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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on measures within the Commission's powers which the Commission can adopt when it determines, pursuant to the Regulation of the European Parliament and of the Council on the protection of the Union and its Member States from economic coercion by third countries, that the Union takes response measures to counteract a third-country measure of economic coercion

Delegations will find attached document COM(2021) 774 final.

Encl.: COM(2021) 774 final



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Brussels, 8.12.2021
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**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

on measures within the Commission's powers which the Commission can adopt when it determines, pursuant to the Regulation of the European Parliament and of the Council on the protection of the Union and its Member States from economic coercion by third countries, that the Union takes response measures to counteract a third-country measure of economic coercion

In order to prevent third countries from coercing the Union or a Member State into making a particular policy choice, the Regulation of the European Parliament and of the Council on the protection of the Union and its Member States from economic coercion by third countries provides for a set of possible Union responses to the third country's measure of economic coercion.¹

Prior to the Commission's adoption of a countermeasure, the Regulation establishes a multi-step procedure in order to dissuade the third country concerned from maintaining the measure of economic coercion. The procedure begins with an examination of the third-country measure, followed by a determination of the existence of economic coercion and an attempt at cooperative engagement with the third country in question. Once the Commission has made a determination, but engagement with the third country has not led to the cessation of the measure of economic coercion and reparation of any injury caused to the Union or a Member State, the Commission can react by adopting an implementing act, determining that it is necessary to take a Union response measure. A number of possible Union response measures are identified in the Regulation. However, to serve the purpose of ensuring that as broad as possible a range of response measures are available to the Union to counter measures of economic coercion by third countries, the Commission may also take measures not listed in the Regulation that fall under the Commission's powers. Any such action by the Commission should be synchronised and consistent with action under the Regulation.

The Commission has specific powers regarding the granting of Union funding. Thus, the Commission can have the ability to act as regards Union funding to third countries that apply measures of economic coercion or to persons designated pursuant to the Regulation. To that effect, the Commission may consider, in accordance with the rules and procedures under the relevant Union financing instruments, together with the potential Union response measures listed in the Regulation, any of the following actions where they would be effective in inducing the cessation of measures of economic coercion, when it is determined, pursuant to the Regulation, that Union response measures should be adopted:

- The Commission will consider not engaging in new Union financial commitments for programmes or funds under the terms of the relevant budgetary implementation procedure;
- The Commission will consider opposing new financing operations, where permissible in accordance with the agreement between the Union, represented by the Commission, and an entity entrusted with the indirect management of a programme;
- The Commission will consider refraining from proposing new macro-financial assistance to the third country concerned pursuant to Articles 209, 212 and 213 of the Treaty on the Functioning of the European Union, and suspending or cancelling disbursements in running operations in accordance with the applicable agreements;

¹ COM (2021) 775 of 8 December 2021.

- The Commission will consider suspending or terminating, where permissible, any contribution or guarantee agreement between the Commission on behalf of the Union and entrusted entities that relate to a third country concerned or a designated person;
- The Commission will consider any appropriate measures, including suspension of actions financed under Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe² or under Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III) or their successor instruments³.

On the same terms, the Commission may take the following measures regarding financing by the European Investment Bank or the European Bank for Reconstruction and Development:

- On the basis of Article 19 of the Statute of the European Investment Bank, annexed to the Treaty on the European Union and the Treaty on the Functioning of the European Union (Protocol No 5), the Commission will consider adopting unfavourable opinions regarding applications for financing to the European Investment Bank.
- The Commission will consider recommending the European Bank for Reconstruction and Development Board Director representing the Union to vote against approving funding.

² Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009 *OJ L 209, 14.6.2021, p. 1*).

³ Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III) (*OJ L 330, 20.9.2021, p. 1*).