



Council of the European Union  
General Secretariat

**Brussels, 09 July 2021**

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**WK 9127/2021 INIT**

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

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Subject: Proposal for a Regulation on Foreign Subsidies distorting the Internal Market -  
Articles 7 to 13

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Delegations will find in annex a presentation given by the European Commission during the Working Party meeting on Competition on 9 July, agenda item 2.

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# Articles 7 -13

Proposal for a Regulation on foreign subsidies distorting the internal market

*Competition Council Working Party  
Brussels, 9 July 2021*

# Ex officio cases | Overview

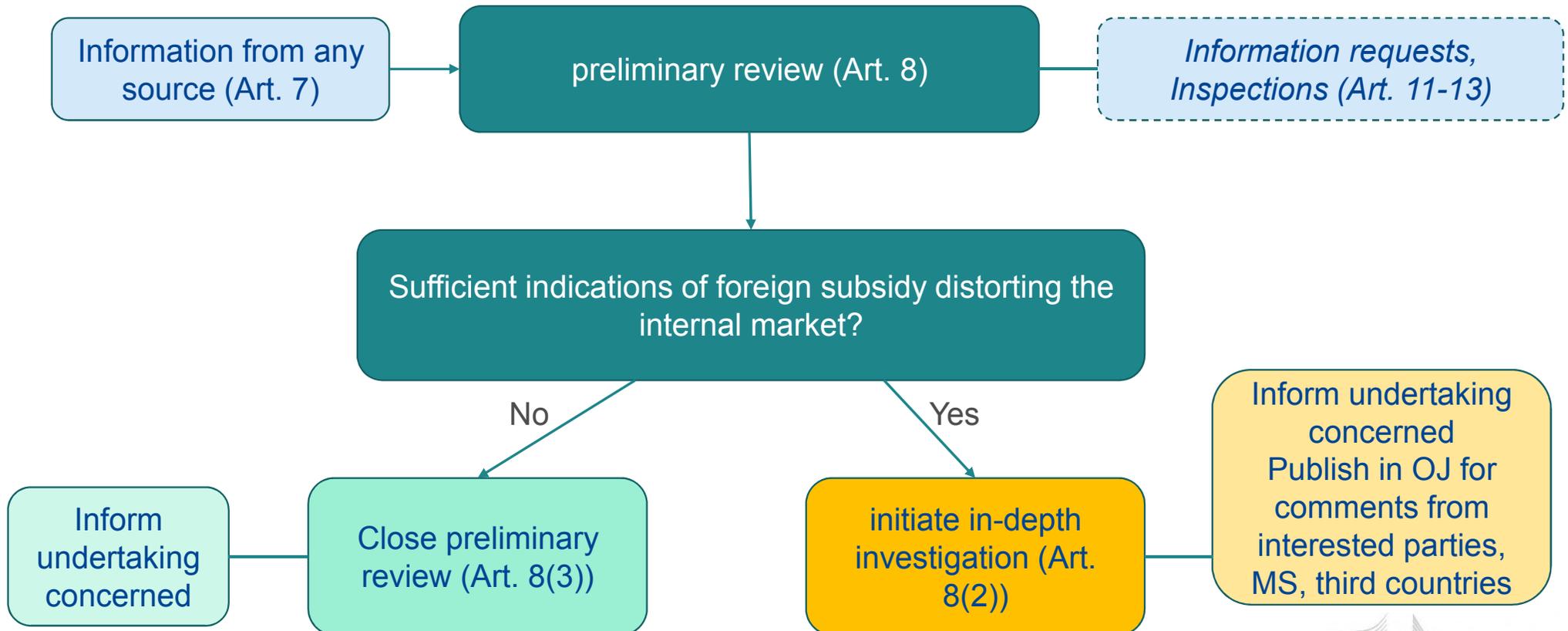
- **Procedure and decision types**

- Ex officio review (Article 7)
- Preliminary review (Article 8) and in-depth investigation (Article 9)
- Interim measures (Article 10)

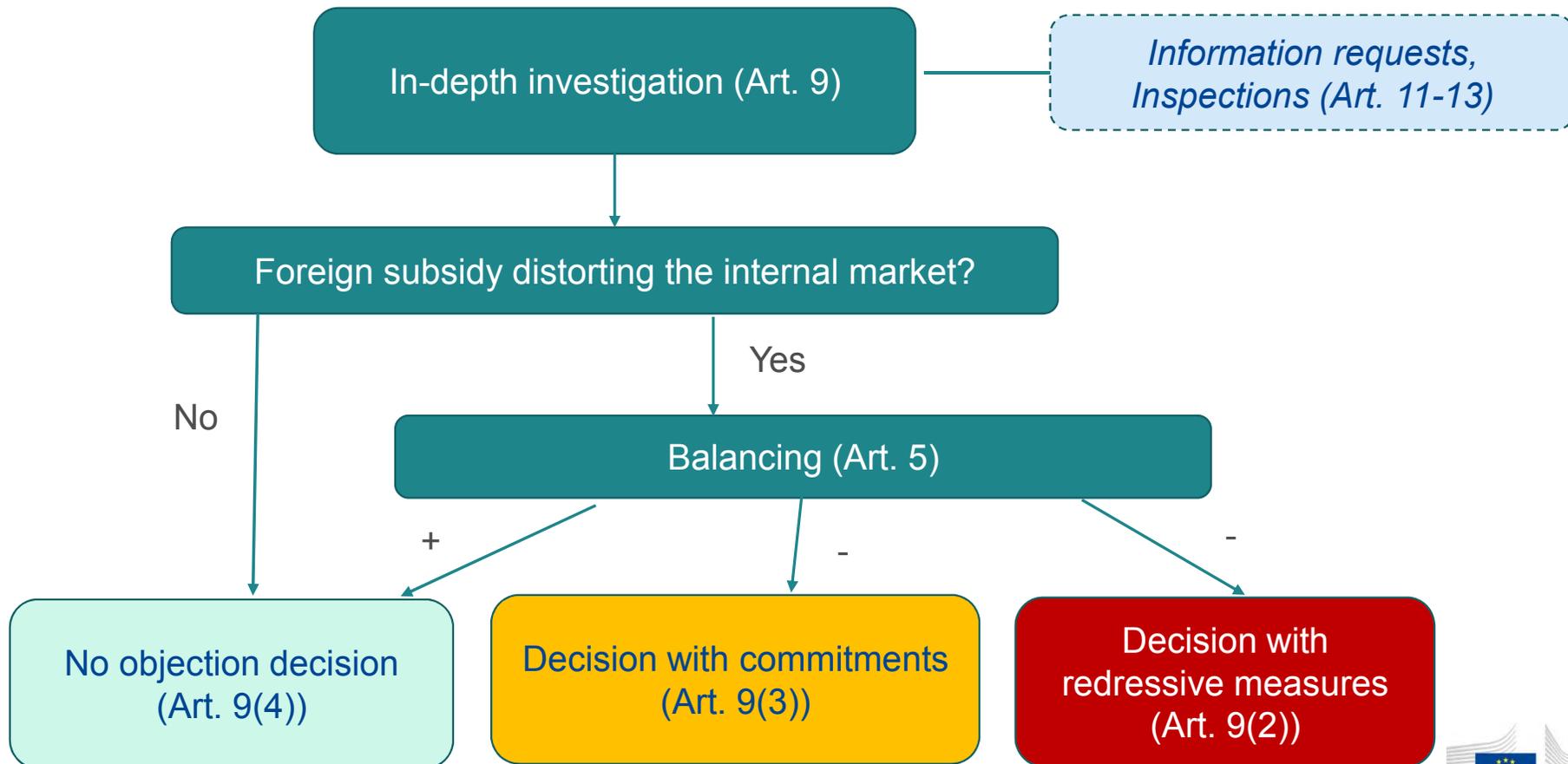
- **Information gathering**

- Information requests (Article 11)
- Inspections (Articles 12 and 13)

# Articles 7, 8 | Preliminary review



# Article 9 | In-depth investigation (1/3)



## Article 9 | In-depth investigation (2/3)

- Decision with redressive measures (Article 9(2))
  - Distortion on internal market
  - Balancing taken into account when determining nature and level of redressive measures
- Decision with commitments (Article 9(3))
  - Distortion on internal market
  - Balancing taken into account when determining nature and level of commitments
  - Accepting repayment – decision with commitments

## Article 9 | In-depth investigation (3/3)

- No objection decision (Article 9(4))
  - No foreign subsidy; or
  - No distortion; or
  - Positive effects outweigh distortion on the internal market

# Article 10 | Interim measures

- Conditions for taking interim measures
  - Indications that foreign subsidy distorts internal market
  - Serious risk of substantial and irreparable damage to competition on the internal market

# Article 11 | Information requests

- May be addressed to
  - Undertaking concerned
  - Other undertakings or associations of undertakings
  - Member States
  - Non-EU country
- Information request
  - sets appropriate time limit
  - informs about consequences of non-compliance

# Article 12 | Inspections within the Union (1/2)

- Necessary inspection of undertakings
- Official shall be empowered to
  - Enter premises and land
  - Examine books and other business records + copies
  - Ask for explanations and record answers
  - Seal business premises, books, records
- Commission decision ordering inspection
  - Subject matter and purpose of inspection
- Informs about consequences of non compliance

## Article 12 | Inspections within the Union (2/2)

- Prior notice to MS concerned
- Officials of MS /authorised or appointed by MS: assist Commission at request of MS or Commission
- Necessary assistance to enable conduct of inspection if undertaking opposes inspection
- MS inspection upon request of Commission

## Article 13 | Inspections outside the Union

- Consent of undertaking concerned
- Third country was notified and agrees to inspection
- Article 12 applies accordingly, but no fines and periodic penalty payments

# Thank you



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