

Private M&A transactions: update on foreign investments

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Extension of 10% threshold for listed companies until end of 2021

Photonis/Teledyne

Carrefour/Couche-Tard

Comment

In the context of the worldwide economic crisis due to the COVID-19 pandemic, France has reinforced its protection of French companies from foreign investments by extending existing measures and slowing down or vetoing negotiations if deemed necessary.

Extension of 10% threshold for listed companies until end of 2021

On 28 December 2020 a decree extended until 31 December 2021 (instead of 30 December 2020) the decreased threshold of 10% applying to shareholdings' acquisitions of listed companies made by non-EU and non-EEA investors in French sensitive sectors (for further details please see "[Private M&A transactions: tightening state control over foreign investment due to COVID-19 pandemic](#)").

Photonis/Teledyne

In mid-December 2020 the government vetoed a foreign investment project for the first time by rejecting the takeover of Photonis by US company Teledyne. Photonis is a French company specialised in, among other things, the manufacturing of night vision products used in the aeronautics and defence sectors. Photonis also uses advanced technology in the nuclear sector. The government's decision aims to protect France's strategic interests in the domain of defence. The government is hoping for alternate solutions which could come from French or European financial investors or industrials.

Carrefour/Couche-Tard

In the context of the COVID-19 pandemic, the food distribution sector has demonstrated its importance and since 1 April 2020, the distribution of agricultural products has been part of the French sensitive sectors with respect to which the authorisation of the minister of economy is required in the case of foreign investment. The takeover discussions between Canadian convenience store chain Couche-Tard and French supermarket group Carrefour suddenly collapsed after the minister of economy stated that he was not in favour of such transaction in the name of French food sovereignty and that he was concerned by the potential impact on employment and the French food industry.

Comment

The abovementioned cases show the government's impartiality when it comes to protecting France's sensitive sectors regardless of the country from which the foreign investor comes and the relationship that France has with such country. Simultaneously, the minister of economy has set precedents that might be used against French companies when they intend to invest abroad in a context where French companies have been recently active in foreign large-scale transactions (eg, LVMH's takeover of Tiffany and Alstom's takeover of Bombardier Transportation). Defining the right balance for the control of foreign investments in France is becoming increasingly more challenging.

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