting rights in these critical sectors will now enable the review of such transaction by Ministry.

The list of critical sectors was also expanded. Before 2018 amendment, it contained energy, water, IT and telecommunication, financial and insurance services, public health, transport, and nutrition. Newly introduced were sectors of media, tele media, radio broadcasting and print media.[183] As discussed in the Chapter 1, the concept of security has been gradually expanded, encompassing not only hard threats (sectors related to military) but also soft threats (high-tech or media).

The newly introduced measures are not the main concern for the investors when it comes to investment review. The main concern are the uncertainties which are not further elaborated in the amendment when it comes to interpreting the introduced measures. For instance, what

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[180] KING&WOOD MALLESONS. Recent development to German Foreign Investment Control. King&Wood Mallesons [online]. [cit. 2021-5-23]. Available at: https://www.kwm.com/en/de/knowledge/insights/germany-further-tightens-transaction-environment-for-foreign-investors-20190205.

[181] Investment Policy Monitor No. 18. United Nations Conference on Trade And Development [online]. 2017 [cit. 2021-5-29]. Available at: https://unctad.org/news/investment-policy-monitor-no-18, p. 16.

[182] UNCTAD. Germany: Germany expands the scope of its FDI screening regime. Investment Policy Hub [online]. 2018 [cit. 2021-5-23]. Available at: https://investmentpolicy.unctad.org/investment-policy-monitor/measures/3337/germany-germany-expands-the-scope-of-its-fdi-screening-regime.

[183] KING&WOOD MALLESONS. Recent development to German Foreign Investment Control. King&Wood Mallesons [online]. [cit. 2021-5-23]. Available at: https://www.kwm.com/en/de/knowledge/insights/germany-further-tightens-transaction-environment-for-foreign-investors-20190205.

are the key factors in decision-making of the Ministry, whether the transaction represent a threat for security or public order, or what documentation must be provided during the process of review. Therefore, according to the summary by private law firm, the newly introduced regulation lacks to provide transparent and coherent framework for foreign investment review.[184] New amendments probably awaits with the introduction of EU wide screening mechanism proposed by European Commission.[185]

In 2019, Germany amended the law to address that new investors will be coming to the health sector to condition that investors going over 10% of share (in vaccine manufacturing, production of medical equipment etc.) will be subject for governmental approval.[186]

Between 2000-2018, Germany welcomed over 22 billion EUR of Chinese investments, however, China is not even in the TOP10 investors (the biggest are United States). The biggest transactions were directed in the transport and technology sectors (typically automotive), which are crucial for the German economy and raised therefore a lot of attention.[187]

IPE assumes that the relation of politics and economy is interactive. Following the registered development in the reviewed period, we can only agree – each of the presented transactions led to a political discussion which ultimately led to policy changes. The policies were targeting especially the mode of entry of investor but also investment incentives (mostly tax related). The goal was to be able to stop the transaction from happening, intervene in the beginning and by that safeguard the political and economic independence. Even though the transaction Kuka was not ultimately stopped, it raised again the question of what constituted the national security. In cases, where the produced product is related to military sector or the product can be used in military sector, the connection is more visible. However, in case of high-tech, the usage in military sector does not have to be the only issue but can be rather related to economic security itself. States are afraid to lose the competitive advantage in high value-added sector, which is an important source of knowledge and income in their home economy. And thus, the connection – economic security can influence the national security directly by

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184 KING&WOOD MALLESONS. Recent development to German Foreign Investment Control. King&Wood Mallesons [online]. [cit. 2021-5-23]. Available at: https://www.kwm.com/en/de/knowledge/insights/germany-further-tightens-transaction-environment-for-foreign-investors-20190205.

185 HANSEN, Holger a Michael NIENABER. With eye on China, Germany tightens foreign investment rules. Reuters [online]. 2018 [cit. 2021-5-23]. Available at: https://www.reuters.com/article/us-germany-security-m-a/with-eye-on-china-germany-tightens-foreign-investment-rules-idUSKBN1OI0UP.

186 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2020: INTERNATIONAL PRODUCTION BEYOND THE PANDEMIC [online]. Geneva, 2020 [cit. 2021-5-8]. ISBN 978-92-1-112985-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 93.

187 ISTVÁN CSABA, Moldicz. Chinese Direct Investments in the EU and the Changing Political and Legal Frameworks. Contemporary Chinese Political Economy and Strategic Relations [online]. Kaohsiung, 2020, 6(1) [cit. 2021-5-30]. Available at: https://www-proquest-com.ezproxy.is.cuni.cz/docview/2436132138/1FE85EEAC17D4407PQ/1.

provision of insufficient resources. All in all, the concept of security was very much present and evolved during the reviewed period in the German FDI policy by encompassing more sectors to be scrutinized.

Based on the presented cases it is clear that the TNCs investors are important actors in the international arena and become partners for negotiation in these crucial investment deals as Susan Strange stated. It also further confirmed her hypothesis, that industrial policies are becoming even more important that the foreign policy, the access to the market is governed by a national policy which was amended several times during the reviewed period. In the first two presented examples of Chinese investment (cases of Kuka and Geely), even though the German government opposed the investment out of security concerns, it lacked the power to stop it. It had to change the structure upon which the functioning of incoming FDI was based (the law) to prevent this situation in upcoming cases, used its structural power as presented by Strange.

3.1.4 France FDI policy development

Historically, France is among the top FDI recipients in the world (see Chapter 3.2). As was observed based on OECD FDI restrictiveness index, France registers on average higher value than EU average and Germany, meaning there is higher number of restrictions for FDI. In global comparison it is, however, still very liberalized regime (see Subchapter 3.1.1). According to UNCTAD, France has now 176 signed bilateral investment treaties or treaties with investment provisions.[188]

France investment regime was set up in “Code monetaire et financier” already in 1966.[189] Based on US governmental report from 1996, incoming FDI to France required authorization when affecting: public functions; public order, health or security or; research, production or trade in arms, ammunition, explosive powders and substances destined for military use or wartime equipment. The Ministry of Economics and Finance is the main body responsible for the process. Foreign control is defined as owning at least 20% of voting rights (in case of non-publicly traded company, 33.3%).[190]

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[188] UNCTAD. International Investment Agreements Navigator. Investment Policy Hub: France [online]. [cit. 2021-5-30]. Available at: https://investmentpolicy.unctad.org/international-investment-agreements/countries/72/france?type=tips.

[189] PINSENT MASONS. France's foreign investment regime: OUT-LAW GUIDE [online]. 2020 [cit. 2021-5-23]. Available at: https://www.pinsentmasons.com/out-law/guides/frances-foreign-investment-regime.

[190] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Foreign Laws and Policies Addressing National Security Concerns: Report to the Chairman, Committee on National Security, House of Representatives [online]. 1996 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/nsiad-96-61, p. 28.

Investor needs to notify with the intent to invest in the sectors affecting public functions etc. mentioned above the Ministry of Economics and Finance. Failure to notify can lead to fine and transaction can be subject to retrospective rejection. Ministry has up to one month to investigate. If no decision is issued, transaction is free to go through. Ministry of Defense is consulted when transaction could affect national security – this would typically apply when dual-use sectors such as chemicals, electronics or weapons manufacturing are the subject.[191]

Furthermore, France applies sector restrictions in air and maritime transport, aerospace, and insurance. Furthermore, foreign controlled companies are not entitled to national treatment in following areas: agriculture, air transport, broadcasting, insurance, maritime transport, publishing, road transport, telecommunications, and tourism. [192] E.g. NON-EU investor cannot control more than 20% in French-language media companies and entry to banking or insurance sector is subjected to approval of banking/insurance sector regulator.[193] In the defense sector, majority of the companies are state owned and there are rather informal barriers to discourage foreign investors. For instance, government cannot sell more than 20% share in the first privatization round and still can exercise power via a "golden-share" ("This share accords the French government special rights of control in a privatized company.")[194] We can see, that in comparison with Germany, the sector restrictions and limitations were in place already earlier in the reviewed period.

In 2003, France set up a Strategic Council for Attractiveness in a pursuit of adopting FDI policy which will attract more incoming FDI. It specifically targeted inflow of skills by improving the conditions of entry and residence for expatriate managers. It also aimed to attract the decision-making functions of TNCs. However, industry sectors such as health and national defense remained under stricter regulation.[195]

[191] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Foreign Laws and Policies Addressing National Security Concerns: Report to the Chairman, Committee on National Security, House of Representatives [online]. 1996 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/nsiad-96-61, p. 28-29.

[192] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Foreign Laws and Policies Addressing National Security Concerns: Report to the Chairman, Committee on National Security, House of Representatives [online]. 1996 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/nsiad-96-61, p. 30.

[193] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Laws and Policies Regulating Foreign Investment in 10 Countries: Report to the Honorable Richard Shelby, Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate [online]. 2008 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/gao-08-320, p. 58.

[194] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Foreign Laws and Policies Addressing National Security Concerns: Report to the Chairman, Committee on National Security, House of Representatives [online]. 1996 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/nsiad-96-61, p. 30.

[195] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2004: The Shift Towards Services [online]. New York and Geneva, 2004 [cit. 2021-04-17]. ISBN 92-1-112644-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 84-88.

As mentioned, in 2005, both France and Germany (with Italy and Japan) enabled companies that become a target of a hostile takeover to use a “poison pill” strategy – strategy that reduces the company’s value significantly if the transaction succeeds. The strategy is introduced in order to force the acquirer to negotiate a fair price. [196]

Based on US government report from 2008 regarding French FDI policy, the Ministry has up to two months (prolonged period) to review the notification regarding investment. If the Ministry does not reply within this period, the transaction is approved. However, the period counts only from the very date of submission of a complete application. Failure to notify Ministry can lead even to criminal offense. The list of sectors subjected to review due to national security concerns comprise the following sectors: gambling and casinos; private security; R&D or production of means to stem the unlawful use, in terrorist activities, of pathogens or toxins; equipment designed to intercept correspondence and monitor conversations; testing and certification of the security of information technology products and systems; production of goods or supply or services to ensure the security of the information systems; dual-use items and technologies; cryptology equipment and services; activities carried out by firms entrusted with national defense secrets; R&D, production, or trade in weapons, ammunitions, powders, and explosives intended for military purposes or war materials; and activities carried out by firms holding a contract for the design or supply of equipment for the Ministry of Defense, either directly or as subcontractors. Debate regarding adding energy to the list of sectors was opened in 2008.[197] This exhaustive list was a classic example of hard threats, directly linked to armed related sectors.

According to the report, mitigation agreements (agreement that states how the concerns regarding specified topics are covered under the investment) are frequent part of the negotiation. It is common that investor submits annual reports to government regarding commitment to the agreement.[198] Further, some sectors are closed for foreign investment (they are state

[196] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 93.

[197] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Laws and Policies Regulating Foreign Investment in 10 Countries: Report to the Honorable Richard Shelby, Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate [online]. 2008 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/gao-08-320, p. 56-59.

[198] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Laws and Policies Regulating Foreign Investment in 10 Countries: Report to the Honorable Richard Shelby, Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate [online]. 2008 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/gao-08-320, p. 58.

monopolies) such as: atomic energy, railway transport, coal mines, explosives, and postal services.[199]

In 2008, following the debate regarding SWFs investments France has established a new fund intended to support strategic industries companies.[200] At least until 2008, Chinese investments have been largely marginal in France as opposed to other EU countries (namely especially UK and Germany). However, over the years the Chinese investments shifted from establishment of trade representations in France to investments in production, manufacturing and assembly facilities and R&D. As per sector, ICT and chemicals are dominant for Chinese investors in France. In 2006, a French company Adisseo was acquired by Chinese investor China National Bluestar which later that year also acquired a semiconductor company Rhodia. The motives for acquisitions were mainly strategic asset seeking – they targeted companies with advanced technologies and in financial problems. Technology-seeking FDI was apparent already previously in another case – acquisition of Thomson TV by TCL in 2003.[201]

In 2013, France introduced new control mechanisms for FDI relating to national security. Strategic sectors were amended by: sustainability, integrity and safety of energy supply, water supply, transportation, telecommunications, defense and health care. The decree came into effect in 2014.[202] The expansion of list of strategic sectors was mainly a reaction towards acquisition of Alstom by General Electric (USA), high-tech manufacturer for rail transport.[203] Main concerns were loss of jobs and loss of high-tech know-how as Alstom produced also turbines for French nuclear reactors.[204] Further, France introduced a mechanism to prevent the investor to shut down operations over 1000 employees unless they exhausted all options to maintain it (including selling).[205] By introducing a rule to preserve jobs, the

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[199] UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE. FOREIGN INVESTMENT - Laws and Policies Regulating Foreign Investment in 10 Countries: Report to the Honorable Richard Shelby, Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate [online]. 2008 [cit. 2021-5-30]. Available at: https://www.gao.gov/products/gao-08-320, p. 59.
[200] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2009: Transnational Corporations, Agricultural Production and Development [online]. New York and Geneva, 2009 [cit. 2021-4-24]. ISBN 992-1-112775-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 85.
[201] NICOLAS, Francoise. Chinese ODI in France: Challenges and Opportunities. Transnational Corporations Review [online]. 2010, 2(4), 5 - 26 [cit. 2021-7-26]. ISSN 19252099. Dostupné z: doi:10.1080/19186444.2010.11658257.
[202] Investment Policy Monitor No. 13. United Nations Conference on Trade And Development [online]. 2015 [cit. 2021-5-29]. Available at: https://unctad.org/system/files/official-document/webdiaepcb2015d13_en.pdf, p. 3.
[203] BRATTBERG, Erik a Etienne SOULA. Is Europe Finally Pushing Back On Chinese Investments? The Diplomat [online]. 2018 [cit. 2021-5-30]. Available at: https://thediplomat.com/2018/09/is-europe-finally-pushing-back-on-chinese-investments/.
[204] ROSEMAIN, Mathieu, Gwénaëlle BARZIC a Michel ROSE. France to bolster anti-takeover measures amid foreign investment boom. Reuters [online]. 2018 [cit. 2021-5-30]. Available at: https://www.reuters.com/article/us-france-investment-idUSKBN1K922D.
[205] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2014: INVESTING IN THE SDGs: AN ACTION PLAN [online]. New York and Geneva, 2014 [cit. 2021-5-8]. ISBN 978-92-1-112873-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 108.

government attempts to ensure the societal security, we can observe the evolution of the security concept even at the example of France.

In 2014, France effectively raised tax for all companies whose annual turnover exceeds 250 million EUR from 5% to 10.7%.[206]

In 2015, France privatized company Arianaspace (satellite launch company) in the transportation sector.[207] More privatization followed in 2016, when airport Nice state share was sold.[208] In 2017, France temporarily blocked acquisition of French shipbuilder STX by Italian company Fincantieri out of security concerns, because Fincantieri had a joint venture with China State Shipbuilding Corp. Upon addressing security issues, transaction went through.[209]

By decree from 2018, France has extended the list of sectors in which the foreign direct investments are subject of prior state authorization. These newly include so-called "sectors of the future" (space operations, cybersecurity, artificial intelligence, robotics, semiconductors and additive manufacturing, data hosting, systems utilized for capturing computer data or intercepting correspondence, IT systems for public authorities and crucial industries, R&D of dual-use goods). Investor or the targeted company may apply for authorization.[210]

In 2019, France enhanced the follow-up mechanism of mitigation agreements – increased sanctions for not respecting the rules and improvement of transparency. France has to publish annually report regarding statistics about the procedure.[211] Moreover, in 2019 issued another decree regarding screening mechanism in France. The new regulation decreased the threshold for activating the screening mechanism to 25% of capital share/voting rights by non-EU investor. It also expanded the list of sectors in which the screening is applicable: print and digital press, agricultural products that contribute to food security and R&D activities relating to energy storage and quantum technologies. It further states, that the screening mechanism will

[206] Investment Policy Monitor No. 12. United Nations Conference on Trade And Development [online]. 2014 [cit. 2021-5-29]. Available at: https://unctad.org/system/files/official-document/webdiaepcb2014d1_en.pdf, p. 9.
[207] Investment Policy Monitor No. 14. United Nations Conference on Trade And Development [online]. 2015 [cit. 2021-5-29]. Available at: https://unctad.org/system/files/official-document/webdiaepcb2015d14_en.pdf, p. 15.
[208] Investment Policy Monitor No. 17. United Nations Conference on Trade And Development [online]. 2017 [cit. 2021-5-29]. Available at: https://unctad.org/system/files/official-document/webdiaepcb2017d1_en.pdf, p. 15.
[209] BRATTBERG, Erik a Etienne SOULA. Is Europe Finally Pushing Back On Chinese Investments? The Diplomat [online]. 2018 [cit. 2021-5-30]. Available at: https://thediplomat.com/2018/09/is-europe-finally-pushing-back-on-chinese-investments/.
[210] Investment Policy Monitor No. 21. United Nations Conference on Trade And Development [online]. 2019 [cit. 2021-5-29]. Available at: https://unctad.org/system/files/official-document/diaepcbinf2019d2_en.pdf, p. 14.
[211] Investment Policy Monitor No. 22. United Nations Conference on Trade And Development [online]. 2019 [cit. 2021-5-29]. Available at: https://unctad.org/webflyer/investment-policy-monitor-no-22, p. 18.

particularly focus on examining possible links of the investor to a non-EU state/governmental body.[212]

In 2020, biotechnology was added by France to a list of critical sectors. When an investor is wants to invest in these sectors, they need a governmental approval. Further, FDI screening mechanism is now triggered already when investor wants to buy a 10% share (previously 25%).[213]

France was not targeted so much by Chinese investments; the high profiles controversial cases affecting the FDI policy were to be found mainly in the Germany. France by its alternation of FDI policy reacted mainly to acquisition performed by the US.[214] Nevertheless, it joined the efforts and formed alliance of Germany to address the issue of new types of investors in the EU.

Once again, the enhancement of the list of sectors in which FDI are subject to previous scrutiny by state, we can observe further development of the security concept by encompassing new types of sectors – especially high-tech. Similarly, as in case of Germany, the high-tech sectors are not only strictly military related but present an important factor for ensuring economic security, ensure that high value-added sectors and jobs are preserved and would bring enough resources to their home economy. We could also observe more measures taken to ensure the job security while company is being targeted by FDI (for instance prevention of shutdown of the company over 1000 employees). In this case, the deepening of the security concept can be observed as the referential object is not state but society.

3.1.5 EU FDI policy – Historical overview (until Lisbon Treaty)

Until the Lisbon Treaty the investment policy in the European Union comprised of bilateral investment treaties of the member states. The negotiation of the BITs was carried out independently of the EU or the European Commission.[215]

The Spaak report from 1956 pointed out that when developing the common market, free movement of capital will have eventually followed. When the situation of free movement

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212 Investment Policy Monitor No. 23. United Nations Conference on Trade And Development [online]. 2020 [cit. 2021-5-29]. Available at: https://unctad.org/system/files/official-document/diaepcbinf2020d1_en.pdf, p. 19.

213 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2020: INTERNATIONAL PRODUCTION BEYOND THE PANDEMIC [online]. Geneva, 2020 [cit. 2021-5-8]. ISBN 978-92-1-112985-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 93.

214 ISTVÁN CSABA, Moldicz. Chinese Direct Investments in the EU and the Changing Political and Legal Frameworks. Contemporary Chinese Political Economy and Strategic Relations [online]. Kaohsiung, 2020, 6(1) [cit. 2021-5-30]. Available at: https://www-proquest-com.ezproxy.is.cuni.cz/docview/2436132138/1FE85EEAC17D4407PQ/1.

215 SVOBODA, Ondřej a David MULLER. Právní aspekty investiční politiky Evropské unie. Právník [online]. 2018, (3), 221-235 [cit. 2021-5-23]. Available at: https://www.researchgate.net/publication/339713294_Pravni_aspekty_investicni_politiky_Evropske_unie.

of capital in the common market will have been established it will have inherently born with it consequences to deal with incoming extra-EU capital flows. If not managed collectively, the extra-EU capital flows could exploit the benefits of EEC countries more benevolent (with less restrictions) to capital inflows to enter the EEC space and move to more restrictive countries of EEC from within. Until the 1980s, the Keynesianism doctrine was prevailing in the economic decision making of the member states. This doctrine promoted state interventions in the market along with strict control over capital movements. Member states did not want to give away this important sovereign economic instrument. Despite the Spaak report, common investment policy did not become part of the establishing treaties of European Economic Community in 1958.[216]

As the importance of international capital flows rose, the topic of common investment policy emerged again during the 1970s. Once again, the member states did not support it and stressed that the investment policy is the sovereign policy of the nation states. This has become crucial also in the 1980s/1990s during the negotiations regarding the Uruguay round in GATT. The Commission has been granted the negotiating power regarding all the trade issues (under the common commercial policy), moreover, it was authorized to negotiate in lines with broadened scope of GATT negotiations including the investment talks. Followingly, when the negotiations of the Maastricht Treaty came up in the beginning of the 1990s, European Commission proposed the clarification of the scope of its competences – to include "trade in goods, services, export policy, intellectual property rights, capital movements, investments, establishment and competition through trade agreements and autonomous measures." Commission emphasized that it does not broaden the scope of its activities, as it has already adopted them when negotiating in the international arena on behalf of the member states.[217]

Even though these efforts were not successful (states were strictly opposed to granting the Commission the aforementioned powers), the regulation of investment flows became a at least a shared competency of the EU and member states anyway. In 1988, the capital flows on the common market were officially liberalized, which created the loophole predicted already in

[216] BASEDOW, Robert. A Legal History of the EU's International Investment Policy [online]. 2016, , 743-772 [cit. 2021-5-1]. ISSN 1660-7112. Available at: doi:10.1163/22119000-12340011, p. 2-4.
[217] BASEDOW, Robert. *A Legal History of the EU's International Investment Policy* [online]. 2016, , 743-772 [cit. 2021-5-1]. ISSN 1660-7112. Available at: doi:10.1163/22119000-12340011, p. 4-10.

the Spaak report.[218] This inevitable spill-over toward external capital flows had to be addressed, and it was incorporated into Article 57 of the Treaty establishing the European Community.[219]

Once again, as the Amsterdam treaty negotiations approached, Commission issued a report in May 1995 where it argued that Maastricht Treaty was a missed opportunity for the reform of the common commercial policy. The EU lacked the competencies to negotiate complex trade and investment treaties in the international arena, which weakened its negotiating power as the FDI became more and more important part of the international trade relations. Moreover, member states continued to negotiate separate bilateral investment treaties which harmed the EU position even further. However, neither in this instance the member states did not grant this topic enough attention to undertake further steps and Treaty of Amsterdam did not bring any progress in this matter. Treaty of Nice did not contribute to this area either, even though it added the regulation of trade and services under the CCP and led to debate whether the scope is the same as in the GATS agreement, where it also included the foreign investment activity as one mode of the trade. The "broadened" competence emerged again as a spill-over effect. [220]

3.1.6 EU FDI policy after Lisbon Treaty

The Lisbon Treaty emerged upon the unsuccessful negotiation regarding the European Constitution. To negotiate the future Constitution of Europe, a method of Convention was introduced. The convention on Future of Europe took place between 2002-2003 in order to prepare a draft that would be then sent to member states for ratification. During that, it was proposed by the Praesidium of the Convention (led by former French president) that the Common Commercial Policy should include also the competence regarding regulating the FDI and vote in this area by qualified majority (as opposed to previously needed unanimity in this matter).[221]

During following plenary sessions, several member states delegates (including German and French) opposed the idea and seek to remove the FDI reference. They argued that the investment policy and protection should remain under the jurisdiction of national member

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[218] BASEDOW, Robert. *A Legal History of the EU's International Investment Policy* [online]. 2016, , 743-772 [cit. 2021-5-1]. ISSN 1660-7112. Available at: doi:10.1163/22119000-12340011, p. 6.

[219] CONSOLIDATED VERSIONS OF THE TREATY ON EUROPEAN UNION AND OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY (2002) (2002/C 325/01). In: Official Journal of the European Communities, 2002, C 325/1. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12002E/TXT&from=EN.

[220] BASEDOW, Robert. *A Legal History of the EU's International Investment Policy* [online]. 2016, , 743-772 [cit. 2021-5-1]. ISSN 1660-7112. Available at: doi:10.1163/22119000-12340011, p. 11-14.

[221] BASEDOW, Robert. A Legal History of the EU's International Investment Policy [online]. 2016, , 743-772 [cit. 2021-5-1]. ISSN 1660-7112. Available at: doi:10.1163/22119000-12340011, p. 16-19.

states. However, due to the high number of amendments to the external policy of the EU (of which the FDI policy was part of) in the second round of amendments the requests had to be prioritized. No one prioritized this specific aspect and therefore the FDI competence reference remained in the proposal and ultimately in the draft of the Constitutional Treaty.[222]

As it is known, the Constitutional Treaty had never come into force as France and Netherlands rejected it in the public referendum. Nevertheless, the Treaty of Lisbon ("reform treaty") built on heavily upon already prepared draft while trying to cut off the most controversial parts of the Conventional Treaty (typically symbolic elements) and preserving the parts where the discussions during the negotiation process was not that heated. The articles regarding the FDI regulation therefore remained in the Lisbon Treaty.[223]

Based on the analysis of the process, Basedow argues that the extending of the competence in the area of FDI was overwhelmingly affected by the efforts of the European Commission to enlarge its competences in the trade international negotiation and by spill-over effects of the trade policies regarding the European market. The member states were not fond of this power transfer, however, during the relevant parts of the negotiations they rather invested their political capital elsewhere.[224]

The Lisbon Treaty placed the Common Commercial Policy among the EU's exclusive competences and FDI was explicitly mentioned as a part of the common commercial policy (in Article 207 TFEU) for the first time.[225] The ordinary legislative procedure applies when reaching decisions and European Parliament has to give consent on the conclusion of the international agreements.[226] After this, several issues had to be addressed, particularly: validity of bilateral investment treaties between EU member states themselves; validity of bilateral investment treaties between EU member states and third countries; negotiation regarding new investment treaties; and position of the EU in case of investor-state dispute settlement (ISDS).

European commission presented in 2010 document "Towards a comprehensive European international investment policy", as a communication – meaning it is not a binding

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222 BASEDOW, Robert. A Legal History of the EU's International Investment Policy [online]. 2016, , 743-772 [cit. 2021-5-1]. ISSN 1660-7112. Available at: doi:10.1163/22119000-12340011, p. 19, 20, 24.
223 BASEDOW, Robert. A Legal History of the EU's International Investment Policy [online]. 2016, , 743-772 [cit. 2021-5-1]. ISSN 1660-7112. Available at: doi:10.1163/22119000-12340011, p. 24-25.
224 BASEDOW, Robert. A Legal History of the EU's International Investment Policy [online]. 2016, , 743-772 [cit. 2021-5-1]. ISSN 1660-7112. Available at: doi:10.1163/22119000-12340011, p. 25-26.
225 Julien Chaisse, Promises and Pitfalls of the European Union Policy on Foreign Investment—How will the New EU Competence on FDI affect the Emerging Global Regime?, Journal of International Economic Law, Volume 15, Issue 1, March 2012, Pages 51–84, https://doi.org/10.1093/jiel/jgs001.
226 CIVIL SOCIETY DIALOGUE. EU investment policy STATE OF PLAY [online]. Brusselles, 2013 [cit. 2021-5-15]. Available at: https://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150853.pdf.

document and it outlined path in which the European Commission will continue. EC clearly manifested its efforts to assume wide specter of competencies, including negotiation regarding new investment treaties. First cases appeared already in 2011 (Singapore, Canada, and India).[227]

The goal of the EC is to develop common investment policy and harmonize the differences in the investment environment in the particular member states. Until now, the European states themselves were in charge of negotiating all the bilateral investment treaties which are numerous (almost 50% of all worldwide investment treaties are treaties negotiated by European states[228]). Moreover, there are bilateral investment treaties negotiated between European states themselves. Apart from BIT, the investment environment is further shaped by commitment to international agreements regarding FTAs, GATTs, and other WTO agreements.[229]

Regarding the already existing BITs between member states and third countries, Regulation 1219/2012 on establishing transitional arrangements for bilateral investment agreements between Member States and third countries was issued.[230] This regulation states, that member states are obliged no notify EC about all BITs with third countries negotiated until 2009, in which case the current BITs will remain valid until an investment agreement between EU and the third country would enter into force.[231] This aspect was very important, because it is probable that the European Commission does not have sufficient resources to quickly negotiate investment treaties with all the third countries already covered by member states BITs and certainty and stability of the investment environment must be preserved to ensure investor's trust.

Furthermore, the possibility for member states to negotiate remains open, even though with limits. Member states can negotiate new BITs with third countries under specified circumstances: Member state needs to notify EC 5 months ahead of starts of negotiation, third country is no addressed by planned negotiations by EC (and therefore pointless) and the

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[227] SVOBODA, Ondřej a David MULLER. Právní aspekty investiční politiky Evropské unie. Právník [online]. 2018, (3), 221-235 [cit. 2021-5-23]. Available at: https://www.researchgate.net/publication/339713294_Pravni_aspekty_investicni_politiky_Evropske_unie, p. 229-231.

[228] COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS: Towards a comprehensive European international investment policy. In: Brussels, 2010, COM 343. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0343&from=CS, p. 4.

[229] ŠTĚRBOVÁ, Ludmila. Investiční regulatorní prostředí a Evropská unie. Současná Evropa [online]. 2013, (2), 68-85 [cit. 2021-5-23]. Available at: https://sev.vse.cz/pdfs/sev/2013/02/04.pdf, p. 73.

[230] REGULATION (EU) No 1219/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2012: establishing transitional arrangements for bilateral investment agreements between Member States and third countries. In: . Official Journal of the European Union: Brussels, 2012, L 351/40. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012R1219&from=CS.

[231] SVOBODA, Ondřej a David MULLER. Právní aspekty investiční politiky Evropské unie. Právník [online]. 2018, (3), 221-235 [cit. 2021-5-23]. Available at: https://www.researchgate.net/publication/339713294_Pravni_aspekty_investicni_politiky_Evropske_unie, p. 226.

negotiation will not be in conflict with goals and principles of EU for external action. After the agreement between member state and a third country is reached, EC again assesses if all the criteria were met.[232]

European Union FDI policy after Lisbon Treaty has been particularly working on establishing its role in Investor-State Dispute settlement (ISDS). ISDS ensures the right of investor to appeal to an impartial body (tribunal) in case of investment disputes. The EU is particularly working on improving of transparency of the whole process.[233]

The most important change in the EU investment policy is nevertheless the introduction of Screening framework for foreign direct investment. The regulation regarding screening of foreign direct investment came into force in 2019, two years after EC has been invited to act in this area by member states. The goal of the regulation is to establish a legal framework across states, to screen investment from third countries due to security reasons or public order. A mechanism of cooperation between member states and European Commission should be established. The member states still have the final say regarding the investment. The regulation introduces minimal standard that have to be implemented in the member states' national system of screening of FDI – namely transparency, non-discrimination among third countries, deadlines of the screening process, possibility to appeal against the decision, protection of the sensitive data and measures to ensure compliance with the screening program and the following decision. The regulation does not set binding criteria but recommends a list of examples which FDI can be potentially harming for security or public interests: critical infrastructure; critical technologies; dual-use goods; critical inputs supplies; access to sensitive data and freedom and plurality of media. Another aspect taken into account is the origin of the investor and most importantly its relationship with foreign government or any activities that had been previously observed as harming security or public order in another country.[234]

The cooperation should work followingly: when performing the screening process, the member state should inform other member states and European Commission of its progress. If the FDI is not screened by the particular states, other member states or European Commission

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[232] SVOBODA, Ondřej a David MULLER. Právní aspekty investiční politiky Evropské unie. Právník [online]. 2018, (3), 221-235 [cit. 2021-5-23]. Available at: https://www.researchgate.net/publication/339713294_Pravni_aspekty_investicni_politiky_Evropske_unie, p. 226.

[233] EUROPEAN COMMISSION. The European Commission tables proposals to improve transparency in Investor-to-State Dispute Settlement (ISDS) based on existing investment treaties. European Commission [online]. Brusseles, 2015 [cit. 2021-6-9]. Available at: https://ec.europa.eu/commission/presscorner/detail/it/MEMO_15_3882.

[234] INSTITUT PRO POLITIKU A SPOLEČNOST. Prověřování přímých zahraničních investic ve vybraných státech EU: Policy Paper [online]. 2020, 2020 [cit. 2021-6-10]. Available at: https://www.politikaspolecnost.cz/wp-content/uploads/2020/08/Prov%C4%9B%C5%99ov%C3%A1n%C3%AD-p%C5%99%C3%ADm%C3%BDch-zahrani%C4%8Dn%C3%ADch-investic-ve-vybran%C3%BDch-st%C3%A1tech-EU-IPPS.pdf, p. 3-8.

can request information regarding the investment.[235] Whereas it is clear that state can perform the security screening out of national security or public order concerns, even though the FDI belong to the exclusive competence of the EU, it is not clear whether the EU have the right to decide that the screening should be performed and task the member state to carry it out.[236] Member states can issue remarks regarding the ongoing investigation, EC can issue a statement. Member states that perform the screening must take into account the provided remarks and statements, in case it does not follow the EC's statement it has the obligation to provide explanation. The state that performs the screening has always the final decision in the matter.[237]

According to this historical overview we can observe a slight shift from the strictly bilateral nature of the FDI to a competence of body of international organization. As was discussed in Chapter 2.5, this is not very common. Foreign direct investment has always been guarded as national sovereignty issue. Nevertheless, in case of European space and its economic integration, integration of the policy on FDI makes sense in order to match the negotiation power of the TNCs/investors. European market present EU with bigger market potential than individual states and provides EU with more sources of power as understood by Strange. However, in practice it seems that the bilateral aspect of the FDI will be still important, especially in case of the screening mechanism where the individual states have the right of the final say.

The aspect of security regarding FDI was the main topic on the EU level as well. The main introduced change in the reviewed period has been the screening mechanism. As we are aware from the previous subchapters, this agenda was set particularly by the biggest recipients of FDI in the EU (Germany, France), they have applied their structural power to implement new rules also in the arena of EU and not only on national level.

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[235] INSTITUT PRO POLITIKU A SPOLEČNOST. Prověřování přímých zahraničních investic ve vybraných státech EU: Policy Paper [online]. 2020, 2020 [cit. 2021-6-10]. Available at: https://www.politikaspolecnost.cz/wp-content/uploads/2020/08/Prov%C4%9B%C5%99ov%C3%A1n%C3%AD-p%C5%99%C3%ADm%C3%BDch-zahrani%C4%8Dn%C3%ADch-investic-ve-vybran%C3%BDch-st%C3%A1tech-EU-IPPS.pdf, p. 3-8.

[236] MANNHEIMER SWARTLING. EU FDI Screening: Legal Considerations [online]. 2017 [cit. 2017-10-29]. Available at: https://www.mannheimerswartling.se/app/uploads/2017/06/msa_nyhetsbrev_eu_fdi_mechanism_a4_final.pdf.

[237] INSTITUT PRO POLITIKU A SPOLEČNOST. Prověřování přímých zahraničních investic ve vybraných státech EU: Policy Paper [online]. 2020, 2020 [cit. 2021-6-10]. Available at: https://www.politikaspolecnost.cz/wp-content/uploads/2020/08/Prov%C4%9B%C5%99ov%C3%A1n%C3%AD-p%C5%99%C3%ADm%C3%BDch-zahrani%C4%8Dn%C3%ADch-investic-ve-vybran%C3%BDch-st%C3%A1tech-EU-IPPS.pdf, p. 3-8.

3.2 EU FDI inflows

In this chapter I will focus on the FDI inflows in the EU, on their development and quantity. Further, I will discuss the specifics of the FDI incoming from China as they have registered a significant development as investor during the reviewed period.

3.2.1 EU and international FDI flows (1999 – 2019)

In 1999, European union was the most important source of outgoing FDI globally, growing sixth year in a row. Largest investors were the United Kingdom (largest investor globally), France and Germany. The EU outflows were significantly higher than EY inflows (difference of 205 billion USD). Year-on-year, inflows of FDI increased by 23% (to 305 billion USD; Biggest recipient being the United Kingdom.), the EU incoming FDI were mostly coming from European countries. However, the extra-EU movements started to gaining momentum, intra-EU share of total incoming FDI was at the lowest level since 1992.[238] The FDI financial flows (both directions) were dominantly consisting of mergers and acquisitions. Majority of the FDI inflows in the EU were directed into sector of services (Real estate and business activities and financial intermediation).[239]

In 2000, EU inflows reached record levels (617 billion USD) but remained to be mainly coming from European countries. As for extra-EU investors in the EU, the USA dominated. The UK remained the largest outward investor both from EU and globally. The investment flows were constituted by mergers and acquisitions, as a result of which Germany became the most important FDI recipient in the region (acquisition of Mannesmann by VodafoneAirTouch).[240]

In 2001, EU FDI flows in both directions decreased by about 60% (323 billion USD, inflows, 365 billion USD outflows). Despite that, the EU region outperformed again the United State as the world's largest investor and recipient of the FDI. The trend of mergers and acquisition taking part of the most FDI flows remained. Germany, the UK, and France have been voted in a survey in 2001 as the most favored investment locations for the next three years.

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[238] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2000: Cross-border Mergers and Acquisitions and Development [online]. New York and Geneva, 2000 [cit. 2021-04-11]. ISBN 92-1-112490-5. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 35.

[239] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2000: Cross-border Mergers and Acquisitions and Development [online]. New York and Geneva, 2000 [cit. 2021-04-11]. ISBN 92-1-112490-5. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 36.

[240] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2001: Promoting Linkages [online]. New York and Geneva, 2001 [cit. 2021-04-11]. ISBN 92-1-112. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 12-18.

FDI into France were up by 23% year-on-year. (France was also the second largest investor worldwide, first from the EU region; Germany being the fourth largest investor.)[241]

In 2002, the FDI level globally decreased for the second consecutive year, falling on the lowest level since 1998, reason being the slow economic growth in most parts of the world and unclear prospects for recovery. The decline was uneven across regions but also across sectors – flows into primary sector rose whilst manufacturing and services were decreasing. Despite the development, France and Germany remained among the top recipients of the FDI globally.[242]

In 2003, the FDI decreased again, especially inflows heading to developed countries.[243] EU registered 21% decrease in FDI inflows, mainly due to slow economic recovery, M&A remaining the main source of investments. EU has lost (along with the United States) its position as preferred destination of FDI to the benefit of developing countries, mainly due to investors seeking lower cost locations. However, only in relative terms; in absolute numbers the developed countries have still attracted more FDI than the developing countries (367 billion USD and 172 billion USD respectively).[244]

In 2004, global FDI inflows amounted to 648 billion USD, which was a first surge in the amount in three years. Reason being the gradually improving economic upturn. The developing countries were recipients of 36% of this amount. The United States were the biggest recipient globally, followed by the United Kingdom and China. Out of that, 216 billion USD was headed to the EU (in 2004 already the EU-25).[245] Mergers and acquisition were still the main mode of entry for investment; however, greenfield investment significantly rose year-on-year. Developing countries were attracting more FDI through greenfield investments than through M&A.[246]

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[241] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2002: Transnational Corporations and Export Competitiveness [online]. New York and Geneva, 2002 [cit. 2021-04-11]. ISBN 92-1-112551-0. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 40 – 42.
[242] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2003: FDI Policies for Development: National and International Perspectives [online]. New York and Geneva, 2003 [cit. 2021-04-11]. ISBN 92-1-112580-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xiii; 68-70.
[243] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2004: The Shift Towards Services [online]. New York and Geneva, 2004 [cit. 2021-04-17]. ISBN 92-1-112644-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. xx.
[244] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2004: The Shift Towards Services [online]. New York and Geneva, 2004 [cit. 2021-04-17]. ISBN 92-1-112644-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p.84 and p. xvii.
[245] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2005: Transnational Corporations and the Internationalization of R&D [online]. New York and Geneva, 2005 [cit. 2021-04-17]. ISBN 92-1-112667-3. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 9-10.
[246] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2005: Transnational Corporations and the Internationalization of R&D [online]. New York and Geneva, 2005 [cit. 2021-04-17]. ISBN 92-1-112667-3. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 9-10.

Despite the surge, developed countries as a cluster registered decline in 2004 (from 442 to 380 billion USD). Germany inflow FDI plummeted in 2004, registering actually negative inflow, mainly due to repatriations (intra company debt repayments).[247]

The global growing trend of FDI inflow continued in 2005, amounting to 916 billion USD. As opposed to previous years, the rate of FDI inflow growth was higher in developed countries, increasing the gap between those and developing countries. M&A remained the main source of the mode of entry of FDI, greenfield investments registered declined after two consecutive years of growth. [248]

Collective investment funds as a new source of FDI appeared as another new trend. As opposed to more conventional TNCs, the investment coming from an investment fund is usually more short-term. Historically, these investments funds invested mainly into their domestic economy, but their interest began to internationalize. There were various investments by private funds in 2005, including real estate sector in Europe (particularly in Germany), banking sector in Asia and finance and leisure industry in Japan. Primary sector does not seem to be the target of private funds. The role of private funds awakens discussion especially considering investment to companies in financial difficulty. The investment can be followed by selling the company per parts which leads to opposition of general public. [249]

The increase of FDI inflow in developed countries was pulled mainly by Germany, along with the Netherlands and the UK. Also, France belonged to the TOP 5 FDI recipients from developed countries. Total inflows in developed countries amounted to 422 billion USD in 2005, especially due to intra-EU FDI. The repatriations paused in 2005 and Germany registered a positive inflow again.[250]

In 2006, the FDI global growth continued, FDI inflows were higher by 38 % than in 2005. Inflows to developed countries rose by 45% amounting to 857 billion USD. The European Union remained the largest recipient region (531 billion USD), whereas the United States

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[247] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2005: Transnational Corporations and the Internationalization of R&D [online]. New York and Geneva, 2005 [cit. 2021-04-17]. ISBN 92-1-112667-3. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 80-85.

[248] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 6.

[249] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 18-19.

[250] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development [online]. New York and Geneva, 2006 [cit. 2021-04-17]. ISBN 92-1-112703-4. Available at: https://unctad.org/publications-search?f[0]=product%3A397, p. 3-5.

retaken the position of the biggest recipient country from the United Kingdom. Most of the inward FDI in the EU were caused by intra-EU transactions.[251]

Emerging countries FDI have grown rapidly, especially TNCs from China and the Russian Federation played an important role. For instance, Gazprom (RF) and PetroChina (China) have considerably increased their investments via M&As. Gazprom made several investments[252] in Germany energy sector to get access to end users of gas.[253]

China's FDI outflows rose to 16 billion USD in 2006 and they were predominantly directed to developing and transition countries.[254] The Russian Federation amounted to 18 billion USD FD outflows, investments directed mostly to primary sector.[255]

In 2007, the global FDI growth surpassed the previous record high of the year 2000, amounting to 1 833 billion USD of inflows. The financial crisis had yet to kick in and did not affect the 2007 FDI numbers significantly. The share of developing countries on the global FDI distribution decreased to 27% in inflows but also to 13% in outflows. Significant increase was registered in FDI inflows to extraction sector and the primary sector's share has reached the level of 1980s, the services still account for the biggest share whereas the manufacturing sector share declined. [256] The EU FDI inflows rose again by 43% amounting to 804 billion USD, however, mostly caused by intra-EU transactions.[257]

After a period of uninterrupted growth of FDI in 2003-2007, financial crisis in 2008 caused a major slowdown. Overall global FDI inflows were 1 697 billion USD. [258] Inflows to EU declined by 40% to 503 billion USD. Despite the fall, France still ranked as the second

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[251] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2007: Transnational Corporations, Extractive Industries and Development [online]. New York and Geneva, 2007 [cit. 2021-4-24]. ISBN 978-92-1-112718-8. Available at: https://unctad.org/topic/investment/world-investment-report, p. 3-7.

[252] Wingas, VNG Verbundnetz and Winthershall Erdgas Handelshaus

[253] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2007: Transnational Corporations, Extractive Industries and Development [online]. New York and Geneva, 2007 [cit. 2021-4-24]. ISBN 978-92-1-112718-8. Available at: https://unctad.org/topic/investment/world-investment-report, p. 3-7.

[254] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2007: Transnational Corporations, Extractive Industries and Development [online]. New York and Geneva, 2007 [cit. 2021-4-24]. ISBN 978-92-1-112718-8. Available at: https://unctad.org/topic/investment/world-investment-report, p. 44.

[255] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2007: Transnational Corporations, Extractive Industries and Development [online]. New York and Geneva, 2007 [cit. 2021-4-24]. ISBN 978-92-1-112718-8. Available at: https://unctad.org/topic/investment/world-investment-report, p. 62.

[256] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2008: Transnational Corporations, and the Infrastructure Challenge [online]. New York and Geneva, 2008 [cit. 2021-4-24]. ISBN 978-92-1-112755-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 3-7.

[257] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2008: Transnational Corporations, and the Infrastructure Challenge [online]. New York and Geneva, 2008 [cit. 2021-4-24]. ISBN 978-92-1-112755-3. Available at: https://unctad.org/topic/investment/world-investment-report, p. 73.

[258] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2009: Transnational Corporations, Agricultural Production and Development [online]. New York and Geneva, 2009 [cit. 2021-4-24]. ISBN 992-1-112775-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 3.

biggest FDI recipient worldwide. As opposed to Germany, which registered lowest level of incoming FDI since the 1990s.[259]

Share of the developing countries on the FDI global movements increased by 43%.[260] FDI from Russia reached a new high in 2008 (52 billion USD). Russian TNCs sought acquisition particularly in Europe and the US. For instance, Gazprom finalized the acquisition of Austrian OMV, Lukoil invested in Italian oil refinery. Steel company EVRAZ acquired Swedish steel maker in Canada.[261]

In 2009, FDI reached their bottom level after 16% decline in 2007 and app. 37% decline in 2008. The financial crisis led to a significant slowdown of global financial movements. The second half of 2009 showed a potential for modest recovery, however, with uncertain prospects.[262] FDI to EU declined by 33% to 362 billion USD, particularly hit was the UK whose financial sector was affected significantly (drop of inflows by 50%), France declined only by 4% year-on-year comparison. On the other hand, Germany, registered increase by 36%. This was however caused mainly due intra-company loans. [263]

In 2010, global FDI inflows recovered moderately by 5%. Even though trade in products and services has already recovered on the pre-crisis level, FDI followed only slowly. For the first time, developing countries attracted more FDI than developed countries, thanks to their quicker economic recovery and rising South-South investments. SWFs investment felt considerably.[264] EU registered a 19% decline in incoming FDI. [265]

In 2011, FDI flows to Europe which were declining until 2010, increased by 19%. As for projections, the shifted trend will have been further tested in 2012 as the eurozone crisis hit

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[259] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2009: Transnational Corporations, Agricultural Production and Development [online]. New York and Geneva, 2009 [cit. 2021-4-24]. ISBN 992-1-112775-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 80.
[260] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2009: Transnational Corporations, Agricultural Production and Development [online]. New York and Geneva, 2009 [cit. 2021-4-24]. ISBN 992-1-112775-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 3.
[261] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2009: Transnational Corporations, Agricultural Production and Development [online]. New York and Geneva, 2009 [cit. 2021-4-24]. ISBN 992-1-112775-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 74-75.
[262] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2010: Investing in a Low-Carbon Economy [online]. New York and Geneva, 2010 [cit. 2021-4-24]. ISBN 978-92-1-112806-2. Available at: https://unctad.org/topic/investment/world-investment-report, p. 2.
[263] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2010: Investing in a Low-Carbon Economy [online]. New York and Geneva, 2010 [cit. 2021-4-24]. ISBN 978-92-1-112806-2. Available at: https://unctad.org/topic/investment/world-investment-report, p. 56.
[264] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2011: NON-EQUITY MODES OF INTERNATIONAL PRODUCTION AND DEVELOPMENT [online]. New York and Geneva, 2011 [cit. 2021-4-24]. ISBN 978-92-1-112828-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 1-8.
[265] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2011: NON-EQUITY MODES OF INTERNATIONAL PRODUCTION AND DEVELOPMENT [online]. New York and Geneva, 2011 [cit. 2021-4-24]. ISBN 978-92-1-112828-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 74.

hard especially south wing states of the EU.[266] FDI flows from China generally dropped in 2011 by 5%.[267] In 2011, the access of the Russian Federation to the World Trade Organization was approved. The approval bore consequences for further liberalization of all three economic sectors in Russia to fulfill the WTO obligations. The FDI outflows from Russia stroke an all-time high in 2011. For instance, Russian Sberbank completed an acquisition of Austrian bank.[268]

In 2012, generally the FDI flows to developed countries took a hit, registering sharp 42% decline, reason generally being realized divestments and disposing of non-core businesses and assets. The FDI inflows to Europe amounted to only 276 billion USD. The nosedive was registered also particularly in Germany, from 49 billion USD in 2011 to 6.6 billion USD in 2012.[269] FDI flows from China rose and registered new record high at 84 billion USD, the internalization of Chinese companies continued.[270]

2013 saw again an increase in the FDI inflows in the EU by 3%, these inflows were primarily made by developed countries. Germany's inflows doubled from 2012 but France and UK registered a significant decrease. Reason being predominantly the intercompany loans, where the TNCs were pulling their money from its European affiliates.[271] China's FDI outflows rose again to 101 billion USD and were forecasted to outrun China's inflows in two years' time.[272] There were several acquisitions in developed countries, particularly in the Canada and the US. Russian TNCs were pushing the FDI flows higher, mainly thanks to the acquisition of TNK-BP Ltd (UK) by Rosneft. However, as the Ukraine crisis over Crimea emerged, the future

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266 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2012: TOWARDS A NEW GENERATION OF INVESTMENT POLICIES [online]. New York and Geneva, 2012 [cit. 2021-5-1]. ISBN 978-92-1-112843-7. Available at: https://unctad.org/topic/investment/world-investment-report, p. 60-63.

267 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2012: TOWARDS A NEW GENERATION OF INVESTMENT POLICIES [online]. New York and Geneva, 2012 [cit. 2021-5-1]. ISBN 978-92-1-112843-7. Available at: https://unctad.org/topic/investment/world-investment-report, p. 44.

268 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2012: TOWARDS A NEW GENERATION OF INVESTMENT POLICIES [online]. New York and Geneva, 2012 [cit. 2021-5-1]. ISBN 978-92-1-112843-7. Available at: https://unctad.org/topic/investment/world-investment-report, p. 57-59.

269 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2013: GLOBAL VALUE CHAINS: INVESTMENT AND TRADE FOR DEVELOPMENT [online]. New York and Geneva, 2013 [cit. 2021-5-8]. ISBN 978-92-1-112868-0. Available at: https://unctad.org/topic/investment/world-investment-report, p. 4, 68.

270 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2013: GLOBAL VALUE CHAINS: INVESTMENT AND TRADE FOR DEVELOPMENT [online]. New York and Geneva, 2013 [cit. 2021-5-8]. ISBN 978-92-1-112868-0. Available at: https://unctad.org/topic/investment/world-investment-report, p. 46.

271 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2014: INVESTING IN THE SDGs: AN ACTION PLAN [online]. New York and Geneva, 2014 [cit. 2021-5-8]. ISBN 978-92-1-112873-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 78.

272 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2014: INVESTING IN THE SDGs: AN ACTION PLAN [online]. New York and Geneva, 2014 [cit. 2021-5-8]. ISBN 978-92-1-112873-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 47.

prospects were uncertain. More so, that Russian TNCs are mostly reliant for their acquisition on European banks.[273]

EU inflows decreased in 2014 to 289 billion USD, France among countries registering decrease once again.[274] Chinese FDI outflows were rising again, targeting particularly assets in the US and were predicted to grow even faster due to implementation of "One Belt, One Road" strategy.[275] As mentioned, Russian FDI suffered from obstacles in obtaining international financing but also from low commodity prices and depreciating ruble. Since 2014, several countries implemented sanctions against Russia because of the Ukraine crisis. Followingly, FDI outflows decreased by 31%.[276]

Inflows to Europe reached 504 billion USD in 2015, registering a significant increase to almost pre-crisis level. France and Germany were again among the top recipients. The investors from developed countries and other European countries were the source countries, among the developing countries China and Hong Kong amounted to 6.6% share of FDI inflow.[277] China remained the third world's biggest investor in 2015, investing mainly in developing countries. However, a few transactions appeared also in developed countries – in the United States and in Italy (tyre manufacturing) and Switzerland (agriproducts). China was also involved in negotiation of selling the Greek Piraeus port.[278]

In 2016, the FDI inflows to Europe decreased again, mainly due to decline in intercompany loans and completion of several acquisition deals (carried out by investors from developed countries again, mainly Europe).[279]

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[273] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2014: INVESTING IN THE SDGs: AN ACTION PLAN [online]. New York and Geneva, 2014 [cit. 2021-5-8]. ISBN 978-92-1-112873-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 71-76.

[274] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2015: REFORMING INTERNATIONAL INVESTMENT GOVERNANCE [online]. New York and Geneva, 2015 [cit. 2021-5-8]. ISBN 978-92-1-112891-8. Available at: https://unctad.org/topic/investment/world-investment-report, p. 73.

[275] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2015: REFORMING INTERNATIONAL INVESTMENT GOVERNANCE [online]. New York and Geneva, 2015 [cit. 2021-5-8]. ISBN 978-92-1-112891-8. Available at: https://unctad.org/topic/investment/world-investment-report, p. 41.

[276] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2015: REFORMING INTERNATIONAL INVESTMENT GOVERNANCE [online]. New York and Geneva, 2015 [cit. 2021-5-8]. ISBN 978-92-1-112891-8. Available at: https://unctad.org/topic/investment/world-investment-report, p. 67-68.

[277] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2016: Investor Nationality: Policy Challenges [online]. New York and Geneva, 2016 [cit. 2021-5-8]. ISBN 978-92-1-112902-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 66.

[278] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2016: Investor Nationality: Policy Challenges [online]. New York and Geneva, 2016 [cit. 2021-5-8]. ISBN 978-92-1-112902-1. Available at: https://unctad.org/topic/investment/world-investment-report, p. 48-49.

[279] UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2017: INVESTMENT AND THE DIGITAL ECONOMY [online]. New York and Geneva, 2017 [cit. 2021-5-8]. ISBN 978-92-1-112911-3. Available at: https://unctad.org/topic/investment/world-investment-report, p.70.

2017 saw a surge in FDI inflows specifically in France and Germany, even though overall flows to Europe declined again. The rise in the two countries was caused by European deals again.[280] Outflows from China decreased to 125 billion USD, by 36% year-on-year, reason being the government decision to keep capital in the country.[281] Russia was active mainly in other transition or developing countries.[282]

Following year, FDI inflows to Europe declined again, due to repatriation earnings. The sales to Chinese companies diminished from 66 billion USD in 2017 to 14 billion USD in 2018 following the introduced review process of foreign investor.[283] The Chinese outflows were still affected by the government caps on capital leaving the country (specifically to real estate, entertainment and sport clubs). Despite that, Chinese automotive manufacturer acquired stake in Daimler (Germany) for 9 billion USD.[284]

Despite the macroeconomic uncertainties and Brexit, FDI inflows to Europe rose to 429 billion USD in 2019, going over 2015 level but falling short of the pre-crisis level in 2007. Both Germany and France saw a decline in incoming FDI.[285] Chinese investments were decreasing for the third consecutive year to 224 billion USD, hitting a 10 year low, reason being primarily the restrictions on outflow of capital and changing trade climate (uncertainties linked to the proliferation of pandemic Covid-19).[286]

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280 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2018: INVESTMENT AND NEW INDUSTRIAL POLICIES [online]. New York and Geneva, 2018 [cit. 2021-5-8]. ISBN 978-92-1-112926-7. Available at: https://unctad.org/topic/investment/world-investment-report, p. 63.

281 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2018: INVESTMENT AND NEW INDUSTRIAL POLICIES [online]. New York and Geneva, 2018 [cit. 2021-5-8]. ISBN 978-92-1-112926-7. Available at: https://unctad.org/topic/investment/world-investment-report, p. 48.

282 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2018: INVESTMENT AND NEW INDUSTRIAL POLICIES [online]. New York and Geneva, 2018 [cit. 2021-5-8]. ISBN 978-92-1-112926-7. Available at: https://unctad.org/topic/investment/world-investment-report, p. 59-60.

283 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2019: SPECIAL ECONOMIC ZONES [online]. New York and Geneva, 2019 [cit. 2021-5-8]. ISBN 978-92-1-112949-6. Available at: https://unctad.org/topic/investment/world-investment-report, p. 62.

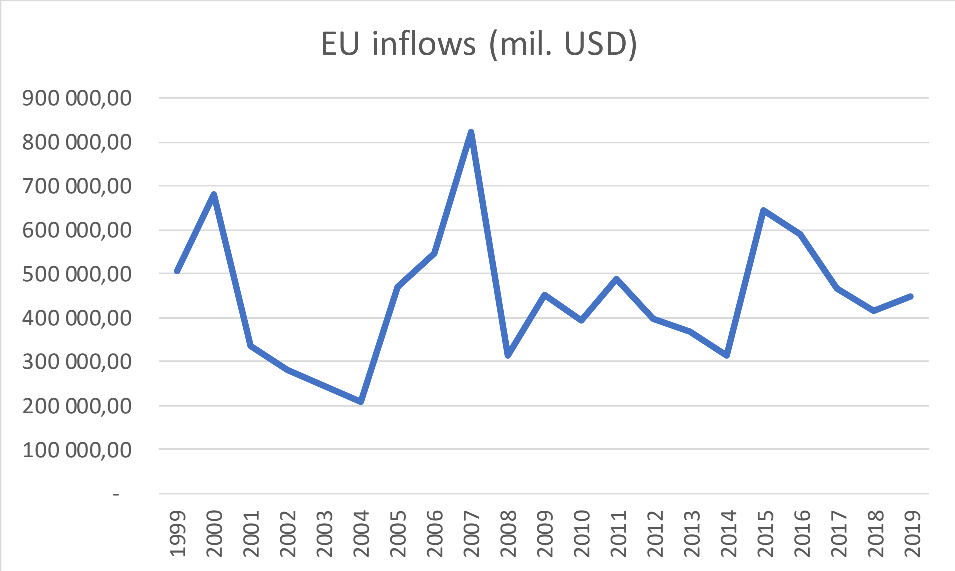
284 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2019: SPECIAL ECONOMIC ZONES [online]. New York and Geneva, 2019 [cit. 2021-5-8]. ISBN 978-92-1-112949-6. Available at: https://unctad.org/topic/investment/world-investment-report, p. 45.

285 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2020: INTERNATIONAL PRODUCTION BEYOND THE PANDEMIC [online]. Geneva, 2020 [cit. 2021-5-8]. ISBN 978-92-1-112985-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 64.

286 UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT. World Investment Report 2020: INTERNATIONAL PRODUCTION BEYOND THE PANDEMIC [online]. Geneva, 2020 [cit. 2021-5-8]. ISBN 978-92-1-112985-4. Available at: https://unctad.org/topic/investment/world-investment-report, p. 45.

The described trends are registered in the Figure 5 below:

Figure 5: EU FDI inflows 1999 - 2019



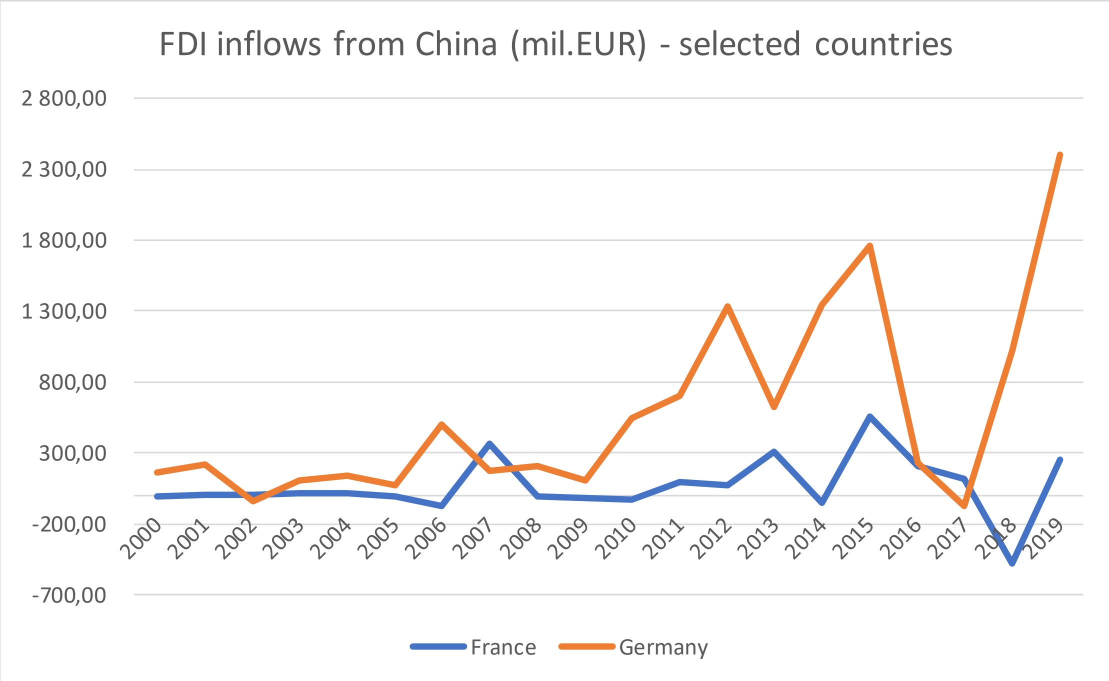
Data: Foreign direct investment: Inward and outward flows and stock, annual. UNCTAD STAT [online]. [cit. 2021-7-18]. Available at: https://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=96740, author's depiction.

We can observe that at the beginning of the millennium, the inflows to the EU were at their peak value and decreased until 2004, following a global trend. Since then until the financial crisis of 2008 hit, the inflows were increasing again, registering even a record high. The post crisis development brought a significant decrease which lasted until 2014. After that, increase was registered again, slowly decreasing over the coming year.

The share of developing countries on the incoming FDI has grown during the reviewed period, as it is elaborated in the analysis above. Even though their share remains significantly lower than the share of investments flowing from developed countries (specifically North America and European flows), it still represents a change in FDI coming to the EU, as previously these were mostly from developed countries.

For more detailed view of FDI inflows to Germany and France, see the Figure 6 below:

Figure 6: FDI inflows from China (mil.EUR) - selected countries



Data: Domestic direct investment liabilities: Financial account / Net foreign investment in Germany / Direct investment / China. Deutsche Bundesbank [online]. [cit. 2021-7-21]. Available at: https://www.bundesbank.de/dynamic/action/en/statistics/time-series-databases/time-series-databases/759784/759784?listId=www_s201_aw3d1_1a_verb_s1 and Foreign direct investment: annual series: Foreign Direct Investment Flows – Geographical and industrial breakdown – Annual data (2000 - 2019) (2019 annual report). Banque de France [online]. [cit. 2021-7-21]. Available at: https://www.banque-france.fr/en/statistics/balance-payments/foreign-direct-investment/statistics/foreign-direct-investment-annual-series.

Regarding registered inflows from China, we can see in the Figure 6 a growing trend of incoming FDI especially to Germany, the biggest upturn is observable between 2009 – 2016. To France, several peaks are visible, but the trend is not growing heavily.

The stocks of foreign direct investment in the EU per group of partner countries are summarized in the Figure 7 below:

Figure 7: Stocks of FDI in the EU per group of countries

Classification [mil. EUR]	2013	2014	2015	2016	2017	2018
High income countries	10 471 379	11 751 479	13 609 871	14 454 550	14 885 529	14 470 621
Upper middle income countries	269 284	273 139	317 008	330 772	359 774	213 971
Lower middle income countries	31 719	18 223	27 676	21 905	22 332	18 393
Low income countries	322	998	1 012	3 478	3 494	5 696

Data: EU direct investment positions, flows and income, breakdown by partner countries (BPM6). Eurostat [online]. [cit. 2021-7-21]. Available at: https://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do,
Classification: World Bank Country and Lending Groups: Data. World Bank [online]. [cit. 2021-7-21]. Available at: https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups.

According to the Figure 7, between 2013 and 2017 FDI stocks in the EU from upper middle-income countries (which include emerging countries, therefore China) rose significantly by 33%. However, in comparison with high income countries (developed countries) it still constitutes rather minor share in the overall investments in the EU.

3.2.2 Specifics of Chinese FDI in the EU

Rise in Chinese OFDI (outcoming FDI) followed the gradual opening of the Chinese economy after the 1979 economy reforms, performed by Deng Xiaoping. His efforts were reinforced by the Go Global strategy, which was initiated in 1999.[287]

In 2001, China finally succeeded in accessing the World Trade Organization and China continued to liberalize the OFDI in order to comply with WTO rules.[288] The Go Global strategy was highlighted again in its 10th and 11th Five-Year Plan and especially state-owned companies were urged to invest abroad. In these cases, the government maintained control over sector and nature of the investment. Private companies were allowed to invest abroad after 2003. These efforts have brought China to a second largest investor globally in 2016.[289]

With the increase of investment incoming from emerging countries after 2000, the research of this phenomena increased as well. For instance, Luo and Tung stated that the MNCs from emerging countries have benefited from a previous cooperation and knowledge transfer from their developed countries counterparts and now are going international to acquire critical resources to be able to compete globally. They invest internationally to gain further know-how and technology and by that they try to compensate for their relative late entry on the global scene.[290]

EU is currently China's biggest trading partner, and China is second biggest trading partner for EU (after the United States). The trade in goods is already established and reaches an average of 1 billion EUR worth of traded goods daily. The trade in services is not as established so far and reaches for about 10% of worth of the trade in goods, however, is growing steadily. Both actors launched a negotiation regarding an investment agreement in 2013 but it has not been so far concluded successfully. EU is particularly cautious about problems demonstrated in the EU-China relation, particularly the "lack of transparency (e.g. in formulating the exact technical rules, in applying the regulatory conditions by their judicial

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[287] KOLSTAD, Ivar a Arne WIIG. What determines Chinese outward FDI? Journal of World Business [online]. 2012, 47(1), 26-34 [cit. 2021-7-21]. ISSN 10909516. Available at: doi:10.1016/j.jwb.2010.10.017.

[288] Yuan Ma & Henk Overbeek (2015) Chinese foreign direct investment in the European Union: explaining changing patterns, Global Affairs, 1:4-5, 441-454, DOI: 10.1080/23340460.2015.1113796.

[289] ZAKIĆ, Katarina a Bojan RADIŠIĆ. THE RESULTS AND CHALLENGES OF CHINESE "GO GLOBAL" POLICY. The Review of International Affairs [online]. 2017, 68(1168) [cit. 2021-7-21]. Available at: https://eds.b.ebscohost.com/eds/pdfviewer/pdfviewer?vid=0&sid=9206e8b7-61c5-40d0-8679-bd348a9752b1%40pdc-v-sessmgr01.

[290] LUO, Yadong a Rosalie L. TUNG. International Expansion of Emerging Market Enterprises: A Springboard Perspective. Journal of International Business Studies [online]. Palgrave Macmillan Journals on behalf of Academy of International Business, 2007, 38(4) [cit. 2021-7-21]. Available at: https://www-jstor-org.ezproxy.is.cuni.cz/stable/pdf/4540438.pdf?ab_segments=0%2FSYC-5910%2Ftest&refreqid=fastly-default%3Ac1ab95dcf5281f1944a5e0bb83f08023.

system, or information about the companies investing in the EU[291]); industrial policies and non-tariff measures that discriminate against foreign companies; strong government intervention in the economy, resulting in a dominant position for state-owned firms, unequal access to subsidies and cheap financing, and; poor protection and enforcement of intellectual property rights."[292]

Quantity of the emerging countries FDIs into EU has registered a growing trend in the reviewed period. However, in relative numbers it still constitutes a smaller portion of all incoming FDI. That is why we will further elaborate on specifics of the new investors in the EU.

When looking at specifics of emerging countries FDIs in the developed countries, Chinese OFDI prefer acquisitions as opposed to greenfield investments in the developed countries. Moreover, they are often seeking strategic assets to acquire know-how, technology or access to advanced markets and upgrade in their added value.[293]

Chinese investments in the EU have registered their peak in 2016, since then they have been falling, particularly due to overall downfall of Chinese FDI in the world, as China has put restrictions on the outcoming capital. The state-owned companies have played an important role in the investment in the EU, Rhodium Group states that between 2010 and 2015, up to 70% of Chinese investment in the EU were provided by SOEs. However, their share on the inflows was decreasing gradually since then and by 2019 it has reportedly fallen to 11%.[294]

The investment by Chinese in the EU can be divided into three geographical zones which makes the basis for the diversification strategy. In the west European countries, Chinese companies are investing with intent to gain strategic assets, get access to research and development. In southern countries, the Chinese companies were particularly targeting real estate sector and manufacturing. Lastly, the Eastern Europe region represents a strategic position and simplified modes of entry for investment, however, the value of investment in this region is in comparison with other two regions very low.[295] After significant investment in the

[291] MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION: on EU and China: Unbalanced Trade? European Parliament [online]. 2012 [cit. 2021-7-21]. Available at: https://www.europarl.europa.eu/doceo/document/A-7-2012-0141_EN.html.
[292] Countries and Regions: China. European Commission [online]. 2021 [cit. 2021-7-21]. Available at: https://ec.europa.eu/trade/policy/countries-and-regions/countries/china/.
[293] DUDAS, Tomas a Rastislav RAJNOHA. Chinese high-tech foreign direct investments in the EU – trends and policy responses. Perspectives in Management [online]. 2020, 18(2) [cit. 2021-6-13]. Available at: https://www.businessperspectives.org/images/pdf/applications/publishing/templates/article/assets/13666/PPM_2020_02_Dudas.pdf.
[294] KRATZ, Agatha, Max J. ZENGLEIN a Gregor SEBASTIAN. CHINESE FDI IN EUROPE 2020 UPDATE: Investment falls to 10-year low in an economically and politically challenging year. Rhodium Group [online]. Mercator Institute for China Studies, 2021 [cit. 2021-7-20]. Available at: https://rhg.com/wp-content/uploads/2021/06/MERICSRhodium-GroupCOFDIUpdate2021.pdf.
[295] ZENELI, Valbona. Mapping China's Investments in Europe: The last eight years have seen a paradigm shift in Chinese investments in Europe. The Diplomat [online]. 2019 [cit. 2021-7-20]. Available at: https://thediplomat.com/2019/03/mapping-chinas-investments-in-europe/.

infrastructure in the southern region, however, the Chinese companies refocused on the Big 3 (Germany, France and UK). The majority of Chinese FDI is directed into these countries throughout the whole reviewed period.[296]

The perception of Chinese investment in the EU is manifold. In some cases, the investment especially after the global financial crisis has been seen as highly positive, to maintain employment and production facilities. However, there are a lot of topics in China trade cooperation that are highly controversial. These include for example problems with intellectual property rights, high state subsidies for the companies exporting to Europe and the fact that the market access for investors is not equal.[297] China imposes more restrictions on the incoming investment, for European investors it is therefore more complicated to invest in the Chinese market than vice versa.[298]

The focus of Chinese companies on particularly acquisition of know-how and technology from the acquired firms leads to the perception that the work security for local workers is endangered. Once the technology is acquired, the investment could be finalized, and company closed. Another fear is that by acquiring multiple firms and business that are an important part of the European economy, China is gaining access to influence the European economy.[299]

EU is however a historically long-term recipient of the FDI from TNCs, particularly from the US or Japan. Why there are so many concerns voiced particularly with the expansion of Chinese investment in the EU? Jan Knoerich and Tina Miedtank summarize the differences of this wave of incoming FDI as opposed to the previous ones. Firstly, they conclude that the speed with which the share of incoming FDI from China rose since the beginning of millennium is unprecedented, in 2017 China invested in the EU 90 times more than it invested in 2003.[300] Whereas at the start of the reviewed period the number of closed deals of Chinese investors in

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[296] HANEMANN, Thilo a Mikko HUOTARI. RECORD FLOWS AND GROWING IMBALANCES: Chinese Investment in Europe in 2016 [online]. 2017 [cit. 2017-10-29]. Available at: https://merics.org/en/report/record-flows-and-growing-imbalances-chinese-investment-europe-2016.
[297] ZENELI, Valbona. Mapping China's Investments in Europe: The last eight years have seen a paradigm shift in Chinese investments in Europe. The Diplomat [online]. 2019 [cit. 2021-7-20]. Available at: https://thediplomat.com/2019/03/mapping-chinas-investments-in-europe/.
[298] EUROPEAN PARLIAMENT. Foreign direct investment screening: A debate in light of China-EU FDI flows [online]. 2017 [cit. 2017-10-29]. Available at: http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603941/EPRS_BRI(2017)603941_EN.pdf.
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[300] KNOERICH, J. a T. MIEDTANK. Chinese Foreign Direct Investment in the EU. CESifo Forum [online]. 2018, 19(4), 3 - 8 [cit. 2021-7-21]. ISSN 2190717X. Available at: https://www.cesifo.org/DocDL/CESifo-Forum-2018-4-knoerich-miedtank-chinese-FDI-december.pdf.

the EU was around 10 per year, in 2014 it reached about 60 transactions per year.[301] The "established" MNCs investing from dominantly developed countries (which were joined by Japan by 1970s) have built their investment positions in the EU in the course of several decades. The authors remind, that Japanese companies were also scrutinized during their first entries.[302] The velocity of this change brings the uncertainty for the European countries as they have to learn quickly what to anticipate from the new partner.

Secondly, the FDI were historically linked with companies that gradually built up their competitive advantage (be it technology, managerial or branding skills) and know-how development. This enabled them to raise capital and consequently invest abroad. Chinese companies followed this pattern as well by investing to less developed markets than their own (for instance African). What constitutes a new trend, however, is their investment to *more* developed markets in case when the company does not yet possess a competitive advantage based on technological, managerial, or branding development. Their competitive advantage comes from different sources – for example low costs of labor, government support and easy access to funding (China is the largest hold of foreign exchange reserves). By investing, the Chinese companies try to overcome this shortage for instance by installing research and development centers in the EU countries or acquisitions of leading technology companies (for examples see Chapter 3.1). As Knoerich states "This behavior has occasionally raised eyebrows amongst those concerned about Chinese FDI being used as a vehicle to catch up and close the technological gap with the advanced economies." [303]

Lastly, the political system from which the FDI is flowing is authoritarian and economy is centrally planned which is in strike difference of the previous streams of FDI. The state interventions are common and influence of government in the economy is undeniable. "For example, acquisitions and the establishment of R&D centers in advanced economies to obtain foreign know-how have been encouraged and supported by the National Development and Reform Commission, China's development planning body." [304] The authors provide an example of case of nuclear plant in the UK which will be constructed by consortium of French national company EDF and Chinese investor. Whereas French state-owned company was not an issue

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as it concerned a traditional investor from France, the participation of the Chinese investor China General Nuclear Power Group was highly discussed and investigated. [305]

Chinese investments have also other particularities – for instance, after acquiring the company in the EU they frequently do not step in the current managerial structures of the company. They install observing Chinese expatriates but otherwise let be the original operational functioning. Furthermore, the acquisition of the international subsidiary can help get attention and prestige back at the company home market.[306] De Mello adds that the reason emerging countries' MNCs behave differently is because they are subject of negative perceptions even before the transaction. The negative perceptions can be linked to an image of their home country. He calls the phenomena "liability of emergingness."[307]

The government ties, influence or ownership has enabled the Chinese companies the easy access to resources but along with the strategic-seeking nature of their FDI can resemble a modern "attack" – a government developed a strategy to increase its share in global economy, "armed" his companies with easy access to funding and send them to acquire the technology and knowledge to transfer them in their home economy. This is particularly sensitive issue for military or energy related sectors; however, it becomes also sensitive for high-tech sectors as these often constitute an important source of competitive advantage in the global economy which may endanger an economic security. As discussed in the Chapter 1, the economic security can easily influence the overall national security by not providing sufficient resources for its preservation.

Based on that, I argue that it is not only the influx in quantity of the FDI from the emerging countries that has led to the introduction of changes in FDI policies in the European states, but it is rather the change in structure of investment partners and the velocity with which the structure is changing. The established framework within which only the developed countries and their TNCs were able to operate with financial flows internationally and to control them is disrupted by the newly incoming emerging countries. Such change constitutes a disruption in the current balance, it challenges the current power status quo. The established FDI recipients

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[305] KNOERICH, J. a T. MIEDTANK. Chinese Foreign Direct Investment in the EU. CESifo Forum [online]. 2018, 19(4), 3 - 8 [cit. 2021-7-21]. ISSN 2190717X. Available at: https://www.cesifo.org/DocDL/CESifo-Forum-2018-4-knoerich-miedtank-chinese-FDI-december.pdf.
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[307] RODRIGO BANDEIRA-DE-MELLO, PERVEZ GHAURI, ULRIKE MAYRHOFER a PIERRE-XAVIER MESCHI. Theoretical and empirical implications for research on South-South and South-North expansion strategies. Post-Print [online]. 2015 [cit. 2017-10-30]. ISSN edsrep.

attempt to adjust to this new situation by addressing it via implementation of new policies and creating alliances to promote the agenda and balance the possible threat.

The insecurity, unclear prospects of the future behavior of new investors and possibility of loss of control over the global FDI flows is what drives the security concerns mirrored in the established policies of implemented security mechanisms. Even though there are still clear ties to the military related aspects of security (especially by introduction of restricted sectors list), the concept of what actually constituted security had to be revisited several times following specific cases of transactions as we reviewed. I argue that the job security and predominantly the economic security were the most important parts of the security in question. As presented above, this is the first time when the investor does not have the upper hand when it comes to knowledge and technology, it does not come to implement the state-of-the-art managerial or technological inventions; it comes to learn it. It seems that the interest is firstly strategic and secondly economic. In a globalized world where the know-how and technology are the primary sources of competitive advantage, this represent a new situation and results in security concern of the recipient of loss of its competitive advantage at the global market. Even though Barry Buzan warns about elevating of economic security to the national security level because of the fact that economic affairs themselves include risk, I would argue that in this case of highly specialized global high-tech champions the concerns and following reactions are understandable.

Conclusion

Foreign direct investment is not a new phenomenon in the international relations. However, it gained more importance the more globalization of international financial flows advanced. As we elaborated in the Chapter 2, the issue of FDI was historically primarily dealt by states on bilateral basis. This practice testifies about the fact that states consider FDI as an important part of the global economy and want to keep their ability to influence it according to their needs following the realist view of the international relations. Historically, the policies on the FDI included the provisions granting the host country to prevent the investment transaction from happening due to national security concerns. This provision was historically present, however, since the start of the new millennium security began to be frequently mentioned in the FDI policies, as stated by UNCTAD. The objective of this thesis was to answer the research question "Why the European FDI policies have changed during 1999-2019?".

I have addressed the research question by following two hypotheses. Firstly, that it is possible to identify strengthening of the concept of security and more restrictive approach in the FDI policies of EU member states during 1999-2019. I have elaborated on the FDI policy generally in the Chapter 2 and specifically on EU, German and French FDI policy in the reviewed period in the first part of the Chapter 3.

Based on the OECD FDI restrictiveness index (a measuring tool developed by OECD), we could not confirm the hypothesis that we can observe a strengthening concept of security and more restrictive approach in the FDI policies. The FDI index for EU, Germany and France had overall decreasing values and testified of the very high level of openness towards FDI within the selected objects. However, we note that the settings of FDI index disclaimed that it cannot capture qualitative changes in the exercising of the implemented measures and moreover the changes of screening mechanism applied out of national security reasons. That is why we continued to analyze the EU, German and French FDI policy in further subchapters.

Based on the UNCTAD review of global FDI policy changes we can identify several subperiods of the examined period 1999-2019. At the beginning of the new millennium, the trend for liberalization still prevailed from the ambience of 1990s. Since 2003 – 2009, inclination towards more restrictive approach can be detected. Then again period 2010 – 2015 was characteristic by liberalization, possibly in effort to attract investors following the global crisis. Since 2016, restrictive measures towards FDI are again on the rise. These were the global trends, in following subchapters we continued with the analysis of particularly German, French, and overall EU FDI policy to see whether common trends can be detected in their cases as well.

Based on the analysis of German, French and EU FDI policies, the changes in FDI policies were registered mainly in the implementation of screening mechanisms. When implemented, the screening mechanism specifically always mentions the ability to review and tackle the incoming FDI in order to ensure the national security. To ensure more transparency, list of critical sectors which are predominantly under scrutiny was provided. The list was enhanced several times during the registered period in the cases of Germany and France, enlarging the scope of previously military related (e.g. cryptographic in case of Germany) sectors to a broader variety. It gradually included e.g. energy, telecommunications, later on also high-tech technologies.

As elaborated in the Chapter 1, since 1990s the perception of what constitutes a threat to national security has evolved and also new types of security emerged. The concept of security has been gradually deepened and widened. Previously, threat was primarily of military character (a hard threat), however, gradually the perception expanded to take into account not only military aspects, but also for instance economic aspects (the high-tech) and social aspects (media, energy infrastructure, job security) of security, and so called soft threats.

As we could observe, the evolution of perception of what constitutes a threat to national security was present also in the evolution of the examined FDI policies. The concept of security was more frequent and prevalent via the national screening mechanisms which were introduced or enhanced during the reviewed period. Based on the study of the individual cases of investment transactions in the selected countries, we could observe that concerns regarding security were always present and resulted in policy change follow-ups. Therefore, we can confirm, that the concept of security in FDI policies of the selected counties was strengthened during 1999-2019.

Following the analysis of the foreign direct investment policy developments it is observable, that nation states tend to keep or even enhance their possibilities to influence the incoming FDI and preserve their role. There is no overarching globally accepted framework, FDI are treated by bilateral negotiations. Even though the European Commission has recently gained powers to exercise in the area of FDI, significant portion of decision-making is still in hands of the nation states, including for instance the final decision in the FDI screening process. It still follows the principle of anarchic structure of states and their struggle for power – states attempt to ensure their competitiveness and economic dominance over others and thus preserve their security and power as elaborated in the realist approached to the international relation in the Chapter 1. This also follows the Gilpin's and realist perception, that national policies still largely influence the globalized economic environment. The interactivity between economic and political relations can be demonstrated on the detected examples of FDI transactions in Germany of France which led the nation states towards changes in their FDI policies in the form of screening mechanism. The screening mechanism empowers the state to exercise influence in otherwise market relations. Furthermore, the examples of investment cases in Germany and France documented the importance of TNCs in today's international relations as envisaged by Susan Strange. The TNCs are a common partner in current negotiation with states and thus the national industrial policies influencing the investment are gaining more importance in the area of international relations.

Secondly, I have addressed the research question by following the next hypothesis that "the qualitative change in FDI policies was caused by the influx of FDI from emerging countries (specifically Chinese)". I elaborated on the topic in the second part of the Chapter 3.

During the reviewed period of 1999-2019, the flows of incoming FDI to Europe have changed. The stock of FDI have grown significantly, the inflows have registered several periods of growth and decline as elaborated in the Chapter 3.2.1 and registered even their record peak in 2007. Based on the analysis, the relative inflows from emerging countries (especially China) over the period have grown as well. However, when comparing the absolute numbers, the biggest investors in the EU are still developed countries – North America and intra-EU investments. The overall share of emerging countries on the incoming FDI to EU remains small.

Based on the analysis, the influx of FDI from emerging countries was registered during the reviewed period. The position of China as investor in the EU has definitely strengthened. However, I would argue that its quantity was not the decisive factor resulting in the qualitative change of the FDI policy.

As observed, majority of the incoming investments to the EU has been historically coming from developed countries. EU countries themselves constitute ones of the most significant investors in the world. However, the new investors from emerging countries and new trends in the FDI over the analyzed period, have challenged the status quo and implementing a new balance of the global investment structure. The emerging countries are not the historic investment partners. The emerging countries once seen as the mere host countries for investment are now becoming their source and therefore change the flows of trades and also know-how which are now not pouring only among developed states but among the emerging ones as well. There are further specifics of the new investors. Based on the analysis, they are frequently targeting high-tech industries to gain access to know-how, not only seeking expansion possibilities to new markets. Moreover, they are more frequently linked to their own national governments – either more inclining towards state ownership (as observed by UNCTAD) or private but with close ties to the government via management. Non-traditional investors, such as e.g. SWFs also emerged during the period under review. The motives of their investment are then often disputed as not being only market-oriented but following strategic national decisions to gain competitive advantage.

EU states have reacted to the challenge by implementing new screening mechanisms, not redirecting overly from their liberalized investment policies but granting themselves possibilities to influence the incoming investments, specifically in case of the new investors. They attempted to adjust to this new situation by addressing it via implementation of new policies and creating alliances to promote the agenda and balance the possible threat as we could see on the example of France. France itself was not the main target of Chinese FDI (as opposed to Germany), its reaction was not specifically targeting the new emerging states investments but rather investment in a critical high-tech sector. Nevertheless, it formed the alliance with Germany to promote the agenda on the EU level, to balance the perceived threat and in an attempt to preserve the current status quo.

Therefore, the second hypothesis is only partially valid, as the quantity of the investment was not the only factor which influenced the policy change of the EU states. It was a combination of the quantity and qualitative characteristic of the newly incoming investments and the velocity of the change of the investment partner countries.

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Annex 1: OECD FDI Restrictiveness index – data for period 1997 – 2020

(examples of yearly increase of restrictiveness, author's analysis)

Type of restriction	Sector	Industry	Country	1997	2003	2006	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Equity restriction	Tertiary	Business services	Belgium	0,11	0,23	0,23	0,23	0,23	0,23	0,23	0,23	0,23	0,23	0,23	0,23	0,23	0,23
Equity restriction	Tertiary	Legal	Belgium	0,11	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45
Equity restriction	Tertiary	Accounting & audit	Belgium	0,11	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45	0,45
Other restrictions	Tertiary	Financial services	Czech Republic	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01
Other restrictions	Tertiary	Other finance	Czech Republic	0,03	0,03	0,03	0,03	0,03	0,03	0,03	0,03	0,03	0,03	0,03	0,03	0,03	0,03
Other restrictions	Primary	Agriculture & Forestry	Latvia	-	0,10	0,05	0,05	0,05	0,05	0,05	0,02	0,02	0,02	0,03	0,03	0,03	0,03
Other restrictions	Primary	Agriculture	Latvia	-	0,10	0,05	0,05	0,05	0,05	0,05	0,02	0,02	0,02	0,03	0,03	0,03	0,03
Other restrictions	Primary	Forestry	Latvia	-	0,10	0,05	0,05	0,05	0,05	0,05	0,02	0,02	0,02	0,03	0,03	0,03	0,03
Other restrictions	Tertiary	Financial services	Portugal	0,01	0,01	0,02	0,02	0,02	0,02	0,02	0,02	0,02	0,02	0,02	0,02	0,02	0,02
Other restrictions	Tertiary	Financial services	Slovenia	0,02	0,02	0,02	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
Other restrictions	Tertiary	Other finance	Slovenia	-	0,05	0,06	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01	0,01
Screening & approval	Tertiary	Transport	Sweden	0,13	0,13	0,13	0,20	0,20	0,20	0,20	0,20	0,20	0,20	0,20	0,20	0,20	0,20

Source: OECD. FDI Regulatory Restrictiveness Index. OECD.Stat [online]. [cit. 2021-5-15]. Available at: https://stats.oecd.org/Index.aspx?datasetcode=FDIINDEX#, author's analysis

Master thesis' project:

CHARLES UNIVERSITY PRAGUE

FACULTY OF SOCIAL SCIENCES

Institute of Political Studies

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Security Studies

EU FDI policy 1999-2019

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Introduction

In April 2019, a new regulation regarding a framework for screening of foreign direct investment in the European Union has passed. The process of screening should be applied in case a foreign direct investment would “pose a threat to security or public order.”[308] The EU has been traditionally a promoter of the liberal trade and free movement of capital. Moreover, based on the OECD Restrictiveness Index, the European countries have fewest restrictions on foreign direct investment in the world and very open investment regimes in general. Yet, the proposal presents a new tool in the FDI policy that can be seen as restrictive. In this thesis I will try to analyze the processes which led to the introduction of this new framework.

China recently became the world’s largest economy after three decades of substantial growth started by Deng Xiaoping’s reforms in 1978. With its unique economic system of socialism with Chinese characteristics is through its activities already shaping the world’s economic but also political and security structures. After years of being rather a destination of FDI, China has become one of the world’s largest investor.

Firstly, China invested heavily into developing countries which represents so called South-South FDI trend. Nowadays, Chinese investment is part of yet a new global trend of growing outward FDI from the emerging countries towards the developed ones. Their surge can be observed since the turn of the century and early 00’s till nowadays. The flow of the investment is pouring the other direction and it basically represents an adjustment to the global directions of capital as we can speak of so-called South-North investments.

However, the Chinese investments, their underpinnings and impacts are a very live and interesting topic given their specifics of state-owned companies, Five Year Plan strategies and backing by the wealth of the world’s first economy. The motives behind and impacts of these investments has been addressed by academics, economists and politicians. An ongoing discussion is led about the security threat these investments may pose to recipient states. Not only Chinese, but Russian investments also come often under scrutiny. Russian

[308] 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. In: . Official Journal of the European Union, 2019. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1579456281407&uri=CELEX:32019R0452.

interconnectedness of economic and politics often raises a question what the motivations for the investments are, as they are directed into strategic sectors such as energy and infrastructure.

I chose this topic because of its high relevance and because during my studies I have focused on the connection between Chinese and European region. In this thesis, I aim to connect the economic part of their relationship with the political and international relations field through the concept of security.

Anticipated structure of the thesis

Introduction

1. Theoretical and methodological underpinnings and key concepts
    a. Concept of security
    b. Realist and Neorealist approach the state's behavior
    c. International Political Economy concept of FDI
2. Foreign direct investments in the EU
    a. Statistics, recipients, industries and trends
    b. Specifics of emerging countries investments in the EU member states – with the emphasis on China and Russia
3. EU FDI policy development 1999-2019

Conclusion

In the first chapter, I would like to start with theoretical and key concepts' discussion. For analysis of the root causes of behavior of a system unit, the theory of realism and neorealism will be elaborated. As one of the key figures of classical realism, Hans Morgenthau presented core principles of the realist paradigm in the Politics among Nations.

According to the realist theory, the reality is driven by objective laws that are created by unchanging human nature. Human nature is inherent struggle for power, which than translates to the inevitable pursuit of leaders being behaving in the interest to achieve power. States led by their leaders therefore also pursue policies to attain power. State is the primary unit of the system and its main interest is to seek and maintain power.[309]

[309] MORGENTHAU, Hans J. Politics among nations: the struggle for power and peace. *Politics among nations: the struggle for power and peace / by Hans J. Morgenthau* [online]. 1949 [cit. 2020-02-20].

The end of the Cold war presented a challenge for the realist approach to the international relations as it was not able to predict the demise of the USSR. Therefore, new theoretical approach developed by predominantly by Kenneth Waltz and John Mearsheimer prevailed.

The neorealism did not see the inherence of the conflict in the international relations in relation to human nature but in the systemic environment of the international arena. The nature of the system is considered the driving force behind states' behavior. According to the theory, system of the international arena is anarchic, with no universal superior power as a judge or decision maker. States' main interest is therefore to ensure their survival and prevalence by exercising their power in the international arena even at the detriment of others. Contrary to Morgenthau's approach, power is a mean to achieve the end, not the end itself.

Another concept introduced by Kenneth Waltz is also balance of power. A state can maximize its power to build up its capabilities to a level superior to all other units in the system. Prevention of this outcome is in the interest of other units in the system which react by forming alliances whose objective is to balance the growing power of their opponent to ensure their security.[310]

The theory of realism and neorealism will be used to analyze the behavior of the primary unit of the system – state – in the international arena, specifically in analyzing why there has been a change in the states‘ policy. The concept of balance of power will be used to elaborate on balancing of economic power of the selected analyzed parties through the use of FDI and FDI policy.

Concept of security will be also briefly elaborated in the thesis as it constitutes the principal on which the new screening mechanism is based on.

Security as a concept has been for a long time viewed as a relatively narrow concept (Buzan) which primarily focus was the security of state connected mainly with military power. Security can be defined as the absence of threat, Stephen Walt defined security studies as „the study of the threat, use, and control of military force".[311] However, with the end of Cold war passive military conflict, new, non-military Aspects of security started to be recognized. In the 70s and 80s, the topics of economic and environmental security gained importance and paved

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[310] WALTZ, Kenneth Neal. Theory of international politics / Kenneth N. Waltz. 2010. ISBN 9781577666707.

[311] BUZAN, Barry, Ole WÆVER a Jaap de WILDE. Security: a new framework for analysis. Boulder, Colo.: Lynne Rienner Pub., 1998. ISBN 9781555876036, p. 3.

the way for a broadened concept of security as presented by Barry Buzan. This concept will be sued to analyze the evolution of the FDI policy framework.

Consequently, as the topic of Foreign direct investments will be elaborated, the field of international political economy will be used to analyze economic behavior of the states‘. International political economy can be characterized as a method of analysis of economic and political phenomena in international arena, and their mutual relations.[312]

Robert Gilpin adopts the realist philosophical position in analyzing the economic and political relations. He argues that even though process of globalization largely influences the international economic environment, the national policies and domestic economies are the principal determinants of economic affairs. States‘ mission is to safeguard the political and economic independence.[313] To achieve and maintain economic independence and growth, state must ensure a lead – a competitiveness of their national economy.[314] The new economic theories increasingly stress the importance of technological innovation in the economic development.[315] Foreign direct investment are often considered as a transmitter of know-how and technological innovation across economies. The importance of FDIs for the global political environment is in the international political economy largely linked to the activities of MNCs (multinational companies) as new actors in the political arena. Gilpin summarizes that over the last decades, biggest FDI flows were from developed countries to developed countries.

Gilpin further elaborates that state can create policies to discourage or attract FDIs and therefore influence behavior of MNCs. However, much of the theory of economists elaborate rather on the internal economic factors which influence the behaviors of MNCs themselves, than the external factors such as the political environment. Moreover, it is argued that MNCs have the power to influence the environment to change and consequently undermine the position of state as the decisive factor constituting the environment.[316]

In my thesis, I would like to elaborate more on the theories of MNCs and FDI and how their changing nature can influence the changes in the FDI policy in the host countries.

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[312] KRPEC, Oldřich a Vladan HODULÁK. Politická ekonomie mezinárodních vztahů. Brno: Masarykova univerzita, Mezinárodní politologický ústav, 2011. ISBN 978-80-210-5481-3, p. 20.
[313] GILPIN, Robert. Global political economy: understanding the international economic order / Robert Gilpin with the assitance of Jean M. Gilpin. 2001. ISBN 069108677X, p. 5 - 19.
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[315] GILPIN, Robert. Global political economy: understanding the international economic order / Robert Gilpin with the assitance of Jean M. Gilpin. 2001. ISBN 069108677X, p. 105 – 110.
[316] GILPIN, Robert. Global political economy: understanding the international economic order / Robert Gilpin with the assitance of Jean M. Gilpin. 2001. ISBN 069108677X, p. 280 – 291.

In the second chapter, I would like to briefly discuss the IFDI in the EU. Based on the discussion of related literature I would like to summarize the specifics of this trend, with the emphasis on Chinese and Russian investment behavior and their development.

In the third chapter I will analyze the changes in EU FDI policy during 1999-2019 regarding FDI trends in the EU described in the second chapter and to theoretical concepts elaborated in the first chapter.

Methodology

In the thesis, a qualitative research method will be used to analyze the EU FDI policy development. Firstly, to analyze the FDI policies of EU, specifically as Germany and France are the biggest receivers of these investments, I will focus on their approach to FDI policy in the analyzed period. Moreover, Germany and France are arguably most influential actors in formulating a common EU policy.

Then based on literature discussion (IPE) on the trend of emerging countries' OFDI, the specifics of this new trend will be analyzed.

The research question is "Why the European FDI policies have changed during 1999-2019?"

Hypothesis 1:

It is possible to identify strengthening of the concept of security and more restrictive approach in the FDI policies of EU member states during 1999-2019.

Hypothesis 2:

The qualitative change in FDI policies was caused by the influx of FDI from emerging countries.

As for the data, I will use primary data on foreign direct investments from OECD, Eurostat, as well as MOFCOM statistics. Concerning the data on policy changes I will start with the UNCTAD Investment Monitor Reports. I will also use secondary sources, such as OECD and UNCTAD reports, relevant academic literature as well as journal articles discussing the debate and implementation of the new mechanisms in FDI policies.

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