



Council of the European Union  
General Secretariat

Brussels, 08 July 2022

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**Interinstitutional files:  
2021/0406 (COD)**

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WK 10102/2022 INIT

**REDACTED DOCUMENT ACCESSIBLE TO THE  
PUBLIC (25.11.2024). ONLY MARGINAL  
PERSONAL DATA HAVE BEEN REDACTED.**

**LIMITE  
POLCOM  
COMER**

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## **WORKING DOCUMENT**

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From: Presidency  
To: Working Party on Trade Questions

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Subject: Anti-coercion Instrument - request for written comments

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Delegations are kindly invited to submit comments and/or drafting suggestions of the Anti-coercion Instrument by 16 August (cob), to the Presidency ( [REDACTED] , [REDACTED] ) and POLCOM secretariat ( [polcom@consilium.europa.eu](mailto:polcom@consilium.europa.eu) ).

The Presidency's intention is to consolidate all comments thereafter.

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WK 10102/2022 INIT

**LIMITE**

**EN**

**Proposal for a  
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  
(ACI)  
2021/0406(COD)  
Non-versioned [LATEST TEXT]  
08-07-2022 at 13h30**

	<b>Commission Proposal</b>	<b>Second Compromise Proposal</b>	<b>MS draft suggestions</b>
1	2021/0406 (COD)	2021/0406 (COD)	2021/0406 (COD)
2	<b>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</b>	<b>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</b>	
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	

	Commission Proposal	Second Compromise Proposal	MS draft suggestions
4	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(2) thereof,	
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national Parliaments,	
7	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
8	Whereas:	Whereas:	
9	(1) Pursuant to Article 3(5) of the Treaty on European Union, in its relations with the wider world, the Union is to uphold and promote its values and interests and contribute to the protection of its citizens and, among other things, to solidarity and mutual	(1) Pursuant to Article 3(5) of the Treaty on European Union ( <b>TEU</b> ), in its relations with the wider world, the Union is to uphold and promote its values and interests and contribute to the protection of its citizens and <b>is to contribute</b> , among other things, to	

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	respect among peoples and the strict observance and the development of international law, including respect for the principles of the United Nations Charter.	solidarity and mutual respect among peoples and the strict observance and the development of international law, including respect for the principles of the United Nations Charter ( <b>the “UN Charter”</b> ).	
10	(2) Pursuant to Article 21(1) of the Treaty on European Union, the Union's action on the international scene is to be guided by principles such as the rule of law, equality and solidarity, and respect for the principles of the United Nations Charter and international law. It also states that the Union is to promote multilateral solutions to common problems.	(2) Pursuant to Article 21(1) of the <del>Treaty on European Union</del> <b>TEU</b> , the Union's action on the international scene is to be guided by principles such as the rule of law, equality and solidarity, and respect for the principles of the <del>United Nations</del> <b>UN</b> Charter and international law. It also states that the Union is to promote multilateral solutions to common problems.	
11	(3) Pursuant to Article 1 of the United Nations Charter, the purposes of the United Nations include the purpose to develop friendly relations among nations based on respect for the principle of equal rights.	(3) Pursuant to Article 1 of the <del>United Nations</del> <b>UN</b> Charter, <del>one of the purposes of the United Nations include the purpose</del> <b>is</b> to develop friendly relations among nations based on, <b>among other things</b> , respect for the principle of equal rights.	

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12	(4) Article 21(2) of the Treaty on European Union requires the Union to define and pursue common policies and actions, and work for a high degree of cooperation in all fields of international relations, among other things in order to safeguard its values, fundamental interests, independence and integrity, consolidate and support the rule of law, and the principles of international law.	(4) Article 21(2) of the <del>Treaty on European Union</del> TEU requires the Union to define and pursue common policies and actions, and work for a high degree of cooperation in all fields of international relations, <del>among other things</del> in order to, <b>among other things</b> , safeguard its values, fundamental interests, independence and integrity, consolidate and support the rule of law, and the principles of international law.	
13	(5) The modern interconnected world economy creates an increased risk of, and opportunity for, economic coercion, as it provides countries with enhanced, including hybrid, means to deploy such coercion. It is desirable that the Union contribute to the creation, development and clarification of international frameworks for the prevention and elimination of situations of economic coercion.	(5) The modern interconnected world economy <del>creates an</del> increases <del>the</del> risk of, and opportunity for, economic coercion, as it provides countries with enhanced, including hybrid, means to deploy such coercion. It is desirable that the Union contribute to the creation, development and clarification of international frameworks for the prevention and elimination of situations of economic coercion.	
14	(6) Whilst always acting within the	(6) Whilst always acting within the	

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	<p>framework of international law, it is essential that the Union possess an appropriate instrument to deter and counteract economic coercion by third countries in order to safeguard its rights and interests and those of its Member States. This is particularly the case where third countries take measures affecting trade or investment that interfere in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State. Such measures affecting trade or investment may include not only actions taken on, and having effects within, the territory of the third country, but also actions taken by the third country, including through entities controlled or directed by the third country and present in the Union, that cause harm to economic activities in the Union.</p>	<p>framework of international law, it is essential that the Union possess an appropriate instrument to deter and counteract economic coercion by third countries in order to safeguard its rights and interests and those of its Member States. This is particularly the case where third countries take measures affecting trade or investment that interfere in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State. Such measures affecting trade or investment may include not only actions taken on, and having effects within, the territory of the third country <b>concerned</b>, but also actions taken by the third country, including through entities controlled or directed by the third country and present in the Union, that cause harm to economic activities in the Union.</p>	
15	<p>(7) This Regulation aims to ensure an effective, efficient and swift Union response to economic coercion, including deterrence of economic coercion of the Union or a Member State and, in the last resort, countermeasures.</p>	<p>(7) This Regulation aims to ensure an effective, efficient and swift Union response to economic coercion, including deterrence of economic coercion of the Union or a Member State and, <del>in the</del> <b>as a</b> last resort, countermeasures. <b>This Regulation should be</b></p>	

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		<p>without prejudice to other existing Union instruments, including Regulation (EU) 2021/167 of the European Parliament and of the Council<sup>1</sup>, given the specificity of the objectives pursued by this Regulation and the legal consequences deriving from the third-country action that could lead to the application of this Regulation. Moreover, this Regulation should not modify the scope of application of other legal instruments, including other regulations defining the framework for implementing the common commercial policy.</p> <p>-----</p> <p>1. Regulation (EU) 2021/167 of the European Parliament and of the Council of 10 February 2021 amending Regulation (EU) No 654/2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules (OJ L 49, 12.2.2021, p. 1).</p>	
16	(8) The objectives of this Regulation, in particular counteracting third countries' economic coercion of the Union or a Member State, cannot be sufficiently achieved by Member States acting on their own. This is	(8) The objectives of this Regulation, in particular counteracting third countries' economic coercion of the Union or a Member State, cannot be sufficiently achieved by Member States acting on their own, <b>but can</b>	

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	<p>because Member States as distinct actors under international law may not be entitled under international law to respond to economic coercion directed against the Union. Additionally, because of the exclusive competence conferred on the Union by Article 207 of the Treaty on the Functioning of the European Union, Member States are prevented from taking common commercial policy measures as a response to economic coercion. Therefore, those objectives can be achieved with greater effectiveness at Union level.</p>	<p><b>be achieved with greater effectiveness at Union level.</b> This is because Member States as distinct actors under international law may not be entitled under international law to respond to economic coercion directed against the Union, <b>whilst the Union is entitled adopt countermeasures in response to economic coercion directed against a Member State,</b> <del>Additionally,</del> <b>given</b> the exclusive competence conferred on the Union by Article 207 of the Treaty on the Functioning of the European Union (<b>TFEU</b>), <del>Member States are prevented from taking to</del> <b>taking common commercial policy</b> measures <b>in the area of common commercial policy.</b> <del>as a response to economic coercion. Therefore, those objectives can be achieved with greater effectiveness at Union level.</del></p>	
17	<p>(9) In accordance with the principle of proportionality, it is necessary and appropriate, for creating an effective and comprehensive framework for Union action against economic coercion, to lay down rules on the examination, determination and counteraction with regard to third countries' measures of economic coercion. In particular, the Union's</p>	<p>(9) In accordance with the principle of proportionality, it is necessary and appropriate, for creating an effective and comprehensive framework for Union action against economic coercion, to lay down rules on the examination, determination and counteraction with regard to third countries' measures of economic coercion. In particular, the Union's</p>	

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	<p>response measures should be preceded by an examination of the facts, a determination of the existence of economic coercion, and, wherever possible, efforts to find a solution in cooperation with the third country concerned. Any measures imposed by the Union should be commensurate with the injury caused by the third countries' measures of economic coercion. The criteria for defining the Union response measures should take into account in particular the need to avoid or minimise collateral effects, administrative burdens and costs imposed on Union economic operators as well as the Union's interest. Therefore, this Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.</p>	<p>response measures should be preceded by an examination of the facts, a determination of the existence of economic coercion, and, wherever possible, efforts to find a solution in cooperation with the third country concerned. Any measures imposed by the Union should be commensurate with the injury caused by the third countries' measures of economic coercion. The criteria for defining the Union response measures should take into account in particular the need to avoid or minimise collateral effects, administrative burdens and costs imposed on Union economic operators as well as the Union's interest. Therefore, this Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) <del>of the Treaty on European Union</del> <b>TEU</b>.</p>	
18	<p>(10) Any action undertaken by the Union on the basis of this Regulation should comply with the Union's obligations under international law. International law allows, under certain conditions, such as proportionality and prior notice, the imposition of countermeasures, that</p>	<p>(10) Any action undertaken by the Union on the basis of this Regulation should <del>comply</del> <b>be consistent</b> with the <del>Union's rights and</del> obligations under international law. International law, <b>which encompass all rights and obligations deriving from international agreements concluded</b></p>	

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	<p>is to say of measures that would otherwise be contrary to the international obligations of an injured party vis-à-vis the country responsible for a breach of international law, and that are aimed at obtaining the cessation of the breach or reparation for it.<sup>2</sup> Accordingly, response measures adopted under this Regulation should take the form of either measures adhering to the Union’s international obligations or measures constituting permitted countermeasures. Under international law, and in accordance with the principle of proportionality, they should not exceed a level that is commensurate with the injury suffered by the Union or a Member State due to the third country’s measures of economic coercion, taking into account the gravity of the third country’s measures and the Union’s rights and interests in question. In this respect, injury to the Union or a Member State is understood under international law to include injury to Union economic operators.</p> <hr/> <p>1. See Articles 22 and 49-53 of the Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the United Nations’ International Law Commission at its fifty-third session, in 2001, and taken note of by the United Nations General Assembly</p>	<p><b>by the Union, as well as those applicable by virtue of customary international law. Such rights and obligations in large part match the Member States’ rights and obligations under international law. Among the international agreements concluded by the Union and the Member States, the Agreement establishing the World Trade Organization (WTO) is the cornerstone of the rules-based multilateral trading system. The Union should continue to support that system, with the WTO at its core.</b></p>	

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	in resolution 56/83.		
19		<p><b>(10bis) Customary international law, as reflected in Articles 22 and 49 to 53 of the Articles on Responsibility of States for Internationally Wrongful Acts (“ARSIWA”), adopted by the United Nations’ International Law Commission at its fifty-third session in 2001 and taken note of by the United Nations General Assembly in resolution 56/83, allows, under certain conditions, such as proportionality and prior notice, the imposition of countermeasures, that is to say of measures that would otherwise be contrary to the international obligations of an injured party vis-à-vis the country responsible for a breach of international law, and that are aimed at obtaining the cessation of the breach or reparation for it.<sup>2</sup> Accordingly, <del>response measures adopted under this Regulation should take the form of either measures adhering to the Union’s international obligations or measures constituting permitted countermeasures</del> <b>Union response measures could</b></b></p>	

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		<p>consist, as necessary, not only in measures adhering to the Union's international obligations, but also in the non-performance of international obligations towards the third country concerned insofar as the measures of the third country constitute an internationally wrongful act. Under international law, and in accordance with the principle of proportionality, they should not exceed a level that is commensurate with the injury suffered by the Union or a Member State due to the third country's measures of economic coercion, taking into account the gravity of the third country's measures and the Union's rights and interests in question. In this respect, injury to the Union or a Member State is understood under international law to include injury to Union economic operators.</p> <hr/> <p><del>2. See Articles 22 and 49-53 of the Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the United Nations<sup>2</sup> International Law Commission at its fifty-third session, in 2001, and taken note of by the United Nations</del></p>	

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		<del>General Assembly in resolution 56/83</del>	
20		<b>(10ter) Where measures of economic coercion constitute an internationally wrongful act, the Union should, where appropriate, in addition to the cessation of economic coercion, request the third country concerned to make reparation of any injury caused to the Union or a Member State, in accordance with Articles 31 and 34-39 of the ARSIWA.</b>	
21	(11) Coercion is prohibited under international law when a country deploys measures such as trade or investment restrictions in order to obtain from another country an action or inaction which that country is not internationally obliged to perform and which falls within its sovereignty, when the coercion reaches a certain qualitative or quantitative threshold, depending on both the ends pursued and the means	(11) Coercion is prohibited <b>and therefore a wrongful act</b> under international law when a country deploys measures such as trade or investment restrictions in order to obtain from another country an action or inaction which that country is not internationally obliged to perform and which falls within its sovereignty, when the coercion reaches a certain qualitative or quantitative threshold, depending on	

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	<p>deployed. The Commission should examine the third-country action on the basis of qualitative and quantitative criteria that help in determining whether the third country interferes in the legitimate sovereign choices of the Union or a Member State and whether its action constitutes economic coercion which requires a Union response.</p>	<p>both the ends pursued and the means deployed. The Commission should examine the third-country action on the basis of qualitative and quantitative criteria that help in determining whether the third country interferes in the legitimate sovereign choices of the Union or a Member State and whether its action constitutes economic coercion which requires a Union response. <b>Among those criteria should be elements that characterise, both qualitatively and quantitatively, notably the form, the effects and the aim of the measures which the third country is deploying. In addition, the Commission should examine closely whether the third country pursues a legitimate cause, because its objective is to uphold a concern that is internationally recognised, such as among other things the maintenance of international peace and security, the protection of human rights, and the protection of the environment, notably the fight against climate change.</b></p>	
22	<p>(12) Acts by third countries are understood under customary international law to include all forms of action that are attributable to a State under customary international</p>	<p>(12) Acts by third countries are understood under customary international law to include all forms of action <b>or omission, including threats,</b> that are attributable to a</p>	

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	<p>law. International law qualifies as an act of a State, in particular: the conduct of any State organ, of a person or entity which is not an organ of the State but which is empowered by the law of that State to exercise elements of governmental authority, an organ placed at the disposal of a State by another State, a person or group of persons that are acting on the instructions of, or under the direction or control of, that State in carrying out the conduct, a person or group of persons that are exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority, and conduct that the State acknowledges and adopts as its own.<sup>3</sup></p> <p>3. See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.</p>	<p>State under customary international law. <b>Articles 2(a) and 4-11 of the ARSIWA confirm that customary</b> international law qualifies as an act of a State, in particular: the conduct of any State organ, of a person or entity which is not an organ of the State but which is empowered by the law of that State to exercise elements of governmental authority, an organ placed at the disposal of a State by another State, a person or group of persons that are acting on the instructions of, or under the direction or control of, that State in carrying out the conduct, a person or group of persons that are exercising elements of the governmental authority in the absence or default of the official authorities and in circumstances such as to call for the exercise of those elements of authority, and conduct that the State acknowledges and adopts as its own.<sup>3</sup></p> <p><del>3. See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.</del></p>	
23	(13) The Commission should examine whether third-country measures are coercive, on its own	(13) The Commission should examine whether third-country measures are coercive, on its own	<i>deleted</i>

	Commission Proposal	Second Compromise Proposal	MS draft suggestions
	<p>initiative or following information received from any source, including legal and natural persons or a Member State. Following this examination, the Commission should determine in a decision whether the third-country measure is coercive. The Commission should communicate any affirmative determination to the third country concerned, together with a request that the economic coercion cease and a request, where appropriate, that any injury be repaired.</p>	<p>initiative or <b>upon a reasoned request of a Member state. The Commission could carry out such examination following on the basis of</b> information received from any <b>reliable</b> source, including legal and natural persons or a Member State. <b>To determine if a third country applies or threatens to apply measures affecting trade or investment, the Commission's assessment should be based on facts and not mere allegations or remote conjectures or possibilities.</b> Following this examination, the Commission should determine in a decision whether the third-country measure is coercive, <b>following the advisory procedure, given the sequential logic in relation to the adoption of Union response measures. The Commission should decide on the decision to be adopted, taking the utmost account of the conclusions drawn from the discussions within the committee and of the opinion delivered, in application of Article 4(2) of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>4</sup></b> The Commission should communicate any affirmative determination to the third country concerned, together with a request <del>that the economic coercion cease and a request, where appropriate, that</del></p>	

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		<p><del>any injury be repaired</del> to cease the economic coercion and, appropriate, repair any injury.</p> <p>4. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	
24		<p>(13bis) In an effort to secure the cessation of economic coercion, the Union should seek an early and just settlement of the matter. Accordingly, the Commission should, on behalf of the Union, afford adequate opportunity for consultations with the third country concerned and, when that third country is ready to enter into consultations in good faith, engage with it expeditiously. In the course of such consultations, the Commission should endeavour to resort to means such as mediation, conciliation, or international adjudication, without prejudice to the delimitation of competence of the Union and Member States. In particular, when the third country suspends its actions and agrees to submit the matter to international</p>	<p><i>deleted</i></p>

	Commission Proposal	Second Compromise Proposal	MS draft suggestions
		<p>adjudication, an international agreement with the third country should be concluded, as necessary. Such an international agreement could be concluded by the Member State concerned or by the Union, where the Treaties so provide and following the procedure laid down in Article 218 TFEU and in respect of the Council's policy making and coordinating functions.</p>	
25	<p>(14) The Union should support and cooperate with third countries affected by the same or similar measures of economic coercion or other interested third countries. The Union should participate in international coordination in bilateral, plurilateral or multilateral fora that are geared towards the prevention or elimination of the economic coercion.</p>	<p>(14) The Union should support and cooperate with third countries affected by the same or similar measures of economic coercion or other interested third countries. The Union should participate in international coordination in bilateral, plurilateral or multilateral fora that are geared towards the prevention or elimination of <del>the</del> economic coercion. <b>The Commission should represent the Union and express its position as established by the Council, in accordance with the Treaties.</b></p>	
26	<p>(15) The Union should only impose countermeasures when other means such as negotiations, mediation or</p>	<p>(15) The Union should only impose countermeasures <del>when</del> <b>if</b> other means such as negotiations,</p>	

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	<p>adjudication do not lead to the prompt and effective cessation of the economic coercion and to reparation of the injury it has caused to the Union or its Member States, and where action is necessary to protect the interests and rights of the Union and its Member States and it is in the Union's interest. It is appropriate that the Regulation sets out the applicable rules and procedures for the imposition and application of Union response measures and permits expeditious action where necessary to preserve the effectiveness of any Union response measures.</p>	<p>mediation or adjudication do not lead to the prompt and effective cessation of the economic coercion and to reparation of the injury it has caused to the Union or its Member States, and where action is necessary to protect the interests and rights of the Union and its Member States <b>under international law</b> and it is in the Union's interest <b>to take such action</b>. It is appropriate that the Regulation sets out the applicable rules and procedures for the imposition and application of Union response measures and permits expeditious action where necessary to preserve the effectiveness of any Union response measures.</p>	
27	<p>(16) Union response measures adopted in accordance with this Regulation should be selected and designed on the basis of objective criteria, including: the effectiveness of the measures in inducing the cessation of coercion by the third country; their potential to provide relief to economic operators within the Union affected by the third-country measures of economic coercion; the aim of avoiding or minimising negative economic and other effects on the Union; and the avoidance of disproportionate</p>	<p>(16) Union response measures adopted in accordance with this Regulation should be selected and designed on the basis of objective criteria, including: the effectiveness of the measures in inducing the cessation of coercion by the third country; <del>the</del> potential to provide relief to economic operators within the Union affected by the third-country measures of economic coercion; the aim of avoiding or minimising negative economic and other effects on the Union; and the avoidance of disproportionate</p>	

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	<p>administrative complexity and costs. It is also essential that the selection and design of Union response measures take account of the Union's interest. Union response measures should be selected from a wide array of options in order to allow the adoption of the most suitable measures in any given case.</p>	<p>administrative complexity and costs. It is also essential that the selection and design of Union response measures take account of the Union's interest, <b>which includes inter alia the interests of both upstream and downstream industries in the Union. When the Commission is considering Union response measures relating to, inter alia, trade in services, financial services or the protection of intellectual property rights, it should prioritise measures that would not have a disproportionate impact on the administration of relevant national regulations. Similarly, when the Commission is contemplating restrictions relating, to inter alia, tenders in the area of public procurement, the protection or commercial exploitation of trade-related intellectual property rights, the exportation of goods falling under the Union export control regime, registrations or authorisations under the chemicals legislation of the Union or registrations or authorisations under the sanitary and phytosanitary legislation of the Union, it should prioritise restrictions that would not have a disproportionate impact on upstream and downstream industries and final consumers within the Union. Consequently,</b></p>	

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		<p>Union response measures should be selected from a wide array of options in order to allow the adoption of the most suitable measures in any given case.</p>	
28		<p><b>(16bis) The Union could adopt measures with regard to natural or legal persons connected or linked to the government of that third country, which encompasses any State organ whatever its character as an organ of the central Government or of a territorial unit of the State, as they could be effective to inter alia induce the prompt cessation of economic coercion or to avoid negative effects on Member States and Union economic operators. Accordingly, these response measures should apply to governmental economic operators or non-governmental economic operators such as enterprises owned by the government of the third country concerned, designated monopolies, enterprises exercising elements of governmental authority, economic operators acting at the instigation of that government through legal or other means such as significant funding, or any other economic operators whose actions</b></p>	

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		<p>demonstrate that is connected or linked to that government, including persons that have contributed to economic coercion.</p>	
29		<p>(16ter) As a result of economic coercion, Union natural and legal persons could suffer significant harm. Without prejudice to the third country's obligation to repair the injury, it could be appropriate to entitle Union persons to recover their damage from natural or legal persons that are not only connected or linked to the government of that third country, but that have also contributed to economic coercion. Such contribution may consist in requesting the government of the third country concerned to interfere with the legitimate sovereign choice of the Union or a Member State or providing assistance in the elaboration of measures of economic coercion. To recover damage, Union persons should invoke the responsibility of the person designated under this Regulation before the courts of Member States where such person holds assets. In accordance with the civil law applicable in the Member State concerned, and on the basis of a decision by the</p>	

	Commission Proposal	Second Compromise Proposal	MS draft suggestions
		<p>competent national authority, the recovery could take the form of seizure and sale of assets held by the designated persons, including shares held in entities incorporated within the Union.</p>	
30		<p>(16quater) As part of the Union response in order to induce the cessation of economic coercion by third countries, the Commission could also adopt measures pursuant to other legal instruments that confer specific powers to the Commission, for example with regard to the granting of Union funding, following the applicable procedures set out therein. Measures adopted by the Commission pursuant to such other legal instruments should be synchronised with actions taken under this Regulation and be consistent with the Union's obligations under international law. In particular, such measures, together with Union response measures adopted under this Regulation, as the case may be, should be commensurate with the injury caused by the third countries' measures of economic coercion. This Regulation is</p>	

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		without prejudice to rules and procedures under such other legal instruments.	
31	(17) It is appropriate to set out rules on the origin or nationality of goods, services and service providers, investment and holders of intellectual property rights, for the purposes of determining the Union response measures. The rules of origin or of nationality should be determined in the light of the prevailing rules for non-preferential trade and investment that are applicable under Union law and the Union's international agreements.	(17) It is appropriate to set out rules on the origin or nationality of goods, services and service providers, investment and holders of intellectual property rights, for the purposes of determining the Union response measures. The rules of origin <del>or</del> and of nationality should be determined in the light of the prevailing rules for non-preferential trade and investment that are applicable under Union law and the Union's international agreements.	
32	(18) In pursuing the objective of obtaining the cessation of the measure of economic coercion, Union response measures consisting of restrictions on foreign direct investment or on trade in services should only apply with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union which are owned or controlled by persons of the third country concerned where	(18) In pursuing the objective of obtaining the cessation of <del>the a</del> measure of economic coercion, Union response measures consisting of restrictions on foreign direct investment or on trade in services should <del>only</del> apply <del>only</del> with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union <del>and</del> which are owned or controlled by persons of the third country concerned where	

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	necessary to ensure the effectiveness of Union response measures and in particular to prevent their avoidance. The decision to impose any such restrictions will be duly justified in implementing acts adopted pursuant to this Regulation in the light of the criteria specified in this Regulation.	necessary to ensure the effectiveness of Union response measures and in particular to prevent their avoidance. The decision to impose any such restrictions <del>will</del> <b>should</b> be duly justified in implementing acts adopted pursuant to this Regulation in the light of the criteria specified in this Regulation.	
33	(19) After the adoption of Union response measures, the Commission should continuously assess the situation in relation to the third-country measures of economic coercion, the effectiveness of the Union response measures and their effects, with a view to adjusting, suspending or terminating the response measures accordingly. It is therefore necessary to set out the rules and procedures for amending, suspending and terminating Union response measures and the situations in which these are appropriate.	(19) After the adoption of Union response measures, the Commission should continuously assess the situation in relation to the third-country measures of economic coercion, the effectiveness of the Union response measures and their effects, with a view to adjusting, suspending or terminating the response measures accordingly. It is therefore necessary to set out the rules and procedures for amending, suspending and terminating Union response measures and the situations in which they <del>are</del> <b>use</b> are appropriate.	
34	(20) It is essential to provide for opportunities for stakeholder involvement for the purposes of adoption and amendment of Union	(20) It is essential to provide for opportunities for stakeholder involvement for the purposes of	

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	response measures, and as relevant for the purposes of suspension and termination, in view of the potential impact on such stakeholders.	adoption and amendment of Union response measures; and, <b>where as</b> relevant, for the purposes of suspension and termination, in view of the potential impact on such stakeholders.	
35	(21) It is important to ensure an effective communication and exchange of views and information between the Commission on the one hand and the European Parliament and the Council on the other, in particular on efforts to engage with the third country concerned to explore options with a view to obtaining the cessation of the economic coercion and on matters that may lead to the adoption of Union response measures under this Regulation.	(21) It is important to ensure <b>an</b> effective communication and <b>an</b> exchange of views and information between the Commission on the one hand, and the European Parliament and the Council, on the other, in particular on efforts to <b>engage enter into consultations</b> with the third country concerned to explore options with a view to obtaining the cessation of the economic coercion and on matters that may lead to the adoption of Union response measures under this Regulation.	
36	(22) In order to allow the update of the range of Union response measures under this Regulation and the adjustment of the rules of origin or of other technical rules, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the list of	(22) In order to allow <del>the update of the range of Union response measures under this Regulation and</del> the adjustment of the rules of origin <b>and nationality</b> or of other technical rules, the power to adopt acts in accordance with Article 290 <del>of the Treaty on the Functioning of the European Union</del> <b>TFEU</b> should be delegated to the Commission to	

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	<p>Union responses set out in Annex I and technical rules necessary for the application of the Regulation, including rules of origin laid down in Annex II. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making.<sup>5</sup> In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p> <p>5. <u>OJ L 123, 12.5.2016, p. 1</u></p>	<p>amend <del>the list of Union responses set out in Annex I and technical rules necessary for the application of the Regulation, including</del> rules of origin <b>and nationality</b> laid down in Annex II. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making.<sup>5</sup> In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p> <p><del>5. Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1)</del></p>	
37	(23) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the	(23) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the	

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	<p>Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.<sup>6</sup></p> <p>6. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	<p>Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 <b>of the European Parliament and of the Council</b>.<sup>6</sup></p> <p><del>6. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</del></p>	
38	<p>(24) The examination procedure should be used for the adoption of Union response measures and their amendment, suspension or termination given that those acts determine the Union's responses to economic coercion falling within the scope of this Regulation.</p>	<p>(24) The examination procedure should be used for the adoption of Union response measures and their amendment, suspension or termination given that those acts determine the Union's responses to economic coercion falling within the scope of this Regulation.</p> <p><b>Considering the specific nature of this regulation, Article 5(4) of Regulation (EU) No 182/2011 should apply where the competent Committee delivers no opinion. In the case where Commission calls for an appeal committee to examine its draft implementing act, special attention should be given to solutions which command the widest possible support within the appeal committee, in full</b></p>	

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		<b>application of article 6 of Regulation (EU) No 182/2011.</b>	
39	(25) The Commission should adopt immediately applicable implementing acts of limited duration where, in duly justified cases relating to the adoption, amendment, suspension or termination of Union response measures, imperative grounds of urgency so require.	(25) The Commission should adopt immediately applicable implementing acts of limited duration where, in duly justified cases relating to the adoption, amendment, suspension or termination of Union response measures, imperative grounds of urgency <del>so</del> require <b>expedited action to avoid irreparable damage or to ensure consistency with international law. Such expedited action could prevent the coercion from causing or worsening any economic damage, notably with a view to protecting acute and vital interests of the Union or a Member State.</b>	
40		<b>(25bis) Any action taken under this Regulation, including Union response measures with regard to natural or legal persons, should respect the Charter of Fundamental Rights of the European Union. Moreover, any processing of personal data pursuant to this Regulation should be consistent with the applicable</b>	

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		<p><b>rules on the protection of personal data. Processing of personal data by Committee members representing Member States should be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>7</sup>. Processing of personal data by the Commission should be carried out in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>8</sup>.</b></p> <hr/> <p><b>7</b> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).</p> <p><b>8</b> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p>	
41	(26) The Commission should evaluate measures adopted under this	(26) The Commission should evaluate measures adopted under this	

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	Regulation as to their effectiveness and operation and as to possible conclusions for future measures. The Commission should also review this Regulation after gaining sufficient experience with the existence or application of this Regulation. This review should cover the scope, functioning, efficiency and effectiveness of this Regulation. The Commission should report on its assessment to the European Parliament and the Council,	Regulation as to their effectiveness and operation and as to possible conclusions for future measures. The Commission should also review this Regulation after gaining sufficient experience with the existence or application of this Regulation. <del>That</del> <b>This</b> review should cover the scope, functioning, efficiency and effectiveness of this Regulation <b>and also its relationship to other existing Union instruments</b> . The Commission should report on its assessment to the European Parliament and the Council,	
42	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
43	<i>Article 1</i> Subject-matter	<i>Article 1</i> Subject-matter	
44	1. This Regulation lays down rules and procedures in order to ensure the effective protection of the interests of the Union and its Member States where a third country seeks, through measures affecting trade or	1. This Regulation lays down rules and procedures <del>in order</del> to ensure the effective protection of the interests of the Union and its Member States where a third country seeks, through measures affecting trade or	

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	investment, to coerce the Union or a Member State into adopting or refraining from adopting a particular act. This Regulation provides a framework for the Union to respond in such situations with the objective to deter, or have the third country desist from such actions, whilst permitting the Union, in the last resort, to counteract such actions.	investment, to coerce the Union or a Member State into adopting or refraining from adopting a particular act.	
45		2. This Regulation <del>provides</del> <b>establishes</b> a framework for the Union to respond in such situations with the objective to deter, or have the third country desist from such actions, whilst <del>permitting</del> <b>enabling</b> the Union, <del>in the</del> <b>as a</b> last resort, to counteract such actions.	
46	2. Any action taken under this Regulation shall be consistent with the Union's obligations under international law and conducted in the context of the principles and objectives of the Union's external action.	<del>23</del> . Any action taken under this Regulation shall be consistent with the Union's obligations under international law and <b>be</b> conducted in the context of the principles and objectives of the Union's external action.	
47	<i>Article 2</i>	<i>Article 2</i>	

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	Scope	Scope	
48	<p>1. This Regulation applies where a third country:</p> <ul style="list-style-type: none"> <li>– interferes in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State</li> <li>– by applying or threatening to apply measures affecting trade or investment.</li> </ul> <p>For the purposes of this Regulation, such third-country actions shall be referred to as measures of economic coercion.</p>	<p>1. This Regulation applies where a third country:</p> <ul style="list-style-type: none"> <li>– interferes in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State</li> <li>– by applying or threatening to apply measures affecting trade or investment.</li> </ul> <p>For the purposes of this Regulation, such third-country actions shall be referred to as measures of economic coercion.</p>	
49	<p>2. In determining whether the conditions set out in paragraph 1 are met, the following shall be taken into account:</p> <ul style="list-style-type: none"> <li>(a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure and the pressure arising from it;</li> <li>(b) whether the third country is</li> </ul>	<p>2. In determining whether the conditions set out in paragraph 1 are met, the following shall be taken into account:</p> <ul style="list-style-type: none"> <li>(a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure and the pressure arising from it <b>on the Union or a Member State</b>;</li> </ul>	

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	<p>engaging in a pattern of interference seeking to obtain from the Union or from Member States or other countries particular acts;</p> <p>(c) the extent to which the third-country measure encroaches upon an area of the Union's or Member States' sovereignty;</p> <p>(d) whether the third country is acting based on a legitimate concern that is internationally recognised;</p> <p>(e) whether and in what manner the third country, before the imposition of its measures, has made serious attempts, in good faith, to settle the matter by way of international coordination or adjudication, either bilaterally or within an international forum.</p>	<p>(b) whether the third country is engaging in a pattern of interference seeking to obtain from the Union, <del>or from a</del> Member States or other countries particular acts;</p> <p>(c) the extent to which the third-country measure encroaches upon an area of the Union's or a Member States's sovereignty;</p> <p>(d) whether the third country is acting <del>based</del> on <b>the basis of</b> a legitimate concern that is internationally recognised;</p> <p>(e) whether and in what manner the third country, before the <del>imposition</del> <b>application</b> of its measures, has made serious attempts, in good faith, to settle the matter by way of international coordination or adjudication, either bilaterally or within an international forum.</p>	
50	<p><i>Article 3</i></p> <p>Examination of third-country measures</p>	<p><i>Article 3</i></p> <p>Examination of third-country measures</p>	
51	<p>1. The Commission may examine any measure of a third country in order to determine whether it meets the</p>	<p>1. The Commission may, <b>on its own initiative or upon a reasoned request of a Member State,</b></p>	

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	conditions set out in Article 2(1). The Commission shall act expeditiously.	examine any measure of a third country in order to determine whether it meets the conditions set out in Article 2(1). The Commission shall act expeditiously.	
52	2. The Commission may carry out the examination referred to in paragraph 1 on its own initiative or following information received from any source. The Commission shall ensure the protection of confidential information in line with Article 12, which may include the identity of the supplier of the information.	2. The Commission may carry out the examination referred to in paragraph 1 <del>on its own initiative or following</del> <b>on the basis of</b> information received from any <b>reliable</b> source. The Commission shall ensure the protection of confidential information in <del>line</del> <b>accordance</b> with Article 12, which may include the identity of the supplier of the information.	
53		<b>2bis. Where there are reasonable grounds to suspect that the measure of the third country concerned meets the conditions set out in Article 2(1), the Commission shall expeditiously inform Member States.</b>	
54		<b>3. The Commission may request Member States to supply information on the impact of the</b>	

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		measures of the third country concerned	
55	<p>3. The Commission may seek information about the impact of the measures of the third country concerned.</p> <p>The Commission may publish a notice in the <i>Official Journal of the European Union</i> or through other suitable public communication means with an invitation to submit information within a specified time limit. In that event, the Commission shall notify the third country concerned of the initiation of the examination.</p>	<p>43. Following the information of Member States pursuant to paragraph 3, the Commission may seek information about the impact of the measures of the third country concerned:</p> <p><del>The Commission may</del>, by publishing a notice in the <i>Official Journal of the European Union</i> <del>or</del> and, where appropriate, through other suitable public communication means with an invitation to stakeholders to submit information within a specified time limit. In that event, the Commission shall notify the third country concerned of the initiation of the examination.</p>	
56	<p><i>Article 4</i></p> <p>Determination with regard to the third-country measure</p>	<p><i>Article 4</i></p> <p>Determination with regard to the third-country measure</p>	

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57	Following an examination carried out in accordance with Article 3, the Commission shall adopt a decision determining whether the measure of the third country concerned meets the conditions set out in Article 2(1). The Commission shall act expeditiously.	1. Following an examination carried out in accordance with Article 3, the Commission shall <b>inform Member States of the relevant information gathered pursuant to Article 3 and, as the case may be, pursuant to Article 4(2) and</b> adopt a decision determining whether the measure of the third country concerned meets the conditions set out in Article 2(1) <b>in accordance with the advisory procedure referred to in Article 15(1bis). The Commission shall publish such decision in the Official Journal of the European Union.</b> The Commission shall act expeditiously.	
58	Prior to adopting its decision, the Commission may invite the third country concerned to submit its observations.	2. Prior to adopting its decision, <b>where useful for the purposes of the</b> determination, the Commission <del>may</del> <b>shall</b> invite the third country concerned to submit its observations <b>within a reasonable period of time, without prejudice to Article 5.</b>	
59	Where the Commission decides that the measure of the third country concerned	3. Where the Commission decides that the measure of the third country	

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	meets the conditions set out in Article 2(1), it shall notify the third country concerned of its decision and request it to cease the economic coercion and, where appropriate, repair the injury suffered by the Union or its Member States.	concerned meets the conditions set out in Article 2(1), it shall notify the third country concerned of its decision and request it to cease the economic coercion and, where appropriate, repair the injury suffered by the Union or its Member States.	
60	<i>Article 5</i> Engagement with the third country concerned	<i>Article 5</i> Engagement with the third country concerned	
61	<p>The Commission shall be open to engage on behalf of the Union with the third country concerned, to explore options with a view to obtaining the cessation of the economic coercion. Such options may include:</p> <ul style="list-style-type: none"> <li>– direct negotiations;</li> <li>– mediation, conciliation or good offices to assist the Union and the third country concerned in these efforts;</li> <li>– submitting the matter to international adjudication.</li> </ul>	<p>1. <b>Following the adoption of a decision in accordance with Article 4,</b> <del>the Commission shall, be open to engage</del> on behalf of the Union, <b>afford adequate opportunity for consultations</b> with the third country concerned, <del>to explore options</del> with a view to obtaining the cessation of the economic coercion. <b>If the third country concerned offers to enter into consultations with the Union in good faith, the Commission shall expeditiously enter into consultations.</b></p> <p><b>In the course of such consultations, the Commission may explore options with the third country</b></p>	

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		<p><b>concerned, including:</b> <del>Such options may include:</del></p> <ul style="list-style-type: none"> <li>– direct negotiations;</li> <li>– mediation, conciliation or good offices to assist the Union and the third country concerned in these efforts;</li> <li>– submitting the matter to international adjudication.</li> </ul>	
62	The Commission shall seek to obtain the cessation of the economic coercion by also raising the matter in any relevant international forum.	2. The Commission shall seek to obtain the cessation of the economic coercion <b>also</b> by <del>also</del> raising the matter in any relevant international forum, <b>after having informed the Council.</b>	
63	The Commission shall keep the European Parliament and the Council informed of relevant developments.	3. The Commission shall keep the European Parliament and the Council informed of <b>any</b> relevant developments <b>pursuant to paragraphs 1 and 2.</b>	
64	The Commission shall remain open to engage with the third country concerned after the adoption of Union response measures pursuant to Article 7. The Commission may pursue these efforts, as the case may be, in conjunction with a suspension, pursuant to Article 10(2),	4. The Commission shall remain open to <del>engage</del> <b>enter into consultations</b> with the third country concerned after the adoption of Union response measures pursuant to Article 7- <b>and</b> <del>The Commission may pursue these</del>	

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	of any Union response measures.	<del>efforts</del> , as the case may be, in conjunction with a suspension; <del>pursuant to Article 10(2)</del> ; of any Union response measures <b>pursuant to Article 10(2)</b> .	
65	<i>Article 6</i> International cooperation	<i>Article 6</i> International cooperation	
66	The Commission shall enter into consultations or cooperation, on behalf of the Union, with any other country affected by the same or similar measures of economic coercion or with any interested third country, with a view to obtaining the cessation of the coercion. This may involve, where appropriate, coordination in relevant international fora and coordination in response to the coercion.	The Commission shall enter into consultations or cooperation, on behalf of the Union, with any other country affected by the same or similar measures of economic coercion or with any interested third country, with a view to obtaining the cessation of the coercion. This may involve, where appropriate, coordination in relevant international fora and coordination in response to the coercion. <b>The Commission shall keep the European Parliament and the Council informed of any relevant developments.</b>	
67	<i>Article 7</i> Union response measures	<i>Article 7</i> Union response measures	
68			

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	<p>1. The Commission shall adopt an implementing act determining that it shall take a Union response measure where:</p> <p>(a) action pursuant to the Articles 4 and 5 has not resulted in the cessation of the economic coercion and reparation of the injury it has caused to the Union or a Member State within a reasonable period of time;</p> <p>(b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case, and</p> <p>(c) action is in the Union's interest.</p> <p>In the implementing act, the Commission shall also determine the appropriate Union response from among the measures provided for in Annex I. Such measures may also apply with regard to natural or legal persons designated in accordance with Article 8. The Commission may also adopt measures which it can take pursuant to other legal instruments.</p> <p>The implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2).</p>	<p>1. The Commission shall adopt an implementing act <b>in accordance with the examination procedure referred to in Article 15(2)</b> determining <b>that it shall take a Union response measure under this Regulation, where:</b></p> <p>(a) action pursuant to <del>the</del> Articles 4 and 5 has not resulted in the cessation of the economic coercion and, <b>where appropriate, the</b> reparation of the injury it has caused to the Union or a Member State within a reasonable period of time;</p> <p>(b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case, and</p> <p>(c) action is in the Union's interest.</p> <p>In the implementing act <b>referred to in the first subparagraph</b>, the Commission shall also determine the appropriate Union response <del>from among the</del> <b>consisting in one or more</b> measures <del>provided for in</del> <b>pursuant to</b> Annex I. Such measures may also apply with regard to natural or legal persons designated in accordance with Article 8.</p> <p><del>The Commission may also adopt measures which it can take pursuant to other legal instruments.</del></p> <p><del>The implementing act referred to in</del></p>	

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		<del>the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 15(2).</del>	
69	2. The Union response measures shall apply from a specified date after the adoption of the implementing act referred to in paragraph 1. The Commission shall set this date of application, taking into account the circumstances, to allow for the notification of the third country concerned pursuant to paragraph 3 and for it to cease the economic coercion.	2. The Union response measures shall apply from a specified date after the adoption of the implementing act referred to in paragraph 1. The Commission shall <del>set this</del> specify the date of application of the Union response measures, taking into account the circumstances, to allow for the notification of the third country concerned pursuant to paragraph 3 and for it to cease the economic coercion.	
70	3. The Commission shall, upon adoption of the implementing act, notify the third country concerned of the Union response measures adopted pursuant to paragraph 1. In the notification, the Commission shall, on behalf of the Union, call on the third country concerned to promptly cease the economic coercion, offer to negotiate a solution, and inform the third country concerned that the Union response measure will apply, unless the economic coercion ceases.	3. <del>The Commission shall, u</del> Upon adoption of the implementing act ; <del>notify the third country concerned of the Union response measures adopted pursuant</del> referred to in paragraph 1, <del>In the notification,</del> the Commission shall, on behalf of the Union, <b>notify the third country concerned thereof and:</b>  <b>(a)</b> call on the third country concerned to promptly cease the economic coercion;,  <b>(b)</b> offer to negotiate a solution, and	

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		<p>(c) inform the third country concerned that the Union response measures will apply, unless the economic coercion ceases.</p>	
71	<p>4. The implementing act referred to in paragraph 1 shall state that the application of the Union response measures shall be deferred for a period specified in that implementing act, where the Commission has credible information that the third country has ceased the economic coercion before the start of application of the adopted Union response measures. In that event, the Commission shall publish a notice in the Official Journal of the European Union indicating that there is such information and the date from which the deferral shall apply. If the third country ceases the economic coercion before the Union response measures start to apply, the Commission shall terminate the Union response measures in accordance with Article 10.</p>	<p>4. The implementing act referred to in paragraph 1 <del>shall state that the application of the Union response measures shall be deferred</del> provide for a deferred application of the Union response measures for a period of time specified in that implementing act, where the Commission has credible information that the third country has ceased the economic coercion before the start date of application of the adopted Union response measures.</p> <p>In the <del>at</del> event, that the Commission has the information referred to in the first subparagraph, it shall publish a notice in the Official Journal of the European Union indicating that there is such information and the date from which the deferral shall apply.</p> <p>If the third country ceases the economic coercion before the date of application of the Union response measures <del>start to apply</del>, the Commission shall terminate the Union response measures in accordance with Article 10.</p>	

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72	<p>5. Notwithstanding paragraphs 2, 3 and 4, the Union response measures may apply without the Commission, on behalf of the Union, first calling, once more, on the third country concerned to cease the economic coercion or without the Commission first notifying it that Union response measure will apply, where this is necessary for the preservation of the rights and interests of the Union or Member States, notably of the effectiveness of Union response measures.</p>	<p>5. Notwithstanding paragraphs 2, 3 and 4, the Union response measures may apply without the Commission, on behalf of the Union, first calling, once more, on the third country concerned to cease the economic coercion or without the Commission first notifying <del>it</del> <b>the third country concerned</b> that Union response measure will apply, where <b>in duly justified cases</b> this is necessary for the preservation of the rights and interests of the Union or <b>a</b> Member States, notably of the effectiveness of Union response measures.</p>	
73		<p><b>5bis. Notwithstanding paragraphs 2 and 4, where economic coercion consists in a threat to apply measures affecting trade or investment in accordance with Article 2(1), the date of application of the Union response measures shall be the date when the third country starts applying such measures. The Commission shall specify such date of application in the implementing act referred to in paragraph 1. If the third country delays to a specific date the</b></p>	

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		<p>application of its measures, the Commission shall publish a notice in the Official Journal of the European Union indicating that the Union response measures shall apply on that date.</p>	
74	<p>6. On duly justified imperative grounds of urgency to avoid irreparable damage to the Union or its Member States by the measures of economic coercion the Commission shall adopt immediately applicable implementing acts imposing Union response measures, in accordance with the procedure referred to in Article 15(3). The requirements set out in paragraphs 2 to 5 shall apply. Those acts shall remain in force for a period not exceeding three months.</p>	<p>6. On duly justified imperative grounds of urgency to avoid irreparable damage to the Union or its Member States by the measures of economic coercion, the Commission shall adopt immediately applicable implementing acts imposing Union response measures, in accordance with the procedure referred to in Article 15(3). The requirements set out in paragraphs 2 to 5<b>bis</b> shall apply. Those acts shall remain in force for a period not exceeding three months.</p>	
75	<p>7. The Commission is empowered to adopt delegated acts in accordance with Article 14 to amend the list provided for in Annex I in order to provide additional types of measures to respond to a third country's measure. The Commission may adopt such delegated acts where the types of response measures would:</p> <p>(a) be as effective or more effective</p>	<p><del>7. The Commission is empowered to adopt delegated acts in accordance with Article 14 to amend the list provided for in Annex I in order to provide additional types of measures to respond to a third country's measure. The Commission may adopt such delegated acts where the types of response measures would:</del></p>	

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	<p>than the response measures already provided for in terms of inducing the cessation of measures of economic coercion;</p> <p>(b) provide as effective or more effective relief to economic operators within the Union affected by the measures of economic coercion;</p> <p>(c) avoid or minimise the negative impact on affected actors; or</p> <p>(d) avoid or minimise administrative complexity and costs.</p>	<p><del>(a) be as effective or more effective than the response measures already provided for in terms of inducing the cessation of measures of economic coercion;</del></p> <p><del>(b) provide as effective or more effective relief to economic operators within the Union affected by the measures of economic coercion;</del></p> <p><del>(c) avoid or minimise the negative impact on affected actors; or</del></p> <p><del>(d) avoid or minimise administrative complexity and costs.</del></p>	
76	<p><i>Article 8</i></p> <p>Union response measures with regard to natural or legal persons</p>	<p><i>Article 8</i></p> <p>Union response measures with regard to natural or legal persons</p>	
77	<p>1. The Commission may provide, in the implementing act referred to in Article 7(1), or in a separate implementing act, that:</p> <p>(a) legal or natural persons designated in accordance with paragraph 2 point (a) shall be subject to Union response measures; or</p> <p>(b) without prejudice to the</p>	<p>1. <b>Where the Commission may provide, in the</b> <del>adopts an</del> <b>implementing act referred pursuant to in Article 7(1), the Commission may provide, either in that implementing act</b> or in a separate implementing act, that:</p> <p>(a) <b>a legal or natural persons designated connected or linked to the government of the third country concerned</b> in</p>	

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	<p>responsibility of the third country under international law, Union natural or legal persons affected by the third country's measures of economic coercion shall be entitled to recover, from persons designated pursuant to paragraph 2, point (b), any damage caused to them by the measures of economic coercion up to the extent of the designated persons' contribution to such measures of economic coercion.</p> <p>Those measures shall apply as of the same date of application as the Union response measures adopted pursuant to Article 7, or as of a later date specified in the implementing act pursuant to this paragraph.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).</p>	<p>accordance with paragraphs 2 <del>and 2bis point (a)</del> shall be subject to <b>one or more</b> Union response measures <b>pursuant to Annex I</b>;</p> <p>or</p> <p>(b) without prejudice to the responsibility of the third country <b>concerned</b> under international law, Union natural or legal persons <b>referred to in paragraph 5</b> affected by the third country's measures of economic coercion shall be entitled to recover, from <del>persons designated pursuant to paragraph 2, point (b)</del> <b>a natural or legal person that has contributed to measures of economic coercion in accordance with paragraphs 2 and 3</b>, any damage caused to them by the measures of economic coercion up to the extent of the designated persons' contribution to such measures of economic coercion.</p> <p>Those measures shall apply <del>as of</del> <b>from</b> the same date of application as the Union response measures adopted pursuant to Article 7, or <del>as of from</del> a later date specified in the implementing act <del>pursuant</del> <b>referred to in</b> <del>the</del> <b>first subparagraph</b>.</p> <p><del>Those</del> <b>The</b> implementing acts <b>referred to in this paragraph</b> shall</p>	

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		be adopted in accordance with the examination procedure referred to in Article 15(2) <b>and include grounds for the designation of the person concerned, the information necessary to identify it and where appropriate the extent of the contribution of such person to measures of economic coercion.</b>	
78		<b>1bis. To facilitate the application of paragraph 1 point (b), the Commission shall issue guidelines for Union natural or legal persons on the date of the entry into force of this regulation.</b>	
79	2. The Commission may designate a natural or legal person where it finds: (a) that such person is connected or linked to the government of the third country concerned; or, (b) that such person is connected or linked to the government of the third country concerned and has additionally caused or been involved in or connected with the economic coercion.	<del>2. The Commission may designate a natural or legal person where it finds: (a) that such person is connected or linked to the government of the third country concerned; or, (b) that such person is connected or linked to the government of the third country concerned and has additionally caused or been involved in or connected with the economic coercion.</del>	
80		<b>2. The Commission may examine the</b>	

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		<p>designation of a natural or legal person in accordance with paragraphs 1 points (a) and (b), provided that it finds that the natural or legal person is engaged in the purchase or sale of goods or services with the Union, either directly or indirectly, through imports, exports or foreign direct investments.</p>	
81		<p>2bis. The Commission may determine that a natural or legal person is connected or linked to the government of the third country concerned where it finds that:</p> <p>(a) such person is controlled by the government of the third country concerned, if that government beneficially owns more than 50 % of the equity interest in it, exercise directly or indirectly more than 50 % of the voting rights in it, has the power to appoint a majority of its directors or has otherwise the power to exercise control over it; or</p> <p>(b) such person benefits from exclusive or special rights or privileges granted in law or in fact by the government of the</p>	

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		<p>third country concerned, if it operates in a sector where that government limits to one or more the number of suppliers or buyers, or if it is allowed directly or indirectly by that government to exercise practices which prevent, restrict or distort competition; or</p> <p>(c) such person effectively acts on behalf of, or at the direction or instigation of the government of the third country concerned.</p> <p>Any natural or legal person that has contributed to economic coercion in accordance with paragraph 3 shall be deemed to be connected or linked to the government of that third country under this paragraph.</p>	
82		<p>3. The Commission may determine that a natural or legal person has contributed to measures of economic coercion of the third country concerned where it finds that such person has caused or has been involved in or has been connected with such measures of economic coercion.</p>	

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83		<p>4. A determination pursuant to paragraphs 2bis and 3 may take into account the conduct of a natural person, provided that they are associated to such legal person or otherwise influence its actions, such as shareholders, directors or managers of an undertaking. In this event, paragraph 6 shall also apply to such natural person.</p>	
84		<p>5. For the purposes of paragraph 1 point (b), Union natural or legal persons include:</p> <p>(a) any natural person being a national of a Member State;</p> <p>(b) any natural person being a permanent resident in a Member State;</p> <p>(c) any legal person, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State.</p>	
85	<p>3. In making this designation the Commission shall examine all relevant criteria and available information, including whether the</p>	<p>3. In making this designation the Commission shall examine <del>all</del> relevant criteria <del>and in the light of</del> <b>all</b> available information, <del>including</del></p>	

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	<p>persons concerned are known to effectively act on behalf of, or are beneficially owned or otherwise effectively controlled by the government of the third country.</p>	<p><del>whether the persons concerned are known to effectively act on behalf of, or are beneficially owned or otherwise effectively controlled by the government of the third country.</del></p>	
86	<p>4. Where the Commission has grounds to consider that persons should be designated pursuant to paragraph 2, point (a) or point (b) it shall publish a provisional list of persons and, where relevant, the possible measures pursuant to Annex I that they would be subject to. Before deciding on designation, it shall give any persons provisionally designated and other interested parties the opportunity to submit comments on the possible designation, in particular whether they fall under the conditions of paragraph 2, point (a) or point (b). The Commission may also seek additional information it considers pertinent concerning the potential designation.</p>	<p><del>4.</del> Where the Commission has grounds to consider that <b>a</b> persons should be designated pursuant to paragraph <del>1</del><sup>2</sup>, point (a) or point (b) it shall <b>inform such</b> <del>publish a provisional list of</del> person <b>of its intention, including grounds for designations</b>, and, where relevant, the possible measures pursuant to Annex I that <del>it</del><sup>they</sup> would be subject to. <b>The Commission shall carry out such information by publishing a notice in the Official Journal of the European Union and, whenever possible, by communicating directly with the person concerned.</b></p> <p>Before deciding on designation, <b>the Commission</b> <del>it</del> shall give:</p> <p><b>(a)</b> any persons <b>referred to in the first subparagraph</b> <del>provisionally designated and other interested parties</del> the opportunity to submit <del>comments</del> <b>observations</b> on the possible designation <b>within a</b></p>	

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		<p><b>reasonable period of time</b>, in particular whether they fall under the conditions of paragraphs <b>2bis or 3</b>; and</p> <p><b>(b) other interested parties the opportunity to submit observations on the possible designation.</b></p> <p>The Commission may also seek additional information it considers pertinent concerning the potential designation <b>under this Article</b>.</p>	
87		<p><b>5. Without prejudice to Article 10, the Commission shall review the measures referred to in paragraph 1 point (a) or (b) when new substantial evidence are submitted and inform the natural or legal persons concerned accordingly.</b></p>	
88	<p><i>Article 9</i></p> <p>Criteria for selecting and designing Union response measures</p>	<p><i>Article 9</i></p> <p>Criteria for selecting and designing Union response measures</p>	

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89	<p>1. Any Union response measure shall not exceed the level that is commensurate with the injury suffered by the Union or a Member State due to the third country's measures of economic coercion, taking into account the gravity of the third country's measures and the rights in question.</p>	<p>1. Any Union response measure shall not exceed the level that is commensurate with the injury suffered by the Union or a Member State due to the third country's measures of economic coercion, taking into account the gravity of the third country's measures <b>of economic coercion</b> and the rights <del>in question</del> <b>of the Union or a Member State.</b></p>	
90	<p>2. The Commission shall select and design an appropriate response measure taking into account the determination made pursuant to Article 4, the criteria set out in Article 2(2) and the Union's interest, on the basis of available information, including as collected pursuant to Article 11, and the following criteria:</p> <p>(a) the effectiveness of the measures in inducing the cessation of the economic coercion;</p> <p>(b) the potential of the measures to provide relief to economic operators within the Union affected by the economic coercion;</p> <p>(c) the avoidance or minimisation of</p>	<p>2. The Commission shall select and design an appropriate response measure taking into account the determination made pursuant to Article 4, the criteria set out in Article 2(2) and the Union's interest, on the basis of available information, including as collected pursuant to Article 11, and the following criteria:</p> <p>(a) the effectiveness of the <b>Union response</b> measures in inducing the cessation of the economic coercion;</p> <p>(b) the potential of the <b>Union response</b> measures to provide relief to Union economic operators within the <b>Union</b> affected by the economic coercion;</p>	

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	<p>negative impacts on affected actors by Union response measures, including the availability of alternatives for affected actors, for example alternative sources of supply for goods or services;</p> <p>(d) the avoidance or minimisation of negative effects on other Union policies or objectives;</p> <p>(e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;</p> <p>(f) the existence and nature of any response measures enacted by other countries affected by the same or similar measures of economic coercion, including where relevant any coordination pursuant to Article 6;</p> <p>(g) any other relevant criteria established in international law.</p>	<p>(c) the avoidance or minimisation of negative impacts on affected <b>Union</b> actors by Union response measures, including the availability of alternatives for <b>such</b> affected <del>such</del> actors, for example alternative sources of supply for goods or services;</p> <p>(d) the avoidance or minimisation of negative effects on other Union policies or objectives <b>by Union response measures</b>;</p> <p>(e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;</p> <p>(f) the existence and nature of any response measures enacted by <del>other</del> <b>third</b> countries affected by the same or similar measures of economic coercion, including where relevant any coordination pursuant to Article 6;</p> <p>(g) any other relevant criteria established in international law.</p>	
91		<p><b>2bis. When selecting and designing an appropriate response measure pursuant to Annex I that concerns a procedure organised</b></p>	

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		<p>by a public authority in the Union to grant authorisations, registrations, licenses or other rights to a natural or legal person for the purposes of its commercial activities, the Commission shall always favour:</p> <p>(a) measures applying to procedures duly initiated after the entry into force of the act implementing Union response measures, or where no such measures are available, effective or practicable on the basis of the assessment pursuant to paragraph 2, measures applying to procedures not yet completed upon the entry into force of such act;</p> <p>(b) measures applying to procedures organised on a Union-wide basis and valid throughout the Union, or where no such measures are available, effective or practicable on the basis of the assessment pursuant to paragraph 2, measures applying to procedures organised in an area where extensive Union legislation exists; or</p> <p>(c) measures that are respecting both points (a) and (b), where</p>	

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		<p><b>feasible.</b></p> <p><b>Where no such measures are available, effective or practicable on the basis of the assessment pursuant to paragraph 2, the Commission may apply other measures, if the information-gathering exercise conducted pursuant to Article 11 does not indicate that there would be a disproportionate impact on the on the upstream and downstream industries and final consumers within the Union or on administration of relevant national regulations.</b></p>	
92	<p>3. The Commission may decide to apply Union response measures under Articles 7 or 8 consisting of restrictions on foreign direct investment or on trade in services also with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union and owned or controlled by persons of the third country concerned where necessary to achieve the objectives of this Regulation. The Commission may decide on such application where Union response measures not covering such situations would be</p>	<p>3. <b>Where necessary to achieve the objectives of this Regulation,</b> <del>the</del> Commission may decide to apply Union response measures under Articles 7 or 8 consisting of restrictions on foreign direct investment or on trade in services also with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union and owned or controlled by persons of the third country concerned <del>where necessary to achieve the objectives of this Regulation</del>. The Commission</p>	

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	<p>insufficient to effectively achieve the objectives of this Regulation, in particular where such measures could be avoided. In assessing whether to adopt such a decision the Commission shall consider, in addition to the criteria in paragraphs 1 and 2, amongst other things:</p> <p>(a) the patterns of trade in services and investment in the sector targeted by the envisaged Union response measures and the risk of avoidance of any Union response measures not applying to services supplied, or direct investments made, within the Union;</p> <p>(b) the effective contribution of such intra-Union restrictions to the objective of obtaining the cessation of the measure of economic coercion;</p> <p>(c) the existence of alternative measures capable of achieving the objective of obtaining the cessation of the measure of economic coercion that are reasonably available and less restrictive of trade in services or investment within the Union.</p> <p>Any decision to apply restrictions with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union shall be duly justified in the implementing</p>	<p>may decide on <del>such the</del> application <del>where-of such</del> Union response measures <del>where</del> not covering such situations would be insufficient to effectively achieve the objectives of this Regulation, in particular where such measures could be avoided <del>by</del> <b>the third country or the person concerned</b>.</p> <p>In assessing whether to adopt <del>such-a</del> <b>the decision referred to in the first subparagraph</b>, the Commission shall consider, in addition to the criteria <del>in</del> <b>under</b> paragraphs 1 and 2, amongst other things:</p> <p>(a) the patterns of trade in services and investment in the sector targeted by the envisaged Union response measures and the risk of avoidance <b>by the third country or the person concerned</b> of any Union response measures not applying to services supplied, or direct investments made, within the Union;</p> <p>(b) the effective contribution of such intra-Union restrictions <b>referred to in the first subparagraph</b> to the objective of obtaining the cessation of <del>the measure of</del> economic coercion;</p> <p>(c) the existence of alternative measures capable of achieving the objective of obtaining the</p>	

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	<p>act referred to in paragraph 1 of Article 7 in light of the above criteria.</p>	<p>cessation of the measure of economic coercion that are reasonably available and less restrictive of trade in services or investment within the Union.</p> <p>Any decision to apply restrictions with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union shall be duly justified in the implementing act referred to in paragraph 1 of Article 7 <b>and in paragraph 1 of Article 8</b> in light of the <del>above</del> criteria <b>referred to in the third paragraph of this Article.</b></p>	
93		<p><b>Article 9bis</b> <b>Union interest</b></p> <p><b>A determination as to whether it is in the Union's interest to act under this Regulation shall be based on an appreciation of all the various interests taken as a whole, including the interests of Member States and Union economic operators. The general objective of deterring, or having the third country desist from measures of economic coercion, whilst enabling the Union as a last resort to counteract such actions, shall be given special consideration. Actions under</b></p>	



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	<p>suspend the application of the respective Union response measure for the duration of the third country's suspension, or as long as necessary in light of the Union's interest. The Commission shall suspend the Union response measures if the third country concerned has offered, and the Union has concluded, an agreement to submit the matter to binding international third-party adjudication and the third country is also suspending its measures of economic coercion. The Commission shall, by means of an implementing act, decide to suspend the Union response measure. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).</p>	<p><del>may shall</del> suspend the application of the respective Union response measure for the duration of the <del>third country's</del> suspension <u>of the measures of economic coercion by the third country</u>, or as long as necessary in light of the Union's interest.</p> <p><del>The Commission shall suspend the Union response measures if</del> <u>Where</u> the third country concerned has offered, and the Union <u>or the Member State concerned</u> has concluded, an agreement to submit the matter to binding international third-party adjudication and the third country <del>is</del> <u>is also suspending</u> its measures of economic coercion, <u>the Commission shall suspend the Union response measures for the duration of the proceedings.</u></p> <p>The Commission shall, by means of an implementing act <u>adopted in accordance with the examination procedure referred to in Article 15(2)</u>, decide to suspend the Union response measure <u>under this paragraph</u>. <del>These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).</del></p>	
97	3. Where it is necessary to make adjustments to Union response	3. Where it is necessary to make	

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	<p>measures taking into account the conditions and criteria laid down in Articles 2 and 9(2), or further developments, including the third country's reaction, the Commission may, as appropriate, amend Union response measures adopted in accordance with Article 7, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).</p>	<p>adjustments to Union response measures taking into account the conditions and criteria laid down in Articles 2 and <a href="#">paragraphs 2 and 3 of Article 9(2)</a>, or further developments, including the third country's reaction, the Commission may, as appropriate, amend Union response measures adopted in accordance with <a href="#">Articles 7 and 8</a>, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).</p>	
98	<p>4. The Commission shall terminate Union response measures under any of the following circumstances:</p> <ul style="list-style-type: none"> <li>(a) where the economic coercion has ceased;</li> <li>(b) where a mutually agreed solution has otherwise been reached;</li> <li>(c) where a binding decision in international third-party adjudication in a dispute between the third country concerned and the Union or a Member State requires the withdrawal of the Union response measure;</li> <li>(d) where it is appropriate in light of the Union's interest.</li> </ul>	<p>4. The Commission shall terminate Union response measures under any of the following circumstances:</p> <ul style="list-style-type: none"> <li>(a) where the economic coercion has ceased;</li> <li>(b) where a mutually agreed solution has otherwise been reached;</li> <li>(c) where a binding decision in international third-party adjudication in a dispute between the third country concerned and the Union or a Member State requires the withdrawal of the Union response measure;</li> <li>(d) where it is appropriate in light of the Union's interest.</li> </ul>	

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	The termination of Union response measures adopted in accordance with Article 7 shall be decided, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).	The termination of Union response measures adopted in accordance with Articles 7 and 8 shall be decided, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).	
99	5. On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts suspending, amending or terminating Union response measures adopted in accordance with Article 7. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 15(3) and they shall remain in force for a period not exceeding two months.	5. On duly justified imperative grounds of urgency, <u>such as avoiding irreparable damage to the Union or a Member State or continuing to ensure consistency with the Union's obligations under international law pursuant to the suspension or cessation of measures of economic coercion from the third country concerned,</u> the Commission shall adopt immediately applicable implementing acts suspending, amending or terminating Union response measures adopted in accordance with Articles 7 and 8. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 15(3) and they shall remain in force for a period not exceeding two months.	
100	<i>Article 11</i> Information gathering related to Union	<i>Article 11</i> Information gathering related to Union	

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	response measures	response measures	
101	<p>1. Before the adoption of Union response measures or the amendment of such measures, the Commission shall, and before the suspension or termination of such measures, respectively, the Commission may, seek information and views regarding the economic impact on Union operators and Union's interest, through a notice published in the <i>Official Journal of the European Union</i> or through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted.</p>	<p>1. Before the adoption <b>or amendment</b> of Union response measures <del>or the amendment of such measures</del>, the Commission shall, and before the suspension or termination of such measures, respectively, the Commission may, seek information and views regarding the economic impact on Union <b>economic</b> operators and Union's interest, through a notice published in the <i>Official Journal of the European Union</i> <del>or</del> <b>and, where appropriate</b>, through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted.</p>	
102	<p>2. The Commission may start the information gathering at any time it deems appropriate.</p>	<p>2. The Commission may start the information gathering at any time it deems appropriate.</p>	
103	<p>3. In conducting the information gathering under paragraph 1, the Commission shall inform and</p>	<p>3. In conducting the information gathering under paragraph 1, the Commission shall inform and</p>	

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	consult stakeholders, in particular industry associations, affected by possible Union response measures, and Member States involved in the preparation or implementation of legislation regulating the affected fields.	consult stakeholders, in particular <del>industry</del> associations <u>acting on behalf of Union economic operators</u> , affected by possible Union response measures, and Member States involved in the preparation or implementation of legislation regulating the affected fields.	
104	<p>4. Without unduly delaying the adoption of Union response measures, the Commission shall, in particular, seek information on:</p> <p>(a) the impact of such measures on third-country actors or Union competitors, users or consumers or on Union employees, business partners or clients of such actors;</p> <p>(b) the interaction of such measures with relevant Member State legislation;</p> <p>(c) the administrative burden which may be occasioned by such measures;</p> <p>(d) the Union's interest.</p>	<p>4. Without unduly delaying the adoption of Union response measures, the Commission shall, in particular, seek information <u>and views</u> on:</p> <p>(a) the impact of such measures on third-country actors or Union <u>economic operators</u> competitors, users or consumers or on Union employees, business partners or clients of such actors;</p> <p>(b) the interaction of such measures with relevant Member State legislation;</p> <p>(c) the administrative burden which may be occasioned by such measures;</p> <p>(d) the Union's interest.</p>	

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105	5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the envisaged measures shall accompany the draft implementing act when submitted to the committee in the context of the examination procedure referred to in Article 15(2).	5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the envisaged measures shall accompany the draft implementing act when submitted to the committee in the context of the examination procedure referred to in Article 15(2).	
106	6. Prior to the adoption of an implementing act in accordance with Article 7(6) or Article 10(5), the Commission shall seek information and views from relevant stakeholders in a targeted manner, unless the imperative grounds of urgency are such that information seeking and consultations are not possible or not needed for objective reasons, for instance to ensure compliance with international obligations of the Union.	6. Prior to the adoption of an implementing act in accordance with Article 7(6) or Article 10(5), the Commission shall seek information and views from relevant stakeholders in a targeted manner, unless the imperative grounds of urgency are such that information seeking and consultations are not possible or not needed for objective reasons, for instance to ensure compliance with international obligations of the Union.	
107	<i>Article 12</i> Confidentiality	<i>Article 12</i> Confidentiality	
108	1. Information received pursuant to this		

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	Regulation shall be used only for the purpose for which it was requested.	1. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.	
109	2. The supplier of information may request that information supplied be treated as confidential. In such cases, it shall be accompanied by a non-confidential summary or a statement of the reasons why the information cannot be summarised. The Commission, the Council, the European Parliament, Member States or their officials shall not reveal any information of a confidential nature received pursuant to this Regulation, without specific permission from the supplier of such information.	2. The supplier of information may request <del>that</del> <b>such</b> information <del>supplied</del> be treated as confidential. In such cases, it shall be accompanied by a non-confidential summary <b>of the information concerned</b> or a statement of the reasons <b>explaining</b> why the information <b>concerned</b> cannot be summarised. The Commission, the Council, the European Parliament, Member States or their officials shall not reveal any information of a confidential nature received pursuant to this Regulation, without specific permission from the supplier of such information.	
110	3. Paragraph 2 shall not preclude the Commission to disclose general information in a summary form, which does not contain information allowing to identify the supplier of the information. Such disclosure shall take into account the legitimate interest of the parties concerned in not having confidential information	3. Paragraph 2 shall not preclude the Commission <del>to</del> <b>from</b> <del>disclosin</del> <b>g</b> general information in <del>a</del> summary form, <del>which provided that such</del> <b>disclosure</b> does not contain information allowing <del>to</del> <b>the</b> <del>identify</del> <b>fy</b> <b>of</b> the supplier of the information <b>to be known</b> . Such disclosure shall take into account the legitimate	

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	disclosed.	interest of the parties concerned in not having confidential information disclosed.	
111	<i>Article 13</i> Rules of origin	<i>Article 13</i> Rules of origin <u>and nationality</u>	
112	1. The origin or nationality of a good, service, service provider, investment or intellectual property rightholder shall be determined in accordance with Annex II.	1. The origin or nationality of a good, service, service provider, investment or intellectual property rightholder shall be determined in accordance with Annex II.	
113	2. The Commission is empowered to adopt delegated acts in accordance with Article 14 to amend points 2 to 4 of Annex II in order to amend the rules of origin and add any other technical rules necessary for the application of the Regulation, to ensure its effectiveness and to take account of relevant developments in international instruments and experience in the application of measures under this Regulation or other Union acts.	2. The Commission is empowered to adopt delegated acts in accordance with Article 14 to amend points 2 <u>and 3</u> <del>to 4</del> of Annex II <del>in order</del> to amend the rules of origin <u>or nationality</u> and add any other technical rules necessary for the application of <u>this</u> Regulation, to ensure its effectiveness and to take account of relevant developments in international instruments and experience in the application of measures under this Regulation or other Union acts.	

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114	Article 14 Delegated Acts	Article 14 Delegated Acts	
115	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	
116	2. The power to adopt delegated acts referred to in Articles 7(7) and 13(2) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force].	2. The power to adopt delegated acts referred to in Articles <del>7(7) and</del> 13(2) shall be conferred on the Commission for an <del>indeterminate</del> period of <del>time</del> <b>five years</b> from [date of entry into force <b>of this Regulation</b> ]. <b><u>Such delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.</u></b>	
117	3. The delegation of power referred to in Articles 7(7) and 13(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of	3. The delegation of power referred to in Articles <del>7(7) and</del> 13(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of	

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	the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.	
118	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.	4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.	
119	<p>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>A delegated act adopted pursuant to Articles 7(7) and 13(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended</p>	<p>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p> <p>A delegated act adopted pursuant to Articles <del>7(7) and</del> 13(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended</p>	

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	by two months at the initiative of the European Parliament or of the Council.	by two months at the initiative of the European Parliament or of the Council.	
120	<i>Article 15</i> Committee procedure	<i>Article 15</i> Committee procedure	
121	1. The Commission shall be assisted by a Committee. That committee shall be a committee within the meaning of Article 3 of Regulation (EU) No 182/2011.	1. The Commission shall be assisted by a Committee. That committee shall be a committee within the meaning of Article 3 of Regulation (EU) No 182/2011.	
122		<b><u>1bis. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.</u></b>	
123	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.  <b><u>Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of</u></b>	

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		<a href="#">Article 5(4) of Regulation (EU) No 182/2011 shall apply.</a>	
124	3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof, shall apply.	3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof, shall apply.	
125		<a href="#">4. Committee members representing Member States shall be subject to a duty of professional secrecy with regard to any confidential information which has come to their knowledge in the course of the performance of their official duties. A secure and encrypted system shall be provided by the Commission to support direct cooperation and exchange of information with Committee members.</a>	
126	Article 16 Review	Article 16 Review	
127	1. The Commission shall evaluate any	1. The Commission shall evaluate any	

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	<p>Union response measure adopted pursuant to Article 7 six months after its termination, taking into account stakeholder input and any other relevant information. The evaluation report shall examine the effectiveness and operation of the Union response measure, and draw possible conclusions for future measures.</p>	<p>Union response measure adopted pursuant to Articles <a href="#">7</a> <b>and</b> <a href="#">8</a> six months after its termination, taking into account stakeholder input and any other relevant information. The evaluation <del>report</del> shall examine the effectiveness and operation of the Union response measure, and <a href="#">possibly</a> draw <del>possible</del> conclusions for future <a href="#">Union response</a> measures <a href="#">and the review of this regulation pursuant to paragraph 2.</a></p>	
128	<p>2. No later than three years after the adoption of the first implementing act under this Regulation or six years after the entry into force of this Regulation, whichever is earlier, the Commission shall review this Regulation and its implementation and shall report to the European Parliament and the Council.</p>	<p>2. No later than three years after the adoption of the first implementing act under this Regulation or <del>six</del> <a href="#">five</a> years after the <a href="#">date of</a> entry into force of this Regulation, whichever is earlier, <a href="#">and every five years thereafter,</a> the Commission shall review this Regulation and its implementation and shall report to the European Parliament and the Council. <a href="#">In the course of such review, the Commission shall give particular consideration to any issues which may arise as regards the relationship of this Regulation to other existing Union instruments.</a></p>	
129	<p><i>Article 17</i></p>	<p><i>Article 17</i></p>	

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	Entry into force	Entry into force	
130	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	
131	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	
132	Done at Brussels,	Done at Brussels,	
133	<i>For the European Parliament</i>	<i>For the European Parliament</i>	
134	<i>The President</i>	<i>The President</i>	

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135	<i>For the Council</i>	<i>For the Council</i>	
136	<i>The President</i>	<i>The President</i>	
137	<b><u>ANNEX I</u></b> Union response measures pursuant to Articles 7 and 8	<b><u>ANNEX I</u></b> Union response measures pursuant to Articles 7 and 8	
138	Measures which may be adopted pursuant to Articles 7 and 8 are:	Measures which may be adopted pursuant to Articles 7 and 8 are:	
139	(a) the suspension of any tariff concessions, as necessary, and the imposition of new or increased customs duties, including the re-establishment of customs duties at the most-favoured-nation level or the imposition of customs duties beyond the most-favoured-nation level, or the introduction of any additional	(a) the <b>non-performance suspension</b> of <b>applicable international obligations as regards</b> any tariff concessions, as necessary, and the imposition of new or increased customs duties, including the re-establishment of customs duties at the most-favoured-nation level or the imposition of customs duties beyond	

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	charge on the importation or exportation of goods;	the most-favoured-nation level, or the introduction of any additional charge on the importation or exportation of goods;	
140	(b) the suspension of applicable international obligations, as necessary, and the introduction or increase of restrictions on the importation or exportation of goods, whether made effective through quotas, import or export licences or other measures, or on the payment for goods;	(b) the <b>non-performance suspension</b> of applicable international obligations, as necessary, and the introduction or increase of restrictions on the importation or exportation of goods, whether made effective through quotas, import or export licences or other measures, or on the payment for goods;	
141	(c) the suspension of applicable international obligations, as necessary, and the introduction of restrictions on trade in goods made effective through measures applying to transiting goods or internal measures applying to goods.	(c) the <b>non-performance suspension</b> of applicable international obligations, as necessary, and the introduction of restrictions on trade in goods made effective through measures applying to transiting goods or internal measures applying to goods.	
142	(d) the suspension of applicable international obligations concerning	(d) the <b>non-performance suspension</b> of applicable international obligations	

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	the right to participate in tender procedures in the area of public procurement, as necessary, and:	concerning the right to participate in tender procedures in the area of public procurement, as necessary, and:	
143	(i) the exclusion from public procurement of goods, services or suppliers of goods or services of the third country concerned or the exclusion of tenders the total value of which is made up of more than a specified percentage of goods or services of the third country concerned; and/or	(i) the exclusion from public procurement of goods, services or suppliers of goods or services of the third country concerned or the exclusion of tenders the total value of which is made up of more than <del>a specified percentage</del> <b>50 %</b> of goods or services <b>originating in</b> <del>of</del> the third country concerned; and/or	
144	(ii) the imposition of a mandatory price evaluation weighting penalty <sup>9</sup> on tenders of goods, services or suppliers of goods or services of the third country concerned.  9. Mandatory price evaluation weighting penalty means an obligation for contracting authorities or entities conducting public procurement procedures to increase, subject to certain exceptions, the price of goods or services falling under this paragraph that have been offered in contract award procedures.	(ii) the imposition of a mandatory price evaluation weighting penalty <sup>9</sup> on tenders of goods, services or suppliers of goods or services of the third country concerned.  9. Mandatory price evaluation weighting penalty means an obligation for contracting authorities or entities conducting public procurement procedures to increase, subject to certain exceptions, the price of goods or services falling under this paragraph that have been offered in contract award procedures.	

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145	Origin shall be determined on the basis of Annex II;	Origin shall be determined on the basis of Annex II;	
146	(e) the suspension of applicable international obligations, as necessary, and the imposition of restrictions on the exportation of goods falling under the Union export control regime;	(e) the <b>non-performance suspension</b> of applicable international obligations, as necessary, and the imposition of restrictions on the exportation of goods falling under the Union export control regime;	
147	(f) the suspension of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services;	(f) the <b>non-performance suspension</b> of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services;	
148	(g) the suspension of applicable international obligations, as necessary, and the imposition of measures affecting foreign direct investment;	(g) the <b>non-performance suspension</b> of applicable international obligations, as necessary, and the imposition of measures affecting foreign direct investment;	
149	(h) the suspension of applicable international obligations with respect to trade-related aspects of intellectual property rights, as	(h) the <b>non-performance suspension</b> of applicable international obligations with respect to trade-related aspects of intellectual property rights, as	

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	necessary, and the imposition of restrictions on the protection of such intellectual property rights or their commercial exploitation, in relation to right-holders who are nationals of the third country concerned;	necessary, and the imposition of restrictions on the protection of such intellectual property rights or their commercial exploitation, in relation to right-holders who are nationals of the third country concerned;	
150	(i) the suspension of applicable international obligations with respect to financial services, as necessary, and the imposition of restrictions for banking, insurance, access to Union capital markets and other financial service activities;	(i) the <b>non-performance suspension</b> of applicable international obligations with respect to financial services, as necessary, and the imposition of restrictions for banking, insurance, access to Union capital markets and other financial service activities;	
151	(j) the suspension of applicable international obligations with respect to the treatment of goods, as necessary, and the imposition of restrictions on registrations and authorisations under the chemicals legislation of the Union;	(j) the <b>non-performance suspension</b> of applicable international obligations with respect to the treatment of goods, as necessary, and the imposition of restrictions on registrations and authorisations under the chemicals legislation of the Union;	
152	(k) the suspension of applicable international obligations with respect to the treatment of goods, as necessary, and the imposition of restrictions on registrations and authorisations related to the sanitary and phytosanitary legislation of the Union;	(k) the <b>non-performance suspension</b> of applicable international obligations with respect to the treatment of goods, as necessary, and the imposition of restrictions on registrations and authorisations related to the sanitary and	

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		phytosanitary legislation of the Union;	
153	(l) the suspension of applicable international obligations, as necessary, and the imposition of restrictions on access to Union-funded research programmes or exclusion from Union-funded research programmes.	(l) the <b>non-performance</b> <del>suspension</del> of applicable international obligations, as necessary, and the imposition of restrictions on access to Union-funded research programmes or exclusion from Union-funded research programmes	
154	<b><u>ANNEX II</u></b> Rules of Origin	<b><u>ANNEX II</u></b> Rules of Origin <b><u>and Nationality</u></b>	
155	1. The origin of a good shall be determined in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council. <sup>10</sup>  10. Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).	1. The origin of a good shall be determined in accordance with Regulation (EU) No 952/2013 of the European Parliament and of the Council. <sup>10</sup>  10. Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).	

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156	2. The origin of a service, including a service supplied in the area of public procurement, shall be determined on the basis of the origin of the natural or legal person providing it. The origin of the service provider shall be deemed to be:	2. The origin of a service, including a service supplied in the area of public procurement, shall be determined on the basis of the origin of the natural or legal person providing it. The <del>origin</del> <u>nationality</u> of the service provider shall be deemed to be:	
157	(a) in the case of a natural person, the country of which the person is a national or where the person has a right of permanent residence;	(a) in the case of a natural person, the country of which the person is a national or where the person has a right of permanent residence;	
158	(b) in the case of a legal person any of the following:	(b) in the case of a legal person any of the following:	
159	(i). if the service is provided other than through a commercial presence within the Union, the country where the legal person is constituted or otherwise organised under	(i). if the service is provided other than through a commercial presence within the Union, the country where the legal person is constituted or otherwise organised under the laws of that country and in the territory of which the legal person is engaged in substantive business operations;	

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	the laws of that country and in the territory of which the legal person is engaged in substantive business operations;		
160	(ii). if the service is provided through a commercial presence within the Union,	(ii). if the service is provided through a commercial presence within the Union,	
161	(a) if the legal person is engaged in substantive business operations in the territory of the Member State where the legal person is established such that it has a direct and effective link with the economy of that Member State the origin of that legal person shall be deemed to be that of the Member State in which it is established	(a) if the legal person is engaged in substantive business operations in the territory of the Member State where the legal person is established such that it has a direct and effective link with the economy of that Member State the origin of that legal person shall be deemed to be that of the Member State in which it is established	
162	(b) if the legal person providing the service is not engaged in substantive	(b) if the legal person providing the service is not engaged in substantive business operations such that it has a direct and	

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	<p>business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the origin of that legal person shall be deemed to be the origin of the natural or legal persons which own or control it. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its actions.</p>	<p>effective link with the economy of the Member State in which it is established, the origin of that legal person shall be deemed to be the origin of the natural or legal persons which own or control it. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its actions.</p>	
163	<p>(iii). By derogation from subparagraph (ii)(a), if it is decided that Union response measures should apply to legal persons falling under subparagraph (ii)(a), the origin of that person shall be the nationality or the place of permanent residence of</p>	<p>(iii) By derogation from subparagraph (ii)(a), if it is decided that Union response measures should apply to legal persons falling under subparagraph (ii)(a), the origin of that person shall be the nationality or the place of permanent residence of the natural or <del>juridical</del> <u>legal</u></p>	

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	<p>the natural or juridical person or persons who own or control the legal person in the Union. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its actions.</p>	<p>person or persons who own or control the legal person in the Union. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its actions.</p>	
164	<p>3. The nationality of an investment shall be:</p>	<p>3. The nationality of an investment shall be:</p>	
165	<p>(a) if the investment is engaged in substantive business operations in the territory of the Member State where the investment is established such that it has a direct and effective link with the economy of that Member State the nationality of the investment shall be deemed to be that of the Member State in which it is established;</p>	<p>(a) if the investment is engaged in substantive business operations in the territory of the Member State where the investment is established such that it has a direct and effective link with the economy of that Member State the nationality of the investment shall be deemed to be that of the Member State in which it is established;</p>	

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166	<p>(b) if the investment is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the nationality of the investment shall be deemed to that of the natural or legal persons which own or control it. The investment shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;</p>	<p>(b) if the investment is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the nationality of the investment shall be deemed to that of the natural or legal persons which own or control it. The investment shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its actions;</p>	
167	<p>(c) by derogation from subparagraph (a), if it is decided that Union response measures should apply to legal persons falling under subparagraph (a), the nationality of the investment shall be the nationality or the place of permanent residence of the natural or juridical person or persons who own or control the investment in the Union. The</p>	<p>(c) by derogation from subparagraph (a), if it is decided that Union response measures should apply to legal persons falling under subparagraph (a), the nationality of the investment shall be the nationality or the place of permanent residence of the natural or <b>legal juridical</b> person or persons who own or control the investment in the Union. The investment shall</p>	

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	investment shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its actions.	be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its actions.	
168	4. Regarding trade-related aspects of intellectual property rights, the term "nationals" shall be understood in the same sense as it is used in the paragraph 3 of Article 1 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.	4. Regarding trade-related aspects of intellectual property rights, the term "nationals" shall be understood in the same sense as it is used in the paragraph 3 of Article 1 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.	