



# White Paper on levelling the playing field as regards foreign subsidies

International Bar Association

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# Purpose and problem definition

Objective: Ensure level playing field

- State aid control in the EU, but no control of foreign subsidies

Gap analysis

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

Definition of foreign subsidies in the White Paper:

- ‘financial contribution by a government or any public body of a non-EU State’ (e.g. grants, loans, guarantees, tax credits, provision of goods/services, ...), which confers a benefit and is specific.

# Module 1 – General mechanism

## Procedure

Preliminary review  
of a subsidy



In-depth  
investigation if  
concerns confirmed

## Assessment

- Categories of subsidies most likely to be distortive
- Outside categories, assessment based on a number of indicators to assess the distortion
- EU interest test - positive impact of investment/activity, public policy interest

**Redressive measures:** redressive payments if effective; structural or behavioural remedies

**Supervisory authority:** Sharing enforcement powers between Commission and Member States

# Module 2 – Facilitating acquisitions

## Procedure

Notification based on thresholds/qualitative criteria – preliminary review



In-depth investigation if concerns confirmed

EU target: company established in the EU

Acquisition: direct/indirect control, % of shares or voting rights

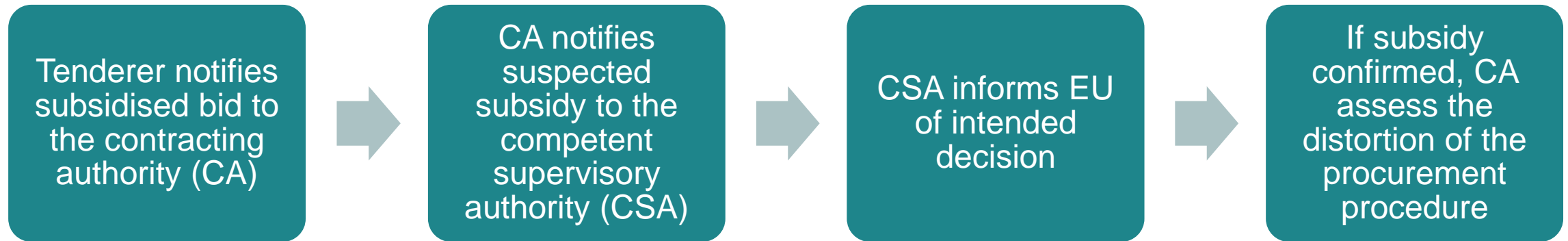
**Assessment:** criteria similar to Module 1

**Redressive measures:** redressive payments if effective; structural or behavioural remedies; prohibition of the acquisition

**Supervisory authority:** exclusive competence of the Commission

# 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