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WORKING DOCUMENT

From: Presidency
To: Working Party on Trade Questions

Subject: ACI - 4-column document with COM suggestions after the first trilogue

The attached document contains first suggestions for compromise language prepared by the Commission after the 1st trilogue where the Council and the European Parliament tasked the Commission to prepare suggestions for less sensitive parts.

The Presidency will give further explanation at the video-conference on 1st December and preliminary comments by MS will be welcomed. This will serve as a basis for technical meetings with the EP.

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

2021/0406(COD)

DRAFT [Version for the EP with Council mandate column corrected.]

18-11-2022 at 18h41

Formatting code: EP (red/blue) and Council (bold/strikethrough) formatting replicated in the draft compromise text to the extent the respective amendment is reflected. Commission additional/bridging suggestions are in green

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Formula					
1	2021/0406 (COD)	2021/0406 (COD)	2021/0406 (COD)		
Proposal Title					
2	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	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	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	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	
Formula					
3	THE EUROPEAN PARLIAMENT AND	THE EUROPEAN PARLIAMENT AND THE	THE EUROPEAN PARLIAMENT AND THE	THE EUROPEAN PARLIAMENT AND THE	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	<i>Commentary to draft compromise text</i>
	THE COUNCIL OF THE EUROPEAN UNION,	COUNCIL OF THE EUROPEAN UNION,	COUNCIL OF THE EUROPEAN UNION,	COUNCIL OF THE EUROPEAN UNION,	
Citation 1					
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,	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,	
Citation 2					
5	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
Citation 3					
6	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
Citation 4					
7	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Formula					
8	Whereas:	Whereas:	Whereas:	Whereas:	
Recital 1					
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 respect among peoples and the strict observance and the development of international law, including respect for the principles of the United Nations Charter.	(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 respect among peoples and the strict observance and the development of international law, including respect for the principles of the United Nations Charter.	(1) Pursuant to Article 3(5) of the Treaty on European Union (TEU), 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 is to contribute , among other things, to 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 (the "UN Charter").	1) Pursuant to Article 3(5) of the Treaty on European Union (TEU), 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 is to contribute , among other things, to 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 (the "UN Charter").	<i>Minor editorial changes.</i>
Recital 2					
10	(2) Pursuant to Article 21(1) of the Treaty on European Union, the Union's action on the international scene is to	(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	(2) Pursuant to Article 21(1) of the Treaty on European Union TEU, the Union's action on the international scene is to be guided by principles such as	(2) Pursuant to Article 21(1) of the Treaty on European Union TEU, the Union's action on the international scene is to be guided by principles such as	<i>Minor editorial changes.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	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.	the rule of law, equality and solidarity, and respect for the principles of the United Nations UN Charter and international law. It also states that the Union is to promote multilateral solutions to common problems.	the rule of law, equality and solidarity, and respect for the principles of the United Nations UN Charter and international law. It also states that the Union is to promote multilateral solutions to common problems.	
Recital 3					
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 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. <u>Moreover, in accordance with the Declaration On Principles Of International Law Friendly Relations And Co-Operation Among States in accordance with the Charter Of The United Nations, international relations are to be conducted in line with the principles of sovereign equality and non-intervention^{1a}.</u>	(3) Pursuant to Article 1 of the United Nations UN Charter, one of the purposes of the United Nations include the purpose is to develop friendly relations among nations based on, among other things , respect for the principle of equal rights.	(3) Pursuant to Article 1 of the United Nations UN Charter, one of the purposes of the United Nations include the purpose is to develop friendly relations among nations based on, among other things , respect for the principle of equal rights. <u>Moreover, in accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, international relations are to be conducted in line with the principles of sovereign equality and non-intervention.^{1a}</u>	<i>Comprehensive combination of Council + EP, with editorial adjustments.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
		<u>^{1a} UN General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/2625(XXV)</u>		<u>^{1a} UN General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/2625(XXV).</u>	
Recital 4					
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 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 Treaty on European Union 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 in order to , 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 Treaty on European Union 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 in order to , 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.	<i>Minor editorial adjustments.</i>
Recital 4a					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
12a		<p><u>(4a) The international law of state responsibility for internationally wrongful acts has been codified by the United Nations' International Law Commission in 2001^{1a} and should guide the Union's action where the Union faces economic coercion from a third country that constitutes an internationally wrongful act. The "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations"^{1b} states that no State may use or encourage the use of economic political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. Those codified rules of customary international law are binding.</u></p>		<p><u>(4a) The customary international law of state responsibility for internationally wrongful acts has been codified by the United Nations' International Law Commission in 2001^{1b} and binds the Union where it faces from a third country economic coercion that constitutes an internationally wrongful act. The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations^{1c} provides, in relation to the principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State, that no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. This principle reflects customary international law.</u></p>	<p><i>Inclusion of EP amendment, with editorial adjustments.</i></p>

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		<p>^{1a} <u>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 in resolution 56/83.</u></p> <p>^{1b} <u>United Nations General Assembly Resolution 2625 (XXV) of 24 Oct 1970.</u></p>		<p>^{1b} 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 in Resolution 56/83.</p> <p>^{1c} supra note 1a.</p>	
Recital 5					
13	<p>(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</p>	<p>(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.</p>	<p>(5) The modern interconnected world economy creates an increased increases the 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.</p>	<p>(5) The modern interconnected world economy creates an increased increases the 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.</p>	<p><i>For discussion, the Council language has a slightly different emphasis from the original text accepted by the Parliament.</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	of economic coercion.				
Recital 6					
14	(6) Whilst always acting within the 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	(6) Whilst always acting within the 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 <u>fail to take or threaten to take</u> 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, <u>including any form of a particular policy choice or a stance with regard to a policy choice such as a European Parliament resolutions</u> , by the Union or a Member State. Such measures affecting trade or	(6) Whilst always acting within the 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 concerned , 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	(6) Whilst always acting within the 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, <u>including any form of a particular policy choice or expression of a position stance with regard to a policy choice such as a European Parliament resolutions</u> . Such measures affecting trade or investment may include not only actions taken on, and having effects within, the territory of the third country	<i>Consolidation</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	investment may include not only actions taken, <u>failures to act, or actions threatened or to be taken</u> on, and having effects within, the territory of the third country, but also actions taken <u>or threatened to be taken</u> 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, <u>such as, among others, some extraterritorial effects of third country sanctions affecting EU businesses and individuals, and ultimately the sovereignty of the European Union's choices.</u>	economic activities in the Union.	concerned , 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.	
Recital 7					
15	(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.	(7) This Regulation aims to ensure an effective, efficient and swift Union response to economic coercion, including <u>especially the</u> deterrence of economic coercion of the Union or a Member State and, in the last resort <u>where necessary because other instruments cannot protect</u>	(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 as a last resort, countermeasures. This Regulation is without prejudice to other existing	(7) This Regulation aims to ensure an effective, efficient and swift Union response to economic coercion, including <u>especially the</u> deterrence of economic coercion of the Union or a Member State and, in the as a last resort, countermeasures. This Regulation is without prejudice to other existing	<i>Combination of the 2 texts but requires discussion. <u>Omission of the “where other instruments cannot adequately” because this impliedly would subject the ACI to a negative priority position in a hierarchy between Union instruments where the ACI would come last.</u></i>

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		<p><u>the Union interest adequately</u>, countermeasures. <u>This Regulation complements Union law in the field of trade such as Regulation (EU)2021/167 of the European Parliament and of the Council^{1a}</u>.</p> <p>^{1a} <u>Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, OJ L 309,29.11.1996, p. 1.</u></p>	<p>Union instruments and international agreements, as well as actions taken thereunder, in the area of the common commercial policy, and to other Union policies.</p>	<p>Union instruments and international agreements, as well as actions taken thereunder, in the area of the common commercial policy, and to other Union policies.</p>	<p><i>Also omission of the last statement that ACI complements Union trade law, such as the ER amendment. The various Union instruments stand side-by-side, so “complements” is obviously correct, but not clear what the added value is of stating this, while creating a risk of misunderstanding.</i></p> <p><i>Regulation (ER amendment) and Reference (Blocking Statute) also don’t match.</i></p>
Recital 7a					
15a			<p>(7bis) Economic coercion by third countries may be target foreign policy actions of the Union or a Member State, while a determination of the existence of economic coercion, and responses thereto, may have significant implications for relations with third countries. It is necessary to ensure consistent responses in distinct but related policy areas, and this Regulation is</p>	<p>No text proposed</p>	

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			without prejudice to a possible Union action pursuant to specific provisions in Chapter 2 of Title V of TEU on the Union's common foreign and security policy, to which due consideration should be given when considering any response to economic coercion by a third country.		
Recital 8					
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 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	(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 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	(8) The objectives of this Regulation, in particular counteracting Third countries' economic coercion of the Union or measures of economic coercion against a Member State, cannot be sufficiently achieved by Member States acting on their own. This is because internal market and the Union as a whole. Member States, acting on their own cannot counteract third countries' economic coercion through measures falling under the area of common commercial policy. Given as distinct actors under international law may not be	(8) The objectives of this Regulation, in particular counteracting Third countries' economic coercion of the Union or measures of economic coercion against a Member State, cannot be sufficiently achieved by Member States acting on their own. This is because internal market and the Union as a whole. Member States, acting on their own cannot counteract third countries' economic coercion through measures falling under the area of common commercial policy. Given as distinct actors under international law may not be	Combination

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	<p>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>States are prevented from taking common commercial policy measures as a response to economic coercion. Therefore, <i>those objectives can be achieved with greater effectiveness at it is necessary that the means for effectively achieving those objectives are created at the</i> Union level.</p>	<p>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 (TFEU), only the Union may. Moreover, Member States are prevented from taking common commercial policy measures as a response to as distinct actors under international law, may not be entitled to counteract third countries' economic coercion directed against the Union. This Regulation is without prejudice to the division of competences as defined in the Treaties. Therefore, those objectives can be achieved with greater effectiveness at Union level.</p>	<p>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 (TFEU), only the Union may. Moreover, Member States are prevented from taking common commercial policy measures as a response to as distinct actors under international law, may not be entitled to counteract third countries' economic coercion directed against the Union. Therefore, it is necessary that the means for effectively achieving those objectives are created at the Union level.</p> <p>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 (TFEU), only the Union may. Moreover, Member States are prevented from taking common commercial policy measures as a response to as distinct actors under international law, may not be entitled to counteract third countries' economic coercion directed against the Union. Therefore, it is necessary that the means for effectively achieving those objectives are created at the Union level. This Regulation is without prejudice to the division of competences as defined in the Treaties. Therefore, those objectives can be achieved with greater effectiveness at Union level.</p>	
Recital 9					
17	(9) In accordance with the principle of	(9) In accordance with the principle of proportionality, it	(9) In accordance with the principle of proportionality, it is	(9) In accordance with the principle of proportionality, it is	Combination, but consistency with the segmentation in the

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	<p>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 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</p>	<p>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 response measures should be preceded by an examination of the facts, a determination of the existence of economic coercion, and, wherever possible <u>and provided the third country also engages in good faith</u>, 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 <u>and should primarily be aimed at obtaining the cessation of the economic coercion and, where appropriate, the reparation for the injury caused</u>. The criteria for defining the Union response</p>	<p>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 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</p>	<p>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 response measures should be preceded by an examination of the facts, a determination of the existence of economic coercion, and, wherever possible and provided the third country also engages in good faith, 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 and should primarily be aimed at obtaining the cessation of the economic coercion and, where appropriate, the reparation for the injury caused. The criteria for defining the Union response measures should take into account in particular the effectiveness of the response</p>	<p><i>Council version and without <u>"the risks of escalation in international trade relations"</u> as this is not related to proportionality. It could however be built into "effectiveness for cessation" or (better?) a different recital.</i></p>

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	<p>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>measures should take into account in particular the <u>effectiveness of the measures in inducing the cessation of the economic coercion and the potential of the measures to provide relief to the economic operators within the Union affected by the economic coercion, including via internal measures such as an ad hoc compensation fund for those economic operators. The need for a precise indication of the next steps to be taken and need</u> to avoid or minimise <u>the risks of escalation in international trade relations,</u> collateral effects, <u>disproportionate</u> administrative burdens <u>complexity</u> and costs imposed on Union economic operators as well as the Union's interest <u>should also be taken into account.</u> 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>pursued, in accordance with Article 5(4) of the Treaty on European Union TEU.</p>	<p>measures in inducing the cessation of the economic coercion and the potential of the measures to provide relief to the economic operators within the Union affected by the economic coercion, including via internal measures such as an ad hoc compensation fund for those economic operators. The need for a precise indication of the next steps to be taken and need to avoid or minimise collateral effects, disproportionate administrative complexity and 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 TEU.</p>	

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Recital 10					
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 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.¹ Accordingly, response measures adopted under this Regulation should take the form of either measures adhering to the Union's international</p>	<p>(10) Any action undertaken by the Union on the basis of this Regulation should comply with the Union's obligations under international law. <u><i>The Union should continue to support the rules-based multilateral trading system, with the World Trade Organisation (WTO) at its core.</i></u> International law 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.¹⁰ Accordingly, response measures adopted under this Regulation should take the form of either measures adhering to the Union's international obligations or</p>	<p>(10) Any action undertaken by the Union on the basis of this Regulation should comply with the Union's obligations under be consistent with international law, including customary international law. International law 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.¹ 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</p>	<p>(10) Any action undertaken by the Union on the basis of this Regulation should comply with the Union's obligations under be consistent with international law, including customary international law, including customary international law. International law 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.¹ 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</p>	<p><i>Recital split in two. See also line 18a/ EP amendments are consistent with Council amendments.</i></p>

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	<p>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> <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</p>	<p>measures constituting permitted countermeasures. Under international law, and in accordance with the principle of proportionality, they should not exceed a level that is <i>be</i> 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> <p><u>¹⁰ 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 in resolution 56/83.</u></p> <p>1. See Articles 22 and 49-53 of the</p>	<p>exceed a level that is commensurate with the injury suffered by 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. Therefore, it is important that 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 continue to support that system, with the WTO at its core, and to use its dispute settlement system where appropriate.</p> <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>exceed a level that is commensurate with the injury suffered by 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. Therefore, it is important that 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 continue to support that system, with the WTO at its core, and to use its dispute settlement system where appropriate.</p>	

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	note of by the United Nations General Assembly in resolution 56/83.	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 in resolution 56/83.	in resolution 56/83.		
Recital 10a					
18a			(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	(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	<i>Insertion of language from recital 18, editorial adjustments. Issue to discuss : "be commensurate" or "not exceed a level that is commensurate".</i>

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			<p>obtaining the cessation of the breach or reparation for it. Accordingly, Union response measures could consist, as necessary, not only in measures consistent with the Union's international obligations, but also in the non-performance of international obligations towards the third country concerned insofar as the measures of economic coercion of the third country constitute an internationally wrongful act. Under international law, and in accordance with the principle of proportionality, Union response measures 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</p>	<p>obtaining the cessation of the breach or reparation for it. Accordingly, Union response measures could consist, as necessary, not only in measures consistent with the Union's international obligations, but also in the non-performance of international obligations towards the third country concerned insofar as the measures of economic coercion of the third country constitute an internationally wrongful act. Under international law, and in accordance with the principle of proportionality, Union response measures should [not exceed a level that is][be] 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</p>	

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			injury to Union economic operators.	injury to Union economic operators.	
Recital 10b					
18b			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.	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.	
Recital 11					
19	(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	(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	(11) Coercion is prohibited and therefore a wrongful act 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	(11) Coercion is prohibited and therefore a wrongful act 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	<i>Combination of 2 positions. Suggested not to take the replacement of the “and” with the “or” because the qualitative analysis must always be done</i>

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	<p>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 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>quantitative threshold, depending on both the ends pursued and the means deployed. The Commission should examine the third-country action on the basis of <u>take into account</u> qualitative and/or 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>qualitative or quantitative threshold, depending on 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. Among those criteria, there 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. Applying those criteria would ensure that only economic coercion with a sufficiently serious impact or, where the economic coercion consists in a threat, only a threat that is credible, would fall under this Regulation. In addition, the Commission should examine closely whether the third country pursues a legitimate cause, because its objective is</p>	<p>qualitative or quantitative threshold, depending on both the ends pursued and the means deployed. The Commission should examine the third-country action on the basis of <u>take into account</u> qualitative and/or 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. Among those criteria, there 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. Applying those criteria would ensure that only economic coercion with a sufficiently serious impact or, where the economic coercion consists in a threat, only a threat that is credible, would fall under this Regulation. In addition, the Commission should examine closely whether the third country pursues a legitimate</p>	

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			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, the protection of the environment, and the fight against climate change.	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, the protection of the environment, and the fight against climate change.	
Recital 12					
20	(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 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	(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 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	(12) Acts by third countries are understood under customary international law to include all forms of action or omission, including threats , that are attributable to a State under customary international law. Articles 2(a) and 4-11 of the ARSIWA confirm that customary 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	(12) Acts by third countries are understood under customary international law to include all forms of action or omission, including threats , that are attributable to a State under customary international law. Articles 2(a) and 4-11 of the ARSIWA confirm that customary 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	<i>Combination. Additional text clarifies.</i>

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	<p>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.¹</p> <p>¹ See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.</p>	<p>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.¹</p> <p>¹ See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.</p>	<p>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.¹</p> <p>¹ See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.</p>	<p>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.¹</p> <p>¹ See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.</p>	
Recital 13					
21	<p>(13) The Commission should examine whether third-country measures are coercive, on its own initiative or following</p>	<p>(13) The Commission <u>could and, in particular in the case of a substantiated complaint,</u> should examine whether third-country measures are</p>	<p>(13) The Commission on its own initiative or upon a reasoned request of a Member State should examine whether third-country measures</p>		<p><i>No drafting proposal. Decision-making needs to be settled first.</i></p>

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	<p>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>coercive, on its own initiative or following information received from any source, including legal and natural persons, <u>the European Parliament</u> or a Member State. Following this examination, the Commission should determine in a decision whether the third-country measure is coercive. The Commission should <u>publicly</u> communicate any <u>the result of this examination. In the case of an</u> affirmative determination, <u>the Commission should communicate</u> 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>are coercive, on its own initiative or following. The Commission could carry out such examination on the basis of information received from any reliable source, including legal and natural persons or a Member State. Following this examination To determine if a third country applies or threatens to apply measures affecting trade or investment, the Commission's assessment should determine in be based on facts. In order to ensure uniform conditions for the implementation of this Regulation, and in view of the effects that a decision whether the third-country measure is coercive. determining the existence of economic coercion by a third country has on the Union's overall relations with the third country concerned, implementing powers should be conferred on the Council. Therefore, following the Commission's examination and in the event that should communicate any affirmative determination to the third country concerned, together</p>	<p>[Draft compromise text by the Commission 29-11-2022]</p>	<p>Commentary to draft compromise text</p>

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			<p>with a request applies or threatens to apply coercive measures affecting trade or investment, the Commission should submit a proposal to the Council to adopt an implementing act determining that the economic coercion cease and a request, where appropriate, that any injury be repaired third country is applying a measure of economic coercion. The Council should act expeditiously.</p>		
Recital 13a					
21a			<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 provide adequate opportunity for consultations with the third country concerned and, if 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</p>	<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 provide adequate opportunity for consultations with the third country concerned and, if 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</p>	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			endeavour to resort to means such as mediation, conciliation, good offices by a third party or submitting the matter to international adjudication, without prejudice to the division of competence between the Union and the Member States. In particular, when the third country suspends its actions and agrees to submit the matter to international adjudication, an international agreement with the third country should be concluded, as necessary. Such an international agreement could be concluded either by the Union, in accordance with the procedure laid down in Article 218 TFEU, or by the Member State concerned.	endeavour to resort to means such as mediation, conciliation, good offices by a third party or submitting the matter to international adjudication, without prejudice to the division of competence between the Union and the Member States. In particular, when the third country suspends its actions and agrees to submit the matter to international adjudication, an international agreement with the third country should be concluded, as necessary. Such an international agreement could be concluded either by the Union, in accordance with the procedure laid down in Article 218 TFEU, or by the Member State concerned.	
Recital 14					
22	(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	(14) The Union should support and cooperate with third countries <u>partners</u> affected by the same or similar measures of economic coercion or other interested third countries <u>partners</u> . The Union should participate in	(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	(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	<i>The meaning of 'partner' taken up in the definition of a third country</i>

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	should participate in international coordination in bilateral, plurilateral or multilateral fora that are geared towards the prevention or elimination of the economic coercion.	international coordination in <u>any</u> bilateral, plurilateral or multilateral fora that are geared towards <u>suitable for</u> the prevention or elimination of the economic coercion.	bilateral, plurilateral or multilateral fora that are geared towards the prevention or elimination of economic coercion. The Commission should express the Union position after having consulted the Council in accordance with the Treaties, where appropriate, with the participation of the Member States the economic coercion.	<u>any</u> bilateral, plurilateral or multilateral fora that are geared towards <u>suitable for</u> the prevention or elimination of economic coercion. The Commission should express the Union position after having consulted the Council in accordance with the Treaties, where appropriate, with the participation of the Member States the economic coercion.	
Recital 15					
23	(15) The Union should only impose countermeasures when other means such as negotiations, 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 and it is in the Union's interest. It	(15) The Union should only impose countermeasures when other <u>is encouraged to use proactively all available means of engagement with the third country concerned</u> such as negotiations, adjudication or mediation or adjudication <u>and should impose measures in cases where such means</u> 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	(15) The Union should only impose countermeasures when response measures if other means such as negotiations, mediation or adjudication do not lead to the prompt and effective cessation of the economic coercion and, where appropriate and requested by the Union from the third country concerned, to the 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 under international law	(15) The Union should only impose countermeasures when other <u>is encouraged to use proactively all available means of engagement with the third country concerned</u> such as negotiations, adjudication or mediation or adjudication <u>and should impose measures in cases where such means</u> do not lead to the prompt and effective cessation of the economic coercion and where appropriate and requested by the Union from the third country concerned, to the to reparation of the injury it has caused to the Union or its	

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	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.	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.	and it is in the Union's interest to take such action . 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.	Member States, and where action is necessary to protect the interests and rights of the Union and its Member States under international law and it is in the Union's interest to take such action . 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.	
Recital 16					
24	(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	(16) Union response measures adopted in accordance with this Regulation should be selected and designed on the basis of objective criteria, including: <u>first and foremost</u> , the effectiveness of the measures in inducing the cessation of coercion by the third country; <u>the effectiveness of the measures in repairing the injury caused by the economic coercion; and</u> their potential to provide relief to	(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 the 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	16) Union response measures adopted in accordance with this Regulation should be selected and designed on the basis of objective criteria, including: <u>first and foremost</u> , the effectiveness of the measures in inducing the cessation of coercion by the third country; <u>the effectiveness of the measures in repairing the injury caused by the economic coercion; and</u> their the potential to provide relief to economic operators within the Union	<i>May need discussion</i>

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	<p>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 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>economic operators within the Union affected by the third-country measures of economic coercion. <u><i>The Commission should also consider other relevant factors such as</i></u> the aim of avoiding or minimising negative economic and other effects on the Union; and the avoidance of disproportionate 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>effects on the Union; and the avoidance of disproportionate administrative complexity and costs. It is also essential that the selection and design of Union response measures take account of the Union's interest, which includes, inter alia, the interests of both upstream and downstream industries and final consumers in the Union. When the Commission is considering Union response measures it should prioritise measures that would not have a disproportionate impact on legal certainty and predictability of the measures for economic operators, and on the administration of relevant national regulations. When the Commission is considering Union response measures affecting authorisations, registrations, licenses or other rights for the purposes of commercial activities, it should prioritise measures valid throughout the Union and based on secondary legislation, or, where no such measures are appropriate, measures in areas where extensive Union</p>	<p>affected by the third-country measures of economic coercion; <u><i>The Commission should also consider other relevant factors such as</i></u> the aim of avoiding or minimising negative economic and other effects on the Union; and the avoidance of disproportionate administrative complexity and costs. It is also essential that the selection and design of Union response measures take account of the Union's interest, which includes, inter alia, the interests of both upstream and downstream industries and final consumers in the Union. When the Commission is considering Union response measures it should prioritise measures that would not have a disproportionate impact on legal certainty and predictability of the measures for economic operators, and on the administration of relevant national regulations. When the Commission is considering Union response measures affecting authorisations, registrations, licenses or other rights for the purposes of commercial</p>	

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			legislation exists. 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.	activities, it should prioritise measures valid throughout the Union and based on secondary legislation, or, where no such measures are appropriate, measures in areas where extensive Union legislation exists. 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.	
Recital 16a					
24a			(16bis) The Union should be able to designate natural or legal persons connected or linked to the government of the third country engaging in economic coercion and thereby make them subject to Union response measures in order to induce the prompt cessation of economic coercion. Such targeted response measures can effectively avoid or minimise the negative effects of such coercion on Member States' economies and Union economic operators and final consumers.	(16bis) The Union should be able to designate natural or legal persons connected or linked to the government of the third country engaging in economic coercion and thereby make them subject to Union response measures in order to induce the prompt cessation of economic coercion. Such targeted response measures can effectively avoid or minimise the negative effects of such coercion on Member States' economies and Union economic operators and final consumers	<i>Requires discussion and additional recital if the co-legislators were to decide to include provisions on damages claims</i>

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Recital 16b					
24b			<p>(16ter) 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 without prejudice to rules and procedures under such other legal instruments.</p>	<p>(16ter) 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 <u>or possibilities to limit participation in Union framework programmes for research and innovation</u>, 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</p>	<p><i>Addition suggested address the deletion of point l) in Annex I; COM experts clarified that the Commission has powers to limit participation for example on the basis of Article 22.6 of Horizon Europe Regulation, even if such measures are not listed in the Annex; the same logic as for granting of Union funding</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
				Regulation is without prejudice to rules and procedures under such other legal instruments.	
Recital 17					
25	(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 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 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. This regulation does not affect the division of competences between the Union and its Member States in the field of investment.	(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 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. This regulation does not affect the division of competences between the Union and its Member States in the field of investment.	
Recital 18					
26	(18) In pursuing the objective of obtaining	(18) In pursuing the objective of obtaining the	(18) In pursuing the objective of obtaining the cessation of	(18) In pursuing the objective of obtaining the cessation of	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	<p>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 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.</p>	<p>cessation of the measure of economic coercion <u>and, where appropriate, the reparation of the injury caused</u>, 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 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.</p>	<p>thea 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 and which are owned or controlled by persons of the third country concerned, where necessary to ensure the effectiveness of Union response measures and in particular to prevent their avoidance. The decision to impose any such restrictions willshould be duly justified in implementing acts adopted pursuant to this Regulation in the light of the criteria specified in this Regulation.</p>	<p>thea measure of economic coercion <u>and, where appropriate, the reparation of the injury caused</u>, 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 and which are owned or controlled by persons of the third country concerned, where necessary to ensure the effectiveness of Union response measures and in particular to prevent their avoidance. The decision to impose any such restrictions willshould be duly justified in implementing acts adopted pursuant to this Regulation in the light of the criteria specified in this Regulation.</p>	
Recital 19					
27					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	(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 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 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 these are appropriate.	
Recital 20					
28	(20) It is essential to provide for opportunities for stakeholder involvement for the purposes of adoption and amendment of Union response	(20) It is essential to provide for opportunities for stakeholder involvement, including businesses , for the purposes of adoption and amendment of Union response measures, and as	(20) It is essential to provide for opportunities for stakeholder involvement for the purposes of the adoption and amendment of Union response measures, and, where as relevant, for the purposes of	(20) It is essential to provide for opportunities for stakeholder involvement, among which businesses , for the purposes of the adoption and amendment of Union response measures, and, where	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	measures, and as relevant for the purposes of suspension and termination, in view of the potential impact on such stakeholders.	relevant for the purposes of suspension and termination, in view of the potential impact on such stakeholders.	their suspension and termination, in view of the potential impact on such stakeholders.	as relevant, for the purposes of their suspension and termination, in view of the potential impact on such stakeholders.	
Recital 20a					
28a		<u><i>(20a) In light of the evident increase in the use of economic leverages by foreign countries against the Union and the likely increase of the frequency and severity of these practices in the future, the Chief Trade Enforcement officer (CTEO) should be overall responsible for the functioning and the implementation of this Regulation and including with a view to strengthening the preparedness for such instances, assessing Union's dependencies and assets, adopting the necessary coordinated measures and ultimately being able to react promptly when needed. Such a horizontal competence would provide necessary support to the Union in</i></u>		<u><i>20a) In light of the evident increase in the use of economic leverages by foreign countries against the Union and the likely increase of the frequency and severity of these practices in the future, the Chief Trade Enforcement officer (CTEO) Commission should be overall responsible for the functioning and the implementation of this Regulation and including with a view to strengthening the preparedness for such instances, assessing Union's dependencies and assets, adopting the necessary coordinated measures and ultimately being able to react promptly when needed. Such a horizontal competence would provide necessary support to the Union in order to be able to better anticipate and effectively</i></u>	<i>For discussion. Adjustment in line with the EU institutional structures</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
		<u>order to be able to better anticipate and effectively react to economic coercion.</u>		<u>react to economic coercion.</u>	
Recital 21					
29	(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 an effective communication and regular dialogue 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 <u>regarding ongoing examinations or third country measures</u> , on efforts to engage with the third country concerned to explore options with a view to obtaining the cessation of the economic coercion <u>or, where appropriate, reparation of the injury caused</u> and on matters that may lead to the adoption of Union response measures under this Regulation, <u>including the stages of examination of third-country measures and determination with regard to measures of economic coercion and on the</u>	(21) It is important to ensure an effective communication and an 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 enter into consultations 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 an effective communication and regular dialogue and an exchange of views and information between the Commission on the one hand and the European Parliament and the Council on the other, <u>at any stage of the application of this Regulation</u> , in particular <u>regarding ongoing examinations of of third-country measures, determination with regard to measures of economic coercion</u> , an efforts to engage enter into consultations with the third country concerned to explore options with a view to obtaining the cessation of the economic coercion <u>or, where appropriate, reparation of the injury caused</u> and on matters that may lead to the adoption of Union response measures under this Regulation, <u>and any other relevant development at subsequent</u>	<i>Consolidated</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
		<u>effectiveness on Union response measures.</u>		<u>stages, including as regards the effectiveness on Union response measures.</u>	
Recital 22					
30	(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 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-	(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 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	(22) In order to allow the update adjustment of the range of Union response measures under this Regulation and the adjustment of the rules of origin or of other technical rules rules of origin or nationality to take account of relevant developments in international instruments , the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union TFEU should be delegated to the Commission to amend the list of Union responses set out in Annex I and technical rules necessary for the application of the Regulation, including rules of origin laid down in amending 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	(22) In order to allow the update adjustment of the range of Union response measures under this Regulation and the adjustment of the rules of origin or of other technical rules rules of origin or nationality to take account of relevant developments in international instruments , the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union TFEU should be delegated to the Commission to amend the list of Union responses set out in Annex I and technical rules necessary for the application of the Regulation, including rules of origin laid down in amending 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	<i>For discussion/to be adjusted in light of the outcome on delegated acts</i>

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	<p>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.¹ 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>¹ OJ L 123, 12.5.2016, p. 1.</p>	<p>Making.¹ 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>¹ OJ L 123, 12.5.2016, p. 1.</p>	<p>conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making.¹ 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>1. 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).</p>	<p>conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making.¹ 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>1. 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).</p>	
Recital 23					
31	<p>(23) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers</p>	<p>(23) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred</p>	<p>(23) In order to ensure uniform conditions for the implementation of Union response measures under this Regulation, implementing</p>	<p>(23) In order to ensure uniform conditions for the implementation of [Union response measures under] this Regulation, implementing</p>	<p><i>Necessary recital because of retention of comitology procedure. Bracketed language relates to discussions on decision-</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	<p>should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.¹</p> <p>1. 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>on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.¹</p> <p>1. 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>powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.¹ ±</p> <p>1. 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>powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.¹ ±</p> <p>1. 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><i>making.</i></p>
Recital 24					
32	<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>(24) The examination procedure should be used for the adoption of Union response measures and their amendment, suspension or termination given that those actsmeasures determine the Union's responsesresponse to economic coercion falling within the scope of this Regulation and as determined by the Council. In exercising its implementing powers, special attention should be given by the Commission to solutions</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 actsmeasures determine the Union's responsesresponse to economic coercion falling within the scope of this Regulation [and as determined by the Council. In exercising its implementing powers, special attention should be given by the Commission to solutions</p>	<p><i>Necessary recital because of retention of comitology procedure. Bracketed language relates to discussions on decision-making.</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			which command the widest possible support among Member States. Considering the specific nature of this Regulation and the particular sensitivity attached to the Union response measures, the Commission should not adopt a draft implementing act on any Union response measures where the committee delivers a no opinion on that act. The particular sensitivity attached to the Union response measures necessitates finding a balanced solution at all times and solutions should avoid going against any predominant position which might emerge within the appeal committee against the appropriateness of a draft implementing act.	which command the widest possible support among Member States. Considering the specific nature of this Regulation and the particular sensitivity attached to the Union response measures, the Commission should not adopt a draft implementing act on any Union response measures where the committee delivers a no opinion on that act. The particular sensitivity attached to the Union response measures necessitates finding a balanced solution at all times and solutions should avoid going against any predominant position which might emerge within the appeal committee against the appropriateness of a draft implementing act.]	
Recital 25					
33	(25) The Commission should adopt immediately applicable implementing acts of limited duration where, in duly justified cases relating to the adoption, amendment, suspension	(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,	(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	(25) The Commission should adopt immediately applicable implementing acts of limited duration where, in duly justified cases relating to the adoption, amendment or suspension termination of Union response measures, imperative grounds	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	<i>Commentary to draft compromise text</i>
	or termination of Union response measures, imperative grounds of urgency so require.	imperative grounds of urgency so require.	of urgency so require 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.	of urgency so require 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.	
Recital 25a					
33a			(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 rules on the protection of personal data. Processing of personal data by Member States' officials obtaining information under this Regulation should be carried out in accordance with	(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 rules on the protection of personal data. Processing of personal data by Member States' officials obtaining information under this Regulation should be carried out in accordance with	<i>Reference to the Commission in brackets – may not be the only institution, e.g. if the EP submits any info to the Commission for the examination under Article 3.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			<p>Regulation (EU) 2016/679 of the European Parliament and of the Council¹. 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 Council².</p> <p>1. 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>2. 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>	<p>Regulation (EU) 2016/679 of the European Parliament and of the Council¹. 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 Council².</p> <p>1. 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>2. 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>	
Recital 26					
34	(26) The Commission should evaluate	(26) The Commission should evaluate measures adopted	(26) The Commission should evaluate measures adopted	(26) The Commission should evaluate measures adopted	<i>Reference to upcoming review of BS deleted out of</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	<p>measures adopted under this 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,</p>	<p>under this 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, <u>and in particular in order to ensure complementarity with the upcoming review of the Blocking Statute^{1a}. The review of this Regulation.</u> 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,</p> <p><u>^{1a} Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, OJ L 309, 29.11.1996, p. 1.</u></p>	<p>under this 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 and also its relationship to other Union policies and existing legal instruments. The Commission should report on its assessment to the European Parliament and the Council,</p>	<p>under this 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 and also its relationship to other Union policies and existing legal instruments, including and in particular in order to ensure complementarity with the upcoming review of the Blocking Statute^{1a}. The review 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,</p> <p><u>^{1a} Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, OJ L 309, 29.11.1996, p. 1</u></p>	<p><i>prudence, the reference to the BS suffices as it would cover the review when it comes.</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Formula					
35	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
Article 1					
36	Article 1 Subject-matter	Article 1 Subject-matter	Article 1 Subject-matter	Article 1 Subject-matter	
Article 1(1)					
37	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 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	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 <u>any form of action, failure to act or threat thereof</u> affecting trade or investment, to coerce the Union or a Member State into adopting or refraining from adopting a particular act, <u>including a particular policy choice, legal act or a stance with regard to a policy choice</u> . This Regulation provides a framework for the Union to respond in such situations	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 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.	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 <u>any</u> measures affecting trade or 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.	<i>Council text as a basis; EP additions to move to the definitions</i>

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	have the third country desist from such actions, whilst permitting the Union, in the last resort, to counteract such actions.	with the objective to deter, or have the third country desist from <u>detering, or obtaining the cessation of</u> such actions <u>and, where appropriate, repairing the injury caused, thereby permitting the Union,</u> whilst permitting the Union, in the last resort, to counteract such actions.			
Article 1(1a)					
37a			2. This Regulation establishes a framework for the Union to respond to economic coercion with the objective of deterring, or having the third country desist from such coercion, whilst enabling the Union, as a last resort, to counteract such coercion.	2. This Regulation establishes a framework for the Union to respond to economic coercion with the objective of deterring, or having the third country desist from such coercion, <u>and, where appropriate, obtaining the reparation of the injury caused,</u> whilst enabling the Union[, as a last resort,] to counteract such coercion.	Council text because it has the aligned terminology (actions/situations=coercion) and as it takes over from EP amendments; additions to reflect EP amendments in blue To discuss whether to retain term "as a last resort".
Article 1(2)					
38	2. Any action taken under this Regulation shall be consistent with the Union's obligations under international law	2. Any action taken under this Regulation shall be consistent with the Union's obligations under international law and	23. Any action taken under this Regulation shall be consistent with the Union's obligations under international law and be conducted in the context of the	23. Any action taken under this Regulation shall be consistent with the Union's obligations under international law and be conducted in the context of the	Reference to Union obligations deleted as per Council. ; Reference to external action retained – it is correct that

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	and conducted in the context of the principles and objectives of the Union's external action.	<i>conducted in the context of the principles and objectives of the Union's external action.</i>	principles and objectives of the Union's external action.	principles and objectives of the Union's external action.	<i>the Treaties already laid the principle down but the whole para is redundant while serving as an important reassurance within and outside the EU;</i>
Article 1(2a)					
38a			4. This Regulation shall be without prejudice to other existing Union instruments and international agreements, as well as actions taken thereunder, in the area of the common commercial policy, and to other Union policies. This Regulation shall not affect the division of competences between the Union and its Member States as defined by the Treaties.	4. This Regulation shall be without prejudice to other existing Union instruments and international agreements, as well as actions taken thereunder, in the area of the common commercial policy, and to other Union policies. This Regulation shall does not affect the division of competences between the Union and its Member States as defined by the Treaties.	<i>Amendment retained to serve as reassurance, even if clear from the Treaties; a linguistic change to reflect that the last sentence is a mere statement</i>
Article 1a					
38b		<u>Article 1a</u> <u>Definitions</u> <u>For the purposes of this Regulation, the following definitions apply:</u> <u>1. "coercion" means any third-country action or measure interfering in the legitimate sovereign choices</u>		<u>Article 1a</u> <u>Definitions</u> <u>For the purposes of this Regulation, the following definitions apply:</u> <u>1. "measure of economic coercion" means a third</u>	<i>Article requires discussion</i> <i>Definition of coercion/econ coercion streamlined and made to fit Art 2</i> <i>Union response measures definition adapted in line with the dedicated articles 7 and 8, Annex I;</i>

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		<p><u>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;</u></p> <p><u>2. "third-country action or measure" means any type of action or measure, failure to act or threat thereof that is attributable to a third country;</u></p> <p><u>3. "particular act" means a particular policy choice, legal act or a stance with regard to a policy choice of the Union or a Member State;</u></p> <p><u>4. "failure to act" means failure by a third country to comply with its obligations under legally binding instruments of international law;</u></p> <p><u>5. "threat of coercion" means a substantiated threat of a third country action or measure that is credible, significant, and could be quickly and easily deployed;</u></p> <p><u>6. "economic coercion" means coercion through a third-country action or measure affecting</u></p>		<p><u>country interfering 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 by applying or threatening to apply measures affecting trade or investment;</u></p> <p><u>2. "measure" means any act or omission;</u></p> <p><u>3. "third-country measure" means any measure attributable to a third country;</u></p> <p><u>4. "particular act" means a legal act, a particular policy choice, or a [stance] [expression of a position] with regard to a policy choice of the Union or a Member State;</u></p> <p><u>5. "injury to the Union" means injury to the Union or a Member State, including Union economic operators</u></p> <p><u>6. "injury" means negative impact, including economic damage;</u></p>	<p>The addition in Article 7 about the permitted countermeasures reflects the idea in the definition by the EP and so the definition was adapted;</p> <p>Threat of coercion definition deleted as threat is type of coercion; language added to the recitals and in Article 7</p> <p>New definition on a third country, to cover for the situation of a 'partner' other than a state</p> <p>Union interest definition from the EP merged with Council language but to discuss in order to clarify the intentions;</p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
		<p><u>trade or investment;</u></p> <p><u>7. "injury" means negative impact suffered by the Union or a Member State, including Union economic operators;</u></p> <p><u>8. "Union response measure" means any measure adhering to the Union's international obligations or permitted under international law vis-à-vis the third country responsible for economic coercion, which is commensurate with the injury suffered by the Union or a Member State and aims to obtain the cessation of economic coercion and, where appropriate, the reparation for the injury caused;</u></p> <p><u>9. "Union interest" means first and foremost the need to preserve the policy space of the Union or its Member States to take legitimate sovereign choices in ensuring the social, political, and economic cohesion of the Union, and the upholding of its strategic and economic interests.</u></p>		<p><u>6. "country" means any State, separate customs territory, or other entity exercising authority over a territory.</u></p> <p><u>7. "third country" means any country other than the Union or a Member State.</u></p> <p><u>8. "Union response measure" means any measure adopted pursuant to Articles 7 and 8 or pursuant to other legal instruments that confer specific powers to the Commission;</u></p> <p><u>7. "Union interest" means first and foremost the need to preserve the policy space of the Union or its Member States to take legitimate sovereign choices, for example, in ensuring the social, political, and economic cohesion of the Union, and the upholding of its strategic and economic interests. It likewise means that 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</u></p>	

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				<p>whole, including the interests of Member States, Union economic operators, including upstream and downstream industries, and final consumers. Special consideration shall be given to 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 coercion shall be given special consideration. The determination shall be made on the basis of all the information available. Union response measures under this Regulation shall be taken where the Commission concludes that it is in the Union's interest to take such measures.</p>	
Article 2					
39	Article 2 Scope	Article 2 Scope	Article 2 Scope	Article 2 Scope	
Article 2(1), first subparagraph, introductory part					
40	1. This Regulation applies where a third	1. This Regulation applies <u>only in the event of</u>	1. This Regulation applies where a third country:	1. This Regulation applies <u>only</u> where a third country:	<i>No need to refer to economic coercion because that is in</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	country:	<u>economic coercion</u> where a third country:			<i>the definition in the new article</i>
Article 2(1), first subparagraph, first indent					
41	- 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	- 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	- 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	- 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	<i>Common ground</i>
Article 2(1), first subparagraph, second indent					
42	- by applying or threatening to apply measures affecting trade or investment.	- by applying or threatening <u>applies or threatens</u> to apply measures affecting trade or investment.	- by applying or threatening to apply measures affecting trade or investment.	- by applying or threatening to apply measures affecting trade or investment.	
Article 2(1), second subparagraph					
43	For the purposes of this Regulation, such third-country actions shall be referred to as measures of economic coercion.	For the purposes of this Regulation, such third-country actions shall be referred to as measures of economic coercion. <u>deleted</u>	For the purposes of this Regulation, such third-country actions shall be referred to as 'measures of economic coercion'.	deleted	<i>Not needed in view of the definitions</i>
Article 2(2), introductory part					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
44	2. In determining whether the conditions set out in paragraph 1 are met, the following shall be taken into account:	2. In determining whether the conditions set out in paragraph 1 are met, the following <u>Commission</u> shall be taken <u>take</u> into account the <u>following</u> :	2. In determining whether the conditions set out in paragraph 1 are met, the following shall be taken into account:	2. In determining whether the conditions set out in paragraph 1 are met, the following <u>[Commission]</u> shall be taken <u>take</u> into account the <u>following</u> :	<i>Two options given because of the current Council position in Article 4 that foresees that the Council determines the existence of coercion on the basis of a Commission proposal; The decision needs to be taken on the language in square brackets after the final decision on decision-making process. Alternatively, the original Commission proposal avoids having to name the institution.</i>
Article 2(2), point (a)					
45	(a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure and the pressure arising from it;	(a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure and/or <u>failure to act or threat thereof as well as</u> the pressure arising from it; <u>the Commission shall assess whether such measures are part of a broader pattern of behaviour;</u>	(a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure, including its impact on trade or investment relations with the Union , and the pressure arising from it on the Union or a Member State ;	(a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure, including its impact on trade or investment relations with the Union , and the pressure arising from it on the Union or a Member State ;	<i>First EP amendment covered now in the definitions Pattern appears in letter b), suggest not to duplicate, it essentially means the same</i>
Article 2(2), point (b)					
46	(b) whether the third	(b) whether the third country	(b) whether the third country is	(b) whether the third country is	<i>A dding "clear" would make it</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	country is engaging in a pattern of interference seeking to obtain from the Union or from Member States or other countries particular acts;	is engaging in a <u>clear</u> pattern of interference seeking to obtain from the Union or from Member States or other countries particular acts;	engaging in a pattern of interference seeking to obtain from the Union, a or from Member States or other countries particular acts;	engaging in a pattern of interference seeking to obtain from the Union, a or from Member States or other countries particular acts;	<i>more stringent; Pattern already means that it has to be clear;</i>
Article 2(2), point (c)					
47	(c) the extent to which the third-country measure encroaches upon an area of the Union's or Member States' sovereignty;	(c) the extent to which the third-country measure <u>or failure to act or threat thereof</u> encroaches upon an area of the Union's or Member States' sovereignty;	(c) the extent to which the third-country measure encroaches upon an area of the Union's or a Member States' State's sovereignty;	(c) the extent to which the third-country measure encroaches upon an area of the Union's or a Member States' State's sovereignty;	<i>EP change covered now in the definitions</i>
Article 2(2), point (d)					
48	(d) whether the third country is acting based on a legitimate concern that is internationally recognised;	(d) whether the third country is acting based on a legitimate concern that is internationally recognised <u>recognised as legitimate by international law and conventions</u> ;	(d) whether the third country is acting based on the basis of a legitimate concern that is internationally recognised;	(d) whether the third country is acting based on the basis of a legitimate concern that is internationally recognised;	<i>EP amendment would narrow the text</i> [REDACTED]
Article 2(2), point (e)					
49	(e) whether and in what manner the third	(e) whether and in what manner the third country,	(e) whether and in what manner the third country,	(e) whether and in what manner the third country, before the imposition or	<i>Imposition and application refer to different points in time, which may also</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	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.	before the imposition application 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.	application 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.	<i>coincide or not; it is not wrong to refer to either, it is a choice; the point is whether the coercer made any attempts at some point in advance;</i>
Article 3					
50	Article 3 Examination of third-country measures	Article 3 Examination of third-country measures	Article 3 Examination of third-country measures	Article 3 Examination of third-country measures	
Article 3(1)					
51	1. The Commission may 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.	1. The Commission may <u>or, in the case of a duly substantiated complaint, shall</u> examine any measure of a third country, <u>failure to act or threat thereof</u> in order to determine whether it meets the conditions set out in Article 2(1). The Commission shall act expeditiously.	1. The Commission may, on its own initiative or upon a reasoned request of a Member State , 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.	1. The Commission may, on its own initiative, or [it shall], upon a duly substantiated request, including of a Member State , 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 and its examination shall [normally] not exceed four months.	<i>Consolidation</i> <i>Issue of “may” and “shall” to be discussed; suggest to keep some flexibility;</i> <i>Timeline – needs to be discussed; Commission suggests adding “normally”</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Article 3(2)					
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 <u>shall</u> carry out the examination referred to in paragraph 1 <u>based on substantiated information collected</u> on its own initiative or following information received from any <u>reliable</u> source, <u>notably economic operators or trade unions. The European Parliament and a Member State may also provide such substantiated information to the Commission.</u> The Commission shall ensure the protection of confidential information in line with Article 12, which may include <u>concealing</u> the identity of the supplier of the information. <u>The Commission shall set up publicly available secure tools with a view to facilitating the submission of relevant and substantiated information from external sources.</u>	2. The Commission may <u>shall</u> carry out the examination referred to in paragraph 1 on its own initiative or following <u>the basis of</u> information received from any <u>reliable</u> source. The Commission shall ensure the protection of confidential information in line <u>accordance</u> with Article 12, which may include the identity of the supplier of the information.	2. The Commission may <u>shall</u> carry out the examination referred to in paragraph 1 <u>based on substantiated information collected</u> on its own initiative or following information received from any <u>reliable</u> source, <u>notably such as the European Parliament [for its members], a Member State, economic operators or trade unions.</u> The Commission shall ensure the protection of confidential information in line <u>accordance</u> with Article 12, which may include <u>concealing</u> protecting the identity of the supplier of the information. <u>The Commission shall set up publicly available [secure] tools with a view to facilitating the submission of relevant and substantiated information from external sources.</u>	Consolidation. Necessary to clarify whether the reference to the EP refers to the EP overall or also means MEPs individually; COM checking reference to “secure” tools in terms of IT capabilities.
Article 3(2a)					
52a				<u>3. The Commission shall duly</u>	Question on whether to have

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			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 and keep them informed about developments.	<u>inform and, including in the form of an exchange of views, and in a timely manner the Member States, the European Parliament and the Council of the launch of and of any relevant developments in the ongoing examination of third-country measures.</u>	the Member States and the Council.
Article 3(2b)					
52b			<i>3. The Commission may request Member States to supply information on the impact of the measures of the third country concerned</i>	Moved to below	
Article 3(3), first subparagraph					
53	3. The Commission may seek information about the impact of the measures of the third country concerned.	3. The Commission may seek information about the impact of the measures of the third country concerned.	34. The Commission may shall seek information about the impact of the measures of the third country concerned.	4. The Commission may shall seek information about the impact of the measures of the third country concerned, <u>where necessary. The Commission may request Member States to supply information on the such impact of the measures of the third country concerned and Member States shall act expeditiously.</u>	Consolidation around the same topic. 'Shall' is qualified by 'where necessary' for flexibility in cases where there is enough evidence available already. Moreover, this fits better with line 54 'may publish'.

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Article 3(3), second subparagraph					
54	<p>The Commission may publish a notice in the Official Journal of the European Union 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><u>The Commission shall inform duly, including in the form of an exchange of views, and in a timely manner the European Parliament and the Council of the launch of and of any development in the ongoing examination of third-country measures.</u> The Commission may publish a notice in the Official Journal of the European Union or <u>and</u> through other suitable public communication means with <u>of the launch of an examination procedure. The notice shall include</u> an invitation to submit information within a specified time limit <u>and an indication of the timeline for the determination referred to in Article 4, which shall not exceed four months.</u> In that event, the Commission shall notify the third country concerned of the initiation of the examination.</p>	<p>5. The Commission may publish a notice in the <i>Official Journal of the European Union</i> and, where appropriate, Official Journal of the European Union or 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>	<p>The Commission may publish a notice in the <i>Official Journal of the European Union</i> and, where appropriate, Official Journal of the European Union or through other suitable public communication means with an invitation to stakeholders to submit information within a specified time limit taking into account the timeline indicated in paragraph 1. In that the event of the publication of a notice, the Commission shall notify the third country concerned of the initiation launch of the examination.</p>	<p><i>The 4 months' timeline is indicated already above;</i></p>
Article 3(3), second subparagraph a					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
54a			6. The Commission and Member States shall act expeditiously throughout the examination.	Moved up.	
Article 4					
55	Article 4 Determination with regard to the third-country measure	Article 4 Determination with regard to the third-country measure	Article 4 Determination with regard to the third-country measure	Article 4 Determination with regard to the third-country measure	
Article 4, first paragraph					
56	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.	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). <u>Where no notice was published pursuant to Article 3 and in the case of a positive determination, the decision shall include an indication of the timeline for the adoption of the implementing act referred to in Article 7, which shall not</u>	1. Following an examination carried out in accordance with Article 3, in the event that the Commission considers that the measure of the third country concerned meets the conditions of Article 2(1), it shall submit a proposal to the Council to adopt a decision an implementing act determining whether that the measure of the third country concerned meets the conditions set out in Article 2(1). The Commission- shall, where appropriate, propose that the country concerned repair the injury suffered by the Union or its Member	No text proposed	

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		<u>exceed six months. On duly justified imperative grounds in order to avoid irreparable damage to the Union or its Member States the Commission may extend that timeline by up to a further four months.</u> The Commission shall act expeditiously. <u>The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council about the decision and publish it in the Official Journal of the European Union and through other suitable public communication means.</u>	States act expeditiously.		
Article 4, second paragraph					
57	Prior to adopting its decision, the Commission may invite the third country concerned to submit its observations.	<u>Prior to adopting its decision, the Commission may invite the third country concerned to submit its observations within a reasonable and specified period of time that shall not unduly delay the Commission's decision.</u>	2. Prior to adopting its decision the proposal referred to in paragraph 1, where useful for the purposes of the determination referred to in that paragraph, the Commission may shall invite the third country concerned to submit its observations within a reasonable period of time, without prejudice to Article 5.	No text proposed	

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Article 4, second paragraph a					
57a			<p>3. The Council shall act expeditiously throughout the process set out in this Article. The Council shall adopt the implementing act referred to in paragraph 1, acting by a qualified majority.</p> <p>The Council, acting by a qualified majority, may amend the Commission's proposal.</p>	No text proposed	
Article 4, second paragraph b					
57b			<p>4. The Council implementing act shall be published in the Official Journal of the European Union.</p>	No text proposed	
Article 4, third paragraph					
58	Where the Commission decides that the measure of the third country concerned meets the conditions set out in Article 2(1), it shall notify the third country	Where the Commission decides that the measure of the third country concerned meets the conditions set out in Article 2(1), it shall notify the third country concerned of its decision and request	<p>5. Where the Commission decides that the measure of the third country concerned meets the conditions set out in Article 2(1), it Council adopts the implementing act referred to in this Article, the</p>	<p>5. Where the [Commission decides that the measure of the third country concerned meets the conditions set out in Article 2(1), it Council adopts the implementing act referred to in this Article, the</p>	<i>Square brackets denotes language subject to discussions on decision-making.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	#that third country to cease the economic coercion <u>immediately</u> and, where appropriate, repair the injury suffered by the Union or its Member States <u>within a reasonable and specified period of time</u> .	Commission shall notify the third country concerned of its that decision and request it to cease the economic coercion and, where appropriate and so decided by the Council, request it to repair the injury suffered by the Union or its Member States.	Commission] shall notify the third country concerned of [its that]decision and request it to cease the economic coercion <u>immediately</u> and, where appropriate [and so decided by the Council, request it to] repair the injury suffered by the Union or its Member States <u>within a reasonable and specified period of time</u> ..	
Article 5					
59	Article 5 Engagement with the third country concerned	Article 5 Engagement with the third country concerned	Article 5 Engagement with the third country concerned	Article 5 Engagement with the third country concerned	
Article 5, first paragraph, introductory part					
60	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:	<u>Following the notice referred to in Article 4,</u> the Commission shall be open to engage on behalf of the Union with the third country concerned <u>and, provided that the country concerned also engages in good faith, in a proactive manner,</u> to explore options with a view to obtaining the cessation of the economic coercion <u>and, where appropriate,</u>	1. Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultations 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.	1. Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultations 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 <u>and, where appropriate, reparation of the</u>	<i>Consolidated. COM understand that EP means by 'notice' the determination decision</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
		<u>reparation of the injury it has caused to the Union or its Member States</u> . Such options <u>shall not unduly delay the procedure and</u> may include:	If the third country concerned enters into consultations with the Union in good faith the Commission shall expeditiously engage in such consultations. In the course of such consultations the Commission may explore options with the third country concerned including Such options may include:	<u>injury it has caused to the Union or its Member States</u> . If the third country concerned enters into consultations with the Union in good faith, <u>in a proactive manner</u> , the Commission shall expeditiously engage in such consultations. In the course of such consultations, <u>which shall not unduly delay the procedure</u> , the Commission may explore options with the third country concerned including Such options may include	
Article 5, first paragraph, first indent					
61	- direct negotiations;	- direct negotiations;	- direct negotiations;	- direct negotiations;	
Article 5, first paragraph, second indent					
62	- mediation, conciliation or good offices to assist the Union and the third country concerned in these efforts;	- mediation, conciliation or good offices to assist the Union and the third country concerned in these efforts; <u>deleted</u>	- mediation, conciliation or good offices by a third party to assist the Union and the third country concerned in these efforts;		
Article 5, first paragraph, third indent					
63					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	- submitting the matter to international adjudication.	- submitting, <u>also in parallel to the other options</u> , the matter to international adjudication.	- submitting the matter to international adjudication.	- submitting the matter to international adjudication.	Language “also in parallel to the other options” not included because substantive intention unclear. Requires discussion.
Article 5, first paragraph, fourth indent					
63a		- <u>mediation, conciliation or good offices to assist the Union and the third country concerned in those efforts;</u>		- mediation, conciliation or good offices by a third party to assist the Union and the third country concerned in these efforts;	
Article 5, second paragraph					
64	The Commission shall seek to obtain the cessation of the economic coercion by also raising the matter in any relevant international forum.	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 by also by raising the matter in any relevant international forum, after having, in accordance with the Treaty, consulted the Council.	2. The Commission shall seek to obtain the cessation of the economic coercion by by raising the matter in any relevant international forum, after having, in accordance with the Treaty, consulted the Council.	<i>Taking up the clarification by the Council that makes explicit what was implicit (i.e. that the institutions always have to act in conformity with the Treaty.)</i>
Article 5, third paragraph					
65	The Commission shall keep the European Parliament and the Council informed of relevant developments.	The Commission shall keep the European Parliament and the Council <u>fully</u> informed, <u>in a regular and timely manner, including in the form of an exchange of</u>	3. The Commission shall keep the European Parliament and the Council informed of any relevant developments pursuant to paragraphs 1 and 2.	3. The Commission shall keep the European Parliament and the Council <u>fully</u> informed, <u>in a regular and timely manner, including in the form of an exchange of views, and shall</u>	<i>Deleted ‘notify’ as already covered in ‘keep fully informed’</i> <i>‘relevant’ clarifies what type of developments are to be</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
		<u>views, and shall notify them of any-of-relevant developments in the engagement with the third country concerned.</u>		notify them of any-of-relevant developments <u>in the engagement with the third country concerned</u> pursuant to paragraphs 1 and 2.	communicated.
Article 5, fourth paragraph					
66	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), of any Union response measures.	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), of any Union response measures.	4. The Commission shall remain open to engage enter into consultations with the third country concerned after the adoption of Union response measures pursuant to Article 7- The Commission may pursue these efforts and , as the case may be, in conjunction with a suspension, pursuant to Article 10(2), of any Union response measures pursuant to Article 10(2).	4. The Commission shall remain open to engage enter into consultations with the third country concerned after the adoption of Union response measures pursuant to Article 7- The Commission may pursue these efforts and , as the case may be, in conjunction with a suspension, pursuant to Article 10(2), of any Union response measures pursuant to Article 10(2).	<i>Council text, but no change in substance.</i>
Article 6					
67	Article 6 International cooperation	Article 6 International cooperation	Article 6 International cooperation	Article 6 International cooperation	
Article 6, first paragraph					
68					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	<p>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.</p>	<p>The Commission shall enter into consultations or cooperation, on behalf of the Union, with any other country <u>and partner</u> affected by the same or similar measures of economic coercion or with any interested third country <u>and partner</u>, with a view to obtaining the cessation of the coercion. This may involve, where appropriate <u>coordination in sharing related information and experiences to facilitate a collective and coherent response to such coercive measures, and</u> coordination in relevant international fora and coordination in response to the coercion. <u>Such consultation or cooperation shall not unduly delay the application of this instrument. The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council about the consultation or cooperation.</u></p>	<p>The Commission shall enter into consultations or cooperation, on behalf of the Union, with any other third 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, after having, in accordance with the Treaty, consulted the Council. This may involve, where appropriate, coordination in relevant international fora and coordination in response to the coercion. The Commission shall keep the European Parliament and the Council informed of any relevant developments and invite, where appropriate, Member States to participate in such consultation and cooperation.</p>	<p>The Commission shall enter into consultations or cooperation, on behalf of the Union, with any other third country <u>and partner</u> affected by the same or similar measures of economic coercion or with any interested third country <u>and partner</u>, with a view to obtaining the cessation of the coercion. This may involve, where appropriate <u>coordination in sharing related information and experiences to facilitate a collective and coherent response to such coercive measures of economic coercion, and</u> coordination in relevant international fora and coordination in response to the coercion. <u>Such consultation or cooperation shall not unduly delay the decision-making under application of this instrument Regulation. The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council about the consultation or cooperation of in relation to any relevant developments pursuant to this article and invite, where appropriate,</u></p>	<p><i>'partner' deleted in view of the new definition that covers for that situation</i></p> <p><i>Otherwise consolidation of the texts of the EP and Council.</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
				Member States to participate in such consultation and cooperation.	
Article 7					
69	Article 7 Union response measures	Article 7 Union response measures	Article 7 Union response measures	Article 7 Union response measures	
Article 7(1), first subparagraph, introductory part					
70	1. The Commission shall adopt an implementing act determining that it shall take a Union response measure where:	1. The Commission shall adopt <u>take a Union response measure by means of</u> an implementing act determining that it shall take a Union response measure from <u>among the measures provided for in Annex I</u> where:	1. The Commission shall adopt an implementing act in accordance with the examination procedure referred to in Article 15(2) determining that it shall take a Union response measure under this Regulation , where:	1. The Commission shall adopt <u>take a Union response measure by means of</u> an implementing act in accordance with the examination procedure referred to in Article 15(2) determining that it shall take a Union response measure from <u>among the measures provided for in Annex I</u> where:	<i>Consolidation of the EP and Council texts;</i> <i>Reference to Annex I now exists in the first and the second subparagraphs which is a duplication to an extent – to make a choice, preference for the second subparagraph.</i>
Article 7(1), first subparagraph, point (a)					
71	(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	(a) action pursuant to the Articles 4 and 5 has not resulted in the cessation of the economic coercion and, <u>where appropriate, in the</u> reparation of the injury it has	(a) action pursuant to the Articles 4 and 5 has not resulted in the cessation of the economic coercion and, where appropriate, the reparation of the injury it has caused to the	(a) action pursuant to the Articles 4 and 5 has not resulted in the cessation of the economic coercion and, where appropriate, in the reparation of the injury it has caused to the	<i>Consolidation</i> <i>Language on time period linked to approach in Article 4.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	has caused to the Union or a Member State within a reasonable period of time;	caused to the Union or its Member State <u>States</u> within a reasonable <u>the</u> period of time <u>set in the decision referred to in Article 4;</u>	Union or a Member State within a reasonable period of time;	Union or a Member State within a reasonable period of time [not exceeding the time period indicated in the implementing act pursuant to <u>Article 4.</u>]	
Article 7(1), first subparagraph, point (b)					
72	(b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case, and	(b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case, and	(b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case, in light of the options available; and	(b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case, in light of the options available; and	<i>Consolidation.</i>
Article 7(1), first subparagraph, point (c)					
73	(c) action is in the Union's interest.	(c) action is in the Union's interest <u>in the particular case of economic coercion under examination.</u>	(c) action is in the Union's interest in accordance with Article 7bis.	(c) action is in the Union's interest, as defined in Article X, <u>in the specific case of economic coercion at stake.</u>	<i>Consolidation</i>
Article 7(1), second subparagraph					
74	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	In the implementing act <u>referred to in the first subparagraph</u> , the Commission shall also determine the appropriate Union response from among the measures provided for in Annex I <u>justify that the</u>	In the implementing act referred to in the first subparagraph , the Commission shall also determine the appropriate Union response from among the consisting in one or more measures provided for	In the implementing act <u>referred to in the first subparagraph</u> , the Commission shall determine the appropriate Union response from among the consisting in one or more measures provided for pursuant to Annex I and	<i>Consolidation and adjustment of language</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	<u>conditions referred to in points (a), (b) and (c) are met. It shall also determine and justify the appropriate Union response.</u> 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.	in pursuant to 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.	shall pay particular attention to the requirement to <u>justify that the conditions referred to in points (a), (b) and (c) are met and that the Union response measure is appropriate.</u> 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.	
Article 7(1), third subparagraph					
75	The implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2).	The implementing act <u>referred to in the first subparagraph</u> shall be adopted in accordance with the examination procedure referred to in Article 15(2). <u>The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council of the implementing act and publish it in the Official Journal of the European Union and through other suitable public communication means.</u>	Insofar as the measures of the third country concerned constitute an internationally wrongful act, Union response measures The implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2) under this Regulation may consist of measures implying the non-performance of international obligations towards the third country concerned.	Insofar as the measures of the third country concerned constitute an internationally wrongful act, Union response measures The implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2) under this Regulation may consist of measures implying the non-performance of international obligations towards the third country concerned.	<i>EP amendment in part is moved up, the reporting and publication obligations are redundant given the existing obligations under the Comitology Regulation.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Article 7(1), third subparagraph a					
75a		<u>The Commission may also adopt measures that are not listed in Annex I pursuant to other legal instruments. Any such adoption shall be coordinated and consistent with action under this Regulation.</u>		<u>The Commission may also adopt measures that are not listed in Annex I pursuant to other legal instruments. Any such adoption shall be coordinated and consistent with action under this Regulation.</u>	There is a corresponding recital in the Council Mandate (16ter); the recital is also enough on its own; Linguistic suggestion: <u>The Commission may also adopt pursuant to other legal instruments measures that are not listed in Annex I.</u>
Article 7(2)					
76	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 <u>and in any case within three months from its adoption.</u> 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 <u>and, where appropriate, to repair the injury caused.</u>	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 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.	2. The Union response measures shall apply from a specified date after the adoption of the implementing act referred to in paragraph 1 <u>and in any case within three months from its adoption, unless the implementing act specifies a later date in light of the specific circumstances.</u> The Commission shall set 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	Three months might not be enough; better to have the flexibility in individual cases to set the period in a targeted manner;

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
				coercion <u>and, where appropriate, to repair the injury caused.</u>	
Article 7(3)					
77	<p>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.</p>	<p>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 <u>promptly</u><u>immediately</u> cease the economic coercion, offer to negotiate a solution <u>including, where appropriate, with regard to the reparation of the injury caused by the third country to the Union or its Members States</u>, and inform the third country concerned that the Union response measure will apply, unless the economic coercion ceases <u>or, where appropriate, that third country repairs the injury caused.</u></p>	<p>3. The Commission shall, Upon adoption of the implementing act, notify the third country concerned of the Union response measures adopted pursuant to referred to in paragraph 1. In the notification, the Commission shall, on behalf of the Union, call on notify 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. thereof and:</p>	<p>3. The Commission shall, Upon adoption of the implementing act, notify the third country concerned of the Union response measures adopted pursuant to referred to in paragraph 1. In the notification, the Commission shall, on behalf of the Union, call on notify 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. thereof and:</p>	<p><i>Consolidation, also in lines 77 a to c.</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Article 7(3), point (a)					
77a			(a) call on the third country concerned to promptly cease the economic coercion;	(a) call on the third country concerned to promptly <u>immediately</u> cease the economic coercion;	
Article 7(3), point (b)					
77b			(b) offer the third country concerned to negotiate a solution; and	(b) offer the third country concerned to negotiate a solution, <u>including, where appropriate, with regard to the reparation of the injury caused by the third country to the Union or its Member States;</u> and	
Article 7(3), point (c)					
77c			(c) inform the third country concerned that the Union response measures will apply, unless the economic coercion ceases.	(c) inform the third country concerned that the Union response measures will apply, unless the economic coercion ceases <u>or and, where appropriate, that third country repairs the injury caused.</u>	
Article 7(4)					
78	4. The implementing act referred to in paragraph	4. The implementing act referred to in paragraph 1	4. The implementing act referred to in paragraph 1 shall	4. The implementing act referred to in paragraph 1 shall	Consolidated

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	<p>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>shall state that the application of the Union response measures shall be deferred, <u>but only</u> for a period <u>that is necessary for the Commission to verify the actual cessation of the coercion or threat thereof and that needs to be</u> specified in that implementing act, where the Commission has credible information that the third country has ceased<u>taken concrete steps to cease the economic coercion or the threat thereof or, where appropriate, has repaired the injury caused</u> 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 <u>or, where appropriate, repairs the injury caused</u> before the Union response measures start to apply, the</p>	<p>state that the provide for a deferred application of the Union response measures shall be deferred 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 startdate of application of the adopted Union response measures. In that</p> <p>In the event, that the Commission has the information referred to in the first subparagraph, it shall publish a notice in the <i>Official Journal of the European Union</i> 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 Union response measures start to applydate of application of the Union response measures, the Commission shall terminate the Union response measures in accordance with Article 10.</p>	<p>state that the provide for a deferred application of the Union response measures shall be deferred, <u>but only</u> for a period <u>that is necessary for the Commission to verify the actual cessation of the coercion or threat thereof and that needs to be</u> specified in that implementing act, where the Commission has credible information that the third country has ceased or has<u>taken concrete steps to cease the economic coercion or the threat thereof and, where appropriate, has repaired the injury caused</u> before the start of application of the adopted Union response measures. In the event, that the Commission has the information referred to in the first subparagraph, it shall publish a notice in the <i>Official Journal of the European Union</i> indicating that there is such information and the date from which the deferral shall apply. If the third country ceases the economic coercion <u>and, where appropriate, repairs the injury caused</u> before applythe date of application of the Union</p>	<p><i>No need to mention threat because the reference to coercion encompasses threat situations as well as now indicated in the definition.</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
		Commission shall terminate the Union response measures in accordance with Article 10.		response measures start to apply , the Commission shall terminate the Union response measures in accordance with Article 10.	
Article 7(5)					
79	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.	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 <u>again</u> , on the third country concerned to cease the economic coercion or without the Commission first notifying it that Union response measure will apply <u>pursuant to paragraph 3</u> , 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.	5. Notwithstanding paragraphs 2, 3 and 4, the implementing act referred to in paragraph 1 may provide that Union response measures may shall 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 the third country concerned that Union response measure will apply, where in duly justified cases , this is necessary for the preservation of the rights and interests of the Union or a Member States State , notably of the effectiveness of Union response measures.	5. [Notwithstanding paragraphs 2, 3 and 4,] the implementing act referred to in paragraph 1 may provide that Union response measures may shall apply without the Commission, on behalf of the Union, first calling, once more <u>again</u> , on the third country concerned to cease the economic coercion or without the Commission first notifying it the third country concerned that Union response measure will apply <u>pursuant to paragraph 3</u> , where in duly justified cases , this is necessary for the preservation of the rights and interests of the Union or a Member States State , notably of the effectiveness of Union response measures.	<i>Need to clarify reason for EP deleting the opening phrase "Notwithstanding ..."</i>
Article 7(5a)					
79a					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			<p>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 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>	<p>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 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>	<p><i>Council texts makes explicit implicit approach which would be achieved through deferral process in Article 7(4)</i></p>
Article 7(6)					
80	<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</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</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</p>	<p>No text proposed</p>	<p><i>See below changes in light of applicable standard language for comitology procedures which would need to be made if the provision is retained. If clarity is needed as regards a</i></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	<p>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>shall adopt<u>take a Union response measure by means of an implementing act referred to in Article 7(1) as</u> 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<u>1 to 4</u> shall apply <u>and the conditions listed in paragraph 5 are considered to be met.</u> Those acts shall remain in force for a period not exceeding three months <u>after which the measures may be adopted by means of an implementing act referred to in Article 7(1) may be adopted as appropriate. The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council about the implementing acts and publish them in the Official Journal of the European Union and through other suitable public communication means.</u></p>	<p>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>[Draft compromise text by the Commission 29-11-2022]</p>	<p><i>follow up, we can clarify that in the recital on urgency procedure along the lines EP suggests.</i></p> <p><i>The language in brackets to be discussed to understand the intentions better.</i></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<u>take a Union response measure by means of an implementing act referred to in Article 7(1) as</u> 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<u>1 to 4</u> shall apply <u>and the conditions listed in paragraph 5 are considered to be met.</u>] Those acts shall remain in force for a period not exceeding three months. <u>after which the</u></p>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
					measures may be adopted by means of an implementing act referred to in Article 7(1), may be adopted as appropriate. The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council about the implementing acts and publish them in the Official Journal of the European Union and through other suitable public communication means.
Article 7(7), introductory part					
81	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:	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. <u>after having informed the European Parliament and the Council of the delegated acts.</u> The Commission may adopt such delegated acts where the types of response measures would:	<i>deleted</i>	No text suggested	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
<i>Article 7(7), point (a)</i>					
82	(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;	(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;	<i>deleted</i>	No text suggested	
<i>Article 7(7), point (b)</i>					
83	(b) provide as effective or more effective relief to economic operators within the Union affected by the measures of economic coercion;	(b) provide as effective or more effective relief to economic operators within the Union affected by the measures of economic coercion;	<i>deleted</i>	No text suggested	
<i>Article 7(7), point (c)</i>					
84	(c) avoid or minimise the negative impact on affected actors; or	(c) avoid or minimise the negative impact on affected actors; or	<i>deleted</i>	No text suggested	
<i>Article 7(7), point (d)</i>					
85	(d) avoid or minimise administrative complexity and costs.	(d) avoid or minimise administrative complexity and costs.	<i>deleted</i>	No text suggested	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
<i>Article 7bis</i>					
85a			Article 7bis Union's interest		
<i>Article 7bis(1)</i>					
85b			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, Union economic operators, including upstream and downstream industries, and final consumers. 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. The determination shall be made on the basis of all the information available. Union response measures under this Regulation shall be taken where the Commission	Delete Consolidated with the definition in the definitions article. Substance retained.	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			concludes that it is in the Union's interest to take such measures.		
Article 8					
86	Article 8 Union response measures with regard to natural or legal persons	Article 8 Union response measures with regard to natural or legal persons	Article 8 Union response measures with regard to natural or legal persons	Article 8 Union response measures with regard to natural or legal persons	
Article 8(1), first subparagraph, introductory part					
87	1. The Commission may provide, in the implementing act referred to in Article 7(1), or in a separate implementing act, that:	1. The Commission may provide, in the implementing act referred to in Article 7(1), or in a separate implementing act, that:	1. The Commission may provide, in the implementing act referred to in Natural or legal persons which engage, or may engage in activities covered by Article 7(1), or in a separate implementing act, that:207 TFEU and are connected or linked to the government of the third country concerned may be subject to Union response measures pursuant to Annex I.	. The Commission may provide, in the implementing act referred to in Natural or legal persons [which engage, or may engage in activities covered by Article 7(1), or in a separate implementing act, that:207 TFEU] and are connected or linked to the government of the third country concerned] may be subject to Union response measures pursuant to Annex I.	<i>Consolidation of lines 87, 88 and 93</i> <i>Square brackets around additional substantive elements inserted by Council. Requires discussion.</i> <i>Reference to adoption of implementing act and relation with Art 7(1) addressed in</i>
Article 8(1), first subparagraph, point (a)					
88	(a) legal or natural persons designated in	(a) legal or natural persons designated in accordance	<i>deleted</i>		<i>EP text moved up to line 87. Designation criteria moved to line 94a</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	accordance with paragraph 2 point (a) shall be subject to Union response measures; or	with paragraph 2 point (a) shall be subject to Union response measures; or			
<i>Article 8(1), first subparagraph, point (b)</i>					
89	(b) without prejudice to the 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.	(b) without prejudice to the 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.	<i>deleted</i>	No text suggested. For political discussion.	
<i>Article 8(1), second subparagraph</i>					
90	Those measures shall apply as of the same date of application as the Union response	Those measures shall apply as of the same date of application as the Union response measures adopted	<i>deleted</i>		<i>Moved below, line 94b</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	measures adopted pursuant to Article 7, or as of a later date specified in the implementing act pursuant to this paragraph.	pursuant to Article 7, or as of a later date specified in the implementing act pursuant to this paragraph.			
<i>Article 8(1), third subparagraph</i>					
91	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).	<i>deleted</i>		<i>Moved below one 94b</i>
<i>Article 8(2), introductory part</i>					
92	2. The Commission may designate a natural or legal person where it finds:	2. The Commission may designate a natural or legal person where it finds:	<i>deleted</i>		<i>Moved below, line 94a</i>
<i>Article 8(2), point (a)</i>					
93	(a) that such person is connected or linked to the government of the third country concerned; or,	(a) that such person is connected or linked to the government of the third country concerned; or,	<i>deleted</i>	<i>Deleted</i>	<i>Moved above</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
<i>Article 8(2), point (b)</i>					
94	(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.	(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.	<i>deleted</i>	No text suggested. For political discussion.	
<i>Article 8(2a)</i>					
94a			3. Paragraph 1 shall only apply to natural or legal persons designated in accordance with this Article.	3. Paragraph [1] shall only apply to natural or legal persons designated in accordance with this Article.	<i>Substantively equivalent to COM proposal/EP position.</i>
<i>Article 8(2b)</i>					
94b			4. For the purposes of this Article, the Commission shall adopt implementing acts in accordance with the examination procedure referred to in Article 15(2). Such implementing acts shall designate persons falling under paragraph 1, and specify the Union response measures applicable to such persons.	4. For the purposes of this Article, the Commission shall adopt implementing acts in accordance with the examination procedure referred to in Article 15(2). Such implementing acts shall designate persons falling under paragraph 1, and specify the Union response measures applicable to such persons.	<i>Substantively equivalent to COM proposal/EP position.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Article 8(2c)					
94c			5. The implementing act referred to in paragraph 4 of this Article may be adopted simultaneously with the implementing act referred to in Article 7(1), or subsequently.	5. The implementing act referred to in paragraph 4 of this Article may be adopted simultaneously with the implementing act referred to in Article 7(1), or subsequently	<i>Substantively equivalent to COM proposal/EP position (line 90).</i>
Article 8(2d), introductory part					
94d			6. A natural or legal person may be considered as connected or linked to the government of the third country concerned pursuant to paragraph 1 where:	[6. A natural or legal person may be considered as connected or linked to the government of the third country concerned pursuant to paragraph 1 where:]	<i>Requires discussion (94 d-g) + 95</i>
Article 8(2d), point (a)					
94e			(a) that government beneficially owns more than 50 % of the equity interest in such legal person, exercises directly or indirectly more than 50 % of the voting rights in it, or has the power to appoint a majority of its directors or otherwise to legally direct its actions;	[a] that government beneficially owns more than 50 % of the equity interest in such legal person, exercises directly or indirectly more than 50 % of the voting rights in it, or has the power to appoint a majority of its directors or otherwise to legally direct its actions;]	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Article 8(2d), point (b)					
94f			<i>(b) such person benefits from exclusive or special rights or privileges granted in law or in fact by the government of the 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</i>	<i>[(b) such person benefits from exclusive or special rights or privileges granted in law or in fact by the government of the 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]</i>	
Article 8(2d), point (c)					
94g			<i>(c) such person effectively acts on behalf of, or at the direction or instigation of the government of the third country concerned.</i>	<i>[c) such person effectively acts on behalf of, or at the direction or instigation of the government of the third country concerned.]</i>	
Article 8(3)					
95	3. In making this designation the Commission shall examine all relevant criteria and available	3. In making this designation the Commission shall examine all relevant criteria and available information, including whether the persons	<i>deleted</i>		

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	information, including 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.	concerned are known to effectively act on behalf of, or are beneficially owned or otherwise effectively controlled by the government of the third country.			
<i>Article 8(4)</i>					
96	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	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	48. Where the Commission has grounds to consider that persons believe that a person should be designated pursuant to pursuant to the basis of paragraph 2, point (a) or point (b) it shall publish a provisional list of persons 1, it shall inform such person of its intention, including the grounds for designation, and, where relevant, the possible measures pursuant to Annex I that that person 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	48. Where the Commission has grounds to consider that persons believe that a person should be designated pursuant to pursuant to the basis of paragraph 2, point (a) or point (b) it shall publish a provisional list of persons 1, it shall inform such person of its intention, including the grounds for designation, and, where relevant, the possible measures pursuant to Annex I that that person 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	<i>Consolidation, based on certain specifications developed in the Council position.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	<i>Commentary to draft compromise text</i>
	conditions of paragraph 2, point (a) or point (b). The Commission may also seek additional information it considers pertinent concerning the potential designation.	considers pertinent concerning the potential designation.	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. The Commission shall publish a notice in the Official Journal of the European Union to this effect and, whenever possible, notify directly the person concerned.	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. The Commission shall publish a notice in the Official Journal of the European Union to this effect and, whenever possible, notify directly the person concerned.	
Article 8(4a), introductory part					
96a			Before deciding on the designation, the Commission shall give:	Before deciding on the designation, the Commission shall give:]	<i>Equivalent to part of COM/EP text in line 96</i>
Article 8(4a), point (a)					
96b			<i>(a) any persons referred to in the first subparagraph the opportunity to submit observations on the possible designation, in particular on whether they fall under the conditions established in paragraph 1; within a reasonable period of time; and</i>	<i>a) any persons referred to in the first subparagraph the opportunity to submit observations on the possible designation, in particular on whether they fall under the conditions established in paragraph [1]; within a reasonable period of time; and</i>	<i>Equivalent to part of COM/EP text in line 96</i>
Article 8(4a), point (b)					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	<i>Commentary to draft compromise text</i>
96c			(b) other interested parties the opportunity to submit observations on the possible designation.	[(b) other interested parties the opportunity to submit observations on the possible designation.]	<i>[requires discussion]</i>
Article 8(4b)					
96d			The Commission may also seek information it considers relevant concerning the potential designation under this Article, including by requesting such information from Member States.	The Commission may also seek information it considers relevant concerning the potential designation under this Article, including by requesting such information from Member States.	<i>Same as COM/EP text – final sentence line 96</i>
Article 8(4c)					
96e			9. Without prejudice to Article 10, the Commission shall review designations under this Article when new substantial evidence is submitted to the Commission and inform the designated natural or legal persons concerned accordingly.	[9. Without prejudice to Article 10, the Commission shall review designations under this Article when new substantial evidence is submitted to the Commission and inform the designated natural or legal persons concerned accordingly.]	<i>Requires discussion</i>
Article 9					
97	Article 9 Criteria for selecting and	Article 9 Criteria for selecting and	Article 9 Criteria for selecting and	Article 9 Criteria for selecting and	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	designing Union response measures	designing Union response measures	designing Union response measures	designing Union response measures	
Article 9(1)					
98	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.	1. Any Union response measure shall not exceed <u>be commensurate to</u> the level that is commensurate with <u>to</u> 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 <u>economic impact that those measures are having on the Union or a Member State and shall be effective in preserving the Union and its Member States' rights in question</u> making legitimate sovereign choices with regard to particular acts, policies or stances.	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 of economic coercion and the rights in question of the Union or a Member State.	1. Any Union response measure shall [not exceed] <u>[be commensurate to]</u> the level that is commensurate with <u>to</u> 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 <u>[economic impact that those measures are having on the Union or a Member State]</u> and shall be effective in preserving the Union and its Member States' rights in question <u>making legitimate sovereign choices]</u> with regard to particular acts, policies or stances.	<i>Language in square brackets requires discussion, to better understand the intentions.</i>
Article 9(2), introductory part					
99	2. The Commission shall select and design an appropriate response measure taking into	2. The Commission shall select and design an appropriate response measure taking into account the	2. The Commission shall select and design an appropriate response measure taking into account the determination made	2. The Commission shall select and design an appropriate response measure taking into account the determination made	<i>Important to refer to 2(2) for calibrating the response; 2(1) is already established via the determination</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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:	determination made pursuant to Article 4, the criteria set out in Article 2(2) <i>and the Union's interest</i> ² , on the basis of available information, including as collected pursuant to Article 11, and the following criteria:	pursuant to Article 4, the criteria set out in Article 2(2) and the Union's interest pursuant to Article 7bis , on the basis of available information, including as collected pursuant to Article 11, and the following criteria:	pursuant to Article 4, the criteria set out in Article 2(2) and the Union's interest pursuant to Article 7bis , on the basis of available information, including as collected pursuant to Article 11, and the following criteria:	<i>decision; we do not revisit that decision here;</i> <i>Reference to Union interest kept in view of the consolidated definition;</i>
Article 9(2), point (a)					
100	(a) the effectiveness of the measures in inducing the cessation of the economic coercion;	(a) the effectiveness of the measures in inducing the cessation of the economic coercion <i>and, where appropriate, reparation of the injury caused to the Union and its Member States;</i>	(a) the effectiveness of the Union response measures in inducing the cessation of the economic coercion;	(a) the effectiveness of the Union response measures in inducing the cessation of the economic coercion <i>and, where appropriate, reparation of the injury caused to the Union and its Member States;</i>	<i>Consolidation</i>
Article 9(2), point (aa)					
100a			(abis) the avoidance or minimisation of negative impacts	(abis) the avoidance or minimisation of negative impacts	<i>Identical to COM/EP language in line 102</i>
Article 9(2), point (ab)					
100b			- on Union actors affected by	- on Union actors affected by	<i>Identical to COM/EP</i>

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			Union response measures, including the availability of alternatives for such affected actors, for example alternative sources of supply for goods or services,	Union response measures, including the availability of alternatives for such affected actors, for example alternative sources of supply for goods or services,	language in line 102
Article 9(2), point (ac)					
100c			- on the investment environment in the Union or a Member State, including the impact on employment and regional development policy;	[- on the investment environment in the Union or a Member State, including the impact on employment and regional development policy;]	To be discussed
Article 9(2), point (b)					
101	(b) the potential of the measures to provide relief to economic operators within the Union affected by the economic coercion;	(b) the potential of the measures to provide relief to economic operators within the Union affected by the economic coercion;	(b) the potential of the Union response measures to provide relief to Union economic operators within the Union affected by the economic coercion;	(b) the potential of the Union response measures to provide relief to Union economic operators within the Union affected by the economic coercion;	
Article 9(2), point (c)					
102	(c) the avoidance or minimisation of negative impacts on affected actors by Union response measures, including the availability	(c) the avoidance or minimisation of negative impacts on affected actors by Union response measures, including the availability of alternatives for affected	(c) the avoidance or minimisation of negative impacts on affected actors by Union response measures, including the availability of alternatives for affected actors,	Moved up (100a + b), substance retained.	

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	of alternatives for affected actors, for example alternative sources of supply for goods or services;	actors, for example alternative sources of supply for goods or services;	for example alternative sources of supply for goods or services;		
Article 9(2), point (d)					
103	(d) the avoidance or minimisation of negative effects on other Union policies or objectives;	(d) the avoidance or minimisation of negative effects on other Union policies or objectives;	(d) the avoidance or minimisation of negative effects on other Union policies or objectives by Union response measures;	(d) the avoidance or minimisation of negative effects on other Union policies or objectives by Union response measures;	<i>Consolidation.</i>
Article 9(2), point (da)					
103a			(dbis) any relevant action in the Union's common foreign and security policy;	[(dbis) any relevant action in the Union's common foreign and security policy;]	<i>To be discussed.</i>
Article 9(2), point (e)					
104	(e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;	(e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;	(e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;	(e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;	
Article 9(2), point (f)					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
105	(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;	(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;	(f) the existence and nature of any response measures enacted by other third countries affected by the same or similar measures of economic coercion, including where relevant any coordination pursuant to Article 6;	(f) the existence and nature of any response measures enacted by other third countries affected by the same or similar measures of economic coercion, including where relevant any coordination pursuant to Article 6;	<i>Consolidation/clarification</i>
Article 9(2), point (g)					
106	(g) any other relevant criteria established in international law.	(g) any other relevant criteria established in international law.	(g) any other relevant criteria established in international law.	(g) any other relevant criteria established in international law.	
Article 9(2a)					
106a			In selecting Union response measures, the Commission shall give predominant weight to measures which most effectively ensure compliance with criteria (a) and (abis).	[In selecting Union response measures, the Commission shall give predominant weight to measures which most effectively ensure compliance with criteria (a) and (abis).]	<i>To be discussed.</i>
Article 9(2b), introductory part					
106b			2bis. Without prejudice to paragraph 2, when selecting and designing an appropriate	[2bis. Without prejudice to paragraph 2, when selecting and designing an appropriate	<i>To be discussed.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	<i>Commentary to draft compromise text</i>
			response measure that affects a procedure whereby a public authority in the Union grants authorisations, registrations, licenses or other rights to a natural or legal person for the purposes of their commercial activities, the Commission shall always consider measures according to the following hierarchy of steps:	response measure that affects a procedure whereby a public authority in the Union grants authorisations, registrations, licenses or other rights to a natural or legal person for the purposes of their commercial activities, the Commission shall always consider measures according to the following hierarchy of steps:]	
Article 9(2b), point (a)					
106c			(a) measures affecting procedures duly initiated after the entry into force of the implementing act referred to in Article 7(1) or 8(1), respectively, or where no such measures are available	[(a) measures affecting procedures duly initiated after the entry into force of the implementing act referred to in Article 7(1) or 8(1), respectively, or where no such measures are available;]	<i>To be discussed.</i>
Article 9(2b), point (b)					
106d			(b) measures affecting procedures not yet completed upon the entry into force of the implementing act referred to in Article 7(1) or 8(1), respectively.	[(b) measures affecting procedures not yet completed upon the entry into force of the implementing act referred to in Article 7(1) or 8(1), respectively.]	<i>To be discussed.</i>
Article 9(2c)					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
106e			Where none of the measures referred to in points (a) and (b) of the first subparagraph are available, the Commission may, in exceptional circumstances consider other response measures, where it has been demonstrated, in light of the information-gathering exercise conducted pursuant to Article 11, that those other measures would not disproportionately affect the upstream industries, downstream industries or final consumers within the Union or impose a disproportionate burden on the process of administration of relevant national regulations, whilst ensuring effectiveness.	[Where none of the measures referred to in points (a) and (b) of the first subparagraph are available, the Commission may, in exceptional circumstances consider other response measures, where it has been demonstrated, in light of the information-gathering exercise conducted pursuant to Article 11, that those other measures would not disproportionately affect the upstream industries, downstream industries or final consumers within the Union or impose a disproportionate burden on the process of administration of relevant national regulations, whilst ensuring effectiveness.]	<i>To be discussed.</i>
Article 9(2d)					
106f			In conjunction with the first subparagraph, when selecting and designing a response measure, the Commission shall always take into account the level of harmonisation while preferring measures affecting procedures applied	[In conjunction with the first subparagraph, when selecting and designing a response measure, the Commission shall always take into account the level of harmonisation while preferring measures affecting procedures applied	<i>To be discussed.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			on a Union-wide basis or measures affecting procedures applied in an area where extensive Union legislation exists.	on a Union-wide basis or measures affecting procedures applied in an area where extensive Union legislation exists.]	
Article 9(3), first subparagraph, introductory part					
107	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 insufficient to	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 insufficient to effectively achieve the objectives of this Regulation, in particular where <u>the effect of</u> such measures could be	3. Where necessary to achieve the objectives of this Regulation , 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 the application whereof such Union response measures where not covering such situations would be insufficient to effectively achieve the objectives of this Regulation, in particular where such measures could be	3. Where necessary to achieve the objectives of this Regulation , 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 the application whereof such Union response measures where not covering such situations would be insufficient to effectively achieve the objectives of this Regulation, in particular where <u>the effect of</u> such measures	Consolidation/clarification

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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:	avoided <u>or circumvented</u> . 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:	avoided– by the third country or the person concerned. In assessing whether to adopt such a decision the decision referred to in the first subparagraph , the Commission shall consider, in addition to the criteria in under paragraphs 1 and 2, amongst other things:	could be avoided <u>or circumvented</u> by the third country or the person concerned. In assessing whether to adopt such a decision the decision referred to in the first subparagraph , the Commission shall consider, in addition to the criteria in under paragraphs 1 and 2, amongst other things:	
Article 9(3), first subparagraph, point (a)					
108	(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;	(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;	(a) the patterns of trade in services and investment in the sector targeted by the envisaged Union response measures and the risk of avoidance by the third country or the person concerned of any Union response measures not applying to services supplied, or direct investments made, within the Union;	(a) the patterns of trade in services and investment in the sector targeted by the envisaged Union response measures and the risk of avoidance by the third country or the person concerned of any Union response measures not applying to services supplied, or direct investments made, within the Union;	<i>Consolidation/clarification</i>
Article 9(3), first subparagraph, point (b)					
109	(b) the effective contribution of such	(b) the <u>possible</u> effective contribution of such intra-	(b) the effective contribution of such intra-Union restrictions	(b) the <u>possible</u> effective contribution of such intra-	<i>Consolidation/clarification</i>

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	intra-Union restrictions to the objective of obtaining the cessation of the measure of economic coercion;	Union restrictions to the objective of obtaining the cessation of the measure of economic coercion;	referred to in the first subparagraph to the objective of obtaining the cessation of the measure of economic coercion;	Union restrictions referred to in the first subparagraph to the objective of obtaining the cessation of the measure of economic coercion;	
Article 9(3), first subparagraph, point (c)					
110	(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.	(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.	(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.	(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.	
Article 9(3), second subparagraph					
111	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	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 in light of the above	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(1) and in Article 78(1) in light of	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(1) and in Article 78(1) in light of	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	1 of Article 7 in light of the above criteria.	criteria.	the above criteria criteria referred to in the third paragraph of this Article.	the above criteria criteria referred to in the third paragraph of this Article.	
Article 9(3), second subparagraph a					
111a		<u><i>The Commission shall inform the European Parliament and the Council about the criteria for selecting and designing the Union response measures.</i></u>		deleted	<i>Part of the implementing act, and given the use of the examination procedure, Comitology Regulation applies</i>
Article 10					
112	Article 10 Amendment, suspension and termination of Union response measures	Article 10 Amendment, suspension and termination of Union response measures	Article 10 Amendment, suspension and termination of Union response measures	Article 10 Amendment, suspension and termination of Union response measures	
Article 10(1)					
113	1. The Commission shall keep under review the measures of economic coercion deployed by a third country that have triggered the Union response measures, the effectiveness of the	1. The Commission shall keep under review the measures of economic coercion deployed by a third country that have triggered the Union response measures, the effectiveness of the Union response measures adopted and their effects on the	1. The Commission shall keep under review the measures of economic coercion deployed by a third country that have triggered the Union response measures, the effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep	1. The Commission shall keep under review the measures of economic coercion deployed by a third country that have triggered the Union response measures, the effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep	<i>Consolidation/clarification</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council informed thereof.	Union's interests and shall keep the European Parliament and the Council <u>regularly</u> informed thereof.	the European Parliament and the Council informed thereof.	the European Parliament and the Council <u>regularly</u> informed thereof.	
Article 10(2)					
114	2. Where the third country concerned suspends the economic coercion, or where it is necessary in the Union's interest, the Commission may 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	2. Where the third country concerned <u>entirely</u> suspends the economic coercion, or where it is necessary in the Union's interest, the Commission may <u>shall</u> suspend the application of the respective Union response measure for the duration of the third country's suspension, or, where it is as long as necessary in light of the Union's interest, <u>the Commission may suspend the application of Unions response measures for as long as necessary.</u> 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	2. Where the third country concerned suspends the measures of economic coercion, or where it is necessary in the Union's interest referred to in Article 7bis , the Commission may <u>shall</u> suspend the application of the respective Union response measure for the duration of the suspension of the measures of economic coercion by 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 Where the third country concerned has offered, and the Union or the Member State concerned has concluded, an agreement to submit the matter	2. Where the third country concerned <u>entirely</u> suspends the measures of economic coercion or where it is necessary in the Union's interest the Commission may <u>shall</u> suspend the application of the respective Union response measure for the duration of the suspension of the measures of economic coercion by the third country's suspension, or <u>for as long as necessary</u> in light of the Union's interest. Where the third country concerned has offered, and the Union or the Member State concerned has concluded, an agreement to submit the matter to binding international third-party adjudication and the third country is also suspending also	<i>Consolidated</i> <i>'shall' in either scenario (third country's suspension or in the Union interest)</i> [REDACTED]

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	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).	binding international third-party adjudication <u>as referred to in Article 5 and if</u> and the third country is also suspending <u>has also discontinued</u> its measures of economic coercion <u>and commits to support and abide by the third-party adjudication</u> . 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).	to binding international third-party adjudication and the third country is also suspending also suspends 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 suspend the Union response measures for the duration of the proceedings. The Commission shall, by means of an implementing act adopted in accordance with the examination procedure referred to in Article 15(2), decide to suspend the Union response measure under this paragraph.	suspends its measures of economic coercion and commits to support and abide by the third-party adjudication, the Commission shall, by means of an implementing act, decide to suspend the Union response measure. These implementing acts shall be suspend the Union response measures for the duration of the proceedings. The Commission shall, by means of an implementing act, adopted in accordance with the examination procedure referred to in Article 15(2), decide to suspend the Union response measure under this paragraph.	
Article 10(3)					
115	3. Where it is necessary to make adjustments to Union response measures taking into account the conditions and criteria laid down in Articles 2 and 9(2), or further developments, including the third	3. Where it is necessary to make adjustments to Union response 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 <u>shall</u> , as	3. Where it is necessary to make adjustments to Union response measures taking into account the conditions and criteria laid down in Articles Article 2 and paragraphs 2 and 9(2)3 of Article 9 , or further developments, including the	3. Where it is necessary to make adjustments to Union response 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 <u>shall</u> , as	<i>Consolidated</i> <i>Choice of 'shall' which is still qualified 'as appropriate'</i> <i>The entire Art 9 in its amended version would be relevant now</i>

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	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).	appropriate, <u>swiftly</u> 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).	third country's reaction, the Commission may, as appropriate, amend Union response measures adopted in accordance with Article 7 Articles 7 and 8 , by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).	appropriate, <u>swiftly</u> amend Union response measures adopted in accordance with Article 7 and 8 , by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).	
Article 10(4), first subparagraph, introductory part					
116	4. The Commission shall terminate Union response measures under any of the following circumstances:	4. The Commission shall terminate Union response measures under any of the following circumstances:	4. The Commission shall terminate Union response measures under any of the following circumstances:	4. The Commission shall terminate Union response measures under any of the following circumstances:	
Article 10(4), first subparagraph, point (a)					
117	(a) where the economic coercion has ceased;	(a) where the economic coercion has ceased <u>and the injury caused has been repaired</u> ;	(a) where the economic coercion has ceased;	(a) where the economic coercion has ceased <u>and, [where appropriate], the injury caused has been repaired</u> ;	<i>Suggested that there should be a flexibility that measures are terminated when the coercion is terminated but the injury not repaired. ■</i> <div style="background-color: black; height: 15px; width: 100%; margin-bottom: 5px;"></div> <div style="background-color: black; height: 15px; width: 95%; margin-bottom: 5px;"></div> <div style="background-color: black; height: 15px; width: 90%; margin-bottom: 5px;"></div> <div style="background-color: black; height: 15px; width: 80%;"></div>

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Article 10(4), first subparagraph, point (b)					
118	(b) where a mutually agreed solution has otherwise been reached;	(b) where a mutually agreed solution has otherwise been reached;	(b) where a mutually agreed solution has otherwise been reached;	(b) where a mutually agreed solution has otherwise been reached;	
Article 10(4), first subparagraph, point (c)					
119	(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;	(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 <u>provided that the third country has taken concrete steps to implement the decision;</u> <u>or</u>	(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;	(c) where a binding decision in international third-party adjudication in a dispute between the third country concerned on the issue of the economic coercion and the Union or a Member State requires the withdrawal of the Union response measure; <u>or</u>	<i>Additional condition not included because it is not certain that it will be required;</i> [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Article 10(4), first subparagraph, point (d)					
120	(d) where it is appropriate in light of the Union's interest.	(d) where it is appropriate in light of the Union's interest.	(d) where it is appropriate in light of the Union's interest referred to in Article 7bis.	(d) where it is appropriate in light of the Union's interest as defined in Article X.	
Article 10(4), second subparagraph					
121	The termination of Union response measures adopted in	The termination of Union response measures adopted in accordance with Article 7	The termination of Union response measures adopted in accordance with Article	The termination of Union response measures adopted in accordance with Article	

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	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).	shall be decided, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).	7 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).	7 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).	
Article 10(5)					
122	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, the Commission shall adopt immediately applicable implementing acts suspending, amending or terminating <u>or amending</u> 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, <u>after which an implementing act referred to in paragraphs 2, 3 or 4 may be adopted as appropriate. The Commission shall keep the European Parliament informed without delay</u>	5. On duly justified imperative grounds of urgency, 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 , the Commission shall adopt immediately applicable implementing acts suspending, amending or terminating Union response measures adopted in accordance with Article 7 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	No text proposed.	<i>Changes in light of standard language for comitology procedures; information flows is regulated in the Comitology Regulation – the EP and Council will be thus duly informed on time; the implementing act will contain the justification; The recital on urgency procedure can offer a clarification about the follow up, if that is deemed necessary.</i> 5. On duly justified imperative grounds of urgency, such as avoiding irreparable damage to the Union or a Member State or continuing to ensure consistency with the Union's obligations under

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		<u>about the decision and its justification.</u>	force for a period not exceeding two months.		international law pursuant to the suspension or cessation of measures of economic coercion from the third country concerned, the Commission shall adopt immediately applicable implementing acts suspending amending or terminating <u>or amending</u> Union response measures adopted in accordance with Article 7 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.
Article 11					
123	Article 11 Information gathering related to Union response measures	Article 11 Information gathering related to Union response measures	Article 11 Information gathering related to Union response measures		
Article 11(1)					
124	1. Before the adoption of Union response measures or the amendment of such	1. Before the adoption of Union response measures or the amendment of such measures, the Commission	1. Before the adoption of Union response measures or the amendment of such Union response measures, the	1. Before the adoption of Union response measures or the amendment of such Union response measures, the	<i>Reference to Union interest not kept because indeed the information necessary for the appreciation of the various</i>

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	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 Official Journal of the European Union or through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted.	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 <u>as necessary</u> , through a notice published in the Official Journal of the European Union or through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted.	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 economic operators and Union's interest, through a notice published in the Official Journal of the European Union and, where appropriate, Official Journal of the European Union or through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted.	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 economic operators and Union's interest <u>as necessary</u> , through a notice published in the Official Journal of the European Union and, where appropriate, through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted.	<i>interest is already requested via 'economic impact', and in the consolidated UI definition, not all indeed is to be consulted upon (i.e. the sovereign choices, etc.)</i>
Article 11(2)					
125	2. The Commission may start the information gathering at any time it deems appropriate.	2. The Commission may start the information gathering at any time it deems appropriate.	2. The Commission may start the information gathering at any time it deems appropriate.	2. The Commission may start the information gathering at any time it deems appropriate.	
Article 11(3)					
126	3. In conducting the information gathering	3. In conducting the information gathering under	3. In conducting the information gathering under	3. In conducting the information gathering under	

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	under paragraph 1, the Commission shall inform and 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.	paragraph 1, the Commission shall inform and consult stakeholders, in particular industry associations <u>and Union social partners</u> , affected by possible Union response measures, and Member States involved in the preparation or implementation of legislation regulating the affected fields.	paragraph 1, the Commission shall inform and consult stakeholders, in particular industry associations associations acting on behalf of Union economic operators , affected by possible Union response measures, and Member States' authorities involved in the preparation or implementation of legislation regulating the affected fields.	paragraph 1, the Commission shall inform and consult stakeholders, in particular industry associations associations acting on behalf of Union economic operators and Union social partners , affected by possible Union response measures, and Member States' authorities involved in the preparation or implementation of legislation regulating the affected fields.	
Article 11(4), introductory part					
127	4. Without unduly delaying the adoption of Union response measures, the Commission shall, in particular, seek information on:	4. Without unduly delaying the adoption of Union response measures, the Commission shall, in particular, seek information on:	4. Without unduly delaying the adoption of Union response measures, the Commission shall identify possible options for Union response measures and , in particular, seek information and views on:	4. Without unduly delaying the adoption of Union response measures, the Commission shall identify possible options for Union response measures and , in particular, seek information and views on:	<i>Consolidation/clarification</i>
Article 11(4), point (a)					
128	(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	(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;	(a) the impact of such measures on third-country actors or Union economic operators' competitors, users or consumers or on Union employees, business partners or clients of such actors;	(a) the impact of such measures on third-country actors or Union economic operators' competitors, users or consumers or on Union employees, business partners or clients of such actors;	<i>Consolidation/clarification</i>

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	such actors;				
Article 11(4), point (b)					
129	(b) the interaction of such measures with relevant Member State legislation;	(b) the interaction of such measures with relevant <i>Union and</i> Member State legislation;	(b) the interaction of such measures with relevant Member State legislation;	(b) the interaction of such measures with relevant Member State legislation;	██████████ ████████████████████ ██████████
Article 11(4), point (c)					
130	(c) the administrative burden which may be occasioned by such measures;	(c) the administrative burden which may be occasioned by such measures;	(c) the administrative burden which may be occasioned by such measures;	(c) the administrative burden which may be occasioned by such measures;	
Article 11(4), point (d)					
131	(d) the Union's interest.	(d) the <i>Union's interest effect of such measures on diminishing the negative impact of the third country's coercive measures.</i>	(d) the Union's interest referred to in Article 7bis.	(d) the <i>Union's interest effect of such measures on diminishing the negative impact of the third country's coercive measures.</i>	
Article 11(5)					
132	5. The Commission shall take utmost account of the information gathered during the information	5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the	5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the envisaged	5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the envisaged	Consolidation/clarification

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	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).	envisaged measures <u>and their potential impacts</u> shall accompany the draft implementing act when submitted to the committee in the context of the examination procedure referred to in Article 15(2). <u>The Commission shall inform the European Parliament of such analysis in accordance with Article 10 of Regulation (EU) No 182/2011.</u>	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). That analysis shall include a thorough assessment of impact on both upstream and downstream industries and final consumers within the Union and, if relevant, point out any potential disproportionate effects.	measures <u>and their potential impacts</u> shall accompany the draft implementing act when submitted to the committee in the context of the examination procedure referred to in Article 15(2). That analysis shall include a thorough assessment of impact on both upstream and downstream industries and final consumers within the Union and, if relevant, point out any potential disproportionate effects.	
Article 11(6)					
133	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	6. <u>The Commission shall seek information and views from relevant stakeholders especially the economic operators affected by the economic coercion, as a general principle</u> 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 <u>unless the exceptional situation of</u> imperative	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. <u>The Commission shall seek information and views in a targeted manner from relevant stakeholders, in particular especially the economic operators affected by the economic coercion, as a general principle</u> 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 <u>unless the exceptional</u>	Consolidation/clarification Need to have 'targeted manner' to differentiate from the general info gathering

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	compliance with international obligations of the Union.	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.		<u>situation of</u> 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.	
Article 11a					
133a		<p><u>Article 11a</u> <u>The Chief Trade Enforcement Officer</u> <u>The Chief Trade Enforcement Officer (CTEO) shall be responsible for the implementation of this Regulation and its coordination with other tools related to anti-coercion such as the Blocking Statute^{1a}.</u> <u>For the purposes of this Regulation, the CTEO shall:</u> <u>(a) gather information and provide cost and data analyses with a view to determining the nature of economic coercion measures;</u> <u>(b) act, in full compliance with the principle of confidentiality, as the main contact point for</u></p>		<p><u>Article 11a</u> <u>The Chief Trade Enforcement Officer</u> <u>Single contact point</u></p> <p><u>The Chief Trade Enforcement Officer (CTEO) Commission shall designate a single contact point in relation to be responsible for the implementation of this Regulation and its coordination with other tools related to anti-coercion policy such as the Blocking Statute^{1a}.</u></p> <p><u>For the purposes of this Regulation, the CTEO Commission shall:</u> <u>(a) gather information and provide cost and data analyses with a view to determining the nature of economic coercion measures;</u></p>	

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		<p><u>EU businesses and private sector stakeholders affected by economic coercion measures, including with regard to assistance to be provided in the context of ongoing economic coercion;</u></p> <p><u>^{1a} Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (OJ L 309, 29.11.1996, p. 1.) (57).</u></p>		<p><u>(b) act, in full compliance with the principle of confidentiality, as the main contact point for EU businesses and private sector stakeholders affected by economic coercion measures, including with regard to assistance to be provided in the context of ongoing economic coercion;</u></p> <p><u>^{1a} Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom (OJ L 309, 29.11.1996, p. 1.) (57).</u></p>	
Article 12					
134	Article 12 Confidentiality	Article 12 Confidentiality	Article 12 Confidentiality		
Article 12(1)					
135	1. Information received pursuant to this Regulation shall be used only for the purpose for	1. Information received pursuant to this Regulation shall be used only for the purpose for which it was	1. Information received pursuant to this Regulation shall be used only for the purpose for which it was	1. Information received pursuant to this Regulation shall be used only for the purpose for which it was	Consolidation/clarification

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	which it was requested.	<u>supplied</u> , requested, <u>or obtained</u> .	requested.	<u>supplied</u> , requested, <u>or obtained</u> .	
Article 12(2)					
136	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 that information supplied be treated as confidential. In such cases, it shall be accompanied by a non-confidential <u>but meaningful</u> 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 <u>shall not reveal</u> <u>are prohibited from revealing</u> 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 that such information supplied be treated as confidential. In such cases, it shall be accompanied by a non-confidential summary of the information concerned or a statement of the reasons explaining why the information concerned 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 that such information supplied be treated as confidential. In such cases, it shall be accompanied by a non-confidential <u>but meaningful</u> summary of the information concerned or a statement of the reasons explaining why the information concerned 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.	<i>Consolidated</i> <i>'prohibit' is not suitable for this text.</i> <i>There is no divergence on the logic</i>
Article 12(3)					
137	3. Paragraph 2 shall not	3. Paragraph 2 shall not	3. Paragraph 2 shall not	3. Paragraph 2 shall not	<i>Consolidated</i>

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	<p>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 disclosed.</p>	<p>preclude the Commission to disclose general information in a summary <i>but meaningful</i> 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 disclosed.</p>	<p>preclude the Commission to disclose from disclosing general information in a summary form, which provided that such disclosure does not contain information allowing to identify the identity of the supplier of the information to be known. Such disclosure shall take into account the legitimate interest of the parties concerned in not having confidential information disclosed.</p>	<p>preclude the Commission to disclose from disclosing general information in a summary <i>but meaningful</i> form, which provided that such disclosure does not contain information allowing to identify the identity of the supplier of the information to be known. Such disclosure shall take into account the legitimate interest of the parties concerned in not having confidential information disclosed.</p> <p>4. Member States officials obtaining information under this Regulation 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 Member States officials.</p>	
Article 13					
138					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	Article 13 Rules of origin	Article 13 Rules of origin	Article 13 Rules of origin and nationality	Article 13 Rules of origin and nationality	
Article 13(1)					
139	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.	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.	
Article 13(2)					
140	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	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	2. The Commission is empowered to adopt delegated acts in accordance with Article 14 to supplement or amend points 2 to 4 and 3 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 supplement or amend points 2 to 4 and 3 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.	<i>What is meant is amendment, not supplement; technically they require separate justification and conditions;</i> <i>Needs discussion.</i>

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	application of measures under this Regulation or other Union acts.	Union acts.			
Article 14					
141	Article 14 Delegated Acts	Article 14 Delegated Acts	Article 14 Delegated Acts	Article 14 Delegated Acts	
Article 14(1)					
142	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.	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.	
Article 14(2)					
143	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 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 7(7) and Article 13(2) shall be conferred on the Commission for an indeterminate a period of time five years from [date of entry into force of this Regulation]. Such delegation of power shall be tacitly extended for periods of an identical duration unless the	2. The power to adopt delegated acts referred to in [Articles 7(7) and] Article 13(2) shall be conferred on the Commission for [an indeterminate]] a period of [time] [five years] from [date of entry into force of this Regulation]. [Such delegation of power shall be tacitly extended for periods of an identical duration unless the	<i>Bracketed text for discussion</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			European Parliament or the Council opposes such extension not later than three months before the end of each period.	European Parliament or the Council opposes such extension not later than three months before the end of each period.]	
Article 14(3)					
144	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 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.	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 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.	3. The delegation of power referred to in Articles 7(7) and Article 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 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.	3. The delegation of power referred to in [Articles 7(7) and][Article] 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 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.	<i>Bracketed text for discussion</i>
Article 14(4)					
145	4. Before adopting a delegated act, the	4. Before adopting a delegated act, the	4. Before adopting a delegated act, the Commission shall	4. Before adopting a delegated act, the Commission shall	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	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.	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.	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.	
Article 14(5), first subparagraph					
146	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.	
Article 14(5), second subparagraph					
147	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	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	A delegated act adopted pursuant to Articles 7(7) and Article 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	A delegated act adopted pursuant to [Articles 7(7) and][Article] 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	<i>Bracketed text for discussion</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	<i>Commentary to draft compromise text</i>
	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 by two months at the initiative of the European Parliament or of the Council.	period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	
Article 15					
148	Article 15 Committee procedure	Article 15 Committee procedure	Article 15 Committee procedure	Article 15 Committee procedure	
Article 15(1)					
149	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.	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.	
Article 15(2)					
150					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) 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. [Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply]	<i>For discussion</i>
Article 15(3)					
151	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.	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.	
Article 15a					
151a			Article 15bis --		
Article 15a(1)					
151b			Member States officials obtaining information under this Regulation shall be	Moved to Article 12	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
			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 Member States officials.		
Article 16					
152	Article 16 Review	Article 16 <u>Reporting and</u> Review	Article 16 Review	Article 16 <u>Reporting and</u> Review	
Article 16(1)					
153	1. The Commission shall evaluate any 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	1. The Commission shall evaluate any Union response measure adopted pursuant to Article 7 six months after its termination, taking into account stakeholder input, <u>and information provided by the European Parliament and the Council</u> , and any other relevant information. The <u>Commission shall publish every year an</u> evaluation report shall	1. The Commission shall evaluate any Union response measure adopted pursuant to Article 7 Articles 7 and 8 six months after its termination, taking into account stakeholder input and any other relevant information. The and shall report to the European Parliament and the Council. In this evaluation report the Commission shall examine the effectiveness and operation of	[1. The Commission shall keep the European Parliament and the Council informed, regularly and in a timely manner, of relevant developments in the application of this Regulation. This includes the stage of examination, determination, engagement with the third country, international cooperation, the period during which Union response measures are in force. The reporting	<i>A suggestion for a horizontal provision on reporting. If accepted, it should replace the individual references throughout the regulation.</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	operation of the Union response measure, and draw possible conclusions for future measures.	examine <u>in which it examines</u> the effectiveness and operation of the Union response measure, and draw possible conclusions for future measures. <u>The Commission shall present such report to the European Parliament and the Council.</u>	the Union response measure, and, where appropriate, draw draw possible conclusions for future Union response measures and the review of this regulation pursuant to paragraph 2.	<u>obligation may include an exchange of views where appropriate or requested by the European Parliament or the Council.]</u> 1. The Commission shall evaluate any Union response measure adopted pursuant to Article 7 and 8 six months after its termination, taking into account stakeholder input, <u>and information provided by the European Parliament and the Council,</u> and any other relevant information, and shall report to the European Parliament and the Council. In this evaluation report the Commission shall examine the effectiveness and operation of the Union response measure, and, where appropriate, draw draw possible conclusions for future Union response measures and the review of this regulation pursuant to paragraph 2.	
Article 16(2)					
154	2. No later than three years after the adoption of the first implementing	2. No later than three years after the adoption of the first implementing act under <u>entry</u>	2. No later than three years after the adoption of the first implementing act under this	2. No later than three years after the adoption of the first implementing act under <u>entry</u>	<i>Reconciled – taking ideas from each amendment</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	<u>into force of</u> this Regulation, <u>and at the latest every four years thereafter</u> or six years after the entry into force of this Regulation, whichever is earlier , the Commission shall review this Regulation and its implementation, <u>in particular, in ensuring complementarity with the review of the Blocking Statute</u> and shall report to the European Parliament and the Council <u>notably in the relevant reporting of the Chief Trade Enforcement Officer</u> .	Regulation or six five years after the date of entry into force of this Regulation, whichever is earlier, and every five years thereafter , the Commission shall review this Regulation and its implementation and shall report to the European Parliament and the Council. 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.	<u>into force of</u> this Regulation, <u>and at the latest every four five years thereafter</u> 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 <u>notably in the relevant reporting of the Chief Trade Enforcement Officer</u> . 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, including and in particular in order to ensure complementarity with the upcoming review of [and in particular, in ensuring complementarity with] the review of the Blocking Statute.	
Article 17					
155	Article 17 Entry into force	Article 17 Entry into force	Article 17 Entry into force	Article 17 Entry into force	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	<i>Commentary to draft compromise text</i>
Article 17, first paragraph					
156	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.	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.	
Article 17, second paragraph					
157	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.	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.	
Formula					
158	Done at Brussels,	Done at Brussels,	Done at Brussels,	Done at Brussels,	
Formula					
159	For the European Parliament	For the European Parliament	For the European Parliament	For the European Parliament	
Formula					
160	The President	The President	The President	The President	
Formula					

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
161	For the Council	For the Council	For the Council	For the Council	
Formula					
162	The President	The President	The President	The President	
Annex I, first heading					
163	Union response measures pursuant to Articles 7 and 8	Union response measures pursuant to Articles 7 and 8	Union response measures pursuant to Articles 7 and 8	Union response measures pursuant to Articles 7 and 8	
Annex I, first paragraph, introductory part					
164	Measures which may be adopted pursuant to Articles 7 and 8 are:	Measures which may be adopted pursuant to Articles 7 and 8 are:	Measures which may be adopted pursuant to Articles 7 and 8 are:	Measures which may be adopted pursuant to Articles 7 and 8 are:	
Annex I, first paragraph, point (a)					
165	(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	(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,	(a) the suspension of non- performance of applicable international obligations as regards 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	(a) the suspension of non- performance of applicable international obligations as regards 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	<i>Clarification</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	of customs duties beyond the most-favoured-nation level, or the introduction of any additional charge on the importation or exportation of goods;	or the introduction of any additional charge on the importation or exportation of goods;	customs duties beyond the most-favoured-nation level, or the introduction of any additional charge on the importation or exportation of goods;	customs duties beyond the most-favoured-nation level, or the introduction of any additional charge on the importation or exportation of goods;	
Annex I, first paragraph, point (b)					
166	(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 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 suspension-non-performance 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 suspension-non-performance 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;	Clarification
Annex I, first paragraph, point (c)					
167	(c) the suspension of applicable international obligations, as necessary, and the introduction of restrictions on trade in goods made effective	(c) the suspension of applicable international obligations, as necessary, and the introduction of restrictions on trade in goods made effective through measures applying to	(c) the suspension-non-performance of applicable international obligations, as necessary, and the introduction of restrictions on trade in goods made effective through measures applying to transiting	c) the suspension-non-performance of applicable international obligations, as necessary, and the introduction of restrictions on trade in goods made effective through measures applying to transiting	Clarification

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	through measures applying to transiting goods or internal measures applying to goods.	transiting goods or internal measures applying to goods.	goods or internal measures applying to goods.	goods or internal measures applying to goods.	
Annex I, first paragraph, point (d), introductory part					
168	(d) the suspension of applicable international obligations concerning the right to participate in tender procedures in the area of public procurement, as necessary, and:	(d) the suspension of applicable international obligations concerning the right to participate in tender procedures in the area of public procurement, as necessary, and:	(d) the suspension non-performance of applicable international obligations concerning the right to participate in tender procedures in the area of public procurement, as necessary, and:	d) the suspension non-performance of applicable international obligations concerning the right to participate in tender procedures in the area of public procurement, as necessary, and:	Clarification
Annex I, first paragraph, point (d)(i)					
169	(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 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 a specified percentage 50 % of goods or services of originating in 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 [a specified percentage] [50 %] of goods or services [of] [originating in] the third country concerned; and/or	Consolidation/Clarification Some substantive changes for discussion

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
Annex I, first paragraph, point (d)(ii)					
170	<p>(ii) the imposition of a mandatory price evaluation weighting penalty¹ on tenders of goods, services or suppliers of goods or services of the third country concerned.</p> <p>1. 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.</p>	<p>(ii) the imposition of a mandatory price evaluation weighting penalty¹ on tenders of goods, services or suppliers of goods or services of the third country concerned.</p> <p>1. 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.</p>	<p>(ii) the imposition of a mandatory price evaluation weighting penalty¹ on tenders of goods, services or suppliers of goods or services of the third country concerned.</p> <p>1. Mandatory price evaluation weighting penalty means an obligation for contracting authorities or entities conducting public procurement procedures to increase relatively diminish, subject to certain exceptions, the price of goods or services falling under this paragraph that have been offered in score of a tender resulting from its evaluation, on the basis of the contract award criteria defined in the relevant public procurement documents, by a given percentage. In cases where price or cost is the only contract award procedure criterion, the score adjustment means the relative increase, for the purpose of the evaluation of tenders, by a given percentage of the price offered by a tenderer.</p>	<p>ii) the imposition of a [mandatory price evaluation weighting penalty] score adjustment¹ on tenders of goods, services or suppliers of goods or services of the third country concerned.</p> <p>1. [Mandatory price evaluation weighting penalty] Score adjustment means an obligation for contracting authorities or entities conducting public procurement procedures to increase relatively diminish, subject to certain exceptions, the price of goods or services falling under this paragraph that have been offered in score of a tender resulting from its evaluation, on the basis of the contract award criteria defined in the relevant public procurement documents, by a given percentage. In cases where price or cost is the only contract award procedure criterion, the score adjustment means the relative increase, for the purpose of the evaluation of tenders, by a given percentage of the price offered by a tenderer.</p>	<p><i>Consolidation/clarification</i></p> <p><i>Some substantive changes for discussion</i></p>
Annex I, first paragraph, point (d), first paragraph					
171	Origin shall be determined on the basis	Origin shall be determined on the basis of Annex II;	Origin shall be determined on the basis of Annex II;	Origin shall be determined on the basis of Annex II;	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	of Annex II;				
Annex I, first paragraph, point (e)					
172	(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 suspension of applicable international obligations, as necessary, and the imposition of restrictions on the exportation of goods falling under the Union export control regime;	<i>deleted</i>	<i>No text proposed</i>	
Annex I, first paragraph, point (f)					
173	(f) the suspension of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services;	(f) the suspension of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services;	(f) the suspension non-performance of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services;	(f) the suspension non-performance of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services;	<i>Clarification</i>
Annex I, first paragraph, point (g)					
174	(g) the suspension of applicable international obligations, as necessary, and the imposition of measures	(g) the suspension of applicable international obligations, as necessary, and the imposition of measures affecting foreign direct	(g) the suspension non-performance of applicable international obligations, as necessary, and the imposition of measures affecting the access	g) the suspension non-performance of applicable international obligations, as necessary, and the imposition of measures affecting [the access	<i>For discussion</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	affecting foreign direct investment;	investment;	of foreign direct investment to the Union;	of] foreign direct investment to the Union;	
Annex I, first paragraph, point (h)					
175	(h) the suspension of applicable international obligations with respect to trade-related aspects of intellectual property rights, as 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;	(h) the suspension of applicable international obligations with respect to trade-related aspects of intellectual property rights, as 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;	(h) the suspension non-performance of applicable international obligations with respect to trade-related aspects of intellectual property rights granted by a Union institution or agency and valid throughout the Union , as 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;	(h) the suspension non-performance of applicable international obligations with respect to trade-related aspects of intellectual property rights [granted by a Union institution or agency and valid throughout the Union.] as 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;	<i>For discussion</i>
Annex I, first paragraph, point (i)					
176	(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	(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 suspension non-performance 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 suspension non-performance 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>Clarification</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	financial service activities;				
Annex I, first paragraph, point (j)					
177	(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 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;	<i>deleted</i>	<i>No text proposed</i>	
Annex I, first paragraph, point (k)					
178	(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 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;	<i>deleted</i>	<i>No text proposed</i>	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
<i>Annex I, first paragraph, point (l)</i>					
179	(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 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.	<i>deleted</i>	<i>See recital 16ter</i>	
<i>Annex II, first heading</i>					
180	Rules of Origin	Rules of Origin	Rules of Origin and Nationality	Rules of Origin and Nationality	<i>Clarification</i>
<i>Annex II, point (1)</i>					
181	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. ¹ 1. Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying	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. ¹ 1. 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. ¹ 1. 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. ¹ 1. 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).	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).				
Annex II, point (2), introductory part					
182	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 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 origin nationality 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 origin nationality of the service provider shall be deemed to be:	<i>Clarification</i>
Annex II, point (2)(a)					
183	(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;	(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;	
Annex II, point (2)(b), introductory part					
184	(b) in the case of a legal person any of the	(b) in the case of a legal person any of the following:	(b) in the case of a legal person any of the following:	(b) in the case of a legal person any of the following:	

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	following:				
Annex II, point (2)(b)(i)					
185	(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;	(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;	(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;	(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;	
Annex II, point (2)(b)(ii), introductory part					
186	(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,	(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,	
Annex II, point (2)(b)(ii)(a)					
187	(a) if the legal person is engaged in substantive business operations in the territory of the Member State where the	(a) if the legal person is engaged in substantive business operations in the territory of the Member State where the legal person is	(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	(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	

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	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	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	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	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	
Annex II, point (2)(b)(ii)(b)					
188	(b) if the legal person providing the service 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 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	(b) if the legal person providing the service 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 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	(b) if the legal person providing the service 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 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	(b) if the legal person providing the service 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 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	

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	Commentary to draft compromise text
	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.	majority of its directors or otherwise to legally direct its actions.	actions.	actions.	
Annex II, point (2)(b)(iii)					
189	(iii) By derogation from sub-paragraph (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 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	(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 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	(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 juridical legal 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.	(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 juridical legal 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.	<i>Clarification</i>

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	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.	legally direct its actions.			
Annex II, point (3), introductory part					
190	3. The nationality of an investment shall be:	3. The nationality of an investment shall be:	3. The nationality of an investment shall be:	3. The nationality of an investment shall be:	
Annex II, point (3)(a)					
191	(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;	(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;	(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;	(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;	
Annex II, point (3)(b)					

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192	(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;	(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;	(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;	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;	
Annex II, point (3)(c)					
193	(c) by derogation from sub-paragraph (a), if it is	(c) by derogation from sub-paragraph (a), if it is decided	(c) by derogation from sub-paragraph (a), if it is decided	(c) by derogation from sub-paragraph (a), if it is decided	Clarification

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	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 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.	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 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.	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 legal person or persons who own or control the investment in the Union. 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.	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 legal person or persons who own or control the investment in the Union. 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.	
Annex II, point (4)					
194	4. Regarding trade-related aspects of intellectual property	4. Regarding trade-related aspects of intellectual property rights, the term	4. Regarding trade-related aspects of intellectual property rights, the term "nationals" shall	4. Regarding trade-related aspects of intellectual property rights, the term "nationals" shall	<i>Clarification</i>

	Commission Proposal	EP Mandate	Council Mandate	[Draft compromise text by the Commission 29-11-2022]	<i>Commentary to draft compromise text</i>
	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.	“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.	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 (TRIPS).	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 (TRIPS).	