

Level playing field with State-Owned Enterprises from third countries

Brief description and main aims:

In December 2022, the European Commission's proposal for a "*Regulation on Distortive Foreign Subsidies in the EU Single Market*" aimed at tackling the distortive effects of foreign subsidies in the EU Single Market was adopted. This was the first EU instrument to control subsidies granted by third countries. The regulation entered into force on 12 July 2023.

Under the Regulation, the Commission has the power to investigate financial contributions granted by public authorities of a non-EU country which benefit companies engaging in an economic activity in the EU and redress their distortive effects, as relevant. The instrument has two notification-based tools, including one to investigate bids in public procurements involving a financial contribution by a non-EU government, and a general market investigation tool.

Before that, in June 2022, the "EU international procurement instrument" was adopted. The instrument was aimed at securing reciprocal access to third-country markets for EU countries.

Why FIEC is dealing with this topic:

Over the past decade, an increasing number of public infrastructure projects have been awarded to third country State-Owned Enterprises (SOEs), particularly from China, submitting extremely low prices against which private European companies cannot compete. As such, it is important to look at the possibilities for action the Regulation offers that could potentially help restore a level playing field in the EU Single Market.

On top of that, the EU has opened up its Public Procurement markets to third countries to a large degree, while many other economies have had limited appetite to liberalise market access.

FIEC treats these issues in cooperation with the European International Contractors (EIC) and the European Dredging Association (EuDA). In the summer of 2023, FIEC and its partners provided the European Commission information substantiating a reasonable suspicion of foreign subsidies in a particular market segment, justifying a market investigation. More recently, FIEC, EIC and EuDA have called for a *Trade Defence Instrument* (TDI) for the construction and dredging sectors, arguing that the EU's legal toolbox is insufficient to ensure a level playing field in the internal market.

Actions and key dates:

25/05/2021 - Launch of FIEC's SOEs [interactive map](#) *Third country State-Owned Enterprises in the European procurement market*.

30/06/2022 – The EU *International Procurement Instrument* (IPI) was adopted.

23/12/2022 – The *Foreign Subsidies Regulation* (FSR) was adopted by the European Parliament and the Council. It entered into force on 12 July 2023.

10/07/2023 – The European Commission adopts rules laying down more detailed practical and procedural aspects related to applying the FSR.

14/07/2023 – FIEC, EIC and EuDA call for a market investigation in the construction sector (including dredging) by the European Commission under the FSR (Article 36).

15/02/2024 – FIEC, EIC and EuDA finalise a joint letter highlighting their priorities for the next legislature, including a Trade Defence Instrument (TDI) for construction services.