CELIS Non-Papers on Economic Security
Occasional Papers Series published by the CELIS Institute

The EU Foreign Subsidies Regulation

by Dominika Pietkun

No 06/2025

CELIS

About CELIS Non-Papers

The CELIS Non-Papers on Economic Security is an occasional papers series published by the CELIS Institute gUG, Berlin, offering expert analyses and insights into pressing issues at the intersection of economic security, open markets, and competitiveness. Authored by scholars and practitioners, these non-papers delve into topics such as investment screening, supply chain vulnerabilities, foreign subsidies, sanctions, energy security, and other areas of economic security, providing thought-provoking perspectives to inform policy and practice.

About the Author

Dominika Pietkun is a PhD Candidate at the Institute of Legal Sciences of the Polish Academy of Sciences.

CELIS

CELIS Non-Paper 06/2025

CFIS 24 Panel 8

The EU Foreign Subsidies Regulation

by Dominika Pietkun

A. Introduction 3

B. Executive Summary of Key Takeaways 4

C. Panel Discussion Overview 4

I. Reasons for adopting the FSR and current state of play 4

II. Mechanisms Introduced by the FSR 6

III. Administrative Burden, Compliance and Enforcement of the FSR 7

IV. Impact on Competition and Specific Industries 9

V. Long-Term Economic and Strategic Implications 11

D. Conclusions 12

A. Introduction

The final panel at CFIS Investment Screening and Economic Security 2024 (CFIS 24) was dedicated to the European Union's Foreign Subsidies Regulation (the "**FSR**")[1] which entered into force on January 12, 2023, introducing a new legal instrument aimed at combating distortions of competition in the EU internal market caused by foreign subsidies. The FSR has been fully applicable since October 12, 2023, meaning that during CFIS 24 the FSR was discussed almost exactly on the first anniversary of its full application.

CFIS 24's Panel 8 focused on: (i) examining the reasons for introduction of the FSR, (ii) discussing how the FSR operates in practice and what are the challenges companies face in compliance with the requirements of the FSR, (iii) analyzing the FSR's impact on competition, EU market and specific industries, and (iv) commenting on the long-term economic and strategic implications of the FSR. This non-paper summarizes key takeaways from the panel.

B. Executive Summary of Key Takeaways

- **Rationale and Objectives of the FSR**: The FSR was introduced to create a level playing field by countering the negative of foreign subsidies on the EU market. The FSR is part of a broader EU strategy for economic security, aimed at protecting critical industries and fostering a fair competitive environment.

- **Administrative Burden and Compliance**: The FSR imposes considerable administrative demands on businesses. Companies face challenges in collecting and reporting the required data, particularly when dealing with complex foreign financial contributions across multiple jurisdictions. Despite these burdens, the high volume of notifications received by the European Commission ("EC") during the first year of the FSR's operation reflects the serious engagement of businesses. As businesses and the EC gains more experience with the FSR, it is expected that future guidance will help streamline compliance while maintaining rigorous enforcement standards.

- **Impact on Competition and Industry Dynamics**: While the regulation aims to prevent unfair competition by removing subsidized bids from procurement processes, it may initially reduce the number of suppliers available, potentially impacting procurement costs. The FSR's sector-neutral application allows it to protect competition broadly, yet it remains flexible enough to focus on industries deemed strategically important as global market dynamics evolve.

- **Long-Term Economic and Strategic Implications**: The FSR plays a crucial role in the EU's long-term economic strategy, supporting Europe's goals for strategic autonomy and economic resilience. By establishing a framework to manage foreign subsidies, the FSR enhances Europe's control over its strategic assets and critical industries, contributing to the EU's positioning as a secure, competitive force in a multipolar world.

C. Panel Discussion Overview

I. Reasons for adopting the FSR and current state of play

Given that the FSR is a relatively new regulation, the panel discussion began with an overview of its rationale and an explanation of the mechanisms it introduced to address competitive distortions from foreign subsidies. Participants emphasized that the need for the FSR arose due to a regulatory gap in the EU's competition policy as while the EU's State Aid rules impose strict discipline on subsidies granted by Member

States to prevent market distortions, there was no equivalent framework to manage foreign subsidies from non-EU countries. This regulatory absence in some cases allowed non-EU companies benefiting from foreign subsidies to compete in the EU internal market with an unfair advantage, leading to distortions that the existing EU State Aid rules could not address.

As the EU seeks to enhance its economic security and resilience, this regulatory gap became increasingly problematic, necessitating the FSR as part of a broader policy strategy to foster a "level playing field" and protect the EU's industrial base[2]. This strategy aligns with the EU's ambition for "open strategic autonomy", aiming to safeguard the EU's economic resilience and sovereignty while ensuring fair competition within its market. By addressing subsidies that distort competition, the FSR complements other EU policies, including the FDI Screening Regulation, which also seeks to protect critical industries from foreign influence.

Participants further commented on why it took so long for the EU to implement a regulation targeting foreign subsidies. The panel discussed how global economic changes since the 1950s, including the globalization of supply chains and the strategic use of subsidies by foreign governments, have gradually created the conditions that require such a regulation. In today's world, foreign or third-country subsidies are increasingly used as tools for economic and geopolitical influence, which makes their regulation more crucial than ever.

The panel highlighted that foreign subsidies can come in many forms and are often not subject to the same rigorous controls as EU subsidies. Non-EU companies, especially those from high-subsidy economies like China, frequently benefit from financial contributions, including subsidies that often go unchecked in their home markets, that would be deemed incompatible with EU State Aid rules if provided by Member States. This imbalance has historically placed EU companies at a disadvantage, as non-EU competitors gain a competitive edge in mergers, acquisitions, and public procurement within the EU market.

The FSR addresses this gap by introducing measures to scrutinize and, where necessary, counteract foreign subsidies that could negatively impact competitive conditions in the EU. Specifically, the FSR introduces a framework to assess whether such subsidies distort the internal market, and if so, to implement corrective actions that preserve fair competition.

II. Mechanisms Introduced by the FSR

The FSR establishes three primary mechanisms through which the European Commission can monitor and address the impact of foreign subsidies on the EU market:

1. **Notification-Based Procedure for Concentrations**: This mechanism applies to mergers and acquisitions involving foreign financial contributions. If the acquired company, one of the merging parties, or the joint venture has an EU turnover of at least €500 million and the parties have received foreign financial contributions exceeding €50 million in the past three years, companies must notify the EC, enabling it to assess potential market distortions arising from these contributions.

2. **Notification Procedure for Public Procurement**: In public procurement processes, if the estimated contract value is at least €250 million, and the bid involves a foreign financial contribution of at least €4 million per third country in the past three years, companies must notify the EC. This ensures transparency in cases where foreign subsidies could affect the outcome of high-value public contracts.

3. **Ex Officio Investigative Tool**: The Commission can independently initiate investigations into economic activities suspected of being distorted by foreign subsidies. This tool grants the EC significant flexibility to address cases where subsidies may undermine fair competition without requiring prior notification.[3]

Each tool is designed to address different forms of competitive distortion.

Then, the participants emphasized that, given the short period since the FSR became applicable, it was essential to clarify what "foreign financial contributions" mean. This is a broad concept that includes any economic transaction with a third country. For instance, even routine transactions, such as the sale or purchase of goods with a public sector entity in a non-EU country, could be classified as a foreign financial contribution. The concept extends beyond direct monetary grants to include other forms of financial support, such as below-market loans, guarantees, or price advantages on goods and services provided by foreign state actors. While not all foreign financial contributions automatically qualify as distortions under the FSR, the regulation establishes a structured approach to assessing potential market impacts. As outlined in recent EC' guidance[4], the European Commission examines whether a foreign subsidy improves the competitive position of the beneficiary within the EU market and whether it could negatively impact market competition. This evaluation requires a nuanced analysis that considers the specific nature and purpose of the subsidy, as well as its broader implications within the EU. By doing so, the FSR can capture a wide range of foreign subsidies while avoiding unnecessary restrictions on contributions that do not disrupt fair competition.

The FSR's mechanisms represent a comprehensive approach to tackling foreign subsidies that distort competition, reinforcing the EU's commitment to maintaining a level playing field in its internal market. However, participants recognized that the FSR's reach and complexity bring new challenges for both regulators and businesses. As the EC ramps up its enforcement activities, companies operating in the EU face a significant administrative burden to ensure compliance with the FSR's notification and reporting requirements. This challenge is further compounded by the wide scope of the term "foreign financial contribution", which encompasses diverse forms of financial support and requires extensive data collection and coordination across multiple jurisdictions.

III. Administrative Burden, Compliance and Enforcement of the FSR

As noted by participants, it is still somewhat early to draw definitive conclusions about the FSR and its long-term impact. While the regulation has already generated significant activity, including numerous notifications and some cases of companies withdrawing from public procurement processes, the full scope and effectiveness of the FSR will require time to become clear. Here it is worth to mention that even though we observed withdrawals from procurement procedures following in-depth investigations, though we do not always know why these companies withdrew.

The FSR has brought with it considerable enforcement tools, including the power to conduct dawn raids – unannounced inspections aimed at gathering evidence from companies potentially benefiting from distortive foreign subsidies. Such dawn raids are especially critical in cases where companies or relevant data are located outside the EU, which poses additional challenges for information retrieval. As one participant noted, the decision to conduct dawn raids and the subsequent court case involving access to data hosted on servers outside the EU underscore the EC's commitment to enforcement, despite practical obstacles.

Despite its necessity, quite rigorous enforcement structure also introduces a significant administrative burden on businesses. Companies are required to gather and report substantial amounts of data to comply with the FSR's notification and reporting requirements, often involving extensive coordination across departments and countries.

The business community has expressed substantial concern regarding the FSR, with some describing it as an "administrative nightmare"[5]. During the initial consultation phase, businesses voiced concerns about the draft implementing regulation, particularly around the extensive data required. One participant reflected on this reaction of business sector, noting that while companies broadly support the FSR's objectives – many had even called for a measure comparable to EU State Aid rules – compliance has proven complex and costly. Participants elaborated on the challenges of data collection, especially for companies with global operations. Much of the necessary data, such as details of foreign financial contributions, is dispersed across jurisdictions and is not typically consolidated in centralized reporting systems. Instead, currently companies must assemble this information through *ad hoc* efforts involving various teams, including finance, tax, and legal experts. One participant noted the intense time and cost pressures involved in this process, particularly for transactions with tight deadlines, making compliance an "enormous undertaking" in practice. However, it should be emphasized that, over time, companies will likely gain experience with these requirements, making compliance progressively easier.

To alleviate some of these pressures, the EC has encouraged companies to engage early in the notification process, allowing them to clarify data requirements and streamline compliance. However, participants pointed out an inherent information asymmetry: companies that have gone through the notification process before generally have a better grasp of the requirements, while first-time notifiers struggle with interpreting the complex regulation. One speaker emphasized the importance of the forthcoming guidelines, expected by January 2026, in bridging this gap by providing clarity on compliance expectations based on the initial wave of notifications[6].

Participants also discussed practical solutions for companies that frequently participate in public procurement or M&A transactions. For such companies, it may be crucial to establish internal systems that track foreign financial contributions on a rolling basis. However, as one participant pointed out, these systems require significant resources to implement and are unlikely to be cost-effective for companies that infrequently engage in procurement or M&A. For these firms, it may be more practical for key functions – such as tax, finance, and legal departments – to develop a foundational understanding of the FSR, preparing them to comply should notification requirements arise.

Also, the EC was quite busy during the first year implementing the FSR. By the end of July 2024, it had entered pre-notification discussions for concentrations in 106 cases, with 76 progressing to formal filings – far exceeding the initial estimate of 30 cases annually projected when the regulation was initially proposed[7]. These numbers demonstrate the scale of the compliance challenge and the proactive response of businesses. This influx has placed a significant strain on the EC, which has not secured any additional resources to implement the FSR. Responsibilities are split between DG Competition, which manages most notifications, and DG Grow, which oversees public procurement cases and *ex officio* investigations. Limited staffing has necessitated an internal reallocation of resources to manage the FSR's demands, adding complexity to the EC's workload.

The early implementation of the FSR has highlighted both the ambitious nature of the regulation and the significant compliance challenges it poses. The high administrative burden, expansive data requirements, and unexpected volume of notifications have created a learning curve for both businesses and the EC. Despite these challenges, the regulation's active enforcement and the EC's robust approach to compliance underscore a strong commitment to the FSR's objectives. As companies and the EC gather more experience and the EC prepares further guidance, it is hoped that the process will become more streamlined, balancing regulatory goals with the practical realities businesses face.

IV. Impact on Competition and Specific Industries

Beyond compliance challenges, the FSR is already influencing competitive dynamics within the EU's internal market. The active application of enforcement tools like dawn raids and *ex officio* investigations signals the EU's dedication to maintaining a fair and transparent market environment. This focus aligns with the EU's broader economic security and open strategic autonomy objectives, creating a foundational structure for leveling the playing field between EU companies and subsidized foreign entities.

While the regulation is focused on creating fairness, participants raised concerns that its immediate impact on competition may not always be straightforward. Specifically, the FSR's influence on public procurement processes, where certain companies have withdrawn from tenders due to compliance burdens or potential investigations, may unintentionally limit competition. This decrease in participation could lead to fewer suppliers, potentially resulting in less favorable procurement outcomes for public authorities who may not always secure the best value or quality. As one participant noted, "the contracting authority of the state may not get the cheapest result, or the best value for its money" under the FSR.

While the short-term effect may appear to constrain competition, the FSR's ultimate aim is to prevent unfair competition by curbing the advantage that subsidized foreign entities may have over unsubsidized competitors. Participants pointed out that foreign subsidies distort the market by allowing certain companies to dominate based on external financial support rather than merit. The regulation thus seeks to promote a market environment driven by efficiency and fair competition – principles that are central to a market economy. As one speaker explained, "What a market economy is all about is efficient allocation of resources", and subsidies disrupt this efficiency by artificially bolstering companies that may otherwise lack a competitive edge. This view aligns with Mario Draghi's report, which underscores the need for Europe to protect its competitive environment from external distortive practices to secure economic resilience[8].

Although the FSR is structured to be sector-neutral and country-neutral, the participants acknowledged that certain industries may feel its impact more acutely than others, particularly sectors where foreign subsidies are more prevalent or where strategic interests are high. In the early stages of the FSR's enforcement, transactions in diverse sectors – ranging from transportation to renewable energy – have been subject to scrutiny. Cases involving industries such as trains, solar panels, airport security equipment, wind turbines, and telecommunications have already appeared in the media, showing the regulation's broad applicability.

One participant observed that, although many anticipated the FSR to focus on strategic areas like semiconductors or defense, enforcement has thus far extended to industries beyond these expected targets. This has led some stakeholders to question the FSR's scope and its implications for European companies. As another participant explained, some European companies initially believed the FSR would primarily target non-EU entities, especially from high-subsidy economies like China, but were surprised to find that the regulation applies equally to EU-based companies when they cross specified thresholds. This lack of exemption for European firms underscores the FSR's commitment to neutrality, aiming to protect the EU's internal market as a whole rather than favoring specific companies or sectors.

The broad reach of the FSR reflects its foundational goal: to protect competition in the EU's internal market without discriminating based on the origin of the company. One participant emphasized that the regulation "is not about protecting individual companies or competitors; it's about safeguarding fair competition". In other words, by focusing on maintaining a level playing field, the FSR highlights that its objective is not simply to protect European entities but to ensure that all players adhere to the same standards within the EU market.

Although the FSR is sector-neutral by design, the reality of enforcement may require flexibility based on evolving strategic interests. Participants speculated that, while the FSR does not explicitly target industries like semiconductors, any transaction within such strategically critical sectors would likely receive heightened scrutiny if it meets notification thresholds. The EC retains the power to "call in" transactions that may not meet formal thresholds but are deemed strategically significant, ensuring that the regulation can adapt to protect sectors considered vital for Europe's economic security. One participant further emphasized that the FSR is a tool in a broader economic security strategy, and that strategic considerations may evolve over time. For instance, while initial enforcement has focused on sectors like transportation and renewable energy, future cases could prioritize sectors like artificial intelligence, biotechnology, or defense as the EU's strategic priorities shift.

The FSR's impact on competition and specific industries illustrates both its immediate effects and its broader role within the EU's economic strategy. While the regulation may initially reduce the number of suppliers in certain procurement processes, its overarching aim is to foster a fair, merit-based market environment across all sectors. By targeting distortive subsidies, the FSR helps prevent foreign governments from using economic leverage to influence the EU market, ensuring that competition is driven by efficiency and innovation rather than external financial support.

Looking forward, the FSR's influence is expected to extend beyond immediate market dynamics, shaping Europe's long-term economic resilience and strategic positioning in the global economy. As the EU refines its approach, the FSR will play a key role in reinforcing Europe's autonomy in critical sectors and enhancing its competitive foundation in an increasingly multipolar world.

V. Long-Term Economic and Strategic Implications

The panel also touched upon the FSR's strategic implications. While the FSR aims to mitigate distortions caused by foreign subsidies, there is a nuanced debate over whether, in some cases, Europe might benefit from accepting subsidized goods from abroad. According to Draghi's report[9], Europe should be "smart" in its application of tools like the FSR, particularly in sectors where the EU has fallen behind. If subsidized foreign goods serve consumer interests without jeopardizing strategic sectors, some argue that it may be pragmatic to allow their entry. For example, one participant suggested that if foreign taxpayers are effectively subsidizing low-cost goods that benefit EU consumers, it could be acceptable to permit this so long as it does not undermine critical EU industries. This approach would allow the EU to focus its regulatory efforts on genuinely strategic sectors, directing resources where competitive parity is essential. This nuanced perspective aligns with Draghi's call for a balanced approach to economic security, which recommends concentrating on strategic industries where foreign subsidies could harm the EU's long-term competitiveness and innovation capabilities. The FSR thus walks a fine line between protecting critical sectors and allowing the EU market to benefit from affordable products, provided they do not threaten European technological or industrial sovereignty.

Furthermore, the FSR's impact extends beyond the EU's borders. By setting a precedent for managing foreign subsidies within a major economic bloc, the EU could inspire other jurisdictions to adopt similar measures. This potential ripple effect aligns with the EU's vision of promoting a "global level playing field", creating standards for fair competition on a global scale. However, as one participant pointed out, achieving this global fairness will likely require additional measures beyond the FSR, including strengthened international cooperation and strategic alignment with key players.

D. Conclusions

The FSR marks a significant step forward in the EU's approach to ensuring fair competition and economic sovereignty. Through its comprehensive framework, the FSR addresses the long-standing regulatory gap that allowed foreign subsidies to distort competition within the internal market.

The FSR was introduced to establish a fair competitive landscape within the EU market by mitigating the impact of foreign subsidies. As a core part of the EU's broader economic security strategy, the FSR aims to protect critical industries and promote equitable market dynamics. However, its implementation has introduced significant administrative burdens for businesses, especially in terms of data collection and reporting on complex foreign financial contributions. Despite these challenges, the substantial number of notifications submitted in the FSR's first year shows businesses' strong compliance commitment. Over time, increased familiarity with the FSR is expected to simplify compliance processes, aided by the anticipated development of clearer guidance from the European Commission.

The FSR's impact on competition is dual-faceted. While it curbs unfair competition by removing subsidized bids, there may be an initial reduction in supplier diversity, possibly affecting procurement costs. Its sector-neutral design allows the FSR to protect competition broadly, while remaining adaptable to prioritize industries of strategic importance as global economic dynamics shift. Strategically, the FSR underpins the EU's objectives for strategic autonomy and economic resilience. By managing foreign subsidies, it enhances Europe's control over its strategic sectors, aligning with the EU's long-term vision of maintaining a competitive stance in a multipolar global environment.

In conclusion, the FSR is a foundational tool in the EU's efforts to safeguard its internal market from distortive foreign subsidies. Through rigorous enforcement, it seeks to maintain fair competition, protect key industries, and support Europe's long-term economic security. As the regulation matures and guidance is refined, the FSR will continue to strengthen the EU's strategic autonomy, fostering a resilient economy that remains open to trade yet robust in the face of external influences.

*

The views expressed in this White Paper are solely those of the author(s) and do not necessarily reflect, nor can they be attributed to, the panel members, chair, or any other participant in CFIS 24, or the CELIS Institute. This document represents the discussions as recorded and interpreted by the panel sherpa.

Panel members were Daniela Mariotti (Director Corporate Legal Counsel, Competition Law, Infineon Technologies, München), Jani Ringborg (Economic Policy Advisor, European Commission Representation in Finland, Helsinki), and Pierre-Eliott Rozan (Head of the Trade Policy, Strategy, and Coordination Office, French Treasury, Paris). The Panel was chaired by Max Klasse (Partner, Blomstein, Berlin). Panel Sherpa was Dominika Pietkun (CELIS Institute).

* * *

The CELIS Institute is an independent non-profit, non-partisan research enterprise dedicated to promoting better regulation of foreign investments in the context of security, public order, and competitiveness. It produces expert analysis and fosters a continuous trusting dialogue between policymakers, the investment community, and academics. The CELIS Institute is the leading forum for studying and debating investment screening policy.

The CELIS Institute enjoys the status of charitable enterprise under German law.

www.celis.institute