



Council of the European Union
General Secretariat

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

Brussels, 25 January 2023

WK 1065/2023 INIT

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From:	Presidency
To:	Working Party on Trade Questions

Subject:	ACI - Cluster - terminology as agreed with the EP
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Anti-coercion instrument - clusters (2023-01-24)

Clusters marked orange denotes clusters discussed at the 2nd trilogue

Cluster	Covers the following provisions:	Line	2nd trilogue discussion
1. Subject-matter			
1.1 Scope and definitions	Article 1 (subject-matter), except matters under sub-clusters 1.2 (other instruments) and cluster 4 (reparation of injury), New Article 1a (EP - definitions), Article 2 (scope), New Article 7bis (Council - Union's interest); see also other deletion by EP of reference to Union interest in the remainder of the text Relevant recitals: 1-6, 7a (first part), 8, 9, 10, 10a, 10b, 11, 12	19, 20, 37, 37a, 38b, 40, 42, 85b	Discussion about general notion to have definitions, discussion on specific definitions (particular act, country, Union interest)
1.2 Relation with other instruments and policies	References to WTO, external action, Enforcement Regulation, Blocking Statute, CFSP, Articles 1(2), 1 (2a), 16 Relevant recitals: 7, 7a (second part), 10, 26 (references to BS and relationship to other Union policies and instruments)	11, 15a, 16, 18, 19, 24b, 33a, 34, 38, 38a, 103a, 133a, 154	
2. 1st stage: substantive provisions and process			
2.1 examination (complaint mechanism, collection of information, contacts with stakeholders and the third country concerned)	Article 2(2) (conditions), Article 3 (examination), except matters in clusters "Horizontal provisions" and "Timelines"; Relevant recitals: 13	44, 46, 47, 49, 51, 52, 52a	Discussion on what basis the Commission may/shall examine any measure

2.2 determination (contacts with the third country concerned)	Article 4 (determination), except decision-making powers and matters in clusters 7 “Horizontal provisions”, 6 “Timelines” and 4 “Reparation of injury”;	21a, 58, 60, 77b, 79	
2.3 engagement/consultation (conditions, scopes)	Article 5 (engagement with third country), except matters in cluster “Horizontal provisions”; Relevant recitals: 13a	21a, 60, 63, 63a, 66, 77b	
2.4 international cooperation (conditions, scope);	Article 6 (international cooperation), except matters in cluster “Horizontal provisions”; Relevant recitals: 14	64, 68	
3. Union response: substantive provisions and process	Relevant recitals: 15, 16, 19		
3.1 Types of measures	The list of measures in Annex I and Article 8 (natural or legal persons); 7(1) third subparagraph and 7(1) third subparagraph (a) (Union response); Relevant recitals: 16a, 16b, 18	75a, 163-179	Discussion on measures in Annex I
3.2 Imposition and deferral of application	Article 7 (1), (2), (3), (4) and (5) (Union response), 7(4) (deferral) Relevant recitals: 15	76, 77, 77b, 78, 79, 79a (threat), 111	
3.3 Suspension	Article 10 (2) (Suspension) Relevant recitals: 19	112, 114 115, 122, 124	Conditions for automatic suspension
3.4 Amendment	Article 10 (3) (Amendment) Relevant recitals: 19		Obligation to amend
3.5 Termination	Article 10 (4) (Termination) Relevant recitals: 19	117, 117a, 119, 120, 121, 122, 124	Hard criteria for termination

3.6 Information gathering	Article 11, Article 3 (3) first subparagraph Recital: 20	28, 96d, 124, 126, 127, 128, 129, 131, 132, 133, 133a	Discussion on the issue of seeking information on the Union response measures' economic impact, Union's interest. Link to the general issue of Union's interest
3.7 Criteria of selection and design, hierarchy	Article 9 (1), (2), (2) a-d (selecting and designing and intra-EU measures) Relevant recitals: 16	17, 18a, 23, 24, 24b, 26, 74, 75, 98, 99, 100, 100a, 100c, 101, 102, 103, 103a, 104, 105-110	Discussion on type of criteria
3.8 Intra-EU measures	Article 9 (3) except "Horizontal provisions"	107-111	
3.9 Natural and legal persons	Article 8 (natural or legal persons) Relevant recitals: 16a, 16b	20, 24a, 86-96e	Discussion also on the basis of the document concerning private liability
4. Reparation of injury	Article 1(1) (subject matter), Article 4 (1) and (3) (determination), Article 5 (1) introductory part (Engagement), Article 7(1) first sub-para (a),(2), (3)introductory part, and (4) (Union response), Article 8 (natural or legal persons), Article 9 (2) (a) (selecting and designing), Article 10 (4)- first sub-para (a) (amend, suspension, termination) Relevant recitals: 9, 13, 16, 10b	11, 18a, 18b, 21a, 23, 24, 26, 37a, 56a, 58, 60, 63b, 71, 72, 74, 77a, 76, 77b, 77c, 78, 79, 100, 117, 117a	Discussion on the issue of reparation of injury (where appropriate) and possibility to add further references

5. Decision-making	Relevant recitals: 13, 22, 23, 24, 25		
5.1 Implementing powers at determination stage;	Article 4 (determination) Relevant recitals: 13	21, 56a, 57a, 57b, 58	Discussion on the basis of COM non-paper with options
5.2 Implementing powers at countermeasures stage;	Articles 7(1)(Union response), 8(1) (natural or legal persons), 15 (Committee procedure) Relevant recitals: 23, 24, 25	23, 24, 70, 150	Discussion on Committee procedure
5.3 Implementing powers at amendment/suspension/termination stages;	Article 10(2)-(5) (amend, suspension, termination) Relevant recitals: 23, 24, 25	121, 122, 150	
5.4 Urgency procedure	Article 7(6) (urgency procedure for adoption of measures) and 10 (5) (Urgency procedure for amendment, suspension and termination)	33, 80, 122	Discussion on the urgency procedure for adoption, amendment, suspension and termination of measures
5.5 Delegated powers regarding Annex I and II;	Articles 7(7) (Union response), 14 (delegated acts); Relevant recitals: 22	30, 81, 82, 83, 84, 85, 140, 143, 144, 147	Discussion on the possibility to amend Annex I and II via delegated acts
6. Timelines	To be completed Articles 3 (examination) and (3) second subparagraph a) , 4 (determination), 5 and 6, 7 (Union response)	51, 54, 58, 60, 68, 71, 76, 78, ,	Discussion on timelines for examination, determination, engagement, cooperation, EU response measures
7. Horizontal provisions on transparency, confidentiality and reporting;	References to publications of acts in the OJ or otherwise; Reporting obligations towards EP/Council/MS – Article 3 (2a), Article 3 second subparagraph, Article 4 first paragraph last	52a, 65, 68, 111a, 113, , 133a, 135, 136,	Discussion on possible horizontal provision on informing the EP and

	sentence; Article 4 second paragraph b, Article 5 third paragraph, Article 6, Article 7(1) third paragraph last sentence, Article 7(6) and (7), Article 9(3) second subparagraph a, Article 10(1) and (5), Article 11(5) Article 16(1); Article 11a, reference to the CTEO in Article 16(2); Confidentiality and the like - Articles 12, 15a(1) Relevant recitals: 20, 20a, 21, 25a	137, 151b 152, 153, 154	the Council; discussion on role of the CTEO
8. Rules of origin	Article 13 and Annex II Relevant recitals: 17	25, 30, 140, 180, 181-	
9. Review clause and final provision	Article 16 except matters in cluster Horizontal provisions, Article 17 Relevant recitals: 26	34, 154	Discussion on Blocking statute and other instruments