

German Ministry Intends to Tighten Foreign Direct Investment Control

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On 29 November 2019, the German Federal Minister for Economic Affairs Peter Altmaier presented the final version of his "[Industrial Strategy 2030](#)". In the strategy, the Ministry announces a practically relevant **amendment to the Foreign Trade and Payments Ordinance (FTPO)**. At the press conference on the strategy, Mr Altmaier indicated that manufacturers of "**critical technologies**" may also be included in the list of particularly security-relevant companies. The background to this development is the concern about the sale of high technology to China and other countries classified as critical.

In the last two years, the German government has already adopted a stricter approach to foreign direct investment (FDI) control: in the sector-specific review, dealing with investments into defence companies, the threshold for FDI screening was lowered to the acquisition of 10% of the voting rights. At the same time, the cross-sectoral review now provides for a reporting obligation for the acquisition of "**particularly security-relevant**" companies. Here, a threshold of 10% of the voting rights applies, too. The companies which the Federal Ministry for Economic Affairs and Energy regards as "particularly security-relevant" have since been listed in section 55 paragraph 1 sentence 2 FTPO. Up to now, the "particularly security-relevant" companies include the operators of critical infrastructures and, since the last amendment to the FTPO in December 2018, certain companies in the media industry. Prospectively, this list may now be extended to include manufacturers of critical technologies - for example in the fields of **artificial intelligence, robotics, semiconductors, biotechnology and quantum technology**.

Concerns about the "sell-out" of high technology to non-European investors can also be observed in other European countries. However, Germany as an export orientated market economy depends on open markets for goods and investments. We should therefore be asking the question about the right balance between legitimate security concerns and the protectionist isolation of national economies.

BLOMSTEIN will continue to monitor and report on the developments. If you have questions about the potential impact on your company or sector, [Roland M. Stein](#) and [Leonard von Rummel](#) are more than happy to provide assistance.