



Council of the European Union
General Secretariat

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

Brussels, 24 October 2022

WK 14423/2022 INIT

LIMITE

**POLCOM
COMER**

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From:	AT Delegation
To:	Working Party on Trade Questions
Subject:	Anti-Coercion Instrument (ACI) – AT comments

ACI - AT comments on the 3rd CZ PSY compromise text

(WK 13411/2022 and WK 13576/2022)

AT general comments:

- At this point in time of the legislative deliberations in Council, Austria is bearing in mind that the trilogue process will require finding further flexibilities.
- In Austria's view, it is important to provide in the Council position for Trilogue negotiations for Council implementing powers with positive qualified majority for both steps of the ACI decision-making procedure, i.e. for the determination, if a particular third country measure constitutes economic coercion, and for the enacting of a concrete EU-countermeasures.
- The proposal for an Anti-Coercion Instrument has moved into areas that are normally the preserve of Common Foreign and Security Policy (CFSP). For this reason, Austria believes that the proposed new instrument is different from other trade-related instruments and requires a special approach in the decision-making process justifying implementing powers with the Council.
- On Annex 1, Austria strongly supports an approach that does not go beyond the measures provided for in the Trade Enforcement Regulation. Under this Regulation, countermeasures are always based on a determination by a dispute settlement body that the targeted third country has violated international law. In our view, it would be disproportionate to allow for a broader range of countermeasures without such a clear determination by an independent body.
- Austria is in favour of deleting Art. 8 concerning measures against natural and legal persons and in particular of the provision allowing Union natural or legal persons affected by the third country's measure of economic coercion to claim damages. We have civil-law concerns and do not have a clear understanding as to how Article 8 would operate in practice.