Analyses OSW

CENTRE FOR EASTERN STUDIES 8.08.2018 www.osw.waw.pl

Germany: new barriers for Chinese capital

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In July, the Chinese company Yantai Taihai withdrew from its attempt to purchase Leifeld Metal Spinning, a German manufacturer of machinery and spare parts for the aerospace industry, among other branches. The transaction was cancelled after the German government announced that it would exercise its right to block the deal. The government justified its decision by referring to security concerns, arguing that Yantai was associated with the nuclear sector, and so its activity could have not only civilian but also military ends. Previously Germany had twice thwarted attempts by the Chinese SGCC fund to purchase shares in the German energy infrastructure operator 50Hertz. In February this year, the SGCC tried to buy nearly half of a 40% package of shares in a German company belonging to the Australian IFM fund. Meanwhile, the federal government has prompted 50Hertz's second owner, the Belgian company Elia, to take advantage of its right to first purchase. The same situation occurred in June, when the Chinese again tried to acquire
20% of the remaining shares belonging to IFM. This time, the Belgians bought the shares on a temporary basis, and after a few weeks sold them off to the German state-owned KfW bank.

Commentary

- The German government's decisions reveal a change in its strategy and its readiness to defend German companies more assertively against takeovers by Chinese companies. The government has never yet been so decisive in its interventions to defend its own market, and Germany has hitherto promoted itself as a country with a high degree of openness to foreign investment. For many years, the only way it had to block takeovers was the option of a government veto if there was a bid to buy at least 25% of shares in companies related to critical infrastructure or security. In recent years, the German government began to expand the definition of companies whose takeover could endanger national security. Most recently, a plan has been considered to lower the threshold to block the purchase of shares in German companies to as low as 10%, although this would be difficult to reconcile with the rules of the World Trade Organisation. Another new mechanism is the use of the KfW bank, whose assets can serve as an important instrument to buy up shares in strategic companies from investment funds.
- Germany's new assertiveness has been brought about by the actions of China, which is continuing its policy of taking over attractive German companies, while at the same time

being ready to open up access to its own market only to a limited extent. In addition to the double attempt to take over 50Hertz, German politicians have also been worried by the purchase of shares in Daimler by the Chinese automaker Geely, which in February acquired almost 10% of the shares in Daimler and became one of its major shareholders. Geely carried out this transaction by taking advantage of certain legal and financial loopholes, circumventing the provisions of German law on the need to publish information concerning shares owned; the Chinese company also failed to inform its management of its intention to acquire a significant package of the shares.

- The question of the takeover of German companies was not publicised during the German-Chinese intergovernmental consultations held in July. Earlier, on a similar occasion, Chancellor Angela Merkel tried to pressure Beijing to restrict the investment activity of Chinese companies in Germany, but to no avail. While the expansion of Chinese capital is slowing down in other EU countries, interest in acquiring German companies has continued. As of the middle of this year, Chinese companies have acquired shares in EU companies worth €15 billion (a fall of 47%), of which €10 billion was accounted for by Germany (a rise of 47%). German politicians are beginning to realise that China will continue its policy of takeovers consistent with government *Made in China 2025* strategy. This assumes that Chinese companies will become global leaders in industries where German companies now have a dominant position, such as the automotive industry, mechanical engineering and renewable energy.