

Why Britain's attitude to foreign inward investment has not yet gone nuclear

Blog post by Adviser Matthew Duhan, 16 September 2016

In the end, the energy wonks were disappointed. Weeks of speculation about Hinkley Point C nuclear power plant were ended by the go-ahead for a deal which looks remarkably similar to the one previously on the table. The changes, and where they came from, were not about energy but security. The proposals which accompanied the decision are something of a glimpse into the post-Brexit future. However, some of the bolder claims, that they mark a serious retrenchment from Britain's status as the most open of economies, should be treated with caution, as should any attempt to link the proposals directly to Brexit.

Specific to Hinkley, the government has sought to impose restrictions on EDF's ability to sell its stake in the project before completion, presumably to forestall further Chinese investment. More broadly, it has proposed reform to the legal frameworks around foreign investment including: "a review of the public interest regime in the Enterprise Act 2002"; a "cross-cutting national security requirement" for government approval of investment in "critical" infrastructure; and a golden share scheme, guaranteeing the government control over the sale of significant shares in future nuclear projects.

The golden share proposals are an important statement about the new government's greater appetite for control over inward investment. But they are, for now, the only concrete proposals and restricted to the nuclear programme. More broadly, the commitment to a public interest review suggests a government looking at ways to give itself policy levers over inward investment which the previous government neither possessed, nor perhaps coveted. However, the results are no foregone conclusion and may yet prove insignificant. Indeed, if it only delivers a public interest test for critical infrastructure, it would arguably constitute a rowing back from May's commitment - made during the leadership campaign - to review all takeovers in the national interest.

On Brexit, public interest tests for foreign investment are already permitted under EU rules and it is unclear that EU membership would pose an obstacle to whatever the government has in mind. Certainly, evidence from other European member states suggests that it is the UK's own brand of economic liberalism - rather than Brussels rule-making - which has dictated the UK's laissez-faire approach to date. With the country likely to remain an EU member state for the next two years, the British Government will remain subject to the constraints of the European Commission in the use of whatever tools it chooses to equip itself with. Whether the government would want to go further after leaving, however, remains unclear.

Ultimately, the temptation to read too much into the Hinkley decision and accompanying proposals should, for now at least, be tempered. The pause on Hinkley itself was probably *sui generis*, based

on specific security concerns over Chinese involvement. And the accompanying proposals on inward investment are close relatives of May's industrial strategy in that they represent something of a placeholder while the government considers how to respond to frustrations about globalisation expressed in the referendum. If it is to be a genuine and coherent policy agenda, then Clarke's trailing of a more muscular approach to defensive aspects will need to be accompanied by a proactive mix of support for British companies from Philip Hammond, such as investment allowances, spending on business innovation and research and a targeted approach to replacing EU regional development funds. For that, we await the Autumn Statement.