



Council of the European Union  
General Secretariat

**Brussels, 21 October 2022**

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**Interinstitutional files:  
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**WK 13454/2022 REV 1**

**REDACTED DOCUMENT  
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**WORKING DOCUMENT**

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From: European Commission  
To: Working Party on Trade Questions

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Subject: Revised draft statement on examination procedure under the EU Anti-coercion instrument (ACI)

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Brussels, 21 October 2022

**SENSITIVE\***

**NOTE FOR THE ATTENTION OF THE WORKING PARTY ON TRADE  
QUESTIONS**

**SUBJECT:** *Draft statement on the use of the examination procedure under the EU  
Anti-coercion instrument (ACI)*

**ORIGIN:** Commission DG Trade Unit F2/F3

[REDACTED]

**OBJECTIVE:** *For information*

**REMARKS:**

Delegates will find enclosed a draft statement by the Commission on the use of the examination procedure under the EU Anti-coercion instrument. The draft statement is a revised version of the one distributed to delegates on 10 October 2022 (see WK 13454/2022 INIT). The revision appears in **bold red font**.

The revision aims to provide further clarity on the concept of ‘the widest possible support’ in light of the discussions within the Working Group (meeting of 11 October 2022).

It is shared in a draft form with the same purpose and under the same conditions as the previous version (see WK 13454/2022 INIT), i.e.:

- The purpose of the draft statement is to illustrate the commitment that the Commission would be open to make to address Member States’ concerns about decision-making under the instrument, as a contribution to the ongoing discussions in the Working Group, and in the interests of facilitating the

establishment of a Council position for the trilogue negotiations, and eventually the successful outcome of the latter;

- It develops ideas presented in the Commission non-paper of 16 September 2022;
- It is, logically, prepared to accompany a solution where the Commission assumes implementing powers for the imposition of the Union response measures. It presupposes that a no-opinion clause is included under the regulation.
- The final approval of the statement is subject to a decision by the College of Commissioners;
- The draft statement can be part of the outcome of the trilogue negotiations.

The Commission hopes that the draft statement could contribute to the progress of the file in the Council by providing Member States comfort on the intended exercise of implementing powers.

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## ANNEX

### **Draft statement by the European Commission on the use of examination procedure for countermeasures under the EU Anti-coercion instrument**

The European Commission is committed to cooperate closely with the European Parliament, with the Council and with the EU Member States in the application of the EU Anti-Coercion Instrument, at all stages, following applicable rules and best practices. The Commission notes that striving for and delivering a united EU response will support the key features of the instrument, namely, deterrence and effectiveness.

In this regard, in the exercise of its implementing powers under the regulation, and following the rules and general principles established by the European Parliament and the Council and laid down in Regulation (EU) No 182/2011, the Commission will pay particular attention to affording early and effective opportunities to the committee of EU Member States to examine any draft implementing act and express views before voting, and to striving at all times for solutions which command the widest possible support by the EU Member States.

Furthermore, in the event a committee delivers no opinion on a draft implementing act, the Commission will strive for and prioritise modifications of that draft act, in order to ensure the widest possible support **for a positive opinion by consensus or qualified majority in favour**, and on that basis will submit a revised draft to the committee.

The Commission underlines that, in the context of this regulation, pursuing solutions which command the widest possible support is achievable given the nature and impact of the Union action under the regulation. The application of this regulation requires an assessment of complex economic, policy and legal matters, which provides a substantial margin for selecting solutions, and notably those which have the widest possible support from EU Member States.

