



2021/0114(COD)

29.3.2022

OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council
on foreign subsidies distorting the internal market
(COM(2021)0223 – C9-0167/2021 – 2021/0114(COD))

Rapporteur for opinion (*) : Christian Doleschal

(*) Associated committee – Rule 57 of the Rules of Procedure

PA_Legam

SHORT JUSTIFICATION

The European Union is closely interconnected with the global economy. With trade in goods and services worth EUR 5984 billion in 2019¹, it accounts for 16.4% of overall global trade. Goods, services and capital flows to and from the EU contribute to its growth by enhancing competitiveness, creating jobs, stimulating innovation and opening up new markets.² In 2017 the EU28 was the destination for a third of the world's investment stocks³. Foreign direct investment is a welcome source of employment, growth and competitiveness. The openness of our EU single market is our greatest asset. However, openness requires fairness.

In recent years, foreign subsidies appear in some cases to have had a distorting effect on the EU internal market and to have created an uneven playing field. While there is only limited reliable data on subsidies granted by third countries, there is an increasing number of cases where foreign subsidies appear to have facilitated the acquisition of EU companies, influenced investment decisions, given unfair advantages in the award of public contracts or otherwise influenced the behaviour of their recipients in the EU market to the detriment of fair competition.

At present, there are no specific EU rules to address the distortive effects that foreign subsidies may have on the internal market. While the EU has a system of State aid control enshrined in Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU), it applies only where an EU Member State grants financial support to an undertaking, giving rise to an advantage that distorts competition and affects trade between Member States.

On 5 May 2021, the European Commission proposed a legislative proposal for a new instrument to address distortive effects of foreign subsidies in the internal market. It aims to close the regulatory gap in the Single Market. The new instrument aims to effectively address foreign subsidies that create distortions and affect the level playing field in the internal market in any market situation. The proposed regulation is also key element for the implementation of the updated EU industrial strategy (adopted on 5 May 2021) by promoting a fair and competitive internal market and thus creating the right conditions for a successful European industry.

The Rapporteur supports the overall aim and design of the proposal for a Regulation on foreign subsidies distorting the single market and fully shares the sense of urgency when it comes to closing this legal loophole.

With this in mind, the Rapporteur would like to focus especially on:

- ensuring a level playing field in the single market while keeping administrative burden for undertakings, bidders and contracting authorities as low as possible, including by clarifying that where a third country has a subsidy control mechanism that is

¹ DG Trade Statistical Guide, August 2020, excluding intra-EU trade; https://trade.ec.europa.eu/doclib/docs/2013/may/tradoc_151348.pdf

² Report from the Commission on the implementation of the trade policy strategy – Trade for all: delivering a progressive trade policy to harness globalisation (COM(2017) 491 final).

³ Eurostat, Foreign Affiliates Statistics (FATS), Foreign control of enterprises by economic activity and a selection of controlling countries (from 2008 onwards) [fats_g1a_08].

equivalent to the Union's, foreign subsidies provided by such countries may be considered as unlikely to be distortive;

- strengthening commitments and redressive measures to remedy the distortion on the internal market caused by a foreign subsidy;
- clarifying that advantageous tenders also include abnormally low tenders.
- reducing the deadlines for the in-depth investigation in order to strike a balance between the time needed to award public contracts at the expense of contracting authorities and other economic operators involved.
- introducing a review clause of the estimated value of public procurement and the thresholds proposed in the Regulation;
- improving the procedural rules applicable to the preliminary review and the in-depth investigation of notified financial contributions in public procurement procedures;
- improving transparency and predictability for undertakings taking part in public procurement;

Furthermore, the Rapporteur would like to clarify the cooperation with national public procurement authorities and foster the exchange of information and good practices. Member States shall ensure that its competent public procurement authorities cooperate effectively with the Commission for the purpose of the preliminary review and in-depth investigation in notified public procurement. Competent national authorities may also alert the Commission regarding foreign subsidies in public procurement below the threshold, if they consider that there is a risk of internal market distortion.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on International Trade, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) No existing Union instruments address distortions caused by foreign subsidies. Trade defence instruments enable the Commission to act when subsidised goods are imported into the Union, but not when foreign subsidies take the form of subsidised investments, or when services and financial flows are

Amendment

(4) No existing Union instruments address distortions caused by foreign subsidies. Trade defence instruments enable the Commission to act when subsidised goods are imported into the Union, but not when foreign subsidies take the form of subsidised investments, or when services and financial flows are

concerned. Under the WTO Agreement on Subsidies and Countervailing Measures, the Union has the possibility to initiate State-to-State dispute settlement against certain foreign subsidies granted by WTO members and limited to goods.

concerned. Under the WTO Agreement on Subsidies and Countervailing Measures, the Union has the possibility to initiate State-to-State dispute settlement against certain foreign subsidies granted by WTO members and limited to goods. ***This proposal complements the International Procurement Instrument which aims at improving the access of Union economic operators to the public procurement markets outside the Union.***

Amendment 2

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) It is therefore necessary to complement existing Union instruments with a new tool to effectively deal with distortions in the internal market caused by foreign subsidies and ensure a level playing field. In particular, the new tool complements Union State aid rules which deal with distortions in the internal market caused by Member State subsidies.

Amendment

(5) It is therefore necessary to complement existing Union instruments with a new tool to effectively deal with distortions in the internal market caused by foreign subsidies and ensure a level playing field. In particular, the new tool complements Union State aid rules which deal with distortions in the internal market caused by Member State subsidies. ***In doing so, the new tool contributes to the Union's open strategic autonomy by promoting a fair and competitive internal market.***

Amendment 3

Proposal for a regulation Recital 9

Text proposed by the Commission

(9) There should be a financial contribution provided, directly or indirectly, by the public authorities of a third country. The financial contribution may be granted through public or private entities. Whether a public entity provides a financial contribution should be

Amendment

(9) There should be a financial contribution provided, directly or indirectly, by the public authorities of a third country. The financial contribution may be granted through public or private entities. Whether a public entity provides a financial contribution should be

determined on a case-by-case basis with due regard to elements such as the characteristics of the relevant entity and the legal and economic environment prevailing in the country in which the entity operates including the government's role in the economy. Financial contributions may also be granted through a private entity if its actions can be attributed to the third country.

determined on a case-by-case basis with due regard to elements such as the characteristics of the relevant entity and the legal and economic environment prevailing in the country in which the entity operates including the government's role in the economy. Financial contributions may also be granted through a private entity if its actions can be attributed to the third country. ***With a view to ensuring a level-playing field in the internal market, a foreign subsidy under this Regulation is considered granted from the moment the beneficiary has an entitlement to receive the subsidy. The actual payment of the subsidy is not a necessary condition for it to be considered a subsidy within the meaning of Regulation.***

Amendment 4

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) Once the existence of a foreign subsidy is established, the Commission should assess whether the foreign subsidy distorts the internal market. Unlike State aid granted by a Member State, foreign subsidies are not generally prohibited. Subsidies in the form of export financing may be a cause of particular concern because of their distortive effects. This is not the case if such financing is provided in line with the OECD Arrangement on officially supported export credits. The Commission should assess on a case-by-case basis whether a foreign subsidy distorts the internal market.

Amendment

(12) Once the existence of a foreign subsidy is established, the Commission should assess whether the foreign subsidy distorts the internal market. ***This assessment should balance the short and long-term negative effects of a foreign subsidy in terms of distortion on the internal market with the positive effects on the development of the relevant economic activity including any positive externalities. The Commission should be able to take into account the effects of the foreign subsidy on the development of the relevant subsidised economic activity and its contribution to the achievement of public policy objectives, including social and environmental ones.*** Unlike State aid granted by a Member State, foreign subsidies are not generally prohibited. Subsidies in the form of export financing may be a cause of particular concern because of their distortive effects. This is

not the case if such financing is provided in line with the OECD Arrangement on officially supported export credits. The Commission should assess on a case-by-case basis whether a foreign subsidy distorts the internal market. ***The Commission should publish the measurable indicators to be considered for that assessment. This Regulation should be without prejudice to Directives 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and of the Council as regards the applicable obligations in the fields of environmental, social and labour law.***

Amendment 5

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) The lack of transparency concerning many foreign subsidies and the complexity of the commercial reality may make it difficult to unequivocally identify or quantify the impact of a given foreign subsidy on the internal market. To determine the distortion, it therefore appears necessary to use a non-exhaustive set of indicators. When assessing the extent to which a foreign subsidy can improve the competitive position of the undertaking concerned and, in doing so, actually or potentially negatively affects competition in the internal market, the Commission could have regard to certain indicators, including but not limited to the amount and nature of the subsidy, the purpose and conditions attached to the foreign subsidy as well as its use in the internal market.

Amendment

(13) The lack of transparency concerning many foreign subsidies and the complexity of the commercial reality may make it difficult to unequivocally identify or quantify the impact of a given foreign subsidy on the internal market. To determine the distortion, it therefore appears necessary to use a non-exhaustive set of indicators. When assessing the extent to which a foreign subsidy can improve the competitive position of the undertaking concerned and, in doing so, actually or potentially negatively affects competition in the internal market, the Commission could have regard to certain indicators. ***Those indicators should be quantifiable so that they provide reasonable evidence of distortion by foreign subsidies***, including but not limited to the amount and nature of the subsidy, the purpose and conditions attached to the foreign subsidy as well as its use in the internal market.

Amendment 6

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) When applying these indicators, the Commission could take into account different elements such as the size of the subsidy in absolute terms or in relation to the size of the market or to the value of the investment. For instance, a concentration, in the context of which a foreign subsidy covers a substantial part of the purchase price of the target, is likely to be distortive. Similarly, foreign subsidies covering a substantial part of the estimated value of a contract to be awarded in a public procurement procedure are likely to cause distortions. If a foreign subsidy is granted for operating costs, it seems more likely to cause distortions than if it is granted for investment costs. Foreign subsidies to small and medium-sized undertakings may be considered less likely to cause distortions than foreign subsidies to large undertakings. Furthermore, the characteristics of the market, and in particular the competitive conditions on the market, such as barriers to entry, should be taken into account. Foreign subsidies leading to overcapacity by sustaining uneconomic assets or by encouraging investment in capacity expansions that would otherwise not have been built are likely to cause distortions. A foreign subsidy to a beneficiary that shows a low degree of activity in the internal market, measured for instance in terms of turnover achieved in the Union, is less likely to cause distortions than a foreign subsidy to a beneficiary that has a more significant level of activity in the internal market. **Finally**, foreign subsidies **not exceeding EUR 5 million** should be deemed, as a general rule, unlikely to distort the internal market within the meaning of this Regulation.

Amendment

(14) When applying these indicators, the Commission could take into account different elements such as the size of the subsidy in absolute terms or in relation to the size of the market or to the value of the investment. For instance, a concentration, in the context of which a foreign subsidy covers a substantial part of the purchase price of the target, is likely to be distortive. Similarly, foreign subsidies covering a substantial part of the estimated value of a contract to be awarded in a public procurement procedure are likely to cause distortions. If a foreign subsidy is granted for operating costs, it seems more likely to cause distortions than if it is granted for investment costs. Foreign subsidies to small and medium-sized undertakings may be considered less likely to cause distortions than foreign subsidies to large undertakings. Furthermore, the characteristics of the market, and in particular the competitive conditions on the market, such as barriers to entry, should be taken into account. Foreign subsidies leading to overcapacity by sustaining uneconomic assets or by encouraging investment in capacity expansions that would otherwise not have been built **or acquired** are likely to cause distortions. A foreign subsidy to a beneficiary that shows a low degree of activity in the internal market, measured for instance in terms of turnover achieved in the Union, is less likely to cause distortions than a foreign subsidy to a beneficiary that has a more significant level of activity in the internal market. **Nevertheless, the evolution of the economic activity should also be taken into account to enable the Commission to take action when an undertaking's level of activity is small at the time of**

assessment, but is expected to grow strongly. Where the Commission has found that a third country has a system in place for the provision of subsidies which ensures by virtue of law and in practice a level of protection against undue state intervention into market forces and unfair competition which is at least equivalent to the level within the Union and which effectively protects not only the market of the third country but also the internal market of the Union, foreign subsidies by this third country should also be deemed, as a general rule, to be unlikely to distort the internal market within the meaning of this Regulation. When assessing whether there is an equivalent level of subsidy control in a third country, the Commission should take into account the relevant legal provisions as well as their effective implementation in practice, including equivalent transparency level for state aid or subsidies. These findings by the Commission should be valid for a limited period of time and be subject to a periodic review. The Commission should also consider whether the third country concerned has concluded a bilateral agreement with the Union which includes substantive level playing field provisions, whether the third country complies with international subsidy obligations and is aligned with the Union on initiatives with regard to improving international rules on subsidies and competitive neutrality, in particular within the WTO. The Commission should draft and publish, in close cooperation with the Member States, detailed guidelines for the assessment of the distortive nature of a subsidy in order to provide legal certainty for all market participants. Those guidelines should also provide examples and typical cases of distortive and non-distortive subsidies.

Amendment 7

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Like certain types of State aid, also certain categories of foreign subsidies, such as unlimited guarantees, are likely to create distortions in the internal market because of their nature. ***Those categories should not require a detailed assessment based on indicators.*** An undertaking could in any event show that the foreign subsidy in question would not distort the internal market in the specific circumstances of the case.

Amendment

(15) Like certain types of State aid, also certain categories of foreign subsidies, such as unlimited guarantees, are likely to create distortions in the internal market because of their nature. An undertaking could in any event show that the foreign subsidy in question would not distort the internal market in the specific circumstances of the case.

Amendment 8

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) Where the Commission examines a foreign subsidy on its own initiative, it should have the power to impose redressive measures on an undertaking to remedy any distortion caused by a foreign subsidy in the internal market. Redressive measures should be proportionate and suitable to remedy the distortion at stake. They should include behavioural or structural remedies or the repayment of the foreign subsidy.

Amendment

(17) Where the Commission examines a foreign subsidy on its own initiative, it should have the power to impose redressive measures on an undertaking to remedy any distortion caused by a foreign subsidy in the internal market. Redressive measures should be proportionate and suitable to remedy the distortion at stake. They should include behavioural or structural remedies or the repayment of the foreign subsidy ***or the temporary exclusion from public procurement procedures in the Union if it finds that an undertaking has repeatedly received foreign subsidies that distort competition. While respecting business secret and confidential information, the process leading to such an exclusion should be transparent for the public.***

Amendment 9

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) The Commission should have the power, on its own initiative, to examine any information on foreign subsidies. To this end, it is necessary to establish a procedure consisting of two steps, namely a preliminary review and an in-depth investigation.

Amendment

(21) The Commission should have the power, on its own initiative, to examine any information on foreign subsidies. To this end, it is necessary to establish a procedure consisting of two steps, namely a preliminary review and an in-depth investigation. ***The Commission should publish guidance on how to open such a procedure.***

Justification

The Regulation does not provide information on the criteria to open an “ex-officio review”. This instrument should be less discretionary to avoid unjustified obstacles to foreign investment in the EU internal market.

Amendment 10

**Proposal for a regulation
Recital 22**

Text proposed by the Commission

(22) The Commission should be given ***adequate*** investigative powers to gather all necessary information. It should therefore have the power to request information from any undertaking or association of undertakings throughout the whole procedure. In addition, the Commission should have the power to impose fines and periodic penalty payments for failure to timely supply the requested information or for supplying incomplete, incorrect or misleading information. The Commission could also address questions to Member States or to third countries. Furthermore, the Commission should have the power to make fact-finding visits at the Union premises of the undertaking, or, subject to agreement by the undertaking and the third country concerned, at the premises of the undertaking in the third country. The Commission should also have the power to

Amendment

(22) The Commission should be given ***appropriate*** investigative powers to gather all necessary information. It should therefore have the power to request information from any undertaking or association of undertakings throughout the whole procedure. In addition, the Commission should have the power to impose fines and periodic penalty payments for failure to timely supply the requested information or for supplying incomplete, incorrect or misleading information. The Commission could also address questions to Member States or to third countries. Furthermore, the Commission should have the power to make fact-finding visits at the Union premises of the undertaking, or, subject to agreement by the undertaking and the third country concerned, at the premises of the undertaking in the third country. The

take decisions on the basis of facts available if the undertaking in question does not cooperate.

Commission should also have the power to take decisions on the basis of facts available if the undertaking in question does not cooperate.

Amendment 11

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) The Commission should have appropriate instruments to ensure the effectiveness of commitments and redressive measures. If the undertaking concerned does not comply with a decision with commitments, a decision imposing redressive measures, or a decision ordering interim measures, the Commission should have the power to impose fines and periodic penalty payments.

Amendment

(26) The Commission should have appropriate instruments to ensure the effectiveness of commitments and redressive measures. If the undertaking concerned does not comply with a decision with commitments, a decision imposing redressive measures, or a decision ordering interim measures, the Commission should have the power to impose fines and periodic penalty payments. ***The Commission should review the effectiveness of those decisions.***

Amendment 12

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) Below the notification thresholds, the Commission could require the notification of potentially subsidised concentrations that were not yet implemented or the notification of potentially subsidised bids prior to the award of a public contract, if it considers that the concentration or the bid would merit ex-ante review given their impact in the Union. The Commission should also have the possibility to carry out a review on its own initiative of already implemented concentrations or awarded public contracts.

Amendment

(31) Below the notification thresholds, the Commission could require the notification of potentially subsidised concentrations that were not yet implemented or the notification of potentially subsidised bids prior to the award of a public contract, if it considers that the concentration or the bid would merit ex-ante review given their impact in the Union. The Commission should also have the possibility to carry out a review on its own initiative of already implemented concentrations or awarded public contracts. ***The Commission should publish guidance on the criteria for such***

notifications.

Amendment 13

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) The need to address distortive foreign subsidies is especially salient in public procurement, given its economic significance in the internal market and the fact that it is financed by taxpayer funds. The Commission should have the power, upon notification prior to the award of a public contract or concession, to examine information on foreign financial contributions to the participating undertakings in the context of a public procurement procedure. Prior notifications should be mandatory above *a* threshold set in this Regulation to capture economically significant cases while minimising the administrative burden and not hindering the participation of SMEs in public procurement. That obligation of prior notification above a threshold should also apply to groups of economic operators referred to in Article 26(2) of Directive 2014/23/EU of the European Parliament and of the Council⁴⁰, Article 19(2) of Directive 2014/24/EU of the European Parliament and of the Council⁴¹ and Article 37(2) of Directive 2014/25/EU of the European Parliament and of the Council⁴². It should also apply to the main subcontractors and the main suppliers of undertaking.

Amendment

(33) The need to address distortive foreign subsidies is especially salient in public procurement, given its economic significance in the internal market and the fact that it is financed by taxpayer funds, ***Moreover, it is necessary to ensure a level playing field in public procurement as it plays a major role in the implementation of the EU Recovery Plan. Hence, any distortions in the level playing field would counter the desired effects of the Recovery Plan.*** The Commission should have the power, upon notification prior to the award of a public contract or concession, to examine information on foreign financial contributions to the participating undertakings in the context of a public procurement procedure. Prior notifications should be mandatory above ***the*** threshold set in this Regulation to capture economically significant cases while minimising the administrative burden and not hindering the participation of SMEs in public procurement. ***The Commission should regularly review the thresholds set in this Regulation.*** That obligation of prior notification above a threshold should also apply to groups of economic operators referred to in Article 26(2) of Directive 2014/23/EU of the European Parliament and of the Council⁴⁰, Article 19(2) of Directive 2014/24/EU of the European Parliament and of the Council⁴¹ and Article 37(2) of Directive 2014/25/EU of the European Parliament and of the Council⁴². It should also apply to the main subcontractors and the main suppliers of undertaking. ***The Commission may assess laying down specific control conditions in***

case of subcontracting.

⁴⁰ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

⁴¹ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁴² Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

⁴⁰ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

⁴¹ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁴² Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Amendment 14

Proposal for a regulation

Recital 36

Text proposed by the Commission

(36) Foreign subsidies that enable an undertaking to submit a tender which is unduly advantageous in relation to the works, supplies or services concerned should be deemed to actually or potentially create a distortion in a public procurement procedure. Those distortions should therefore be assessed on the basis of the non-exhaustive set of indicators described in recitals 13 and 14 as well as the notion of unduly advantageous tender. The indicators should allow to determine how the foreign subsidy distorts competition by improving the competitive position of an undertaking and enabling it to submit an unduly advantageous tender. The opportunity should be given to undertakings to justify that the tender is not unduly advantageous, including by adducing the elements referred to in Article

Amendment

(36) Foreign subsidies that enable an undertaking to submit a tender which is unduly advantageous, **including abnormally low tenders under Directives 2014/24/EU and 2014/25/EU**, in relation to the works, supplies or services concerned should be deemed to actually or potentially create a distortion in a public procurement procedure. Those distortions should therefore be assessed on the basis of the non-exhaustive set of indicators described in recitals 13 and 14 as well as the notion of unduly advantageous tender. The indicators should allow to determine how the foreign subsidy distorts competition by improving the competitive position of an undertaking and enabling it to submit an unduly advantageous tender. **Those indicators should be published.** The opportunity should be given to

69(2) of Directive 2014/24/EU. The prohibition of the award should only apply where the advantageous nature of the tender benefiting from foreign subsidies cannot be justified, the tender would be awarded the contract and the undertaking submitting the tender did not offer commitments considered appropriate and sufficient to fully and effectively remove the distortion.

undertakings to justify that the tender is not unduly advantageous, including by adducing the elements referred to in Article 69(2) of Directive 2014/24/EU. The prohibition of the award should only apply where the advantageous nature of the tender benefiting from foreign subsidies cannot be justified, the tender would be awarded the contract and the undertaking submitting the tender did not offer commitments considered appropriate and sufficient to fully and effectively remove the distortion.

Amendment 15

Proposal for a regulation Recital 36 a (new)

Text proposed by the Commission

Amendment

(36a) Foreign subsidies should also be controlled as regards abnormally low tenders. Tenders that appear abnormally low or unduly advantageous in relation to the works, supplies or services might be based on technically, economically or legally unsound assumptions or practices. Where the tenderer cannot provide a sufficient explanation for the price offered, the contracting authority should be entitled to reject the tender. Rejection should be mandatory in cases where the contracting authority has established that the abnormally low price or costs proposed results from non-compliance with Union law or national law compatible with it.

Amendment 16

Proposal for a regulation Recital 48

Text proposed by the Commission

Amendment

(48) In order to ensure a level playing

(48) In order to ensure a level playing

field on the internal market also in the long term, with a view to ensuring adequate coverage of cases investigated both through notifications as well as ex officio, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of amending the notification thresholds for concentrations and for public procurement procedures, exempting certain categories of undertakings from the notification obligations under this Regulation, as well as amending the time limits for the preliminary review and the in-depth investigations of notified concentrations or notified financial contributions in the context of a public procurement procedure. In relation to financial contributions in the context of a public procurement procedure, the power to adopt such acts should be exercised in a way that takes into account the interests of SMEs. It is of particular importance that the Commission carries out appropriate consultations during the preparations of those acts, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁴⁷. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁴⁷ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better

field on the internal market also in the long term, with a view to ensuring adequate coverage of cases investigated both through notifications as well as ex officio, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of amending the notification thresholds for concentrations and for public procurement procedures, exempting certain categories of undertakings from the notification obligations under this Regulation, as well as amending the time limits for the preliminary review and the in-depth investigations of notified concentrations or notified financial contributions in the context of a public procurement procedure. In relation to financial contributions in the context of a public procurement procedure, the power to adopt such acts should be exercised in a way that takes into account the interests of SMEs, ***without unnecessary administrative burden***. It is of particular importance that the Commission carries out ***analysis including quantified cost-benefit analysis and ex-ante impact analysis as well as*** appropriate consultations during the preparations of those acts, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁴⁷. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁴⁷ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better

Amendment 17

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

(1) This Regulation lays down rules and procedures for investigating foreign subsidies that distort the internal market and for redressing such distortions. Such distortions may arise with respect to any economic activity, and in particular in concentrations and public procurement procedures.

Amendment

(1) This Regulation lays down rules and procedures for investigating foreign subsidies that distort the internal market and for redressing such distortions. Such distortions may arise with respect to any economic activity, and in particular in concentrations and public procurement procedures.

This Regulation aims to ensure a fair level playing field in the internal market and, in particular, in the public procurement market.

Amendment 18

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

(2) This Regulation addresses foreign subsidies granted to an undertaking engaging in an economic activity in the internal market. An undertaking acquiring control or merging with an undertaking established in the Union or an undertaking participating in a public procurement procedure is considered to be engaging in an economic activity in the internal market.

Amendment

(2) This Regulation addresses ***distortive*** foreign subsidies granted to an undertaking engaging in an economic activity in the internal market. An undertaking acquiring control or merging with an undertaking established in the Union or an undertaking participating in a public procurement procedure is considered to be engaging in an economic activity in the internal market. ***This Regulation shall be without prejudice to the international obligations of the Union as well as to measures that Member States and contracting entities may take in accordance with Directives 2014/23/EU, 2014/24/EU and 2014/25/EU.***

Amendment 19

Proposal for a regulation

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

(1) A distortion on the internal market shall be deemed to exist where a foreign subsidy is liable to improve the competitive position of the undertaking concerned in the internal market and where, in doing so, it actually or potentially negatively affects competition **on** the internal market. Whether there is a distortion on the internal market shall be determined on the basis of indicators, which may include the following:

Amendment

(1) A distortion on the internal market shall be deemed to exist where a foreign subsidy is liable to improve the competitive position of the undertaking concerned in the internal market and where, in doing so, ***the investigation provides evidence that*** it actually or potentially negatively affects competition ***and the level playing field in*** the internal market. Whether there is a distortion on the internal market shall be determined on the basis of indicators, which may include the following:

Amendment 20

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

(2) A foreign subsidy is unlikely to distort the internal market if its total amount is below EUR 5 million over any consecutive period of three fiscal years.

Amendment

(2) A foreign subsidy is unlikely to distort the internal market if:

(a) its total amount is below EUR 4 million over any consecutive period of three fiscal years; ***or***

(b) the Commission has ascertained that the third country granting the foreign subsidy has a system in place for the review of subsidies that guarantees by virtue of law and in practice a level of protection against undue state intervention into market forces and unfair competition which is at least equivalent to the level of protection within the Union and which effectively protects not only the market of the third country but also the internal market of the Union. A

Commission decision ascertaining such an equivalent level of protection shall be valid for three years and may be prolonged, if appropriate.

Amendment 21

Proposal for a regulation Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The Commission shall publish guidelines for the application of the indicators referred to in paragraphs (1) and (2). Those guidelines shall be updated regularly, in close cooperation with the Member States. The European Parliament and the Council shall be informed of those updates.

Amendment 22

Proposal for a regulation Article 3 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(2b) The Commission is empowered to adopt delegated acts to update the indicators referred to in paragraph 1.

Amendment 23

Proposal for a regulation Article 3 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

(2c) By 30 June 2025, the Commission shall publish a report on the possibility of the introduction of an online tool for indicative assessment of foreign subsidies, stating the risk level which is expected based on the provided data for quantitative indicators.

Amendment 24

Proposal for a regulation Article 4 – paragraph 1 – point 4

Text proposed by the Commission

(4) a foreign subsidy enabling an undertaking to submit an unduly advantageous tender, on the basis of which the undertaking would be awarded the public contract.

Amendment

(4) a foreign subsidy enabling an undertaking to submit an unduly advantageous tender **or an abnormally low tender pursuant to Directive 2014/24/EC**, on the basis of which the undertaking would be awarded the public contract.

Amendment 25

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

(1) To remedy the distortion on the internal market actually or potentially caused by a foreign subsidy, the Commission **may** impose redressive measures. The undertaking concerned may also offer commitments.

Amendment

(1) To remedy the distortion on the internal market actually or potentially caused by a foreign subsidy, the Commission **shall** impose redressive measures **unless the balancing test carried out in accordance with Article 5 has demonstrated that the positive effects outweigh the negative ones**. The undertaking concerned may also offer commitments.

Amendment 26

Proposal for a regulation Article 6 – paragraph 2

Text proposed by the Commission

(2) Commitments or redressive measures shall fully and effectively remedy the distortion caused by the foreign subsidy in the internal market.

Amendment

(2) Commitments or redressive measures shall fully, **exclusively** and effectively remedy the distortion **actually or potentially** caused by the foreign subsidy in the internal market.

Amendment 27

Proposal for a regulation

Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

(3) Commitments or redressive measures may consist of the following:

Amendment

(3) Commitments or redressive measures may consist, *inter alia*, of the following:

Amendment 28

Proposal for a regulation

Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) reducing capacity or market presence;

Amendment

(b) reducing capacity or market presence, *in particular by means of temporary market access restrictions or temporary restrictions on the supply of goods or services in the internal market, where the related economic activity is distorted as a result of foreign subsidies, taking account of sectorial specificities;*

Amendment 29

Proposal for a regulation

Article 6 – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

(ca) excluding the award of the contract to an undertaking for a limited period of time if the Commission finds that that undertaking has repeatedly received foreign subsidies of a distortive nature.

Amendment 30

Proposal for a regulation

Article 6 – paragraph 3 – point e

Text proposed by the Commission

(e) publication of results of research and development;

Amendment

(e) publication of results of research and development ***taking due account of the business and trade secrets pursuant to Directive (EU) 2016/943***;

Amendment 31

Proposal for a regulation

Article 6 – paragraph 3 – point h a (new)

Text proposed by the Commission

Amendment

(ha) restraining participation, directly or indirectly, in new public procurement or concession contract procedures in the internal market.

Amendment 32

Proposal for a regulation

Article 6 – paragraph 4

Text proposed by the Commission

Amendment

(4) The Commission ***may*** impose reporting and transparency requirements.

(4) The Commission ***shall*** impose reporting and transparency requirements.

Amendment 33

Proposal for a regulation

Article 6 – paragraph 5

Text proposed by the Commission

Amendment

(5) ***If*** an undertaking ***offers commitments*** which fully and effectively remedy the distortion on the internal market, ***the Commission may accept them and make them*** binding on the undertaking in a decision with commitments according to Article 9(3).

(5) ***The Commission may consider commitments offered by the undertaking. Where the Commission accepts commitments offered by*** an undertaking which fully and effectively remedy the distortion on the internal market, ***it shall make those commitments*** binding on the undertaking in a decision with commitments according to Article 9(3). ***By 30 June 2023, the Commission shall adopt***

a delegated act to set out the procedures, methodology and criteria to determine the specific commitments and redressive measures according to this Regulation.

Amendment 34

Proposal for a regulation Article 6 – paragraph 6

Text proposed by the Commission

(6) Where the undertaking concerned proposes to repay the foreign subsidy including an appropriate interest rate, the Commission shall accept such repayment as commitment if it can ascertain that the repayment is transparent and *effective*, while taking into account the risk of circumvention.

Amendment

(6) Where the undertaking concerned proposes to repay the foreign subsidy including an appropriate interest rate, the Commission shall accept such repayment as commitment if it can ascertain that the repayment is transparent and *effectively and adequately remedies the distortion caused to the internal market*, while taking into account the risk of circumvention..

The Commission shall consult all relevant stakeholders on the choice of redressive measures, taking account of sectoral specificities, to assess the equivalence of the remedies.

Amendment 35

Proposal for a regulation Article 12 – paragraph 1

Text proposed by the Commission

(1) The Commission may conduct the necessary inspections of undertakings.

Amendment

(1) *In order to carry out its duties under this Regulation*, the Commission may conduct the necessary inspections of undertakings.

Amendment 36

Proposal for a regulation Article 12 – paragraph 2 – point a

Text proposed by the Commission

(a) to enter any premises **and land** of the undertaking concerned;

Amendment

(a) to enter any **relevant** premises, **land and means of transport** of the undertaking concerned;

Amendment 37

Proposal for a regulation

Article 12 – paragraph 3 – introductory part

Text proposed by the Commission

(3) The undertaking concerned shall submit to inspections ordered by decision of the Commission. The officials and other accompanying persons authorised by the Commission to conduct an inspection shall exercise their powers upon production of a Commission decision:

Amendment

(3) The undertaking concerned shall submit to inspections ordered by decision of the Commission. The officials and other accompanying persons authorised by the Commission to conduct an inspection shall exercise their powers upon production of a Commission decision **to the undertaking concerned**:

Amendment 38

Proposal for a regulation

Article 12 – paragraph 3 – point a

Text proposed by the Commission

(a) specifying the subject matter **and** purpose of the inspection;

Amendment

(a) specifying the subject matter, purpose **and scope** of the inspection;

Amendment 39

Proposal for a regulation

Article 12 – paragraph 7

Text proposed by the Commission

(7) Upon request of the Commission, **a** Member State shall in its own territory carry out any inspection or other fact-finding measure under its national law in order to establish whether there is a foreign subsidy distorting the internal market.

Amendment

(7) Upon request of the Commission, **the** Member State shall in its own territory carry out any inspection or other fact-finding measure under its national law in order to establish whether there is a foreign subsidy distorting the internal market.

Amendment 40

Proposal for a regulation Article 26 – paragraph 1

Text proposed by the Commission

Foreign subsidies that cause or risk causing a distortion in a public procurement procedure shall be understood as foreign subsidies that enable an undertaking to submit a tender that is unduly advantageous in relation to the works, supplies or services concerned. The assessment of whether there is a distortion on the internal market pursuant to Article 3 and whether a tender is unduly advantageous in relation to the works, supplies or services concerned shall be limited to the public procurement procedure at stake. Only foreign subsidies granted during the **three** years prior to the notification shall be taken into account in the assessment.

Amendment

Foreign subsidies that cause or **very likely** risk causing a distortion in a public procurement procedure shall be understood as foreign subsidies that enable an undertaking to submit a tender that is unduly advantageous **or abnormally low**, in relation to the works, supplies or services concerned. The assessment of whether there is a distortion on the internal market pursuant to Article 3 and whether a tender is unduly advantageous in relation to the works, supplies or services concerned shall be limited to the public procurement procedure at stake. Only foreign subsidies granted during the **five** years prior to the notification, shall be taken into account in the assessment.

Amendment 41

Proposal for a regulation Article 27 – paragraph 2

Text proposed by the Commission

(2) For the purpose of Article 28, a notifiable foreign financial contribution in an EU public procurement procedure shall be deemed to arise where the estimated value of that public procurement is equal or greater than EUR **250** million.

Amendment

(2) For the purpose of Article 28, a notifiable foreign financial contribution in an EU public procurement procedure shall be deemed to arise where the estimated value of that public procurement is equal or greater than EUR **200 million and the total value of provided foreign financial contribution to an undertaking is equal to or above EUR 1** million.

Amendment 42

Proposal for a regulation Article 27 – paragraph 2 a (new)

(2a) The Commission shall review the estimated value of public procurement referred to in paragraph 2 every three years. The Commission shall take into account the following criteria:

(a) the number of public procurement procedures notified;

(b) the amount of public procurement procedures where distorting foreign subsidies were identified;

(c) the average and median value of all public procurement procedures notified in order to identify the size of those procedures;

(d) changes to the threshold amounts laid down in Directives 2014/24/EU, 2014/23/EU and 2014/25/EU; and

(e) the market share attained by winning tenders by the appointment of those public procurement contracts.

The decision amending the thresholds referred to Article 27(2) should be adopted via delegated acts in accordance with Article 44.

Amendment 43

Proposal for a regulation Article 28 – paragraph 1

Text proposed by the Commission

(1) When submitting a tender or a request to participate in a public procurement procedure, undertakings shall ***either notify*** to the contracting authority or the contracting entity all foreign financial contributions received in the three years preceding that notification or ***confirm in a declaration*** that they did not receive ***any*** foreign financial contributions in the last ***three*** years. Undertakings which do not submit such information or declaration

Amendment

(1) When submitting a tender or a request to participate in a public procurement procedure, undertakings shall ***submit a notification*** to the contracting authority or the contracting entity ***either by notifying*** all foreign financial contributions received in the three years preceding that notification or ***by indicating*** that they did not receive foreign financial contributions ***above the threshold set out in Article 27(2)*** in the last ***five*** years. Undertakings

shall not be awarded the contract.

which do not submit such information or declaration shall not be awarded the contract.

Amendment 44

Proposal for a regulation Article 28 – paragraph 2

Text proposed by the Commission

(2) The obligation to notify foreign financial contributions under this paragraph shall extend to economic operators, groups of economic operators referred to in Article 26(2) of Directive 2014/23/EU, Article 19(2) of Directive 2014/24/EU and Article 37(2) of Directive 2014/25/EU, main subcontractors and main suppliers. A subcontractor or supplier shall be deemed to be main where their participation ensures key elements of the contract performance and in any case where the economic share of their contribution exceeds **30%** of the estimated value of the contract.

Amendment

(2) The obligation to notify foreign financial contributions under this paragraph shall extend to economic operators, groups of economic operators referred to in Article 26(2) of Directive 2014/23/EU, Article 19(2) of Directive 2014/24/EU and Article 37(2) of Directive 2014/25/EU, main subcontractors and main suppliers. A subcontractor or supplier shall be deemed to be main where their participation ensures key elements of the contract performance and in any case where the economic share of their contribution exceeds **15 %** of the estimated value of the contract.

Amendment 45

Proposal for a regulation Article 28 – paragraph 3

Text proposed by the Commission

(3) For groups of economic operators, main subcontractors and main suppliers, the lead economic operator shall ***ensure notification***.

Amendment

(3) For groups of economic operators, main subcontractors and main suppliers ***shall inform the lead economic operator about the foreign financial contributions, who shall ensure notification***. The lead economic operator shall ***not be liable for information about and provided by its main subcontractors or main suppliers***.

Amendment 46

Proposal for a regulation
Article 28 – paragraph 6

Text proposed by the Commission

(6) Where the Commission suspects that an undertaking may have **benefitted from** foreign subsidies in the **three** years prior to the submission of the tender or request to participate in the public procurement procedure, it may request the notification of the foreign financial contributions received by that undertaking in any public procurement procedure which are not notifiable under Article 27(2) or fall within the scope of paragraph 5 of this Article, at any time before the award of the contract. Once the Commission has requested the notification of such a financial contribution, it is deemed to be a notifiable foreign financial contribution in a public procurement procedure.

Amendment

(6) Where the Commission suspects that an undertaking may have **been granted** foreign subsidies in the **five** years prior to the submission of the tender or request to participate in the public procurement procedure, it may request the notification of the foreign financial contributions received **or foreign financial contributions to be received within one year following the submission of the tender or request to participate in the public procurement procedure** by that undertaking in any public procurement procedure which are not notifiable under Article 27(2) or fall within the scope of paragraph 5 of this Article, at any time before the award of the contract. Once the Commission has requested the notification of such a financial contribution, it is deemed to be a notifiable foreign financial contribution in a public procurement procedure.

Amendment 47

Proposal for a regulation
Article 28 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(6a) For contracts above the thresholds laid down in Directive 2014/24/EU and below the threshold set out in Article 27(2), where a contracting authority or contracting entity establishes that a tender is abnormally low, it shall request the undertaking to notify the Commission without delay on all foreign financial contributions received in the last three years.

Amendment 48

Proposal for a regulation
Article 28 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

(6b) *For the purposes of this Regulation, the Commission shall establish a communication channel presenting strict confidentiality guarantees to receive comments from interested parties and Member States which suspect that an undertaking may have benefitted from foreign subsidies in the three years prior to the submission of the tender or request to participate in the public procurement procedure. The Commission shall duly take into account the information reported and may request information and the notification of the foreign financial contributions received by that undertaking in any public procurement procedure.*

Amendment 49

Proposal for a regulation
Article 29 – paragraph 2

Text proposed by the Commission

Amendment

(2) The Commission shall carry out a preliminary review no later than **60** days after it received the notification.

(2) The Commission shall carry out a preliminary review no later than **30** days after it received the notification.

Amendment 50

Proposal for a regulation
Article 29 – paragraph 4

Text proposed by the Commission

Amendment

(4) The Commission may adopt a decision closing the in-depth investigation no later than **200** days after it received the notification. In exceptional circumstances, this time limit may be extended after consultation with the concerned

(4) The Commission may adopt a decision closing the in-depth investigation no later than **120** days after it received the notification. In exceptional circumstances, this time limit may be extended **by 20 days** after consultation with the concerned

contracting authority or contracting entity.

contracting authority or contracting entity.

Amendment 51

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

(2) Where the undertaking concerned does not offer commitments or where the Commission considers that the commitments referred to in paragraph 1 are neither appropriate nor sufficient to fully and effectively remove the distortion it shall adopt a decision prohibiting the award of the contract to the undertaking concerned (“decision prohibiting the award of the contract”).

Amendment

(2) Where the undertaking concerned does not offer commitments or where the Commission considers that the commitments referred to in paragraph 1 are neither appropriate nor sufficient to fully and effectively remove the distortion it shall adopt a decision prohibiting the award of the contract to the undertaking concerned (“decision prohibiting the award of the contract”). ***The adoption of a decision prohibiting the award of the contract shall result in the exclusion of the undertaking concerned from participation in the public procurement procedure.***

Amendment 52

Proposal for a regulation Article 30 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) The Commission shall publish the decisions adopted in accordance with paragraphs (1), (2) and (3), which shall include a detailed justification of the decision, the indicators on which the decision is based and the description of the procedure for appeal.

Amendment 53

Proposal for a regulation Article 31 – paragraph 3

Text proposed by the Commission

Amendment

(3) The contract may be awarded to an undertaking submitting a declaration under Article 28 before the Commission takes any of the decisions referred to in Article 30 or before the time limit laid down in Article 29(4) elapses only if the tender evaluation has established that the undertaking in question has in any case submitted the most economically advantageous tender.

deleted

Amendment 54

Proposal for a regulation Article 32 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) In the case of repetitive non-compliance with the notification requirement for foreign subsidies, the Commission may exclude the undertaking from future procurement procedures for a limited period of time across the Union.

Amendment 55

Proposal for a regulation Article 32 – paragraph 3

Text proposed by the Commission

Amendment

(3) The Commission may impose by decision on the undertakings concerned fines not exceeding 10 % of their aggregate turnover in the preceding business year where they, *intentionally or negligently*, fail to notify a subsidy in accordance with Article 28 during the public procurement procedure.

(3) The Commission may impose by decision on the undertakings concerned fines not exceeding 10 % of their aggregate turnover in the preceding business year where they fail to notify a subsidy in accordance with Article 28 during the public procurement procedure.

Amendment 56

Proposal for a regulation

Article 32 a (new)

Text proposed by the Commission

Amendment

Article 32a

Cooperation with national public procurement authorities

- 1. The competent public procurement authorities, and, where applicable, the designated bodies shall cooperate effectively with the Commission for the purpose of the preliminary review and the in-depth investigation in notified public procurement, as set out in Articles 19 and 28.*
- 2. Competent public procurement authorities may also inform the Commission regarding the foreign subsidy in public procurement below the thresholds referred to Article 27(2), if they consider that there is a risk of internal market distortion and request for market investigation. The Commission shall inform the public procurement authority of the follow-up taken and provide justification if it decides not to open an investigation.*
- 3. Where a contracting authority or contracting entity suspects that an undertaking has submitted an abnormally low tender, it may require the undertaking to provide explanations with regard to price and costs proposed in relation to works, supplies or services in accordance with Article 69 of Directive 2014/24/EU. Where the contracting authority or contracting entity has established that the abnormally low tender is caused by a foreign subsidy, it shall notify this to the Commission.*
- 4. Competent public procurement authorities shall collect and exchange data with the Commission on the third country bidders and contracts won by non-Union undertakings, foreign participation in the supply chain and as*

subcontractors.

Amendment 57

Proposal for a regulation

Article 34 – paragraph 2

Text proposed by the Commission

(2) The Commission *may* publish a report on the results of its market investigation into particular sectors, particular types of economic activity or particular subsidy instruments and invite comments from interested parties.

Amendment

(2) The Commission *shall* publish a report on the results of its market investigation into particular sectors, particular types of economic activity or particular subsidy instruments and invite comments from interested parties.

Amendment 58

Proposal for a regulation

Article 44 – paragraph 1 – point a

Text proposed by the Commission

(a) amending the thresholds for notifications as set out in Articles 18 and 27, in the light of the practice of the Commission during the first *five* years of application of this Regulation, and taking into account the effectiveness of application;

Amendment

(a) amending the thresholds for notifications as set out in Articles 18 and 27, in the light of the practice of the Commission during the first *three* years of application of this Regulation, and taking into account the effectiveness of application;

Amendment 59

Proposal for a regulation

Article 44 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) criteria to determine the specific commitments and redressive measures in Article 6;

Amendment 60

Proposal for a regulation

Article 44 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) defining specific indicators for balancing set out in the Article 5.

Amendment 61

Proposal for a regulation

Article 44 – paragraph 1 – point c c (new)

Text proposed by the Commission

Amendment

(cc) supplementing the indicators to determine the distortion on the internal market as set out in Article 3.

Amendment 62

Proposal for a regulation

Article 46 – paragraph 1

Text proposed by the Commission

Amendment

Within **five** years after the entry into force of this Regulation at the latest, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation, accompanied, **where the Commission considers it appropriate**, by relevant legislative proposals.

Within **three** years after the entry into force of this Regulation at the latest **and every 3 years thereafter**, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation **and evaluate the economic effects of this Regulation on the internal market including on the autonomy of the Union. The report shall be** accompanied by relevant legislative proposals. **The Commission shall also review the number of received and treated notification cases per year resulting from the thresholds set out in this Regulation. The Commission shall, where possible and appropriate, consider suggesting an increase or decrease of the threshold amounts applicable set out in this Regulation.**

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Foreign subsidies distorting the internal market		
References	COM(2021)0223 – C9-0167/2021 – 2021/0114(COD)		
Committee responsible Date announced in plenary	INTA 7.6.2021		
Opinion by Date announced in plenary	IMCO 7.6.2021		
Associated committees - date announced in plenary	25.11.2021		
Rapporteur for the opinion Date appointed	Christian Doleschal 15.6.2021		
Discussed in committee	1.12.2021	25.1.2022	28.2.2022
Date adopted	28.3.2022		
Result of final vote	+: -: 0:	38 1 2	
Members present for the final vote	Andrus Ansip, Pablo Arias Echeverría, Alessandra Basso, Biljana Borzan, Markus Buchheit, Andrea Caroppo, Anna Cavazzini, Deirdre Clune, Alexandra Geese, Sandro Gozi, Maria Grapini, Svenja Hahn, Krzysztof Hetman, Virginie Joron, Eugen Jurzyca, Arba Kokalari, Marcel Kolaja, Kateřina Konečná, Jean-Lin Lacapelle, Maria-Manuel Leitão-Marques, Morten Løkkegaard, Adriana Maldonado López, Antonius Manders, Leszek Miller, Anne-Sophie Pelletier, Miroslav Radačovský, René Repasi, Christel Schaldemose, Andreas Schwab, Tomislav Sokol, Ivan Štefanec, Róza Thun und Hohenstein, Tom Vandenkendelaere, Kim Van Sparrentak, Marion Walsmann, Marco Zullo		
Substitutes present for the final vote	Clara Aguilera, Marc Angel, Vlad-Marius Botoș, Geert Bourgeois, Christian Doleschal, Dominik Tarczyński		

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

38	+
The Left	Kateřina Konečná, Anne-Sophie Pelletier
ID	Alessandra Basso, Markus Buchheit, Virginie Joron, Jean-Lin Lacapelle
PPE	Pablo Arias Echeverría, Andrea Caroppo, Deirdre Clune, Christian Doleschal, Krzysztof Hetman, Arba Kokalari, Antonius Manders, Andreas Schwab, Tomislav Sokol, Ivan Štefánek, Tom Vandenkendelaere, Marion Walsmann
Renew	Andrus Ansip, Vlad-Marius Botoș, Sandro Gozi, Svenja Hahn, Morten Løkkegaard, Róza Thun und Hohenstein, Marco Zullo
S&D	Clara Aguilera, Marc Angel, Biljana Borzan, Maria Grapini, Maria-Manuel Leitão-Marques, Adriana Maldonado López, Leszek Miller, René Repasi, Christel Schaldemose
Verts/ALE	Anna Cavazzini, Alexandra Geese, Marcel Kolaja, Kim Van Sparrentak

1	-
ECR	Eugen Jurzyca

2	0
ECR	Geert Bourgeois
NI	Miroslav Radačovský

Key to symbols:

+ : in favour

- : against

0 : abstention