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# FSR Review Report

Fields marked with \* are mandatory.

## Introduction

**1.1 The Foreign Subsidies Regulation and the need to review its implementation**

The [Foreign Subsidies Regulation (FSR)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R2560) (Regulation (EU) 2022/2560) became applicable on 13 July 2023. It enables the European Commission to address distortions in the internal market caused by foreign subsidies. The FSR ensures that companies receiving foreign subsidies do not gain an unfair advantage when operating in the EU, while keeping the EU open to trade and investment. Under Article 52(2) FSR, the Commission is required to publish a report reviewing the implementation and enforcement of the Regulation by 14 July 2026 and every three years thereafter.

**1.2 Purpose of the review report**

The review report covers the implementation and enforcement of both the FSR itself and the [Foreign Subsidies Implementing Regulation](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023R1441) (Commission Implementing Regulation (EU) 2023/1441), which sets out practical rules and notification forms. This public consultation will help the Commission to prepare the first report, to be published by 14 July 2026. The report will focus on:

the determination of distortions in the internal market (Article 4 FSR);

the categorisation of foreign subsidies most likely to distort the internal market (Article 5 FSR); the application of the balancing test to distortive foreign subsidies (Article 6 FSR); the enforcement of the ex officio review mechanism (Article 9 FSR); the notification thresholds and procedures for concentrations (Article 20 FSR) and public procurement

(Article 28 FSR); developments in international relations with regard to the subsidy-control systems of non-EU countries; and possible simplification to reduce administrative burdens.

**1.3 Purpose of the public consultation**

The aim of this consultation is to gather information from stakeholders directly or indirectly involved in implementing the concentration and/or procurement modules of the FSR, as well as from the general public, on how the FSR and its Implementing Regulation have operated in practice to date. This consultation is not part of a formal evaluation exercise under the Better Regulation Guidelines [1]. Its objective is to help the Commission review implementation of the Regulation as required by Article 52(2) FSR. The consultation will feed into the Commission’s review report.

**1.4. Structure of the consultation and how to respond**

As part of its review, the Commission is seeking stakeholders’ views on the implementation and enforcement of the FSR. To this end, a public consultation and targeted consultations are being organised in parallel. The results of these consultations will serve as input for the Commission’s review report. The views of all stakeholders will be crucial.

The public consultation will be open for 14 weeks and replies can be submitted in any of the 24 official EU languages. All replies will be given equal consideration, irrespective of the stakeholder who submitted them and the official EU language in which they were submitted.

This public consultation consists of questions covering general aspects of the FSR and questions relating specifically to concentrations and public procurement.

Please provide your feedback using this online questionnaire. Please substantiate your responses and, where possible, provide specific examples. We also invite you to upload any documents and/or data you consider useful to accompany your reply at the end of the questionnaire.

You do not have to complete the questionnaire all at once. You have the option of saving your responses as a ‘draft’ and finalising them later. To do this, you should click on ‘Save as draft’ and save the new link that you receive from EUSurvey on your computer. Please note that without the new link you will not be able to access your questionnaire again to continue working on your responses.

We suggest that you carefully read the privacy statement attached to this consultation for information on how your personal data and contribution will be handled.

The Commission will publish a summary of the responses alongside its review report.

If you have any questions on the content of the questionnaire, please contact EC-FSR-REVIEW@ec.europa.

eu.

If you have technical problems, please contact EC-CENTRAL-HELPDESK@ec.europa.eu.

[1] [https://commission.europa.eu/law/law-making-process/better-regulation/better-regulation-guidelines-andtoolbox\_en](https://commission.europa.eu/law/law-making-process/better-regulation/better-regulation-guidelines-and-toolbox_en)

## A. General and cross-cutting aspects

The questions in this section are aimed at reviewing the general implementation and enforcement of the FSR, including the application of key ‘technical concepts’, more specifically:

the determination of distortions in the internal market (Article 4 FSR);

the categorisation of foreign subsidies most likely to distort the internal market (Article 5 FSR); the application of the balancing test to distortive foreign subsidies (Article 6 FSR); and the enforcement of the ex officio review mechanism (Article 9 FSR).

Please read the above-mentioned articles of the FSR in full before replying.

**\***1. Have you or your organisation had any interaction with the FSR or its procedures? [multiple choices possible]

 Yes, as a notifying party in a concentration

 Yes, as a party to an ex officio investigation

 Yes, as a party involved in a public procurement notification or declaration



Yes, as an advisor or legal representative

 Yes, as a public authority in an EU Member State (e.g. contracting authority, competition authority) or contracting entity

 Yes, as a non-EU public body (e.g. foreign authority representing a non-EU government)

 Yes, as a competitor or affected third party (e.g. business association, labour union or other stakeholder indirectly affected by the application of the FSR)  Yes, as an interested observer

 No

 I do not know / No opinion

If your answer is 'yes', please specify the type of sector and/or activity in the EU.

**\***2. How would you rate your level of knowledge and familiarity with the FSR?

 High: in-depth understanding and regular interaction

 Moderate: some knowledge and occasional interaction

 Low: limited knowledge and little or no interaction

 None

**\***3. On the basis of your knowledge and experience, do you consider that the framework for assessing distortions under Article 4 FSR, including the indicators (Article 4(1) FSR), is clear and predictable?

 Yes

 No

 I do not know/ No opinion

Please explain your answer. If relevant, please provide specific examples of situations where the distortion criteria were unclear and state how this could have been improved.

**\***4. On the basis of your knowledge and experience, do you consider that the balancing test requirements (Article 6 FSR) are sufficiently transparent and proportional?

 Yes

 No

 I do not know / No opinion

Please explain your answer. If relevant, please provide examples of where the balancing test requirements in Article 6 FSR were sufficiently/insufficiently transparent and proportional.

We have no experience with the balancing test.

**\***5. On the basis of your knowledge and experience, do you consider that the criteria in Article 5 FSR for identifying categories of foreign subsidies most likely to distort the internal market are sufficiently clear and appropriate?

 Yes

 No

 I do not know / No opinion

Please specify how the categories listed in Article 5 FSR could be clarified or refined, including specific examples from implementation of the FSR. You may also indicate whether the list of subsidies in Article 5 is too broad, too narrow, or not clearly enough defined to enable transparency and consistent enforcement.

**\***6. On the basis of your knowledge and experience, do you consider that ex officio review (Article 9 FSR) could contribute to ensuring a level playing field in the internal market?

 Yes

 No

 I do not know / No opinion

Please specify how ex officio review under Article 9 FSR has contributed / has failed to contribute to ensuring a level playing field in the internal market, including examples of ex officio review provisions that could be applied differently.

**\***7. On the basis of your knowledge and experience, do you consider that ex officio review (Article 9 FSR) has already affected or could in any way affect non-EU companies’ participation in economic activities in the internal market, including greenfield investments?

 Yes, increased participation in the internal market

 Yes, reduced participation in the internal market

 No change

 Too early to say

 I do not know / No opinion

Please explain your answer.

**\***8. On the basis of your knowledge and experience, do you consider that the FSR contains burdensome and complex provisions?

 Yes

 No

 I do not know / No opinion

If your answer is ‘yes’, please provide specific examples with reference to provisions of the FSR and the FSR Implementing Regulation.

**\***9. On the basis of your knowledge and experience, how successful do you think the FSR has been in addressing possible distortions in the internal market caused by foreign subsidies?

 Very successful

 Rather successful

 Neutral

 Rather unsuccessful

 Very unsuccessful

 I do not know / No opinion

Please explain your answer.

**\***10. On the basis of your knowledge and experience, how effective do you think the FSR has been in addressing possible distortions in priority sectors identified by other European Commission initiatives (i.e. clean industrial deal, EU automotive action plan, defence readiness omnibus, etc.)

 Very effective

 Rather effective

 Neutral

 Rather ineffective

 Very ineffective

 I do not know / No opinion

Please explain your answer.

**\***11. On the basis of your knowledge, please describe any developments that you are aware of with regard to the introduction or application of subsidy-control legislation in non-EU jurisdictions (for example, similar to the EU’s State aid rules).

## B. Concentrations (merger and acquisitions (M&A) transactions)

The questions in this section are aimed at reviewing the implementation and enforcement of Chapter 3 FSR on concentrations, and the relevant provisions of the FSR Implementing Regulation.

**\***12. Do you consider that the current notification thresholds for concentrations, as set out in Article 20 FSR, are appropriate proxies for identifying the most relevant cases of potentially distortive foreign subsidies?

 Yes

 No, too high

 No, too low

 I do not know / No opinion

Please explain your answer.

**\***13. On the basis of your knowledge and experience, how do notification obligations affect the timelines and costs of M&A transactions? [multiple choices possible]

 No impact

 Minimal delay

 Moderate delay

 Significant delay or uncertainty

 Minimal additional costs

 Significant additional costs  I do not know / No opinion

Please explain your answer.

**\***14. On the basis of your knowledge and experience, do you consider that the timelines for preliminary review and in-depth investigation of concentrations (Article 25 FSR) are adequate for merger planning and proportionate in terms of costs (e.g.

legal or advisory costs)? [multiple choices possible]

 Yes, adequate in terms of planning and costs

 No, timelines too short

 No, timelines too long

 Costs are disproportionate

 Depends on the complexity of the case  I do not know / No opinion

Please explain your answer.

**\***15. On the basis of your knowledge and experience, do you consider that the reporting of financial contributions for concentrations (Section 5 of Form FS-CO) is clear and proportionate?

 Yes

 No, too broad

 No, too narrow

 I do not know / No opinion

Please explain your answer. If applicable, please provide specific examples of situations where Section 5 of Form FS-CO was unclear and explain why.

**\***16. On the basis of your knowledge and experience, do you consider that the structure and information requirements of Form FS-CO and the Implementing Regulation are proportionate and reasonable for notifying concentrations?

 Yes

 No

 I do not know / No opinion

Please explain your answer.

**\***17. On the basis of your experience, do you consider that the outcome of the

Commission’s review of notified concentrations is transparent and accessible?

 Yes

 Partially

 No

 I do not know / No opinion

Please explain your answer.

**\***18. Have you experienced situations where the same concentration was subject to notification requirements under the FSR and another regulatory regime (e.g. EU Merger Regulation, national foreign direct investment (FDI) screening mechanisms, etc.)?

 Yes, frequently

 Occasionally

 No

 I do not know / No opinion

If your answer is ‘yes’ or ‘occasionally’, please describe any overlap, including whether, in your view, the notification requirements under the FSR created or contributed to an additional administrative burden, confusion or timing issues. If possible, indicate how such issues could be addressed or better coordinated.

**\***19. On the basis of your knowledge and experience, do you consider that the FSR has in any way affected participation by non-EU countries in mergers and acquisitions involving the EU?

 Yes, increased participation

 Yes, reduced participation

 No change

 Too early to say

 I do not know / No opinion

Please explain your answer.

**\***20. If relevant, please provide any other examples of situations where the implementation, enforcement or procedural aspects of the FSR module for concentrations (i.e. the combination of the Regulation, Implementing Regulation and associated forms and procedures for concentrations) was too burdensome, procedurally unclear and/or lacking predictability. Explain the reasons for your answer.

C. Public Procurement

The questions in this section are aimed at reviewing the implementation and enforcement of Chapter 4 FSR on public procurement procedures, and the relevant provisions of the FSR Implementing Regulation.

**\***21. On the basis of your knowledge and experience, do you consider that the current thresholds for public procurement procedures, as set out in Article 28 FSR, are appropriate proxies for identifying the most relevant cases of potentially distortive foreign subsidies?



Yes

 No, too high

 No, too low

 I do not know / No opinion

Please explain your answer.

**\***22. On the basis of your knowledge and experience, how do notification obligations under the FSR affect timelines and costs with regard to public procurements? [multiple choices possible]

 No impact

 Minimal delay

 Moderate delay

 Significant delay or uncertainty

 Minimal additional costs

 Significant additional costs I do not know / No opinion

Please explain your answer.

**\***23. On the basis of your knowledge and experience, do you consider that the timelines for preliminary review and in-depth investigation of notified foreign financial contributions in public procurement procedures (Article 30 FSR) are adequate for the overall public procurement procedure and proportionate in terms of costs (e.g.

legal or advisory costs)?

 Yes, adequate in terms of planning and costs

 No, timelines too short

 No, timelines too long



Costs are disproportionate

 Depends on the complexity of the case I do not know / No opinion

Please explain your answer and specify whether your assessment differs for the timelines applicable to open procedures and those applicable to multi-stage procedures. If so, please clarify how you would distinguish between them.

**\***24. On the basis of your experience, do you consider that the outcome of the Commission’s review of notified foreign financial contributions in public procurement procedures is transparent and accessible?

 Yes

 Partially

 No

 I do not know / No opinion

Please explain your answer.

**\***25. On the basis of your knowledge and experience, do you consider that the framework for assessing distortions in public procurement procedures (Articles 4 and 27 FSR), including the indicators (Article 4(1) FSR), is clear and predictable?

 Yes

 Partially

 No

 I do not know / No opinion

Please explain your answer.

**\***26. Do you consider that the texts of the FSR and its Implementing Regulation are clear and precise enough for contracting authorities/entities to understand their obligations under the FSR?

 Yes

 Partially

 No

 I do not know / No opinion

Please explain your answer and, if applicable, provide specific examples of unclear provisions in the FSR or its Implementing Regulation that result in lack of awareness /understanding by the contracting authorities/entities.

**\***27. On the basis of your knowledge and experience, do you consider that the scope of the notification obligation in public procurement procedures, as set out in Article 28 FSR, is clear and predictable? For example: which entities fall under the obligation to notify foreign financial contributions, definition of ‘main’ subcontractor, etc.

 Yes

 No

 I do not know / No opinion

Please explain your answer. If your answer is ‘no’, please provide specific examples of how the scope of the notification obligation is unclear and unpredictable and explain why.

**\***28. On the basis of your knowledge and experience, do you consider that the structure and information requirements of Form FS-PP and the Implementing Regulation are proportionate and understandable for notifications and declarations in public procurement procedures? [multiple choices possible]

 Yes, proportionate

 Yes, understandable

 No, not proportionate

 No, not understandable

 I do not know / No opinion

Please explain your answer. If applicable, please provide specific examples of requirements that are unclear and/or disproportionate and explain why.

**\***29. On the basis of your knowledge and experience, do you consider that the FSR has affected participation by non-EU countries in EU public procurement procedures?

 Yes, increased participation

 Yes, reduced participation

 No change

 Too early to say

 I do not know / No opinion

Please explain your answer.

**\***30. If relevant, please provide any other examples of situations where the implementation, enforcement or procedural aspects of the FSR module for public procurement (i.e. the combination of the Regulation, Implementing Regulation and associated forms and procedures for public procurement procedures) was too burdensome, procedurally unclear and/or lacking predictability. Explain the reasons for your answer.

**\***31. In your view, how important is the FSR public procurement module for safeguarding EU sovereignty in key economic sectors, enhancing competitiveness and promoting strategic public procurement by addressing unfair competition in public procurement procedures that undermines the integrity and proper functioning of the internal market?

## Final comments and supporting material

**\***32. Do you have any additional comments, concerns or suggestions to contribute to the review of the FSR and FSR Implementing Regulation?

**\***33. Please indicate whether the Commission may contact you, if necessary, for further details about the information submitted.

 Yes No

### Supporting documents

If you would like to upload supporting documents (e.g. data, reports, legal analysis) that may be relevant for the FSR review report, please upload them here. Please make sure not to include any personal data in the files you upload if you wish to remain anonymous.

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

**Thank you for participating in this consultation!**

**Contact**

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