

Targeted consultation
International Subsidy Policy Group (ISPG) – Summary
13 November 2020

On 13 November 2020, the European Commission discussed the White Paper and outcome of the public consultation with Member States as part of the International Subsidy Policy Group (ISPG). There was general support amongst Member States for taking legislative action in order to tackle the issue of foreign subsidies distorting the internal market. Modules 1 and 2 were generally supported by most Member States, whilst some Member States raised some doubts regarding the viability of Module 3. This Module is found to be more complex and potentially raises concerns when it comes to effective enforcement.

Moreover, Member States commented on the potential implementation of the new instrument. Several Member States shared the view that the Commission would be best placed to assess the EU interest test. Additionally, a number of Member States called for guidance on the interplay of the new instrument with other international obligations. One Member State asked for clarification on the interplay with WTO rules, whilst another Member State requested some guidance on the interplay with the International Procurement Instrument (IPI) that is currently being negotiated. A recurring question concerned the legal basis for the new instrument.

The Commission took note of the different opinions of the Member States and addressed several of the expressed concerns. As for the legal basis, the Commission pointed out that the Inception Impact Assessment set out the possibility of Articles 207 or 114 as possible legal bases. However, the eventual legal basis will depend on the precise proposal for the new instrument. Concerning the interplay with international obligations, the Commission reassured Member States that the planned legislation is intended to comply with international rules. The new instrument will be complementary to existing agreements and other international obligations. With regards to the IPI, the Commission emphasised that the IPI is about opening up public procurement markets in third countries, whereas the White Paper focuses on activities in the internal market. Concerning the compliance with the WTO rules, the planned instrument will focus on trade in services and investment and will not apply to trade in goods.

* * *