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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL on foreign subsidies distorting the internal market (**first reading**)
- Adoption of the legislative act
= Statements

Joint statement of the European Parliament, the Council and the Commission

The Union remains committed to an open and rules-based multilateral trading system with a modernised WTO at its core and to further enhancing the effectiveness of the multilateral framework on subsidies. It reaffirms its commitment to support the modernisation of the WTO rules to address distortions to trade and to competition. In particular, the Union will engage in modernising rules on industrial subsidies to enhance the proper functioning of the WTO Agreement on Subsidies and Countervailing Measures (ASCM) and to promote compliance and enforcement.

**Statement of the European Commission on clarifications as regards the application of
Regulation ...^{*}, pursuant to Article 46 thereof**

The Commission commits to clarifying the application of Article 4(1) of Regulation [add publication number for file 2021/0114(COD)] on the existence of a distortion caused by a foreign subsidy on the internal market, the application of the balancing test set out in Article 6 of this Regulation, and the assessment of a distortion in a public procurement procedure set out in Article 27(1) of this Regulation.

The Commission will make such initial clarifications public at the latest 12 months after the date of application of these provisions.

Guidelines issued pursuant to Article 46 of Regulation [add publication number for file 2021/0114(COD)] may replace these initial clarifications.

^{*} OJ: please insert the publication number for the file in 2021/0114(COD) and a footnote with the publication reference.

Statement of the European Commission on multilateral rules to address distortive foreign subsidies on the occasion of the adoption of Regulation*

On 30 June 2022, the European Parliament, the Council and the European Commission reached an agreement on the Regulation on foreign subsidies distorting the internal market¹. This Regulation complements the existing European and international disciplines on subsidies and subsidy control. It deals with distortions caused by foreign subsidies in the Union's internal market.

Subsidies may have a negative impact on international trade and can lead to distortions of competition in both traditional sectors and new technologies. In some cases, uncontrolled subsidies may also result in excess capacities, to the detriment of healthy market dynamics. The EU needs to continue to reap the benefits of international opportunities while developing tools to confront unfair trading practices, both internally and externally². This Regulation should contribute to improving the resilience of the EU internal market, in particular when it comes to protecting it against distortions caused by foreign subsidies. This way, the Union complements its toolbox in view of achieving the objectives of the Union's open strategic autonomy.

With a view to addressing the negative impacts of subsidies, and recognising that WTO rules may not be sufficiently effective in tackling the negative spillovers of state intervention in the economy, including for certain industrial sectors, the European Commission remains committed to further enhancing the effectiveness of the multilateral framework on subsidies, and is determined to strongly push for a legal framework that is well equipped to address distortions to trade and to competition and for a level playing field³. In particular, the Commission is committed to modernising rules on industrial subsidies to enhance the proper functioning of and to promote compliance with the WTO Agreement on Subsidies and Countervailing Measures (ASCM). In this context, the European Commission recalls its ongoing trilateral cooperation with Japan and the United States.

* OJ: please insert the publication number for the file in 2021/0114(COD) and a footnote with the publication reference.

¹ European Commission, Proposal for a Regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market, COM(2021)0223.

² Commission Communication Trade Policy Review – An Open, Sustainable and Assertive Trade Policy of 18 February 2021, COM(2021)0066.

³ Commission Communication Trade Policy Review – An Open, Sustainable and Assertive Trade Policy of 18 February 2021, COM(2021)0066.

Rules on subsidies are laid down in particular in the ASCM, which sets out prohibitions of certain subsidies and actions to counter adverse effects of subsidies in the context of trade in goods. In respect of the Union, these rules are, insofar as they relate to countervailing subsidisation, implemented by Regulation (EU) 2016/1037 on protection against subsidised imports from countries not members of the European Union⁴. The scope of Regulation (EU) 2016/1037 is determined by the scope of the ASCM.

The Regulation on foreign subsidies distorting the internal market is in line with the Union's international obligations, including in particular those resulting from the ASCM. The European Commission will ensure that any action taken in the application of this Regulation is consistent with its international obligations.

The Commission intends to make full use of this new Regulation to address distortions caused by foreign subsidies in the internal market.

⁴ Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 55).