

PRESS RELEASE

Amendments to the Foreign Trade and Payments Act

Foreign Sovereign Wealth Funds are Reliable Investors **Short processing periods necessary** **Planned measures limited to five years**

Frankfurt am Main, August 6, 2008 – Although the protection of public security and infrastructure is understandable, the plans of the grand coalition to amend the Foreign Trade and Payments Act (“Aussenwirtschaftsgesetz”) present a certain risk to the investment climate. In order to ensure open conditions favorable to investment, it is important to dispel doubts about sovereign wealth funds (foreign investment funds based outside the EU) as early as possible.

Sovereign wealth funds should by no means be seen as a threat. Many businesses welcome the investments from sovereign wealth funds as additional or alternative sources of financing. The funds have shown themselves in the past to be reliable, unproblematic investors. We know of no case in which sovereign wealth funds have exercised significant influence on the operational activities of an affected company or on policies of foreign states. On the whole, they act like other investment funds. In the current financial crisis, sovereign wealth funds have, with their investments, assisted in the stabilization of international investment banks. Altogether there are more than 40 sovereign wealth funds in the world today. Their volume totals more than \$3,500 billion.

The German federal government is considering how the financial engagement of less-transparent sovereign wealth funds in key German industries can be better monitored. The government is therefore planning to amend the Foreign Trade and Payments Act. Investments originating in states outside the EU or EFTA amounting to 25 percent or more foreign stake in a German company can be limited or completely banned within three months if the “strategic infrastructure” or public security is jeopardized. It should be noted, however, that sovereign wealth funds’ stakes in large companies have so far limited themselves to minority interests of up to 10 percent.

Planning reliability and legal certainty are essential conditions for investment. AmCham Germany advises against excessive processing times and therefore calls for the possibility for appeal, the so-called „Aufgreiffrist,” to be limited to three months. Decisions either for or against approval should be made after a brief processing period of no more than four weeks. In order to guarantee planning reliability and legal certainty, potential applicants should be allowed the chance to request a certificate of compliance (“Unbedenklichkeitsbescheinigung”). This certificate should be granted after a period of no more than four weeks after the date of application, if no formal procedure of appeal has been started within this time frame.

AmCham Germany further recommends that the law initially be limited to five years with the potential to be amended after this period. The discretion to restrict foreign investments as stipulated should be used as sparingly as possible.

Public discussions alone could give the impression that Germany discourages investors and needlessly limits vital international capital flows. Not only sovereign wealth funds, but rather all foreign investors could be falsely held responsible.

A collective European action regarding sovereign wealth funds

Since sovereign wealth funds operate globally, multilateral solutions are more advantageous than national measures. Currently, on various international levels, codes of conduct for sovereign wealth funds are being developed directly with the affected states. These standards should include limitations on protectionism in individual states or communities of states and should ensure that sovereign wealth funds' investment strategies function independently of political objectives.

The EU Commission recommends self-commitment rules for the funds to comply with certain transparency and management standards. This, in turn, should provide predictability and liability security in the funds' investment policies, thereby dispelling public concerns. A uniform approach on EU and national levels is desirable in order to avoid a fragmentation of the Single Market. AmCham Germany calls for the implementation of international statutes as a fundamental element of Germany's own policies. It is important that national measures conform to EU guidelines, are non-discriminatory and do not contradict international commitments.

With approximately 3000 members, **AmCham Germany** is the largest bilateral business association in Europe. The chamber sees itself as a communications bridge to investors in the United States. Its activities focus on the promotion of German-American business relations and Germany as a location for doing business.

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