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Accompanying the document

Report from the Commission to the European Parliament and the Council

on the implementation and enforcement of Regulation (EU) 2022/2560 of 14 December 2022 on foreign subsidies distorting the internal market, in accordance with Article 52(2) thereof

{COM(2026) 368 final}

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CONTENTS

1. INTRODUCTION

1.1. Context: the Foreign Subsidies Regulation and its objective

Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market ([1]) (the ‘FSR’) was adopted to address distortions in the internal market caused by subsidies granted by third countries. The FSR seeks to ensure a level playing field in the internal market by enabling the European Commission (the ‘Commission’) to identify, assess, and, where necessary, redress distortive foreign subsidies.

Before the adoption of the FSR, the Union legal framework contained a structural regulatory gap. While Union State aid rules ensure that the subsidies granted by Member States do not unduly distort competition within the internal market, Regulation (EC) 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the ‘EUMR’) assesses whether concentrations may lead to a significant impediment to effective competition, and Articles 101 and 102 of the Treaty on the Functioning of the European Union (‘TFEU’) assess the presence of anti-competitive agreements and abuse of dominant position, none of these instruments allowed for a systematic assessment of subsidies granted by third countries to undertakings operating in the Union. In addition, traditional EU trade defence instruments, are limited to subsidised imports of goods and do not capture distortions arising from subsidised investments, services or financial flows. As a result, foreign subsidies could distort any sector of the economy such as, inter alia, participation in public procurement procedures or acquisition of undertakings or engaging in any other economic activities in the Union, without being subject to scrutiny comparable to that applicable to State aid. The FSR was therefore conceived as a horizontal instrument complementing existing Union merger, antitrust, State aid, public procurement and trade policy rules, with the objective of preserving fair competition and the integrity of the internal market.

The FSR is based on non-discriminatory principles and objective criteria. It covers all sectors and economic activities in the internal market, targeting distortions caused by any foreign subsidy to the internal market. The FSR applies in full respect of international obligations. While the Commission remains committed to constructive dialogue and cooperation with third-country authorities and economic operators, it will continue to use all investigative and procedural tools available under the FSR to ensure its effective application and safeguard the level playing field in the internal market.

At international level, the Union has consistently expressed preference for addressing subsidy-related distortions through multilateral instruments, notably within the framework of the World Trade Organisation (‘WTO’). However, existing WTO rules, in particular the Agreement on Subsidies and Countervailing Measures (‘ASCM’), are limited in scope, for reasons such as their focus on trade in goods, and face some challenges in view of transparency shortcomings and enforcement constraints. In the absence of comprehensive and effective multilateral rules capable of addressing the full range of distortions observed in the internal market, the EU considered it necessary to equip itself with an autonomous instrument to address distortions caused by foreign subsidies, while remaining open to future multilateral solutions ([2]).

([1]) Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, OJ L 330, 23.12.2022, pp. 1–45.

([2]) See Recital 6 FSR.

1.2. Legal basis and purpose of the Report

Article 52(2) FSR requires the Commission to review how it implements and enforces the FSR and report on its functioning to the European Parliament and Council every three years, with the first report due by 14 July 2026 (the 'Report'). The Report, therefore, assesses the early implementation and enforcement of the FSR as well as the experience gained by the Commission in its initial period of application.

The scope of the Report covers the application of the key substantive and procedural provisions of the FSR, especially the application of Articles 4, 5, 6 and 9, and the notification thresholds set out in Article20(3), Article 28(1) and (2) FSR ([3]). In the context of its review, the Commission should also report on developments in international relations involving third countries' subsidy control systems.

This Staff Working Document complements the Report in providing more detailed analysis.

The review under Article 52 FSR is intended to ensure that the FSR remains proportionate, effective and consistent with its stated objective and the Union's international obligations, while allowing for possible adjustments if warranted by enforcement experience ([4]).

This Staff Working Document accompanies the Report to provide more comprehensive overview of the FSR legislative background, the current FSR set up and its enforcement procedures and the experience gained by the Commission in its initial period of application.

2. LEGISLATIVE BACKGROUND

On 17 June 2020, the Commission adopted a White Paper on levelling the playing field as regards foreign subsidies (the 'White Paper') ([5]). The White Paper launched the public debate on the topic of distortive foreign subsidies in the internal market, from 17 June 2020 until 23 September 2020, during which, the Commission received 150 contributions from interested stakeholders ([6]). Following a gap analysis of existing EU and international instruments, the White Paper concluded that while some tools already existed, they were insufficient to adequately address the issue of foreign subsidies distorting the internal market. The White Paper proposed solutions and called for new tools to address the identified regulatory gap for tackling distortive foreign subsidies in the internal market.

On 5 May 2021, following additional consultation activities ([7]), the Commission adopted a proposal for a Regulation on foreign subsidies distorting the internal market ([8]),

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([3]) See Article 52 FSR.

([4]) Joint Declaration of the European Parliament, the Council and the Commission on Regulation (EU) 2022/2560.

([5]) White Paper on levelling the playing field as regards foreign subsidies, COM(2020) 253 final.

([6]) The results from the public consultation on the White Paper on foreign subsidies is available at Have your say portal (White Paper on Foreign Subsidies).

([7]) On 6 October 2020, the Commission published an Inception impact assessment, which was open for feedback until 29 October 2020 and 22 interested stakeholders provided feedback. The Inception impact assessment presented policy options that could be combined and announced the assessment of the different impacts. In the context of the consultation activities with stakeholders, between October 2020 and January 2021, the Commission gathered targeted feedback from business and industry groups active in sectors that appear to be affected by foreign subsidies as well as expert groups, public authorities, representatives of SMEs, consumers as well as third-country stakeholders.

([8]) See Commission Proposal for a Regulation on foreign subsidies distorting the internal market.

accompanied by an Impact Assessment Report ([9]). This proposal for a Regulation initiated the legislative procedure with the Council and the European Parliament. ([10])

On 30 June 2022, the Council and the European Parliament reached a political agreement on the Regulation on foreign subsidies distorting the internal market ([11]). The final text of the FSR was adopted on 10 November 2022 by the European Parliament ([12]) and on 28 November 2022 by the Council ([13]).

Following the adoption of the FSR and its entry into force on 13 January 2023, the Commission invited stakeholders to give feedback on the draft Foreign Subsidies Implementing Regulation ('FSIR') on 6 February 2023. Interested stakeholders were invited to submit their comments by 6 March 2023 via the 'Have Your Say' portal and 74 of them submitted feedback, which was taken into account in the final FSIR ([14]). The Commission also carried out targeted consultations with selected stakeholders and the draft FSIR was approved by the Foreign Subsidies Advisory Committee, in line with Article 48 FSR ([15]).

On 10 July 2023, the Commission adopted the FSIR laying down the procedures for notifying and content of notifications of concentrations and of public procurement bids involving foreign financial contributions ([16]), rules on disclosure, access to file and confidential information, transparency requirements, rules for calculating time limits, and the Commission's investigation process, including procedural details for proposing commitments by the undertaking under investigation. On 12 July 2023, the Commission also adopted the Communication C(2023)4749 on transmitting documents to the Commission in the context of the FSR ([17]). The FSIR entered into force on 13 July 2023.

The FSR started to apply from 13 July 2023 and as of that date, the Commission could initiate ex officio investigations. By way of derogation, the notification obligation, for concentrations under Article 21 FSR and for foreign financial contributions in public procurement procedures under Article 29 FSR, started to apply from 13 October 2023. The rules on the provision of assistance by Member States in the context of inspections under

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([9]) See Commission Staff Working Document Impact Assessment Accompanying the Proposal for a Regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market.

([10]) The FSR legislative background and the Commission's presentations to the members of the Council Working Party on Competition in a series of meetings from May to December 2021 is documented at FSR legislative background.

([11]) Commission press release of 30 June 2022 on Foreign Subsidies: Commission welcomes political agreement on Regulation on distortive foreign subsidies.

([12]) European Parliament press release of 10 November 2022 on Parliament approves new tool to ensure fair competition on the single market.

([13]) Council press release of 28 November 2022 on Council gives final approval to tackling distortive foreign subsidies on the internal market.

([14]) See the FSR draft Implementing Regulation and the feedback received on the Commission Have your say portal (Distortive foreign subsidies – procedural rules for assessing them).

([15]) On 30 June 2023, following two previous meetings in February and May 2023, the Foreign Subsidies Advisory Committee approved the draft FSIR. The documentation is available on the Commission Comitology Register for the Foreign Subsidies Advisory Committee.

([16]) Annex I to the FSIR concerns the Form FS-CO relating to the notification of a concentration pursuant to the FSR and Annex II to the FSIR concerns the Form FS-PP relating to the notification of financial contributions in the context of public procurement procedures pursuant to the FSR.

([17]) Communication from the Commission – Communication pursuant to Articles 4(2), 8(1), 15, 17(2) and 25 of Implementing Regulation (EU) 2023/1441 on detailed arrangements for the conduct of proceedings by the Commission pursuant to Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market, C/2023/4749, OJ C 246, 13.7.2023, pp. 2–5.

the FSR entered into force on 13 January 2024 ([18]) to allow Member States sufficient time to prepare the necessary national administrative framework for such assistance.

3. CURRENT SET UP UNDER THE FSR

3.1. Substantive concepts

This section outlines the main substantive concepts underpinning the FSR application, its enforcement procedures and the division of responsibilities between DG Competition (DG COMP) and DG Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), both in charge of the FSR implementation, as well as the interaction of the FSR with the other legal instruments of the Union.

3.1.1. Foreign financial contributions and foreign subsidies

The FSR relies on the concept of foreign financial contributions ('FFCs') as a starting point for its enforcement framework. Article 3(2) FSR defines the notion of FFCs to include any financial exchange with a third country government or entity whose actions can be attributed to a third country, such as direct transfers of funds or liabilities, the foregoing of revenue otherwise due, and the provision or purchase of goods or services. The notion of FFCs serves as a basis for the jurisdictional threshold for the purposes of ex ante notification procedures under the FSR and underlying reporting obligations under Articles 21 and 29 FSR.

The FFCs itself, however, is not sufficient to conclude on the existence of a foreign subsidy. Under Article 3(1) FSR, an FFC granted directly or indirectly by a third country will be a foreign subsidy if it (i) confers a benefit on an undertaking engaging in an economic activity in the internal market, and (ii) is limited, in law or in fact, to one or more undertakings or industries. The distinction between FFCs and foreign subsidies is therefore central to the structure of the FSR.

When the Commission has sufficient indications on the presence of foreign subsidies distorting the internal market, it shall open an in-depth investigation under the FSR.

3.1.2. Distortion of the internal market

Once the existence of a foreign subsidy is established, the Commission should assess if the foreign subsidy is distortive to the internal market.

Articles 4 and 5 FSR set out the framework for assessing whether a foreign subsidy distorts the internal market. Article 4 FSR establishes the general concept of distortion, focusing on two cumulative criteria: (i) whether a foreign subsidy improves the competitive position of an undertaking in the internal market and, in doing so, (ii) actually or potentially negatively affects competition. Article 5 FSR identifies certain categories of foreign subsidies that are considered most likely to distort the internal market. By contrast, Article 4(2) FSR establishes a rebuttable presumption that certain foreign subsidies are unlikely to distort the internal market, while Article 4(3) provides that foreign subsidies below the *de minimis* threshold are deemed not to distort the internal market.

The approach taken by the Commission in assessing distortions under the FSR has been developed in detail in the Guidelines on the application of certain provisions of Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies

([18]) Article 54(3) FSR indicates that by way of derogation, Article 14(5), (6) and (7) FSR shall apply from 13 January 2024.

distorting the internal market ('FSR Guidelines'), published on 9 January 2026 ([19]). In particular, the FSR Guidelines provide insight on the assessment of the two cumulative conditions included in Article 4 FSR – improvement of competitive position of the undertaking and the actual or potential negative effect on competition in the internal market.

3.1.3. Balancing test

Once the distortion of the foreign subsidy to the internal market is identified, the parties can bring forward arguments if there are positive effects of the foreign subsidies that can outweigh the negative effects through the so-called balancing test, under Article 6 FSR.

Article 6 FSR envisages that the Commission may, on the basis of information received, conduct a balancing test to take into account the potential positive effects of a foreign subsidy on the development of the subsidised economic activity when assessing its overall impact on the internal market. This test forms part of the substantive assessment framework and may influence the outcome of an investigation where both negative and positive effects are identified in terms of the type of decision to be adopted and the appropriateness of remedial measures intended to address the identified distortion. In all cases, the outcome after conducting a balancing test should not be less favourable to the undertaking under investigation than if no balancing had taken place.

The FSR Guidelines provide more information about the way the Commission performs the balancing test, clarifying in particular the situations in which positive effects may be assessed, the types of positive effects that can be taken into account, and the conditions that need to be met for those positive effects to be taken into account.

3.2. Enforcement procedures

The FSR is structured around three enforcement procedures that allow the Commission to address distortions caused by foreign subsidies ([20]). While these procedures are based on partially distinct frameworks, they rely on a common set of substantive concepts and investigative powers, and may in certain cases overlap in their application. In particular, the ex officio tool may also be used to examine economic activities including concentrations and public procurement procedures or other forms of public spending, which do not fall under the ex ante notification obligation, pursuant to Articles 21 and 29 FSR.

Under all three enforcement procedures, the FSR investigations have a two-phase structure, consisting of: (i) a preliminary review, as set out in Article 10 FSR and, where appropriate, (ii) an in-depth investigation, as set out in Article 11 FSR. These phases determine the procedural steps and timelines of the Commission's assessment.

([19]) Communication from the Commission – Guidelines on the application of certain provisions of Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market, C/2026/42. See Commission press release of 9 January 2026 – Commission publishes Foreign Subsidies Regulation Guidelines.

([20]) In addition to the three enforcement procedures against specific undertakings, Article 36 FSR lays down the possibility of the Commission conducting a market investigation into a particular sector, a particular type of economic activity or into the use of a particular subsidy instrument in case the information available to the Commission substantiates a reasonable suspicion that foreign subsidies in the particular sector, for the particular type of economic activity or based on the particular subsidy instrument may distort the internal market.

3.2.1. *Ex officio review (Article 9 FSR)*

Article 9 FSR empowers the Commission to examine, on its own initiative, information from any source indicating the possible existence of a foreign subsidy distorting the internal market. This ex officio mechanism is not subject to notification obligations or quantitative thresholds.

Where the Commission considers that the information referred to in Article 9 FSR indicates the possibility that a foreign subsidy distorting the internal market exists, it carries out a preliminary review pursuant to Article 10(1) FSR. For the purposes of this preliminary review, the Commission seeks all information it considers necessary to determine, on a preliminary basis, whether the FFC under examination constitutes a foreign subsidy and whether it distorts the internal market. To that end, the Commission may request information in accordance with Article 13 FSR and conduct inspections within or outside the Union pursuant to Articles 14 and 15 FSR respectively. The FSR does not lay down a fixed statutory deadline for the completion of the preliminary review in ex officio cases.

Where, following the preliminary review in an ex officio case, the Commission considers that there are sufficient indications that a foreign subsidy distorts the internal market, it opens an in-depth investigation in accordance with Article 10(3) FSR. In accordance with Article 11 FSR, during the in-depth investigation, the Commission further assesses the foreign subsidies and their distortive effects identified in the opening decision and will seek all additional information necessary by making use of the investigative tools in Articles 13, 14 and 15 FSR. Article 11(5) FSR provides that the Commission will endeavour to conclude the in-depth investigation within 18 months of it being opened.

3.2.2. *Ex ante notification of concentrations (Chapter 3 FSR)*

Chapter 3 FSR introduces an ex ante notification system for concentrations.

In accordance with Article 20(3) FSR, a concentration must be notified to the Commission prior to its implementation, when:

- the acquired undertaking, at least one of the merging undertakings, or the joint venture is established in the Union and generates an aggregate EU turnover of at least EUR 500 million, and

- the parties to the concentration concerned have received combined FFCs exceeding EUR 50 million in the three years preceding the conclusion of the agreement, the announcement of the public bid or the acquisition of a controlling interest.

The notification form for concentrations ('Form FS-CO'), adopted as Annex I to the FSIR, obliges notifying parties to disclose certain information required to assess potential distortive foreign subsidies in the concentration. This information includes details about the parties to, type of, and rationale of the transaction, its financing, and FFCs received by the parties, in the three years prior to the concentration (that is preceding the conclusion of the agreement, the announcement of the public bid or the acquisition of a controlling interest).

The Form FS-CO adopts a two-limb structure for the reporting of FFCs, depending on the nature of the FFCs received:

- FFCs liable to constitute foreign subsidies most likely to distort the internal market (in accordance with the definition in Article 5 FSR), which will trigger: (i) detailed reporting concerning any FFCs exceeding EUR 1 million granted to the notifying party / parties or the target; and (ii) explanation if the FFC constitutes a foreign subsidy (i.e., if it confers benefit and is limited in fact or law to specific (group of) undertakings.

- Other FFCs, which need to be reported if the aggregate amount of FFCs received from a third country exceeds EUR 45 million in the three years prior to the concentration, with certain exceptions. For these FFCs, no line-by-line disclosure is required. Instead, the Form FS-CO requires a description of the categories of FFCs received and an indicative range of the amount of FFCs per third country.

Pursuant to the FSIR, the below FFCs do not require reporting in the Form FS-CO:

- deferrals of payment of taxes or of social security contributions, tax amnesties and tax holidays as well as normal depreciation and loss-carry forward rules that are of general application. If these measures are limited, for example, to certain sectors, regions or (types of) undertakings, they have to be included;
- application of tax reliefs for avoidance of double taxation in line with the provisions of bilateral or multilateral agreements for avoidance of double taxation, as well as unilateral tax reliefs for avoidance of double taxation applied under national tax legislation to the extent they follow the same logic and conditions as the provisions of bilateral or multilateral agreements;
- provision / purchase of goods or services (except financial services) at market terms in the ordinary course of business, for example the provision / purchase of goods or services carried out following a competitive, transparent and non-discriminatory tender procedure;
- individual FFCs below EUR 1 million; and
- specific exceptions related to transactions involving private equity or investment fund acquirers, subject to defined conditions.

The FSIR also allows for the possibility of requesting a waiver to disclose certain information in the Form FS-CO where:

- the information is not reasonably available; or
- the information is not necessary for the Commission's assessment under the FSR.

Upon receipt of a complete notification, in accordance with Article 24(1)(a) FSR, the Commission carries out a preliminary review within 25 working days. Where the Commission has found sufficient indications of the presence of distortive foreign subsidies in the concentration, it may open an in-depth investigation, which, in accordance with Article 24(1)(b) FSR, must be concluded within 90 working days, subject to extensions or suspensions as provided for in the FSR.

3.2.3. Ex ante notification in public procurement procedures (Chapter 4 FSR)

Chapter 4 FSR establishes an *ex-ante* notification system for public procurement procedures. Economic operators are required to notify FFCs where:

- the estimated value of the public procurement contract or framework agreement is at least EUR 250 million (or the value of the individual lot, or the combined value of all lots bid on, is at least EUR 125 million), and
- the economic operator concerned, including its main subcontractors and suppliers where applicable, has received aggregate FFCs of at least EUR 4 million per third country in the three years preceding the notification.

Where these two thresholds are met, economic operators are required to submit a notification. Where only the first threshold is met (i.e., no notifiable FFCs have been granted to the notifying party/parties ([21]) in the last three years preceding the notification), economic operators are required to submit a declaration. In both cases, economic operators have to use Form FS-PP, adopted as Annex II to the FSIR.

For declarations, Form FS-PP obliges the notifying parties to disclose certain information that may be relevant for the assessment of each public procurement bid in the context of the FSR. This information includes details about the public procurement and the notifying parties. Moreover, the Form FS-PP for declarations requires:

- Individual reporting of all non-notifiable FFCs in the last three years preceding the declaration, above EUR 1 million;
- Aggregate reporting in Table 2 of FFCs the value of which is between EUR 1 million and the *de minimis* threshold ([22]);
- No reporting of FFCs the value of which is below the *de minimis* threshold.

For notifications, Form FS-PP obliges notifying parties to disclose certain information, necessary for the assessment of potential distortive foreign subsidies in the public procurement procedure. This information includes details about the public procurement, the notifying parties, the type of FFCs received, any justifications regarding the fact that the FFCs did not allow the notifying parties to submit an unduly advantageous tender, as well as information about potential positive effects.

Form FS-PP for notifications distinguishes the reporting requirements depending on the nature of the FFCs received:

- FFCs liable to constitute foreign subsidies most likely to distort the internal market (in accordance with the definition in Article 5 FSR), which will trigger (i) detailed reporting, including supporting documents, is required in respect of any FFC exceeding EUR 1 million granted to each of the notifying parties individually; and (ii) explanation if the FFC constitutes a foreign subsidy (i.e., if it confers benefit and is limited in fact or law to specific (group of) undertakings.
- Other FFCs, for which disclosure in Table 1 is required in respect of any FFC exceeding EUR 1 million granted to the notifying parties. For these FFCs no line-by-line disclosure is required. The Form FS-PP requests a description of the categories of FFCs received and an indicative range of the amount of FFCs per third country.
- Pursuant to the FSIR, the following FFCs are subject to exception from reporting in the Form FS-PP:
    - o deferrals of payment of taxes or of social security contributions, tax amnesties and tax holidays as well as normal depreciation and loss-carry forward rules that are of general application. If these measures are limited, for example, to certain sectors, regions or (types of) undertakings, they have to be included;

([21]) Under Article 2(3) FSR, 'notifying parties' for the purpose of notifications and declarations regarding foreign financial contributions in public procurement' means all economic operators, groups of economic operators, main subcontractors and main suppliers covered by the notification obligation in accordance with Article 29(5) of Regulation (EU) 2022/2560.

([22]) As defined in Article 3(2), first subparagraph, of Commission Regulation (EU) No 1407/2013.

- application of tax reliefs for avoidance of double taxation in line with the provisions of bilateral or multilateral agreements for avoidance of double taxation, as well as unilateral tax reliefs for avoidance of double taxation applied under national tax legislation to the extent they follow the same logic and conditions as the provisions of bilateral or multilateral agreements;

- provision / purchase of goods or services (except financial services) at market terms in the ordinary course of business, for example the provision / purchase of goods or services carried out following a competitive, transparent and non-discriminatory tender procedure;
- FFCs below the individual amount of EUR 1 million.

The FSIR also allows for the possibility of requesting a waiver to disclose certain information in the Form FS-PP, during the pre-notification contacts, where:

- the information is not reasonably available; or
- the information is not necessary for the Commission's assessment under the FSR.

Following the notification or declaration, the Commission conducts a preliminary review within 20 working days. Where the Commission considers that a foreign subsidy could distort the internal market, it may open an in-depth investigation, which must be concluded within 110 working days, subject to extensions or suspensions as provided for in the Regulation.

3.2.4. Possibility to request prior notification

In addition to the three enforcement procedures described above in subsections 3.2.1, 3.2.2. and 3.2.3, the Regulation allows the Commission to examine cases below the notification thresholds through the use of 'call-in powers', where there are suspicions that there are foreign subsidies granted in the particular concentration or public procurement procedure. These call-in mechanisms complement the notification-based system and can be relied upon to request notifications for both concentrations and public procurement procedures below the notification thresholds.

The FSR Guidelines provide further clarity on the conditions necessary for the Commission to be able to request prior notification and shed light on the types of considerations it can take into account when deciding in which situations a prior notification may be appropriate.

3.2.5. Sources of information and market investigations

Market information on potentially distortive foreign subsidies plays a central role in the Commission's enforcement of the FSR. This is particularly relevant for the effective functioning of the ex officio procedure and the exercise of call-in powers. For its enforcement of the FSR, the Commission may rely on information from any source, including Member States, contracting authorities, competitors, market participants and other sources, as well as on market investigations conducted under Article 36 FSR, which constitute a horizontal information-gathering tool applicable across the three enforcement procedures.

3.3. Division of responsibilities between DG COMP and DG GROW

The FSR is enforced exclusively by the Commission.

DG COMP is responsible for applying the FSR in relation to concentrations and for the general use of the ex officio investigative mechanism.

DG GROW is responsible for applying the FSR in relation to public procurement procedures and for the use of ex officio investigative mechanism linked to public procurement procedures and similar forms of public spending.

This division of responsibilities reflects the respective experience of the services in competition enforcement and public procurement and supports the coherent application of the FSR. Any enforcement activities under the FSR benefit from coordination of actions between the responsible services to ensure alignment in interpretation and enforcement of the Regulation. In addition, final decisions under the FSR are adopted in accordance with the principle of collegiality in decision-making.

3.4. Interactions with other instruments

The FSR operates alongside a number of existing EU instruments that pursue distinct objectives and rely on different legal tests and procedural frameworks. In practice, behaviours and procedures subject to review under the FSR may also fall within the scope of other EU regimes, which may give rise to parallel proceedings.

3.4.1. Interaction with the EUMR

A high number of concentrations notified under the FSR also fall within the scope of the EUMR. Based on enforcementexperience to date ([23]), approximately 80% of the concentrations notified under the FSR were also notifiable under the EUMR. This is not surprising, considering that both regimes are triggered by the same economic event, namely a concentration, and both use turnover as a jurisdictional threshold. In addition, the FSR's turnover threshold is set at a higher level than the corresponding per-undertaking EU turnover threshold under the EUMR. The result is that concentrations that meet the FSR threshold will in most cases also fall within the scope of the EUMR ([24]).

Even if the same transaction may be subject to review under both instruments, the objectives and substantive assessments differ. The EUMR assesses whether a concentration would significantly impede effective competition as a result of changes in market structure and, therefore, economic power. By contrast, the FSR examines whether foreign subsidies confer an undue advantage that distorts competition in the internal market, either during the acquisition process or in the activities of the combined entity post transaction. The outcome of the assessment under one instrument is therefore not determinative for the outcome under the other.

While the substantive assessments and overall objectives of the two instruments differ, in an effort to enhance legal certainty and ensure consistency in the interpretation of shared concepts, many of the concepts in the concentration procedure of the FSR have been aligned with the concepts under the EUMR. Most notably, the FSR relies on the same notions of concentration and of control that are applicable under the EUMR. In practice, this has resulted in alignment between parts of the information required under the two notification forms, with Sections 1 to 3 of Form FS-CO following the same logic and

([23]) Unless specifically stated otherwise, the Report includes information on the enforcement activities under the FSR until 31 May 2026.

([24]) Under Article 20(3)(a) FSR, at least one of the undertaking concerned must be established in the Union and generate an aggregate Union turnover of at least EUR 500 million. Under Article 1(2) EUMR, the combined aggregate worldwide turnover of all the undertakings concerned must exceed EUR 5 000 million and the Union- wide turnover of each of at least two of the undertakings concerned must exceed EUR 250 million.

structure as the initial sections of the notification form used for procedures under the EUMR.

3.4.2. Interaction with the framework set up by the FDI Screening Regulation

Certain transactions reviewed under the FSR are also subject to national foreign direct investment ('FDI') screening mechanisms and may be communicated to the Commission under Regulation (EU) 2019/452 of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union. Approximately 28% of FSR concentration cases were also subject to at least one FDI screening procedure notified by a Member State to the Commission.

The FSR includes specific information obligations in relation to such cases. In particular, Article 10(2) and (4) FSR provide for the exchange of information with the respective Member State authorities which have informed the Commission about a concurrent national FDI procedure.

While FDI screening focuses on risks to public security and public order, the FSR addresses distortions of competition in the internal market. The two frameworks therefore operate in parallel with distinct objectives.

3.4.3. Interaction with the Public Procurement Directives

The interaction between the EU public procurement directives (Directives 2014/23/EU, 2014/24/EU, and 2014/25/EU) and the FSR creates a 'parallel track' system where a single public procurement procedure is governed by two distinct legal frameworks. While EU public procurement rules govern the procedural conduct of the tender (selection, evaluation, and award) by the relevant contracting authority, the FSR introduces a mandatory screening mechanism for distortive FFCs that is managed exclusively by the Commission. Under this interaction, for large public procurement procedures, the contracting authority acts as a gateway, receiving submissions of FFCs from economic operators and sending them to the Commission. Furthermore, the FSR imposes a 'standstill obligation': while the contracting authority can proceed with evaluating bids and identifying the 'most economically advantageous tender' under EU public procurement rules, the actual award of the contract is legally prohibited until the Commission has cleared the submission of an economic operator under the FSR. This creates a procedural dependency where the contract award can be vetoed by an FSR finding of a 'distortive subsidy', effectively making FSR clearance a new condition for contract award in the EU internal market.

Despite the procedural overlap, the substantive assessments performed by contracting authorities and the Commission are distinct. The closest point of convergence lies in the Commission's scrutiny of an 'unduly advantageous tender' and the contracting authority's evaluation of an 'abnormally low tender' (under Article 69 of Directive 2014/24/EU). However, even these are governed by a different internal logic: the contracting authority focuses on operational viability, seeking to determine if a price is so low that the economic operator will be unable to execute the contract technically or financially. In contrast, the Commission's assessment focuses on determining if a foreign subsidy enabled the economic operator to submit an offer that is 'unduly advantageous' ([25]).

The considerations discussed in relation to the interaction between FSR and the public procurement directives apply also to the interaction between the FSR and the Regulation

([25]) See 2.5.1 Communication from the Commission – Guidelines on the application of certain provisions of Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market, C/2026/42.

(EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast) (the 'Financial Regulation'). This results from Article 143(e) of the Financial Regulation, which extends the application of FSR to public procurement procedures initiated by entities falling under the Financial Regulation the estimated value of which reaches EUR 250 million.

4. PREPARATION OF THE REPORT

4.1. Sources of information and workstreams

To gather the evidence required for the Report, multiple and complementary sources of information and parallel workstreams have been considered:

First, the Commission commissioned an expert study from an external contractor under a Framework Contract for the provision of expert consultancy services and studies (COMP/2023/OP/0017) (the 'FSR Review Study') ([26]).

Second, the Commission collected input from external stakeholders through a public consultation, comprising a call for evidence, and an EU Survey questionnaire (the 'FSR Review 'public consultation').

Third, the Commission services conducted an internal review of their own practice, collecting feedback from case teams engaged in the enforcement of the FSR and analysing collected data and experience on its enforcement practice, drawing on artificial intelligence tools and a manual review of case files (the 'Commission's internal FSR review').

4.2. Scope and methodology of the review

The FSR Review Study provided an independent, evidence-based assessment of the functioning of the FSR, including an analytical perspective on its enforcement. The public consultation allowed the Commission to gather a broad range of views and factual information from stakeholders affected by the FSR, while targeted interviews allowed for a more in-depth examination of specific issues and practical experiences. Based on the design and questions in the public consultation and the targeted interviews, the stakeholders' views provided evidence regarding the main FSR concepts, thresholds for notifications and the scope of information to be reported in FSR notifications, among others. The internal review offered operational insights into the day-to-day enforcement of the FSR, including challenges encountered in practice and potential areas for improvement or simplification. In parallel, the analysis of enforcement data supported a systematic assessment of trends, procedural aspects and outcomes across cases.

Taken together, these sources allowed the Commission to conduct a comprehensive review of the scope, effectiveness and practical implementation of the FSR, ensuring that the conclusions and options presented in this SWD and the Report are grounded in a robust and balanced evidentiary basis.

4.2.1. The FSR Review Study

The FSR Review Study was prepared by London Economics ('LE') Europe, a specialist economics and policy consultancy, together with data+law and Associated-Professor

([26]) Multiple Mixed Framework Contract for the Provision of Expert Consultancy Services and Studies in the Context of Investigations and Enforcement Related to Foreign Subsidies (COMP/2023/OP/0017).

Dr Lena Hornkohl. The study started in June 2025 and lasted for six months. It covers the period from October 2023 to June 2025. The FSR Review Study is included in Annex I.

The analysis carried out in the FSR Review Study consists of three main sections: (i) a survey of legal practitioners and contracting authorities on their experience with the FSR and potential simplification measures; (ii) an analysis of the Commission's case practice; and (iii) a review of developments in international relations concerning third countries' subsidy control systems.

i. Survey of legal practitioners and contracting authorities

This section examines stakeholders' experience with the application of the FSR, drawing on surveys of legal practitioners (the 'FSR Practitioners' Survey') and contracting authorities of EU Member States. It assesses how the FSR operates in practice, identifies compliance frictions, and explores possible avenues for simplification.

The Practitioners' Survey was addressed to both practitioners with FSR experience in the concentration or the public procurement procedures across a wide range of sectors.

ii. Analysis of the Commission's case practice

This section examines how the Commission has implemented and enforced the FSR in concentration and public procurement cases. It analyses enforcement practice between October 2023 and June 2025 and assesses the overall approach adopted by the Commission and identifies patterns in its assessment practice, in particular with regards to the application of Articles 4, 5, 6, 9, 20(3) and 28(1) and (2) FSR.

iii. Review of developments in third countries' subsidy control systems

This section reports on developments in international relations involving third countries' subsidy control systems, as referred to in Article 52 FSR.

The analysis focuses on Canada, China, Japan, Switzerland, Türkiye, the United Arab Emirates, the United Kingdom and the United States. Other jurisdictions with which the Union has bilateral trade or investment agreements are addressed at an overview and aggregate level. The study also covers international developments in subsidy control, in particular in relation to jurisdictions that have recently entered into Free Trade Agreements with the Union.

4.2.2. The FSR Review Public Consultation

In August 2025, the Commission launched the FSR Review public consultation, which ran until 18 November 2025. The FSR Review public consultation contained two components: first, a call for evidence invited general feedback from all interested parties on the main objectives of the Report, as well as on its scope and context; and second, a public consultation questionnaire aimed to gather views on specific aspects of the implementation and enforcement of the FSR from a broad range of stakeholders, including companies, law firms, Member States, business associations, individuals and the research community. All interested parties were able to submit their views on the call for evidence and respond to the questionnaire in any official EU language. Additional input was obtained through targeted interviews with selected stakeholders.

The public consultation generated a high level of participation, including respectively 49 responses to the call for evidence and 54 responses to the public consultation questionnaire ([27]). This input was subsequently complemented by targeted interviews with selected stakeholders and meetings with Member States.

4.2.3. *Commission's internal FSR review*

In the first half of 2026, the Commission services conducted an internal review among case teams engaged in enforcing the FSR, seeking feedback on the experience with enforcement and analysed data related to the enforcement practice.

The data analysed for DG COMP focused on FSR concentration cases notified between October 2023 and January 2026, reflecting the availability of data and practical experience in this area ([28]). The internal review assessed cases across several characteristics, including: (i) characteristics of the notifying parties; (ii) the amount and type of reported FFCs; (iii) the economic activities of the parties to the concentration (identified by NACE codes); (iv) the reported EU turnover of the target, (v) consideration paid for the transaction; and (vi) experience with pre-notification discussions.

To assess the application of the FSR's public procurement procedure, the Commission services used data on submissions received between 13 October 2023 and 31 January 2026. The data examined covers in particular the number of notified public procurement procedures, the number of pre-notification contacts, the number of notification and the distributions of submissions per sector. Additionally, an analysis of global ultimate ownership ([29]) (i.e. country where the ultimate parent company is registered), carried out in the context of the review of the EU public procurement directives, has been included in this Staff Working Document, covering the period between 13 October 2023 and 31 December 2025, a slightly narrower timespan than the submissions' dataset. The differences in timespan do not represent a material difference for the current analysis.

4.3. Objectives sought with the Report

The objectives set out in this section are grounded in the broader policy framework of the Commission and the legal framework governing the implementation of the FSR. In particular, the objectives of transparency, simplification, and optimisation of work are closely aligned with the Commission's overarching priorities, as reflected in the Political Guidelines and the Commission Work Programme, which emphasise the importance of enhancing clarity, reducing administrative burdens, and ensuring the efficient use of resources in the application of EU rules ([30]).

At the same time, the Commission remains fully committed to its international obligations as set out in Article 44(9) FSR and the compliance of the implementation and enforcement of the Regulation with the Union's obligations under international law.

4.3.1. Transparency

Enhancing transparency is a key objective of the Report. Transparency is essential to ensure predictability, facilitate compliance, and strengthen stakeholders' understanding of the application of the FSR. In this context, the Report and this SWD aim to provide further

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([27]) See the European Commission's public consultation on the Commission Have your say portal, and the Call for Evidence, available on the same Have your say portal.
([28]) With a particular focus on cases administratively closed after the preliminary review phase.
([29]) i.e. country where the ultimate parent company is registered. See Section 5.4.2.1. (f) of the present document.
([30]) Ursula von der Leyen, Political Guidelines For The Next European Commission 2024−2029. Communication from the Commission – Commission Work Programme 2025. Moving forward together: A Bolder, Simpler, Faster Union, COM(2025) 45 final.

insight into the Commission's implementation and enforcement of the Regulation during the initial phase of its application.

This objective builds on steps already taken by the Commission to ensure transparency. Since the entry into force of the FSR, the Commission has progressively expanded the information it makes available about its enforcement practice. Notably, DG COMP publishes on its website key details of all notified cases, including case number, parties involved, procedural timeline, and economic activities concerned ([31]).

In addition, the Commission services has taken measures to clarify the substantive framework for assessment under the FSR. While gaining experience in applying the Regulation, it has provided increasing guidance to stakeholders, thereby contributing to greater legal certainty. Notably, DG GROW provides online guidance to economic operators on whether to submit a notification or declaration and on how to complete the sections of the Form FS-PP on the notification of FFCs in the context of public procurement procedures.

In July 2024, a Staff Working Document was published, offering initial clarifications on key concepts under the FSR ([32]). Features of the document included initial indications on how the Commission interprets substantive FSR concepts and, in particular, factors to be considered in assessing whether a distortion exists, and the methodology it would apply in the balancing test. Furthermore, the Commission services regularly update a set of dedicated FSR questions and answers ('FSR 'Q&As'') on the Commission website ([33]). These updates address recurring issues arising in practice and provide additional guidance on a range of topics, including procedural and jurisdictional aspects (such as notification obligations, threshold calculations, and FFCs). The Commission also publishes dedicated FSR briefs on specific policy developments (such as the first 100 days of enforcement of the FSR ([34]) and on FSR Guidelines and on case practice (such as the brief on the first final decision with commitments adopted in case FS.100011) ([35]). Additionally, the Commission maintains a rigorous communication strategy on its in-depth investigations via press releases and daily news bulletins to provide stakeholders with timely updates on critical procedural milestones. This practice enhances administrative transparency and procedural predictability.

Finally, as already mentioned in Section 3.1.2, the FSR Guidelines, published in January 2026, represent a key milestone in enhancing predictability and transparency for companies. They clarify, inter alia, how the Commission determines whether a foreign subsidy distorts competition, how it balances any negative effects against potential positive effects, and how it may exercise its power to require prior notification of concentrations or public procurement procedures falling below the established thresholds.

([31]) DG GROW is currently exploring possibilities to increase transparency of proceedings for public procurement while ensuring the confidentiality of national public procurement procedures.

([32]) Commission Staff Working Document – Initial clarifications on the application of Article 4(1), Article 6 and Article 27(1) of Regulation (EU) 2022/2560 on foreign subsidies distorting the internal market, SWD(2024) 201 final.

([33]) DG COMP website – FSR Q&As.
DG GROW website – FSR Q&As.

([34]) Competition FSR brief (Issue 1, February 2024) – The Foreign Subsidies Regulation – 100 days since the start of the notification obligation for concentrations

([35]) Competition FSR brief (Issue 1, December 2025) – The e&/PPF Telecom case – Interference on the foreign subsidies line to the EU.

4.3.2. *Simplification*

Assessing the need and scope for potential simplification is another key element of the Report.

Assessing the need and possibility for simplification is aligned with the Commission's current policy priorities. Speed, coherence, and simplification are central principles guiding the Commission's work. The Political Guidelines and the Commission Work Programme 2025 emphasise that simplifying EU policies and legislation, as well as improving their implementation, is crucial to making it easier and faster to do business in Europe. These efforts are also at the core of the Commission's strategy to strengthen Union's competitiveness, as developed in the Commission's Competitiveness Compass ([36]).

4.3.3. *Optimisation of work*

Consistent with the above, based on the findings outlined in the Report, further optimisation of the enforcement of the FSR and an efficient use of available resources should be ensured by enabling a focus on cases and sectors where the risk of distortion caused by foreign subsidies is most prominent.

In the initial phase of implementation, the application of the Regulation required the establishment of new processes and the allocation of administrative resources. To enable effective implementation, the Commission has allocated dedicated resources for the enforcement of the FSR, including a dedicated directorate within DG COMP, and a dedicated unit within DG GROW. Drawing on experience with the enforcement of other competition instruments and public procurement practices, relevant procedures have been implemented to enable the efficient review of cases ([37]).

4.3.4. *Observation on international obligations*

Ensuring consistency with the Union's international obligations constitutes an overarching objective of the Report. Any recommendations put forward in pursuit of greater transparency, simplification, and optimisation must remain aligned with the EU's obligations under international agreements.

The Regulation operates in a global economic context and interacts with existing international frameworks, including those governing subsidies and trade. It is therefore essential that its implementation respects the Union's obligations under, inter alia, the World Trade Organisation framework.

Maintaining such consistency contributes to legal certainty and supports a rules-based international system.

([36]) Communication from the Commission – A Competitiveness Compass for the EU, COM(2025) 30 final.

([37]) This included the provision of practical information and templates for supporting documents on the Commission's website, the creation of a dedicated FSR Registry to handle correspondence by notifying parties, the introduction of internal procedures, aiming to ensure timely response to submissions, and proper staffing of cases with combined legal and economic expertise and exploring possibilities to increase transparency of proceedings for public procurement while ensuring the confidentiality of national public procurement procedures.

5. FINDINGS

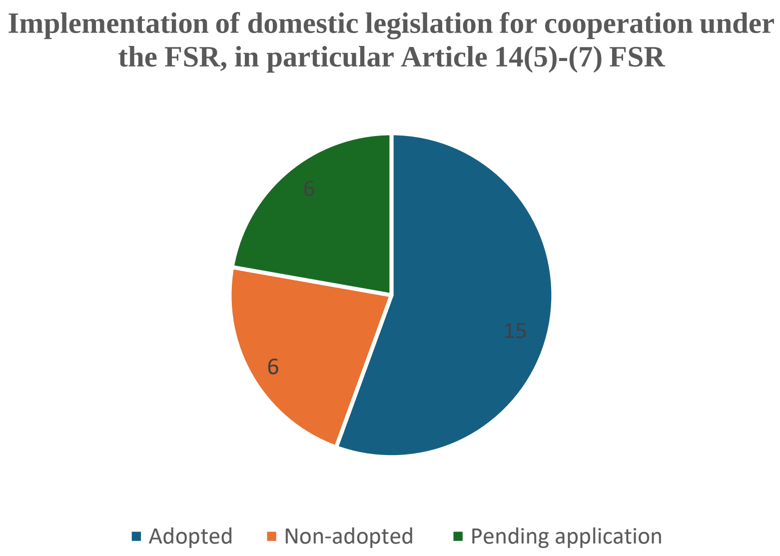
5.1. Status of implementation

The FSIR and notification forms for the two ex ante notification procedures of the FSR were adopted on 10 July 2023, within the timelines set out in Article 47(4) FSR. That allowed for the timely operationalisation of the notification-based enforcement procedures. The Commission has continuously requested Member States to report on their progress in implementing, in their respective jurisdictions, measures allowing them to assist the Commission in inspections in accordance with Article 14(5), (6) and (7) FSR, which became applicable as from 12 January 2024.

Figure 1 provides an overview of the current state of play on the national implementation of provisions enabling Member States' cooperation with the Commission in FSR inspections:

- Member States that have confirmed the adoption of implementing provisions include Bulgaria, Czechia, Finland, France, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Romania, Slovakia, Slovenia and Spain.
- Member States that have introduced legislative proposals which are pending adoption include Austria, Belgium, Cyprus, Denmark, Estonia and Germany.
- Member States that have not confirmed yet their legislative proposals include Croatia, Greece, Italy, Malta, Portugal and Sweden.

Figure 1 – Implementation of domestic legislation for cooperation under the FSR



Source: Information provided by Member States.

In addition, the adoption of supplementary guidance, discussed in Section 4.3.1 above, contributed to a more consistent understanding of the Commission's approach to the application of key substantive notions under the FSR, particularly during the initial phase of enforcement.

5.2. Status of enforcement

This section presents an overview of the enforcement of the FSR to date. It first examines whether the substantive provisions of the Regulation are understood and considered appropriate in light of the early enforcement experience. It then turns to the application of the FSR through its main enforcement tools, namely ex officio investigations and notification-based review of concentrations and public procurement procedures. The analysis distinguishes between feedback received from stakeholders and the Commission services' assessment in line with the sources of information identified in Section 4.

Before addressing each subsection, the following considerations should be made:

First, the FSR is still in the very early stages of its enforcement. This has resulted in a necessary learning period for both the Commission and the undertakings involved in procedures under the FSR, as well as the contracting authorities, with notable differences between early cases and more recent ones, and with a clear tendency towards quicker and more efficient processes in most recent cases.

Second, it is important to highlight that the Stakeholders' Consultations and the conclusions that can be drawn from them predate several significant developments in the enforcement of the FSR, namely the adoption of the final decisions in concentration case FS.100156 ADNOC/Covestro and in public procurement case FSP.103117 – Design and construction, acquisition of vehicles and maintenance services of the Violet Line of the Lisbon Metro in Portugal, the adoption of the decisions to open ex officio in-depth investigation in cases FS.100068 Nuctech and FS.100143 Goldwind, the adoption of the decision to open an in-depth investigation in concentration case FS.100253 JD.COM/CECONOMY as well as the adoption of the FSR Guidelines on 9 January 2026. The findings from the stakeholder consultations therefore do not take into account the additional clarifications and insights into the FSR enforcement brought by those developments. This is the case in particular with respect to the FSR Guidelines, which provide additional clarity and transparency into the approach taken by the Commission in its assessment under the FSR.

Third, case practice has varied significantly depending on the enforcement procedure, with a smaller number of cases reviewed under the ex officio procedure, followed by a moderate number of cases reviewed under the notification procedure for concentrations, and a higher number of submissions under the notification procedure for public procurement. Yet, in many instances, the feedback received does not clearly distinguish between procedures, which makes it more difficult to draw self-standing conclusions for each procedure ([38]).

5.2.1. Relevance, clarity and appropriateness of substantive provisions

5.2.1.1. Feedback from stakeholders

The stakeholder feedback presented in this Section is based on the results of the public consultation conducted by the Commission in the context of the review of the Regulation pursuant to Article 52 FSR ([39]) as well as on the Practitioners' Survey and the targeted consultations with selected stakeholders (together the 'Stakeholders' Consultations').

Respondents to the Stakeholders' Consultations broadly acknowledge the relevance and necessity of the FSR. A large majority recognises that the FSR addresses a regulatory gap that existed prior to its adoption and consider the objective of ensuring a level playing field in the internal market undistorted by foreign subsidies to be legitimate and appropriate. Concerns raised in the consultations focus primarily on the practical application of the

([38]) This is the case in particular with regards to the two *ex ante* notification procedures

([39]) The contributions to the call for evidence are available on the Commission Have your say portal, along with the contributions to the public consultation and a factual summary of the replies (Have your say portal).

rules and the administrative burden associated with enforcement, rather than on the underlying policy choice to introduce the FSR.

Addressing **Article 3 FSR**, and the concepts of foreign subsidies and FFCs, respondents to the Stakeholders' Consultations generally acknowledge the need for a broad definition of FFCs in order to ensure effective detection of potentially distortive support. However, the feedback also indicates that the concept of FFCs, while understood as intentional, generates some uncertainty when determining the scope of reportable contributions. The most salient aspect identified was the broad scope of the definition, which encompasses a wide range of measures, as emerged from the Practitioner's Survey, where 72% of respondents rated the broad scope of the definition as a significant challenge. This results in a burden for companies which often have to collect information on FFCs across multiple jurisdictions for the purposes of their reporting obligations under Chapters 3 and 4 FSR, as detailed Sections 5.2.3 and 5.2.4 respectively.

Other concepts within Article 3 FSR were considered to be clearer, such as the definition of a 'third country'. In addition, most legal practitioners who participated in the survey indicated that the definitions of benefit and specificity raised some difficulties when they had to be applied for particular cases.

As regards the assessment of distortion under **Article 4 FSR**, respondents to the public consultation express mixed views. While 10 stakeholders out of the 54 submissions consider the provision sufficiently clear, 28 stakeholders report difficulties in predicting how the concept of distortion will be applied in individual cases. The limited body of Commission decisional practice at the time of the survey responses is cited by 3 stakeholders as a factor contributing to this uncertainty. In the Practitioners' Survey, respondents also identified the limited guidance on determining when a foreign subsidy is distortive as a challenge. Respondents mention the lack of benchmarks or concrete examples illustrating how the indicators under Article 4 FSR are used and how improvements in an undertaking's competitive position translate into a finding of distortion in the internal market. According to the results of the Practitioners' Survey, the guidance on categories of non-distortive subsidies (Articles 4(3) and 4(4) FSR) was considered sufficiently clear. In particular, guidance for subsidies unlikely to be distortive when the subsidy does not exceed EUR 4 million over any consecutive period of three years, was viewed positively.

Stakeholders generally view **Article 5 FSR** as a useful indicator of the Commission's priorities in enforcing the FSR, as it identifies categories of foreign subsidies that are more likely to distort the internal market. However, around half of the respondents to the public consultation raise concerns about the breadth of certain categories listed in Article 5 FSR and the clarity of their scope. In particular, 18 respondents point to some uncertainty surrounding the criterion of subsidies that 'directly facilitate a concentration' or enabling the submission of 'unduly advantageous tenders'. Similarly, in the Practitioners' Survey, views on the categories of likely distortive subsidies set out in Article 5 FSR were mixed. Specific concerns were raised about the 'unduly advantageous tender' criterion in public procurement, as well as the limited guidance in Article 5 FSR on how to apply the 'enabling to submit' criterion. Respondents with procurement experience reported difficulties in assessing whether a tender is 'advantageous', determining when such an advantage becomes 'undue', and substantiating these assessments with appropriate evidence, including identifying factors that may justify the advantageous nature of a tender. Assessing the impact of foreign subsidies on concentrations was rated a moderate challenge by a majority of respondents with concentration experience, due to the need to evaluate counterfactual scenarios.

As regards **Article 6 FSR**, stakeholders welcome the existence of the balancing test. However, a large number of respondents consider that the practical relevance of the balancing test remains limited at this stage. In the public consultation, 23 stakeholders out of the 54 submissions report a lack of clarity about the types of positive effects that may be taken into account, the evidentiary standards applicable, and the methodology of weighing positive and negative effects. As a result, respondents indicate uncertainty as to when and how the balancing test can be meaningfully invoked in practice. Similarly, the Practitioners' Survey identified concerns regarding the clarity and application of the balancing test, despite most respondents having limited practical experience with it, as their cases did not involve distortive subsidies.

Overall, the stakeholders' feedback highlights areas in which legal predictability could be improved, in particular as regards the practical application of certain substantive notions and the application of the analytical framework in individual cases.

5.2.1.2. The Commission services' assessment

With respect to the Stakeholders' Consultation, stakeholders express their understanding of the overall objective of the FSR and they acknowledge the relevance of the FSR. Stakeholders' feedback nonetheless highlights areas where legal predictability could be improved, in particular as regards the practical application of certain substantive notions and the application of the analytical framework in individual cases.

Indeed, some of the reported uncertainties are expected to diminish as decisional practice and potential related jurisprudence develops, and stakeholders gain more experience with the application of the Regulation. In a similar vein, the efforts undertaken to publish information in a timely manner on cases, including non-confidential versions of the Commission's final decisions, also contribute to a better understanding on how the substantive notions have been applied in practice in specific cases. In parallel, further clarification through guidance (notably via the published Q&As) and consistent administrative practice contribute to a better stakeholder understanding of the key concepts. The Commission services also frequently appear in conferences and engage with legal practitioners on various FSR-related issues, bringing further clarity on the Commission's practice.

Based on the obtained feedback, the Report already identifies certain areas for consideration, which could be streamlined and lead to lower the administrative burden on businesses, while preserving the objectives of the Regulation. These issues are examined further in Section 6 below, notably in relation to the functioning of the notification systems for concentrations and public procurement procedures.

5.2.2. Ex officio investigations

5.2.2.1. Information on cases

The Commission continuously assesses whether there is sufficient evidence to merit the launch of new ex officio investigations, based on its own analysis, information received from stakeholders and investigations of market information, as applicable.

In two cases, the Commission has opened in-depth investigations.

During its in-depth investigations, the Commission assesses whether the preliminary findings are confirmed. The opening of an in-depth investigation does not prejudge the outcome of the investigation. In accordance with Article 11 FSR, at the end of its in-depth investigation, the Commission may (i) accept commitments proposed by the undertaking under investigation if they fully and effectively remedy the distortion, (ii) impose redressive measures, or (iii) issue a no objection decision.

a. Case FS.100068 - NUCTECH

In the **Nuctech** case, the Commission opened an in-depth investigation on 11 December 2025 to assess the activities of Nuctech in the production and sale of threat detection systems and the provision of related services within the EU ([40]).

The case was initiated in April 2024 by conducting on-site inspections in the EU premises of Nuctech in Poland and the Netherlands following the adoption of a decision requiring Nuctech to submit to inspections pursuant to Article 14(3) FSR (the 'Inspection Decision'). Following the assessment of the collected information during the preliminary review phase of the investigation, the Commission found sufficient indications that Nuctech may have been granted foreign subsidies from China supporting the EU activities of the company (such as grants, loans, and tax measures) that could distort the EU internal market. As regards distortion, the Commission also found indications that the possible foreign subsidies may improve Nuctech's competitive position in the internal market and may negatively affect competition by allowing Nuctech to offer customers lower prices or better commercial conditions than competitors.

b. Case FS. 100143 - GOLDWIND

In the **Goldwind** case, the Commission opened an in-depth investigation on 3 February 2026 to assess the activities of Goldwind Science & Technology Co., Ltd. ('Goldwind') in the production and sale of wind turbines and the provision of related services within the EU ([41]). The case was initiated ex officio by the sending of requests for information in April 2024.

The Commission found sufficient indications that foreign subsidies which may have been granted by China in the form of grants, loans and tax measures could distort competition in the internal market, by unduly supporting Goldwind, at the expense of its competitors. In particular, the Commission found indications that foreign subsidies may enable Goldwind to offer lower prices than its competitors, thereby winning more wind project tenders in the EU than it would have done in the absence of those foreign subsidies.

5.2.2.2. Review by the EU Courts

In the context of ex officio investigations, some investigative acts of the Commission have been subject to review by the Union Courts:

a) **Case T-284/24** – **Nuctech** – in May 2024, Nuctech brought an action for annulment before the General Court challenging the Commission's Inspection Decision ([42]). At the same time, Nuctech also applied for interim measures, seeking suspension of the Commission's Inspection Decision pending the outcome of the main proceedings ([43]). In August 2024, the President of the General Court rejected the application for interim measures ([44]), consequently confirmed on appeal by the

([40]) Summary Notice concerning the initiation of an in-depth investigation in case FS.100068 – NUCTECH pursuant to Article 10(3)(d) of Regulation (EU) 2022/2560, OJEU C/2026/545.

([41]) Summary Notice concerning the initiation of an in-depth investigation in case FS.100143 – Goldwind, pursuant to Article 10(3)(d) of Regulation (EU) 2022/2560, OJEU C/2026/1120.

([42]) Case T-284/24, *Nuctech Warsaw and Nuctech Netherlands v Commission*, OJ C, C/2024/4107.

([43]) Case T-284/24 R, *Nuctech Warsaw Company Limited Sp. z o.o. and Nuctech Netherlands BV v Commission*, EU:T:2024:564.

([44]) Case T-284/24 R, Order of the President of the General Court of 12 August 2024, OJ C, C/2024/5824.

Vice-President of the Court of Justice in March 2025 ([45]). At time of publication of this Report, the proceedings related to the action for annulment of the Inspection Decision remain pending before the General Court.

b) **Case T-335/26** – **Goldwind** – in May 2026, Goldwind brought an action for annulment before the General Court challenging the Commission's request for information ([46]) and requested interim measures for its suspension ([47]). The request for information was sent as part of the in-depth investigation into Goldwind's activities in the EU wind sector in Case FS.100143. At time of publication, the proceedings related to both applications remain pending before the General Court.

5.2.2.3. Feedback from stakeholders

Stakeholders generally recognise the ex-officio investigation mechanism as a central element to ensuring a level playing field in the internal market as it is reported by 25 stakeholders out of the 54 submissions in the public consultation. Respondents to the Stakeholders' Consultations widely acknowledge that the ability for the Commission to act on its own initiative is necessary to address potentially distortive foreign subsidies. At the same time, respondents to the public consultation note that there remain some uncertainties in relation to the duration of investigations. In addition, several respondents flag the lack of transparency and guidance for circumstances in which ex officio investigations are initiated and how prioritisation decisions are taken.

5.2.2.4. The Commission services' assessment

Based on the Commission practice to date and the feedback in the Stakeholders' Consultations, the Commission services consider that the ex-officio investigation mechanism functions as intended and that the relevant provisions of the FSR provide an effective framework to pursue the Regulation's objective of ensuring a level playing field in the internal market. In particular, the ex officio review powers enable the Commission to address potentially distortive foreign subsidies in any economic activity.

Some of the early stakeholders' feedback indicates a possible lack of predictability on the duration of ex officio investigations which may create uncertainty for businesses. However, experience shows that the duration of these proceedings is often also impacted by the level of cooperation of the undertaking under investigation and the provision of relevant information to the Commission for assessment as well as actions brought before the EU Courts. Furthermore, it is noted that in current investigations, the 18-months periods referenced in Article 11(5) FSR have not expired.

In accordance with Article 10(3) FSR, the opening decisions in these cases have been accompanied by summary notices published in the Official Journal of the EU, which provide a short overview of the Commission's preliminary assessment of the presence of distortive foreign subsidies in those cases which servers to raise awareness and to invite comments from any other interested party.

([45]) Case C-720/24 P(R), Order of the Vice-President of the Court of 21 March 2025, ECLI:EU:C:2025:205.

([46]) Case T-335/26, *Goldwind Science & Technology v Commission*, main proceedings, application lodged on 29 May 2026.

([47]) Case T-335/26 R, *Goldwind Science & Technology v Commission*, application for interim relief, lodged on 29 May 2026.

Similarly to notified cases, a timely publication of the outcome of in-depth investigations in ex officio cases will be ensured, once the assessment has been finalised and a final decision has been adopted.

All of these efforts provide further clarity and transparency of the Commission's enforcement practice with respect to the use of its ex officio powers.

5.2.3. Notification of concentrations

5.2.3.1. Information on cases

From the start of the notification obligation until 31 May 2026, the Commission has received 272 formal notifications under the concentration notification procedure, as follows:

- 11 were notified in 2023 (from October 2023 until end of 2023);
- 102 were notified in 2024;
- 99 were notified in 2025;
- 60 were notified between 1 January and 31 May 2026.

Of all the above cases, 247 were closed after the assessment in the preliminary review did not result in sufficient indications about the presence of distortive foreign subsidies. Four cases were withdrawn during the preliminary review phase, and for 18 cases the preliminary review was still ongoing.

In three cases, the Commission initiated in-depth-investigations.

Until the same date, the Commission has not made use of its power to request the prior notification of any concentrations in accordance with Article 21(5) FSR.

a. Case FS.100011 - EMIRATES TELECOMMUNICATIONS GROUP / PPF TELECOM GROUP

The Emirates Telecommunications Group Company PJSC ('e&') / PPF Telecom Group B.V transaction was conditionally approved on 24 September 2024. It concerned the acquisition by e&, the incumbent national telecommunications operator in the United Arab Emirates ('UAE'), of PPF's telecommunication operations in Bulgaria, Hungary, Slovakia and Serbia.

The Commission found evidence of the presence of foreign subsidies in the form of an unlimited guarantee, grants and loans. The Commission did not find a distortion in the acquisition process but found distortions in the activities of the merged entity post-transaction (in the form of possibly distorted investments).

In order to address the distortion detected, the Commission accepted commitments proposed by the notifying parties, which involved (i) ensuring that e&'s Articles of Association do not deviate from ordinary UAE bankruptcy law, thereby removing the unlimited State guarantee, and (ii) hold-separate obligations between e& and the target's activities in the EU internal market.

The final non-confidential version of the decision with commitments is published on DG COMP website ([48]).

([48]) Commission decision of 24.9.2024 finding that, with the binding commitments, the foreign subsidies in the concentration do not distort the internal market (Case FS.100011 – e&/PPF Telecom Group), C(2024) 6745 final.

b. Case FS.100156 - ADNOC / COVESTRO

The Abu Dhabi National Oil Company ('ADNOC') / Covestro transaction was conditionally approved on 14 November 2025. It concerned the acquisition by ADNOC, a state-owned oil and gas producer and the national oil company of Abu Dhabi, of Covestro AG, a chemicals producer established in Germany.

The Commission found evidence of the presence of foreign subsidies granted by the UAE to both the acquirer and the target, including an unlimited guarantee to ADNOC, and a capital increase to Covestro. This was found to lead to distortion both in the acquisition process and in the activities of the merged entity post-acquisition.

In order to address the distortions detected, the Commission accepted commitments proposed by the notifying party, which involved (i) a change of Articles of Association for ADNOC so that they do not deviate from ordinary UAE bankruptcy law, thereby removing the unlimited State guarantee, and (ii) the obligation to licence certain of Covestro's patents with market participants.

A provisional non-confidential version of the decision with commitments is published on DG COMP website ([49]).

c. Case FS.100253 – JD.COM / CECONOMY

This case involves the acquisition of CECONOMY AG, a German retailer specialised in the field of consumer electronics and home appliances, by JD.com, a company that belongs to a China-based group operating a retail business and an online e-commerce marketplace in China.

On 28 May 2026, the Commission opened in-depth investigation into the transaction. In the preliminary review phase, the Commission found indications of foreign subsidies distorting the EU internal market. These include preferential financing, tax incentives and grants provided by entities whose actions are possibly attributable to the People's Republic of China.

At time of publication, the in-depth investigation was ongoing. In accordance with Article 25(3) FSR, at the end of its in-depth investigation of a concentration case, the Commission may (i) accept commitments proposed by the undertaking under investigation if they fully and effectively remedy the distortion, (ii) prohibit the concentration, or (iii) issue a no objection decision.

5.2.3.2. Detailed analysis of Commission practice

This section presents statistical data compiled as part of the internal data analysis for the purposes of the Report. The data analysed for concentration cases was focussed on cases notified between October 2023 and January 2026 ([50]) and summarises data on (i) characteristics of the notifying parties; (ii) the amount and type of reported FFCs; (iii) the economic activities of the parties to the concentration (identified by NACE codes); (iv) the reported EU turnover of the target; (v) consideration paid for the transaction; and (vi) experience with pre-notification discussions.

([49]) Provisional non-confidential version of Commission decision of 14.11.2025 on finding that, with the binding commitments the foreign subsidies in the concentration do not distort the internal market (Case FS.100156 – ADNOC/COVESTRO), C(2025) 7800 final/2.

([50]) With a particular focus on cases closed after the preliminary review phase. The period for this more detailed part of the analysis of the Commission's practice is the same for any conclusions reached in the present Section.

Some statistical data derived from the FSR Review Study was also included in the analysis ([51]). These statistics are presented in comparison with the internal statistics of the Commission. In instances where statistical data is available only from the FSR Review Study and not from the Commission's internal data analysis, such data is presented as novel evidence contributing to the overall assessment ([52]).

a. Characteristics of notifying parties

The internal analysis of cases shows that 32% of all notified cases, which were closed after the preliminary review phase of investigation, involved an investment fund / private equity fund as an acquirer. This figure is overall consistent with the findings of the FSR Review Study, where the corresponding proportion was higher at 43%. This difference can be explained by the use of different samples underlying the respective analyses ([53]).

In addition, Table 1 below provides information on the distribution of cases, based on the reported country of incorporation of the parties involved in the transactions:

Table 1: Cross border element (in % of all preliminary review concentration cases)

Cross-border nature of concentration	% of all preliminary review concentrations
Intra-EU concentrations (cross-border)	19%
Intra-EU concentrations (same Member State)	20%
EU - non EU concentrations	39%
non EU - non EU concentrations (different non-EU country)	12%
non EU - non EU concentrations (same non-EU country)	10%

Source: Commission services.

The data presented in Table 1 are closely aligned with the data presented in the FSR Review Study ([54]).

b. Amount and type of reported FFCs

With regards the amount and type of reported FFCs, the internal analysis of case data showed the following distribution of FFCs that do not fall under Article 5 FSR:

([51]) The analysis carried out in the FSR Review Study is based on a sample of cases selected to be representative, as explained in Section 4.2 of the FSR Review Study.
([52]) This is the case specifically in the following sections: point e 'Concentration types' and point i 'Duration of pre-notification discussions'.
([53]) Please see Section 4.2, page 121 of the FSR Review Study (**Annex X**).
([54]) Please see Section 4.2, Table 66 of the FSR Review Study (**Annex X**).

Table 2: Concentrations classified according to the size of reported FFCs that do not fall under Article 5 FSR

Concentrations classified to ranges of FFCS that are not Article 5	% of all preliminary review concentrations
EUR > 1000 million	49%
EUR 500-1000 EUR million	10%
EUR 100-500 EUR million	15%
EUR 45-100 EUR million	6%
Cases with no reported FFCs	20%

Source: Commission services.

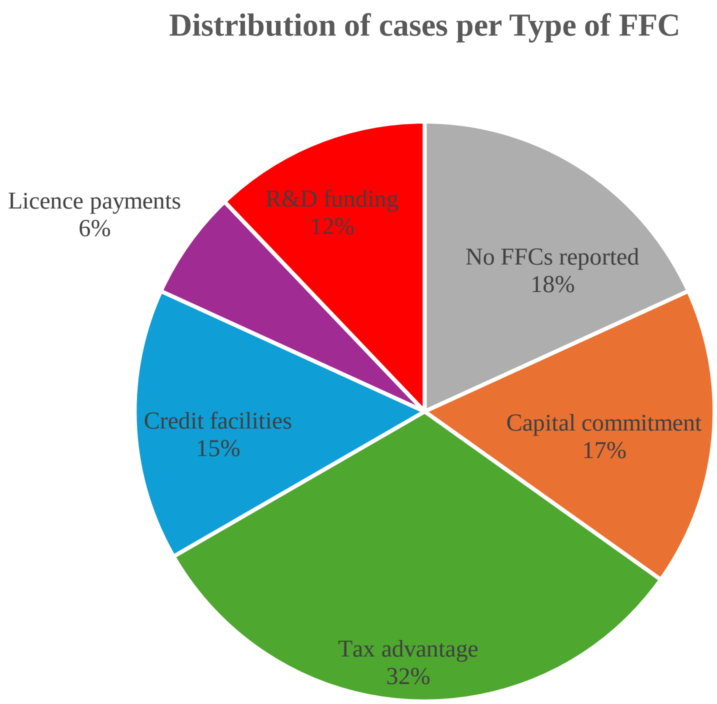
As can be seen from Table 2, under the reporting obligations in Form FS-CO, in 20% of cases closed after a preliminary review phase, notifying parties did not report any such FFCs, even if they reached the required FFC threshold of EUR 50 million included in Article 20(3)(b) FSR, which had triggered their notification obligation. Such cases arose predominantly in situations where the FFCs granted were in the form of one of the categories of FFCs which are benefited from an exception from the reporting obligation, most often in the form of provision or purchase of goods or services (except financial services) at market terms in the ordinary course of business. Those cases were found to not raise concerns under the FSR and only necessitated limited confirmation of information during pre-notification discussions with notifying parties.

In addition, in 6% of cases closed after the preliminary review, the total amount of reported FFCs that do not fall under Article 5 FSR in the Form FS-CO did not exceed EUR 100 million. Those cases were also generally found to not raise concerns and were subject to streamlined pre-notification discussions.

Figure 2 provides an overview of the types of reported FFCs that do not fall under Article 5 FSR ([55]). Among those types of FFCs, the most recurrent reported FFCs included tax advantages (32%), followed by capital commitments (18%) and credit facilities (15%). For completeness, information about cases where no FFCs were reported has also been included.

([55]) The analysed information on reported FFCs has been provisionally compiled in five broad categories (capital commitments, tax advantages, credit facilities, licence payments and R&D funding) to enable a streamlined presentation. This categorisation does not directly reflect all types of FFCs as self-assessed and reported by notifying parties.

Figure 2



([56])

Source: Commission services.

c. Type of reported FFCs in investment funds/ private equity cases

Within the subset of cases with investment fund / private equity acquirer, the most common type of FFCs reported were contributions by Limited Partners ([57]) ('LP contributions'), attributable to third countries. Such LP contributions were found to be provided on similar terms and to confer similar rights to those associated with LP contributions by partners non-attributable to third countries. This type of FFCs was found to not give rise to distortive foreign subsidies in the assessed cases. In some cases, there were also reported FFCs to the portfolio controlled by the same fund. In general, the assessment showed that there were limited possibilities for cross-subsidisation of the transaction (both at acquisition level and activity post-transaction). As a result, cases with investment fund / private equity acquirers with reported FFCs limited to the above two categories were found to not raise concerns under the FSR and only necessitated confirmation of some facts during the pre-notification discussions with notifying parties.

The FSR Review Study found that, among the cases analysed in which the acquirer was a fund, 69% involved potentially Article 5 FSR foreign subsidies – those most likely to distort the internal market. All of them, fell under Article 5(1)(d) FSR - namely, those that could directly facilitate the transaction and arose from capital commitments made by

([56]) Data from cases after mid 2025.

([57]) While there is no legal definition of the term 'Limited Partners' in the FSR legal framework, this term is understood to mean passive investors who contribute capital to a partnership (fund) but are strictly prohibited from participating in the management of the fund, lest they forfeit their limited liability status. If justified, the Commission may request more information from the notifying party as to whether LPs can influence the fund's broader mandate through the Limited Partnership Agreement or have negotiated excusal rights via side letters to avoid specific sectors.

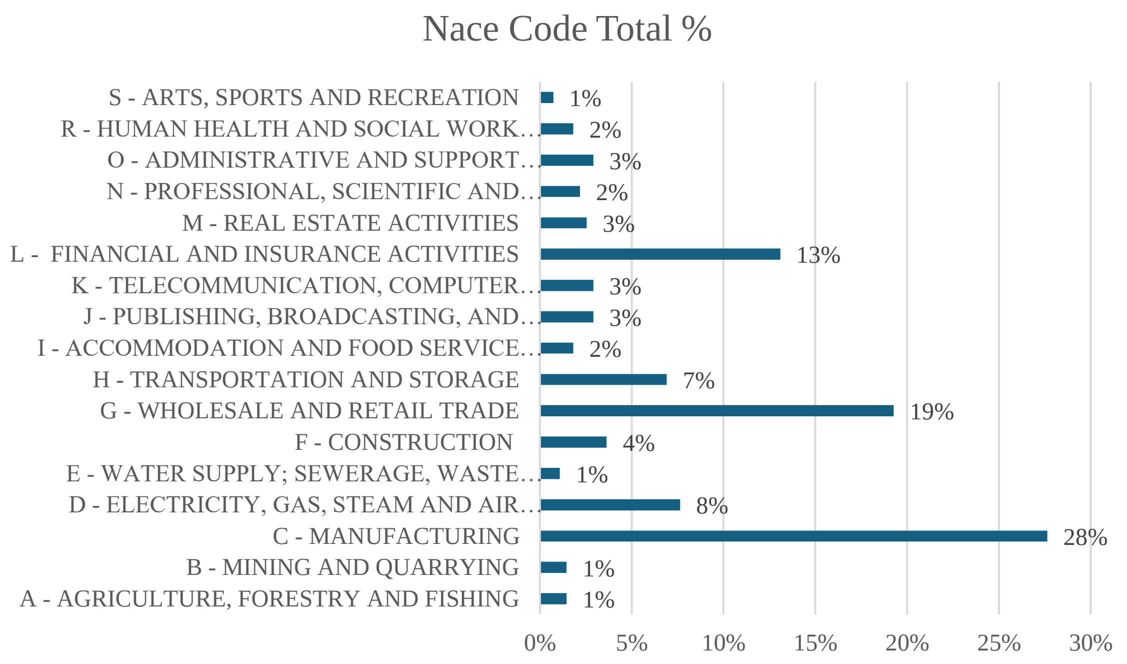
Limited Partners investing in the fund, which were potentially attributable to foreign countries, in particular, sovereign wealth funds or pension funds. In two cases, Article 5(1)(d) FFCs also took the form of loans granted to the acquiring fund for the purpose of financing the transaction. In the remaining 31% of cases, no Article 5 FFCs were reported.

However, across all cases in which the FFCs consisted of capital contributions, these investments were deemed to be made on ‘pari passu’ terms, equivalent to those of private investors. Therefore, no benefit was conferred so the FFC did not constitute a foreign subsidy ([58]).

d. Economic activities of the target in the concentration

The analysis of the economic activities of the parties to the concentration (based on identified NACE codes) of notified cases is presented in **Figure 3** below.

Figure 3: Economic activities of target in the concentration ([59])



Source: Commission services.

It follows that around 28% of cases concern manufacturing activities, followed by 19% of wholesale and retail activities and 13% of financial and insurance activities.

e. Concentration types

The FSR Review Study performed an analysis of the types of concentration among the notified cases. The most common type was the acquisition of sole control over an entire company, accounting for 41% of cases. This was followed by acquisitions of joint control, which represented 14% of cases and mergers which represented 1% of cases ([60]).

([58]) For more information, please see Section 4.7.1 of the FSR Review Study (**Annex X**).

([59]) The data are largely consistent with those presented in the FSR Review Study. Any slight differences are explained by differences in the samples on which the respective analyses are based. See Section 4.2, Table 64, of the FSR Review Study (**Annex X**).

([60]) See Section 4.2, Table 65, of the FSR Review Study (**Annex X**).

Table 3: Concentration Type

Count of Concentration Type	(%)
Acquisition of joint control of part of a company	1%
Acquisition of joint control of the whole company	11%
Acquisition of joint control through a joint venture	2%
Acquisition of sole control of part of a company	7%
Acquisition of sole control of previously reduced or enlarged companies	1%
Acquisition of sole control of the whole company	41%
Acquisition of sole control through a subsidiary of a group	3%
Merger	1%
N\A	32%
Total	**100%**

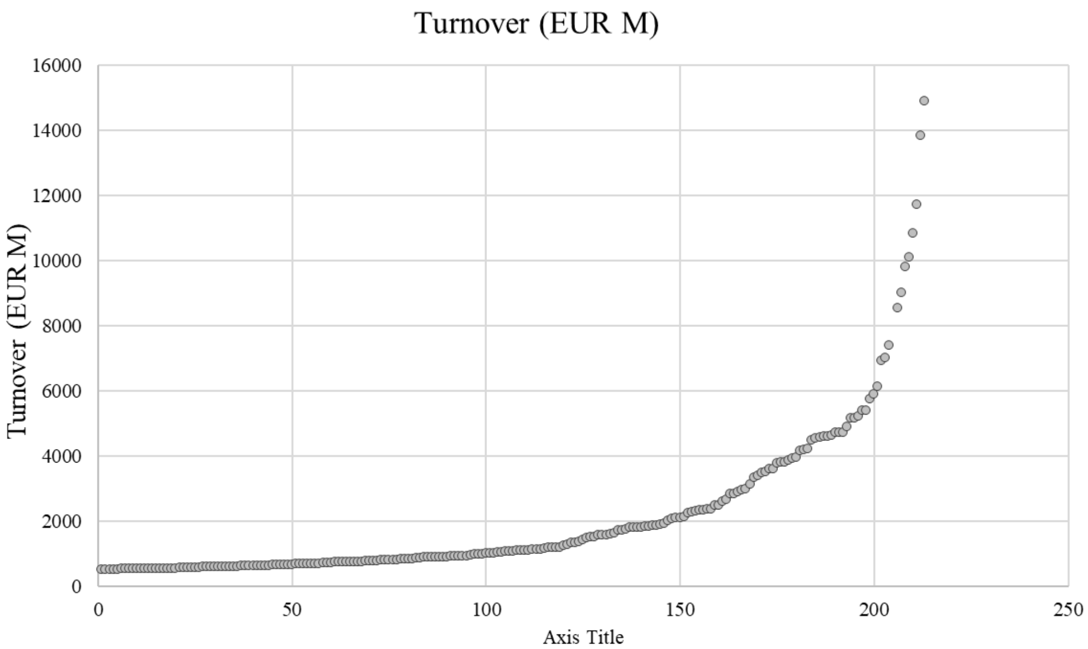
Source: Commission services.

f. Reported EU turnover of the target

The internal analysis of cases shows that the median of the reported EU turnover of the target across all cases closed after preliminary review was around EUR 1 billion (i.e., for 50% of those cases the target had a turnover of around EUR 1 billion or less).

The distribution of turnover across all cases closed after preliminary review is represented in **Figure 4** below.

Figure 4: Distribution of target turnover across all concentration cases closed after preliminary review



Source: Commission services.

In addition, internal analysis of the same data indicated that 15% of notified cases involved a transaction where the reported EU turnover of the target fell between EUR 500 million and EUR 600 million. There has not been any observed pattern of concentration of certain types of cases (in terms of economic activities) in the lower turnover segment of cases. Cases involving economic activities in general have been equally distributed regardless of the turnover of the target.

In particular, **Figure 5** below presents the ratio of cases with turnover between EUR 500 million and EUR 600 million across all economic activities. As noted above, the results are broadly comparable to the whole sample.

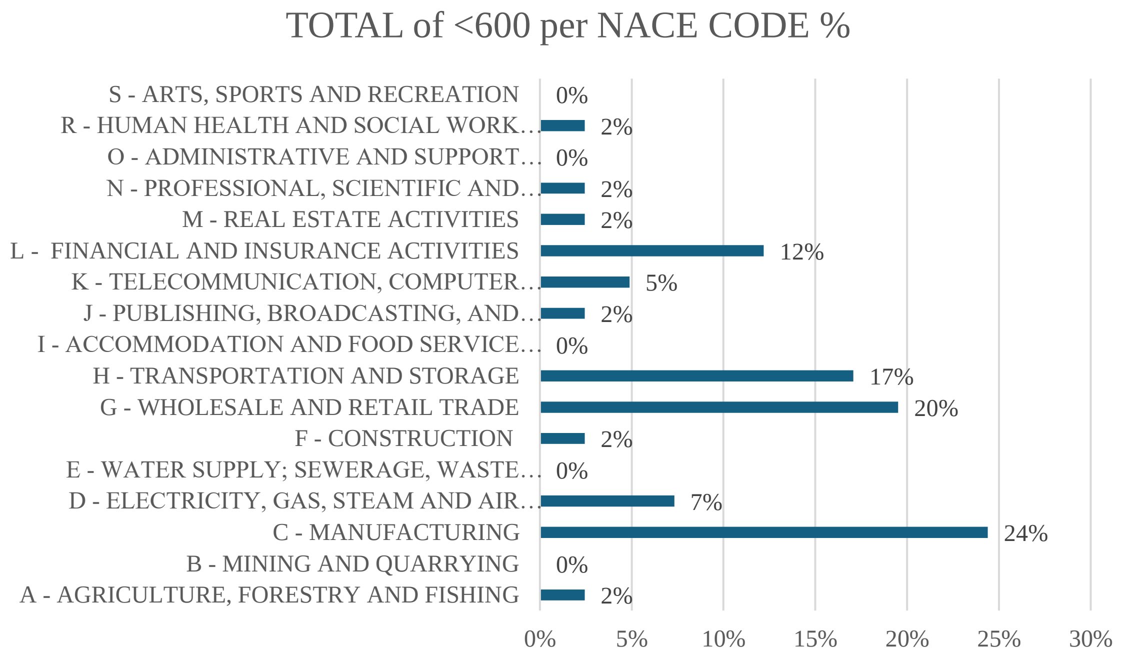
Similarly, the FSR Review Study showed that, if the threshold were at EUR 600 million, a reduction of 16% in cases notified to the Commission would have occurred ([61]).

The analysis on presence of specific patterns was performed also taking in account of several acts of EU secondary law ([62]), to verify any patterns in the presence of the specific activities identified in those legislative acts and the reported turnover of the target in notified concentration cases under the FSR. For each legislation assessed, the distribution of cases with such activities, which concerned a target with reported EU turnover below EUR 600 million, does not differ materially from the overall distribution of cases in these

([61]) See Section 4.4 of the FSR Review Study (**Annex X**).

([62]) The assessment included comparison with the sectors identified as priority sectors in line with the broader policy objectives of the Union in Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, proposal for a Regulation of the European Parliament and of the Council on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of the European Parliament and of the Council; and Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe’s net-zero technology manufacturing ecosystem activities across all notified cases. It therefore seems that an increase of the turnover threshold would not limit in a disproportionate way the Commission's ability to detect and, if necessary, address distortive foreign subsidies with respect to these economic activities.

Figure 5: Economic activities of target in the concentration, for cases where the Turnover of the target was below EUR 600 million



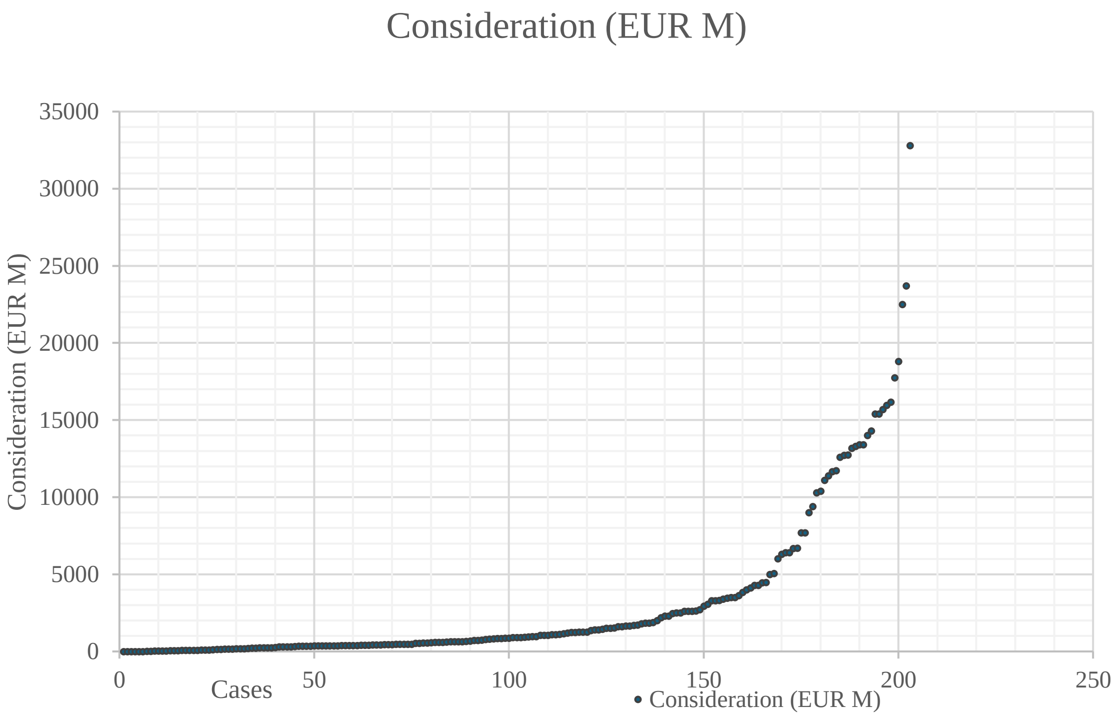
Source: Commission services.

g. Consideration paid for the concentration

The internal analysis of cases shows that the median of the consideration paid over all analysed cases was around EUR 900 million (i.e., 50% of those cases the total consideration paid was EUR 900 million or less). This distribution of reported consideration is presented in **Figure 6** ([63]):

([63]) This includes cases closed after the preliminary review phase, cases in which a decision to open in-depth investigation was adopted, as well as cases withdrawn after notification. Several cases were excluded, where the reported consideration did not have a cash equivalent.

Figure 6: Consideration paid for the concentration



Source: Commission services.

h. Experience with pre-notification discussions (waivers and duration)

The FSR Review Study analysed the duration of pre-notification discussions ([64]).

Since the mandatory standstill period in the preliminary review phase always lasts 25 working days in cases where the Commission does not initiate an in-depth investigation, only the number of days between the submission of the first draft notification form and the filing of the complete notification is variable and can be affected by the notifying parties and / or the Commission.

The median number of working days in this pre-notification phase fell from 36 working days for cases notified between September 2023 and March 2024 to 24 working days for cases notified between October 2024 and April 2025, a notable reduction of around 33%. This suggests that the Commission services, the notifying parties, or both have become more familiar and efficient with the (pre-) notification process and analysis.

([64]) See Section 4.3 of the FSR Review Study (**Annex X**).

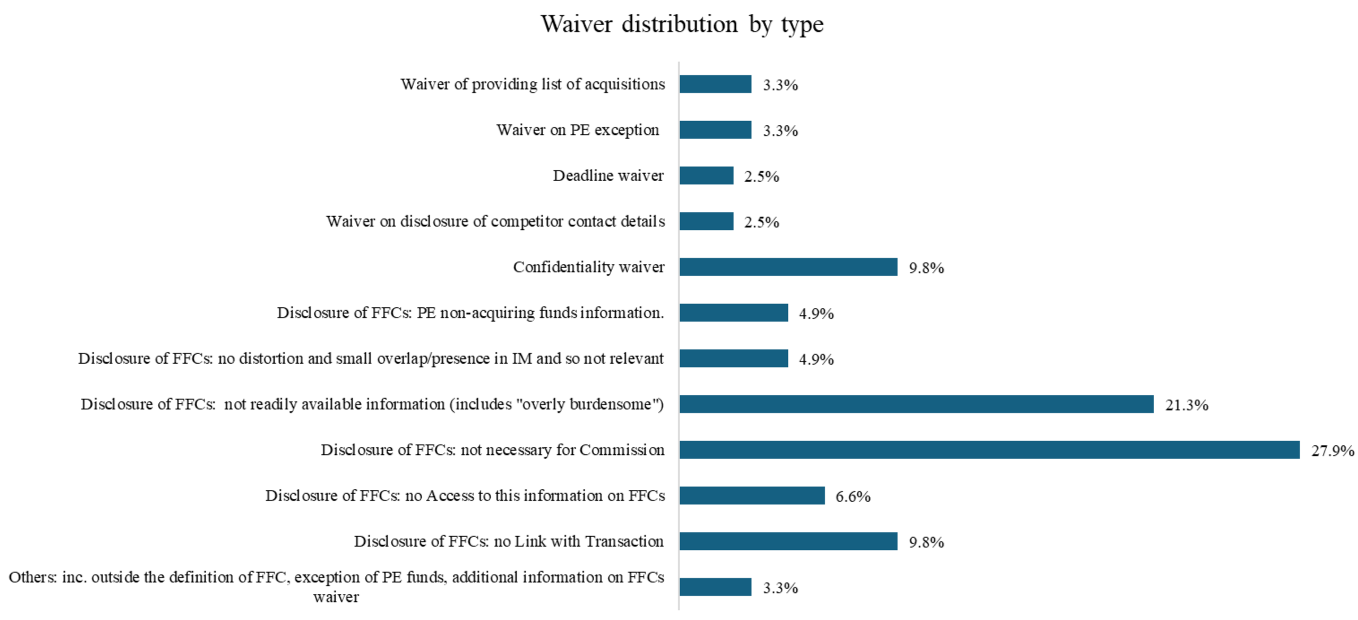
Table 4: Average number of working days from draft notification to legal deadline (by period)

Draft notification period	Number of cases notified	Average working days from draft notification to end of standstill period	Median working days from draft notification to end of standstill period	Median working days from draft notification to receipt of complete notification
September 2023 - March 2024	36	67	61	36
April 2024 - September 2024	29	64	58	33
October 2024 - April 2025	25	60	49	24
Total reduction		10%	20%	33%

Source: FSR Review Study.

In 79 cases the parties made a waiver request, which represents around 39% of all cases ([65]). **Figure 7** provides information on broad types of waivers requested during pre-notification discussions.

Figure 7: Types of waivers requested during pre-notification discussions



Source: Commission services.

Figure 7 shows that the most common type of waiver requested was on the disclosure of FFCs considered not necessary for the Commission's analysis (27.9%), followed by information not being readily available (21.3%) and no link to the transaction, and sensitive information/confidentiality waiver (each accounting for 9.8%).

([65]) Assessed on a sample of 201 cases.

5.2.3.3. Feedback from stakeholders

Stakeholders generally recognise the added value of the notification system for concentrations in enabling the Commission to address potentially distortive foreign subsidies in the context of concentrations. At the same time, respondents emphasise that the current notification reporting generates administrative burden for economic operators that is partly perceived as disproportionate to the risk of distortion identified in the internal market at the time of the survey responses.

a) Positive aspects identified by stakeholders

In the context of the Practitioners' Survey, a broad range of stakeholders express positive views on the functioning of the notification procedure in practice, in particular as regards the conduct of pre-notification contacts, with 46% of the 37 respondents finding pre-notification contacts helpful compared to 24% that found them unhelpful. Stakeholders consistently highlight the accessibility and responsiveness of Commission case teams, as well as the usefulness of pre-notification discussions in clarifying the scope of reportable FFCs and the level of detail expected in the notification. Respondents also approved that the statutory deadline of 25 working days for the preliminary review phase which allows a degree of predictability once a complete notification has been submitted. Overall, communication with the Commission services was viewed positively in engagement with the Commission case teams and the Commission's responsiveness. Feedback on the clarity of the Commission services' guidance during the notification process was also positive.

Regarding the notification thresholds, the notification threshold based on EU turnover, prescribed by Article 20(3)(a) FSR, was largely viewed positively ([66]). An overwhelming majority (95% out of the 37 respondents to the Practitioners' Survey) found it clear and easy to apply, and 47% of the respondents viewed turnover as an appropriate proxy for prioritising cases, suggesting the threshold is a relevant.

b) Challenges raised by stakeholders

A significant number of respondents to the Stakeholders' Consultations identify challenges associated with the notification obligation for concentrations. A recurrent concern relates to the identification, collection and reporting of FFCs. More concretely, half of the respondents to the public consultation, primarily businesses and business associations, consider that the reporting of foreign financial contributions is too broad. Respondents report that the breadth of the concept and reporting obligation for FFCs often require internal data-gathering exercises across multiple entities, jurisdictions and time periods. The feedback received indicates that the scope of the reporting obligation is perceived as cumbersome because the concept of FFCs used in Article 3 FSR is based on an open-ended list, with a few exhaustive reporting exceptions. The feedback highlights in particular the difficulties with the FFCs in the form of contracts for the provision of goods or services or purchase of goods or services. Currently, an exception from the reporting obligation for such FFCs applies to provisions or purchases made at market terms on the ordinary course of business, except for financial services. Respondents point out that in order to benefit from this exception, they still need to collect information to assess whether they are conducted on market terms.

Stakeholders also raise concerns about the scope and level of detail required by the Commission case teams in response to the first submitted notification forms and additional

([66]) Pursuant to Article 20(3) FSR, a concentration is notifiable when two thresholds are met. The first is the turnover threshold, which is satisfied where at least one of the merging undertakings, the acquired undertaking, or the joint venture is established in the Union and generates an aggregate turnover in the Union of at least EUR 500 million. The second threshold concerns FFC of more than EUR 50 million received by the parties.

requests for information during the Commission review. Finally, 24 respondents out of 54 in the public consultation note that the concentrations subject to notification under the FSR are often also reviewed under other EU or national instruments, in particular the EUMR and national FDI screening mechanisms. While stakeholders acknowledge the distinct objectives of these frameworks, they underline the cumulative administrative burden associated with parallel procedures and information requests.

In the Practitioners' Survey, respondents indicated that the notification process imposes a not insignificant burden in terms of time and resources. As a result, companies, in the vast majority of cases, engage external legal counsel to prepare their notifications. The most challenging aspect identified relates to the FFC threshold both for notification and reporting purposes. A majority of respondents noted that increasing these thresholds would reduce the administrative burden. As regards the value of the turnover threshold, 44% of the 37 respondents to the Practitioners' Survey considered that raising the turnover threshold would significantly decrease the overall level of burden in the notifications of concentration, compared to 31% of the respondents who disagreed with such statement. In a similar manner, a majority of respondents (62%) stated that raising the FFC thresholds would significantly reduce the overall burden created. In particular, with respect to the reporting thresholds set out in the FSIR – EUR 45 million per third country and EUR 1 million per individual FFC – most respondents considered both thresholds to be too low, with particular concern expressed about the EUR 1 million threshold.

5.2.3.4. The FSR Review Study

This section presents the conclusions of the FSR Review Study based on the analysis of case practice, following the methodology described in Section 4.2.1 above.

Overall, the analysis indicates that the FSR is functioning effectively. The study concludes that the Commission consistently meets procedural deadlines and has improved efficiency over time. The notification thresholds (EUR 500 million turnover and EUR 50 million in FFCs) appear to appropriately capture transactions with the highest risk of distortion.

At the same time, the FSR Review Study identifies areas for improvement. A significant number of cases raising no concerns, closed after preliminary review, particularly involving investment fund acquirers, continue to be notified. It should be pointed out that the feedback received in the FSR Review Study does not include the recent guidance (notably Question 26 of the DG COMP Q&A), which has alleviated this burden. In this regard, the FSR Review Study concludes that further refinements may be beneficial, such as extending the list of exempted FFCs to include FFCs in the form of LP contributions and FFCs to portfolio companies that cannot cross-subsidise the acquiring funds.

In addition, the FSR Review Study notes that some uncertainty remains over the treatment of specific types of FFCs, such as tax measures, where further clarification would be useful.

In conclusion, the FSR Review Study found that the FSR was broadly achieving its objectives by targeting distortive subsidies without imposing disproportionate burdens on undertakings. Nonetheless, targeted adjustments considering the points outlined in this section could enhance its effectiveness and reduce administrative burden for both companies and the Commission.

5.2.3.5. The Commission services' assessment

Early enforcement experience under the concentration notification procedure provides a solid basis for assessing the functioning of FSR as a new enforcement instrument. While the number of notified cases has been higher than initially anticipated in the Impact

Assessment which accompanied the proposal for the Regulation ([67]), this experience has offered valuable insight into both the strengths of the framework and areas where further calibration may be warranted. In particular, experience to date indicates that, the Commission closed around 97% of notified concentrations after preliminary review, without opening an in-depth investigation ([68]). This proportion does not differ significantly from the proportion of compatible cases reviewed in Phase I under the EUMR ([69]). In this regard, part of the perceived administrative burden reflected in the Stakeholders' Consultations also reflects the learning curve associated with a new regulatory framework, both for notifying parties and for the Commission.

Key elements of the notification framework for concentrations are considered to function effectively. In particular, the turnover threshold for notified concentrations is generally perceived as an appropriate proxy for the system to capture transactions with a meaningful economic nexus to the EU. In addition, it should also be noted that under Chapter 3 FSR, in cases, which result in the creation of joint ventures, the turnover threshold is calculated with reference to the joint venture itself, and not to the undertakings creating the joint venture. This limits the obligation to notify only to cases where the joint venture itself has realised a significant EU turnover, in contrast to the practice under the EUMR, which contributes, among others, to a lower number of notifications under the FSR compared to the EUMR. For any case below the threshold, the Commission may still use its powers to request prior notification in accordance with Article 21(5) FSR, which provides further reassurance that potential distortive foreign subsidies may be caught by the enforcement efforts of the Commission.

The high number of FSR notifications confirm the relevance of the Regulation and its stated objective of addressing distortions in the internal market caused by foreign subsidies. In particular, the volume of notifications indicates that a significant number of transactions in the internal market involve parties that have received a significant number of FFCs, which could constitute potentially distortive foreign subsidies demonstrating the practical importance of the FSR as a framework to assess whether such contributions may give rise to distortive effects. That said, the feedback received from stakeholders also highlights the need for the Commission to continue to carefully observe its practice and to identify ways to simplify the compliance process for businesses, while not undermining the effectiveness of the FSR. Early enforcement experience also confirms the importance of pre-notification contacts, which are widely used and broadly supported by notifying parties. The swiftness and accessibility of communication with Commission case teams during the pre-notification phase facilitate early clarification of reporting obligations and contribute to more efficient handling of cases.

A progressive reduction was observed in the overall length of the review process, as experience with the FSR system increases. In addition, the statutory 25 working day deadline for preliminary review phase provides procedural predictability once a complete notification has been submitted. The availability of exceptions and the granting of waivers for certain information is generally viewed favourably and has proven useful in reducing

([67]) The estimated number of concentrations was set at 30-40 per year, whereas in reality, the Commission has received around 100 formal notification per year during the first three years since the start of the notification obligation in October 2023.

([68]) The number includes cases closed after preliminary review and cases withdrawn during the preliminary review phase.

([69]) The proportion of cases found compatible in accordance with Article 6(1)(b) EUMR in the first phase of the mergers investigation in the last five years ranges between 93% to 99% on an annual basis according to official statistics published on the Commission's website.

reporting obligations. However, experience suggests that further clarification on the scope and application of exceptions may enhance their effectiveness.

At the same time, early enforcement experience highlights a few challenges that contribute to the administrative burden for notifying parties. Two main areas can be identified.

First, the identification, collection and reporting of FFCs is perceived as resource intensive. The breadth of the concept of FFC, combined with the volume of information required, necessitate internal data gathering exercises. Related to that, the scope and level of detail of information required by notification forms and subsequent information requests can place a not insignificant burden on notifying parties.

Second, uncertainty linked to the possibility of call-in below notification thresholds is said to affect transaction planning and risk assessment. While call-in powers are an important safeguard, their breadth is claimed to have a deterrent effect in certain situations, which underscore the importance of transparency and predictability in the criteria used for their application.

With respect to the last point, it should be recalled that the recently adopted FSR Guidelines provide additional clarity and transparency about the legal requirements and considerations taken by the Commission when assessing whether to request prior notification. In addition, the future exercise of the call-in powers in specific cases will also provide more clarity and reduce legal uncertainty with respect to those powers.

With respect to the FFC reporting thresholds set out in the FSIR, the two-limbed approach to reporting should be preserved, as it appropriately distinguishes between the more detailed information required for FFCs that may fall under Article 5 FSR and the more aggregate reporting of other FFCs. However, the experience gathered so far suggests that the current reporting thresholds – EUR 1 million per individual FFC and EUR 45 million per third country – might capture a significant volume of information that, in most cases, has not proven particularly relevant to identifying a risk of distortion.

5.2.4. Submissions in public procurement procedures

Between 13 October 2023, when Article 29 FSR started to apply, and 31 May 2026, in the public procurement module of the FSR, the Commission received 5 150 submissions from economic operators. These submissions originated from 863 public procurement procedures, representing a total value of over EUR 712 billion.

The submissions received by the Commission can be broken down to:

- 4 293 declarations (83.4% of the cases),
- 733 notifications (14.2% of the cases), and
- 124 pre-notifications (2.4% of the cases).

5.2.4.1. Information on cases

Out of the 5 150 submissions received, the Commission initiated and subsequently closed four in-depth-investigations – three of them were closed following the withdrawal of the economic operators from the public procurement procedure and in one case the Commission took a final decision.

During that period, the Commission had, for the first time, exercised its power to request the prior notification of FFC in a public procurement procedure pursuant to Article 29(8) FSR.

a) Case FSP.100147 – Supply of railway rolling stock in Bulgaria

The Commission opened an in-depth investigation on 16 February 2024 to assess potentially distortive subsidies in an open public procurement procedure for the project related to the provision of several electric ‘push-pull’ trains as well as related maintenance and staff training services launched by the Ministry of Transport and Communications of Bulgaria.

The in-depth investigation was initiated following a preliminary review in which the Commission found sufficient indications that China Railway Rolling Stock Corporation Qingdao Sifang Locomotive Co., Ltd., (‘CRRC Qingdao Sifang’) owned by CRRC Corporation Limited (‘CRRC’), had received various foreign subsidies from the People’s Republic of China (‘the PRC’). These subsidies took the form of public contracts potentially awarded on non-market terms and of government grants.

On 26 March 2024, shortly after the opening of its in-depth investigation, the Commission announced the closure of the case following the legally binding withdrawal of CRRC Qingdao Sifang, from the public procurement. As a result, the Commission closed the case without adopting a final decision pursuant to Article 31 FSR.

b) Cases FSP.100151 and FSP.100154 – Design, construction and operation of a photovoltaic park in Romania

The Commission opened two in-depth investigations on 3 April 2025 to assess potentially distortive subsidies in the open public procurement procedure for the design, construction and operation of a photovoltaic park in Romania launched from Societatea Parc Fotovoltaic Rovinari Est S.A.

During the preliminary review, the Commission found sufficient indications that two economic operators were granted foreign subsidies by the PRC, in the form of provision of government grants, tax measures, financing and in the form of public contracts awarded potentially on non-market terms that distorted competition in the internal market. Therefore, the Commission found indications that foreign subsidies may have enabled the two economic operators, (i) Shanghai Electric UK Ltd. and Shanghai Electric Hong Kong International Engineering Company, and (ii) ENEVO Group – LONGi Solar Technologie Consortium to offer lower prices than their competitors, thereby enabling them to submit a tender that was unduly advantageous in relation to the works, supplies or services concerned.

On 7 June 2024, the Commission announced the closure of both in-depth investigations, following the legally binding withdrawal of both economic operators from the public procurement procedure. As a result, the Commission closed the case without adopting a final decision pursuant to Article 31 FSR.

c) Case FSP.103117 – Design and construction, acquisition of vehicles and maintenance services of the Violet Line of the Lisbon Metro in Portugal

The tender of the consortium led by Mota-Engil Engenharia e Construção, S.A. (‘Mota-Engil’) was conditionally cleared on 21 April 2026. The procedure concerned the open public procurement procedure for the ‘Design and construction, acquisition of vehicles, and maintenance services for the Violet Line of the Lisbon Metro’, to be awarded by Metropolitano de Lisboa, E.P.E. The tender submitted by Mota-Engil relied on a main subcontractor for the supply of rolling stock and related services, i.e. Portugal CRRC, an undertaking belonging to the CRRC group.

The Commission found evidence of the presence of foreign subsidies in the form of government grants, tax measures and turnover from public contracts which exceeds the turnover which would have been achieved in a competitive, transparent and non-discriminatory procedure, which enabled Portugal CRRC to submit an advantageous offer to the consortium led by Mota-Engil and subsequently, enabled the consortium to submit an unduly advantageous tender, thus distorting competition in the public procurement procedure.

In order to address the detected distortion, the Commission accepted commitments proposed by Mota-Engil on behalf of the consortium, in which it committed to replace Portugal CRRC by the Polish Pojazdy Szynowe PESA Bydgoszcz Spółka Akcyjna ('PESA') for the entire duration of the contract performance period.

At the time of publication, the final non-confidential version of the decision with commitments was not yet available for publication.

d) Cases FSP.101606 and FSP.101626 – Decisions declaring a tender irregular – Article 29(4) FSR

During the reference period, the Commission issued two decisions on incompleteness in the context of public procurement procedures. Case FSP.101606 concerned an economic operator that submitted an offer for the construction of a long-distance tunnel in a tender in Poland. Case FSP.101626 concerned an economic operator that submitted an offer for the supply of computers and workstations in a tender in France. In both cases, a decision was issued declaring the submissions of the respective economic operators incomplete and requiring them to submit a complete notification within 10 working days. As the notifications in both cases were not completed within the deadline, in March 2025 the Commission issued decisions declaring both tenders irregular. Ultimately, the contracting authorities rejected the irregular tenders and both economic operators were excluded from the public procurement procedures.

e) Case FSP.103175 – Request for prior notification – Article 29(8) FSR

During the reference period, the Commission requested one economic operator to submit prior notification pursuant to Article 29(8) FSR. This request was issued in November 2025 and covered two public procurement procedures launched for the construction of various sections of a motorway in Croatia. As the economic operator that was required to submit a prior notification did not comply with the reporting obligation, the relevant contracting authority issued a request to the economic operator concerned to submit a missing notification pursuant to Article 29(3) FSR. Ultimately, the contracting authority considered the tender inadmissible, inappropriate, and technically unacceptable, and excluded the economic operator from the procedure.

5.2.4.2. Detailed analysis of the Commission's practice

This section presents statistical data compiled as part of the Commission's internal analysis conducted for the purposes of the Report. The data analysed for public procurement cases was focussed on cases notified between October 2023 and January 2026 ([70]) and summarises the data collected in the sections below.

([70]) With a particular focus on preliminary review cases, as there were only three in-depth investigation cases, see above. The period for this more detailed part of the analysis of the Commission's practice will remain untouched.

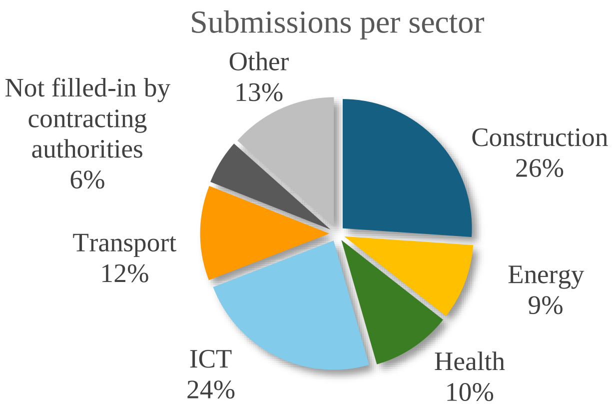
Some statistical data derived from the FSR Review Study were included as well in the analysis. These statistics are presented in comparison with the internal statistics developed by the Commission. In instances where statistical data is available only from the FSR Review Study and not from the Commission's internal data analysis, such data is presented as evidence contributing to the overall assessment.

5.2.4.2.1. Quantitative analysis of the Commission's case practice

a) *Submissions by sector*

The Commission services identified the industrial sectors in which submissions were most frequently received in large public procurement procedures. To determine the sector to which a submission belongs, the Commission services use the main Common Procurement Vocabulary (CPV) codes ([71]) indicated by the contracting authority ([72]) in the contract notice published in Tenders Electronic Daily (TED) ([73]). As contracting authorities use CPV codes with varying degrees of granularity, specific codes were grouped into their broader parent categories for consistency. These are then classified under six main categories: construction, energy, health, information and communication technology (ICT), transport and other.

Figure 8: Submissions per sector in public procurement



Source: Commission services.

As outlined above, the most common sectors identified through submissions are construction (26.1 % of the number of submissions), energy (9.5 %), health (10.0 %), ICT (23.6 %) and transport (13.4 %).

b) *Procedures and submissions per Member State*

First, concerning the number of public procurement procedures of an estimated value of at least EUR 250 million net of VAT for which the Commission received a submission ([74]),

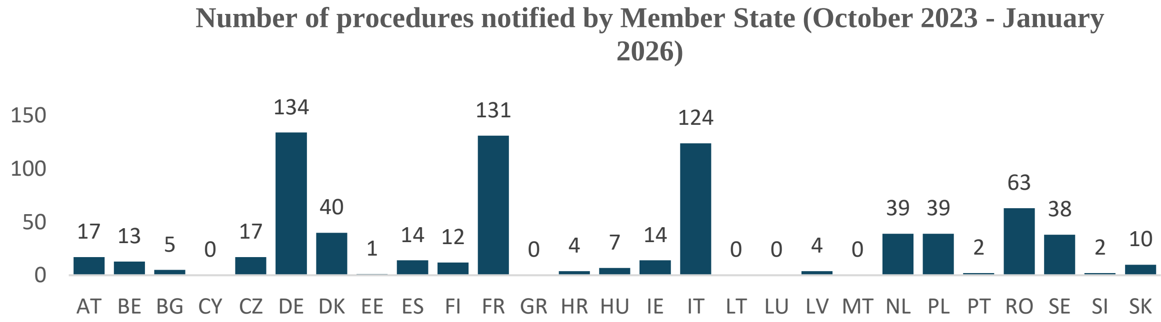
([71]) The CPV has a single classification system for public procurement aimed at standardising the references used by contracting authorities and entities to describe the subject of procurement contracts. CPV codes consist of eight digits indicating increasing level of detail (main category (first two digits), sub-category (third digit), class (fourth digit), category (fifth digit) and specific refinements (sixth to eighth digit). CPV - Common Procurement Vocabulary - TED

([72]) Reference to 'contracting authorities' should be understood as to include both 'contracting authorities' and 'contracting entities'.

([73]) TED - EU Tenders, the Supplement to the Official Journal - TED

([74]) This number includes procurements divided into lots, where the estimated contract value net of VAT exceeded EUR 250 million and the value of the lot or the aggregate value of all the lots to in total there were 730 public procurement procedures. The three Member States where the number of such public procurement procedures was the highest accounted for 53% of the total number of procedures (in total 389 public procurement procedures). These three Member States are Germany, France and Italy. At the same time, there are five Member States that have not yet transferred any submission in a public procurement procedure that would fall under the FSR, which may be justified if a Member State has not initiated any public procurement procedure meeting that threshold. This demonstrates a significant difference between the number of public procurement procedures that reach the value of EUR 250 million among Member States. This variation across Member States may reflect differences in the size of public projects, in the organisation of procurement procedures (carried out by central purchasing bodies or individually per contracting authority). At the same time, it may also underscore a fragmented understanding of the FSR reporting obligation, as well as the potential lack of sufficient administrative capacity.

Figure 9: Total number of notified procedures per Member State (October 2023 – January 2026)

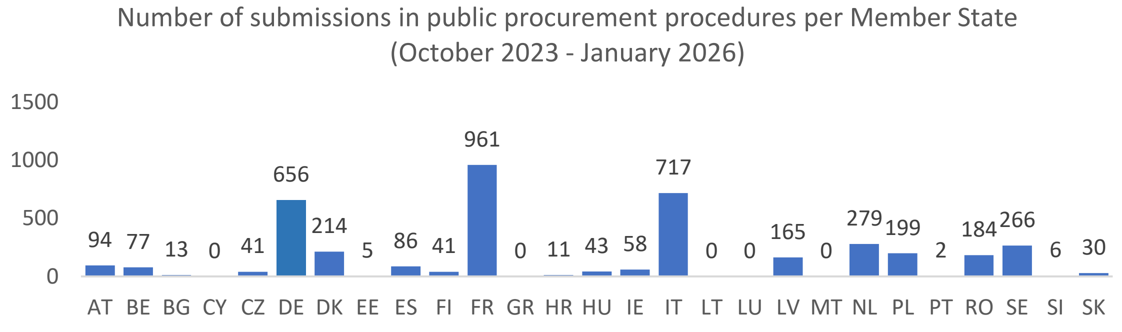


Source: Commission services.

Second, according to the analysis of internal data, contracting authorities from Germany, France and Italy transferred the highest number of submissions to the Commission. At the same time, several Member States have not forwarded any submission in a public procurement procedure that would fall under the FSR – similarly to the above, in some cases, this may be justified by the lack of public procurement procedures reaching the FSR jurisdictional threshold. The number of submissions indicates the number of economic operators in a public procurement procedure. Based on Commission data, the number of economic operators exceeds by more than five times the number of public procurement procedures in which the Commission received submissions, indicating on average five economic operators per procedure. The number of economic operators per procedure varies significantly – with procedures reaching up to 20-50 or at times over 100 submissions in one single procedure. The variation between the number of submissions may depend on the tender, the level of competition in a Member State, the type of procedure or other factors.

which the tenderer applied was equal or greater than EUR 125 million, in accordance with Article 28(2) FSR.

Figure 10: Total number of submissions in notified procedures per Member State (October 2023-January 2026)



Source: Commission services.

c) *Comparison of published public procurement procedures with and without FSR submission*

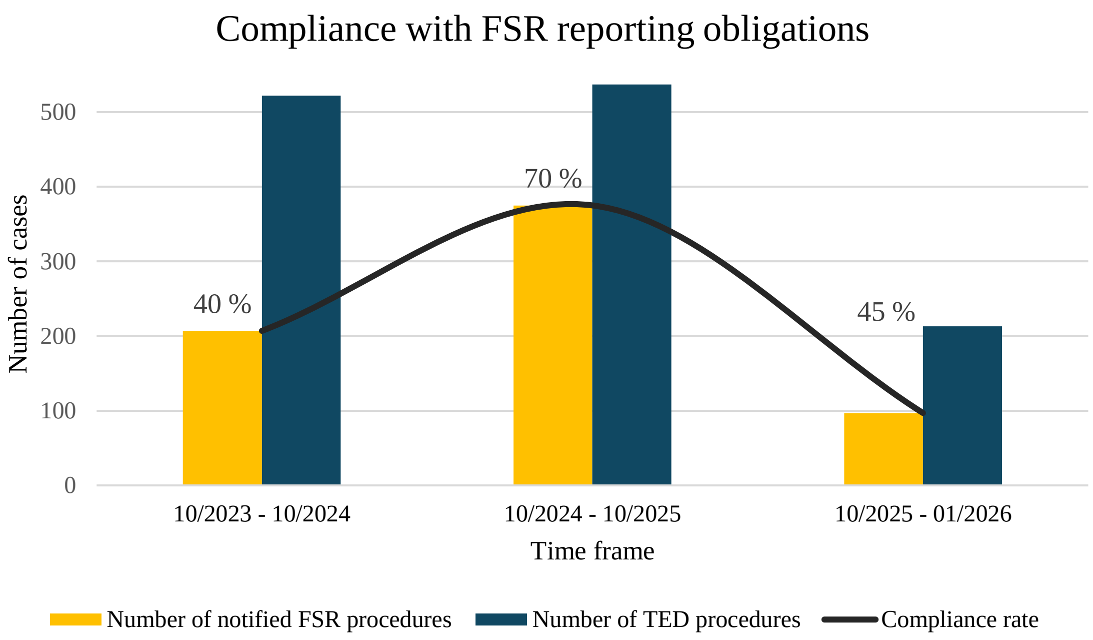
To approximate the level of compliance with the FSR the Commission services may (i) compare the number of public procurement procedures in which it received at least one submission with the number of contract notices published in TED database with a value of at least EUR 250 million net of VAT; and (ii) compare the number of submissions received per public procurement procedure with the actual number of tenders submitted to the contracting authority in a given procedure.

For the purposes of the Report, the Commission services conducted a comparison of the list of public procurement procedures that met the jurisdictional threshold for application of the FSR published in TED, with the list of procedures in which at least one FSR submission was submitted ([75]). At the same time, the Commission services decided not to cross-check the number of submissions transferred to it against the number of tenders submitted to the contracting authority, in order to minimise the administrative burden on the contracting authority.

As a result of the data analysed, during the first year of application of the FSR – between 1 October 2023 and 30 September 2024 – in 40 % of all published public procurement procedures of at least EUR 250 million, the Commission received at least one submission. During the second year between October 2024 to September 2025, this figure rose to 70 %, however the rate has dropped significantly to 45% between October 2025 and January 2026. While this data does not provide conclusive evidence on the level of compliance of economic operators with their FSR obligation, it suggests a decreasing trend in compliance rate.

([75]) TED data has been used for illustrative purposes and is not a final assessment of compliance. The analysis represents an approximation. The TED data used was obtained from publicly available sources rather than official records provided by the competent national authorities. The Commission processed the data to ensure that each tender carrying several notices is counted as one (please note that the identification of a unique tender in the TED dataset does not definitively confirm a legal obligation to notify). It was not possible to account for several factors that may affect the exactness of TED data, such as (i) situations where a contracting authority did not insert an estimated contract value, (ii) situations where the contracting authority reported an individual lot's value rather than the entire contract's, (iii) such registrations of framework agreements or dynamic purchasing systems that reflect annual estimates rather than the contract values for the entire duration of the contract or (iv) situations in which a tendering procedure was discontinued. The time difference between the date of publication of a contract notice and the date of filing a notification may have underestimated the number of submissions compared to the number of published contract notices.

Figure 11: Compliance rate with FSR reporting obligations (number of procedures).



Source: Commission services, TED.

Furthermore, limited awareness among contracting authorities, combined with inconsistent application of the FSR, may reduce predictability for stakeholders and may undermine the FSR objectives. Based on available evidence, contracting authorities sometimes fail to require the submission of FSR notifications or send them to the Commission at a late stage of the procedure, in exceptional cases after the award of the contract. In addition, notifications are not always submitted using a standard Form FS-PP. These formats often lack the prescribed formal and substantive requirements or impose additional reporting requirements that go beyond those of Form FS-PP.

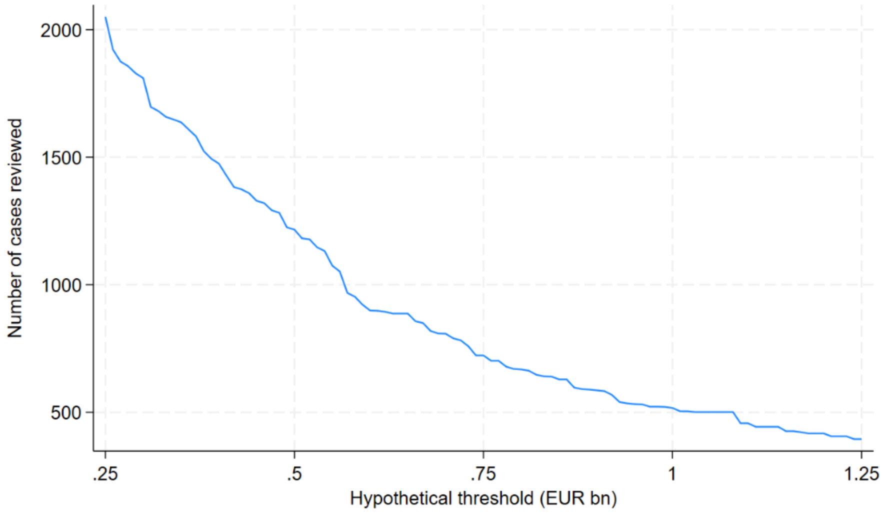
d) *Recurring submissions*

The analysis of internal data collected from the start of the FSR reporting obligation until 31 January 2026 has shown that there are several economic operators or entities belonging to the same corporate group, that repeatedly participated in public procurement procedures that meet the jurisdictional threshold for the application of the FSR, resulting in multiple FSR submissions during the reference period. During this period, the 40 economic operators that submitted Forms FS-PP the most frequently account for 16% of all submissions (672 in total). During the reference period, the highest number of FS-PP forms, 51 in total, was submitted by an economic operator active across key sectors. This was followed by two economic operators in the construction sector, which submitted 43 and 36 FS-PP forms respectively.

e) *Distribution of cases per contract value*

The FSR Review Study assessed how submissions are distributed across public procurement procedures according to estimated contract values. This analysis covers the period from October 2023 until June 2025, and did not include those in which specific value was not available, i.e. because the contracting authority did not publish the estimated contract values. The Commission services' own data derived from submissions covering the same period shows that this was the case for 7 % of the notified procedures (50 out of 737). In a further 1% of cases (eight out of 737) contracting authorities reported ranges instead of estimated contract values (e.g. more than EUR 250 million, more than EUR 700 million). It is possible that for some procedures contracting authorities did not estimate the contract value and did not notify the Commission. Furthermore, the Commission services data does not allow conclusions on the number of such public procurement procedures to be drawn. According to the FSR Review Study, approximately 40% of all submissions were made in public procurement procedures with an estimated value net of VAT between EUR 250 million and EUR 500 million. The remaining 60% of all submissions represented bids for amounts superior to EUR 500 million.

Figure 12: Hypothetical distribution of cases if the jurisdictional threshold were raised



Source: FSR Review Study.

The diagram above shows the hypothetical distribution of cases if the jurisdictional threshold were raised. This leads to the following conclusions: first, an increase of 20% of the jurisdictional threshold (to EUR 300 million) would achieve a reduction of approximately 15% in the number of submissions; second, a significant increase of the jurisdictional threshold to EUR 500 million would achieve a decrease in the number of cases by more than 55%; finally a significant share of 25% of all cases reach a value of EUR 1 billion.

f) *Global Ultimate Ownership of Economic Operators*

The Commission services systematically review the place of establishment of the economic operator and that of its global ultimate owner ('GUO') ([76]). This constitutes an integral part of the Commission's assessment. To define the GUO, the Commission services follow the controlling shareholding line of the economic operator up until the last entity that holds directly or indirectly the majority of the shares of the economic operator. For the purposes of the current analysis, covering the period between October 2023 and December 2025, the Commission services matched the name of the economic operator, or

([76]) For the purposes of the Report, Global Ultimate Owner (GUO) - i.e. top owner worldwide – is to be understood as the individual or entity at the top of the corporate ownership chain and represents the final point of control within a group structure. This concept is not defined under EU law and differs from that of the Ultimate Beneficial Owner (UBO) as set out in Directive (EU) 2015/849 (4 Anti Money Laundering Directive, AMLD).

in case of a consortium, the name of individual members of a consortium with the Orbis database. Thus, the number of companies listed in the submissions increased to 5 745.

In its analysis, the Commission services identified the GUO for 4 339 out of 5 745 companies listed in FSR submissions and found that for 3 310 (58%) companies listed in submissions, the GUO was established in the EU, 1 029 companies listed in submissions (18%) had their GUO based in a third country. For the remaining 1 406 (24%) companies listed in submissions identifying the GUO was not possible, as the data was not retrievable in the Orbis database.

For GUOs from third countries, 235 companies listed in submissions had their GUO established in the United States (4.1 % of the total), 146 in the United Kingdom (2.5 %), 106 in Switzerland (1.9 %), 86 in Japan (1.5 %), 83 in Türkiye (1.4 %) 54 in China (0.9 %), 48 in India (0.8%), 45 in Norway (0.7%), 21 in Canada and in South Korea (0.3%).

5.2.4.2.2. Qualitative assessment of the Commission's case practice

This section describes the practical experience of the Commission services in handling FSR submissions in the context of public procurement procedures with the aim of assessing the effectiveness of predefined FSR concepts and practices.

a) *Compliance with the reporting obligation*

The FSR sets out a framework to notify FFCs received by economic operators under specific conditions when participating in large public procurement procedures. These conditions clarify the temporal and personal scope of the reporting obligation. The collection of data on FFCs is the responsibility of economic operators which relies on self-assessment, as economic operators are required to screen their own finances to identify FFCs listed by way of example in Article 3(2) FSR and to consider whether these fall under any of the exceptions listed in Section B (6) of Form FS-PP.

On the basis of the above, the following findings can be made:

First, on the temporal scope of the reporting obligation, stakeholder feedback to the public consultation and the Practitioners' Survey indicates that economic operators often find it difficult to report on FFCs that were granted in the current financial year as consolidated data is often unavailable.

Second, stakeholder feedback to the public consultation and the Practitioners' Survey also notes challenges stemming from the scope of the reporting obligation, which covers the economic operator itself, its holding companies, and subsidiary companies without commercial autonomy, but excludes 'sister companies'. In practice, companies usually publish consolidated financial statements at the level of the parent company, covering the entire corporate group, including entities that fall outside the specific scope of the reporting obligation. As a result, economic operators may not have immediate access to FFC data at the level of individual entities. Extracting entity-specific financial information can therefore be challenging, particularly under time constraints at the time of the notification. In addition, the exclusion of sister companies may create data gaps and reduce the overall representativeness of the collected information. It may also require economic operators to provide additional justification for ringfenced FFCs ([77]).

([77]) Section 2.5.1 Communication from the Commission – Guidelines on the application of certain provisions of Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market, C/2026/42.

Third, according to the FSR Review Study, self-assessment by economic operators exposed significant deficiencies in the completeness and quality of notifications. Based on the Commission services' experience, submissions appeared frequently incomplete, provided in non-standardised formats, or omitted essential information, including ownership structures, financial statement, or appropriate description of FFCs granted to holding companies or subsidiary companies without commercial autonomy.

Fourth, in terms of reporting obligation, stakeholder feedback to the public consultation and the Practitioners' Survey also indicated that economic operators – including SMEs and economic operators that are active only locally – are often required by Form FS-PP to provide detailed information, even where such information has limited relevance to the substantive assessment, creating a compliance burden for these economic operators that, in turn, generates administrative work for the Commission services.

Finally, while the FSIR allows for the possibility of requesting a waiver to submit certain information required by Form FS-PP ([78]), this option is available only during the pre-notification phase. The FSR Review Study indicates that, due to time constraints, economic operators often do not have the possibility to engage in pre-notification contacts, therefore limiting their practical effectiveness in reducing unnecessary reporting.

b) *Origin, type and amounts of FFCs*

Commission services' experience and the FSR Review Study findings revealed limited insights into FFCs based on FS-PP forms. The main reasons for this are limited awareness and limited level of compliance of economic operators with the reporting obligation. As described in Section a), submitted FS-PP forms often lack minimum information required and do not capture all notifiable FFCs, declarations often do not contain any FFCs, and economic operators often submit declarations when a notification should have been submitted ([79]). Furthermore, Table 1 of Form FS-PP – which is the most used form to declare notifiable FFCs – requires submission of information on FFCs by third country within set ranges ([80]). According to the Commission services' analysis, this allows neither the quantification of individual FFCs, nor the possibility of making average calculations in a conclusive manner by FFC type, because the indicated ranges are too broad in both cases.

Despite limited overall information, the FSR Review Study analysed a sample of 30 cases with a total of 42 submissions (nine notifications and 33 declarations) to gain a more granular insight. Only a minority of submissions clearly indicated that the included FFC information was granted to the notifying party (or parties), to their holding companies and subsidiaries. In most submissions, FFCs granted to group entities other than the notifying party within the scope of Article 28(1)(b) FSR were missing.

([78]) See recital 6 of the Introduction to the Form FS-PP of FSIR

([79]) According to Article 29(1) FSR, '*Where the conditions for the notification of financial contributions in accordance with Article 28(1) and (2) are met, economic operators participating in a public procurement procedure, shall notify the contracting authority or contracting entity of all foreign financial contributions as defined in Article 28(1), point (b). In all other cases, economic operators shall list in a declaration all foreign financial contributions received and confirm that the foreign financial contributions received are not notifiable in accordance with Article 28(1), point (b)'*.

([80]) Table 1 of the Form FS-PP requires economic operators to list the FFCs using the following ranges: '*EUR 45-100 million*', ' *EUR > 100-500 million* ', ' *EUR > 500-1 000 million* ', ' *more than EUR 1 000 million.*

Furthermore, none of the nine notifications reported FFCs that could fall under Article 5(1), points (a) to (c) and (e) FSR ([81]). All nine forms included FFCs that do not fall into Article 5 FSR. Eight of those nine submissions contained FFC details in Table 1 in Form FS-PP. In the remaining submission, Table 1 was intentionally left blank, because the contributions were considered exempt under Section B (6) of Form FS-PP ([82]).

In the eight cases where Table 1 was completed, economic operators notified having received on average 11.4 different FFCs from 2.8 countries. The third countries which provided those FFCs included Benin, Brazil, Canada, Costa Rica, India, Iraq, Japan, Libya, North Macedonia, Norway, Philippines, Qatar, Saudi Arabia, Serbia, Singapore, Switzerland, Taiwan, Türkiye, the United Arab Emirates, the United Kingdom and the United States (including Puerto Rico). The types of FFCs in these tables included tax advantages, fiscal incentives, purchase of goods and services, grants, financing instruments, overdraft facilities, automatic direct debit systems, guarantees and loans. Aggregate estimated value ranges per country were also provided in tables.

c) *The Commission's RfI practice*

Based on the FSR Review Study, the Commission services often use requests for information ('RfIs') during the preliminary review. Due to continued lack of awareness of economic operators about their own reporting obligation, these RfIs serve to clarify various aspects of Form FS-PP or to request information that appears to be missing, e.g. information known from publicly available sources that should have been included in Form FS-PP. In this regard, the Commission services' case practice shows limited use of pre-notification contacts prior to submission.

According to the analysis of the FSR Review Study, focusing on a limited sample of 30 cases, an average of 1.75 RfIs were issued per case under the public procurement procedure of the FSR. Each RfI included on average three questions, although with significant variation ranging from one to ten questions. In cases where multiple RfIs were issued, later requests followed up on unresolved issues from previous ones and added new questions. The average deadline was four working days after the date of request, and the median was four working days as well, with a range from two to eight working days.

The data on replies to RfIs and response timing assessed by the FSR Review Study showed considerable differences in compliance. In some cases, the replies were complete and addressed the questions raised in the RfIs. In others, key information was missing, which triggered a follow-up RfI.

The main topics covered in the RfIs concerned the ownership structure of groups, details of FFCs, potentially notifiable FFCs not reported, financial statements or yearly reports or most recent FFCs.

d) *Procedural timelines*

The FSR Review Study notes that the 20-working-day deadline for the preliminary review under Article 30(2) FSR is often challenging, particularly in cases where the Commission envisages adopting a decision on incompleteness, on opening an in-depth investigation or on the imposition of fines. Because of formal and substantive shortcomings of submissions the Commission services often spend a significant part of the preliminary review on gathering data that should have been included in the initial notification. In practice, this requires sending RfIs with deadlines of typically 3–5 working days. For large corporations

([81]) Article 5(1) FSR provides for the categories of foreign subsidies that are more likely to distort the internal market.

([82]) Section B (6) of Form FS-PP provides a list of FFCs types that do not need to be included in Table 1 and are therefore exempted from the reporting obligation.

with worldwide holdings and subsidiaries, providing the requested information within such a timeframe is challenging. These difficulties are further compounded when RfIs target entities that are established in third countries, with differing time zones, working practices, and legal frameworks that render coordination operationally time-consuming for both economic operators and the Commission services.

Similarly, as the FSR Review Study indicates, the tight timeline for in-depth investigations limits the time for substantive analysis. In particular, the 110-day period pursuant to Article 30(5) FSR for such investigations is operationally challenging.

5.2.4.3. Enhanced legal guidance and procedural support

The Commission services is actively refining and deploying a coherent set of administrative measures and tools to ensure their effective and timely handling. This includes the establishment of a dedicated notification and registration system, which supports streamlined processing and improved traceability.

Over the past three years, the Commission services have focused mainly on strengthening procedural and legal guidance for stakeholders, and on developing IT systems tailored to the FSR.

The Commission services have stepped up its efforts to make it easier for stakeholders to navigate the FSR and to clarify their legal obligations and the applicable procedures. This has brought a dual result: (i) reducing the volume of queries received, and (ii) facilitating more efficient and streamlined interactions between Commission services and stakeholders.

Through a dedicated functional mailbox, the Commission receives queries both from contracting authorities as well as from economic operators: on average 20 queries per month about legal interpretation and approximately 45 per month on procedural aspects. An average response time of 24 hours is maintained for procedural queries to ensure timely and reliable guidance. Response time to substantive queries about legal interpretation varies on the complexity of the question, not exceeding a maximum 15 working day response time.

As the primary entry point for stakeholders, the official website of DG GROW on FSR is continuously updated to provide information and guidance that is clear, comprehensive and accessible ([83]).

Building on the experience gained during the FSR implementation, the dedicated webpages for contracting authorities ([84]) and economic operators ([85]) now offer more detailed legal guidance (e.g. on the timing for submitting Forms FS-PP in relation to the public procurement procedure at stake). The online 'Practical Information' section has been expanded since the beginning of this year to address recurring stakeholders' questions.

In order to facilitate submissions, the Commission services developed a standardised online Form FS-PP that became available in all EU languages. It enables economic operators to fill out Form FS-PP online that respect all formal requirements while maintaining confidentiality of sensitive financial information.

([83]) DG GROW website – Foreign subsidies regulation.
([84]) DG GROW website – Guidance for contracting authorities - Internal Market, Industry, Entrepreneurship and SMEs.
([85]) DG GROW website – Guidance for economic operators - Internal Market, Industry, Entrepreneurship and SMEs.

Furthermore, the Commission services has developed integrated and secure IT systems for case handling, while minimising the risk of data breaches. Case@EC (a comprehensive case management case management platform) and EU SEND (a secure messaging system for stakeholder communication) are designed to support smooth administrative handling. Both systems implement robust access controls, role-based permissions, and secure data storage protocols, reinforcing the integrity, reliability, and security of the Commission services' operations.

Taken together, these measures enhance transparency, facilitate compliance, reduce uncertainty, and enable contracting authorities and companies to manage procedures more efficiently while fulfilling their obligations under the Regulation.

5.2.4.4. Engagement of Member States in FSR enforcement

While the Commission is solely responsible for enforcing the FSR, it fostered a network of national contact points ('NCPs') to facilitate dialogue with Member States, in line with Recital 58 FSR. NCPs act as the primary interface between the Commission and contracting authorities, serving both as multipliers of information and as channels for feedback to the Commission.

Member States appointed NCPs in 2023. DG GROW and DG COMP convened two joint online meetings, on 24 January 2024 and on 16 December 2024, ensuring coordinated expertise across the public procurement and concentrations modules.

Building on cooperation with the NCPs and with a view to further consolidating coordination on FSR-public procurement, the Commission went on to set up a dedicated Expert Group ([86]) in December 2025. Bringing together these NCPs, this forum underpins the primary role of Member States to provide guidance and expertise in the Regulation's implementation, while keeping them regularly informed, fostering a shared understanding of the legal framework, and facilitating dialogue on enforcement. The Expert Group also functions as a platform to harmonise different practices, by offering practical insights and identifying gaps or areas in need of clarification. It contributes to enhancing compliance by embedding the FSR in national procurement practices, as well as raising awareness among public bodies.

To draw on the expertise of the Expert Group on FSR-Public Procurement, the Commission holds two meetings per year, one in person and one online six months later. The first one took place on 19 January 2026, and the second one is scheduled for June 2026.

5.2.4.5. Feedback from stakeholders

In the context of the public consultation, stakeholders generally agree with the importance of the notification system for public procurement procedures, noting that it enables the Commission services to effectively identify and address potentially distortive foreign subsidies in the context of large public procurement procedures. At the same time, respondents emphasise that the current notification and declaration reporting system generates an administrative burden for bidding economic operators that is perceived as disproportionate vis-à-vis the risk of distortion identified so far in the internal market.

([86]) European Commission's Register of Commission Expert Groups and Other Similar Entities – Informal Commission Expert Group on Foreign Subsidies Regulation – Public Procurement (E04021).

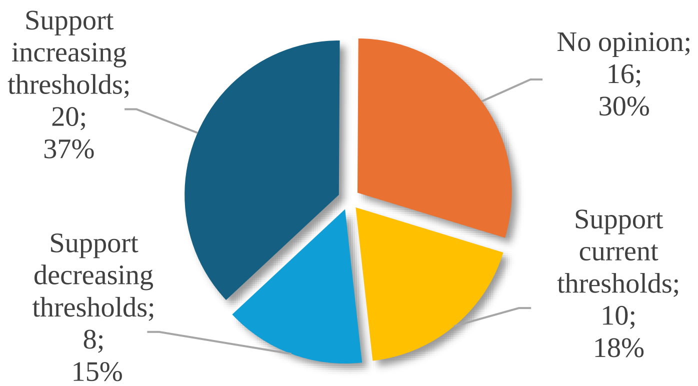
(a) Positive aspects identified by stakeholders

Stakeholders from the international trade in services sector, emphasised the value of regular interaction, viewing it as an important link between the Commission and the private sector. Within the industrial landscape, several trade associations have been particularly positive about the overall objectives of the public procurement module of FSR, describing it as a ‘key tool’ for ensuring a level playing field within the EU procurement market. These associations acknowledged the legitimacy and clarity of the public procurement module and commended the Commission’s efficiency.

In particular, the Commission services’ ability to provide fast, accurate replies and to close preliminary reviews within 20 working days has been noted by stakeholders as a significant procedural strength that enhances legal certainty for economic operators.

In addition, in the public consultation ([87]), respondents were asked how appropriate of the thresholds are, including both the jurisdictional threshold of a turnover of EUR 250 million and the notification threshold for FFCs. Overall, 48% of the respondents did not advocate for an increase or decrease in the thresholds, indicating a broad level of acceptance of the current framework.

Figure 13: Respondents' views on threshold appropriateness of thresholds



Source: Commission services.

Finally, in terms of effects on participation into public procurement procedures, only 26% of respondents to the public consultation observed a reduction in participation by both EU- and non-EU-based companies. At the same time, 41% of respondents had no firm view on the FSR’s effect on the participation of third-country economic operators, and a further 26% considered it too early to assess the FSR’s impact in this respect. While some respondents suggested that perceived reductions in participation may be linked to administrative burdens associated with the FSIR reporting obligations or to concerns relating to potential scrutiny under the regime, the overall distribution of responses indicates that a majority of stakeholders either do have not observed such effects or are not yet in a position to assess them.

(b) Challenges raised by stakeholders

Conversely, the practical application of the FSR has revealed substantial bottlenecks, primarily concerning the administrative burden of the Regulation. Trade associations have largely characterised reporting obligations as ‘administratively burdensome’ and overly complex, questioning the proportionality of the system given the high volume of submissions compared to the relatively low number of in-depth investigations initiated so

([87]) See the European Commission’s public consultation on the Commission Have your say portal.

far. A majority of stakeholders (57%) find the reporting obligations unclear. Form FS-PP is also widely criticised for its complexity, with 37% of respondents calling for simplification and 22% describing it as difficult to understand. To mitigate this, associations have proposed narrowing the definition of FFCs and simplifying reporting for consortia, which are required to aggregate the amounts of FFCs received by each member undertaking.

Furthermore, there is a noted lack of awareness among contracting authorities about their duties, leading trade associations to call for a more comprehensive Q&A to bridge this knowledge gap. International trade associations also pointed to a lack of guidance at national level, which has led to inconsistent practices among various contracting authorities across the EU. This was also reflected in the public consultation, where a large majority of respondents (61%) highlighted the need for a clearer and more precise text of the FSR and the FSIR to enable contracting authorities to understand their obligations.

The feedback by chambers of commerce representing third-country businesses has been relatively critical, citing high compliance costs and a lack of transparency that forces frequent, burdensome internal due diligence exercises to collect FFC data on a rolling basis. These stakeholders have suggested various changes both to the FSR and the FSIR, including increasing the FFC thresholds, excluding certain types of FFCs relating to turnover – such as that from the sale of goods and services without alternative sources of supply – and limiting the geographical scope of reporting to specific countries, providing clearer guidance on waivers and minimising administrative burden on SMEs and on economic operators that do not engage in any economic activity in third countries.

Finally, specific concerns were raised by other trade associations about the ‘systematic risk’ of operators continuing to bid for new contracts while under an active in-depth investigation, leading to calls for stricter monitoring obligations to prevent ongoing market distortion during the investigative process.

5.2.4.6. The FSR Review Study

The FSR Review Study, in addition to the statistical overview of all cases, reviewed the Commission’s practice through its three in-depth investigations, two irregularity decisions as well as a sample of 30 cases for which no decision was required. The assessment provides conclusions on Articles 3, 4 and 5 FSR interpreted in the light of Chapter 4 FSR on public procurement procedures ([88]).

The FSR Review Study found that the Commission services applied in a consistent and structured manner the concepts under Article 3 FSR, which identifies a list of FFCs, including grants, loans, guarantees, tax measures, public contracts and intra-group transactions and assessed benefit, specificity and attribution to a third country. The FSR Review Study found, for in-depth cases specifically that incomplete information meant that the Commission services had to make cautious inferences, applying the ‘best evidence available’ approach under Article 16 FSR on non-cooperation.

An assessment of how Article 4 FSR is applied to detecting distortion revealed that the Commission services applied Article 4(1) FSR indicators consistently across all decisions, following the procedure set out by the FSR Guidelines. This also applies to cases where incomplete information submitted by the economic operators resulted in reliance on Article 16 FSR.

([88]) The assessment pursuant to Article 3, 4 and 27 FSR did not take place in the cases that resulted in a decision declaring a tender irregular, as these cases focus on the completing of missing information on FFCs, rather than a substantive assessment of the FFCs notified.

The findings of the FSR Review Study on the notification thresholds set out in Article 28(1) and (2) FSR are summarised together with the Commission services' findings in Section (e). Economic operators displayed significant and recurring misunderstandings of Article 28(1)(b) FSR relating to the FFC threshold, including confusion about the calculation of the aggregate amount of FFCs received ([89]). In this context, the requirements of Table 1 of Form FS-PP were often not met by economic operators and some economic operators refused to provide replies to RfIs. The main issues were linked to the lack of evidence on the ring-fencing of FFCs (i.e. their clear segregation across entities) and, consequently, to insufficient information on FFCs provided to entities outside of the vertical line of control of the economic operator, as well as to the incorrect application of the exceptions and misunderstandings about the relevant date for reporting.

The FSR Review Study found that on the basis of the sampled cases, the Commission's practice on procedural rules timelines pursuant to Article 29 and 30 FSR was consistent, that its assessment respected 20 working days for preliminary review in open procedures, and that it suspended the preliminary review in case of multi-stage procedures. Further to that, the FSR Review Study did not assess the Commission's practice in extending the timeline of the preliminary review or in-depth investigation, as the first deadline extension in an in-depth investigation took place after conclusion of the FSR Review Study.

Overall, the FSR Review Study found that early public procurement case practice demonstrates that the Commission services have applied the FSR in a structured, coherent and cautious manner. As the FSR Review Study concludes, the main operational challenges arise from incomplete or incorrect submissions by economic operators. Therefore, potential targeted streamlining of the reporting obligation and additional guidance and awareness raising both on substantive and technical aspects of the notifications under the public procurement module of FSR may further enhance its effectiveness.

5.2.4.7. The Commission's assessment

The Commission's early enforcement of the FSR public procurement module offers valuable insights into its effectiveness to address distortive foreign subsidies and safeguard fair competition in the internal market. Overall, early practice indicates that the framework is operational and achieving its core objectives, while also revealing areas where further refinement would be useful.

First, as regards efficiency, while the number of submissions received has significantly exceeded initial expectations ([90]), only a limited proportion of cases have required further scrutiny. To date, the Commission has opened four in-depth investigations, one of which resulted in a decision with commitments, while three closed following the withdrawal of the economic operators. In addition, the Commission has declared two tender's irregular,

([89]) Pursuant to Article 28(1)(b) FSR, the FSR notification threshold is met when the economic operator, including its subsidiary companies without commercial autonomy, its holding companies, and, where applicable, its main subcontractors and suppliers involved in the same tender was granted aggregate FFCs of at least EUR 4 million per third country in the three years preceding the notification.

([90]) See Commission Staff Working Document – Impact Assessment. Accompanying the Proposal for a Regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market, SWD(2021) 99 final: indicating that for a threshold of EUR 250 million, there may be up to 36 cases per year, for a threshold of EUR 500 million up to 13 cases. This is due to various reasons, which include the lack of reliable data due to the shortcomings of the TED database at the time of the impact assessment, as well as several years of continuously high inflation that substantially increased the price of public projects.

opened one ex-officio investigation that is currently in preliminary review stage and issued one request for prior notification (call-in).

Although these figures may raise questions about the FSR's proportionality, it is important to interpret them in light of its deterrent effect. Early enforcement suggests that the FSR is already influencing market behaviour as in several cases the Commission services have observed that economic operators may choose to bid only in procedures below the EUR 250 million threshold, refrain from participating in certain tenders, participate only as subcontractors or suppliers rather than as consortium members or withdraw from ongoing procurement procedures, often in the face of potential scrutiny. This appears to reflect a reluctance on the part of certain economic operators to subject themselves to FSR review, rather than a response to the administrative burden of the FSR. Withdrawals seem to suggest that FSR may be functioning as a targeted filter for economic operators that are reluctant to disclose information on received FFCs. Such effects indicate that the FSR is capable of achieving its purpose in fostering fairer competition not only through direct enforcement, but also indirectly without formal intervention.

Second, the Commission's ability to conclude preliminary reviews within the 20-working-day deadline and deliver accurate assessments despite the high volume of submissions has been widely recognised as an important procedural success, enhancing legal certainty for economic operators and stakeholders, while ensuring timely progress for contracting authorities in their public procurement procedures. In parallel, early case practice shows that the Commission services have applied the FSR in a carefully calibrated manner, notwithstanding the novelty and, in some respects, the complexity of the legal framework.

This consistent approach has been further reinforced through the Commission services' growing understanding of market dynamics across critical sectors. In particular, based on the CPV categorisation and the notifications submitted by economic operators, the Commission has progressively built a robust knowledge base on market developments and on the sectors most prone to the presence of FFCs. The recurring appearance of similar companies and similar types of FFCs within each sector has in turn enabled the Commission services to develop a sector-based approach to cases, thereby further strengthening consistency in case handling.

Third, the Commission services have made sustained efforts to enhance clarity and cooperation with stakeholders. Through the establishment of NCPs, the creation of a dedicated Expert Group, and the continuous strengthening of procedural and legal guidance, the Commission services have sought to facilitate compliance and foster a shared understanding of the framework. These efforts are particularly important in light of the identified issue of the contracting authorities potentially lacking awareness of FSR obligations and the non-notification by economic operators. Furthermore, strengthening the digital dimension of case-handling tools reflects a clear commitment to greater transparency and more efficient case management.

At the same time, early practice has highlighted several challenges that affect the overall efficiency, proportionality and clarity of the system. Lack of clarity can give rise to a degree of legal uncertainty for economic operators and may add complexity to the Commission's assessment, potentially lengthening the process if it is required to request missing information. A major concern relates to the administrative burden imposed on economic operators. Stakeholders frequently point to the broad scope of the reporting obligation, the perceived inadequacy of thresholds, and the complexity and lack of clarity of the FS-PP forms, which can result in disproportionate reporting requirements, including for companies that may not be the primary targets of the FSR. These difficulties are compounded by practical challenges in identifying, collecting and reporting FFCs. Since the collection of data on FFCs is based on the self-assessment of economic operators, they are required to screen their own finances to identify FFCs and consider whether these fall under any of the exceptions listed in Section B (6) of Form FS-PP. As a result, submissions are often initially incorrect or incomplete and thereby insufficient for a proper assessment.

These considerations have direct implications for the effectiveness of the FSR. The Commission services are frequently required to devote significant time during the preliminary review phase to gathering missing information. As a result of the lack of practical use of pre-notification contacts shortcomings linked to submissions can only be addressed during the preliminary review, which strains the Commission's assessment. Furthermore, the absence of a 'stop-the-clock' mechanism, combined with tight timelines for both preliminary reviews and in-depth investigations, further constrains the ability of the Commission to carry out thorough substantive assessments, particularly in more complex cases.

In addition, the Commission services note that economic operators that are subject to the FSR reporting obligation on a recurrent basis face an additional administrative burden. In this context, the 40 economic operators that submitted the most FS-PP forms submitted on average 16.8 submissions during the reference period (approximately two years from October 2023 until January 2026), that is on average 8.4 submissions per year. In this regard, the Commission services note that introducing a single submission that would be updated twice a year (instead of individual submissions), or systematically using waivers for this purpose could have resulted in 160 submissions in total instead of 672, which would lead to a decrease of approximately 76% in the number of submissions among the 40 economic operators submitting the highest number of notifications.

Moreover, while progress has been made in enhancing transparency and providing guidance, stakeholders continue to call for further clarification of key FSR legal concepts and more comprehensive support. Such improvements are considered necessary to address inconsistencies in implementation and to enhance overall predictability and legal certainty in the Commission's practice.

In conclusion, early enforcement demonstrates that the FSR is already contributing to safeguarding fair competition in public procurement by enabling the detection and scrutiny of potentially distortive foreign subsidies. Nevertheless, the experience gained so far underscores the need to consider targeted improvements, especially streamline reporting obligations, enhance the quality and completeness of submissions, increase transparency and further strengthen guidance and cooperation with contracting authorities and economic operators. Addressing these challenges will be essential to ensure that the FSR operates in a proportionate, predictable and fully effective manner.

5.3. Developments in third countries' subsidy control systems

5.3.1. Introduction

This chapter examines developments in third countries' subsidy control systems, as referred to in Article 52 FSR. The aim of this analysis is to ensure that the way in which the FSR is applied remains responsive to evolving global economic and legal conditions.

In this context, the Commission is required to monitor and assess developments in subsidy control frameworks outside the Union, as they may affect the effectiveness and proportionality of the FSR. Such monitoring enables the Commission to determine whether the assumptions underlying the FSR continue to hold true and whether adjustments may be necessary to preserve a level playing field within the internal market.

This chapter has been developed drawing mostly on the research and analysis carried out in the FSR Review Study.

5.3.2. Analysis

This section reviews developments in a number of key jurisdictions: Canada, PRC, Japan, Switzerland, Türkiye, UAE, the United Kingdom and the United States. These jurisdictions have been selected due to their significant economic engagement with the Union, including trade, investment flows, mergers and acquisitions, and participation in public procurement. As such, their subsidy practices are particularly relevant for assessing potential distortions of competition within the EU internal market.

A central finding of this review is that the EU remains unique in operating a comprehensive and cross-sectoral State aid control system. The EU framework combines both *ex ante* and *ex post* elements: it allows for the prior screening of potentially distortive subsidies before they are granted, while also providing mechanisms to address subsidies that may escape initial scrutiny. This dual structure ensures a high level of oversight and legal certainty. The frameworks in EEA countries and EU accession candidates, while often aligned or influenced by the EU model, are generally less extensive or not as fully integrated.

By contrast, none of the other jurisdictions examined has put in place a similarly comprehensive system based on independent *ex ante* control. While certain countries have taken steps toward greater regulation of subsidies, these efforts remain limited in scope or fragmented in design.

The United Kingdom represents, amongst the countries analysed, the closest approximation to the EU model. Its subsidy control regime, introduced following its withdrawal from the EU, incorporates a set of substantive principles and provides for oversight mechanisms. However, it does not replicate the EU system of prior notification and approval and therefore lacks an equivalent level of *ex ante* control.

In other jurisdictions, developments have been more partial or sector specific. Switzerland, for example, has introduced forms of subsidy screening in particular areas such as aviation, but does not operate a unified, cross-sectoral regime. Türkiye has explored the introduction of a subsidy control framework through legislative initiatives, yet a fully functioning notification, assessment, or recovery system comparable to the EU's has not been implemented to date.

Elsewhere, subsidy control continues to be addressed through alternative or indirect means. The United States does not operate, nor has taken steps to implement, at either the federal or sub-federal level, a subsidy control regime comparable to the EU State aid framework. China does not operate, nor has taken steps to implement a subsidy control system comparable to the EU's. In addition to not taking measures to place an independent mechanism for the systematic oversight of subsidies, public sources indicate that China continues to pursue an active industrial policy with large-scale subsidisation representing one of its core components ([91]). Canada and Japan also lack centralised *ex ante* screening systems, instead addressing subsidies through more limited or ad hoc tools, for instance within the context of sectoral regulation or public finance and administrative control measures.

At the international level, both bilateral and multilateral developments remain relatively modest. The EU has included subsidy-related provisions in several free trade agreements

([91]) OECD (2026), OECD MAGIC Database of Industrial Subsidies, OECD Publishing, Paris.

with these jurisdictions, although these provisions vary in scope and enforceability. Agreements such as the EU–Canada Comprehensive Economic and Trade Agreement (CETA) and the EU–Japan Economic Partnership Agreement (EPA) primarily emphasise transparency and cooperation, with limited binding constraints. The EU–United Kingdom Trade and Cooperation Agreement (TCA) goes further by setting up a dedicated subsidy control framework, yet it does not include an EU-style *ex ante* approval mechanisms.

At the multilateral level, discussions within the WTO have not resulted in significant new disciplines on subsidies since the adoption of the FSR in 2022. Progress has been largely confined to specific sectors, such as fisheries, and has not addressed the broader issue of distortive subsidies across the global economy.

5.3.3. Conclusion

Overall, the analysis indicates that there has been no fundamental change in third countries' subsidy control systems since the adoption of the FSR. Developments have generally been gradual and limited in scope, whether in the context of bilateral agreements or multilateral negotiations. In other words, risks related to possible distortive foreign subsidies appear largely unchanged.

As such, these findings suggest that the assumptions underlying the FSR remain valid. Continued monitoring remains important, especially in light of evolving industrial policies and potential future reforms.

On this basis, the FSR can be considered as still fit for purpose in addressing foreign subsidies that risk distorting competition within the EU internal market.

6. ASSESSMENT OF THE EFFECTIVENESS OF THE FSR

6.1. FSR in general and policy objectives

In view of the findings outlined above, the overall objective of the FSR remains valid and this instrument contributes positively to the preservation of the level playing field in the internal market. Moreover, in the absence of material developments at international level, which can contribute to the effective tackling of distortive foreign subsidies, which are not caught by the traditional trade defence mechanisms of the Union, the FSR remains necessary to preserve the level playing field in the internal market.

In terms of substantive concepts, while some questions remain, which is only to be expected when a new legal framework begins to be enforced, it appears premature to consider undertaking structural changes of the FSR. The recent publication of the FSR Guidelines has provided further clarity and predictability on the approach taken by the Commission when applying these key assessment concepts, including assessing distortions, conducting the balancing test and exploring the possibility to call-in notifications. These guidelines come in addition to other initiatives such as the publication of the non-confidential versions of the adopted final decisions under the FSR, regular updates to the Q&As published on the Commission's website (in the sections for 'Competition' and 'Internal Market', respectively), and the publication of FSR briefs, where the Commission's approach on specific cases or policy development is further explained. Those efforts, together with the accumulation of more case practice, are positive steps that will continue to contribute to the better understanding of notions specific to the FSR.

Nevertheless, efforts will be continued to increase transparency, legal certainty and predictability, by engaging with stakeholders and by continuing the practices outlined in Section 4.3.1.

6.2. In relation to the ex officio procedure

Based on the findings above, the role and objective of the ex officio procedure of the FSR is perceived as positive and its importance, as part of the FSR investigative powers, is widely acknowledged.

The recent advancement of two ex officio cases to in-depth investigation will help bring more transparency and better understanding of the approach taken by the Commission when assessing potentially distortive foreign subsidies.

In reply to the concerns expressed with respect to the length of investigations under the ex officio procedure, it should be noted that the length depends on the level of complexity in individual cases, the degree of cooperation by the undertakings under investigation and, in some instances, by the actions brought by the EU Courts.

Efforts will be continued to increase transparency and provide further insights into the approach to ex officio cases in line with the practices outlined in Section 4.3.1.

6.3. In relation to the notification procedure for concentrations

As confirmed by the review, the notification procedure for concentrations remains an important element of the FSR regulatory set up, allowing the Commission to identify and address distortive foreign subsidies in the context of acquisitions.

At the same time, a significant portion of the feedback received in the context of the Stakeholders' Consultation focused on the administrative burden associated with the notification system for concentrations.

The Commission services have also carefully screened the enforcement practice to date to determine whether it is possible to further streamline the reporting obligation while still preserving the possibility for it to meaningfully review and assess notified concentrations for the presence of distortive foreign subsidies.

As identified in Section 5.2.3.5, stakeholders have raised concerns related to (a) the perceived burden associated with the identification, collection and reporting of FFC and the scope of information required by notification forms and (b) the perceived uncertainty linked to possibility of call-in and deterrent effect of wide-ranging provisions:

(a) Perceived burden associated with the identification, collection and reporting of FFCs and with the scope of information required

In order to address this concern, it may be appropriate to consider possible adjustments to the FSR procedural set up. Such adjustments would lead to a reduction in the overall number of notifications and a more streamlined reporting for certain categories of cases or types of FFCs, which could be considered less likely to raise concern, in line with feedback received from stakeholders.

Alongside any possible changes to the procedural set-up, the Commission will continue its effort to enhance the transparency and predictability of its enforcement practice including outreach activities for stakeholders.

(b) Uncertainty linked to possibility of call-in and deterrent effect of wide-ranging provisions

With regards to the perceived uncertainty linked to the Commission's call-in powers and the potential deterrent effect of this provision on investment incentives into the EU, it should be noted that the publication of the FSR Guidelines, combined with the evolving case practice, decrease the perceived uncertainty, without need for further targeted measures at this stage.

6.4. In relation to notifications in public procurement procedures

As confirmed by the review, the ex ante notification procedure for public procurement is an important component of the FSR framework, enabling the Commission to identify and address potentially distortive foreign subsidies in high-value public procurement procedures.

At the same time, a large proportion of stakeholders' feedback focused on the administrative burden associated with the FSR filing requirements in the context of public procurement procedures.

The Commission services have also carefully reviewed its enforcement practice, with a view to identifying possible actions to simplify the reporting of FFCs, while preserving the ability to carry out a meaningful assessment of those contributions and safeguarding the effectiveness of the FSR public procurement procedure.

As set out in Section 5.2.4.5, stakeholders have raised concerns related to (a) the perceived burden associated with the identification, collection and reporting of FFCs and the scope of information required by Form FS-PP; and (b) the perceived lack of awareness and clarity concerning FSR obligations, together with the need for greater transparency in the enforcement practice.

a) Perceived burden associated with the identification, collection, reporting of FFCs and with the scope of information required

To address these concerns, the Commission may consider possible adjustments to the FSR procedural framework informed by implementation experience and stakeholder feedback. Such adjustments could help focus scrutiny on cases that are most likely to involve distortive foreign subsidies, while alleviating burdens in less critical situations.

b) Perceived lack of awareness, clarity and transparency

Alongside any possible amendments to the procedural framework, efforts are continued to enhance the transparency of the enforcement practice. Strengthening awareness and capacity-building also continue, including through outreach activities for contracting authorities, economic operators and practitioners. In parallel, the dialogue with Member States is further deepened through regular exchanges with the NCPs and the dedicated FSR Public Procurement Expert Group, with the aim of ensuring a consistent understanding of FSR obligations across the Union.

Overall, these initiatives aim to bridge the gap between the regulatory framework and its practical implementation, ultimately ensuring higher compliance and greater legal certainty.

7. CONCLUSION

The FSR plays a fundamental and key role in the Union's efforts to address distortions in the internal market caused by foreign subsidies. The overall objective of the FSR, which is to prevent distortions in the internal market caused by foreign subsidies, is widely acknowledged and remains very relevant. The findings of the review highlight the importance of the FSR and confirm that the Regulation has been successful in capturing high-risk concentrations and public procurements, as demonstrated by the Commission's case practice and the adopted final decisions with commitments under Chapters 3 and 4 FSR as well as its ongoing, at time of publication, investigations under the ex officio procedure.

In light of the stakeholders' feedback, the Commission may consider possible adjustments to the FSR procedural set up to reduce the administrative burden on businesses and facilitate compliance, while maintaining the FSR's effectiveness.