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Focus on foreign investments in France: requirements, overview and recent incentives

France offers many advantages for businesses, in particular thanks to its central location in Europe, the 2nd largest market in the world, a well-trained workforce and one of the highest hourly productivity rates, an advantageous tax system, as well as an appreciable environmental protection.

The French Government has set up rules to screen foreign investments. This screening has not prevented a significant number of foreign projects from being authorized in 2022.

The French Government has recently been encouraging foreign investments in the industrial and green sectors.

Foreign investment control in France

Financial dealings between France and foreign countries are unrestricted.

However, foreign investments in France are subject to a prior authorization procedure by the Minister of the Economy, Finance and Industrial and Digital Sovereignty^[1], in particular when they target specified business activities such as^[2]:

- Activities involving infrastructures, goods or services essential to guaranteeing energy supply, water supply and the operation of transport networks and services;
- R&D activities involving critical technologies, such as cybersecurity, artificial intelligence, robotics, additive manufacturing, semiconductors, energy storage, biotechnologies and technologies involved in the production of renewable.

On August 24, 2023, Bruno Lemaire, France's Minister of the Economy, Finance and Industrial and Digital Sovereignty, announced his desire to tighten foreign investment control by extending it to "*the extraction and processing of critical raw materials*", identified by the European Commission on the basis of two criteria: economic importance and supply risk^[3].

The prior authorization procedure applies to foreign investors who carry out an investment which involves^[4] :

- The acquisition of the control of an entity incorporated under French law within the meaning of Article L 233-3 of the French Commercial Code;
- The acquisition of all or part of a branch of activity of an entity incorporated under French law;
- If the investor is not from the European Union or the European Economic Area, the crossing, directly or indirectly, alone or in concert, of the threshold of 25% of the voting rights of an entity incorporated under French law; temporarily, until December 31, 2023, the crossing of the threshold of 10% of the voting rights of a listed company incorporated under French law^[5].

Since October 2, 2023, foreign investors and their advisors can submit their requests for prior authorization in electronic form to the Foreign Investment in France Platform (*Plateforme IEF*)^[6] of the Directorate General of the Treasury. This platform is also used for following-up the processing of the request and to interact and engage with the various departments of the Directorate General of the Treasury.

France was Europe's most attractive country for foreign investment projects in 2022

According to Ernst & Young's France Attractiveness Survey 2023, France remains, for the 4th year in a row, the most attractive country in Europe in terms of the number of foreign investment projects, with 1,259 new or expanded facilities announced in 2022.

In 2022, 131 foreign investments project were authorized, with the following breakdown:

- 51.9 % in infrastructures, essential goods and services (energy and water supply, transport, public health protection);
- 23.7% in inherently sensitive activities (defense, security, dual-use goods and technology, cryptology services);

- 24.4% in mixed sectors (including both the above).

The majority of ultimate foreign investors were located outside the European Union, mainly in the UK, USA and Canada (65.8%), for projects in the financial (47.4%) and industrial (39%) sectors^[7].

French Government's incentives for industrial and green investments

The Minister of the Economy, Finance and Industrial and Digital Sovereignty and the Minister for the Energy Transition announced in October 2023 their intention to encourage foreign investors to focus on major projects linked to the decarbonization of the industry, in order to drive the energy transition. These include the construction of six new nuclear reactors (EPR2) and a five-fold increase in photovoltaic power.

To encourage investors, the French Government has introduced the following measures:

- Halving the time needed to set up a plant/factory: The previous time-line were described by the industrialists as the main obstacles to a setting up project^[8] ;
- Financial incentives for renewable energy project sponsors (photovoltaic, solar thermal, wind, biogas, geothermal, etc.) setting up in so-called acceleration zones: These zones will be defined by local municipalities before December 31, 2023^[9] ;
- A so-called Renewable Electricity Guarantee fund (*Fonds de Garantie Electricité Renouvelable* or GER) for industrial consumers: This fund has been set up to guarantee payment default by industrial consumers who have signed long-term power purchase agreement with electricity producers (Engie, EDF, etc.) for the supply of electricity from renewable energies^[10].

[1] Article L151-3 of the French Monetary and Financial Code

[2] Article R151-3 of the French Monetary and Financial Code

[3] European Commission website, "Critical raw materials" (https://single-market-economy.ec.europa.eu/sectors/raw-materials/areas-specific-interest/critical-raw-materials_fr?etrans=fr)

Critical raw materials have been identified by the European Commission every 3 years since 2011. The latest list was published in 2023 and contains 34 critical raw materials for the EU.

[4] Article R151-2 of the French Monetary and Financial Code

[5] Decree No. 2020-892 of July 22, 2020 on the temporary lowering of the threshold for controlling foreign investments in French companies whose shares are admitted to trading on a regulated market

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[6] <https://plateforme-ief.dgtresor.gouv.fr/>

[7] 2023 Annual activity report on the control of foreign investments in France, French Directorate General of the Treasury of the Minister of the Economy, Finance and Industrial and Digital Sovereignty

[8] Law No. 2023-973 of October 23, 2023 on green industry, known as the Green Industry Law

[9] Law No. 2023-175 of March 10, 2023 related to the acceleration of the production of renewable energies, known as the APER Law

[10] Managed by BPiFrance, this fund was created in November 2022

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