

THE GLOBAL TRADE LAW JOURNAL

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The Foreign Subsidies Regulation: Where We Stand Months Into Implementation of the Notification Obligations

Axel Gutermuth, Charlotte Simphal, and Sara Routsis*

In this article, the authors discuss what can be learned from the first wave of notifications under the Foreign Subsidies Regulation that have been processed by the European Commission.

The Foreign Subsidies Regulation (FSR) is a landmark piece of EU legislation that empowers the European Commission (EC) to investigate and address distortive subsidies granted by non-EU countries to companies active in the European Union. It enables the EC to review large transactions and public procurement procedures for which it receives notification, as well as to launch investigations on its own initiative. The notification obligations that started to apply in October 2023 represent a significant compliance burden for companies. With the first wave of notifications now processed, this article takes stock of the current learnings and emerging enforcement trends.¹

New DG COMP Directorate to Review Transactions, and New DG GROW Unit to Scrutinize Foreign Subsidies in Public Procurement

The EC's Directorate-General for Competition (DG COMP), now headed by Teresa Ribera, the EC's Executive Vice-President for a Clean, Just and Competitive Transition, is responsible for handling the FSR's concentration procedure, thus to review transactions caught by the FSR. The Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), headed by the EC's Executive Vice-President for Prosperity and

Industrial Strategy, Stéphane Séjourné, is responsible for handling submissions made under the FSR regarding public procurement procedures. Both DG COMP and DG GROW are also competent for ex officio cases.²

In March 2024, the EC established a new, dedicated directorate within DG COMP—Directorate K—to manage the implementation of the FSR in relation to concentrations. This move marked a significant commitment to the effective enforcement of the FSR. Directorate K, which is led by Karl Soukup, a senior DG COMP official who is also the acting Deputy Director General for state aid, currently has three operational units and around 40 officials. It replaces the previous smaller FSR Task Force and includes officials with significant experience, particularly in state aid cases. While DG COMP had initially estimated it would require 100 staff members to apply its powers under the FSR, it remains uncertain if and when that number will be reached.

As of May 1, 2025, the team scrutinizing foreign subsidies in public procurement became part of a dedicated unit under a new Directorate for Compliance and Responsible Business Practices within DG GROW. The move is part of a broader reshuffle of DG GROW that aims to focus the DG's work on the new priorities of the EC, such as economic competitiveness and the simplification of EU law.

Significantly Higher Number of Notifications Than Expected, But No “Below Threshold” Call-Ins So Far

The EC has received considerably more notifications than it had anticipated in its 2021 Impact Assessment Report. By early April 2025, the EC had received approximately 140 notifications related to M&A (mergers and acquisitions) transactions; and by the end of April 2025, over 2,000 submissions³ related to public procurement procedures (the majority of which—precisely 1,734—were declarations, with only 322 being notifications, which are required when foreign subsidies exceed a €4 million threshold). For public procurement procedures, most submissions came from France, followed by Germany and Italy. These figures stand in stark contrast to the EC's initial estimates, which forecasted only around 30

notifications per year for each of M&A transactions and procurement procedures.

Perhaps as a reaction to the high number of notifications, the EC has not yet made use of its powers to “call in” and review transactions that fall below the notification thresholds. It is reported that the EC has considered calling in one transaction so far, but has ultimately refrained from doing so.⁴ The call-in possibility has been criticized by companies as it leads to legal uncertainty for transactions. Interestingly, as a condition for clearing the e&/PPF transaction,⁵ which is covered in more detail below, the EC required e& to bring all future transactions to the EC’s attention for potential review under the FSR.

Private equity has played a significant role in FSR M&A activity. Data compiled by PaRR suggests that from all transactions notified under the FSR until early April 2025, approximately one in three involved a private equity buyer.⁶

The same data suggests that in terms of the geographic origin of the acquirer, 39 notified deals (across all types of acquirers) involved U.S.-based acquirers, 23 acquirers from France, and 16 from the United Kingdom. Among transactions involving acquirers from other jurisdictions, four originated from Japan, three from the United Arab Emirates, two from Singapore, and one from each of Australia, Canada, China,⁷ South Korea, and Taiwan.

In an effort to enhance transparency, the EC recently began publishing information about notified M&A transactions in its case register. However, the published information is in most cases limited to the names of the companies involved, the industry NACE code that is relevant for the transaction, the notification date, and the provisional decision deadline. The FSR enables the EC to close investigations of transactions in Phase 1 by a simple administrative letter without a reasoned opinion. More detailed information is only provided if a case enters the in-depth Phase 2 stage of an investigation. In these cases, the EC also publishes a non-confidential version of its reasoned decisions. Unlike in the area of merger control, there is therefore very little decisional practice that companies can draw on for guidance on how the EC enforces the FSR.

It is also noteworthy that in more complex cases, companies typically spend several months in so-called pre-notification discussions with the EC before formally submitting a notification for an M&A transaction.⁸ This practice has enabled the EC in several cases to sufficiently investigate issues in pre-notification, thus avoiding

a Phase 2 investigation that otherwise would have been required. While this approach allows for some flexibility, the drawback for the transaction parties is that pre-notification discussions are not subject to any specific review timelines and therefore may extend for a long time—similar to the practice that has evolved under the EU Merger Regulation. Also, there is hardly any public transparency regarding cases that are in pre-notification, and if they lead to a close of the formal investigation after Phase 1, there is also no public transparency about the issues that the EC investigated in more detail during pre-notification.

Few In-Depth Investigations

Despite the high number of notifications, only a handful have triggered in-depth (Phase 2) investigations. To date, the EC has launched three in-depth probes into public procurement bids and one in-depth probe into an M&A transaction.⁹ Of these, only the M&A-related investigation (FS.100011—e&/PPF) has resulted in a formal decision, which therefore is the first and, so far, only published EC decision under the FSR. Again, the practice of spending several months in pre-notification discussions with the parties probably has enabled the EC to limit the number of Phase 2 cases to a minimum. In the three procurement cases, the EC's investigation led to the bidders voluntarily withdrawing their bids, and the EC terminated its investigations without adopting a final decision. Table 1 and Table 2 provide a summary of these four in-depth investigations.

Table 1. In-Depth FSR Investigations: Concentrations		
Case	Timetable	Theory of Distortion/ Commitments
FS.100011 e&/PPF	Notification: 04/26/2024	EC’s findings
(Emirates Tele-communications Group Company PJSC/PPF Telecom Group B.V.) Country of the acquirer: UAE	Launch of in-depth investigation: 6/10/2024 Conditional clearance (subject to remedies): 9/24/2024	<p>e& (which is controlled by a sovereign wealth fund, the Emirates Investment Authority (EIA), itself controlled by the UAE) and the EIA received foreign subsidies from the UAE, consisting notably of an unlimited state guarantee to e&, as well as grants, loans, and other debt instruments to EIA.</p> <p>Assessment of the distortion on the internal market:</p> <p>In its assessment, the EC not only focused on the acquisition process itself but also on the activities of the merging parties post-transaction.</p> <ul style="list-style-type: none">• The foreign subsidies received by e& did not lead to actual or potential negative effects on competition in the acquisition process. e& was the sole bidder for the target and had sufficient resources of its own to perform the acquisition, which reflected the target’s market value.

Case	Timetable	Theory of Distortion/ Commitments
		<ul style="list-style-type: none">• The foreign subsidies received by e& and the EIA could have led to a distortion of competition in the EU post-transaction. They would have artificially improved the capacity of the merged entity to finance its activities in the EU and increased its indifference to risk. As a result, the merged entity could have engaged in investments, e.g., in spectrum auctions or in the deployment of infrastructure, or acquisitions, thus distorting the level playing field relative to other market players by expanding its activities beyond what an equivalent economic operator would engage in absent the subsidies.• In particular, the EC found that the e& unlimited guarantee fell under Article 5(1)(b) FSR and was therefore “most likely to distort the internal market.” For such subsidies, the EC does not need to perform a detailed assessment based on indicators.

Case	Timetable	Theory of Distortion/ Commitments
		<p>Application of the balancing test:</p> <p>These countervailing factors must be brought about by the foreign subsidies, not by the transaction. In this case, the EC rejected the countervailing factors claimed by the notifying party (enhanced customer service, network optimization), reasoning that they would result from the transaction itself rather than from the foreign subsidies.</p> <p>It is up to the notifying party to put forward countervailing factors that would outweigh the distortive effects of the subsidies; if it fails to do so, the EC is under no obligation to look at countervailing factors.</p> <p>Commitments package (valid for ten years, renewable for another five years)</p> <p>A commitment to amend e&s articles of association so that they do not deviate from ordinary UAE bankruptcy law, thereby removing the unlimited state guarantee.</p>

Case	Timetable	Theory of Distortion/ Commitments
		<p>A prohibition of any financing from the EIA and e& to PPF's activities in the EU, subject to certain exceptions concerning non-EU activities and "emergency funding," which will be subject to review by the EC, as well as the requirement that other transactions between those companies take place at market terms.</p> <p>An obligation that e& inform the EC of all future acquisitions even if they do not meet the FSR's notification thresholds, so that the EC can assess on an ad hoc basis whether or not to review the transaction under its call-in powers.</p>

Table 2. In-Depth FSR Investigations: Public Procurement Procedures		
Case	Timetable	Theory of Distortion
FSP.100147 CRRC Quigdao Sifang Locomotive Co. Ltd. Country of the bidder: China	Notification: 1/22/2024 Launch of in- depth investiga- tion: 2/16/2024 Investigation closed on 3/26/2024 due to withdrawal from tender	The investigation concerned a public procurement procedure launched by Bulgaria's Ministry of Transport and Communica- tions for electric "push-pull" trains, as well as related main- tenance and staff training services. CRRC Qingdao Sifang Locomotive Co. Ltd. is a sub- sidiary of CRRC Corporation, a Chinese state-owned train manufacturer.

Case	Timetable	Theory of Distortion
		<p>EC's preliminary concerns</p> <p>The EC found that there were sufficient indications that the foreign subsidies received by CRRC Qingdao Sifang Locomotive (consisting of public procurement contracts and government grants) were liable to improve its competitive position in the EU internal market, thereby actually or potentially distorting competition. The EC noted that:</p> <ul style="list-style-type: none"> • The total amount of the foreign subsidies was five times greater than the value of CRRC Qingdao Sifang Locomotive's bid. • CRRC Qingdao Sifang Locomotive's bid was substantially lower than the estimated costs of the contracting authority and the offer of the competitor.
<p>FSP.100151 ENEVO Group and LONGi Solar Technologie GmbH (ENEVO/LONGi)</p> <p>Country of the bidder: China</p>	<p>Notifications: incomplete notifications on 1/22/2024; complete notifications on 3/4/2024</p> <p>Launch of in-depth investigations: 4/3/2024</p> <p>Investigations closed on 6/7/2024 due to withdrawals from tender</p>	<p>These investigations concerned a single public procurement procedure launched by a Romanian contracting authority (Societatea Parc Fotovoltaic Rovinari EST S.A.) for the design, construction, and operation of a photovoltaic park in Romania with a capacity of 454.97 megawatts, partly financed by the EU.</p> <p>The EC launched in-depth investigations against both ENEVO/LONGi and Shanghai Electric, which were among the competing bidders in the Romanian public tender process.</p>

Case	Timetable	Theory of Distortion
FSP.100154 Shanghai Electric UK Co. Ltd. and Shanghai Electric Hong Kong Inter- national Engi- neering Co Ltd. (Shanghai Electric) Country of the bidder: China		<p>EC's preliminary concerns</p> <p>The EC found that there were sufficient indications that the foreign subsidies received by ENEVO/LONGi and Shanghai Electric and their holding companies (consisting of (1) government grants, (2) tax refunds, fiscal incentives and levies, financing, and (3) in the case of Shanghai Electric sales of goods and provision of services) were liable to improve their competitive positions in the EU internal market, thereby actually or potentially distorting competition. The EC noted, among other things, that:</p> <p>The absolute amount of the foreign subsidies was significantly higher than the value of the contracts for which ENEVO/LONGi and Shanghai Electric were bidding.</p> <p>The financial proposals of the tenderers were not made available to it so that it was unable to assess the financial offers proposed by ENEVO/LONGi and Shanghai Electric.</p>

Only Two Ex Officio Investigations

The EC has initiated only two ex officio investigations to date, a significantly lower number than the anticipated 30-45 investigations per year.¹⁰ The EC has complete discretion to select its ex officio cases and has, to date, focused on strategic sectors (clean energy and security equipment). Both investigations involve

Chinese companies, and both remain ongoing.¹¹ Table 3 provides a brief overview of these cases.

Table 3. Ex Officio Investigations		
Case	Timetable	Object of the Investigation
Chinese wind turbine suppliers (company names unknown) Relevant country: China	Launch of investigation: 9/4/2024 Status: Ongoing	The EC is investigating whether Chinese suppliers of wind turbines benefitted from potentially distortive foreign subsidies in relation to wind park projects in Spain, Greece, France, Romania, and Bulgaria. ^a These Chinese suppliers of wind turbines reportedly offered much lower prices than their European counterparts and generous financing terms.
Nuctech Company Ltd. Relevant country: China	Launch of investigation: 4/23/2024 (dawn raid) Status: Ongoing	Nuctech is a Chinese company specialized in security scanning equipment and systems. The EC has indications that Nuctech may have received foreign subsidies that could distort the EU internal market. According to the press, European governments awarded over 160 contracts to Nuctech over the past 10 years, despite national security warnings about the company's products. Nuctech is banned in some Western countries due to suspicions that it is collecting data on the movement of goods and people using passport numbers and fingerprints.

^a See Speech by Executive Vice President Vestager on Technology and Politics at the Institute for Advanced Study (Apr. 9, 2024), https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_24_1927.

^b See European Commission Press Release, "Commission Carries Out Unannounced Foreign Subsidies Inspections in the Security Equipment Sector" (Apr. 23, 2024), https://ec.europa.eu/commission/presscorner/detail/sw/mex_24_2247.

In her Mission Letter to Executive Vice-President for a Clean, Just and Competitive Transition, Teresa Ribera, President von der Leyen asked Ribera to “vigorously enforce the Foreign Subsidies Regulation, including by proactively mapping the most problematic practices that could lead to competition distortions.” The reference to proactive mapping suggests that the EC may increase its use of the ex officio tool during its 2025-29 mandate.

Heightened Interest in Chinese Subsidies and Focus on Strategic Sectors

While the FSR is not aimed at specific countries, the EC’s initial enforcement actions appear to have targeted Chinese subsidies: since the entry into force of the FSR, almost all in-depth reviews (three out of four) and all ex officio investigations initiated by the EC have involved Chinese companies. The perceived focus on China has led to political tension. On January 9, 2025, the Chinese Ministry of Commerce (MOFCOM), concluding its six-month investigation into the practices of the EC in relation to the FSR, found that the FSR and the EC investigations opened in 2024 against Chinese companies constitute “trade and investment barriers,” as defined in Article 3 of China’s Investigation Rules of Foreign Trade Barriers. In light of these findings, MOFCOM has stated its intention to pursue bilateral negotiations and other appropriate measures to urge the European Union to modify its FSR practices, ensuring that Chinese companies can invest and operate in the European Union fairly and without discrimination.¹²

Regarding sectors, the EC’s initial enforcement actions have to date focused on strategic sectors such as telecommunications; clean energy (solar power, wind); infrastructure, including transportation (electric trains); and security equipment. At least three informal complaints have been raised by European professional football clubs, expressing their struggle to compete with rival clubs that have access to substantial funding from financial backers from Qatar and the United Arab Emirates. However, as far as is publicly known, these complaints have not led to formal investigations to date. This suggests that the EC carefully chooses its ex officio cases in line with its political and economic priorities.

First Use of the Dawn Raid Investigation Tool

The FSR grants the EC surprise on-site inspection powers that are closely modelled after similar “dawn raid” powers that the EC can use in its competition law enforcement. On April 23-26, 2024, the EC, in tandem with the Dutch and Polish competition authorities, carried out its first dawn raids under the FSR at the Dutch and Polish subsidiaries of Chinese security scanner company Nuctech. During the inspection, the EC requested access to the mailboxes of several employees based at Nuctech’s Dutch and Polish premises, all of whom were Chinese citizens. Nuctech refused on the grounds that this correspondence was stored on their parent company’s servers, located in China. The EC requested Nuctech to place a legal hold on the mailboxes in question and, following the inspections, reiterated its request for Nuctech to make the data available as soon as possible.

Nuctech subsequently brought an action for the annulment of the inspection decision and of any subsequent requests for data, as well as the legal hold requests. At the same time, Nuctech also brought an application for interim measures seeking the immediate suspension of the EC decision and related requests, pending the outcome of its main application.

On August 12, 2024, the President of the General Court (GC) issued an order in Case T-284/24 R denying Nuctech interim relief. The GC held that

the Commission must be entitled to carry out its investigations effectively and to request information from all undertakings which carry out commercial activities in the European Union, whether they are controlled by entities in the Member States or in third States, in order to assess whether their conduct in that market infringes EU law. If that were not the case, undertakings controlled by third States would benefit from a competitive and procedural advantage compared with those which are controlled by entities located inside the EU.

Additionally, the proper conduct of EC investigations could be compromised if those companies could evade requests for information by deciding to store their data outside the European Union. The GC further held that the companies had not proven that the data requested by the EC was not accessible to them or that Chinese law

prohibited access. The GC found that the companies had “neither explained nor substantiated their claim that they have no access to information stored on servers located in China.”

Nuctech appealed the GC’s order to the Court of Justice of the EU (CJEU). On March 21, 2025, the Vice President of the CJEU dismissed the appeal in Case C-720/24 P(R). As a result, while Nuctech’s main appeal seeking the annulment of the EC’s decision and related requests is ongoing at the GC, the EC can continue its investigation and review the evidence it collected in April 2024 at the company’s premises in Poland and the Netherlands.

Additional EC Guidance on FSR Enforcement

The EC’s List of Questions and Answers

Over the past 18 months, the EC has updated its list of questions and answers (Q&As) with additional answers to some of the most frequently asked questions on the FSR. The EC’s Q&As provide information that relate to procedural and jurisdictional issues, as well as implementation and practical issues. The Q&A list does not address the substantive analysis under the FSR.

The EC’s Staff Working Document

On July 26, 2024, the EC adopted a Staff Working Document (SWD) that provides initial clarifications on the EC’s substantive test under the FSR. The SWD consists of Q&As on, in particular, (1) the application of Article 4(1) FSR concerning the existence of a distortion in the internal market caused by a foreign subsidy, (2) the application of the balancing test set out in Article 6 FSR, and (3) the assessment of a distortion in a public procurement procedure as set out in Article 27 FSR.

Concept of Distortion Under Article 4(1) FSR

Article 4(1) FSR sets out two conditions to determine whether a foreign subsidy distorts the internal market: (1) the foreign subsidy is liable to improve the competitive position of an undertaking in the internal market, and (2) by improving the competitive position of an undertaking in the internal market, the foreign subsidy

actually or potentially negatively affects competition in the internal market.

1. The SWD clarifies that the EC must establish a relationship between the foreign subsidy and the activities in the internal market. In cases where there is no apparent relationship between the foreign subsidy and the activity in the internal market (e.g., in the case of a foreign subsidy that has been granted to a subsidiary not active in the European Union, where that subsidy has been granted and effectively been used to develop the local activity of the subsidiary in a third country), the EC could examine, for example, whether the foreign subsidy is used to cross-subsidize activities in the internal market.
2. The SWD clarifies that to determine whether a foreign subsidy adversely distorts competition in the internal market (either actually or potentially), the EC may examine its effects on any activities the beneficiary is currently engaged in or is likely to engage in within the internal market, be it investments or the provision or purchase of any goods or services. A foreign subsidy is considered to negatively affect competition when it creates an unlevel playing field by distorting market dynamics. The “most likely to distort” foreign subsidies falling under Article 5 FSR will generally be presumed to distort the market, whereas the EC will conduct a detailed assessment of the distortive effects of non–Article 5 foreign subsidies based on the nonexhaustive indicators set out in Article 4(1) FSR.

Distortion Test Under Article 27 FSR

The SWD clarifies that for a foreign subsidy to be considered distortive in a public procurement procedure, two conditions must be met cumulatively: (1) the tender submitted by the subsidized economic operator must be unduly advantageous in relation to the works, supplies, or services concerned; and (2) there must be a link between the grant of the non-EU subsidy and the tender itself, demonstrating a distortion or a risk of distortion by enabling the bidding entity to submit an unduly advantageous tender.

1. The SWD indicates that this will be determined by benchmarking the suspected tender to the other bids submitted

in the tender procedure, and the contracting authority's own estimate as shown in its documents. The EC will then examine the undue nature of the advantage, taking into account whether the advantage can be justified by factors other than a subsidy. It may also rely on other facts, such as general market information, information provided by competitors, or on the results of its own investigations.

2. The SWD clarifies that the EC must establish, on the basis of available information, that the foreign subsidy enabled or likely enabled the economic operator to submit the unduly advantageous bid.

Balancing Test

The SWD states that the EC has not yet gathered enough experience in the application of the balancing test, so its guidance is relatively opaque. It mentions a non-exhaustive list of possible positive effects, such as considerations relating to a high level of environmental protection, social standards, or the promotion of research and development. The SWD also notes that the most likely distortive Article 5 subsidies are “less likely” to see their negative effects outweighed by positive effects.

The EC's Future FSR Guidelines

On March 5, 2025, the EC launched consultations on the FSR Guidelines, which, under Article 46(1), FSR are due to be formally adopted by January 12, 2026.

The Guidelines will provide additional guidance on the determination of a distortion caused by a foreign subsidy and the criteria applied, the application of the balancing test, and the assessment of distortion in a public procurement procedure and, specifically, the meaning of an “unduly advantageous” tender and the need for a link between the foreign subsidy and the tender. The Guidelines will also cover the EC's power to call in “below threshold” mergers, and public tenders and the criteria considered.

Consultation activities include:

- A call for evidence that was available for public feedback on the EC's “Have your say” portal until April 2, 2025. The EC received 45 submissions from a range of stakeholders,

including businesses, law firms, and industry associations from both the European Union and third countries. Chinese respondents raised concerns about the vague definitions of “market distortion” and “foreign subsidies,” while Goldwind Science, a Chinese wind turbine company, criticized the prolonged duration of the EC’s preliminary investigation into its case.¹³

- Targeted consultations with member states and selected stakeholders, based on a dedicated questionnaire. The EC selected the stakeholders on the basis of their involvement in FSR enforcement to date.
- An online consultation on a draft version of the Guidelines is expected in the third quarter of 2025.

Possible Changes to the Regulation?

The EC is set to publish its first periodic report on the implementation of the FSR in July 2026. This report will assess whether adjustments are needed and may lead the EC to propose new notification thresholds or other legislative changes. In preparation, the EC may consult the public.

EC officials have already suggested that a simplified procedure similar to that applied under the EU Merger Regulation may be introduced under the FSR for M&A transactions that do not raise concerns (as contemplated under Article 47(1)(a) FSR). This may in particular simplify and facilitate the review of private equity transactions captured by the FSR regime. It is currently uncertain which criteria would determine whether the simplified procedure can be used.

In the meantime, EC officials have on a number of occasions indicated that the growing experience with enforcing the FSR enables the EC to be more flexible and targeted in its interaction with companies. In particular, senior EC official Eddy de Smijter, who heads one of the FSR units at DG COMP, recently stated at a conference that the EC is “learning from doing more and more cases on FSR enforcement” and is as a result “not asking the same level of detail as [it] may have been asking in the beginning of [its] enforcement experience,” leading to “a de facto simplification” of the FSR regime. In particular, the EC has waived information more readily if it considers it unimportant for its assessment.

Conclusion

The first two years of practical experience gained under the FSR show that it places a significant compliance burden on companies. The broad range of information that companies must collect internally and the need for this information to be “current” as of the submission of notifications require significant effort and resources. The number of notifications, both under the transaction regime and the public procurement regime, by far exceeds the numbers initially expected by the EC. Up to now, the EC has objected to only a low percentage of notified transactions and public procurement events, while it has used the ex officio tool in a very targeted manner. This could be seen as evidence that the EC applies the FSR in a measured way and tries to focus on clearly problematic scenarios.

However, many companies are calling for further simplification to reduce their compliance burden and for clearer substantive guidance to increase the predictability of EC interventions. As the FSR enters a more mature phase, it is to be hoped that the EC will appropriately address these concerns.

Notes

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1. This article is current as of May 30, 2025.

2. DG COMP is competent to start ex officio procedures to tackle the distortive effects of foreign subsidies outside public procurement procedures. DG GROW is competent to start ex officio procedures to tackle the distortive effects of foreign subsidies in public procurement procedures.

3. An EC official recently suggested that the number of submissions should be even higher, as some public procurement procedures might not have been declared or notified because of a lack of awareness of national authorities or economic operators.

4. The EC reportedly gave serious consideration to calling in Midea’s below-threshold acquisition of Arbonia’s climate division last year, but eventually decided not to require an FSR filing earlier this year. The transaction was subsequently cleared under EU merger control rules on January 28, 2025.

5. Case FS.100011—e&/PPF Telecom Group.

6. See “Private Equity Bidders Account for One-Third of All EU FSR Notifications,” PaRR (Apr. 15, 2025), <https://id.ionanalytics.com/signin?onSuccess=https%3A%2F%2Fid.ionanalytics.com%2Flogin%2Fcross-login%2Fche>

ck%3Fnext%3Dhttps%253A%252F%252Fapp.parr-global.com%252Flogin%253FonSuccess%253Dhttps%25253A%25252F%25252Fapp.parr-global.com%25252Fintelligence%25252Fview%25252Fintelcms-wg932h%2526d%253D1.

7. A second transaction involving a Chinese acquirer was filed after the publication of the PaRR data referenced above (see Case FS.100159—Luxshare/Pierer/Leoni).

8. For example, Adnoc announced its agreement to acquire Covestro on October 1, 2024. The parties spent several months in FSR pre-notification discussions with the EC and formally filed the transaction on May 15, 2025, thus more than seven months following the deal announcement. In the meantime, merger control clearance under the EU Merger Regulation was already obtained on May 12, 2025.

9. It is understood that a potential new in-depth investigation may soon be launched in relation to an €16 billion Czech public procurement contract awarded to Korea Hydro & Nuclear Power to build two nuclear reactors in the country. The EC is reported to have signalled its intention to initiate proceedings following a complaint by EDF, which alleges the Korean bidder benefitted from foreign subsidies, including a state guarantee.

10. See Commission Impact Assessment Report of May 5, 2021.

11. In some instances in which the EC could open an ex officio investigation under the FSR, it may instead open investigations under the EU's trade defense instruments. To a certain extent, the EC has a choice between different policy tools.

12. See MOFCOM's Regular Press Conference statement of January 9, 2025, https://english.mofcom.gov.cn/News/PressConference/art/2025/art_f85575c40d154cefb91368ef096af75.html, and CCCEU Statement on China Declaring EU's FSR Practices Towards Chinese Companies as Trade and Investment Barriers, http://en.ccceu.eu/2025-01/09/c_4589.htm.

13. See "EC Publishes Feedback on FSR Guidelines Consultation," PaRR (Apr. 9, 2025), <https://id.ionanalytics.com/signin?onSuccess=https%3A%2F%2Fid.ionanalytics.com%2Flogin%2Fcross-login%2Fcheck%3Fnext%3Dhttps%253A%252F%252Fapp.parr-global.com%252Flogin%253FonSuccess%253Dhttps%25253A%25252F%25252Fapp.parr-global.com%25252Fintelligence%25252Fview%25252Fintelcms-jdhjxw%2526d%253D1>.