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LIMITE

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WORKING DOCUMENT

From: Presidency
To: Working Party on Trade Questions

Subject: ACI - Presidency note for WPTQ on 12th December

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Presidency note for WPTQ on 12th December

Member States can find below proposed Presidency solutions for discussion on following topics:

1/ definitions with focus on Union interest, 2/ repair of injury (state-state), 3/ timelines, 4/ involvement of EP

Views of Member States are welcomed at the WPTQ meeting on December 12th, as well as views on EP's reference to CTEO (lines 28a, 133a), Blocking Statue (lines 34, 133a, 154) and to EP resolutions (line 14).

For more clarity and better orientation we provide following table with the topics and references to the corresponding lines in the 5-column document.

topic	lines
repair of injury	17, 24, 26, 29, 37a, 60, 71, 76, 77b, 77c, 78, 100, 117
timelines	51, 56, 57, 58, 60, 68, 76, 115, 154
involvement of EP	21, 51, 52, 52a, 65, 113, 153 (horizontal provision)

1/ Union's interest

Changes to suggestions of the Council and the EP are highlighted in yellow, new text in green bold. For the preserved text of the Council and of the EP the previous formatting is kept.

Council Mandate	Draft compromise text by the Commission 29-11-2022	Suggestions by CZ PRES – option A	Suggestions by CZ PRES – option B
<p>Article 7bis</p> <p>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</p>	<p>Definitions</p> <p><u>7. <i>"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</i></u> 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. Special consideration shall be given to the general objective of</p>	<p>Article X</p> <p>1. 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> <p>2. 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 determination shall be made on the basis of all the information available.</p>	<p>Definition + Article X</p> <p>Definition:</p> <p><u>"Union interest" means an appreciation of</u> all the various interests taken as a whole, including the interests in preserving the policy space of the Union and its relations with third countries, the interests of Member States to take in making legitimate sovereign choices, the interests of Union economic operators, including upstream and downstream industries, and as well as the interests of [Union] final consumers.</p> <p>Article X</p> <p>1. A determination as to whether it is in the Union's interest to act under this</p>

<p>concludes that it is in the Union's interest to take such measures.</p>	<p>detering 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>	<p>3. <u>Union interest means first and foremost</u> Special consideration shall be given</p> <ol style="list-style-type: none"> 1. <u>to 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,</u> and 2. <u>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 economic coercion, shall be given special consideration.</u> <p>----- <i>References to UI further in the text of the Regulation:</i> -----</p>	<p>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. Special consideration shall be given guided by 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 economic coercion.</p> <p>2. It The determination shall be made on the basis of all the information available.</p> <p>3. 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> <p>-----</p>
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		<p>Line 73: c) action is in the Union's interest in accordance with Article X</p> <p>Line 99: The Commission shall select and design an appropriate response measure taking into account the determination made pursuant to Article 4, the criteria set out in Article 2(2) and the Union's interest in accordance with Article X</p> <p>Line 120: d) where it is appropriate in light of the Union's interest in accordance with Article X</p> <p>Line 124: ... seek information and views regarding the economic impact on Union economic operators and Union's interest in accordance with Article X (2) as necessary, through a notice published ...</p> <p>Line 131: d) the Union's interest in accordance with Article X (2)</p>	<p>References to UI further in the text of the Regulation:</p> <p>References would be made to the definition. However, for lines 120 and 124 (information gathering) might be necessary to find a proper solution, if we would like to avoid asking stakeholders about policy space and sovereign choices.</p>
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3/ Repair of injury

*In general, the EP links the reparation of injury to the aim of the instrument in order to increase deterrence and cater for the legitimate interest of Union actors having suffered damage to get that damage reimbursed. There is an obligation to make full reparation of injury according to international law, but the EU does not have to always insist on (full) reparation. **The Presidency deems as the most important to avoid linking termination of measures to a hard condition of full reparation.** Furthermore, according to the Presidency the main aim of the instrument should first and foremost remain deterrent effect or cessation of coercion. Also, reparation of damages as a criterion for selection of suitable measures may not be appropriate in each and every case, in particular as one of the criteria with predominant weight.*

*In line 38b the EP asks for reparation of injury to be included in definition of response measure. The Commission **did not include it** in the compromise text and PRES fully agrees with this approach. PRES suggest not to accept this request of the EP.*

In lines 56 and 58, both Council and EP mention the possibility to repair the injury, where appropriate. PRES considers these as non-problematic provided that the decision whether to ask for a reparation is made by the Council.

Damage claims under Article 8 are not dealt with in this part.

line	EP Mandate	Council Mandate	Draft compromise text by the Commission 29-11-2022	Suggestions by CZ PRES
17	(9) In accordance with the principle of proportionality, it is necessary and appropriate, for creating an effective and comprehensive framework for Union action against economic coercion, to lay down rules on the examination, determination and counteraction with regard to third countries' measures of economic coercion. In particular, the Union's response measures should be preceded by an examination of the	(9) In accordance with the principle of proportionality, it is necessary and appropriate, for creating an effective and comprehensive framework for Union action against economic coercion, to lay down rules on the examination, determination and counteraction with regard to third countries' measures of economic coercion. In particular, the Union's response measures should be preceded by an examination of the facts, a determination of the	(9) In accordance with the principle of proportionality, it is necessary and appropriate, for creating an effective and comprehensive framework for Union action against economic coercion, to lay down rules on the examination, determination and counteraction with regard to third countries' measures of economic coercion. In particular, the Union's response measures should be preceded by an examination of the facts, a	CZ PRES suggests opposing this EP proposal to add reparation of injury in this context (linking it to the aim of the measures).

<p>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 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</u></p>	<p>existence of economic coercion, and, wherever possible, efforts to find a solution in cooperation with the third country concerned. Any measures imposed by the Union should be commensurate with the injury caused by the third countries' measures of economic coercion. The criteria for defining the Union response measures should take into account in particular the need to avoid or minimise collateral effects, administrative burdens and costs imposed on Union economic operators as well as the Union's interest. Therefore, this Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union TEU.</p>	<p>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 measures should take into account in particular <u>effectiveness of the response 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</u> need to avoid or minimise collateral</p>	
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	<p><u>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>effects, <u>disproportionate</u> administrative <u>complexity and</u> 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>	
24	<p>(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 economic operators within the Union affected by the third-country measures of economic coercion.</p>	<p>(16) Union response measures adopted in accordance with this Regulation should be selected and designed on the basis of objective criteria, including: the effectiveness of the measures in inducing the cessation of coercion by the third country; 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 effects on the Union; and the avoidance of</p>	<p>(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 inducing reparation of</u> <u>repairing the injury caused by the economic coercion; and</u> their the potential to provide relief to economic operators within the Union affected by the third-</p>	<p>CZ PRES suggests opposing this EP proposal to add reparation of injury in this context (linking as a criterion for the measures). However, with an adjustment (highlighted) it might be considered as a compromise.</p>

	<p><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>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 legislation exists. Union response measures should be selected from a wide</p>	<p>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</p>	
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	<p>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>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>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>	
29	<p>(21) It is important to ensure an effective communicationand 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><i>regarding ongoing examinations or third country measures</i></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><i>or, where appropriate, reparation of the injury caused</i></u> and on matters that may lead to the adoption of Union response measures under this Regulation, <u><i>including the stages of examination of third-country measures and determination with regard to measures of economic</i></u></p>	<p>(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 engageenter 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.</p>	<p>(21) It is important to ensure an effective communicationand 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, at any stage of the application of this Regulation, in particular <u><i>regarding ongoing examinations of third-country measures, determination with regard to measures of economic coercion,</i></u> an efforts to engageenter into consultations with the third country concerned to explore options with a view to obtaining the cessation of the economic coercion <u><i>or, where appropriate, reparation of the injury caused</i></u> and on matters that may lead to</p>	<p>CZ PRES suggests this as a non-problematic issue.</p>

	<p><u>coercion and on the effectiveness on Union response measures.</u></p>		<p>the adoption of Union response measures under this Regulation, <u>and any other relevant development at subsequent stages, including as regards the effectiveness on Union response measures.</u></p>	
<p>37 + 37a</p>	<p>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 with the objective to deter, or have the third country desist from <u>of deterring, or obtaining the cessation of</u> such actions <u>and, where appropriate, repairing the injury caused, thereby permitting the Union-</u></p>	<p>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.</p> <p>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</p>	<p>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.</p> <p>2. This Regulation establishes a framework for the Union to respond to economic coercion with the objective of deterring, or having the third country</p>	<p>CZ PRES suggests opposing this EP proposal to add reparation of injury in this context (linking it to the aim of the instrument).</p>

	<p>whilst permitting the Union, in the last resort, to counteract such actions.</p>	<p>enabling the Union, as a last resort, to counteract such coercion.</p>	<p>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.</p>	
60	<p><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, 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:</p>	<p>1. Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultationsThe 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.</p> <p>If the third country concerned enters into consultations with the Union in good faith the Commission shall expeditiously engage in such consultations.</p> <p>In the course of such consultations the Commission may explore options with the third country concerned includingSuch options may include:</p>	<p>1. Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultationsThe 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 injury it has caused to the Union or its Member States.</u></p> <p>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.</p> <p>In the course of such consultations, <u>which shall not</u></p>	<p>CZ PRES suggests this as a non-problematic issue. If the reparation is already requested, it seems logical to ask for the reparation.</p>

			<u>unduly delay the procedure</u> , the Commission may explore options with the third country concerned including Such options may include	
71	(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 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> ;	(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 Union or a Member State within a reasonable period of time;	(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 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> .]	CZ PRES suggests this as a non-problematic issue, it is involved also in Council mandate. Need to keep “where appropriate”.
76	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</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 this 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 this specify the date of application of the Union response measures , taking into account the circumstances, to	CZ PRES suggests this as a non-problematic issue. If the reparation is already requested, it seems logical to ask for the reparation.

	<p><u>appropriate, to repair the injury caused.</u></p>		<p>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></p>	
<p>77 + 77b</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 promptly<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 paragraph 1. In the notification, the Commission shall, on behalf of the Union, call on notify the third country concerned 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 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>(b) offer the third country concerned to negotiate a solution; 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 paragraph 1. In the notification, the Commission shall, on behalf of the Union, call on notify the third country concerned to promptly 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>(b) offer the third country concerned to negotiate a solution, including, where appropriate, with regard to the reparation of the injury caused by the third country to the Union or its Member States; and</p>	<p>CZ PRES suggests this as a non-problematic issue. If the reparation is already requested, it seems logical to ask for the reparation in negotiations.</p>

77c	No text	(c) <i>inform the third country concerned that the Union response measures will apply, unless the economic coercion ceases.</i>	(c) inform the third country concerned that the Union response measures will apply, unless the economic coercion ceases <i>or and, where appropriate, that third country repairs the injury caused.</i>	CZ PRES might consider accepting this EP proposal to add reparation of injury in this context. Although it means link between imposition of measures and reparation, it is the phase of informing the third country and thus might help negotiations. Issue with “or and”, if it stays “and” should be preserved.
78	4. The implementing act referred to in paragraph 1 shall state that the application of the Union response measures shall be deferred, <i>but only</i> for a period <i>that is necessary for the Commission to verify the actual cessation of the coercion or threat thereof and that needs to be</i> specified in that implementing act, where the Commission has credible information that the third country has ceased <i>taken concrete steps to cease</i> the economic coercion <i>or the threat thereof or, where appropriate, has repaired the injury caused</i> before the start of	4. The implementing act referred to in paragraph 1 shall state that 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 start date date of application of the adopted Union response measures. In that In the event, that the Commission has the information referred to in the first subparagraph, it shall	4. The implementing act referred to in paragraph 1 shall state that provide for a deferred application of the Union response measures shall be deferred, <i>but only</i> for a period <i>that is necessary for the Commission to verify the actual cessation of the coercion or threat thereof and that needs to be</i> specified in that implementing act, where the Commission has credible information that the third country has ceased or has taken concrete steps to cease the economic coercion <i>or the threat thereof and, where appropriate, has</i>	CZ PRES suggests the first mention about reparation as a non-problematic issue.

	<p>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 Commission shall terminate the Union response measures in accordance with Article 10.</p>	<p>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 apply date of application of the Union response measures, the Commission shall terminate the Union response measures in accordance with Article 10.</p>	<p><u>repaired the injury caused</u> before the start of application of the adopted Union response measures.</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 <u>and, where appropriate, repairs the injury caused</u> before apply the date of application of the Union response measures start to apply, the Commission shall terminate the Union response measures in accordance with Article 10.</p>	<p>CZ PRES suggests not to link reparation of injury to termination of the measures.</p>
100	<p>(a) the effectiveness of the measures in inducing the cessation of the economic coercion <u>and, where appropriate, reparation of the injury caused to the Union and its Member States</u>;</p>	<p>(a) the effectiveness of the Union response measures in inducing the cessation of the economic coercion;</p>	<p>(a) the effectiveness of the Union response measures in inducing the cessation of the economic coercion <u>and, where appropriate, reparation of the injury caused to the Union and its Member States</u>;</p>	<p>CZ PRES suggests opposing this EP proposal to add reparation of injury in this context (linking as a criterion with predominant weight for choosing the measures).</p>

117	(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> ;	CZ PRES suggests not to link reparation of injury to termination of the measures.

4/ Timelines

The EP adds timelines to various places in the text of the draft Regulation. Main concerns of the European Parliament are from unnecessary delays during the process. Below are suggestions of CZ PRES with regard to timelines (no other topic, such as decision making process is dealt in this part).

line	EP Mandate	Council Mandate	Draft compromise text by the Commission 29-11-2022	Suggestions by CZ PRES
51	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 <u>and its examination shall [normally] not exceed four months.</u>	CZ PRES suggests the timeline for examination could be a case for compromise. Need to retain flexibility for the Commission (keeping “normally”). Possible to propose longer period than 4 months.

56	<p>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 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></p>	<p>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 on 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 States –act expeditiously.</p>	No text proposed	<p>CZ PRES suggests opposing this EP proposal to add timeline framing the adoption of measures (6 + 4 months possible extension). Measures should be taken as a last resort, not appropriate to set timelines for that already during the determination.</p>
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57	<p>Prior to adopting its decision, the Commission may invite the third country concerned to submit its observations <u>within a reasonable and specified period of time that shall not unduly delay the Commission's decision.</u></p>	<p>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.</p>	<p>No text proposed</p>	<p>CZ PRES suggests this timeline could be a case for compromise with maintaining the reference to Article 5.</p>
58	<p>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 #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></p>	<p>5. Where the Commission decides that the measure of the third country concerned meets the conditions set out in Article 2(1), #Council adopts the implementing act referred to in this Article, the Commission shall notify the third country concerned of #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.</p>	<p>5. Where the [Commission decides that the measure of the third country concerned meets the conditions set out in Article 2(1), #Council adopts the implementing act referred to in this Article, the Commission] shall notify the third country concerned of [#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></p>	<p>Case by case approach is positive – no firm timeline set in the Regulation. However, any specified period of time in the implementing act would limit the negotiation phase before possible adoption of measures.</p>

60	<p><u><i>Following the notice referred to in Article 4</i></u>, the Commission shall be open to engage on behalf of the Union with the third country concerned <u><i>and, provided that the country concerned also engages in good faith, in a proactive manner</i></u>, to explore options with a view to obtaining the cessation of the economic coercion <u><i>and, where appropriate, reparation of the injury it has caused to the Union or its Member States</i></u>. Such options <u><i>shall not unduly delay the procedure and</i></u> may include:</p>	<p>1. Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultationsThe 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.</p> <p>If the third country concerned enters into consultations with the Union in good faith the Commission shall expeditiously engage in such consultations.</p> <p>In the course of such consultations the Commission may explore options with the third country concerned includingSuch options may include:</p>	<p>1. Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultationsThe 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><i>and, where appropriate, reparation of the injury it has caused to the Union or its Member States</i></u>.</p> <p>If the third country concerned enters into consultations with the Union in good faith, <u><i>in a proactive manner</i></u>, the Commission shall expeditiously engage in such consultations.</p> <p>In the course of such consultations, <u><i>which shall not unduly delay the procedure</i></u>, the Commission may explore options with the third country concerned includingSuch options may include</p>	<p>CZ PRES suggests this timeline could be a case for compromise.</p>
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68	<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>In general not in favour of restricting the possibilities for cooperation. However, it is not a firm timeline.</p>
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			Member States to participate in such consultation and cooperation.	
76	<p>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>.</p>	<p>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 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.</p>	<p>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 this 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 <u>and, where appropriate, to repair the injury caused</u>.</p>	<p>CZ PRES suggests this timeline could be a case for compromise, under the condition of maintaining flexibility for the Commission to specify different date in IA (i.e. in case of threats). CZ PRES suggests to ask for longer period than 3 months.</p>
115	<p>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</p>	<p>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 third</p>	<p>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</p>	<p>Urgency procedure already provides for a swift adoption, so no specific need to mention. However, in sake of compromise</p>

	<p>mayshall, as 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).</p>	<p>country's reaction, the Commission may, as appropriate, amend Union response measures adopted in accordance with Article 7Articles 7 and 8, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).</p>	<p>Commission mayshall, as 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).</p>	<p>might not be harmful to accept.</p>
<p>154</p>	<p>2. No later than three years after the adoption of the first implementing act under<u>entry into force of this Regulation, 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>.</p>	<p>2. No later than three years after the adoption of the first implementing act under this Regulation or sixfive 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</p>	<p>2. No later than three years after the adoption of the first implementing act under<u>entry into force of this Regulation, and at the latest every four</u> five <u>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</p>	<p>CZ PRES suggests to be flexible on this issue</p>

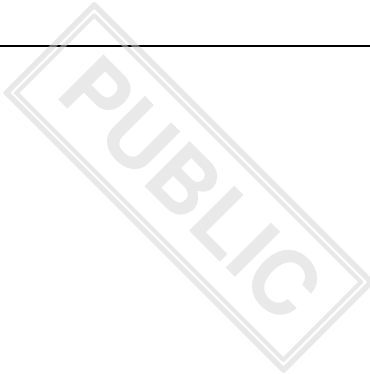
			upon review of [and in particular, in ensuring complementarity with] the review of the] <u>Blocking Statute.</u>	
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5/ Involvement of EP

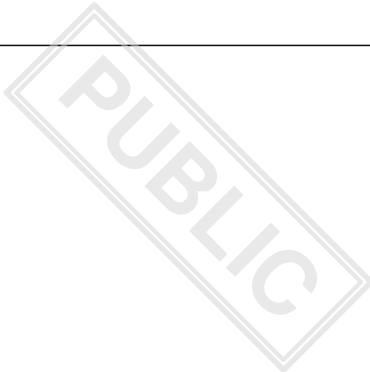
EP suggests stronger involvement of EP in various provisions via information-sharing and exchange of views. The Commission proposed one horizontal provision (line 153), which would cover these references. The Presidency proposes some improvements of the compromise proposal.

EP also requests a possibility to initiate examination of possible coercion. In line 21 (recital 13) it is explicit, in line 51 (Article 3(1)) it is implicit.

line	EP Mandate	Council Mandate	Draft compromise text by the Commission 29-11-2022	Suggestions by CZ PRES
21	(13) The Commission <u>could and, in particular in the case of a substantiated complaint,</u> should examine whether third-country measures are 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	13) The Commission on its own initiative or upon a reasoned request of a Member State should examine whether third-country measures 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	No drafting suggestion.	Linked to line 51 and 52 with regard European Parliament as a source of information provided or complaint submitted



	<p>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>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 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</p>		
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		<p>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>		
51	<p>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.</p>	<p>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.</p>	<p>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.</p>	<p>CZ PRES suggests not to accept “shall” for duly substantiated requests. Together with “including” and recital 13 it would mean an obligation for the Commission to initiate examination at a request from EP (or other complainants). CZ PRES might consider “including” in case “may” is kept.</p>
52	<p>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</u></p>	<p>2. The Commission may <u>shall</u> carry out the examination referred to in paragraph 1 on its own initiative or following the basis of information received from any reliable source. The Commission shall ensure the protection of confidential information in line accordance with Article 12, which may</p>	<p>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 [or its members], a Member State, economic operators or</u></p>	<p>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 the basis of information received from any reliable source, <u>notably such as , a Member State, the European Parliament [or its</u></p>

	<p><u>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></p>	<p>include the identity of the supplier of the information.</p>	<p><u>trade unions.</u> The Commission shall ensure the protection of confidential information in line accordance 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></p>	<p><u>members], economic operators or trade unions.</u>(...)</p>
153	<p>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 examine <u>in which it examines</u> the effectiveness and operation of the Union</p>	<p>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 the Union response measure, and, where appropriate, draw</p>	<p>[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 obligation may include an exchange of views where appropriate or requested by the</p>	<p>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 obligation may include an exchange of views where</p>

	<p>response measure, and draw possible conclusions for future measures. <u><i>The Commission shall present such report to the European Parliament and the Council.</i></u></p>	<p>draw possible conclusions for future Union response measures and the review of this regulation pursuant to paragraph 2.</p>	<p>European Parliament or the Council.]</p> <p>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><i>and information provided by the European Parliament and the Council,</i></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.</p>	<p>appropriate or requested by the European Parliament or the Council.]</p> <p>(...)</p>
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