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Abstract

Sovereign wealth funds (called later SWF) have attracted a lot of attention in the beginning of the new century as many countries from Arab world open funds and invest in the European Union (EU), including new state members such as Poland. This has given way to a rising concern over SWF investments's influence have on the european economy. Taking into consideration that all sovereign wealth funds combined to hold more than $5 trillion in assets in 2012 and they will exceed the annual economic output of the U.S. by 2015 and that of the EU by 2016, it is important to understand exactly what sovereign wealth funds are and what are the potential benefits and risk involved.

Due to their long-term strategic outlook, SWF might contribute to the stability of the international financial markets in the US and EU. It should build more precise and effective institutional framework of sovereign wealth funds' policy rules, and accountability and transparency mechanisms. SWF can be managed and regulated in order to avoid protectionist measures on the part of the recipients of inward foreign direct investment (FDI), in turn it could greatly benefit bilateral economic relations between EU and the Gulf Cooperation Council GCC.

Key words

emerging markets, equity markets, foreign direct investment, government financial assets, petrodollars, sovereign wealth funds

Definition

In the beginning, we start with defining and explaining the emergence of SWF, which basically are government investment vehicles funded by foreign exchange reserves that are managed separately from the official reserves of the central bank.[1] Important are stabilization funds, whose role is to protect the budget and the economy against fluctuations for goods. Most of Sovereign wealth funds are funded from earnings from commodity exports, receipts from privatizations, other fiscal revenues, or pension contributions.

SWFs, for the most part, act as any other large institutional investor, buying small stakes in well diversified portfolios of equities as well as fixed income securities They usually

1 Backer, L.C., Sovereign investing in times of crisis: Global regulation of sovereign wealth funds, state-owned enterprises, Transnational Law and Contemporary Problems, 2010 19(1) http://www/law.uiowa.edu/journals/tlcp

invest in hedge funds, in private equity firms, and in other highly leveraged financial institutions whose activities, including the use of leverage, are indistinguishable from hedge funds and private equity firms. In effect, sovereign wealth funds are providing the capital that those firms subsequently leverage to generate high rates of return for the funds. Sovereign investors offer opportunities to recipient countries by the infusion of much-needed capital and liquidity. Sovereign investors offer opportunities to recipient economies by the infusion of much-needed capital and liquidity. Due to their longer-term strategic outlook, they can contribute enormously to stability of the international financial system. [2] We can observed new trend in european strategic investments of GCC government funds, which has been purchasing of agricultural businesses and real estate abroad and particularly in the southern and eastern EU states, including Poland.[3] Qatar's investments alone in the UK, France and Germany have amounted to 65 billion USD. The investments are concentrated largely in Western European countries and Eastern Europe, with the UK as Qatar's main destination for foreign investment attracting $33.8 billion. [4]

Qatar's investments in France amount to 6.5 billion USD. Qatar has recently purchased Le Brantano! stores and La Tanneur leather industries. Qatar has shares in groups listed in the CAC 40 stock market such as Total Oil, a 3 per cent share in Vivendi and a 12.8 per cent share in Lagardère, a 5.5 per cent sgare ub the First Investor and Vince store, a 5 per cent share in Veolia environmental (5%) and a 1 per cent share in LFM. Qatar's investments in Germany amount to 15.7 billion USD, focused on the industrial sector and including leading German companies Volkswagen, Siemens and Hochtief constructions

The economic outlook for Poland country loosk promising, the Gross Domestic Product in Poland expanded 0.4% in the second quarter of 2013 over the previous quarter. GDP grew 0.8% from a year earlier. Polish economic growth accelerated from a four-year low and gave expectations that the second half of the year will bring an export – led recovery. Poland recorded its third monthly trade surplus in June 2013, the first time this has happened since the data series began in 2000, amid evidence its main export market, the euro area, is pulling out of recession. The inflation rate in Poland was recorded at 1% in September 2013. It remains well below the target of 2.5% plus/minus 1%. In September 2013, the National Bank of Poland kept its reference rate unchanged at 2.5% a decision that matched market expectations. Poland has introduced a series of reforms in recent years to

2 Please note, that IMF's World Economic Outlook update, October 2013 forecasted that the global economy would grow by 2.9% in 2013. Growth has been revised marginally downwards in 2013 in developed economies such as U.S. and Euro region. U.S. economic growth has been brought down by IMF to 1.6% for 2013. However growth has been revised up by IMF for Japan and UK to 2% and 1.4% respectively for 2013. Emerging economies growth has been revised downwards by IMF to 4.5% for 2013 from its earlier forecast of 5%.

3 Maximilian Bossdorf, Christian Engels and Stefan Weiler EU GCC INVEST REPORT 2013, April 2013, p.

4 The most known investments are London's Shard Tower and Barclays Bank helping to prevent the nationalisation of the bank. Qatar has a 20 per cent share in the company that owns Heathrow airport. Qatar owns the Harrods department store, has a 20 per cent stake in Camden market and 26 per cent share in the Sainsbury stores. Qatar has become the largest supplier of liquefied natural gas to Britain. Over the last year, Britain's imports of Qatari's liquefied natural gas constituted 85 per cent of Britain's imports. The ratio has increased in the fourth quarter of 2011 to 95.8 per cent.

improve the climate for foreign and domestic investment. In 2012, the government submitted to the parliament draft laws liberalizing access to some professions and improving the accounting of the value-added tax. In July 2011, the Act Limiting Administrative Barriers for Citizens and Businesses went into effect, introducing a series of measures designed to diminish the burden of Poland's state bureaucracy. In 2007-2010, telecommunication regulations were relaxed, the foreign exchange law was simplified, tax regulations were improved, new acts shaping public-private partnerships came into force, starting and closing a business and registering property became easier, and positive changes appeared on the labor market. In 2012, Poland simplified and strengthened its administrative and legal framework for handling both insolvency and bankruptcy, including amending its bankruptcy law to simplify court procedures and extend more rights to secured creditors.[5] Work to improve the administration of real estate registers and the public procurement law continued, and national and local governments made substantial progress in implementing a "zero-stop shop" process of enabling online new business registration.

Unfortunatelly there is no international agreemetn in force between EU and GGC. The EU launched negotiations on a Free Trade Agreement with the GCC in the early 1990s, which gained substantial clout after the creation of the GCC customs union in 2002. In 2008, the GCC side formally suspended the EU-GCC Free Trade Agreement (FTA) negotiations. By that time, most of the FTA text had been agreed upon. In 2010, the GCC then suspended all its ongoing FTA negotiations and launched studies on the benefits of these negotiations.

Even without the legal framework coutries form GCC show interest in eastern Europe, so the Kuwait Investment Authority invested into several agricultural businesses and properties in Romania and Bulgaria. In 2012, and was looking into investing an additional 480 million USD into a newly established joint venture company in the Bulgarian Agricultural sector, while Qatar exanimated investments of around 100 million Euros into the countries stock breeding sector (Dimitrova 2012). Another country Qataris is interesting in QEWS can investing in polish power company in by buying equity stake . 65 % of Polish companies specialized in the energy and construction field are willing to boost their international trade connections and trade volume in GCC countries , and to promote its wide array of products and design solutions that match world and European standards in terms of the quality of material used in its fabrication. And Poland finalised in September 2013 to import liquefied natural gas (LNG) from Qatar, imports are scheduled to start in 2015.[6] Qatar produces and exports significant quantities of condensate and natural gas liquids in association with natural gas, the effective average cost of producing LNG is much lower.

5 Poland ranked 55 in the World Bank's "Doing Business 2013" report, a remarkable improvement from 74th place a year earlier. Poland was the global top improver in the past year. It enhanced the ease of doing business by making it easier to register property, pay taxes, enforce contracts, and resolve insolvency.

6 in 2009 wa signed the contract for the supply of LNG gas from Qatar to Poland that starts in 2014. The agreement opens the doors for closer cooperation regarding energy and petrochemical industries and will have a positive impact on energetic security policy in Poland

This country has equity interests in 54 vessels in which it exports its LNG, thereby reducing its transportation costs and risks.

For polish enterprenuear imoprtan incetive to invest in Qatar is farovrable investment law in Qatar, where investment Law No. 13/2000 is the primary legislation governing foreign investment. Foreign investment is generally limited to 49 percent of the share capital for most business activities, with a Qatari partner(s) holding at least 51 percent of the [7]. Qatar amended the law in 2004 to allow foreign investment in the banking and insurance sectors upon approval of the Cabinet of Ministers. Moreover, foreign financial services firms are allowed 100 percent ownership at the Qatar Financial Center (QFC). On October 31, 2009, the Council of Ministers agreed on the amendments proposed by the Ministry of Business and Trade to allow foreign investors to hold 100 percent stakes in certain activities, including: business consultancy and technical services; information and communication services; cultural services; sports services; entertainment services. The new law allows, , on condition that the projects in question are in line with the country's development objectives, up to 100 percent ownership by foreign investors in certain sectors, including: agriculture, industry, health, education, tourism, development and exploitation of natural resources, energy, or mining. Polish nvestors, wishing to invest in Qatar are now allowed to hold 100 % ownership in more sectors in Qatar upon special approval by the Ministry of Finance, Economy and Trade. Banking, Insurance, Commercial Agencies and Real Estate still remain out of range for foreign investment. The investor has to apply for a special approval to own 100% of the shares in a company with the Investment Promotion Department at the Ministry of Finance, Economy and Trade, to present its business and provide a feasibility study. The Investment Promotion Department will report to the Minister of Finance, Economy and Trade, who is granting an exemption on a case by case basis.[8]

In the european financial markets SWF play important role, between 2002 and 2006, approximately $100 billion of the $642 billion surplus concentrated in these funds was invested in EU countries.[9] Since the beginning of the crisis in 2008, GCC SWFs emerged as important purveyors of emergency financing. For example, the Abu Dhabi Investment Authority an Emirati SWF, took a $6 billion stake in the British Barclays Bank; and in

7 During the last years the investment law in Qatar was amended twice, first with Decree No. 31 in 2004 and furthermore with Decree No. 2 in 2005. The most recent change was in 2010 with the Law No. 1 of 2010 amending some provisions of Qatari Foreign Investment Law No.13 of 2000

8 Law No. 1 of 2010, amending some provisions of Law No. 13 of 2000, regulating the investment of non-Qatari capital in the economic activity; see Latham & Watkins | Doing Business in Qatar, LW.com seond edition www.lw.com/.../doing-business-in-qatar‎

9 investments in the EU have been declining: starting from a level €10 billion in 2006, they have decreased by nearly 50 percent, reaching €4.6 billion in 2010 (Figure 3). However, reflecting past investments' profitability in both regions, EU and GCC FDI stocks have been on the rise (Figure 4).8International Monetary Fund, Balance of Payments Manual, 5th Edition, Washington, http://www.imf.org/external/pubs/ft/bopman/bopman.pdf. EU-GCC total trade in goods in 2012 amounted to around €145 Billion (i.e. a very significant increase from around €100 billion in 2010). The GCC accounts for 4,2% of total EU trade and is a significant market for EU exports (5%). The EU is the first trading partner for the GCC covering 13,5% of its total trade.

August 2011, Paramount Services Holding, an investment vehicle of the Qatari royal family injected €500 million in a new entity resulting from the merger of Greek financial institutions Alpha Bank and Eurobank.13 The same year, Qatari Prime Minister Hamad bin Jassim bin Jaber bin Muhammad Al Thani announced his country's SWFs stood ready to invest €300 million in the troubled Spanish savings banks (cajas de ahorro).

GCC members such as the UAE, Kuwait, Qatar and Saudi Arabia Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates. are home to some of the world's largest sovereign funds. These investment funds were primarily set up to spread the excess revenues made by the GCC states across various investments among others in an important market of European Union.[10]

The best know SWF is Qatar Investment Authority QIA.[11] Qatar's economy is predominately based on the exploitation of its' natural fossil resources, oil and gas. Since 1995 and the beginning of Qatar's gas production and export, the country's GDP has significantly increased reaching $52 billion in 2012, which represents an increase of 650%. Qatar Petroleum (QP), which is wholly owned by the State of Qatar (the State) and the State's primary source of revenue, is responsible for all phases of the oil and gas industry in Qatar. Qatar is estimaged to be amongst the top 20 largest global oil producer and is now the leading LNG producing country in the world exporting approximately 77.1 million

tonnes of LNG in 2011. Through its flagship Qatargas and RasGas LNG projects, Qatar has developed its LNG business through strategic partnerships with a number of the world's leading oil and gas companies, including ConocoPhillips, ExxonMobil, Shell and Total.

IMF expects Qatar's economy to report 5.1% and 5.0% GDP growth for 2013 and 2014 respectively.[12] World cup will create opportunities to form strategic alliances externally and to connect to global value chains. Growth will continue apace in the non-oil and gas economy. Growth in the non-oil and gas economy will be 9.8% in 2013, rising to 10.3% in 2014. Qatar's budget for 2013/14 envisages a government spending of QR210.6bn, up 18% on the previous year. Revenue at QR218.1bn would be based on a conservative oil price of US$65 a barrel. Aware of the limited amount of time awarded when harvesting natural resources, resources which represent 70% of overall revenue; Qatar is trying to diversify its' economy through investments made by QIA made in various sectors such as finance, sport the 2022 FIFA World Cup in December 2010t , hotel industry, telecommunications, nonhydrocarbon market or agricultural lands in order to reduce the country's expenses in producing food.[13] Qatar has distinguished itself from other GCC nations by focusing on

10 The Joint Action Programme adopted in June 2010 reiterates their mutual commitment to reinforce cooperation on economic and monetary affairs, and on investment, trade, the environment, education and scientific research, culture and the promotion of mutual understanding, among other aspects.3Council of the European Union, 20th EU–GCC Joint Council and Ministerial Meeting, Luxembourg, Joint Communiqué, 14 June 2010.

11 In the UNCTAD World Investment Reports Qatar's FDI Performance was respectively ranked 79th, 21st and 43rd from 2008 to 2010 , but occupied the 9th and the 2nd place in FDI

12 IMF Country Report No.13/14 Qatar January 2013

13 Qatar Investment Strategy, 2012

hosting sporting events and becoming a major hub for sports entertainment in the region. Notably, Qatar hosted the 2006 Asian Games, the 2010 IAAF World Indoor Championships and the 2011 AFC Asian Cup. In 2010, Qatar won the right to host the FIFA 2022 World Cup which will necessitate major infrastructure works including the construction of up to 12 new stadiums as well as new roads and transportation facilities. Preparations will have a lasting impact on Qatar's real estate, construction, and finance markets as companies scramble to obtain a portion of the more than USD 150 billion in infrastructure investments needed before 2022. The government has allocated 40 percent of its budget through 2016 to infrastructure projects, including USD 11 billion on a new international airport, USD 5.5 billion on a deepwater seaport and USD 12.36 billion on improving and creating road networks. Qatar will also invest USD 20 billion to USD 25 billion in tourism infrastructure development over the next 11 years as it prepares to host the 2022 World Cup. The largest planned development is the USD 29 billion metro and rail project. It will be implemented in three phases with completion scheduled for 2022. Other focal areas include roads, industrial zones, and information and communication technology.

In 2011, the Emir of Qatar issued Resolution No. (27) of 2011 establishing the Supreme Committee for Qatar 2022. The Supreme Committee for Qatar 2022 is intended to be the primary governmental authority responsible for planning and executing the works necessary to host the FIFA 2022 World Cup. In addition, Doha is expected to submit a bid for the right to host the 2024 Olympics. Total investments are expected to average 27 percent of GDP per year during 2012–17, predominantly in the nonhydrocarbon sectors, compared to 31 percent of GDP per year during the previous five years. Such investments are expected to create financing and investment opportunities for the private sector and to have positive spillover effects on the domestic economy.[14]

Qatari market is very interesting for Polish companies and many of them have already decided to cooperate with Qatari business. Companies from Poland supply their partner with construction machinery, transport equipment, materials and sources. They also offer related services - surveying and prospecting or drilling projects. Qatar gives preferential treatment to suppliers that use local content in bids for government procurement. When competing for government contracts, goods with Qatari content are discounted by 10 percent and goods from other GCC countries receive a 5 percent discount. As a rule, participation in tenders with a value of QR 1,000,000 or less is confined to local contractors, suppliers and merchants registered by the Qatar Chamber of Commerce, and tenders with a value of more than this amount do not require any local commercial registration to participate, but in practice certain exceptions exist. Tender and bid details are available at the Central Tender Committee website Qatar has begun to liberalize its telecommunications sector to permit outside private investment, starting with the issuance in December 2007

14 Qatar National Development Strategy (NDS) 2011–16; one percentage point of additional public-sector capital spending would generate 0.1 percentage point short-run acceleration of growth in nonhydrocarbon output, with the dilution of the effect being attributed to leakages through imports and expatriate workers' high marginal propensity to remit their incomes to their home countries.

of a second mobile license to a consortium including Vodafone and the Qatar Foundation. The same consortium was awarded the country's second fixed-line license in September 2008. However, there is a minimum requirement of QR 200,000 in initial capital for any telecommunication business, which creates a barrier to entry for small entrepreneurs.

When approving majority foreign ownership in a project, the law states that the project should fit into the country's development plans. It adds that preference should be given to projects that use raw materials available in the local market, manufacture products for export, produce a new product or use advanced technology, facilitate the transfer of technology and know-how in Qatar, and promote the development of national human resources.

In overwieing and assessing Qatar's transparency of the Regulatory System we haove to point out that there are already four regulatory bodies in Qatar, Current regulatory entities include:The Qatar Financial Market Authority regulates the Qatar Exchange (formerly known as the Doha Securities Markets), The Central Bank regulates locally registered banks, The QFC Regulatory Authority has a separate, independent regulatory authority for QFC-registered firms and The Ministry of Business and Trade regulates the local insurance sector.

SWF managed to become a source of controversy, especially sovereign funds originating in China and Russia. The increase in commodity prices that has enabled Russia and Organization of Petroleum Economic Countries (OPEC) members to accumulate large wealth. As a result of the investment policies they became a source of escalation in financial protectionism In the EU and North America [15] With over sixty sovereign wealth funds their influence on the european economy continues to grow. The country of origin for many of sovereign entities from Arab world are EU new state members, and these foreign funds provide FDI to a number of countries located in North America and the European Union (EU).

It is worth to remember that the many of oil-reliant emerging market states have been plagued by a resource curse known as Dutch disease. It happens when a sovereign state experiences a rapid increase in resource exportation that detracts from the process of necessary industrialization. With limited fossil fuels that are non-replaceable, these states extract wealth, but remain in a commodity export driven economy with no diversification into manufacturing or other alternative livelihoods.. The accumulation of commodity-driven wealth assembled into sovereign wealth funds and invested in European Union is a good solution for these states both to accumulate and diversify wealth

15 Kern, S. (2009). Sovereign wealth funds – state investments during the financial crisis. Deutsche Bank Research, July 2009
http://www.dbresearch.com

The impact and role of the SWF

SWFs have also become an increasingly important factor in economic development in emerging markets and they began to seek maximum returns on their investments. They invest in domestic industries, as well as look overseas to acquire new knowledge and technology. As a result, SWFs play vital c role by directly linking their higher-return investments to the sovereign states goals of economic diversification. Sovereign funds have a positive effect on the european companies in which they invest because they actively seek to monitor the actions of the firm's management, so between 1995 and 2010, 30 percent of SWF cross-border investment was made in the EU, and for instance the total stocks acquired by GCC's private investors and SWFs in the EU is estimated at more than €400 billion, making them among the largest foreign stakeholders in Europe.[16] The majority of investments in the EU can be either attributed to portfolio investments on behalf of GCC sovereign wealth funds, or strategic investments made via GCC government investment vehicles. sovereign wealth funds are invested by a substantial amount into European and EU based stocks, Bonds and other financial products, the Abu Dhabi Investment Authority stated in 2010 that "between 35 and 50 per cent of ADIA's assets are invested in the US, and between 25 and 35 per cent are invested in Europe".

Another examples are sovereign funds from China[17], Korea, Singapore, and the United Arab Emirates where Qatar alone investment authority has 30 billion to invest in 2012, teamed together with a U.S. private equity firm to make a $900 million investment in U.S. natural gas producer, Chesapeake Energy[18] A consortium led by sovereign funds from Korea and Singapore, together with the Canadian Public Sector Pension Investment Board and a U.S. private equity firm, paid in 2011 about $3.5 billion for Frac-Tech Holdings in Texas. The Abu Dhabi Investment Authority (ADIA) agreed to form a joint venture with the Kuwait Investment Authority (KIC) and the Korean National Pension Service [19] SWFs from Kuwait and Singapore have acquired a stake in TPG, a private equity firm in the United States.

Threats and political risk

Foreign governments may manage SWF investments in pursuit of political objectives – raising national security concerns – or economic power objectives by promoting state -owned or state-controlled national champions as global champions. Such behavior may

16 S. Hertog, "EU-GCC Relations in the Era of the Second Oil Boom", CAP Working Paper, December 2007, http://www.cap-lmu.de/publikationen/2007/hertog.php

17 By the end of 2009, one Chinese SWF had investments in 82 U.S. corporations worth $9.6 billion. In the fall of 2009 this sovereign fund agreed to a PPP investment with Oaktree Capital Management, a U.S. private equity firm. It negotiated a similar deal with another American private equity firm, JC Flowers

18 Bloomberg News (2012), Qatar investmentauthority has 30 billion to invest in 2012, http://www.bloomberg.com/news/2012-04- 22/qatar-investment-authority-has-30- billion-to-invest-in-2012-1-.html

19 Ford, N. (2011). Challenging times for Gulf SWFs. Middle East, 422, 35-37

contribute to political conflicts between countries as well to economic distortions. SWF foreign investment activities have raised concerns that they could be a possible threat to national security and to market-based economies of the EU member states [20], for instance Investments in France have been focused on companies of the French Stock Exchange such as Total (2% participation in Total's capital), Vivendi (2%), LVMH (9%), and Veolia Environment (5%). Investments have also targeted the "5 stars" Luxury industry Hotels, where real estate represents a secure long-term investment, or the Sport Industry with the full acquisition of the PSG Football club, PSG Handball club (100%) and the creation of the Sport TV channel, BeIn Sport (100%).In Great Britain, latest estimations evaluated (Times, 2012) Qatar to own 20% of the London Stock exchange, 26% of Sainsbury's, 100% of Harrods or 7.1% of the Capital of Barclays.

In Germany (Laurent, 2012), similar investments have been made with the acquisitions of 7% of the capital of the car manufacturer Volkswagen, 10% of Porsche[21], and 9% of the capital of Hochtief, leading global infrastructure contractor.[22]

The main raised concern is that foreign governments might have an interest in controlling state assets, securing access to sensitive information or technology.
Generally threats or risks include

a. undesirable foreign control or influence over key industries or companies
b. access to sensitive technology,
c. the potential to create market instability
d. the exercise of unfair competitive advantages
e. partial compliance with arbitral decision - in case of Qautar its courts will enforce foreign judgments if there is reciprocity between the two jurisdictions. In March 2003, Qatar acceded to and implemented the principles of the United Nations New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (the New York Convention). Consequently, Qatari courts are obliged to enforce foreign arbitral decisions concluded in states that are party to the New York Convention, in accordance with the New York Convention. Majority of parties doing business in Qatar (both foreign and locally based) select binding arbitration as the method of dispute resolution. There are two possible centres of arbitration in Qatar: the Qatar International Centre for Arbitration (QICA) in the Chamber of Commerce and Industry, and the QFC Tribunal. Many parties, however, choose locations in Europe or North America as the arbitral seat. The QICA applies the laws contained in the Civil and Commercial Procedure Code (Law No. (13) of 1990). The QFC applies specific QFC arbitration regulations. The majority of foreign entities doing business in Qatar select well-established arbitral rules including those issued by the LCIA, ICC or UNCITRAL.

20 UNCTAD, World Investment Report 2010: Investing in a Low-Carbon Economy. New York: United Nations
21 In 2009, 9.1% of the Daimler company's shares were purchased by the UAE based investment fund Aabar, whilst another 6.9% were held by the Kuwait Investment Authority. Aarbar has since sold its shares, making the Kuwait Investment Authority now again the largest single shareholder of Daimler.
22

Due to the awareness of these known threats, regulatory changes in investment law have been considered not in european countries but also in the US[23] and Australia. European officials feel threatened that foreign countries could use their investment vehicles to obtain technological or informational advantages, disrupt markets, distort energy supplies and subvert infrastructure.

Espacially there is a sentiment that SWFs may potentially improve their strategic advantage or to secure access to sensitive technology from other countries. As an example we can recall an attempt by the state-owned Chinese National Offshore Oil Company (CNOOC) to acquire an American oil company, California-based Unocal or situation when Dubai Ports World, which is owned by the government of the United Arab Emirates, tried to acquire control of six ports in the United States before it withdrew under political pressure.[24]

Responses

In the US the Committee on Foreign Investment composed of US federal agencies that reviews proposed sales of, or investments in US corporations to foreign buyers in the U.S. CFIUS can review potential investments in US companies by SWFs where that investment accounts for more than 10 percent of the US company's value[25]. CFIUS was created in response to increased investment by countries belonging to the Organization of Petroleum Exporting Countries following the oil crisis in the 1970s. It serves as a review body, headed by the US Treasury Secretary, which examines the implications and threats of foreign investment. An amendment in 1988 provided the President with the ability to block a foreign purchase if it was deemed a national security threat [26] The procedures for reviewing proposed foreign investments were revamped by the Foreign Investment in National Security Act of 2007 (FINSA) with a section that mandates congressional briefings of all CFIUS investigations. Similar government investment regulation exists in Canada and in Europe[27]

23 The 9/11 Commission had reported financial ties between the UAE and Al Qaeda, the terrorist group that conducted the 9/11 attacks, but when the U.S. economy lurched into a major recession in 2008, some of the same members of Congress who were suspicious of SWFs backed the UAE's use of its SWF to invest heavily in vulnerable U.S. financial institutions such as Citigroup. All former suspicions and fears seemed cast to the wind; see Lang, L. E. (2011). Financial points of entry, Sovereign wealth funds: Hidden security threat or smart finance? M.A. Thesis, Georgetown University 2011, April 15, http://proquest.umi.com/pqdweb?did=2341055781&sid=5&Fmt=2&clientid=18004&RQT=309&NAME=pqd

24 Freedman, The rise of sovereign wealth funds, Boston College Financial,2008 3(1), 5-11

25 Plotkin, M. E. (2008). Foreign direct investment by sovereign wealth funds: Using the market and the Committee on Foreign Investment in the United States together to make the United States more secure. The Yale Law Journal Pocket Part 88, November 17, 88-92.

26 Most SWFs are structuring their deals to stay under 10 percent control and avoid the interagency CFIUS process, but even when deals were structured over 10 percent, such as when Kuwait bought Barneys in the summer of 2007, or Lenovo purchased IBM's PC division, or SABIC, the Saudi fund, bought GE Plastics, no concerns were raised because there were no real security nexuses

27 Commission of the European Communities (2008). A common European approach to sovereign wealth

The trade between the Gulf Cooperation Council states (GCC) and the EU is growing, but EU's imports from the GCC are mainly constituted of hydrocarbons. On the GCC's side, Saudi Arabia refused to stop subsidising its energy industry, and other countries decided to maintain non-transparent public procurement procedures, and entry barriers to foreign investors in the services sector.and differentiated pricing of gas exports to European countries.

The EU and the GCC agreed on a Joint Action Programme (JAP) for 2010-13 to guide their relations, covering a large range of issues for co-operation including trade, investment, industrial cooperation, intellectual property rights, ICT, nuclear safety, clean energy, research, and economic dialogue. Significant is functioning and role of the European Commission, which on 02.05.2013, received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the FRHI Holdings Limited („FRHI", Cayman) will become jointly controlled, within the meaning of Article 3(1)(b) of the Council Regulation (EC) No 139/2004, by Qatar Investment Authority („QIA", Qatar) and Kingdom Holding Company („KHC", Saudi Arabia) by way of purchase of shares. The European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement.

In 2008 Germany enacted a law that required parliamentary approval for any foreign acquisition amounting to more than 25 percent of the voting rights in any German company. German Chancellor Angela Merkelin 2011 struck down deals involving a Russian SWF and aerospace and defense manufacturer EADS, the European aerospace consortium (Mauck, 2011; Whyte & Barysch, 2007).

In Australia in a 2009 bid by Chinalco for Rio Tinto has benn turned down despite the $19.5 billion offer. And in Canada the Chinese state-owned Minmetals Group bid of nearly $6.7 billion to acquire Noranda, a large Canadian mining company, was turned down[28]

Reforming SWF

In October 2008, a group of 26 nations with SWFs (the International Working Group of Sovereign Wealth Funds (IWGSWF) meeting in Santiago, Chile, unveiled a set of 24 non-binding best practices, known as the Generally Accepted Principles and Practices (GAPP), or Santiago Principles[29] The GAPP is underpinned by the following guiding objectives for SWFs:

→ to contribute towards global financial stability and the free cross-border flow of capital investment
→ to comply with the regulations and disclosure requirements of host countries
→ to invest primarily on the back of financial and economic risk and return

funds. Com (2008) 115 Provisional, Brussels, 1- 11. Retrieved from http://europa.eu

28 Zhang, K. K. & Chen, V. Z. (2011). Growing and diversifying Chinese investment in Canada: 2000-2010. Asia Pacific and Globalization Review, 1(1), 37-54.

29 Park, D. & Estrada, G. (2011). Developing Asia's sovereign wealth funds: the Santiago Principles and the case for self regulation. Asian Journal of International Law, 1(2), 383-403.

→ to set-up a transparent and sound governance structure which ensures adequate operational controls, risk management, and accountability

Proposed solution

Foreign governments may mismanage their international investments to their own economic and financial detriment, including large-scale corruption in handling the huge amounts involved, for example, government-owned banks tend to be less profitable than private banks. The main concern about mismanagement is the principal reason why it is in the interests of european countries with a SWF to favor the establishment of internationally agreed SWF best practices, because the mismanagement of SWF investments could lead to political as well as economic instability in countries with such funds.[30]

According to Organization for Economic Cooperation and Development (OECD) principles, SWFs should be considered on the same basis as other institutional investors and be submitted to investment regulations similar to those of public pensions, mutual funds and hedge funds. SWFs should be required to comply with existing OECD investment guidelines which commit adherents to principles of transparency, non-discrimination, liberalization and standards.[31]

But european countries receiving SWF investments should be as open as possible to such investments subject to the constraints of national security considerations narrowly defined.

30 For example, in a March 13 letter sent to U.S. Treasury Secretary Henry Paulson, Representatives Barney Frank, Carolyn Maloney, and Luis Gutierrez suggested that a country's compliance with aspects of SWF best practices could be used by the CFIUS as a factor in determining whether the committee should grant that country a waiver from a full investigation under FINSA of an investment, for example, by a government-owned pension fund.

31 For example, in letter from 2011 sent to U.S. Treasury Secretary Henry Paulson, Representatives Barney Frank, Carolyn Maloney, and Luis Gutierrez suggested that a country's compliance with aspects of SWF best practices could be used by the CFIUS as a factor in determining whether the committee should grant that country a waiver from a full investigation under FINSA of an investment by a government-owned pension fund.