



The Foreign Subsidies Regulation

Berliner Gesprächskreis zum Europäischen Beihilfenrecht

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Some key concepts

- **A financial contribution**
 - Broad concept, based on WTO and EU State aid rules
- **A distortion of the internal market**
 - Negative effect on competition in the internal market
 - Subsidies that most likely distort the internal market
- **The balancing test**
 - Mirroring the compatibility check under EU State aid control

Recalling the scope

- **Enforcement by the Commission**
 - Mainly through redressive measures and commitments
- **WTO compatibility**
 - Comply with non-discrimination principle
 - No overlap between FSR and ASCM
- **Besides enforcement**
 - Market investigation
 - Third-country dialogue

The Implementing Regulation

- **Notifications**
 - Notification form and procedural details
- **Commission investigations**
 - Procedural details on interviews, confidentiality, etc
- **Rights of defence**
 - Access to file and submission of observations
- **Public consultation**

Main challenges in FSR implementation

- **Maintaining trade and investment flows**
 - Targeting the most distortive subsidies
 - Minimising administrative burden for notifying parties
- **Evidence**
 - Consequences of non-cooperation
 - Information gathering