



# Webinar - Towards a European Economic Sovereignty?

1 December 2020 – 120 minutes  
16.30 GMT/17.30 CET/11.30 Eastern US

**KING'S**  
*College*  
**LONDON**

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# Today's Program



Introductions



Presentations



Questions & Answers  
(note: please use chat  
function for questions  
during the session)

# Panelists



Prof Andrea Biondi,  
King's College London



Christof Schoser,  
European Commission



Dr Luca Rubini,  
University of  
Birmingham



Elisabetta Righini,  
Latham & Watkins



Prof Renato Nazzini,  
King's College London,



Prof Christopher  
Yukins, GW Law



Michael Bowsher QC,  
Monkton Chambers &  
King's College London



Alexander Rose, DWF

# Agenda

- Welcome from Chairman – Professor Andrea Biondi (0:00-0:05)
- Christof Schoser, DG Competition, European Commission - The White Paper: where are we now? (:05-:20)
- Dr Luca Rubini, University of Birmingham - Module 1 - The White Paper and its relationship with WTO rules (:20-:35).
- Elisabetta Righini, Latham & Watkins, Module 1 - The White Paper and State Aid law (:35-:50)
- Professor Renato Nazzini, King's College London, - Module 2 The White Paper and competition law (:50-1:05)
- Professors Christopher Yukins, GW Law and Michael Bowsher QC, Monckton Chambers and King's College London - Module 3 The White Paper and Public Procurement (1:05-1:20)
- Alexander Rose, DWF -The white paper and its impact on the EU-UK negotiations (1:20-1:35)
- Christof Schoser, DG Competition, European Commission – Closing Remarks (1:35-1:45)
- Audience Questions/Discussion (1:45-2:00)



## Welcome

Program Chairman –  
Professor Andrea Biondi,  
King's College London,  
The Centre of European Law

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Christof Schoser,  
DG Competition,  
European Commission –  
The White Paper: where  
are we now?



# White Paper

## on levelling the playing field as regards foreign subsidies - Where are we now?

1 December 2020

Webinar by Kings College and  
George Washington University

*Taskforce foreign subsidies  
DG Competition*

# Purpose and problem definition



**Objective:** Ensure level playing field

- State aid control in the EU, but no control of foreign subsidies
- Instances of foreign subsidies impacting the internal market

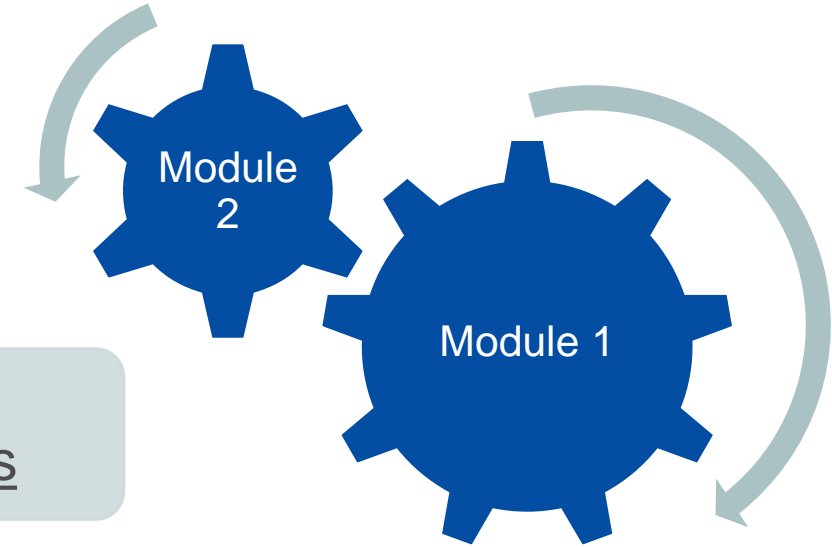
## Gap analysis

- Competition instruments, trade policy and public procurement rules do not adequately tackle distortions that foreign subsidies can cause in the internal market

What are ‘**foreign subsidies**’?

- Definition of foreign subsidies similar to trade defence instruments
- No distinction as to third country, sector or ownership of company

# Overview of modules



## Module 1

- Addresses foreign subsidies creating distortions in general market situations

## Module 2

- Addresses foreign subsidies facilitating the acquisition of EU targets

## Module 3

- Addresses foreign subsidies creating a distortion in a public procurement procedure

## EU funding

- Addresses foreign subsidies in relation to access to EU funding

# Module 1 – General market situations

## Procedure (*ex officio*)



## Assessment

- Categories of subsidies most likely to be distortive
  - e.g. export subsidies, unlimited State guarantees
- If no category, assessment based on a number of indicators
  - Relating to type of subsidy, beneficiary and market concerned

**EU interest test** - positive impact of action / public policy interest

- (e.g. climate neutrality, digital transformation, environmental protection)

**Redressive measures** – redressive payments if effective / structural remedies

**Supervisory authority** – shared between Commission and MS

# Module 2 – Acquisitions of EU targets

## Procedure (*ex-ante*)

Notification based on  
thresholds/qualitative criteria  
– preliminary review



In-depth investigation if  
concerns confirmed

## Acquisition

- direct/indirect control, % of shares or voting rights, ‘material influence’

## EU ‘target’

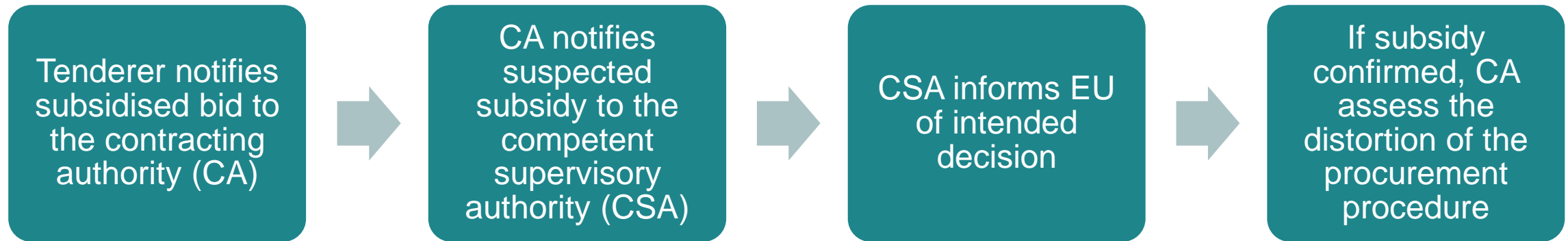
- company established in the EU
- Question of turnover thresholds and/or qualitative criteria
- Module 1 as ‘safety net’ for module 2

**Redressive measures** - redressive payments if effective / structural or behavioural remedies / prohibition of the acquisition if no other remedy

**Supervisory authority** - exclusive or shared competence

# Module 3 – Public procurement

## Procedure



- Public procurement procedure may be concluded if a non-subsidised bid wins.
- If the (potentially) subsidised bid wins, need to wait for assessment of subsidy

**Redressive measures:** Exclusion from the public procurement procedure and possibly also future procedures

# General feedback from public consultation

- Large majority of respondents agree with:
  - identification of legal gap
  - general need to take legislative action
- Concerns about:
  - administrative burden
  - need for legal certainty, need to clearly define proposed concepts and criteria
  - interplay with existing legislation and international obligations

# Outlook

- Impact assessment on-going
- Legislative proposal in first half 2021





Dr Luca Rubini,  
University of  
Birmingham –  
Module 1 – The White  
Paper and its  
relationship with WTO  
rules

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# Points

- Module 1: general comments
- WTO law: non-discrimination
- WTO law: pre-emption?
- The bigger picture, aka “what has changed since 17<sup>th</sup> July 2020?”

# Module 1: general comments

- Tackle foreign subsidies inasmuch as they cause distortions in the internal market
- Lack of conceptual clarity on distortions
- Assessment: indicators (taken from State aid law), no methodology
- EU interest

# Module 1 and WTO law: non-discrimination

- EC continuously reassures goal of WP (and Module 1) is simply to level playing field (not tip it in favour of EU companies)
- Ensure that regulation of 'foreign subsidies' is substantially comparable and linked to disciplines of similar measures (i.e. State aid) in the EU
- WTO law prohibits 'treatment no less favourable' of foreign goods/services/service supplier *vis-à-vis* domestic goods/services/services suppliers (see Article III GATT/Article XVII GATS)
- **Question:** will it be always possible to regulate 'foreign subsidies' similarly to 'EU state aid'?

# Module 1 and WTO: pre-emption

- Argument that WTO law pre-empts EU law to provide for a 'specific action against a subsidy of another Member'
- Article 32.1 WTO ASCM: 'No specific action against a subsidy of another Member can be taken except in accordance with the provisions of GATT 1994, as interpreted in this Agreement' (*US – 1916 Act; US – Byrd Amendment; EC – Commercial Vessels*)

# Are we talking of the same thing?

- 'The definition of subsidy according to the SCM Agreement by and large coincides with the definition of a subsidy set out in the annex ...' (White Paper, section 6.5; see also Annex I) [NB: spirit is EU State aid law]
- If this is so, how do you square any proposed instrument regulating foreign subsidies?
- Aren't these 'specific action against a subsidy of another Member'?

# Maybe not the exact same thing ...

- WTO definition covers only subsidies granted 'within the territory'
- Annex I WP: "Foreign subsidies would fall under any new legal instrument only insofar as they directly or indirectly cause distortions within the internal market. The current definition covers (i) foreign subsidies granted directly to undertakings **established in the EU**; (ii) foreign subsidies granted to an undertaking **established in a third country** where such subsidy is **used by a related party established in the EU**; and (iii) foreign subsidies granted to an undertaking **established in a third country** where such a subsidy is **used to facilitate an acquisition** of an EU undertaking or participated in public procurement procedures."
- **Key question:** what is a 'third country'? (includes 'granting government'?)

# Unilateralism!

- Leaving legality issues aside, the biggest problem of the WP is that it wants to solve a global problem unilaterally
- Possible downsides are known: international frictions, tit-for-tat (challenges against EU State aid?), further protectionism etc
- Plurilateral/multilateral action would be better
- But geo-political conditions were not really there in June 2020 but ...

**INCEPTION IMPACT ASSESSMENT**

<b>TITLE OF THE INITIATIVE</b>	Commission proposal(s) for Regulation(s) of the European Parliament and the Council to address distortions caused by foreign subsidies in the internal market generally and in the specific cases of acquisitions and public procurement
<b>LEAD DG (RESPONSIBLE UNIT)</b>	DG COMP, A5.TF and DG GROW, G.1
<b>LIKELY TYPE OF INITIATIVE</b>	Regulation(s)
<b>INDICATIVE PLANNING</b>	Q2 2021
<b>ADDITIONAL INFORMATION</b>	<a href="https://ec.europa.eu/competition/international/overview/foreign_subsidies.html">https://ec.europa.eu/competition/international/overview/foreign_subsidies.html</a>

**B. Objectives and Policy options**Option 3: addressing foreign subsidies through international rule-making

This option involves addressing foreign subsidies at their source by strengthening international rules for the granting of subsidies. It involves two main tracks: First, develop more comprehensive provisions on subsidies at multilateral level, especially in the Subsidies and Countervailing Measures Agreement of the World Trade Organization rulebook. Second, develop more comprehensive provisions on subsidies in future bilateral trade agreements.

EU foreign policy

## EU proposes fresh alliance with US in face of China challenge

Brussels draft plan seeks to rebuild ties with common fronts on tech, Covid-19 and democratic interests



The draft policy proposals, entitled 'a new EU-US agenda for global change', includes an appeal for the EU and US to bury the hatchet on persistent sources of transatlantic tension © John Thys/AFP

Sam Fleming, Jim Brunsten and Michael Peel in Brussels YESTERDAY

The EU will call on the US to seize a “once-in-a-generation” opportunity to forge a new global alliance, in a detailed pitch to bury the tensions of the Trump era and meet the “strategic challenge” posed by China.

A draft EU plan for revitalising the transatlantic partnership, seen by the Financial Times, proposes new co-operation on everything from digital regulation and tackling the Covid-19 pandemic to fighting deforestation.

It proposes the EU and US join forces to shape the digital regulatory environment, including by adopting common approaches to antitrust enforcement and data protection, co-operating on screening of sensitive foreign investments, and working together to fight threats such as cyber-hacking.

The paper, produced jointly by the commission and the EU’s high representative for foreign policy, is expected to be submitted for endorsement by national leaders at a meeting on December 10-11. It suggests an EU-US Summit in the first half of 2021 as the moment to launch the new transatlantic agenda.

# In conclusion

- WP has the distinct value of highlighting clear gaps in international law (more than EU law)
- It is there that action should now follow, not unilaterally by the EU
- Perhaps, the political conditions are changing (but, hey, don't forget to involve China too: you cannot legislate *against* them!)



Elisabetta Righini, Latham & Watkins,  
Module 1 - The White Paper and State Aid law

# Module 1 - *What It Covers*

- Module 1 focuses on a legal framework that would allow the Commission and the National Competition Authorities (NCAs) to initiate a preliminary review based on information indicating that a foreign subsidy has been granted to a beneficiary active in the EU (Phase I).
- If the Phase I review gives rise to concerns that (i) a foreign subsidy was granted (ii) that may lead to distortion in the internal market, the competent authority could launch an in-depth investigation (Phase II).

# Module 1 - *What It Covers*

- The White Paper lists certain categories of foreign subsidies likely to create distortions (rebuttable presumptions), including subsidies:
  - Subsidies in the form of export financing, unless the export financing is provided in line with the OECD Arrangement on Officially Supported Export Credits
  - Subsidies that are in law or in fact contingent upon the use of goods or services of the subsidizing country over the use of EU goods (so-called national content rule)
  - Subsidies to ailing undertakings unless there is a restructuring plan leading to the long-term viability of the beneficiary (excluding COVID-19 or others to remedy a serious disturbance of the economy)
  - Subsidies whereby a government guarantees debts or liabilities of certain undertakings without any limitations as to the amount and the duration
  - Operating subsidies in the form of tax reliefs, outside general measures
  - Subsidies directly facilitating an acquisition

# Module 1 - *What It Covers*

- For all other subsidies, the White Paper sets out a non-exhaustive list of indicators that may be used for determining a distortive effect.
- The indicators include
  - the size of the subsidy,
  - the situation of the beneficiary,
  - the situation on the market concerned,
  - the market conduct in question, and
  - the beneficiary's level of activity in the internal market.

# Module 1 - *What It Covers*

- Once it is established that a foreign subsidy has the potential to distort the internal market, the market distortion must be balanced against the positive impact the foreign subsidy might have within the EU regarding jobs, environmental considerations, digital transformation, etc. (the-so called EU interest test).
- If the EU interest test shows that the positive impact mitigates the distortion in the internal market, the investigation ends without any measures imposed.
- Otherwise, the competent authority can impose measures to redress the distortions if the beneficiary does not offer adequate commitments.
- In line with EU State aid rules, foreign subsidies not exceeding the *de minimis* threshold of €200,000 granted over a consecutive period of three years are presumed not to cause any distortions in the internal

# Module 1 - *Challenges*

- **Unilateralism:** from WTO in the 1990s, to regional agreements in the 2000s and bilateralism in 2010s to unilateral imposition of redress measures in the 2020s?
- **Defensive interests:** EU is only jurisdiction with subsidies control – what if third countries where using same tool against our companies?
- **Information-gathering process:** EC has no powers to force third countries to disclose evidence. Already MIT do not really work in State aid. How will evidence be gathered?
- **Why shared competence with national authorities?** The Commission and the Member States could be granted parallel powers to enforce Module 1 (comparable with antitrust law enforcement), with an exclusive competence for the Commission regarding the application of the EU interest test. Both State aid control and trade are within EU exclusive competence. Why weaken this with a role for national authorities?

# Module 1 - *Challenges*

- **Rights of alleged beneficiaries:** The role of procedural rights (e.g., access to file and right to be heard) of beneficiaries and complainants will have to be well-defined. Access to judicial review at both the EU and national levels also have to be clarified, including the responsible courts and single or multiple legal tests on admissibility, grounds for annulment, and the level of judicial review for appeals against various actions, including:
  - Decisions opening an in-depth investigation
  - Fines and periodic payments for lack of cooperation during the investigation
  - Violation of commitments
  - Redressive measures imposed including commitments.



Professor Renato Nazzini,  
King's College London -  
Module 2 - The White  
Paper and competition  
law

# Scope of Module 2

- Foreign subsidies facilitating the acquisition of EU targets
- Acquisition
  - direct or indirect acquisition of control, or
  - acquisition, directly or indirectly, of a specific percentage of the shares or voting rights or of material influence on an undertaking
- EU Target - any undertaking established in the EU and meeting certain thresholds in the EU
  - assets likely to generate a significant EU turnover in the future
  - value of transaction
  - turnover, eg EUR 100 million
- Planned acquisitions of an EU target where a party has received a financial contribution by any third country government in the previous three calendar years or expects such a contribution in the year following closing of the transaction

# Financial contribution

- Financial contribution NOT foreign subsidy – see Annex 1
- Any transfer of value by a government or any public body of a non-EU State, eg
  - the transfer of funds or liabilities (capital injections, grants, loans, loan guarantees, fiscal incentives, setting-off of operating losses, compensation for financial burdens imposed by public authorities, debt forgiveness or rescheduling)
  - foregone or not collected public revenue, such as preferential tax treatment or fiscal incentives such as tax credits
  - the provision of goods or services or the purchase of goods and services

# Procedure

- Commission or 27 Member States or both?
- Filing obligation - standstill
- Sanctions for “gun jumping”: fines and/or unwinding of the transaction
- Classic phase 1 + phase 2 structure
- Outcomes
  - unconditional clearance
  - conditional clearance
  - prohibition

# Remedies

- Behavioural or structural
  - divestment of certain assets, reducing capacity or market presence
  - FRAND obligations
  - publication of R&D results to allow third parties to benefit from them



# Substantive test

- Avoiding distorting the level playing field with regard to investment opportunities in the internal market
- “... a competent supervisory authority would need to show that an acquisition would be facilitated by a foreign subsidy as well as the resulting distortion of the internal market”
- Object test: foreign subsidies directly facilitating acquisitions would normally be considered to distort the internal market
- Effect test: subsidies that reinforce the financial position of the acquirer but are not directly granted for the purposes of the acquisition
  - size of the subsidy
  - market position of Target or Acquirer
  - market situation – excess capacity, concentration, fast-growing tech markets
  - level of activity of Target in internal market compared to global scale of activity
  - whether there are other bids
- EU interest test

## Can the system be sufficiently clear and administrable?

- Need to define too many vague concepts
- Effect test + EU interest test highly discretionary
- Deferential judicial review
- Are we in the realm of law or rather of geo-political warfare + local protectionism and industrial policy?

# Will the additional costs be justified by the benefits?

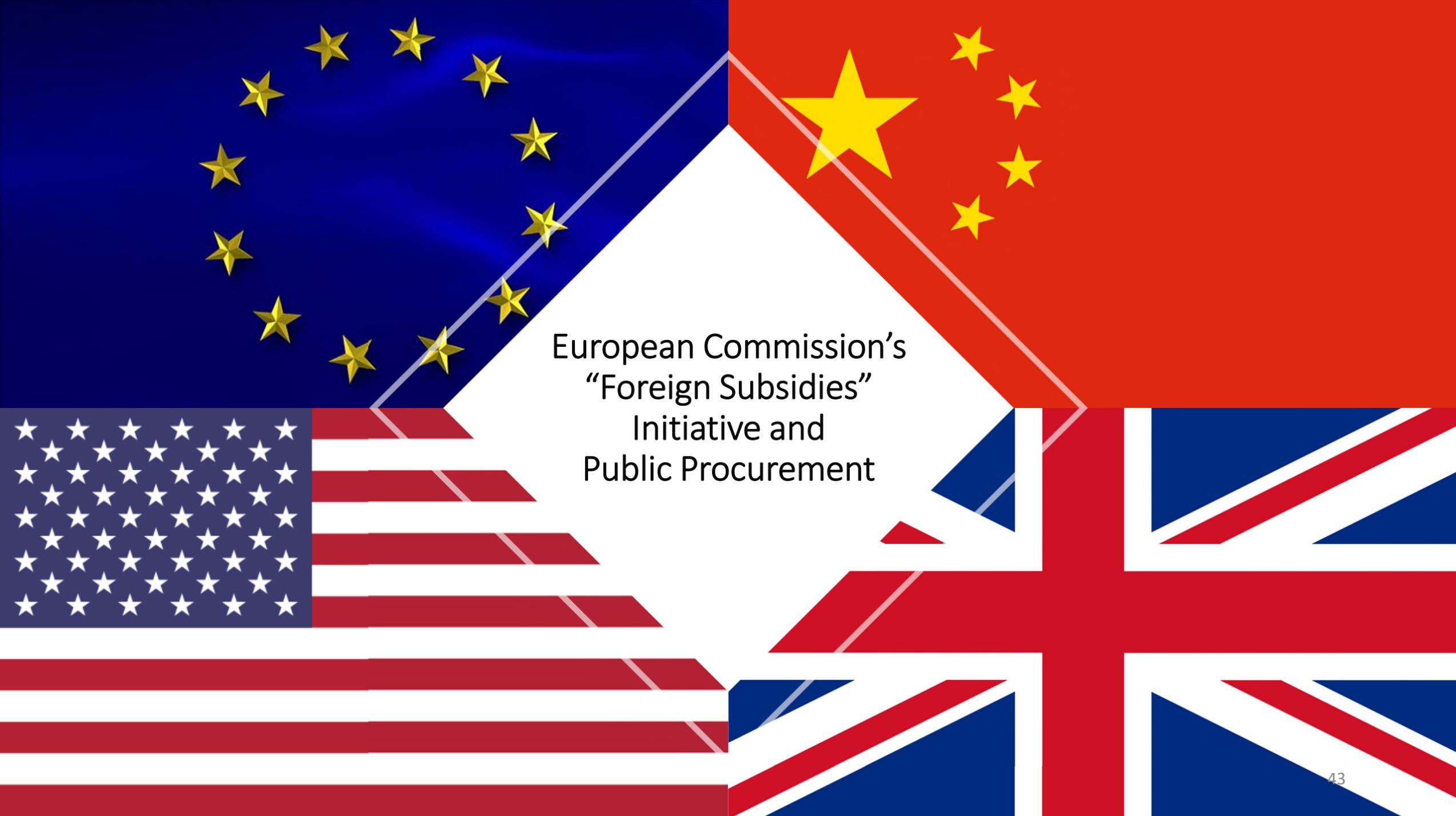
- Raising costs/risks of acquiring EU Targets
- Discouraging potentially efficient acquisitions
- Significant impact in auctions
- Need to design as efficient and streamlined a procedure as possible
  - EU merger control experience does not give us much hope
- Would power to call in transactions + voluntary filing be a better option?

# Will this fix the problem?

- If concern is distortive effect of the foreign subsidy on the market on which the EU Target operates, would Module 1 not be enough?
- If the concern is distortive effect on the market for capital, then only remedies are prohibition or repayment of the subsidy
- Perhaps limiting the instrument only to the object test – subsidies directly linked to the acquisition – could be a better option?



Professors Christopher Yukins, GW Law and Michael Bowsher QC, Monckton  
Chambers and King's College London –  
Module 3 - The White Paper and Public Procurement



European Commission's  
“Foreign Subsidies”  
Initiative and  
Public Procurement

# European Commission – “Foreign Subsidies” Initiative

- **White Paper - Comments closed**

- **Module 1** proposes a general market scrutiny instrument to capture all possible market situations in which foreign subsidies are provided to beneficiaries in the EU and may cause distortions in the Single Market.
- Module 2 is intended to specifically address distortions caused by foreign subsidies facilitating acquisition of EU companies.
- **Module 3 addresses the harmful effect of foreign subsidies on EU public procurement procedures.**
- Finally, the White Paper sets out the option to review foreign subsidies in the case of applications for EU financial support.



Brussels, 17.6.2020  
COM(2020) 253 final

## **WHITE PAPER**

**on levelling the playing field as regards foreign subsidies**

# Commission's core assertions

- In today's intertwined global economy, foreign subsidies can however distort the EU internal market and undermine the level playing field. There is an increasing number of incidences in which foreign subsidies appear to have facilitated the acquisition of EU undertakings, influenced other investment decisions or have **distorted the market behaviour of their beneficiaries**. Within the EU, the single market and its rule book ensure a level playing field for all Member States, economic operators and consumers so they can benefit from the scale and opportunities of the EU economy.
- **The single market rule book also includes rules on public procurement in order to ensure that undertakings benefit from fair access to public contracts, and that contracting authorities benefit from fair competition.**



# Commission's core goal: Impose EU "State Aid" Rules on Foreign Firms

"EU State aid rules help to preserve a level playing field in the internal market among undertakings with regard to subsidies provided by EU Member States. However, there are no such rules for subsidies that non-EU authorities grant to undertakings operating in the internal market."



Brussels, 17.6.2020  
COM(2020) 253 final

## **WHITE PAPER**

**on levelling the playing field as regards foreign subsidies**



# Commission's Goal -- Procurement

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- **The EU procurement markets are largely open to third country bidders.** EU-wide publication of tenders ensures transparency and creates market opportunities for EU and non-EU companies alike. However, EU companies do not always compete on an equal footing with companies benefiting from foreign subsidies. **Subsidised companies may be able to make more advantageous offers, thus either discouraging non-subsidised companies from participating in the first place or winning contracts to the detriment of non-subsidised more efficient companies.** It is therefore important to ensure that recipients of foreign subsidies bidding for public contracts in the EU compete on an equal footing.



# Commission concedes procuring entities' posture

- In practice public buyers **do not have the information necessary to investigate** whether bidders benefit from foreign subsidies or to assess to what extent the subsidies have the effect of causing distortions in procurement markets. **Public buyers may also have a short-term economic incentive to award contracts to such bidders**, even if the low prices offered result from the existence of foreign subsidies.



# Public Procurement: The Current Situation

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- A patchwork of measures that are neither coherent nor frequently used
- See Guidance on the participation of third country bidders and goods in the EU procurement market  
[https://ec.europa.eu/growth/content/new-guidance-participation-third-country-bidders-eu-procurement-market\\_en](https://ec.europa.eu/growth/content/new-guidance-participation-third-country-bidders-eu-procurement-market_en)
- Core examples
  - Utilities Sector: Article 85 of Directive 2014/25/EU provides for (i) exclusion of tenders in which more than 50% of the proposed products would come from “third countries” defined as those with no relevant multilateral or bilateral agreement with the EU and (ii) price preference for EU bids against third country bids where the prices are less than 3% apart
  - Abnormally Low Tenders: under all EU regimes purchasers are required to consider rejection of bids that are abnormally low



# Module 3:

## Public Procurement

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- This module ensures that foreign subsidies can be addressed in individual public procurement procedures.
- EU public buyers **would be required to exclude from public procurement procedures those economic operators that have received **distortive** foreign subsidies.**
  - This new ground for exclusion could apply both to the procedure in question but **may also lead to exclusion from subsequent procurement procedures**, provided that certain conditions are met.
  - Foreign subsidies in procurement may give rise to a distortion of the procurement procedure either directly, by explicitly making a link between the subsidy and a given procurement project or indirectly, by de facto increasing the financial strength of the recipient. Where this enables the recipient to submit an offer that would otherwise – without the subsidy – be economically less sustainable, **especially in case of bidding significantly below market price or below cost, a distortion may be presumed.**
- The scope of this ground for exclusion **will be defined in the light of the EU's international obligations under the WTO Government Procurement Agreement (GPA) and various bilateral agreements** providing for access to the EU procurement market.

# Module 3 – Procedure – Self-Notification and Competitors

- Economic operators participating in public procurement procedures, **would have to notify to the contracting authority when submitting their bid whether they, including any of their consortium members, or subcontractors and suppliers have received a financial contribution within the meaning of Annex I**
  - **Annex I: A “foreign subsidy” refers to a financial contribution by a government or any public body of a non-EU State . . . which confers a benefit to a recipient . . . and which is limited, in law or in fact, to an individual undertaking or industry or to a group of undertakings or industries.**
- Self-assessment carries a significant risk of error and of deliberate circumvention by economic operators, as they may not be aware of the existence of a financial contribution or unwilling to disclose their existence to the contracting authorities.
  - Third parties and competitors are therefore entitled to inform the contracting authority that a notification should have been made in the procedure. These submissions have to be substantiated and provide prima facie evidence for the necessity of notification.

The image shows the European Union flag, which consists of a blue field with twelve yellow five-pointed stars arranged in a circle. The flag is positioned on the left side of the slide, partially cut off by the edge.

# Redressive Measures

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- If the **supervisory authority . . . confirms that the economic operator has received a foreign subsidy, the contracting authority would determine whether that subsidy has distorted the public procurement procedure.**
- If so, it **will exclude this economic operator** from the ongoing procurement procedure.
- It may also be **envisaged to introduce an exclusion of such economic operator from future procurement procedures for a maximum of [3] years.** During that period, the economic operator will have the opportunity demonstrate that it no longer benefits from a distortive foreign subsidy when participating in a public procurement procedure and in this case it can participate in future procurement procedures.
- The decision would be subject to remedies.

A proposal for a regulation is expected  
in Spring 2021.



# Issues Raised in Consultation on Module 3

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- The majority of Member State respondents agreed with the Commission's analysis and favour legislative measures – but some did not. Indeed some disagree with the premise that foreign subsidies have a negative effect on public procurement.
- Member States seem to have been generally concerned that purchasers could not and should not be responsible for assessment of distortions. Reasons include
  - Lack of capacity and expertise
  - Excessive administrative burden on procurement
  - Risks of impact on impartiality
  - Inefficiency



# Following on from Consultation

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- Inception Impact Assessment contemplating introduction of Regulation in 2<sup>nd</sup> Quarter 2021
- As regards Public Procurement the focus is on Regulatory Gap



Alexander Rose, DWF Law LLP

The impact of the White Paper on the UK-EU negotiations

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## UK – EU Trade Talks Chronology

- 29 March 2017 – UK serves notice to leave EU
- 17 Oct. 2019 – Withdrawal Agreement (including Transitional Period) signed
- 11pm 31 January 2020 – UK leaves EU (under Transitional Period)
- March 2020 - Negotiations for UK-EU trade agreement commence
- October 2020 – “Tunnel” entered
- 1 December 2020 - no deal agreed - snagging points fish, dispute settlement and State aid.
- 11pm 31 December 2020 – Transitional Period to end

# EU White Paper on Foreign Subsidies

*Adoption of an EU foreign subsidies tool is a “maximum priority.”*

Carles Mosso, Deputy Director-General of DG Competition, European Commission.

- 17 June 2020 - White Paper on Foreign Subsidies adopted by European Commission.
  - 17 June – 23 September 2020 – Consultation.
  - Summer 2021 – new regulation expected to be brought forward.
- 
- Makes case why WTO isn't positioned to address this issue;
  - Module 1 similar to EU State aid regime, except in respect of the penalties
  - ex-post system appears to require regulator
  - Questions around implementation / interplay with WTO obligations

## UK Position on subsidies

*“We will restore full sovereign control over our borders and immigration, competition and subsidy rules, procurement and data protection.”*

Boris Johnson, 3 February 2020

*“We will make the case to update the WTO rulebook to tackle underlying trade tensions such as industrial subsidies, state-owned enterprises and forced technology transfer.”*

Liz Truss, UK International Trade Secretary, 3 March 2020

*“The subsidy regime the UK proposes to put in place after we have left the EU will be one that the EU will recognise as a robust system.”*

Michael Gove, Chancellor of the Duchy of Lancaster, 11 March 2020

## UK Position on subsidies

- Pushing for WTO solution to State Owned Enterprises
- Wants to create own system, with minimal Treaty obligations
- Pushing back on request to follow EU State aid or any other detailed subsidy framework, beyond ex-post principles.
- How did the White Paper affect discussions?
  - When it first came out?
  - Now we may have a thin deal or 'no deal'



Christof Schoser,  
DG Competition,  
European  
Commission –  
Closing Remarks

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# Questions & Answers



# Next Webinar – Delivering the Vaccine: Procurement's Challenge

10 December 2020

9 am Eastern / 14:00 GMT / 15:00 CET

Information and Registration:

<https://publicprocurementinternational.com/webinar-delivering-the-vaccine/>

# Conclusion

Program recording will be posted through  
[www.publicprocurementinternational.com](http://www.publicprocurementinternational.com)

# Research Resources



KING'S  
*College*  
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The logo for King's College London is displayed within a red rectangular box. It features the text "KING'S" in a large, white, serif font, with "College" in a smaller, white, italicized serif font below it, and "LONDON" in a white, serif font at the bottom. Two horizontal white lines are positioned below the word "LONDON".

GW

The logo for the George Washington University (GW) Law School is shown. It consists of the letters "GW" in a bold, blue, serif font, centered between two horizontal gold bars.

LAW

# Research Resources

- Recording and materials for this program -- <https://publicprocurementinternational.com/webinar-kcl-gw-ec-white-paper/>
- European Commission, DG Competition, [\*Foreign Subsidies\*](#) page
  - European Commission, *White Paper on Levelling the Playing Field as Regards Foreign Subsidies* (2020)
- Andrea Biondi, Luca Rubini, Michael Bowsher, Christopher Yukins & Gabriele Caravano, [\*Guest Post: “The EU Gives Foreign Subsidies Its Best Shot”: One Take on White Paper on Levelling the Playing Field as Regards Foreign Subsidies\*](#), International Economic Law and Policy Blog (2020)