

ECONOMIC SECURITY

Competition Law and Investment Screening: Intertwined Destinies in the Face of Geopolitics?

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Executive Summary

COMPETITION LAW AND FOREIGN INVESTMENT SCREENING EMERGED FROM radically different intellectual traditions, one built around consumer welfare and market structure, the other around national security and public order. For decades, their respective logics remained largely distinct. Today, they converge under a common pressure: the geopoliticisation of economic relations, which is transforming both instruments into tools of strategic statecraft.

This paper argues that this convergence is producing concrete risks that threaten the foundational purposes of each regime. The simultaneous and accelerating mobilisation of competition law and investment screening in the service of geopolitical ambition, in the European Union, the United States, and China, is eroding the neutrality of economic regulation, creating a layered “spider’s web” of proceedings that burdens investors without commensurate public benefit,¹ challenging the articulation on which globalisation was built and risking the institutionalisation of a new type of protectionism.

The paper concludes with a three-pronged way forward: a return to antitrust’s citizen-protective core; a reinvigoration of genuine industrial policy outside the regulatory sphere; and the cross-pollination of best practices: economic rigour imported into investment screening; legal clarity imported into competition enforcement.

Introduction: Two Tools, Different Roots

Competition law and foreign investment screening share a fundamental feature: both constitute regulatory interventions in the market by public authority in order to protect overarching goals. Beyond that, their origins, their initial design, and their foundational rationale diverge sharply.

Antitrust law was designed to protect the structure of markets and the welfare of consumers against the accumulation of private economic power. In its American founding form, the Sherman Act of 1890 was an instrument against private concentrations. The “State action doctrine”, developed in *Parker v. Brown* (1943), explicitly carved out sovereign conduct from antitrust reach. The implicit premise was that the State and the market belonged to different normative orders.

The European antitrust tradition, while sharing these foundational values, developed from a distinct intellectual source: ordoliberalism. It conceived competition law as a constitutional guarantee of individual economic freedom

and a bulwark against concentrations of both private and public power.² The principle that competitive markets require an institutional framework to function, that the State must actively maintain the conditions for competition while refraining from distorting them, became the intellectual foundation of European competition law as embedded in the Treaty of Rome in 1957.

Foreign investment screening developed from a wholly different impulse: the protection of the sovereign sphere against external interference, particularly in matters bearing on security and defence. In its classical form, whether through the Committee on Foreign Investment in the United States (CFIUS) in the United States since 1975, or through early national screening mechanisms in France headed by the Ministry of the Economy, the scope was deliberately narrow: military assets, critical infrastructure, public order. Only investments capable of genuinely threatening national security warranted exceptional treatment.

Both fields developed in parallel over subsequent decades, yet at a different pace. Antitrust became a pillar of major capitalist economies' institutional architecture. The EU embedded it directly into its constitutional order, making undistorted competition a Treaty objective; the US built a sophisticated bipartisan enforcement machinery through the Department of Justice (DOJ) Antitrust Division and the Federal Trade Commission (FTC). Foreign investment screening remained comparatively underdeveloped, applied sparingly. The number of blocked or conditioned transactions in any major jurisdiction before the 2010s remained small; CFIUS cleared the vast majority of transactions without action, and European regimes were largely reactive and sectoral in scope, where and when they existed.³

Yet throughout this period, the question of deploying both tools in the service of broader public policy objectives never fully disappeared and periodic episodes illuminated the underlying tensions that would later become structural.

On competition, the fault lines were visible from the earliest days of the EU Merger Regulation. In October 1991, the European Commission issued its first-ever prohibition decision under the Merger Regulation: the proposed acquisition of de Havilland, a Canadian aircraft manufacturer then owned by Boeing, by the French-Italian consortium ATR (Aerospatiale/Alenia).⁴ The episode was paradigmatic: it established both that the Commission would apply consumer welfare criteria against explicit national industrial preferences, and that industrial policy pressure on competition enforcement was not a future risk but an immediate political reality. Subsequent decades brought recurring contestation along the same axis: the GE/Honeywell prohibition in 2001, which the US DOJ had cleared; repeated controversies over State aid to national carriers; and above all the Siemens/Alstom decision in 2019, in which the Commission again blocked a Franco-German merger designed to create a "European champion" in rail, explicitly against the joint position of Berlin and Paris. Critics of the consumer welfare standard as the sole criterion of merger review were not confined to Europe: in the United States, a sustained academic and political critique argued that the standard, by focusing exclusively on price effects, failed to account for broader harms to workers, suppliers, democratic competition, and market structure.⁵ In China, the Anti-Monopoly Law, enacted in 2007, was from its inception designed to serve state industrial objectives alongside consumer welfare goals, a dual mandate that Chinese regulators have always construed more openly than their Western counterparts.⁶

On foreign direct investment (FDI), the politicisation of investment screening had an equally long prehistory. In the United States, congressional anxiety about Japanese investment in US strategic assets in the 1980s and early 1990s, most memorably the 1989 acquisition of Rockefeller Center by Mitsubishi Estate, produced the Exon-Florio Amendment to the Defense Production Act in 1988, which first granted the President statutory power to block foreign acquisitions on national security grounds, and the subsequent Byrd Amendment in 1992, which mandated CFIUS investigation when a state-controlled foreign entity was the acquirer.⁷ The 2005 episode in which the Chinese state-owned company China National Offshore Oil Corporation (CNOOC) withdrew its bid for Unocal,

following near-unanimous congressional opposition and the passage of House Resolution 344 declaring the deal a potential national security threat, and the simultaneous political collapse of Dubai Ports World's acquisition of port terminal operations at six US facilities, demonstrated that FDI review had become as much a political as a technical exercise.⁸ In Europe, the same trajectory unfolded, with national governments progressively tightening their screening regimes. In France, the so-called "Montebourg Decree" (Decree 2014-479) extended the scope of mandatory prior authorisation to energy, water, telecoms, transport, and public health, in an episode widely interpreted as an ad hoc political response to General Electric's proposed acquisition of Alstom, and hence as an answer to the country's plummeting industrial base.⁹ By 2014, FDI filings with the French Treasury stood at 105; by 2025 they had reached 417.¹⁰ Germany, Italy, and the United Kingdom pursued analogous trajectories: Germany progressively tightened its Foreign Trade and Payments Act (*Aussenwirtschaftsgesetz*) from 2017 onwards, Italy introduced the "Golden Power" regime by Decree-Law 21/2012, and the UK enacted the National Security and Investment Act 2021, a dedicated, standalone regime entirely separate from competition law, with mandatory notification in 17 sensitive sectors and a significantly expanded "call-in" power.¹¹

1. The Geopoliticisation of Both Tools: A Paradigm Rupture

1.1 A Shared Rupture

Beyond these early challenges, the current context represents a qualitatively different phenomenon. What we are witnessing is not a gradual drift but a genuine paradigm rupture, one that is drawing FDI screening and competition law into a common trajectory while simultaneously eroding the foundational premises of each. The geopoliticisation of economic relations does not merely bend existing instruments toward new ends; it challenges the conceptual and legal foundations of the regulatory neutrality that both regimes were built to embody.

At the heart of this rupture is a transformation of the function of regulation itself. Both competition law and investment screening were conceived as systems whose authority derived, in large part, from their institutional independence: competition enforcement applying neutral criteria of consumer welfare or market structure, investment screening applying restricted assessments of genuine security risk.

What is now occurring is the deliberate subordination of these principles to geopolitical preference. The reorientation makes the nationality of companies an essential and differentiating criterion in their treatment by public authorities. It subjects the application of both instruments, antitrust and FDI screening alike, to economic and public policy roles they were not designed to perform. Competition authorities become, to varying degrees, arms of industrial policy. Screening bodies become instruments of geopolitical statecraft.

The consequences extend well beyond the individual transactions affected. Administrations gain new prerogatives whose exercise is, by nature, cyclically unstable: what one government designates as strategic, the next may not. Companies are cast as vectors of sovereign interest, an exposure that carries its own strategic risks, generating reciprocal vulnerability for their employees, counterparties, and host communities abroad. These effects are not theoretical; they are visible, simultaneously, across the world's three major economic blocs.

1.2 The European Union: Strategic Autonomy as Regulatory Doctrine

The EU's trajectory illustrates the reorientation most clearly. The EU's founding architecture was built on the free movement of capital as a foundational freedom. The very adoption of the 2019 FDI Screening Regulation (EU) 2019/452 thus represented a major doctrinal shift: for the first time, a bloc originally constituted around the principle of capital mobility acknowledged the legitimacy of systematic, coordinated foreign investment control.¹²

Member States, in parallel, progressively tightened and politicised their national regimes. France extended its screening framework through successive decrees in 2018, 2019, and 2020, steadily broadening the list of sectors and lowering the ownership thresholds triggering review. Germany used its revised *Aussenwirtschaftsgesetz* to block or condition a series of Chinese acquisitions in sensitive industrial sectors. Italy's "Golden Power" regime was invoked with increasing frequency. These evolutions reflected not merely technical adjustments but a transformation in the geostrategic assumptions underlying the regulatory systems: the implicit presumption that foreign capital was neutral had been replaced by an explicit presumption that its origins were relevant to the public interest.

The 2026 revision of the FDI Screening Regulation went further still, mandating universal national screening mechanisms across all Member States and expanding scope to cover EU-based entities controlled by foreign investors, effectively closing the loophole through which acquisitions of EU subsidiaries of foreign-controlled groups had previously escaped review.¹³ As Professor Ioannis Kokkoris documents, the cumulative result is a potential matrix of up to 29 separate approval requirements for a single transaction under the EU Merger

Regulation (EUMR), national FDI screening regimes, and the Foreign Subsidies Regulation (FSR) simultaneously, a regulatory density without precedent in cross-border M&A.¹⁴

On the competition side, the evolution was equally significant. Mario Draghi's 2024 report on the future of European competitiveness explicitly called for merger control to be applied with European industrial policy objectives in mind, including facilitating the emergence of European champions in telecoms and other capital-intensive sectors.¹⁵ The European Commission's draft Merger Guidelines, published on 30 April 2026 and put to public consultation until 26 June, went further, explicitly intertwining competition enforcement with objectives of technological sovereignty and resilience, drawing directly on the 2025 Competitiveness Compass.¹⁶ The Commission also expanded the scope of the Article 22 referral mechanism to capture below-threshold "killer acquisitions". The Foreign Subsidies Regulation, meanwhile, introduced a third regulatory layer, subjecting non-EU state-backed investors to a new pre-notification regime modelled on merger control.¹⁷

Each of these moves has a defensible rationale. Reducing strategic dependencies in critical technologies or semiconductors is a coherent policy objective, and few serious analysts dispute that. The difficulty lies in the cumulative logic: each instrument is recalibrated toward strategic autonomy, and the combined effect is to transform what were neutral arbiters of market structure and security risk into enforcement tools of an industrial and geoeconomic agenda.

1.3 The United States: From Security Doctrine to Antitrust Politics

The United States trajectory reveals how a security-first disposition toward foreign investment has progressively infected competition enforcement itself.

On FDI, the direction of travel had been set by doctrine long before the most recent episodes. President Biden's Executive Order 14083 of 15 September 2022, the first formal presidential direction on CFIUS review criteria, directed the Committee to prioritise five national security factors bearing on technological leadership, sensitive data, and supply chain resilience.¹⁸ The subsequent 2022 National Security Strategy identified the competition with China as the "pacing challenge" for US strategic policy, placing CFIUS at the centre of a whole-of-government response to economic security. Against this backdrop, President Biden's decision to block Nippon Steel's acquisition of US Steel on 3 January 2025, despite Japan being a formal US ally, Nippon Steel having significant existing US manufacturing presence, and CFIUS itself failing to reach an internal consensus, illustrated the extent to which political logic had displaced technical security assessment.¹⁹ President Trump's subsequent *de novo* CFIUS review, ordered on 7 April 2025, and the ultimate clearance of the transaction on 13 June 2025 under an unprecedented "Golden Share" national security agreement,²⁰ resolved the immediate impasse but confirmed that CFIUS outcomes reflect political negotiation as much as security analysis.

On antitrust, the transformation was equally deliberate. Then-Assistant Attorney General Gail Slater, in her April 2025 address at Notre Dame Law School, explicitly framed the administration's approach as "America First Antitrust", centring the interests of "forgotten" workers, small businesses, and American manufacturing over the consumer welfare standard.²¹ The Trump administration revoked the Biden-era executive order on competition on 15 August 2025,²² and shifted enforcement toward accepting behavioural and divestiture remedies calibrated to political rather than economic objectives. The Omnicom/Interpublic settlement, in which the consent order required a prohibition on advertising spend based on political viewpoints, illustrated how antitrust remediation had become an instrument of political regulation.²³ The FTC maintained the 2023 Merger Guidelines' interventionist framework.²⁴ A further structural question worth posing is whether the sustained concentration of US corporate markets over the past two decades, documented in the academic literature and embodied in the rise of mega-platforms, itself reflects a prior failure of antitrust independence, in which enforcement was selectively

relaxed in favour of large US corporations in ways that benefited national champions before that language became explicit.²⁵

1.4 China: State Strategy as Regulatory Architecture

China's approach is the most integrated and the most openly avowed: competition enforcement and investment screening are constitutive parts of the national economic strategy. The State Administration for Market Regulation (SAMR), established in 2018 by merging the competition, pricing, and quality supervision authorities, operates within this strategic frame.

The doctrinal basis for this integration is traceable to successive five-year plans and sectoral strategies. China's 14th Five-Year Plan (2021–2025), adopted by the National People's Congress in March 2021, explicitly identifies strategic emerging industries, including new-generation information technology, semiconductors, new energy, advanced manufacturing, biotechnology, and aerospace, as targets for government-directed industrial development.²⁶ The "Made in China 2025" strategy, formulated as part of the 13th Five-Year Plan, set the objective of domestic dominance in ten strategic manufacturing sectors.

In 2025, China's merger control enforcement reached a level of interventionism unprecedented in its history. SAMR issued six conditional clearances and two prohibitions, with reviews concentrated in sectors that map directly onto the 14th Five-Year Plan's strategic priorities: agribusiness (Bunge/Viterra), semiconductor software (Synopsys/Ansys, subject to a 12-month review), cybersecurity (Keysight/Spirent), and lithium mining (Codelco/SQM).²⁷ Foreign-related competition probes, involving Google, Nvidia, and Qualcomm, were signalled publicly at moments of heightened US-China trade tension, consistent with SAMR Director Luo Wen's declaration in late 2024 that foreign-related antitrust enforcement would be strengthened "steadily and prudently" in strategically important sectors.

China enacted its Foreign Investment Law in January 2020, establishing a unified legal framework replacing three separate legislative regimes. On 19 December 2020, China's National Development and Reform Commission (NDRC) and Ministry of Commerce (MOFCOM) jointly promulgated the Measures for the Security Review of Foreign Investment, entering into force on 18 January 2021, establishing a CFIUS-style interagency review mechanism housed at NDRC, with mandatory notification for investments in military-related, critical information infrastructure, energy, transport, and financial services sectors.²⁸ This 2021 regime was itself a significant tightening from the prior 2011 framework under the Anti-Monopoly Law.

Beijing did not stop at the border. China's State Council published Regulation Order No. 837 on 1 June 2026, entering into force 1 July 2026, consolidating the previously separate NDRC and MOFCOM outbound investment regimes into a single security-oriented framework. With stronger legal authority, direct administrative penalties, and scope extending to indirect structures including technology licensing and personnel secondment, the Regulation marks a shift from capital-flow management to a strategically coordinated national interest framework, with implications not only for Chinese companies but for any foreign counterparty involved in joint ventures, licensing arrangements, or supply-chain relationships with Chinese entities.²⁹

2. Theoretical and Concrete Risks: Tearing the Veil

2.1 The Veil of Ignorance and the Abstraction of Economic Law

John Rawls, in *A Theory of Justice* (1971), proposed the "veil of ignorance" as the foundational condition for just institutional design: principles of justice should be chosen by parties who do not know their position in society.³⁰ Abstraction prevents self-interest from masquerading as principle. Institutions that are designed, and perceived to

be designed, in ignorance of who benefits from them command a different kind of authority than those whose rules are visibly calibrated to favour particular outcomes.

Economic law operates by a structurally analogous logic. The consumer welfare standard, the substantial impediment to effective competition (SIEC) test, the prohibition on State aid in the EU: all are forms of codified abstraction, designed to allocate economic resources through neutral, *ex ante* criteria that apply regardless of the identity of the parties. The Organisation for Economic Co-operation and Development (OECD) has observed that the political sustainability of any competition standard depends on its predictability and on the public's ability to understand its criteria as genuinely neutral.³¹ When this veil is lifted, particularly when the nationality of the acquirer, the flag on the corporate headquarters, or the political priority of the acquiring government becomes a determinative criterion, the abstraction collapses. Economic regulation ceases to be a neutral arbiter and becomes an instrument of power.

The risk is more specific than it first appears. Both competition law and investment screening are, under current conditions, being instrumentalised in ways that substitute geopolitical preference for economic neutrality. This shift may be inevitable in a multipolar world, and in certain respects it is already under way. But it completely changes the regulatory architecture that Europe and the United States built under the assumptions of economic globalisation. For it to be implemented responsibly and legitimately, its systemic consequences must be fully anticipated and transparently debated, something that has not yet occurred.

2.2 Competition Risk: Institutionalised Market Power

When competition enforcement is calibrated to serve industrial policy rather than consumer welfare, the structural risk is the consolidation of market power. The creation of European champions in telecoms, as advocated by the Draghi Report and partially incorporated into the Commission's 2026 draft Merger Guidelines,³² would concentrate markets that are currently competitive at the member state level. Economists have objected that this approach would allow markets to be dominated by merged entities without evidence that EU-level scale generates the consumer benefits claimed; empirical analysis suggests that scale advantages in telecoms are modest and often overstated by those seeking to justify consolidation.³³ Champions do not guarantee competitiveness; they often protect incumbents from the domestic competitive pressure that generates it. The Siemens/Alstom prohibition, and the subsequent performance of European rail suppliers in global markets, should give pause to those who believe the Commission was simply wrong.

In the US context, the instrumentalisation of antitrust toward political objectives carries a different risk: the erosion of the regime's credibility as an independent institution. When settlement terms in merger cases are designed to protect conservative speech rather than consumer welfare, as in the Omnicom/Interpublic consent order,³⁴ the line between antitrust enforcement and political regulation blurs in ways that ultimately weaken both.

A further risk, specific to the competition context, is categorical confusion. Industrial policy choices, about which value chains to develop, which sectors to prioritise, which capabilities to retain, require active strategic deliberation and fiscal commitment. Relaxing merger control does neither: it recognises accumulated market power but does not grant governments or societies a coherent strategic vision. Conflating the two creates the appearance of industrial strategy while substituting regulatory forbearance for genuine productive investment.

2.3 Investment Screening Risk: Consolidating Inefficiency

On the FDI side, the risk runs in a different direction. If every ownership transfer to a foreign investor in a broadly defined "strategic" sector triggers scrutiny regardless of the investor's actual conduct or the transaction's actual effects, screening mechanisms become instruments of industrial protectionism rather than security protection. As

Kokkoris argues, bestowing FDI screening authority on political actors creates a significant risk that industrial policy preferences are promoted under the pretence of national security assessment, with resulting inconsistency of priorities across political cycles.³⁵

The data so far suggest that the screening systems remain largely open in their outcomes: between 2020 and 2023, EU FDI screening processes cleared the overwhelming majority of transactions, with the authorisation rate rising from 91% in 2020 to 96% in 2021.³⁶ The risk is not therefore a current closure of markets, but the progressive expansion of the “strategic” perimeter, and the chilling effect this produces on investment decisions made well upstream of the notification stage.

2.4 Definitional Collapse: If Everything Is Strategic, Nothing Is

Competition law contains a core coherence problem when exceptions are multiplied: if dominance is acceptable for national champions, if State aid is permitted for strategic sectors, if merger guidelines are calibrated to industrial policy, then the rule becomes the exception and the exception becomes the rule. There is no longer a neutral baseline to which the derogations can be referred.

The same logic applies to investment screening. Security is, by definition, a narrow category. Legitimate security interests, critical military infrastructure, dual-use technologies with direct weapons applications, intelligence-related assets, command strong justification for screening. When the concept expands simultaneously to encompass data, media, food security, financial services, and pharmaceuticals, the category becomes so broad as to offer no limiting principle.³⁷ At that point, the question is no longer what screening protects but what it excludes, and the answer is: increasingly little.

2.5 Regulatory Accumulation and the Spider’s Web: The Concrete Effect of Intertwined Tools

Kokkoris’s central contribution in his 2026 *Yearbook of European Law* article is the documentation of what he calls the “spider’s web”: a regulatory matrix through which a single transaction in the EU can today require parallel approval under the EUMR, up to 27 national FDI screening regimes, and the Foreign Subsidies Regulation.³⁸ In the FSR’s first 100 enforcement days, 42 pre-notified cases were simultaneously subject to EU merger control, 26 to FDI screening in one or several Member States, and 5 to national merger procedure.³⁹

This accumulation has measurable consequences: extended deal timelines, disproportionate compliance costs, material legal uncertainty in jurisdictions where FDI screening review periods are not subject to statutory deadlines (Finland has none; Germany’s can be extended by mutual agreement to approximately twelve months⁴⁰), and chilling effects on cross-border investment that disproportionately affect smaller, non-state-backed acquirers relative to large, politically connected ones.

3. A Way Forward: Rationalisation, Not Renunciation

The alternative to the current trajectory is not naivety. Strategic dependencies in semiconductors, rare earths, and defence-relevant technologies are real and documented. State-backed actors exploiting competition law’s blind spots to achieve industrial outcomes that their own regulatory frameworks would not permit are a genuine concern. Several authors have advanced strong defenses of a more assertive use of FDI and competition tools in a multipolar order, and those arguments deserve engagement rather than dismissal. But the current trajectory, uncoordinated, poorly delimited, and politically captured, produces more costs than it resolves, and that judgment does not require ignoring the security concerns that animate it.

Both ecosystems can also learn from each other in ways that would improve the quality of each: the economic analysis developed over decades of antitrust review can enrich the substantive analysis of investment screening decisions, which currently rarely deploy such tools. Conversely, FDI screening's explicit engagement with societal effects offers antitrust enforcement a model for better integrating legitimate non-market considerations within a disciplined, judicially reviewable framework.

Three directions merit development.

3.1 Return Antitrust to Its Democratic Core

Competition law is, at its foundation, a democratic instrument: it protects the economic freedom of individuals, small firms, and consumers from the accumulation of private power. This democratic dimension is what the OECD identifies as the political sustainability condition of any competition standard: the public's ability to understand its criteria as genuinely neutral and consistently applied.⁴¹ Once that credibility is lost, the deterrent effect of competition enforcement diminishes along with its democratic legitimacy, and no amount of institutional restructuring recovers it quickly.

Reforming competition law to serve industrial policy is not wrong in every case. As Assistant Attorney General Slater put it in her Notre Dame address, "antitrust is a scalpel, and regulation is a sledgehammer."⁴² That formulation cuts both ways: if antitrust is a scalpel, it should not be wielded for purposes its precision cannot serve.

Concretely, this means: maintaining consumer welfare as the primary decisional criterion in merger assessment; limiting the scope of "competitiveness" considerations in merger review to documented efficiency gains verifiable *ex ante* and fully embraced by decision makers; and subjecting any formal integration of industrial policy objectives into competition enforcement to legislative confirmation rather than administrative practice. The Chips Act in the scope of State aids could constitute a blueprint for such an approach.

3.2 Reinvest in Industrial Policy as Such

The fundamental problem driving the instrumentalisation of both competition law and FDI screening is the absence of adequate industrial policy frameworks. When governments lack the institutional capacity, the fiscal resources, or the political mandate to build industrial strength directly, they reach for regulatory levers instead. Bending competition rules, expanding screening scope: these are substitutes for the harder, more expensive work of building competitiveness from the ground up.

The framework for Important Projects of Common European Interest (IPCEI) in the EU, the Chips Act, and the US CHIPS and Science Act are steps in the right direction. Their limitation is implementation: IPCEI procedures remain slow, member state coordination insufficient, and evaluation of outcomes weak. The fiscal resources currently debated for defence in Europe represent an opportunity to embed, in the same political moment, a genuine industrial investment agenda rather than a regulatory surrogate.

3.3 Cross-Pollinate Best Practices

Finally, competition law and FDI screening should learn from each other's best institutional practices to better ensure legal certainty and efficiency.

From competition law to FDI screening: The EUMR's thirty-five years of operation have produced a body of doctrine notable for its transparency, procedural clarity, and substantive predictability. FDI screening, by contrast, remains opaque by design, politically governed, and highly fragmented across jurisdictions.⁴³ Importing the minimum

institutional standards of competition review into FDI screening, clear mandatory statutory deadlines, published decisional criteria, independent institutional review separated from ministerial decision-making, clear judicial oversight, would substantially reduce the legal uncertainty that currently burdens investors without compromising legitimate security objectives. The economic analysis of investment effects, including assessment of dependency creation or reduction, supply chain resilience, and technology transfer, should become a standard component of screening assessments.

From FDI screening to competition law: The FDI framework's explicit acknowledgement of national interest as a legitimate regulatory criterion offers competition law a model for integrating non-market considerations without abandoning the primacy of legal principle. The Article 21(4) EUMR carve-out for public security, media plurality, and prudential rules demonstrates that such integration is legally possible within a rules-based framework. The question is discipline: keeping the carve-out narrow, defined, and judicially reviewable, rather than allowing it to absorb progressively more of the substantive assessment.

Conclusion

Competition law and investment screening were born of different logics, developed along different paths, and are now converging under geopolitical pressure. That convergence is, in principle, not surprising: in a world of contested economic power, the boundary between market regulation and strategic statecraft was always contested, and pretending otherwise would be its own form of naivety.

The current trajectory, marked by simultaneous expansion of screening scope, recalibration of competition norms toward industrial objectives, and layered multiplication of parallel proceedings, does not produce strategic strength. It produces regulatory complexity, investment deterrence, institutionalised market power, and a new protectionism that confuses the defence of national interests with the defence of incumbents.

Genuine sovereignty, which could be defined as the capacity of democratic societies to make durable collective choices about their economic futures, requires, not less, but more rigorous economic governance: competition law that protects citizens rather than champions, investment screening that targets real security risks rather than political preferences, and industrial policy that builds productive capacity rather than bending regulatory levers as a substitute. These are not modest ambitions. But the alternative, a gradual substitution of geopolitical reflex for institutional discipline, is worse.

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