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2010

Online at https://mpra.ub.uni-muenchen.de/33036/
MPRA Paper No. 33036, posted 29 Aug 2011 12:45 UTC

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Judith Clifton and Daniel Díaz-Fuentes

INTRODUCTION

The European Union (EU) boasts one of the world's most liberal foreign direct investment (FDI) regimes (OECD 2007). EU member States are hosts to MNEs in most sectors, from virtually every corner of the globe, and many of the new FDI players from emerging markets opt for the EU as host. In the context of increased FDI flows from 2004, peaking at an historic US$1.9 billion in 2007, the EU - like most countries - was rightly criticized for increasing the implementation of restrictive policies and practices with an aim to limit inward FDI (IFDI) as and when governments thought barriers necessary or desirable (UNCTAD 2008). The EU has been criticized by various business executives from emerging markets for raising protectionist barriers to their firms, including Gazprom (Traynor 2007) and Mittal (as chronicled by Bouquet 2008). The financial crisis and economic recession triggered by the collapse of the sub-prime

* The first version of this chapter was presented at the "Five Diamond International Conference Cycle "Thinking Outward: Global Players from Emerging Markets," Columbia University of Columbia, New York, April 28-29, 2008. The authors would like to thank Karl P. Sauvant, the other organizers, and Andrea Goldstein.

market in the United States (U.S.) since 2007, changed the international context for FDI policy significantly. UNCTAD (2009) estimated that IFDI and cross-border mergers and acquisitions (M&As) to the EU will decline by around one-third in 2008: this represents the largest decline in any part of the world. Even larger declines are predicted for 2009. Governments in the EU are divided over needing short-term capital investment to guarantee jobs and economic growth, and the requirement that they satisfy medium- to long-term political and economic concerns, which fuelled the rise of FDI restrictions in the first place. These concerns could escalate if the temptation toward protectionism is not firmly resisted.

In order to understand the dynamics of the international investment climate in the EU, particularly from the perspective of emerging markets, three levels of analysis are required. First, individual member States' behavior must be examined, since it lies with national governments to establish FDI policy, satisfy political economy demands and protect welfare at the national level. Second, European authorities, principally the European Commission, require analysis as the main institution responsible for forging the Single European Market and ensuring the "four freedoms," meaning movement of goods, services, capital, and people. Third, the changing international context must be analyzed, in particular, the ways in which FDI from emerging markets has challenged the *status quo* of the traditional investment climate, as well as the unfolding financial crisis and economic recession. In this light, this chapter argues that the EU remains one of the most open locations for investment in international comparative terms. As elsewhere, this openness is far from complete, and multiple barriers to investment continue to exist. Much of the controversy around FDI in European circles, in the recent period, has crystallized around the notion of IFDI as a potential threat to "strategic

industries." Since the 1990s in particular, the EU has been engaged in an advanced process of market integration, which involves the liberalization, deregulation and privatization of many former publicly-owned monopolies in sectors such as energy, communications, transportation, water and sanitation, and multiple social services, as well as banking and financial services. It is these reforms which, implemented in many countries around the world, have generated a huge increase in FDI flows to these service industries (UNCTAD 2004). In addition, though there was massive privatization and liberalization of industrial sectors from the 1980s, some governments retained partial control over "national champions," enterprises that were historically associated with the nation and also regarded as "strategic." As integration advances, pressure from the Commission increases to liberalize these national "crown jewels." However, there is suspicion at the national level that open FDI regimes may mean foreign takeovers of these "strategic" national assets, many of which were used for decades to satisfy political economy and welfare demands. In this regard, there is legal grey area between the Commission, responsible for liberalizing markets, and national governments, responsible, in the last resort, for defining and guaranteeing national security. The coming of age of emerging market MNEs (Goldstein 2007) coincides with these internal tensions. There have been several highly publicized cases in which potential M&As, originating in emerging markets, have been blocked in the EU, some of which are discussed in this chapter. However, there have also been multiple cases where potential M&As by other EU member States were blocked, so IFDI restrictions are, by no means, applicable only to non-EU investors.

With the aim of evaluating how ready the EU is for FDI from emerging markets in a fast-changing environment, the remainder of this chapter is organized as follows. First,

the EU IFDI regime is put in international context, to demonstrate that it is still one of the most open regimes in the world, though its openness is uneven, since certain member States offer greater protection for IFDI into particular sectors than into others. Second, the evolution of recent policy reform that directly or indirectly impinges on IFDI is analyzed, and the role of the Commission, as "neutralizer" of potential or real restrictive attitudes toward IFDI at the national level, is considered. Thirdly, a number of recent cases studies on frustrated M&As are discussed, with a view to understanding what is at issue in the protection of "strategic" industries in the EU. The conclusions follow.

17.1 THE CHANGING EU FDI REGIME IN THE INTERNATIONAL CONTEXT

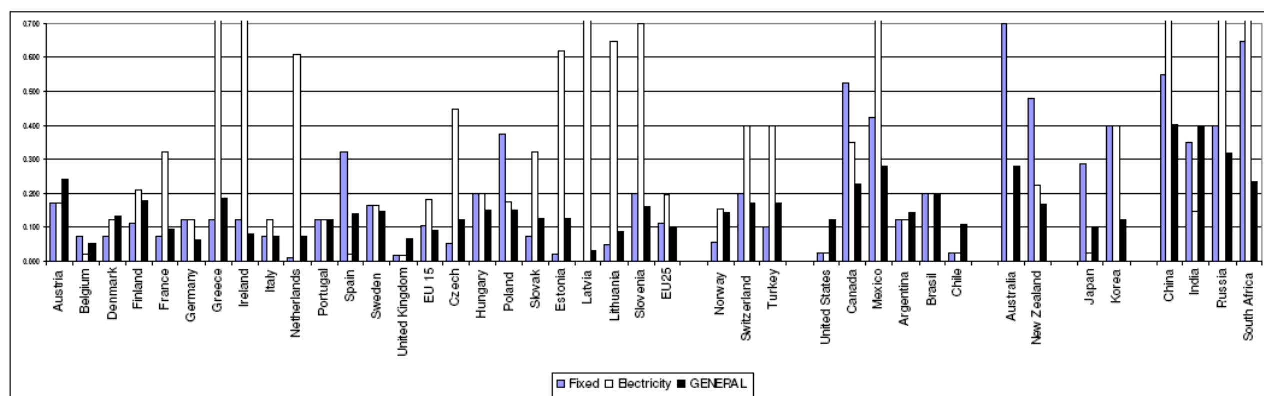
When comparing the openness of the EU FDI regime at the international level using OECD (2007) methodology, it is apparent that the EU can be classified, on average, as being one of the most open regimes in the world, comparable to the U.S., and more open than Australia, Canada, Mexico, and New Zealand (Figure 17.1). The EU is also much more open than most emerging markets: of the BRICs countries (Brazil, Russia, India, China), Brazil is the most open, which helps to explain why OFDI from the EU is largely concentrated there. That said, openness is uneven, since there are important differences in the extent to which individual member States protect diverse sectors. Generally speaking, the most open regimes are the United Kingdom (UK), Ireland, the Netherlands, Germany, Belgium, and Italy, while Finland and Spain pose the greatest

restrictions. As regards sectoral openness, manufacturing is generally much more open than utilities and services in the EU (OECD 2007, 140).

Most of the tension in the EU over IFDI revolves around a concern to protect "strategic" industries, which are defined differently at the national level (Schulz 2008). While, traditionally, much concern was focused on military-related sectors, of late, increased attention is being placed on infrastructure, such as energy, communications, transportation, and water, as well as on financial and banking sectors. Though the EU is as open as the U.S., in general, both its electricity and telecommunications sectors are more protected than their U.S. counterparts. It has to be remembered that, historically, these sectors, along with other network industries, were organized as state-owned monopolies for most of the twentieth century, managed according to particular social welfare principles and heavily unionized. Even at the beginning of the twenty-first century, they are still broadly perceived as being "public services," associated with the welfare state requiring special regulation. Beyond this, the telecommunication industry is, however, much more open to IFDI than the electricity industry. Explanations can be found in geopolitics or political economy. In particular, the smaller EU member States located close to Russia's borders have put in place the greatest restrictions on IFDI in electricity. These countries are concerned about the foreign takeover of their energy industries, a concern exacerbated by their small size or their Russian neighbor (Klinova 2007). France, however, also maintains above average protection of its electricity industry, which has a political economy explanation. The most liberal electricity regimes are found in Belgium and Spain (which has historically had regionally-based companies, with limited competition, and significant private sector involvement) and the U.K. (which implemented market-oriented reforms early on). In contrast, the

telecommunication sector in the EU, which is often described as a "strategic" sector in many countries, is on average as open to IFDI as any other industry sector in the EU.[1]

Figure 17.1 FDI "openness" in general, fixed telephony and electricity, 1998-2000



Source: Data on openness to FDI by sector is measured according to the methodology provided in Golub (2003) and Koyama et al. (2006). The FDI Regulatory Restrictiveness Index represents as "0" full openness and "1" a prohibition of FDI. "Restrictiveness" is calculated at the industry level and then a weighted OECD average is obtained using the weights, based on the sectoral composition of overall FDI and trade flows of OECD countries.

In terms of the direction of recent IFDI flows into EU member States, almost two thirds were intra-EU flows, though in some countries, such as France, Germany, Spain, Poland, Luxembourg, Hungary, and the Czech Republic, this ratio was even higher (Table 17.1). IFDI from emerging markets has grown rapidly in recent years, even if it remains marginal in volume terms. The BRIC countries account for the larger part of these IFDI flows, which represented 0.7% of total IFDI into the EU. Brazil and Russia

[1] However, there are above-average levels of protectionism in Austria, Hungary, Poland, and Spain. In the case of Spain, the telecommunication sector was organized as a private monopoly, and its main players treated as "national champions."

each account for 0.3%. While Russian inflows have been mainly directed toward Austria, Poland and Germany, Brazilian inflows have focused on Hungary.[2]

Table 17.1

Foreign Direct Investment inflows main EU receptors by country and group of countires (million EUR 2004-2006 average for the EU 27 and perentages)

	European Union 27	*United Kingdom*	*Ireland*	*Germany*	*Netherland*	*France*	*Sweden*	*Luxembourg*	*Spain*	*Poland*	*Austria*	*Hungary*	*Czech Rep.*	*Italy*
Million EUR	**311,142**	**55,357**	**32,074**	**30,704**	**23,210**	**17,065**	**14,097**	**11,613**	**10,711**	**8,500**	**6,044**	**5,759**	**5,547**	**4,842**
(percentage by country or group)														
Intra EU 27	*65.2*	*43.9*	*51.4*	*74.7*	*55.6*	*81.6*	*58.3*	*89.1*	*85.5*	*85.5*	*59.8*	*79.4*	*94.8*	*68.1*
Extra EU 27	*34.8*	*56.1*	*48.6*	*25.3*	*44.4*	*18.4*	*41.7*	*10.9*	*14.5*	*14.5*	*40.2*	*20.6*	*5.2*	*31.9*
Offshore financial centers	*4.9*	*3.6*	*17.8*	*2.7*	*8.8*	*3.2*	*0.7*	*2.4*	*1.6*	*2.5*	*1.1*	*-0.7*	*0.5*	*1.5*
US	*19.1*	*37.6*	*22.0*	*10.0*	*18.7*	*5.7*	*11.7*	*-6.3*	*7.8*	*8.9*	*16.2*	*5.9*	*4.1*	*12.0*
Japan	*1.2*	*3.2*	*-0.3*	*1.3*	*1.5*	*2.7*	*0.0*	*1.7*	*0.0*	*0.1*	*0.2*	*0.3*	*-1.6*	*1.7*
BRICS	*0.7*	*0.2*	*0.0*	*0.8*	*0.1*	*0.1*	*0.0*	*0.6*	*0.0*	*0.8*	*4.3*	*2.2*	*0.1*	*0.1*
Brazil	*0.3*	*0.0*	*0.0*	*0.0*	*0.1*	*0.0*	*0.0*	*0.2*	*0.0*	*0.0*	*0.1*	*2.1*	*0.0*	*0.1*
Russia	*0.3*	*0.0*	*0.0*	*0.6*	*0.0*	*0.1*	*0.0*	*0.2*	*0.0*	*0.7*	*1.0*	*0.1*	*0.1*	*0.0*

Source: Elaborated by authors based on UNCTAD (2008).

As regards the M&A track record, the EU regime is also relatively open when compared internationally. The entry of MNEs from emerging markets into both northern and southern markets has increasingly attracted the attention of scholars.[3] In recent years, dozens of MNEs from emerging markets have entered the EU, including Tata, Mittal, Nanjing, Marcopolo, Cemex, Weg, Orascom, Lukoil, Gazprom, PEMEX, Hyundai, Sungwoo, Samsung, Sabó, Sonatrach, Orascom, and Grupo Bimbo, to mention only a few, sometimes taking over flagship European firms (See, for example, Antkiewicz and Whalley 2006; *El País* 2007; Lapper and Wheatley 2008.) Of course, a considerable number of the attempts by MNEs from emerging markets to enter the European energy and telecommunications infrastructure have been frustrated, such as recent failures experienced by Russia's Gazprom and Mexico's Grupo Carso. However, just as

[2] This is largely due to the investment of Sabó, a car component manufacturer, founded by a Hungarian immigrant in the 1950s, and a global supplier to Volkswagen.

[3] See, for instance: Amsden 2001; International Finance Corporation 2006; Goldstein 2007; Lall 1983; Ramamurti and Singh 2008; Sauvant 2008; and United Nations Conference on Trade and Development 2006.

emerging market MNEs have been frustrated, so have many MNEs based within the EU. To illustrate this briefly: Catalan's Gas Natural and German's E.On energy firms were frustrated in their attempts to take over Spanish Endesa; in 2006, Spanish Abertis was blocked when it tried to merge with Italian Autostrade, even though the Commission later ruled that Italy had violated EU law. While it is possible to catalogue a list of M&A failures and success stories, it is difficult to draw clear and definitive conclusions about how ready the EU is for emerging market MNEs, since patterns of declared and revealed preferences are not always coherent (Goldstein 2006). One way to evaluate better the current climate for IFDI in the EU, especially from emerging markets, is to follow the evolution of policy – which, directly or indirectly, affects the FDI regime of the EU and its member States. We do this in the next section.

17.2 FDI POLICY IN THE EU: RECENT DEVELOPMENTS

Because of its "multilevel" governance structure, the EU offers an interesting arena for the analysis of FDI policy. With different remits and objectives, policy developments in the Commission, and at the national level, do not necessarily move in the same direction. The EU's liberal FDI regime, both with regard to other EU States and third parties, can be traced back to the Treaty of Rome (1957), in which the "four freedoms" were outlined: free circulation of goods, services people, and capital, as well as the right of establishment. However, implementation of the four freedoms, in the first decades of the EU, was irregular and uneven. Though the main beneficiaries in these processes were member States, increased liberalization at the international level occurred as a "spill-over effect": as non-member State capital entered the EU, it became increasingly

difficult to discriminate against these capital flows. The Commission is, therefore, legally responsible for overseeing member States´ application of Treaty law with regards to the free movement of capital.[4] The freedom of capital movement also applies to third countries, though Articles 57, 59 and 60 of the Treaty allow for specific exceptions, sanctions and safeguard measures. The Commission also establishes and supervises European law regarding cartels, anti-trust, mergers, state aid, and takeovers. All of these rules must be implemented by national governments, and failure to do so can result in infringement cases brought against individual governments.[5] One of the Treaty of Lisbon's aims is to increase the Commission's competence in investment policy, and this development is still ongoing.

In contrast, the FDI regime of each Member State is decided at the national level and is usually implemented via bilateral agreements. It addition, it falls to individual governments to protect citizens by guaranteeing national security and welfare. This "multi-layered" governance can generate tensions. To illustrate this, it is, for instance, the national government that defines those industries deemed to be of "strategic" importance, as well as the degree of protection from IFDI that those industries would enjoy. The Commission, on the other hand, has to ensure liberalized markets, unless this would threaten national security. In practice, this is a grey area in legal and political terms. There are many recent examples that illustrate this point. Perhaps most dramatically, the terrorist attacks that have occurred since September 11, 2001, have

[4] As a general rule, and according to the principles of subsidiarity and proportionality, policy should be, by "default", conducted at the national level, with European-level policy only occurring when the EU enjoys legal competence to act, and where subsidiarity and proportionality are respected.

[5] An ongoing list of infringement cases is available at:
http://ec.europa.eu/internal_market/capital/analysis/index_en.htm

had infrastructure as their central target, and have often used infrastructure services to orchestrate attacks.[6] Debate has been renewed on how “critical infrastructure” can be protected, including aspects of its ownership and regulation. For many Europeans, the cold month of January 2009 was accompanied by the threat or actual lack of gas, the result of a stand-off between Russia and Ukraine, discussed in the third section. Certainly, if there is a blackout, an energy or water failure, or paralysis of the urban transportation system, European citizens hold their national government accountable, regardless of who owns and runs the network (Clifton et al. 2007; Costas 2007). The same perception characterizes the current financial crisis: national governments are held accountable by their citizens. There is some evidence that this belief in national accountability is getting stronger: according to special *Eurobarometer* surveys regarding energy issues, in 2006, 57% of Europeans stated that energy challenges should be managed at the local or national level, and not at the European level, up from 45% in 2005 (European Commission 2006). Unsurprisingly, this change was particularly strong in countries near the Russian border (Estonia, Latvia), near Ukraine (Romania, Hungary), as well as in smaller countries, such as Austria, Cyprus, Greece, and Ireland.

Another reason for the tensions between member States and the Commission is the need for the former to satisfy political economy interests. A number have opted to protect business in certain industries, using “national champion” policies. In particular, former monopoly incumbents in energy, water and communications have enjoyed a temporary

[6] Mobile telephony has been used to organize the logistics of the attacks as well as to time bomb explosions; public infrastructure (trains, metros, buses, and airplanes) have been specifically targeted for explosions; commercial airplanes were used as weapons of mass destruction and the postal system was used for sending dangerous substances.

"respite" from European liberalization directives, by delaying opening up at home while aggressively pursuing expansion opportunities abroad. For instance, with virtual monopoly privileges at home, the Spanish MNE Telefonica expanded early into the Latin American telecommunications markets, which were privatized from the early 1990s onwards, following the region's debt crisis. EDF, Telecom Italia, Deutsche Telekom, and Suez are just some of the enterprises who have used "asymmetrical" behavior to emerge as MNE world-players (Clifton and Díaz-Fuentes 2008).

17.2.1 Recent Trends in Policies and Practices Affecting FDI

Since the current financial crisis spread to most other areas of economic life there have been many threats and declarations by governments and trade unions from various EU countries over the need to purchase nationally-produced goods. In the U.K., strikes have taken place to protest firms' hiring of non-national (Italian) workers. Protectionism, it would seem, could spiral out of control if left unchecked. At the same time, most of these threats have been countered by reminders as to the cause of the Great Depression and the futility of isolation. Declared and revealed preferences are often contradictory, however. This section focuses on the way in which the EU, following global patterns, has implemented an increased number of policies and practices that have negatively affected IFDI in the past few years.

The most common, formal instruments to restrict FDI are ownership restrictions, obligatory screening and approval procedures and other formal restrictions, such as rules on the composition of the board, restrictions on the employment of foreign nationals and so on. All of these instruments have been used by one EU member State

or another in recent years. There are, of course, numerous other policies that do not necessarily focus directly on IFDI, but work in other ways to restrict it. These mechanisms may be more subtle, such as the existence of complex regulatory frameworks or systems of corporate control. In addition, informal practices, such as the publication of opinions by policy-makers or members of the business community in order to steer an "unfriendly" investment climate, are also likely to affect the climate for IFDI. An evaluation of the importance of these formal and informal instruments on FDI must be made carefully. Just as the World Trade Organization (WTO) prefers "transparent" tariffs to other forms of protectionism, since they are easier to quantify and, therefore, compare, formal instruments relating to FDI, such as laws, regulations and screening mechanisms, are easier to quantify than their informal counterparts. However, even though an analysis of formal FDI rules provides a useful - if impressionistic - picture of an economy's position vis-à-vis IFDI, of greater importance is the *use made* of the FDI framework. For instance, there have been some important cases of restricting FDI in EU member States using *existing* FDI regulations. To complicate matters further, it is not always easy to know the facts about why one deal is blocked and another accepted, and the real role of IFDI restrictions in the process. With these caveats in mind, this section analyzes policy responses, first by member States and then by the Commission. Two main areas are covered: the policy responses based on concerns about security, however defined, and EU member States' responses to the rise of SWFs.

At the individual member State level, Germany has perhaps gone furthest in the introduction of new policies that restrict IFDI. In September 2008, the German Cabinet approved a new bill that will allow prospective IFDI, involving 25% or more of a

company's stake by non-European firms, to be screened for approval. According to German officials, one of the triggers for this reform was in 2003, when a U.S. private equity investment firm acquired a German submarine manufacturer (Government Accountability Office 2008, 61). Alarm was raised about the lack of legal clarity in the protection of German military and strategic interests and, the following year, section seven of the German Foreign Trade and Payments Act was enacted, which established limits to the free movement of capital into Germany on the grounds of "security." IFDI would be subject to review if it involved acquisition of a domestic company producing or developing weapons or other military equipment. German Chancellor Angela Merkel claimed that Germany needed a "light CFIUS" (Benoit 2008) and, while the German government has downplayed the importance of this new bill, many local businesses have expressed concern over the negative signals that this may send to international markets. The stated concern behind this bill was the need to clarify German law in order to ensure "strategic" industries were protected, and officials stress that Germany is only adapting its policy framework to the U.S. or U.K. model. As shown in Table 17.1, Germany is relatively more exposed to Russian IFDI than most other EU member States, which could partly explain their concerns. In addition, as seen in Figure 17.1, Germany has been more open to IFDI in the electricity and telecommunication industries than are EU member States on average. This confirms the understanding that the new bill could be interpreted as a move away from relative openness toward the EU average, though it remains to be seen how the Commission will respond. This is already the second version of the bill, the first version was rejected by the Commission (Walker 2008).[7]

[7] Also in September 2008, the Commission handed the German government a "final warning" on the so-called "VW law," which was found in 2007 to violate EU rules on the free flow of capital. This law

France has also attracted much attention for its recent IFDI reforms. Facing the prospect of a hostile takeover of Danone, a food company, then Prime Minister Dominique de Villepin celebrated "*patriotisme économique*" (*Le Monde* 2005). In 2005, the French government compiled a list of "strategic" and "sensitive" industries in which foreign investors would be subject to government screening (UNCTAD 2006; OECD 2007).[8] The Decree (2005-1739) was criticized by the Commission, which stated that it did not respect the principle of "proportionality," was unnecessarily unfavorable to IFDI, included "casinos" (which were already protected by another French law), and discriminated between EU and non-EU investors, since potential investors from non-EU countries would be required to provide more data to the review process board. In the face of criticism, the French Government appealed to the principle of subsidiarity, and claimed that it has the ultimate duty to defend the "national interest," as well as the legal responsibility to define what constitutes a "strategic" industry. The Commission formally requested France to modify the Decree in October 2006, and discussions were still ongoing throughout 2008. At the same time, in French policy circles, concerns have grown over the security of the country's energy infrastructure and supply. Since winning the presidential elections in 2007, President Sarkozy has publicly declared his preference for an active industrial policy approach. In June 2007, inspired by

prevents the car company from being taken over as the Lower Saxony state government owns 20% of Volkswagen (Schäfer 2008).

[8] The Decree protects: gambling and casinos, private security, research and development in substances of potential interest to terrorists, equipment designed to intercept communication, testing of information technology systems, products for information systems security, cryptology equipment, activities carried out by firms entrusted with defence secrets, research or production of arms or war materials, and activities carried out by firms for the design or supply of equipment for the Ministry of Defence.

developments in Germany, the French Parliament produced a report suggesting that the energy sector should be added to the list of protected industries. This debate has been “uploaded” to the European level, as we shall see later in this section. Finally, with the onset of recession in 2008 and, in response to a concern that distressed assets in the EU could be bought up cheaply by foreigners, Sarkozy proposed the creation of a European SWF, in order to protect Europe’s “strategic” industries, though nothing has come of this initiative to date. Appealing to populist sentiment, Sarkozy was quoted as saying “I don’t want European citizens to wake up in several months time and find that European companies belong to non-European capital, which bought at the share prices’ lowest point” (*International Herald Tribune* 2008).

There are several other developments at the national level. Hungary has earned the disapproval of the Commission, which issued a formal letter of concern to its Government over its new company law on FDI, passed in 2007. The Commission perceives this law as incompatible with European law. While Hungarian authorities claim this law aims to secure the public supply of services such as energy and water, the Commission argues that it has two main and undesirable effects: firstly, the Hungarian government will have the right to place politicians on the boards of energy firms; and secondly, that it will slow down and publicize potential M&As, which could eliminate the element of surprise, thus increasing prices, and opening up further opportunities to block operations (European Commission 2007).[9] In 2006, Hungary was also asked by the Commission to modify its privatization law, which, the Commission claimed,

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[9] Ongoing developments in the completion of the Single Market are found at: http://ec.europa.eu/internal_market/capital/analysis/index_en.htm.

confers golden shares to firms in industries including food, pharmaceuticals, financial services, telecommunications, energy, and defense.

The retention of "golden shares" in privatized industries has been an area in which the EU has been active vis-à-vis national governments. Infringement procedures have been initiated with regards to various countries, but firms, and the Commission, state that special rights are still conferred on privileged investors, preventing capital from flowing freely. In January 2008, the Commission referred Portugal to the European Court of Justice over its alleged special rights in Portugal Telecom (European Commission 2008a) and Energias de Portugal (European Commission 2008b), while in July 2008, the European Court of Justice found the requirement that potential acquisitions of Spanish energy firms had to be approved by the National Energy Commission to violate Community law (European Commission 2008c).

Member States' behavior has thus been subject to review by the Commission in the areas in which it has competence. In general, the Commission functions as the "liberalizing machine," correcting national economic policies if they violate the free movement of capital. Two important developments, however, have emerged at the supranational level which concern – directly or indirectly – IFDI flows: energy policy and responses to SWFs.

European energy policy can be traced back to the Treaty of Rome (1957), particularly with regard to the European Coal and Steel Community Treaty and the Euratom Treaty on civil use of nuclear energy. However, until the 1990s, little was done to forge an internal market in energy and other infrastructure, and providers were usually organized

as national or local state-owned monopolies. From the late 1990s onwards, market-oriented reforms began, particularly in telecommunications, electricity and gas. Though belated, these reforms caused great expectations and, between 1993 and 2000, the world-wide race for FDI was dominated by investment in telecommunications and energy utilities. Nearly two-thirds of world FDI during this period took place within the EU, and the utilities industries were responsible for nearly three-quarters of privatization proceeds (Clifton et al. 2003). As world FDI flows dropped by approximately half between 2000 and 2003, in the EU, delays dogged the implementation of European liberalization directives on electricity and gas, while the reforms already implemented did not always deliver what had been promised, in terms of competition, price reductions and market power. A second round of reforms was launched in 2003 (European Directives on Electricity 2003/54/EC and Gas 2003/55/EC) with the stated aims of providing more competition (highest priority), improving service quality and universal services and ensuring the security of supply. Despite the rhetoric, the main focus of the Commission was economically-driven: market competition was sought above all, at the expense of the other two objectives. One year later, the Commission found that eighteen member States had not implemented the new directives adequately. In 2005, the Commission took Estonia, Greece, Ireland, Luxembourg, and Spain to court for failing to adapt national laws to the directives. The following year, the Commission took action against seventeen countries for failing to implement legislation. After several years of attempted reform, the largest generator in the electricity market in EU member States often enjoys huge market shares. Stephen Thomas (2003) predicted that these liberalization reforms would lead to monopolistic competition between the "seven brothers," though there were arguably only five or six by 2009. While some member States liberalized quite deeply (U.K., Spain, Belgium),

other member States were much more reluctant. Some electricity firms aggressively exploited opportunities presented by liberalization programs abroad, while they enjoyed restricted or delayed liberalization at home (Table 17.2). Smaller economies, particularly those bordering Russia, avoided M&As in their electricity markets based on "security" concerns. Many governments and their firms were simply flouting European legislation in terms of unbundling and liberalization. In 2006, a further Directive (2005/89/EC) was passed concerning measures to safeguard the security of the electricity supply and infrastructure investment.

In 2007, the new energy policy was launched by the EU, which includes issues beyond purely economically-driven concerns, such as increased attention to the promotion of new or diverse energy sources, climate change and the coordination of energy "security of supply." Security of supply is understood as an emphasis on diversity of energy types and sources, dialogue and agreements with trading partners, and preparation for an energy crisis (European Council 2006). In the face of maverick firms and member States delaying or refusing to unbundle, the Commission has relaxed its policy stance somewhat, opting for "competition for the market" rather than "competition in the market". Some European politicians claim that Russia's decision to cut off energy supplies to Ukraine, in 2006, triggered this shift in European energy policy. One development is that the Commission is seeking to impose a "reciprocity" clause (sometimes called the "Gazprom clause") so that companies buying EU energy transmission assets would have to abide by similar rules to those of the EU as regards liberalizing markets. A further clause stipulates that "third-country individuals and countries cannot acquire control over a Community transmission system or transmission system operator, unless this is permitted by an agreement between the EU and the third

country." The clause, once adopted as law, would remove national competence in the area and require that any bilateral energy agreements with third countries are dealt with exclusively at the Community level. The current Energy Commissioner, Andris Piebalgs, justified the reciprocity clause on the grounds that it would give third-country suppliers "clear rules" for investment in the European market (Euractiv 2007; Wolf 2007). Discussions are ongoing and the Council adopted the development as part of the internal energy market package in February 2009.

Table 17.2 Market share of the largest generator in the electricity market of each country, 1999-2001, 2004-2006

Country	1999-2001	2004-2006	Change
United Kingdom	21.5	20.9	-0.6
Finland	24.1	24.0	-0.1
Germany	30.4	28.4	-2.0
Spain	46.0	34.0	-12.0
Italy	54.3	38.9	-15.4
Sweden	50.3	46.3	-4.0
Ireland	96.9	68.4	-28.5
Portugal	59.3	54.5	-4.8
Denmark	37.3	41.0	3.7
Belgium	92.0	85.9	-6.1
France	91.3	89.3	-2.0
Greece	97.7	96.2	-1.5
Poland	20.0	18.1	-1.9
Hungary	39.9	38.6	-1.3
Slovenia	50.7	51.5	0.8
Lithuania	74.5	72.9	-1.6
Slovakia	84.4	79.1	-5.3
Czech Republic	70.0	72.9	2.9
Estonia	91.3	92.0	0.7
Latvia	95.8	92.9	-2.9

Source: Elaborated by authors based on EUROSTAT (2008).

The second area where significant developments have occurred is with regards to SWFs. Already controversial before the current financial crisis and recession, falling

asset values in the EU have made this topic even more contentious. The main thrust of the development has been to work on guidelines for both the recipient country and the agent behind the fund in order to increase the transparency and predictability of this type of investment. Here, the ongoing work of the OECD (2009) has been helpful for EU policy-makers in drawing up key principles and a common EU code was drafted at the end of 2008 (European Commission 2008d).

Thus, the Commission has been active in reversing “golden shares,” rejecting or diluting national government’s lists of “strategic industries” and enforcing the free movement of capital, both within the EU and with regards to third countries. Yet, there remains a grey area between market liberalization, on the one hand, and nationally defined “security interests,” on the other, into which the majority of disputes fall. Moreover, there are delays in the liberalization process of some industries, such as energy, where, for instance, unbundling policies will not be easy to enforce.

17.3 FDI AND EUROPE’S “STRATEGIC” INDUSTRIES

There have been several highly publicized, controversial cases recently, in which attempts by investors to enter EU energy, and other infrastructure markets have failed. This section selects two cases for in-depth analysis with a view to understanding the central issues and informal dynamics around FDI in “strategic” industries. The first case analyzes what is probably the most controversial instance of IFDI from an emerging market: Gazprom, making explicit the concerns over this MNE from an EU perspective. The second case discusses the controversy around the so-called “Endesa saga.” Here,

three levels of protectionism can be seen: firstly, a leading emerging market MNE, América Móvil of the Grupo Carso, was frustrated in its efforts to enter the EU; secondly, protectionism among members of the EU; and thirdly, protectionism at the national level, and between rival political-economic groups.

17.3.1 Gazprom

No other global player from an emerging market has aroused as much controversy in the EU as Gazprom. Though the vast majority of Russian MNEs are privately owned, Gazprom constitutes an important exception. The overriding concern in the EU is that its business may be politically motivated. As Åslund (2006, 1) notes, "the fundamental question is to what extent [Gazprom] represents the state and business interests, respectively," while, according to the OECD (2002, 106), "it can at times be difficult even to identify where the state budget ends and Gazprom's begins." The *Financial Times* (2008) on the other hand harbors no such doubts: "all decisions are taken in the Kremlin. Both psychologically and practically, Gazprom is not a commercial enterprise."

Strong ties have bound Gazprom and the Russian state since 1993, when the company was formed out of the Russian part of the Ministry of Gas Industry, by the last Soviet Minister, Viktor Chernomyrdin (who would become Prime Minister of Russia under Yeltsin in 1992-98). Its governance remained opaque and, in the early 2000s, under pressure from international investors,[10] the new president Vladimir Putin removed

[10] In the mid-1990s, a large minority share of Gazprom was privatized to managers and employees, but

Gazprom management and appointed a duo of trusted advisors. Other sources of power consist of KGB staff from St. Petersburg and old Gazprom hands. For Putin, who took a very active interest in management issues and relied on Gazprom to solidify his broad popular support, this split into three groups resulted in great leeway to balance them (Åslund 2006).

Under Dmitry Medvedev, who was also head of the presidential administration, and CEO Alexei Miller, who had worked with Putin in the mayor's office in St. Petersburg, Gazprom has gained in assertiveness, and completed its ascendancy as Russia's pre-eminent economic institution and a central player in domestic politics.[11] Gazprom – in which the government controls 50.002% of shares through the Russian Federal Agency for Federal Property Management (Rosimushchestvo), Rosneftegaz, and Rosgazifikatsiya – generates 8% of national tax revenue and employs over 430.000 staff (*Economist* 2005). The main objective of the new management has been to boost its

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share sales were restricted. As a result, a considerable price differentiation evolved between domestic, restricted shares, and the few internationally tradable shares. Another consequence was that all Gazprom shares were extremely cheap in relation to the purported asset values. Managers were shifting corporate assets to entities controlled by friends and relatives. In late 2000, journalists at *The Wall Street Journal*, the *Financial Times* and *Business Week* began to write stories about corporate governance problems at Gazprom, based on research by Bill Browder, manager of The Hermitage Fund, a hedge fund focused on Russian investments. Eventually the CEO was fired and corporate reforms were enacted. Since late 2006, Browder has been impeded from entering Russia. Corporate governance problems resurfaced again in connection with the true nature of RosUkrEnergo, the secretive energy trader which dominates gas supplies from Central Asia to Europe. See *Financial Times* (2006).

[11] In the run-up to the 2008 elections, there were rumours that Putin might succeed Medvedev as Gazprom chairperson. As it turned out, Prime Minister Viktor Zubkov took over while Putin became Prime Minister.

stock price, which has increased more than ten-fold in the past three years. Although Gazprom is one of the world's most valuable companies, it also had one of the lowest returns on assets in the energy sector (Ostrovsky 2006).

Initially, the new management focused on recovering assets that had been sold off cheaply to other companies, when not "lost." Another important step was to homogenize its prices of natural gas on the Russian border. While Gazprom's Western European customers paid negotiated market prices (which include large transportation costs in pipelines and substantial taxes), former Soviet republics paid highly differentiated prices.[12] This offensive has led to a number of incidents, including with allies such as Belarus. The struggle between Russia and Ukraine, and to a lesser extent Moldova, during the last week of 2005 and the beginning of 2006, renewed anxieties regarding European gas import dependence.[13] Problems reoccurred in February 2008,

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[12] In Russia's WTO accession negotiations, some WTO members, among them Europe, argued that dual pricing acted as a trade barrier by providing unfair advantages to Russian energy-intensive companies and, therefore, that gas prices should be unified. Spanier (2007) argued that the perceived advantages of unified Russian gas pricing to Russia, as well as Europe, are, in fact, overstated and that EU security of supply might worsen under unified gas prices.

[13] On New Year's Day, following a disagreement concerning subsidized gas prices paid by Ukraine for Russian gas, Gazprom decided to reduce gas supply to this country. The Ukrainian pipeline system, however, is pivotal in supplying gas to the EU and as a consequence, the EU gas supply was affected: from January 1–3, Gazprom's gas supply to France decreased by 25–30%; supply to Austria decreased by 33%; and Italy received approximately 25% less gas than normal. Dependency on Russian supply of natural gas among large EU economies is spread between roughly one-quarter in France (where gas accounts for a relatively small share of the energy mix) and Italy to almost one-half in Germany and more than that in Poland. Across Europe, import dependence is expected to grow from roughly 50% today to more than 80%.

when Gazprom again threatened to reduce gas supplies to Ukraine to force repayment of what it claims is a debt of a US$1.5 billion. Yet again, in the coldest days of the year, in January 2009, Gazprom cut off its gas supply to Ukraine over price disputes, though Gazprom firmly blamed Ukraine for closing down the export pipelines. Despite the claims and counterclaims, thousands of European citizens were denied basic access to gas provision.

The major grievance expressed by the EU (and by the U.S.) is that politics played a major role in these dramas. It is fair to say that Gazprom's strategy of raising prices relatively quickly makes business sense in the current energy market environment. The next key task is to raise the domestic Russian gas price. In fact a partial deregulation of the domestic gas market is also in the interest of the Unified Energy System, which despairs at the shortage of gas in Russia. At present, the pre-tax wholesale price for gas is around US$42 per thousand cubic meters (mcm).[14]

Gazprom's strategy has been to use excess profits to acquire downstream assets, mainly access to distribution networks, in a bid to reach the final consumer. Whether through debt-for-share agreements, or upstream–downstream swaps (UDS), Gazprom has been quite successful in solidifying its presence in the EU. It is particularly active in Eastern Europe (in Bulgaria, for instance, its 50% joint venture with Overgas, a Bulgarian-Russian company, has twenty-seven urban distribution licenses, including in Sofia) but

[14] In the context of Russia's WTO accession, the EU signed its bilateral protocol in May 2004. The conflict over domestic price of natural gas (of particular relevance to producers of mineral fertilizers) was settled on conditions favourable to Russia. Although competitors are now complaining anew that the Russian domestic gas price has failed to keep pace with the increases on the world market, Gazprom is now worried that the low cost has encouraged wasteful domestic use.

also, and increasingly, in the West. In the U.K., for instance, it controls Pennine, the largest private-owned gas supplier. There was a mooted (but never-confirmed) intention of buying a stake in Centrica, Britain's largest gas supplier, in 2006 (Williamson 2006).[15] In addition, Gazprom launched a bid to take control of Petroleum Industries of Serbia (NIS) at what seemed a bargain price – so much so that many saw this as a *quid pro quo* for Russian support for Serbia over Kosovo. Elsewhere, Gazprom has announced multi-billion exploration and production investment projects in Bolivia and Nigeria – both difficult countries where Western investors were, until recently, dominant (MacDonald 2008; Schipani 2008).

Meanwhile, Gazprom has invested little in the development of new major gas finds. New prospects, such as the Yamal peninsula and the offshore Shtokman field, are years from coming on stream. European gas demand will rise from presently 540 billion cubic meters (bcm) to around 800 bcm in 2030. Thus, a potential supply gap is appearing that may take time and money to close (Goldthau 2008; Mandil 2006). While Åslund (2006) argued that Gazprom does not invest more because the domestic gas price is still too low to cover the associated costs, other analysts claim that management is concentrating its efforts in protecting its monopoly position. Gazprom has acquired various assets within Russia quite cheaply because of its combination of monopoly power over pipelines, pricing, exports, and state regulation. Small independent gas producers have been squeezed out and forced to sell their assets cheaply to Gazprom, which, in 2005 also bought Sibneft and became Russia's fifth-largest oil producer. In the Sakhalin II project, the Kremlin exercised pressure on Shell Royal Dutch until the company agreed

[15] The *Financial Times*, which originally carried the story of British opposition to any Gazprom takeover of Centrica, later backtracked.

to renegotiate its product-sharing agreement and to give a large share of its investment to Gazprom. TNK-BP, half-owned by BP, is currently going through similar difficulties, arguably in order for Gazprom to acquire eventually a stake in the giant Kovykta gas field in East Siberia. Gazprom's long-term industrial strategy is to produce more coal and increase its use in electricity generating and home heating in Russia, freeing more gas for export. Gazprom had been buying electricity-generating companies from the state electricity company, which is being split up. In February 2008, Gazprom acquired control of the Siberian Coal and Energy Company, Russia's largest coal producer by volume.[16] The joint venture will retain Siberian's name but be controlled by Gazprom and is expected to become the largest electricity company in Russia by late-2009. Gazprom has also diversified into other business such as nuclear power (100% of *Atomstroïexport*) and media (NTV, *Izvestia*, and *Tribuna*).

Gazprom is also very active in transmission investments. The bulk of exports currently go to Europe, via a pipeline through Ukraine, with the remaining 20% transiting through Belarus and Poland. Two approaches are being tried to get around this unsatisfactory situation. First, to build the Baltic pipeline (Northstream) directly from Russia to Germany through the Baltic Sea, as well as a second one to Italy (Southstream). Second, in 2006, Putin decided that Gazprom will build one or two gas pipelines to China, rather than invest in a liquefied natural gas plant designed for exports to the U.S.. Gazprom has also derided as "unrealistic" the construction of a Trans-Caspian gas pipeline from

[16] Russia generates 43% of its electricity from natural gas and 23% from coal. By comparison, in the United States, 49% of the electricity is generated from coal, according to the Energy Information Administration. Gazprom has a surplus of carbon emissions credits under the terms of the Kyoto Protocol because of Russia's industrial contraction in the 1990s, and thus has spare capacity to burn more coal under the agreement, which Moscow signed. See Kramer (2008).

Kazakhstan to Turkey and into Europe that could greatly enhance Europe's energy security (Catan 2006).

The EU has so far failed to present a unified position *vis-à-vis* Gazprom. Germany, for instance, has preferred to develop a special energy relationship with Russia, although the Merkel government has been more cautious than its predecessor.[17] Italy has also negotiated the entry of Gazprom into the domestic downstream market in exchange for space to its energy giants ENI and ENEL in Russia.[18] What is certain is that, to date, Russia has, by and large, refused to come to terms with European requests. Moscow has consistently refused to sign up to any kind of political agreements, such as the Energy Charter Treaty and its Transit Protocol under the EU-Russia Partnership and Co-operation Agreement.[19] The EU now insists on a liberalization of the Russian (and European) gas market, free and nondiscriminatory access to pipeline systems throughout Europe, including Russia, commitments to uninterrupted supplies, and mutually equal conditions for investment in the energy sector.

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[17] BASF, which has a 24.5% stake in the North-European Gas Pipeline Company and whose subsidiary Wintershall owns 51% of Wingas, the joint venture with Gazprom that trades Russian gas in Western Europe, has gained access rights to the Ioujno-Rousskoe fields. See *The Economist* (2006).

[18] In addition to the possibility of investing in one of the local utilities, Gazprom would like to buy a stake in SNAM, the ENI subsidiary that controls the gas transmission network. See *Corriere Economia (*2006 and 2008).

[19] The Energy Charter was negotiated in 1991, before Russia's new energy interests had been formed. The United States and Canada never even signed the charter because of legal concerns, and Norway had other legal concerns, so it did not ratify the charter.

In summary, Gazprom and the EU are stuck in an imbroglio that is largely explained by their mutual dependence (Grigoyev 2008). Eirik Lund Sagen and Marina Tsygankova (2008) used both theoretical and numerical tools to study the potential effects of different Russian domestic gas prices and production capacities in 2015 on Russian gas exports.Their main findings suggest that both increased domestic gas prices and sufficient production capacities are vital to maintaining Gazprom's market share in Europe over the next decade. In fact, Russia may struggle to carry out its current long-term export commitments if domestic prices are sufficiently low. At the same time, if Russian prices approach European levels, Gazprom may reduce exports in favor of a relatively more profitable domestic market.

The objectives of the EU as importer would be best served by deregulation and liberalization, lifting restrictions on foreign or independent investors wishing to gain access to Russian reserves and unhindered access to the pipeline infrastructure and export markets. At the same time, alternative sources are either more expensive or politically unfeasible. In the current political context, it is doubtful whether the Russian Federation would consider higher domestic Russian gas prices, enhanced energy efficiency and increases in non-Gazprom production as its supreme objectives. Gazprom, however, cannot realistically expect to diversify significantly its customer base toward China and other Asian countries, or to make any significant progress in downstream markets, unless it is ready to give way in its home market.

17.3.2 Endesa

The Endesa “saga” has been one of the most controversial deals in the EU to date. The saga involved Gas Natural (from Catalunya, Spain) and two leading electricity incumbents, German E.On and Italian ENEL. The Commission intervened repeatedly, making eight “decisions” concerning mergers and the free movement of capital in the light of unfolding events. From the 1980s onwards, Endesa transformed itself from a local, state-owned enterprise to the world’s fourth largest electricity MNE. From 2006 onwards, it participated in the generation, transportation and distribution systems in France, Italy, Germany, Poland, Portugal, South America, and North Africa. Nevertheless, its core activities remained in Spain where it is the largest domestic power supplier, providing 45% of power generation and 40% of distribution (Clifton et al. 2007).

In September 2005, Gas Natural (whose major shareholders were La Caixa of Catalonia and Repsol) launched a hostile takeover bid (€22.5 billion) for Endesa. The aim was to create a national champion large enough to compete with the other EU firms, such as EdF, E.On,[20] RWE, and Enel. This bid did not advance as the Spanish and Catalonian governments had anticipated, however, due to the managerial opposition of Endesa

[20] E.On is the product of the merger of former state-owned enterprises Veba and Viag electricity utilities (PreussenElektra and Bayernwerk) in 2000. It is now one of the largest energy MNEs in the world. From the outset, E.On had participations in the Czech Republic, Denmark, Italy, Latvia, the Netherlands, Poland, Russia, and Sweden. Since then, E.On acquired companies in Bulgaria, Finland, Hungary, Germany, Romania, Slovakia, Switzerland, the U.K. and the U. S.. E.On is, however, not active in France, Portugal, Ireland, or Spain.

chairperson, Manuel Pizarro. Party politics played a role: while Pizarro was associated with the conservative Partido Popular, La Caixa was associated with the Socialist Party. The acquisition of Endesa by La Caixa could create a Socialist economic block, so Pizarro sought a "white knight" in the shape of E.On to avoid this: FDI from Germany was preferable to national capital representing Catalonian Socialists.

Accordingly, in February 2006, E.On launched a bid to acquire Endesa (€29 billion). The Commission approved the bid, not regarding it as one that would impede effective competition. The Spanish government, led by President Zapatero and his Socialist party, however, objected. Several days later, the government extended the power of the electricity and gas regulator (CNE) giving it responsibility to authorize any acquisition over 10% (Decree-Law 04/2006). The Commission stepped in, considering this restricted the free movement of capital and the right of establishment, as enshrined in EU Treaty rules (Articles 56 and 43, respectively).

Though the Spanish government was asked to rectify this legislation, the government went further: it introduced additional restrictions in November 2006, when the conditions for the takeover were modified, requiring E.On to respect the following decisions: 1) Endesa would maintain its brand for a five-year period; 2) the companies owning electricity assets outside mainland Spain would be kept within the Endesa Group for five years; 3) Endesa's power plants that used domestic coal would continue to use this energy source as foreseen in the national mining plans; and 4) E.On would not adopt strategic decisions with regards to Endesa and the security of supply in violation of Spanish law. All of these newly imposed conditions were deemed incompatible with the EC Treaty's rules on free movement of capital (Article 56) and on

the freedom of establishment (Article 43). The condition about the use of domestic coal was also incompatible with the EC Treaty's rules on free movement of goods (Articles 28).

A few months later, a third bid to control Endesa was launched, this time by Enel[21] and Acciona.[22] The Commission approved the operation in March 2007. Given the EU policy of avoiding market concentration, Enel and E.On agreed that E.On would buy most of Enel’s assets in Spain (electricity generation, distribution, supply) including Viesgo. In addition, Endesa Europe (including assets in Italy, France, Poland, Portugal and Turkey) had to be sold off. However, Endesa´s market concentration in Latin America was reinforced.

Again, the Commission condemned Spain for the conditions imposed by the Spanish regulator on Enel and Acciona in the takeover process, which were, fundamentally, similar to those which had been imposed on E.On: 1) to allow Endesa to remain independent, including keeping its own brand, and its decision-making center in Spain; 2) to limit the firm's debt-service ratio; 3) to limit the firm's dividends distribution policy; and 4) to ensure certain amounts of national coal were used in Endesa´s generation assets 5) to keep the assets of non-mainland electricity systems within the

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[21] Enel is the main Italian electricity company for generation, distribution and supply of electricity to both domestic and industrial users, and is active in Spain, Bulgaria, Romania, the Slovak Republic, Russia, France, and the Americas. Enel is also active in the purchase and sale of natural gas for domestic electricity generation and gas operations in Italy.

[22] Acciona is a Spanish business corporation, whose main activities are the development and management of infrastructure and real estate projects, the provision of transport, urban and environmental services, as well as the development and operation of renewable energies.

Endesa Group. Not surprisingly, the Commission found these conditions restricted FDI and violated the Treaty's rules on the free movement of capital and the freedom of establishment, while the obligation to acquire domestic coal also violated the rules on the free movement of goods.

It is believed that President Zapatero and Prime Minister Prodi came to an agreement during February 2007, whereby Enel (in which the Italian State still had 30% ownership) would take over Endesa. Interestingly, three weeks after this deal was done, Telefónica acquired an indirect 10% stake of Telecom Italia. A few weeks earlier, an interest in Telecom Italia had been shown by a consortium comprised of AT&T and Mexican MNE América Móvil. América Móvil, a spin-off of Telmex, is one of the leading telecommunications MNEs from emerging markets. The potential acquisition of Telecom Italia by this consortium raised eyebrows in Italy: Prodi stated that he wished Telecom Italia to remain in Italian hands, and called on Italian bankers to make counter offers for the shares. The Italian government even threatened regulatory changes that would reduce Telecom Italia's network advantages. Within a few days, AT&T pulled out, citing regulatory uncertainty, leaving Carlos Slim's América Móvil alone in the bid. Slim reluctantly withdrew, making room for the acquisition by "archrival" Telefonica, along with a consortium of Italian banks (Burnett and Kiefer 2007). Telefonica paid 40% over the market value to join the winning consortium. Politically, this was a winning "European" formula: Prodi obtained his "Italian solution" in exchange for the Spanish concession into its energy market. The efforts of the non-EU investors including those of Carlos Slim were, however, frustrated. Interestingly, the Italian government did not introduce new policies to restrict IFDI, though Prodi made clear that Italian capital was his priority. This case does not necessarily indicate there was a clear

preference for EU investment, but that business, of mutual interest, between Italy and Spain was the priority.

CONCLUSIONS

The EU has one of the most liberal FDI regimes in the world, and is increasingly a host for IFDI and MNEs from emerging markets. At the same time, the EU is not immune to a general increase in concern over IFDI by governments around the world, which has been complicated considerably by the financial crisis and economic recession. member States have, in recent years, introduced new measures, which aim to restrict IFDI, particularly from third countries. Informal practices have also proved unfavorable to IFDI. The main justifications given by EU and national policy makers for any increase in FDI restrictions revolve around questions of "national security" and "strategic industries". Behind these concerns lies a diverse, contradictory set of interests, including bitter experiences with Europe's dependency on Russia gas, demands of incumbent business groups to protect national champions, economic nationalism sentiment and, perhaps most importantly, knee-jerk protectionist impulses, based on fears over job losses and firm closure in the face of recession. The rise of MNEs from emerging markets is a newly emerging issue for EU leaders, and this comes at a difficult time, when the Single Market is mature though still blocked in complex sectors. These internal tensions are only compounded and intensified as new global players from emerging markets strive to enter at a time of financial crisis and economic recession, which may render distressed EU assets attractive to international investors. From a purely economic point of view, this is to be welcomed, though when the other, wider dimensions, such as long-term national interests, are considered, the picture is much less

clear. The leading light in this period of relative darkness is the maturity of institutions repeatedly insisting on rational, thought-out collective action, an element missing in the 1930s.

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