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WORKING PAPER

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From: General Secretariat of the Council
To: Working Party on Competition

Subject: Proposal for a Regulation on Foreign Subsidies distorting the Internal Market -
Articles 41-46 and 48

Delegations will find in annex a presentation given by the European Commission during the Working Party meeting on Competition on 2 December 2021, agenda item 2.



Articles 41-46, 48

Proposal for a Regulation on foreign subsidies distorting the internal market

*Competition Council Working Party
Brussels, 2 December 2021*

Overview

- Committee (Article 43) and committee procedure for decisions (Article 41) and implementing acts (Article 42)
- Delegated acts and exercise of delegation (Articles 44, 45)
- Review (Article 46), entry into force and date of application (Article 48)
- Simplified flow-charts of the preliminary and in-depth review in an ex-officio and ex-ante notification procedure

Committee procedure | Articles 41-43

- A Reg 182/2011 committee, under the advisory procedure, assists the Commission in two areas:
- Adopting decisions pursuant to Articles 9, 24(3) and 30
- Adopting implementing acts:
 - Form, content and procedure for the notification of concentrations and public procurement
 - Disclosure
 - Form, content and procedure of transparency requirements
 - Calculation of time limits
 - Conditions and time limits for proposing commitments (Art. 30)
 - Procedures concerning investigations under Chapter 4

Delegated acts and exercise of delegation | Articles 44, 45

- Delegation of powers to Commission under Article 290 TFEU
- Art. 44 empowers the Commission
 - to amend the notification thresholds for concentrations (Art. 18) and for PP procedures (Art. 27) subject to conditions
 - to exempt certain categories of undertakings from the notification obligations for concentrations (Art. 19) and PP (Art. 28) subject to conditions
 - to amend the time limits for procedures on notified concentrations (Art. 24) and notifications in PP (Art. 29)

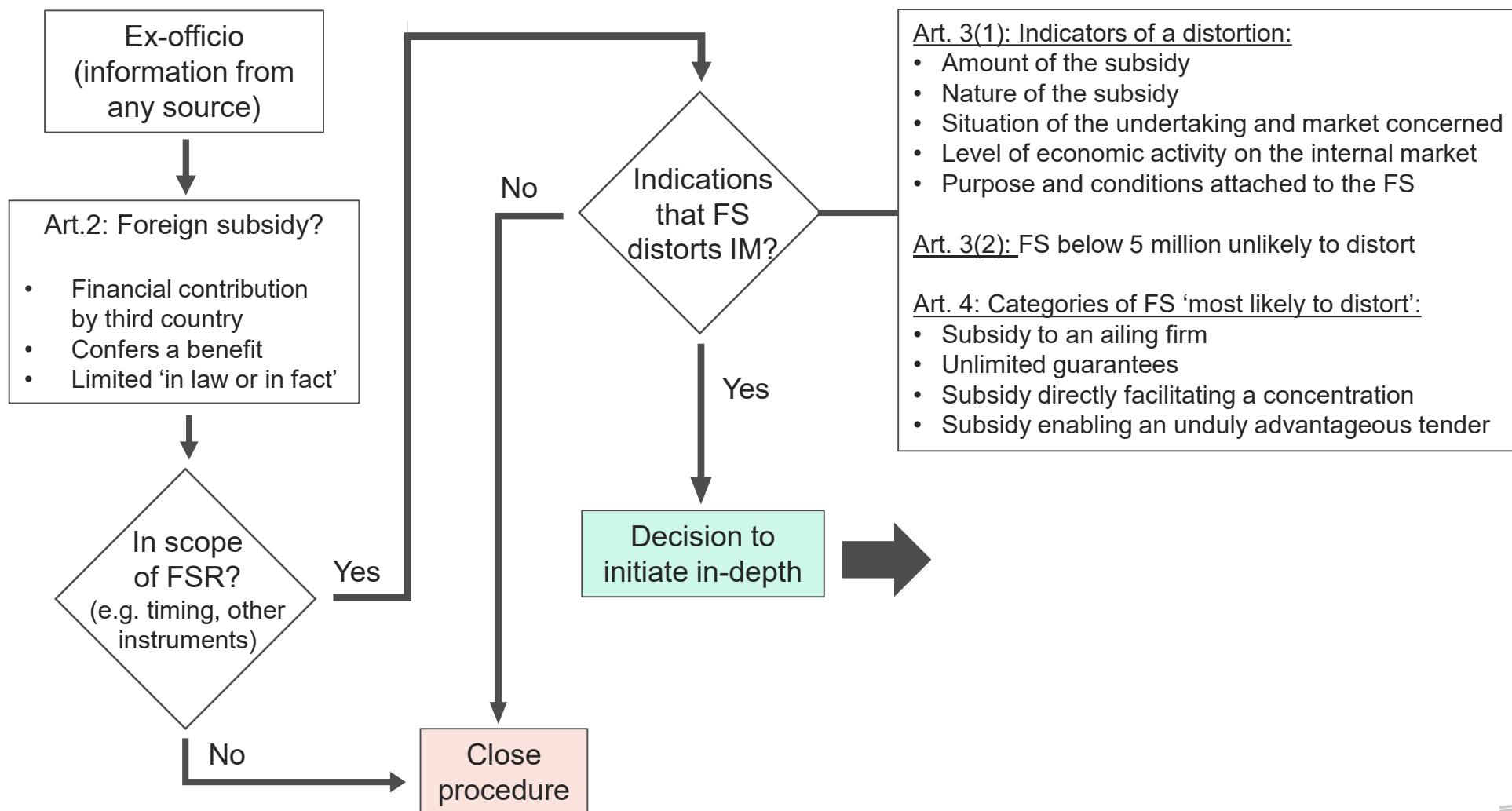
Delegated acts and exercise of delegation | Articles 44, 45

- Powers to adopt delegated acts (Art. 45(1) to (3), recital 48):
 - starts 2 years after entry into force (Art. 45(2))
 - May be revoked at any time by the EP or by the Council (Art. 45(3))
- Preparations and entry into force of delegated acts (Art. 45(4)-(6), recital 48):
 - Prior Consultations of Member States' experts (Art. 45(4))
 - EP and Council receive documents and should have access to Commission expert groups dealing with the preparation of delegated acts (recital 48)
 - Delegated act to be notified to EP and Council (Art. 45(5))
 - Entry into force unless objection of EP or Council (Art. 45(6))

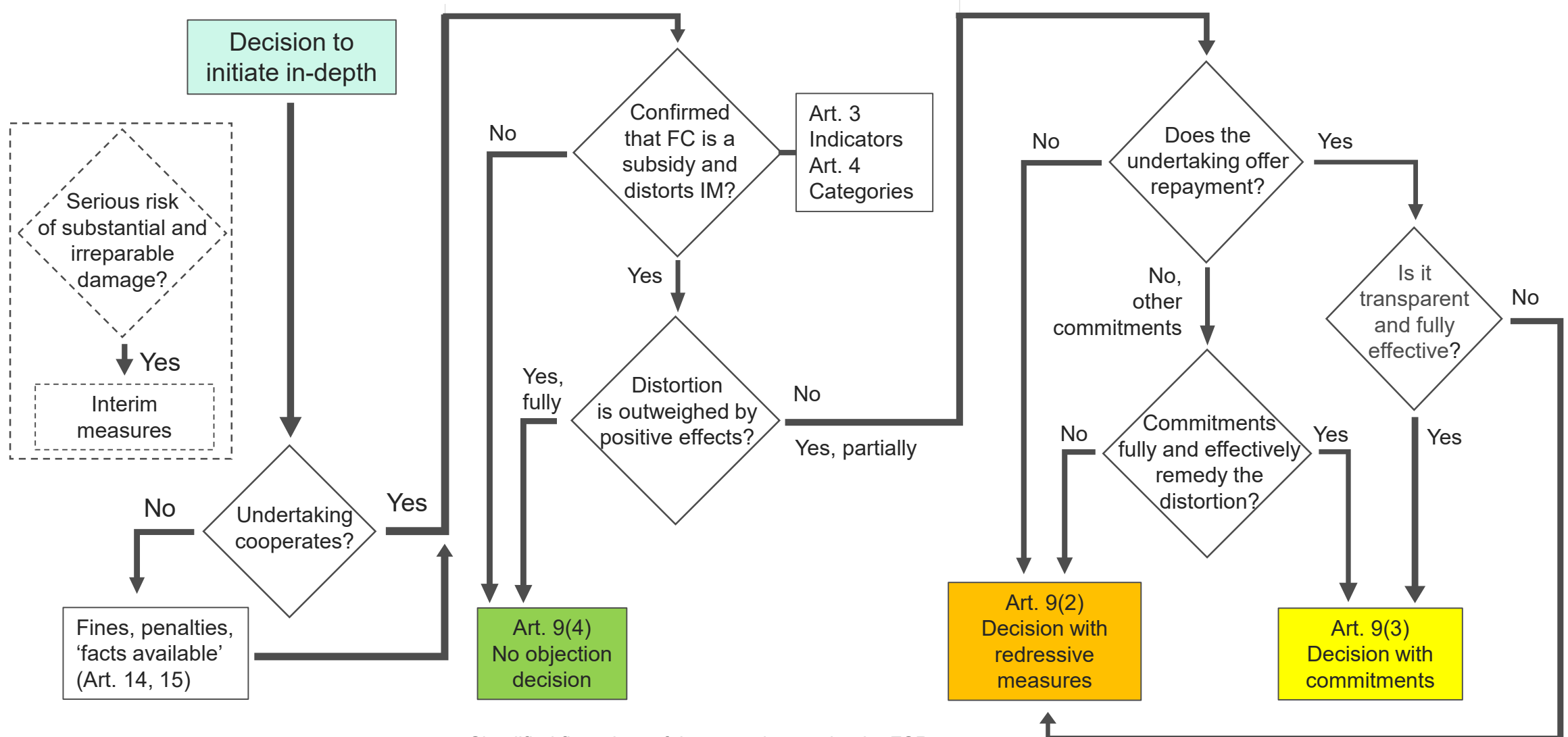
Review, entry into force, date of application | Articles 46, 48

- Art. 46 on reporting and review
 - Commission reports to EP and Council on application of Regulation within five years after its entry into force
 - Where Commission considers it appropriate, report is accompanied by legislative proposals
- Regulation enters into force on 20th day following publication in OJ (Art. 48)
- Regulation starts to apply six months after that date.

Ex officio - Preliminary review

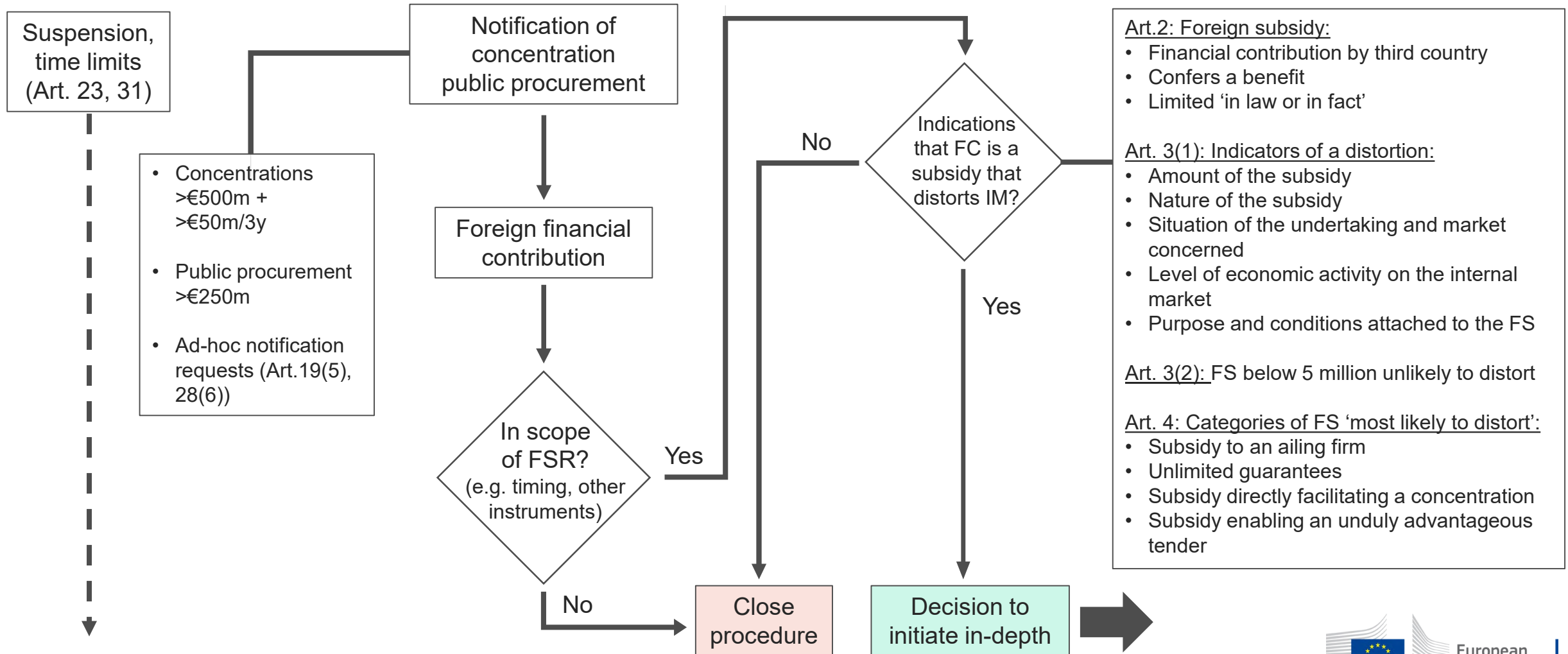


Ex officio - In-depth investigation



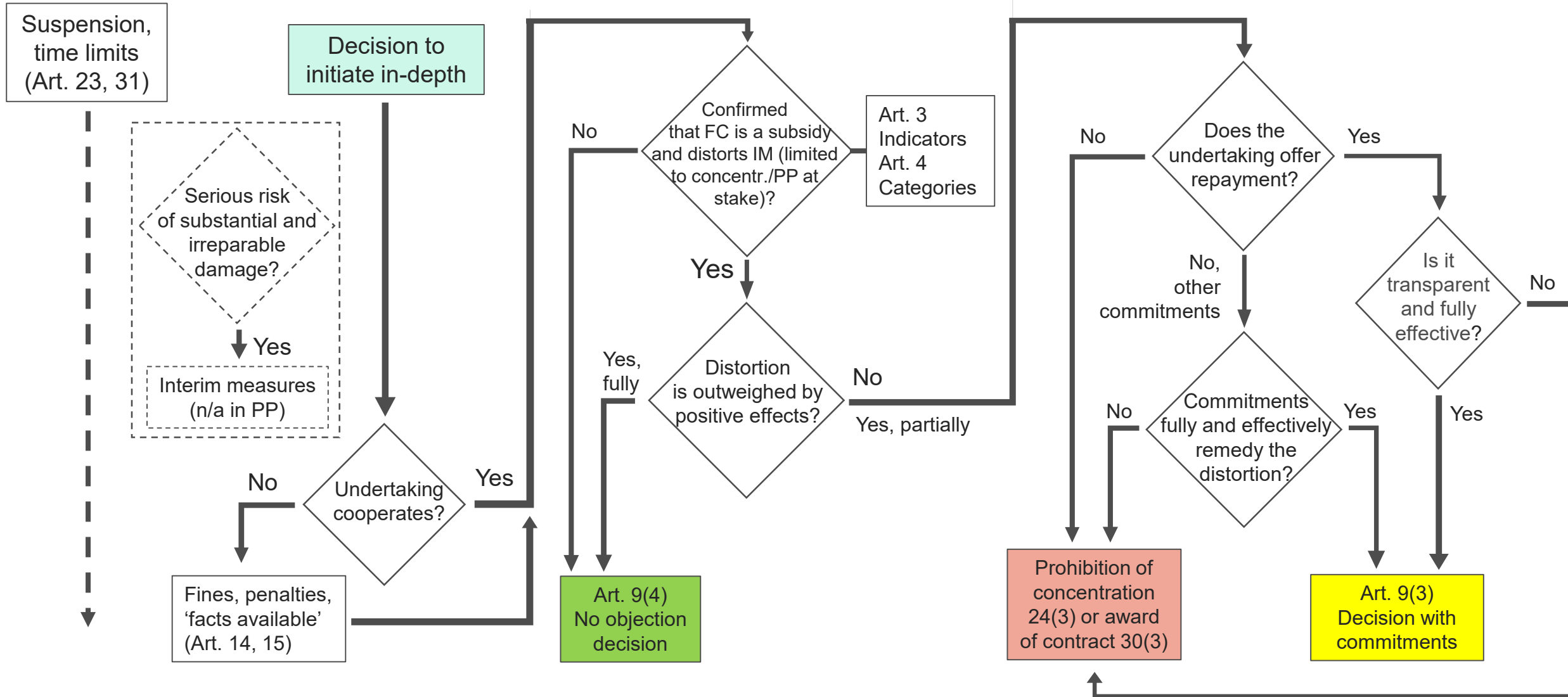
Simplified flow-chart of the procedure under the FSR

Ex ante - Preliminary review



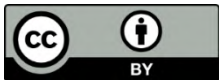
Simplified flow-chart of the procedure under the FSR

Ex ante - In-depth investigation



Simplified flow-chart of the procedure under the FSR

Thank you



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