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2021/0406 (COD)**

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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Trade Questions

Subject:	ACI - 5-column document following the technical meeting on 20 March 2023 for the meeting of the WPTQ on 21 March 2023
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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 after technical meeting on 20 March]

20-03-2023 at 12h58

Changes compared to the last version shared with the Working Party: lines 72, 143, 144, 147 have been marked yellow for further technical discussions.

Yellow lines in which the PRES **proposes** to accept the compromise proposal in the “Prov/tent. Outcome tech. mtgs column” (which shows language as compared to the Council mandate): 51, 54, 57, 58, 60

	EP Mandate	Council Mandate	COM proposal 9 January 23	Prov/tent. outcome tech. mtgs
Formula				
1	2021/0406 (COD)	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 No changes to 4th column text.	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
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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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,
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	(1) Pursuant to Article 3(5) of the Treaty on European Union (TEU), in its relations with the wider world,	(1) Pursuant to Article 3(5) of the Treaty on European Union (TEU), in its relations with the wider world,	(1) Pursuant to Article 3(5) of the Treaty on European Union (TEU), in its relations with the wider world,

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	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.	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").	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"). 29/11/22: Minor editorial changes. No changes to 4th column text.	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").
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 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.	(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 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.	(2) Pursuant to Article 21(1) TEU, the Union's action on the international scene is to be guided by principles such as the rule of law, equality and solidarity, and respect for the principles of the UN Charter and international law. It also states that the Union is to promote multilateral solutions to common problems. No changes to 4th column text. 29/11/22: Minor editorial changes.	(2) Pursuant to Article 21(1) TEU, the Union's action on the international scene is to be guided by principles such as the rule of law, equality and solidarity, and respect for the principles of the UN Charter and international law. It also states that the Union is to promote multilateral solutions to common problems.
Recital 3				
11				

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	(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> <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>	(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 UN Charter, one of the purposes of the United Nations is to develop friendly relations among nations based on, among other things, respect for the principle of equal rights. 29/11/22: Comprehensive combination of Council + EP, with editorial adjustments. 9/1/23: deleted text consolidated with and streamlined in recital 4a; 1.2 Relations with other instruments and policies	
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	(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	(4) Article 21(2) 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, safeguard its values, fundamental	(4) Article 21(2) 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, safeguard its values, fundamental

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	safeguard its values, fundamental interests, independence and integrity, consolidate and support the rule of law, and the principles of international law.	order to, safeguard its values, fundamental interests, independence and integrity, consolidate and support the rule of law, and the principles of international law.	interests, independence and integrity, consolidate and support the rule of law, and the principles of international law. No changes to 4th column text. 29/11/22: Minor editorial changes.	interests, independence and integrity, consolidate and support the rule of law, and the principles of international law.
Recital 4a				
12a	<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>		<u>[(4a) The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, states that international relations are to be conducted in line with the principles of sovereign equality and non-intervention.^{1a} This Declaration also 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 reflects customary international law and is thus binding in the</u>	

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	^{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> ^{1b} <u>United Nations General Assembly Resolution 2625 (XXV) of 24 Oct 1970.</u>		<u>relations between third countries and the Union and its Member States.</u> <u>Rules of customary international law of state responsibility for internationally wrongful acts are reflected in the United Nations' International Law Commission's Articles on the Responsibility of States for Internationally Wrongful Acts^{1b} and are binding in the relations between third countries and the Union and its Member States.</u> <u>^{1a} UN General Assembly, Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/2625(XXV).</u> <u>^{1b} 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> 9/1/23: text consolidated and streamlined with minor editorial adjustments; Inclusion of EP amendment, with editorial adjustments.	

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			Transfer of the addition to Rec 3 to this new Rec 4a, so as to keep the "international law" references together.	
Recital 5				
13	(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.	(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.	(5) The modern interconnected world economy increases the risk of 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. 29/11/22: For discussion, the Council language has a slightly different emphasis from the original text accepted by the Parliament. No changes to 4th column text.	
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	(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	(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	

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	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 European Parliament resolutions</u>, by the Union or a Member State. Such measures affecting trade or 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>.	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 economic activities in the Union.	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 an expression of a position by an institution or body of the Union or a Member</u>. 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 economic activities in the Union. <u>The terms "third country" should be understood to include not only a foreign State, but also a separate customs territory or other subject of international law because these entities are capable of economic coercion. The utilisation of these terms and the application of this Regulation does not have any implication regarding sovereignty. This Regulation should also be applied in conformity with the</u>	

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			<u>Union's position in relation to the third country concerned.</u> 29/11/22: Consolidation 9/1/23: aligned with the article on definitions; final part to explain the definition of country;	
Recital 7				
15	(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 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> ^{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>	(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 <u>as a last resort</u>, countermeasures. This Regulation is 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.	(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, as a last resort, countermeasures. This Regulation is 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. 29/11/22: Combination of the 2 texts but requires discussion. 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. Also omission of the last statement that ACI complements Union trade law,	

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			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. Regulation (ER amendment) and Reference (Blocking Statute) also don't match. No changes to 4th column text. 1.2 Relations with other instruments and policies	
Recital 7a				
15a		(7bis) Economic coercion by third countries may 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 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	(7bis)^{7a} Economic coercion by third countries may 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 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	

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		be given when considering any response to economic coercion by a third country.	any response to economic coercion by a third country. 9/1/23: suggest to use the Council's text; with a correction; 1.2 Relations with other instruments and policies	
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 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 <u>it is necessary that the means for effectively achieving those</u>	(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 affect the Union's 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 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	(8) Third countries' measures of economic coercion against a Member State affect the Union's 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 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 as distinct actors under international law, may not be entitled to counteract third countries' economic coercion directed against the Union. <u>Therefore, it is necessary that the means for effectively achieving those objectives are created at the Union level.</u> This Regulation is without prejudice to the division of	

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	<u>objectives are created at the</u> Union level.	Union may. Moreover, Member States are prevented from taking common commercial policy measures as a response to 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.	competences as defined in the Treaties. 29/11/22: Combination 9/1/23: for reasons of readability the 5th column is the clean version of the 4th column text; 1.2 Relations with other instruments and policies	
Recital 9				
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 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	(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 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	(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 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	

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	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</u>. <u>The need for a precise indication of the next steps to be taken and</u> need 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	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.	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 response measures in inducing the cessation of the economic coercion and the</u> need to avoid or minimise collateral 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) TEU. 29/11/22: Combination, but consistency with the segmentation in the Council version and without "the risks of escalation in international trade relations" as this is not related to proportionality. It could however be built into "effectiveness for cessation" or (better?) a different recital. 9/1/23: brackets deleted as this is aligned with Art 5 and 7 texts;	

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	with Article 5(4) of the Treaty on European Union.		3.7 Union response: criteria Union Interest 4. Reparation of injury	
Recital 10				
18	(10) Any action undertaken by the Union on the basis of this Regulation should comply with the Union's obligations under international law. <u>The Union should continue to support the rules-based multilateral trading system, with the World Trade Organisation (WTO) at its core.</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 measures constituting permitted countermeasures. Under international law, and in accordance with the principle of proportionality,	(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 exceed a level that is commensurate with the injury suffered by Among the	(10) Any action undertaken by the Union on the basis of this Regulation should be consistent with international law, including customary international law. 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 continue to support that system, with the WTO at its core, and to use its dispute settlement system where appropriate. 29/11/22: Recital split in two. See also line 18a/ EP amendments are consistent with Council amendments. No changes to 4th column text. 1.2 Relations with other instruments and policies	

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	they 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 injury to Union economic operators. ¹⁰ <u>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> 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 in resolution 56/83.	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. 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 in resolution 56/83.		
Recital 10a				
18a		(10bis) Customary international law, as reflected in Articles 22 and	(10bis) Customary international law, as reflected in Articles 22 and	

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		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 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	49 to 53 of the Articles on Responsibility of States for Internationally Wrongful Acts ("<u>ARSIWA</u>"), 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 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 <u>at the level that is commensurate with of</u> the injury suffered by the Union or a Member	

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		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.	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. 29/11/22: Insertion of language from recital 18, editorial adjustments. Issue to discuss: "be commensurate" or "not exceed a level that is commensurate". 9/1/23: brackets deleted as text aligned with Art 9(1); 3.7 Union response: criteria Union Interest 4. Reparation of injury	
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.	

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			No changes to 4th column text. 4. Reparation of injury	
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 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 <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.	(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 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.	(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 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 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	

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		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 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.	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 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. 9/1/23: brackets deleted; 29/11/22: Combination of 2 positions. Suggested not to take the replacement of the “and” with the “or” because the qualitative analysis must always be done 1.2 Relations with other instruments and policies 1.1 Scope and definition	
Recital 12				
20	(12) Acts by third countries are understood under customary international law to include all forms of action that are attributable	(12) Acts by third countries are understood under customary international law to include all forms of action or omission ,	(12) Acts by third countries are understood under customary international law to include all forms of action or omission,	

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	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 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 ¹. See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.	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 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 ¹. See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.	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 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. 29/11/22: Combination. Additional text clarifies. No changes to 4th column text. 3.9 Union response: Natural and legal persons 1.1 Scope and definition	
Recital 13				

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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 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 affirmative determination, 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.	(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 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	29/11/22: No drafting proposal. Decision-making needs to be settled first. 9/1/23: the recital to be adjusted to reflect Articles 3 and 4 after they are agreed; alternative drafting of the recital is contained in the packages non-paper of 9/1/23; See packages non-paper of 9/1/23 on the decision-making question 5. Decision -making 5.1 Decision making: determination (stage 1)	

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		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.		
Recital 13a				
21a		(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 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	(13bis) In an effort to secure the cessation of economic coercion <u>and, where appropriate, reparation of injury</u> , 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 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	

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		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.	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. 9/1/23: square brackets deleted; 4. Reparation of injury 2.2 determination (contact with 3rd country conce) 2.3 engagement/consultations (conditions, scope)	
Recital 14				
22	(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 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.	(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 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,	(14) <u>The</u> 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 <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	

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		where appropriate, with the participation of the Member States the economic coercion.	appropriate, with the participation of the Member States. 29/11/22: The meaning of 'partner' taken up in the definition of a third country 9/1/23: brackets on deletion of 'support' deleted; 2.4 international cooperation (conditions, scope)	
Recital 15				
23	(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, <u>adjudication or mediation</u> or adjudication and should impose measures in cases where such means 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 is appropriate that the Regulation sets out the applicable rules and procedures for the imposition and application of Union response	(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 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	(15) <u>It is desirable that</u> the Union should only impose response measures if other means <u>use proactively all available means of engagement with the third country concerned</u> such as negotiations, <u>adjudication or mediation, and it should only impose response measures in cases where such means</u> 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 <u>the</u> 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 and it is in the	

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	measures and permits expeditious action where necessary to preserve the effectiveness of any Union response measures.	response measures and permits expeditious action where necessary to preserve the effectiveness of any Union response measures.	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. 9/1/23: intro phrase revised as more appropriate; brackets deleted; 'only' kept as emphasis; 3.7 Union response: criteria 4. Reparation of injury Union Interest 3. Union response: substantive provisions and proc 2.4 international cooperation (conditions, scope) 3.2 Union response: deferral application 2.3 engagement/consultations (conditions, scope)	
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: <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	(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	(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 <u>the</u> coercion by the third country <u>and, where appropriate, the reparation of the injury it has caused</u> ; the potential to provide relief to economic operators	

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	potential to provide relief to economic operators within the Union affected by the third-country measures of economic coercion². <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.	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, 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 array of options in order to allow	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 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 array of options in order to allow the	

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		the adoption of the most suitable measures in any given case.	adoption of the most suitable measures in any given case. 29/11/22: May need discussion - linked to Article 9 9/1/23: adjusted to reflect current draft of Article 9 and Union interest; Union Interest 3.7 Union response: criteria 4. Reparation of injury 3. Union response: substantive provisions and proc	
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. 9/1/23: would require additional subsequent recitals depending on decision regarding damages claims; see packages non-paper of 9/1/23;	

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			29/11/22: Requires discussion and additional recital if the co-legislators were to decide to include provisions on damages claims - linked to Article 8 (separate document) No changes to 4th column text;	
Recital 16b				
24b		(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	(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,	

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		countries' measures of economic coercion. This Regulation is without prejudice to rules and procedures under such other legal instruments.	should be commensurate with <u>not exceed</u> 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. 29/11/22: Addition suggested address the deletion of point I) 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; 9/1/23: brackets deleted; text aligned with Article 9(1); 1.2 Relations with other instruments and policies 3.7 Union response: criteria	
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	(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 and of nationality should be determined in the light of the	(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	

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	prevailing rules for non-preferential trade and investment that are applicable under Union law and the Union's international agreements.	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.	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. No changes to 4th column text. 8. Rules of origin	
Recital 18				
26	(18) In pursuing the objective of obtaining the 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	(18) In pursuing the objective of obtaining the cessation of the a 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 will should be duly justified in implementing acts adopted pursuant to this Regulation	(18) In pursuing the objective of obtaining the cessation of a 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 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 should be duly justified in implementing acts adopted	

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	implementing acts adopted pursuant to this Regulation in the light of the criteria specified in this Regulation.	in the light of the criteria specified in this Regulation.	pursuant to this Regulation in the light of the criteria specified in this Regulation. 9/1/23: brackets deleted; 3.7 Union response: criteria 4. Reparation of injury	
Recital 19				
27	(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. No changes to 4th column text. 3. Union response: substantive provisions and proc 3.3-4 Union response: amendment/suspension 3.5 Union response: termination	(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				

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28	(20) It is essential to provide for opportunities for stakeholder involvement, <u>including businesses</u> , for the purposes of adoption and amendment of Union response measures, and as relevant for the purposes of suspension and termination, in view of the potential impact on such stakeholders.	(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 their suspension and termination, in view of the potential impact on such stakeholders.	(20) It is essential to provide for opportunities for stakeholder involvement, <u>among which businesses</u> , for the purposes of the adoption and amendment of Union response measures and, where relevant, for the purposes of their suspension and termination, in view of the potential impact on such stakeholders. 9/1/23: brackets deleted only; the reference to businesses serves as clarification and as an emphasis of the importance of including them when the instrument is used; 3.6 Union response: information gathering	
Recital 20a				
28a	<u>(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</u>		<u>(20a) In light of the evident increase in the use of economic coercion by foreign countries against the Union and its Member States and the likely increase of the frequency and severity of these practices in the future, the Commission should be overall responsible for the functioning and the implementation of this Regulation and including with a view to providing necessary support to the Union in order to be</u>	

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	<u>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 react to economic coercion.</u>		<u>able to better anticipate and effectively react to economic coercion.</u> 29/11/22: For discussion at political level. Adjustment in line with the EU institutional structures 9/1/23: brackets deleted; changes taken up, but recital aligned to the text of the corresponding article; 7. Horizontal provisions	
Recital 21				
29	(21) It is important to ensure an effective communication and <u>regular dialogue</u> 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</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 effective communication and an <u>effective and regular</u> 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 enter into consultations with the third country concerned to explore options with a view to obtaining the cessation of the economic coercion and on the <u>application of this Regulation, in particular regarding ongoing examinations of third-country measures, [determination with regard to measures of economic coercion,] efforts to enter into consultations with the third country concerned,</u> matters that	

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	<u>regard to measures of economic coercion and on the effectiveness of Union response measures.</u>		may lead to the adoption of Union response measures under this Regulation <u>and any other relevant development at subsequent stages, including as regards the effectiveness of Union response measures.</u> 29/11/22: Consolidated 9/1/23: streamlined; brackets deleted; brackets added regarding determination – linked to the decision-making and the packages non-paper of 9/1/23; 7. Horizontal provisions	
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	(22) In order to allow the updateadjustment of the range of Union response measures under this Regulation and the adjustment of the rules of origin or of other technical rulesrules 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 UnionTFEU should be delegated to the Commission to amend the list of Union responses set out in Annex I and technical rules necessary for the	(22) In order to allow the adjustment of the rules of origin or nationality to take account of relevant developments in international instruments <u>and experience in the application of measures under this Regulation or other Union acts under this Regulation or other Union acts</u>, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending Annex II. It is of particular importance that the Commission carry out appropriate consultations during its preparatory	

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	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-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. 1. OJ L 123, 12.5.2016, p. 1.	application of the Regulation, including rules of origin laid down in respect of 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 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. 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).	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-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. <u>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).</u> 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). 29/11/22: For discussion/to be adjusted in light of the outcome on delegated acts 9/1/23: current drafting of Article 13(2) reflected here.	

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			5.5 Decision-making: delegated acts 8. Rules of origin 5. Decision -making	
Recital 23				
31	(23) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.¹ 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).	(23) In order to ensure uniform conditions for the implementation of Union response measures under this Regulation, implementing 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 ⁺ 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).	(23) In order to ensure uniform conditions for the implementation of <u>Union response measures under</u> this Regulation, implementing 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 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). 29/11/22: Necessary recital because of retention of comitology procedure. Bracketed language relates to discussions on decision-making. 9/1/23: linked to decision-making; No changes to 4th column text. 5. Decision -making 5.2 Decision-making: stage 2 5.3 Decision making amendment/suspension/terminati	

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Recital 24				
32	(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.	(24) The examination procedure should be used for the adoption of Union response measures and their amendment, suspension or termination given that those aets measures determine the Union's responses response 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 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.	(24) The examination procedure should be used for the adoption of Union response measures and their amendment, suspension or termination given that those measures determine the Union's response 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 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. 9/1/23: linked to decision-making;	

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			See packages non-paper of 9/1/23. The bulk of the text needs to be retained irrespective of approach on decision-making. To be adjusted after final decision on decision-making. 29/11/22: Necessary recital because of retention of comitology procedure. Bracketed language relates to discussions on decision-making. 5. Decision -making 5.2 Decision-making: stage 2 5.3 Decision making amendment/suspension/terminati	
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 or termination of Union response measures, imperative grounds of urgency so require.	(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 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.	(25) The Commission should adopt immediately applicable implementing acts of limited duration where, in duly justified cases relating to the amendment, suspension or termination or <u>suspension</u> of Union response measures, imperative grounds of urgency <u>require</u> 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.	

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			9/1/23: brackets deleted; linguistic change; 5.4 Decision-making: urgency procedure 5. Decision-making Decision making amendment/suspension/termination Decision-making: stage 2	
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 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.	(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 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.	

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		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). 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).	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). 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). 29/11/22: 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. No changes to 4th column text. 7. Horizontal provisions 1.2 Relations with other instruments and policies	
Recital 26				
34	(26) The Commission should evaluate 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	(26) The Commission should evaluate 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	(26) The Commission should evaluate 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	

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	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, <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>	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,	gaining sufficient experience with the existence or application of this Regulation <u>and also its relationship to other Union policies and existing legal instruments, including the Blocking Statute^{1a}. The</u> This review <u>of this Regulation</u> should cover the scope, functioning, efficiency and effectiveness of this Regulation. <u>The Commission should report on its assessment to the European Parliament and the Council</u> and also its relationship to other Union policies and existing legal instruments. <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</u> The Commission should report on its assessment to the European Parliament and the Council, <u>OJ L 309, 29.11.1996, p. 1</u> 9/1/23: brackets deleted. 29/11/22: Reference to upcoming review of BS deleted out of prudence, the reference to the BS suffices as it would cover the review when it comes.	

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			1.2 Relations with other instruments and policies 9. Review clause and final provision	
	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 <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	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 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. 29/11/22: Council text as a basis; EP additions to move to the definitions No changes to 4th column text. Definitions 1.1 Scope and definition	1. This Regulation lays down rules and procedures 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. Definitions 1.1 Scope and definition

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	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> whilst permitting the Union, in the last resort, to counteract such actions.		PUBLIC	
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>coercion and, where appropriate, obtaining the reparation of the injury caused</u>, whilst enabling the Union, as a last resort, to counteract such coercion. 9/1/23: brackets deleted; reparation should logically be included here, as it is a feature of the action under the regulation; spelling out that countermeasures are a of a last resort illustrates the sequence of the action that is otherwise discernible by reading the regulation, and it is a useful spelling out for the purposes of the narrative of this instrument; 29/11/22: Council text because it has the aligned terminology (actions/situations=coercion) and as it	2<u>1a</u>. 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. <u>This Regulation also establishes a framework for the Union to seek reparation for the injury caused by such coercion, where appropriate.</u> 4. Reparation of injury 1.1 Scope and definition

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			takes over from EP amendments; additions to reflect EP amendments in blue To discuss whether to retain term “as a last resort”. 4. Reparation of injury 1.1 Scope and definition	
Article 1(2)				
38	2. Any action taken under this Regulation shall be consistent with the Union’s obligations under international law and conducted in the context of the principles and objectives of the Union’s external action.	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 principles and objectives of the Union’s external action.	3. Any action taken under this Regulation shall be consistent with international law and be conducted in the context of the principles and objectives of the Union’s external action. 29/11/22: Reference to Union obligations deleted as per Council. ; Reference to external action retained – it is correct that the Treaties already laid the principle down but the whole para is redundant while serving as an important reassurance within and outside the EU; 9/1/23: brackets deleted; text based on the Treaties; appropriate; 1.2 Relations with other instruments and policies	32. Any action taken under this Regulation shall be consistent with international law and be conducted in the context of the principles and objectives of the Union’s external action. 1.2 Relations with other instruments and policies
Article 1(2a)				

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R	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<i>does</i> not affect the division of competences between the Union and its Member States as defined by the Treaties. 9/1/23: brackets deleted; appropriate text for clarity; 29/11/22: 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 1.2 Relations with other instruments and policies	1.2 Relations with other instruments and policies
Article 1a				
G	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</u>	<u>[Article 1a]</u> <u>Definitions</u> 29/11/22: Article requires discussion Definition of coercion/econ coercion streamlined and made to fit Art 2	<u>[Article 1a]</u> <u>Definitions</u> Definitions Union Interest 1.1 Scope and definition

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	<u>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> <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; 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> <u>4. "failure to act" means failure by a third country to comply with its obligations under legally binding instruments of international law;</u> <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; 6. "economic coercion" means coercion through a third-country action or measure affecting trade or investment;</u> <u>7. "injury" means negative impact suffered by the Union or a Member State, including Union economic operators;</u> <u>8. "Union response measure" means any measure adhering to the Union's international obligations or</u>		Union response measures definition adapted in line with the dedicated articles 7 and 8, Annex I; The addition in Article 7 about the permitted countermeasures reflects the idea in the definition by the EP and so the definition was adapted; Threat of coercion definition deleted as threat is type of coercion; language added to the recitals and in Article 7 New definition on a third country, to cover for the situation of a 'partner' other than a state Union interest definition from the EP merged with Council language but to discuss in order to clarify the intentions; 9/1/23: definitions of a country, particular act and Union interest revised; definition of Union response measures adapted to refer to Annex I, too; Definitions Union Interest 1.1 Scope and definition	

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	<u>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> <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>			
Article 1a(1)				
G	38c		<u>1. For the purposes of this Regulation, the following definitions apply:</u> Definitions	<u>1. For the purposes of this Regulation, the following definitions apply:</u> Definitions
Article 1a(2)				
Y	38d		<u>1. "measure of economic coercion" means a third country interfering in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation,</u>	<u>1. ['measure of economic coercion' means any third-country measure affecting trade or investment which the third country is applying or threatening to apply to seek to prevent or obtain the</u>

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			<u>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> Definitions	<u>cessation, modification or adoption of a particular act of the Union or of a Member State, thereby interfering in the legitimate sovereign choices of the Union or a Member State;]</u> 09/02: Legal Services to provide draft Definitions
	Article 1a(3)			
G	38e		<u>2. "measure" means any act or omission;</u> Definitions	deleted 09/02: Legal Services to provide draft Definitions
	Article 1a(4)			
G	38f		<u>3. "third-country measure" means any measure attributable to a third country;</u> Definitions	<u>3. ["third-country measure" means any action or omission attributable to a third country under international law];</u> 09/02: Legal Services to provide draft Definitions
	Article 1a(5)			
G	38g			G

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			<u>4. "particular act" means any legal or other act, including an expression of a position by an institution or body of the Union or a Member State;</u> Definitions	<u>4. ["particular act" means any legal or other act, including an expression of a position, by an institution, body, office or agency of respectively, the Union or of a Member State, or of a third country;]</u> Definitions
Article 1a(6)				
38h			<u>5. "injury to the Union" means injury to the Union or a Member State, including to Union economic operators;</u> Definitions	<u>5. "injury to the Union" means a negative impact, including economic damage, to the Union or a Member State, including to Union economic operators;</u> 09/02: merging definitions "injury to the Union" and "injury" Definitions
Article 1a(7)				
38i			<u>6. "injury" means negative impact, including economic damage;</u> Definitions	<u>7.</u> 09/02: merging definitions "injury to the Union" and "injury" Definitions
Article 1a(8)				
38j				

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			<u>7. "country" means any State, separate customs territory or other subject of international law;</u> Definitions	<u>7. ["third country" means any State, separate customs territory or other subject of international law, other than the Union or a Member State;]</u> 09/02: Link to recital 6. For Legal Services to provide draft Definitions
Article 1a(9)				
g	38k		<u>8. "third country" means any country other than the Union or a Member State;</u> Definitions	<i>deleted</i> 09/02: Legal Services to check lines with recitals Definitions
Article 1a(10)				
y	38l		<u>9. "Union response measure" means any measure listed in Annex 1 and adopted pursuant to Articles 7 and 8, or any measure adopted pursuant to other legal instruments that confer specific powers to the Commission as;</u> Definitions	<u>[9. "Union response measure" means a measure set out in Annex I;]</u> 09/02: Delete reference to Annex I and specific articles. Instead 'to this Regulation'. Definitions
Article 1a(11)				

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38m			<u>10. "Union interest" means all the various interests taken as a whole, including the interest in avoiding interference in legitimate sovereign choices of the Union and the Member States, the interests of Union economic operators, including upstream and downstream industries, as well as the interests of Union final consumers. The Union interest shall be determined in accordance with Article 7bis.</u> Definitions Union Interest	deleted 09/02: New draft needed (COM) Definitions Union Interest
Article 2				
39	Article 2 Scope	Article 2 Scope	Article 2 Scope	Article 2 Scope
Article 2(1), first subparagraph				
40	1. This Regulation applies <u>only in the event of economic coercion</u> where a third country:	1. This Regulation applies where a third country:	1. This Regulation applies <u>only</u> where a third country: 29/11/22: No need to refer to economic coercion because that is in the definition in the new article No changes to 4th column text. 1.1 Scope and definition	1. This Regulation applies <u>only</u> where a third country: 1.1 Scope and definition

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Article 2(1), first subparagraph, first indent				
G	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 29/11/22: Common ground No changes to 4th column text.	- 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
Article 2(1), first subparagraph, second indent				
G	42	- 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. No changes to 4th column text. 1.1 Scope and definition	- by applying or threatening to apply measures affecting trade or investment. 1.1 Scope and definition
Article 2(1), second subparagraph				
Y	43	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'. 29/11/22: Not needed in view of the definitions No changes to 4th column text.	
Article 2(2)				
R	44			

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	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 <u>the 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]/[Commission and the Council]</u> shall be taken <u>take</u> into account <u>the following</u>: 29/11/22: 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. No change to the 4th column; depends on decision-making question; 2. 1st stage: substantive provisions and process 1st stage procedure 2.1 examination	2. 1st stage: substantive provisions and process 1st stage procedure
Article 2(2), point (a)				
45	(a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure and/or failure to act or threat thereof as well as the pressure arising from it; <u>the Commission shall assess whether</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;	

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	<u>such measures are part of a broader pattern of behaviour;</u>		29/11/22: First EP amendment covered now in the definitions Pattern appears in letter b), suggest not to duplicate, it essentially means the same No changes to 4th column text. 2.1 examination	
Article 2(2), point (b)				
46	(b) whether the third country 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;	(b) whether the third country is engaging in a pattern of interference seeking to obtain from the Union, a or from Member States State or other countries particular acts;	(b) whether the third country is engaging in a pattern of interference seeking to obtain from the Union, a Member State or other countries particular acts; 29/11/22: Adding “clear” would make it more stringent; Pattern already means that it has to be clear; No changes to 4th column text. 2. 1st stage: substantive provisions and process 2.1 examination	(b) whether the third country is engaging in a pattern of interference seeking to obtain from the Union, a Member State or other countries particular acts;
Article 2(2), point (c)				
47	(c) the extent to which the third-country measure <u>or failure to act or threat thereof</u> encroaches upon an	(c) the extent to which the third-country measure encroaches upon	(c) the extent to which the third-country measure encroaches upon	

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	area of the Union's or Member States' sovereignty;	an area of the Union's or a Member States' State's sovereignty;	an area of the Union's or a Member State's sovereignty; 29/11/22: EP change covered now in the definitions No changes to 4th column text. 2. 1st stage: substantive provisions and process 2.1 examination	
Article 2(2), point (d)				
48	(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 on the basis of a legitimate concern that is internationally recognised; 29/11/22: EP amendment would narrow the text in a way which would make it more difficult to find coercion and which could be an issue for the EU if a 3rd country were to mirror the ACI (given the EU often legislates beyond internationally required levels). 9/1/23: correction/typo – no change of meaning; 2.1 examination	(d) whether the third country is acting on the basis of a legitimate concern that is internationally recognised;
Article 2(2), point (e)				
49	(e) whether and in what manner the third country, before the imposition	(e) whether and in what manner the third country, before the imposition	(e) whether and in what manner the third country, before the	(e) whether and in what manner the third country, before the

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	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.	<u>imposition or</u> 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. 29/11/22: Imposition and application refer to different points in time, which may also 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; No changes to 4th column text. 2. 1st stage: substantive provisions and process 2.1 examination	<u>imposition or</u> 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.
Article 3				
G 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)				
R 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).	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	1. The Commission may, on its own initiative, <u>or</u> or upon a reasonable <u>duly substantiated</u> request, <u>including</u> of a Member State, examine any measure of a third country in order to determine whether it meets the conditions set	1. The Commission may, on its own initiative, <u>or</u> or upon a reasonable <u>duly substantiated</u> request, <u>including</u> of a Member State, <u>[shall]</u> examine any measure of a third country in order to determine whether it meets the conditions set

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	The Commission shall act expeditiously.	out in Article 2(1). The Commission shall act expeditiously.	out in Article 2(1). <u>The Commission shall act expeditiously and its examination shall normally not exceed four months.</u> 29/11/22: Consolidation Issue of “may” and “shall” to be discussed; suggest to keep some flexibility; Timeline – needs to be discussed; Commission suggests adding “normally” 9/1/23: brackets deleted; choice of ‘may’ to avoid situations where the Commission is constrained to examine any measure and take a position anytime, in situations where it might not be desirable or appropriate to do so, i.e. political sensitivity, instrument of a last resort, not to be used lightly, activated wisely; to avoid litigation over not activating the instrument; the text does not prevent the EP or Council to insist on examination in a given case and it also implies that the Commission is trusted to activate the instrument where this is appropriate and not to activate it where this is not the case. 6. Timelines 1st stage procedure 2.1 examination	out in Article 2(1). <u>The Commission shall act expeditiously and its examination shall [normally] not exceed [four months].</u> PRES proposes to accept the timeline of four months, if “normally” is kept.
Article 3(2)				

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52	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 shall carry out the examination referred to in paragraph 1 <u>based on substantiated information collected on its own initiative or on the basis of information</u> received from any reliable source, <u>including a Member State, the European Parliament, economic operators or trade unions.</u> The Commission shall ensure the protection of confidential information in accordance with Article 12, which may include <u>protecting</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 information from external sources.</u> 29/11/22: 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. 9/1/23: brackets deleted; Member States listed first; list non exhaustive; reference to MEPs not necessary/used; MEPs can come forward on their own grounds;	2. The Commission shall carry out the examination referred to in paragraph 1 <u>based on substantiated information collected on its own initiative or on the basis of information</u> received from any reliable source, <u>including a Member State, the European Parliament, economic operators or trade unions.</u> The Commission shall ensure the protection of confidential information in accordance with Article 12, which may include <u>protecting</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 information from external sources.</u>

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			1st stage procedure 2.1 examination	
Article 3(2a)				
52a		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.	2bis.3 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>The Commission shall duly and in a timely manner inform the Member States of relevant developments as regards launched and ongoing examinations.</u> 29/11/22: Question on whether to have the Member States and the Council. 9/1/23: specific reference to Member States kept here – necessary in scenarios where individual MS are coerced or otherwise affected; applies in addition to the horizontal reporting obligation in 16(1) 7. Horizontal provisions 2. 1st stage: substantive provisions and process 2.1 examination	
Article 3(2b)				

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52b		3. <i>The Commission may request Member States to supply information on the impact of the measures of the third country concerned</i>	Moved to below No changes to 4th column text. 2.1 examination	
Article 3(3), first subparagraph				
53	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 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 such impact and Member States shall act expeditiously.</u> 9/1/23: brackets deleted; 29/11/22: 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'. 2.1 examination	
Article 3(3), second subparagraph				
54	<u>The Commission shall inform duly, including in the form of an exchange of views, and in a timely</u>	5. The Commission may publish a notice in the Official Journal of the European Union and, where	5. The Commission may publish a notice in the <u>the</u> Official Journal of the European Union and , and, where	The Commission may publish a notice in the <u>the</u> Official Journal of the European Union and , and, where

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	<u>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.	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.	appropriate, through other suitable public communication means with an invitation to stakeholders to submit information within a specified time limit <u>taking into account the timeline indicated in paragraph 1. In the In that event of the publication of a notice</u>, the Commission shall notify the third country concerned of the initiation<u>launch</u> of the examination. 9/1/23: brackets deleted; 29/11/22: The 4 months' timeline is indicated already above; 6. Timelines 2.1 examination 7. Horizontal provisions	appropriate, through other suitable public communication means with an invitation to stakeholders to submit information within a specified time limit <u>taking into account the timeline indicated in [paragraph 1]. In the In that event of the publication of a notice</u>, the Commission shall notify the third country concerned of the initiation<u>launch</u> of the examination. PRES notes that this can be marked green upon acceptance by the EP.
Article 3(3), second subparagraph a				
Y	54a	6. The Commission and Member States shall act expeditiously throughout the examination.	Moved up. No changes to 4th column text. 2.1 examination	Y
Article 4				
G	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

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			29/11/22: Discussion based on the separate proposal from the Commission (4 options) 9/1/23: alternative texts in the package document;	
	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). <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</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 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.	No text proposed 9/1/23: see packages non-paper containing options for this article. Specifically, and unrelated to the decision-making issue, on timelines and whether the implementing act should specify a timeline for adoption of countermeasures as a next step – a middle ground could be to provide for a case-by-case decision whether to specify an indicative timeline or not, depending on individual circumstances in a given case. “The implementing act may, where appropriate, specify an indicative timeline for the adoption of Union response measures.” On reparation, compared with existing text, the better formulation would include:	

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	<u><i>publish it in the Official Journal of the European Union and through other suitable public communication means.</i></u>		“... that the third country concerned be requested to repair the injury suffered by the Union or its Member States.” See the packages non-paper of 9/1/23. 5.1 Decision making: determination (stage 1)	
Article 4, first paragraph a				
R 56a			<u><i>The decision of whether it is appropriate to request that the third country concerned repair the injury caused shall be based on a consideration of the nature and extent of the damage caused and all other circumstances of the particular case. Specifically, the decision shall be guided by the overall relationship with the third country concerned, other aspects of Union interest, including the desirability for Union persons having suffered damage to have that damage repaired, and the general obligation under customary international law to make full reparation for the injury caused through an internationally wrongful act.</i></u> 9/1/23: New paragraph on criteria for requesting reparation as requested by the co-legislators.	<u><i>The [assesment] of whether it is appropriate to request that the third country concerned repair the injury caused shall be based on the general obligation under customary international law to make full reparation for the injury caused through an internationally wrongful act, [consideration of the nature and extent of the damage caused and all other circumstances of the particular case. In particular, the decision shall be guided by [the overall relationship with the third country concerned, other aspects of Union interest], including the [desirability for Union persons having suffered damage to have that damage repaired].</i></u>

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			4. Reparation of injury making: determination (stage 1) Union Interest	
	Article 4, second paragraph			
Y	57	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>. 2. Prior to adopting its decision on 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 See the packages non-paper of 9/1/23. 5. Decision -making	2. Prior to adopting [the proposal referred to in paragraph 1], [the Commission shall] invite the third country concerned to submit its observations within a reasonable period of time, without prejudice to Article 5 <u>that shall not unduly delay [the Commission's] [decision] [determination] [proposal].</u> PRES proposes to agree to the timeline "shall not unduly delay".
	Article 4, second paragraph a			
R	57a	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.	No text proposed. See the packages non-paper of 9/1/23. 5.1 Decision making: determination (stage 1)	

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		The Council, acting by a qualified majority, may amend the Commission's proposal.		
	Article 4, second paragraph b			
R	57b	4. The Council implementing act shall be published in the Official Journal of the European Union.	No text proposed. See the packages non-paper of 9/1/23. 5.1 Decision making: determination (stage 1)	
	Article 4, third paragraph			
Y	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 concerned of its decision and request that third <u>country</u> 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>. 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 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.	5. Where the <u>Council</u> 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 <u>so decided by the Council...</u>, request it to repair the injury suffered by the Union or its Member States. 29/11/22: Square brackets denotes language subject to discussions on decision-making. 9/1/23: refer to the package document;	5. Where the <u>Council adopts</u> <u>[Commission decides]</u> the implementing act referred to in this Article, the Commission shall notify <u>inform</u> the third country concerned of that decision the <u>[Union's] determination</u> and request it to cease the economic coercion <u>immediately</u> and, where appropriate and <u>so decided by the Council, request it [...]</u>, to repair the injury suffered by the Union or its Member States <u>[within a reasonable period of time]</u>. PRES proposes to accept the timelines "immediately" and

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			Specifically, and irrespective of the decision-making issue, on timeline for reparation: not maintained to accord better with “immediately” for the cessation. See the packages non-paper of 9/1/23. 6. Timelines 4. Reparation of injury 5.1 Decision making: determination (stage 1) 2.2 determination (contact with 3rd country conce)	“within a reasonable period of time”.
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				
60	<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	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. If the third country concerned enters into consultations with the	1. Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultations with the third country concerned with a view to obtaining the cessation of the economic coercion <u>and, where requested, reparation of the injury it has caused to the Union or its Member States.</u>	Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultations with the third country concerned with a view to obtaining the cessation of the economic coercion <u>and, where requested, reparation of the injury it has caused to the Union or its Member States.]</u>

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	<u>shall not unduly delay the procedure and</u> may include:	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:	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, <u>without unduly delaying the procedure,</u> explore options with the third country concerned including: 29/11/22: Consolidated. COM understand that EP means by ‘notice’ the determination decision After the request for reparation was officially decided and communicated to the third country, no new decision about the appropriateness of reparation should be made at this stage. 9/1/23: brackets deleted; proactive manner language not retained – no clear added value; linguistic change regarding unduly delaying; 6. Timelines 4. Reparation of injury 2.2 determination (contact with 3rd country conce) 2.3 engagement/consultations (conditions, scope)	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, <u>[without unduly delaying the procedure,]</u> explore options with the third country concerned including: PRES is considering accepting the timeline “without unduly delaying the procedure” at some point.
Article 5, first paragraph, first indent				

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61	- direct negotiations;	- direct negotiations;	- direct negotiations; No changes to 4th column text.	- 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; deleted	- mediation, conciliation or good offices by a third party to assist the Union and the third country concerned in these efforts;	No changes to 4th column text.	
Article 5, first paragraph, third indent				
63	- 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. 29/11/22: Language “also in parallel to the other options” not included because substantive intention unclear. Requires discussion. No changes to 4th column text. 2.3 engagement/consultations (conditions, scope)	- submitting the matter to international adjudication.
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>		- <u>mediation, conciliation or good offices by a third party to assist the Union and the third country concerned in those efforts;</u>	- <u>mediation, conciliation or good offices by a third party to assist the Union and the third country concerned in those efforts;</u>

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			No changes to 4th column text. 2.3 engagement/consultations (conditions, scope)	
	Article 5, first paragraph a			
Y	63b		<u>In the event of the Commission or a Member State obtaining compensation from the third country concerned for the injury suffered, the Commission or the Member State shall be guided by the International Law Commission's recommendation that such compensation should be transferred to the injured persons, subject to reasonable criteria.</u>^{FN} <u>Footnote: Draft articles on diplomatic protection, Article 19, 2006.</u> 9/1/23: Related to clarifications about reparation as requested by the co-legislators; 4. Reparation of injury	Y
	Article 5, second paragraph			
Y	64	The Commission shall seek to obtain the cessation of the economic coercion by also by raising the	2. The Commission shall seek to obtain the cessation of the economic coercion also by raising the matter	Y

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	coercion by also raising the matter in any relevant international forum.	matter in any relevant international forum, after having, in accordance with the Treaty, consulted the Council.	in any relevant international forum, after having, in accordance with the Treaty, consulted the Council. 29/11/22: 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.) No changes to 4th column text. 2.4 international cooperation (conditions, scope)	
Article 5, third paragraph				
65	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 notify them of any of relevant developments in the engagement with the third country concerned.</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 informed of any relevant developments pursuant to paragraphs 1 and 2. 9/1/23: a horizontal reporting obligation in 16(1) consolidates all specific reporting provisions; 29/11/22: Deleted 'notify' as already covered in 'keep fully informed' 'relevant' clarifies what type of developments are to be communicated. Replaced by the horizontal reporting obligation in Article 16(1).	

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			7. Horizontal provisions	
	Article 5, fourth paragraph			
G	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. 4. The Commission shall remain open to 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 enter into consultations with the third country concerned after the adoption of Union response measures pursuant to Article 7 and, as the case may be, in conjunction with a suspension of any Union response measures pursuant to Article 10(2). 29/11/22: Council text, but no change in substance. No changes to 4th column text. 2.3 engagement/consultations (conditions, scope)	4. The Commission shall remain open to enter into consultations with the third country concerned after the adoption of Union response measures pursuant to Article 7 and, as the case may be, in conjunction with a suspension of any Union response measures pursuant to Article 10(2).
	Article 6			
G	67	Article 6 International cooperation	Article 6 International cooperation	Article 6 International cooperation
	Article 6, first paragraph			
Y	68	The Commission shall enter into consultations or cooperation, on behalf of the Union, with any other third country affected by the	The Commission shall enter into consultations or cooperation with any third country affected by the same or similar measures of	The Commission shall enter into consultations or cooperation with any third country affected by the same or similar measures of

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	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>	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.	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, <u>sharing related information and experiences to facilitate a coherent response to such measures of economic coercion,</u> -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 <u>Such consultation or cooperation shall not unduly delay the procedure under this Regulation. The Commission shall</u> invite, where appropriate, Member States to participate in such consultation and cooperation. 29/11/22: 'partner' deleted in view of the new definition that covers for that situation Otherwise consolidation of the texts of the EP and Council. 9/1/23: reference to consultation of the Council added – omitted by mistake in the 4th column; reporting obligation replaced by the horizontal reporting obligation in 16(1); brackets	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, <u>[sharing related] information and experiences to facilitate a coherent response to such measures of economic coercion,</u> -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 <u>[Such consultation or cooperation shall not unduly delay the procedure under this Regulation.] The Commission shall</u> invite, where appropriate, Member States to participate in such consultation and cooperation. PRES considers that the timeline "shall not unduly delay" could be accepted, as a concession. Mindful of the fact that decisions under Article 7 are not conditional upon completion of consultations with third countries under Article 6.

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			deleted; 'unduly delay' kept – the key is 'unduly'; "collective" not necessary in addition to "coherent" and sometimes also cannot apply. 7. Horizontal provisions 6. Timelines 2.4 international cooperation (conditions, scope)	
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				
70	1. The Commission shall adopt<u>take</u> <u>a Union response measure by means of</u> an implementing act determining that it shall take a Union response measure from among the measures provided for in Annex I 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</u> <u>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 under this Regulation, where: 29/11/22: Consolidation of the EP and Council texts; 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	1. The Commission shall adopt<u>take</u> <u>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 under this Regulation, where:

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			9/1/23: reference to Annex I deleted here to avoid duplication with the second subpara. 5.2 Decision-making: stage 2	
	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, <u>where appropriate, in the reparation of the injury it has caused to the Union or its Member State</u>States within a reasonable<u>the period of time 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 <u>requested, in appropriate</u>, the reparation of the injury it has caused to the Union or a Member State within a reasonable period of time: <u>and not exceeding the time period indicated in the implementing act pursuant to Article 4 where such period is indicated.</u> 29/11/22: Consolidation Language on time period linked to approach in Article 4. 9/1/23: reference to reparation aligned with the overall concept, where a request was made for reparation and it is not a question of appropriateness in this specific context; Reference to the deadline adapted to the approach in Article 4 – case-by-case decision whether to specify a timeline.	(a) action pursuant to the Articles 4 and 5 has not resulted in the cessation of the economic coercion and, where <u>requested, in appropriate</u>, the reparation of the injury it has caused to the Union or a Member State within a reasonable period of time: <u>[and not exceeding the time period indicated in the implementing act pursuant to Article 4 where such period is indicated.]</u>

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			Specifying a deadline upfront could be limited to an indicative timeline where it would increase the deterrence effect and be useful. The timeline cannot be strict, for the sake of not prejudging the process. 6. Timelines 4. Reparation of injury	
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; 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; <u>Where the third country has ceased the economic coercion but has not repaired in full the injury as requested, the consideration of whether action is necessary to protect the interests and rights of the Union and its Member States in that particular case shall be based on the nature and extent of the damage caused and all other circumstances of the particular case. Specifically, the consideration shall be guided by the overall relationship with the third country concerned, other aspects of Union interest, including the desirability for Union persons having suffered damage to have</u>	(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

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			<u>that damage repaired, and the general obligation under customary international law to make full reparation for the injury caused through an internationally wrongful act.</u> -and 29/11/22: Consolidation. 9/1/23: Addition proposed as regards the consequences of non-reparation at this stage as requested by the co-legislators Union Interest 4. Reparation of injury	
Article 7(1), first subparagraph, point (ba)				
R 72a				<u>(ba) [Where the third country has ceased the economic coercion but has not repaired in full the injury as requested, the consideration of whether action is necessary to protect the interests and rights of the Union and its Member States in that particular case shall be based on the nature and extent of the damage caused and all other circumstances of the particular case. Specifically, the consideration shall be guided by the overall relationship with the third country concerned, other aspects of Union interest, including</u>

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				<u>the desirability for Union persons having suffered damage to have that damage repaired, and the general obligation under customary international law to make full reparation for the injury caused through an internationally wrongful act.</u> <u>and/</u>
Article 7(1), first subparagraph, point (c)				
73	(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, <u>as determined</u> in accordance with Article 7bis. 29/11/22: Consolidation 9/1/23: revised for appropriate reference to the Union interest article; last phrase deleted to make it general, beyond the specific case; Union Interest	
Article 7(1), second subparagraph				
74	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 conditions referred to in points (a).</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 pursuant to Annex I. Such	In the implementing act referred to in the first subparagraph, the Commission shall also determine the appropriate Union response consisting in one or more measures pursuant to Annex I <u>measures . The Commission shall pay particular</u>	In the implementing act referred to in the first subparagraph, the Commission shall also determine the appropriate Union response consisting in one or more measures pursuant to Annex I <u>measures . The Commission shall explain</u>

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	<u>(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.	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.	<u>attention to the requirement to explain that the conditions referred to in points (a), (b) and (c) are met and that the Union response measure is appropriate in accordance with Article 9(2).</u> Such measures may apply with regard to natural or legal persons designated in accordance with Article 8. 29/11/22: Consolidation and adjustment of language 9/1/23: adjustment to reflect definition of Union response measures; linguistic change – making a separate sentence; and adding a reference to Article 9(2) where the criteria for selection and design are contained – to link ‘appropriate’ to a specific provision; 3.7 Union response: criteria 4. Reparation of injury	<u>how the conditions referred to in points (a), (b) and (c) are met and that the Union response measure is appropriate in accordance with Article 8 in that act.</u> [Such measures may apply with regard to natural or legal persons designated in accordance with Article 8. -]
Article 7(1), third subparagraph				
75	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</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	Insofar as the measures of the third country concerned constitute an internationally wrongful act, Union response measures adopted under this Regulation may consist of measures implying the non-performance of international obligations towards the third country concerned.	

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	<u>and publish it in the Official Journal of the European Union and through other suitable public communication means.</u>	measures implying the non-performance of international obligations towards the third country concerned.	29/11/22: EP amendment in part is moved up, the reporting and publication obligations are redundant given the existing obligations under the Comitology Regulation. No changes to 4th column text. 3.7 Union response: criteria	
Article 7(1), third subparagraph a				
Y	75a		<u>The Commission may also adopt, pursuant to other legal instruments, measures that are not listed in Annex I. Any such adoption shall be coordinated and consistent with action under this Regulation.</u> 29/11/2022: There is a corresponding recital in the Council Mandate (16ter); the recital is also enough on its own; 9/1/23: Linguistic suggestion: a swap of phrases for better clarity, no change of meaning; 3.1 Union response: type of measures 1.2 Relations with other instruments and policies	<u>Where other measures for the purpose of responding to the measure of economic coercion are adopted pursuant to other legal acts, Union response measures under this Regulation shall be coordinated with those measures.</u>
Article 7(2)				
Y	76			Y

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	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 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>The specified date for application shall not be later than three months from the adoption of the implementing act, unless the implementing act specifies a later date in light of the specific circumstances</u>. The Commission shall 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>or, where requested, to repair the injury caused</u>. 9/1/23: Three months might not be enough; necessary to have the flexibility in individual cases to set the period in a targeted manner; “and” becomes “or” as regards reparation, in line with Art 7(1). 6. Timelines 4. Reparation of injury 3.2 Union response: deferral application	2. The Union response measures shall apply from a specified date after the adoption of the implementing act referred to in paragraph 1. <u>The specified date for application shall not be later than [three months] from the adoption of the implementing act, unless the implementing act specifies a later date in light of the specific circumstances</u>. The Commission shall 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>[or [and], where requested, to repair the injury caused.]</u>
Article 7(3)				
77	3. The Commission shall, upon adoption of the implementing act, notify the third country concerned	3. The Commission shall, Upon adoption of the implementing act, notify the third country concerned	3. Upon adoption of the implementing act referred to in paragraph 1, the Commission shall	3. Upon adoption of the implementing act referred to in paragraph 1, the Commission shall

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	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>	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 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:	notify the third country concerned thereof and: No changes to 4th column text. 29/11/22: Consolidation, also in lines 77 a to c. 3.2 Union response, deferral application 2.1 examination	notify the third country concerned thereof and:
	Article 7(3), point (a)			
R	77a	(a) call on the third country concerned to promptly cease the economic coercion;	(a) call on the third country concerned to promptly cease the economic coercion; <u>call on the third country concerned to immediately cease the economic coercion and, where appropriate, to repair the injury caused;</u> 9/1/23: language adjusted to take account of drafting of Art 7 (1); 4. Reparation of injury 2.1 examination	(a) call on the third country concerned to promptly cease the economic coercion; <u>call on the third country concerned to immediately cease the economic coercion [and, where appropriate], [and where requested] to repair the injury caused;]</u>
	Article 7(3), point (b)			
G	77b			G

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		(b) offer the third country concerned to negotiate a solution; and	(b) offer the third country concerned to negotiate a solution; and 9/1/23: brackets deleted; the negotiated solution can include the reparation; the provision is not limiting; 3.2 Union response: deferral application 4. Reparation of injury 2.2 determination (contact with 3rd country conce) 2.3 engagement/consultations (conditions, scope)	(b) offer the third country concerned to negotiate a solution; and
Article 7(3), point (c)				
R 77c		(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. <u>inform the third country concerned that the Union response measures will apply, unless the economic coercion ceases and, where appropriate, the third country repairs the injury caused.</u> 9/1/23: brackets deleted; linguistic change; language adjusted to fit with Art 7 (1); 4. Reparation of injury 2.1 examination	(c) inform the third country concerned that the Union response measures will apply, unless the economic coercion ceases. <u>inform the third country concerned that the Union response measures will apply, unless the economic coercion ceases and, [where appropriate, the third country repairs the injury caused.]</u>
Article 7(4)				

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78	4. The implementing act referred to in paragraph 1 shall state that the application of the Union response measures shall be deferred, <u>but only 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></u> specified in that implementing act, where the Commission has credible information that the third country has ceased<u>taken concrete steps to cease</u> the economic coercion <u>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 Commission shall terminate the Union response measures in accordance with Article 10.	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 startdate 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 publish a notice in the <i>Official Journal of the European Union</i> 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 applydate of application of the Union response measures, the Commission shall terminate the Union response measures in accordance with Article 10.	4. The implementing act referred to in paragraph 1 shall provide for a deferred application of the Union response measures, <u>but only for a period <i>that is necessary for the Commission to verify the actual cessation of the coercion and which needs to be</i></u> of time specified in that implementing act, where the Commission has credible information that the third country has ceased <u>or has taken concrete steps to cease</u> the economic coercion <u>and, where appropriate, has repaired the injury caused</u> before the datestart 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 the date of application of the Union response measures, the Commission shall terminate the Union response	4. The implementing act referred to in paragraph 1 shall provide for a deferred application of the Union response measures, <u>but only for a period <i>that is necessary for the Commission to verify the actual cessation of the coercion for threat thereof and which needs to be</i></u> of time specified in that implementing act, where the Commission has credible information that the third country has ceased <u>or has taken concrete steps to cease</u> the economic coercion <u>and, where appropriate, has repaired the injury caused</u> before the datestart 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 the date of application of the Union response measures, the Commission shall terminate the Union response

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			measures in accordance with Article 10. 29/11/22: Consolidated No need to mention threat because the reference to coercion encompasses threat situations as well as now indicated in the definition. 9/1/23: brackets deleted; this deferral is for the purposes of verifying that the coercion stopped, and, where appropriate, the injury was repaired; 6. Timelines 3.2 Union response: deferral application 4. Reparation of injury	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 <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	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	5. Notwithstanding paragraphs 2, 3 and 4, the implementing act referred to in paragraph <u>paragraph</u> 1 may provide that Union response measures shall apply without the Commission first calling, once more <u>again</u>, on the third country concerned to cease the economic coercion or, <u>where appropriate, repair the injury caused, or</u> without the Commission first notifying the third country concerned that Union response measure will apply <u>pursuant to paragraph 3</u>, where in duly justified cases, this is	5. Notwithstanding paragraphs 2, 3 and 4, the implementing act referred to in paragraph <u>paragraph</u> 1 may provide that Union response measures shall apply without the Commission first calling, once more <u>again</u>, on the third country concerned to cease the economic coercion or, <u>[where appropriate, repair the injury caused, or]</u> without the Commission first notifying the third country concerned that Union response measure will apply <u>pursuant to paragraph 3</u>, where in duly justified

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	effectiveness of Union response measures.	or a Member States State, notably of the effectiveness of Union response measures.	necessary for the preservation of the rights and interests of the Union or a Member State, notably of the effectiveness of Union response measures. 29/11/22: Need to clarify reason for EP deleting the opening phrase "Notwithstanding ..."; 9/1/23: Removed square brackets (Notwithstanding...); removed typo; Language on reparation – clarification regarding reparation, as requested by co-legislators. 3.2 Union response: deferral application 4. Reparation of injury 2.2 determination (contact with 3rd country conce)	cases, this is necessary for the preservation of the rights and interests of the Union or a Member State, notably of the effectiveness of Union response measures.
Article 7(5a)				
79a		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	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	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 <u>such date is</u>

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		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.	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. 9/1/23: brackets deleted; 29/11/22: Council texts makes explicit implicit approach which would be achieved through deferral process in Article 7(4) 3.2 Union response: deferral application	<u>unknown at the time of the adoption of that implementing act, the Commission shall specify an indicative date on the basis of the best information available to it. Where the third country modifies the specific date of application, or the date becomes known to the Commission subsequently, the third country delays to a specific date the application of its measures,</u> 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.
Article 7(6)				
80	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> 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	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 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.	29/11/2022: 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 follow up, we can clarify that in the recital on urgency procedure along the lines EP suggests. The language in brackets to be discussed to understand the intentions better. 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 as adopt immediately	

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	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>		applicable implementing acts imposing Union response measures, in accordance with the procedure referred to in Article 15(3). The requirements set out in paragraphs [1 to 4 shall apply and the conditions listed in paragraph 5 are considered to be met.] Those acts shall remain in force for a period not exceeding three months. No text proposed Deleted. Would be deleted under package 1 and 2. See the packages non-paper of 9/1/23. 5.4 Decision-making: urgency procedure	
Article 7(7)				
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, <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 changes to 4th column text. No text suggested 5.5 Decision-making: delegated acts	

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<i>Article 7(7), point (a)</i>				
R	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;	<i>deleted</i>	<i>No text proposed</i> <i>No changes to 4th column text.</i> 5.5 Decision-making: delegated acts	R
<i>Article 7(7), point (b)</i>				
R	83 (b) provide as effective or more effective relief to economic operators within the Union affected by the measures of economic coercion;	<i>deleted</i>	<i>No text proposed</i> <i>No changes to 4th column text.</i> 5.5 Decision-making: delegated acts	R
<i>Article 7(7), point (c)</i>				
R	84 (c) avoid or minimise the negative impact on affected actors; or	<i>deleted</i>	<i>No text proposed</i> <i>No changes to 4th column text.</i> 5.5 Decision-making: delegated acts	R
<i>Article 7(7), point (d)</i>				
R	85 (d) avoid or minimise administrative complexity and costs.	<i>deleted</i>	<i>No changes to 4th column text.</i> <i>No text proposed</i>	R

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			5.5 Decision-making: delegated acts	
	Article 7bis			
85a		Article 7bis Union's interest	Article 7bis 7a <u>Article 7bis</u> <u>Determination of the</u> Union's interest Union Interest	Article 7bis 7a <u>Article 7bis</u> <u>Determination of the</u> Union's interest
	Article 7a(1)			
85b		1. 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 concludes that it	<u>1.</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. 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 <u>in the determination</u> . 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	<u>1.</u> A The determination as to whether it is in the Union's interest to act under this Regulation <u>of the Union interest in taking, suspending, amending or terminating Union response measures</u> shall be based on <u>consist in</u> an appreciation of all the various interests <u>at stake</u> , taken as a whole; including the. The various 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 <u>shall include, primarily, the preservation of the ability of the Union and its Member States to make legitimate sovereign choices free from economic coercion, as</u>

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		is in the Union's interest to take such measures.	that it is in the Union's interest to take such measures. 9/1/23: Union interest determination – operative provision and linked to the definition. The term determination is inserted in the title and in the end of the second sentence. Definitions Union Interest 1.1 Scope and definition	<u>well as all other interests of the Union</u> 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 or the <u>Member States specific to the particular case at stake, interests of Union economic operators, including upstream and downstream industries, and of final Union</u> response measures under this Regulation shall be taken where the Commission concludes that it is in the Union's interest to take such measures <u>consumers, affected, or potentially affected, by the measures of economic coercion or by Union response measures. The determination shall be based on all information available.</u> 09/02: New draft needed (COM)
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 See packages non-paper of 9/1/23. 3.9 Union response: Natural and legal persons	Article 8 Union response measures with regard to natural or legal persons
Article 8(1), first subparagraph				

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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 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.	1. Natural or legal persons which engage, or may engage in activities covered by Article 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. 29/11/2022: Consolidation of lines 87, 88 and 93; Square brackets around additional substantive elements inserted by Council. Requires discussion. Reference to adoption of implementing act and relation with Art 7(1) addressed in line 94b 3.9 Union response: Natural and legal persons	1. Natural or legal persons which engage, or may engage in activities covered by Article 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.
Article 8(1), first subparagraph, point (a)				
88	(a) legal or natural persons designated in accordance with paragraph 2 point (a) shall be subject to Union response measures; or	<i>deleted</i>	<u>(a)</u> 29/11/22: EP text moved up to line 87. Designation criteria moved to line 94a 3.9 Union response: Natural and legal persons	<u>(a)</u>
Article 8(1), first subparagraph, point (b)				

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R	89	deleted	No text suggested. For political discussion See packages non-paper of 9/1/23. 3.9 Union response: Natural and legal persons	<u>[(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.]</u> / new text of 9/1 from COM/ deletion
Article 8(1), second subparagraph				
Y	90	deleted	29/11/22: Moved below, line 94b 3.9 Union response: Natural and legal persons	
Article 8(1), third subparagraph				
Y	91	deleted	29/11/22: Moved below, line 94b 3.9 Union response: Natural and legal persons	
Article 8(2)				

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Y	92 2. The Commission may designate a natural or legal person where it finds:	<i>deleted</i>	2. 29/11/22: Moved below, line 94a 3.9 Union response: Natural and legal persons	Y
Article 8(2), point (a)				
G	93 (a) that such person is connected or linked to the government of the third country concerned; or,	<i>deleted</i>	29/11/22: Moved above 3.9 Union response: Natural and legal persons	G
Article 8(2), point (b)				
R	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.	<i>deleted</i>	No text suggested. For political discussion. See packages non-paper of 9/1/23. 3.9 Union response: Natural and legal persons	R
Article 8(2a)				
Y	94a	3. Paragraph 1 shall only apply to natural or legal persons designated in accordance with this Article.	3. Paragraph 11 shall only apply to natural or legal persons designated in accordance with this Article.	Y

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			29/11/22: Substantively equivalent to COM proposal/EP position. No changes to 4th column text. 3.9 Union response: Natural and legal persons	
Article 8(2b)				
y	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. 29/11/22: Substantively equivalent to COM proposal/EP position. No changes to 4th column text. 3.9 Union response: Natural and legal persons	y
Article 8(2c)				
y	94c	5. The implementing act referred to in paragraph 4 of this Article may be adopted simultaneously with the implementing act	5. The implementing act referred to in paragraph 4 of this Article may be adopted simultaneously with the	y

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		referred to in Article 7(1), or subsequently.	implementing act referred to in Article 7(1), or subsequently. 29/11/22: Substantively equivalent to COM proposal/EP position (line 90). No changes to 4th column text. 3.9 Union response: Natural and legal persons	
Article 8(2d)				
94d		6. <i>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>	6. <i>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> <u><i>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></u> 29/11/2022: Requires discussion (94 d-g) + 95 9/1/2023: square brackets removed 3.9 Union response: Natural and legal persons	
Article 8(2d), point (a)				
94e				

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		(a) <i>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;</i>	(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; <u>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;</u> 9/1/2023: square brackets removed 3.9 Union response: Natural and legal persons	
Article 8(2d), point (b)				
94f		(b) <i>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</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	

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		<i>practices which prevent, restrict or distort competition; or</i>	distort competition; or <u>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</u> 9/1/2023: square brackets removed 3.9 Union response: Natural and legal persons	
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>	(c) such person effectively acts on behalf of, or at the direction or instigation of the government of the third country concerned. <u>such person effectively acts on behalf of, or at the direction or instigation of the government of the third country concerned.</u> 9/1/2023: square brackets removed 3.9 Union response: Natural and legal persons	
Article 8(3)				

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95	3. In making this designation the Commission shall examine all relevant criteria and available 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.	<i>deleted</i>	3.9 Union response: Natural and legal persons	
Article 8(4)				
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 conditions of paragraph 2, point (a) or point (b). The Commission may also seek additional information it considers	48. Where the Commission has grounds to consider that persons believe that a person should be designated 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 under the conditions of paragraph 2, point (a) or point (b). The Commission may also seek additional information it considers	8. Where the Commission has grounds to believe that a person should be designated on the basis of paragraph 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 would be subject to. 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. 29/11/22: Consolidation, based on certain specifications developed in the Council position. No changes to 4th column text. 3.9 Union response: Natural and legal persons	84. Where the Commission has grounds to believe that a person should be designated on the basis of <u>paragraph 1</u> , 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 would be subject to. 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.

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		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)				
G	96a	4a. Before deciding on the designation, the Commission shall give:	<u>4a.</u> Before deciding on the designation, the Commission shall give:<u>L</u> 29/11/22: Equivalent to part of COM/EP text in line 96 No changes to 4th column text. 3.9 Union response: Natural and legal persons	<u>4a.</u> Before deciding on the designation, the Commission shall give:<u>L</u>
Article 8(4a), point (a)				
Y	96b	(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	(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 <u>1L</u>; within a reasonable period of time; and 29/11/22: Equivalent to part of COM/EP text in line 96	(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 <u>paragraph 1L</u>; within a reasonable period of time; and

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			No changes to 4th column text. 3.9 Union response: Natural and legal persons	
Article 8(4a), point (b)				
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. 9/1/2023: removal of square brackets 29/11/2022: [requires discussion] 3.9 Union response: Natural and legal persons	(b) other interested parties the opportunity to submit observations on the possible designation.
Article 8(4b)				
96d		4b. The Commission may also seek information it considers relevant concerning the potential designation under this Article, including by requesting such information from Member States.	<u>4b.</u> The Commission may also seek information it considers relevant concerning the potential designation under this Article, including by requesting such information from Member States. 29/11/22: Same as COM/EP text – final sentence line 96 No changes to 4th column text.	<u>4b.</u> The Commission may also seek information it considers relevant concerning the potential designation under this Article, including by requesting such information from Member States.

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			3.9 Union response: Natural and legal persons 3.6 Union response: information gathering	
	Article 8(4c)			
Y	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. 29/11/2022: requires discussion 9/1/2023: removal of square brackets 3.9 Union response: Natural and legal persons	94c. [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.]
	Article 9			
G	97	Article 9 Criteria for selecting and designing Union response measures	Article 9 Criteria for selecting and designing Union response measures No changes to 4th column text.	Article 9 Criteria for selecting and designing Union response measures
	Article 9(1)			
Y	98	1. Any Union response measure shall not exceed <u>be commensurate</u>	1. Any Union response measure shall not exceed the level that is	1. Any Union response measure shall not exceed- <u>the level</u> that is <u>[shall not exceed the level that is</u>

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	to 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 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.</u>	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.	commensurate with <u>of</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 of economic coercion and the rights of <u>economic impact that those measures of economic coercion are having on</u> the Union or a Member State <u>and the rights of the Union and its Member States</u>. 29/11/22: Language in square brackets requires discussion, to better understand the intentions. 9/1/23: brackets deleted; text streamlined given the definition of injury; gravity reference kept as appropriate; 3.7 Union response: criteria Union Interest	commensurate with <u>shall be commensurate to</u> <u>the level of</u> the injury suffered by the Union or a Member State due to the third country's measures of economic coercion, <u>taking into account the gravity of the third country's measures of economic coercion</u> <u>economic impact that those measures of economic coercion are having on</u> and the rights of the Union or a Member State <u>and the rights of the Union and its Member States</u>.
Article 9(2)				
99	2. 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 <u>2</u>, on the basis of available information, including as collected	2. 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 pursuant to Article 7bis, on the basis of available information, including as collected pursuant to	2. 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 <u>determination</u> pursuant to Article 7bis, on the basis of available information, including as collected	2. 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 <u>determination</u> pursuant to Article 7bis, on the basis of available information, including as collected

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	pursuant to Article 11, and the following criteria:	Article 11, and the following criteria:	pursuant to Article 11, and the following criteria: 29/11/22: Important to refer to 2(2) for calibrating the response; 2(1) is already established via the determination decision; we do not revisit that decision here; Reference to Union interest kept in view of the consolidated definition; 9/1/23: reference to Union interest determination added; Union Interest 3.7 Union response: criteria	pursuant to Article 11, and the following criteria:
Article 9(2), point (a)				
R 100	(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> ;	(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 <u>and, where requested, reparation of the injury caused to the Union and its Member States</u>; 29/11/22: Consolidation 9/1/23: brackets deleted; addition not limiting; 3.7 Union response: criteria 4. Reparation of injury	(a) the effectiveness of the Union response measures in inducing the cessation of the economic coercion <u>and, where requested, reparation of the injury caused to the Union and its Member States</u> ;
Article 9(2), point (aa)				

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G	100a	(abis) the avoidance or minimisation of negative impacts	(abis) the avoidance or minimisation of negative impacts 29/11/22: Identical to COM/EP language in line 102 No changes to 4th column text. 3.7 Union response: criteria	(abis) the avoidance or minimisation of negative impacts
Article 9(2), point (ab)				
G	100b	- on Union actors affected by Union response measures, including the availability of alternatives for such affected actors, for example alternative sources of supply for goods or services,	- on Union actors affected by Union response measures, including the availability of alternatives for such affected actors, for example alternative sources of supply for goods or services, No changes to 4th column text. 29/11/22: Identical to COM/EP language in line 102 Union Interest	- on Union actors affected by Union response measures, including the availability of alternatives for such affected actors, for example alternative sources of supply for goods or services,
Article 9(2), point (ac)				
R	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;	L - on the investment environment in the Union or a Member State, including the impact on employment and regional development policy; L

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			29/11/22: To be discussed 9/1/23: brackets deleted; the assessment may become relevant in some circumstances; 3.7 Union response: criteria	
Article 9(2), point (b)				
G	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 Union response measures to provide relief to Union economic operators within the Union affected by the economic coercion; No changes to 4th column text. 3.7 Union response: criteria Union Interest	(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)				
G	102	(c) the avoidance or minimisation of negative impacts on affected actors by Union response measures, including the availability of alternatives for affected actors, for example alternative sources of supply for goods or services;	(c) No changes to 4th column text. 3.7 Union response: criteria Union Interest	(c)
Article 9(2), point (d)				
G	103			

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	(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; 29/11/22: Consolidation No changes to 4th column text. Union Interest 3.7 Union response: criteria	(d) the avoidance or minimisation of negative effects on other Union policies or objectives by Union response measures;
Article 9(2), point (da)				
R	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; 29/11/22: To be discussed. 9/1/23: brackets deleted; may become relevant in some circumstances; 1.2 Relations with other instruments and policies 3.7 Union response: criteria CFSP	<u>[(dbis) any relevant action in the Union's common foreign and security policy;</u>
Article 9(2), point (e)				
G	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;

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			No changes to 4th column text. 3.7 Union response: criteria	
	Article 9(2), point (f)			
G	105	(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 third countries affected by the same or similar measures of economic coercion, including where relevant any coordination pursuant to Article 6; 29/11/22: Consolidation/clarification No changes to 4th column text. 3.7 Union response: criteria	(f) the existence and nature of any response measures enacted by third countries affected by the same or similar measures of economic coercion, including where relevant any coordination pursuant to Article 6;
	Article 9(2), point (g)			
G	106	(g) any other relevant criteria established in international law.	(g) any other relevant criteria established in international law. No changes to 4th column text.	(g) any other relevant criteria established in international law.
	Article 9(2a)			
Y	106a	2a. In selecting Union response measures, the Commission shall give predominant weight to measures which most effectively	<u>2a.</u> In selecting Union response measures, the Commission shall give predominant weight to measures which most effectively	<u>2a.</u> In selecting Union response measures, the Commission shall give predominant weight to measures which most effectively

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		ensure compliance with criteria (a) and (abis).	ensure compliance with criteria (a) and (abis). 29/11/22: To be discussed. 9/1/23: brackets removed; text maintained in either package; it is in the interest of affected economic operators; 3.7 Union response: criteria Union Interest SE pres agrees	ensure compliance with criteria (a) and (abis) L .
Article 9(2b)				
106b		2bis. Without prejudice to paragraph 2, when selecting and designing an appropriate 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:	2bis. Without prejudice to paragraph 2, when selecting and designing an appropriate 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: L No text suggested; see packages non-paper of 9/1/23; 29/11/22: To be discussed. 3.7 Union response: criteria	2bis. Without prejudice to paragraph 2, when selecting and designing an appropriate 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: L
Article 9(2b), point (a)				

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y	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 29/11/22: To be discussed. 3.7 Union response: criteria	/(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
Article 9(2b), point (b)				
y	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. 29/11/22: To be discussed. 3.7 Union response: criteria	/(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.
Article 9(2c)				
y	106e	2c. 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	2c. /(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,	/2c. /(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,

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		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.	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. / 29/11/22: To be discussed. 3.7 Union response: criteria Union Interest	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. /
	Article 9(2d)			
y	106f	2d. 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 on a Union-wide basis or measures affecting procedures applied in an area where extensive Union legislation exists.	2d. / 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 on a Union-wide basis or measures affecting procedures applied in an area where extensive Union legislation exists. / 29/11/22: To be discussed. 3.7 Union response: criteria	2d. / 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 on a Union-wide basis or measures affecting procedures applied in an area where extensive Union legislation exists. /
	Article 9(3), first subparagraph			
y	107			y

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	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 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:	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 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:	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. The Commission may decide on the application of 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 could be avoided <u>or circumvented</u> by the third country or the person concerned. In assessing whether to adopt the decision referred to in the first subparagraph, the Commission shall consider, in addition to the criteria under paragraphs 1 and 2, amongst other things: 29/11/22: To be discussed. Consolidation/clarification No changes to 4th column text.	3. Where necessary to achieve the objectives of this Regulation, the <u>Commission</u> 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. The Commission may decide on the application of 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 could be avoided <u>or circumvented</u> by the third country or the person concerned. In assessing whether to adopt the decision referred to in the first subparagraph, the Commission shall consider, in addition to the criteria under paragraphs 1 and 2, amongst other things: <u>L</u>

	EP Mandate	Council Mandate	COM proposal 9 January 23	Prov/tent. outcome tech. mtgs
			3.7 Union response: criteria response: Intra-EU measures	3.8 Union response: Intra-EU measures
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 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; 29/11/22: Consolidation/clarification No changes to 4th column text. 3.7 Union response: criteria response: Intra-EU measures 3.8 Union response: Intra-EU measures SE pres agrees (Council mandate)	(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;
Article 9(3), first subparagraph, point (b)				
109	(b) the <u>possible</u> effective contribution of such intra-Union restrictions to the objective of obtaining the cessation of the measure of economic coercion;	(b) the effective contribution of such intra-Union restrictions referred to in the first subparagraph to the objective of obtaining the cessation of the measure of economic coercion to the objective of obtaining the cessation of the measure of economic coercion;	(b) the <u>possible</u> effective contribution of such intra-Union restrictions referred to in the first subparagraph to the objective of obtaining the cessation of economic coercion; 9/1/23: brackets deleted;	(b) the <u>possible</u> effective contribution of such intra-Union restrictions referred to in the first subparagraph to the objective of obtaining the cessation of economic coercion;

	EP Mandate	Council Mandate	COM proposal 9 January 23	Prov/tent. outcome tech. mtgs
			29/11/22: Consolidation/clarification 3.7 Union response: criteria SE pres agrees 3.8 Union response: Intra-EU measures	
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. No changes to 4th column text. 3.7 Union response: criteria 3.8 Union response: Intra-EU measures	(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 1 of Article 7 in light of the above criteria.	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 the above criteria referred to in the third paragraph of this Article.	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 Article 7(1) and in Article 8(1) in light of the criteria referred to in the third paragraph of this Article.	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 Article 7(1) and in Article 8(1) in light of the criteria referred to in the third paragraph of this Article.

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			No changes to 4th column text. 3.8 Union response: Intra-EU measures SE pres agrees (Council mandate) 3.2 Union response: deferral application	
Y	111a	<u>The Commission shall inform the European Parliament and the Council about the criteria for selecting and designing the Union response measures.</u>	29/11/22:Part of the implementing act, and given the use of the examination procedure, Comitology Regulation applies No changes to 4th column text. 7. Horizontal provisions	Y
	Article 10			
G	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(1)			
G	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	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	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

	EP Mandate	Council Mandate	COM proposal 9 January 23	Prov/tent. outcome tech. mtgs
	effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council <u>regularly</u> informed thereof.	effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council informed thereof.	effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council <u>regularly</u> informed thereof. 29/11/22: Consolidation/clarification No changes to 4th column text. 7. Horizontal provisions SE pres agrees	effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council <u>regularly</u> informed thereof.
Article 10(2)				
114	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 binding international third-party adjudication <u>as referred to in</u>	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 to binding international	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 shall 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, or <u>concerned or for</u> as long as necessary in light of the Union's interest <u>determination pursuant to Article 7bis</u> . 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	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 shall 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, or as long as necessary 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 also suspends its measures of economic coercion, the

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	<u>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).	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.	third-party adjudication and the third country also suspends its measures of economic coercion, the Commission shall 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. 9/1/23: reference to committing to outcome of third-party adjudication deleted because unnecessary. 29/11/22: Consolidated; 'shall' in either scenario (third country's suspension or in the Union interest); If the third country discontinues the coercion, then, the Union would rather terminate and not suspend. Union Interest 3.3-4 Union response: amendment/suspension SE pres agrees 5.3 Decision making amendment/suspension/terminati	Commission shall 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)			
G	115			G

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	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 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).	3. Where it is necessary to make adjustments to Union response measures taking into account the conditions and criteria laid down in ArticlesArticle 2 and paragraphs 2 and 9(2)3 of Article 9, or further developments, including the third 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).	3. Where it is necessary to make adjustments to Union response measures taking into account the conditions and criteria laid down in Article 2 and paragraphs 2 and 3 of Article 9<u>Articles 2 and 3 of Article 9</u>, or further developments, including the third country's reaction, the Commission may<u>shall</u>, as appropriate, amend Union response measures adopted in accordance with Articles<u>Article 7</u> and 8, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2). 29/11/22: Consolidated; Choice of 'shall' which is still qualified 'as appropriate'; The entire Art 9 in its amended version would be relevant now. 9/1/23: brackets deleted; "swiftly" omitted as it may be confused with the choice of urgency procedure; SE pres agrees 3.3-4 Union response: amendment/suspension 5.3 Decision making amendment/suspension/terminati	3. Where it is necessary to make adjustments to Union response measures taking into account the conditions and criteria laid down in Article 2 and paragraphs 2 and 3 of Article 9<u>Articles 2 and 3 of Article 9</u>, or further developments, including the third country's reaction, the Commission may<u>shall</u>, as appropriate, amend Union response measures adopted in accordance with Articles<u>Article 7</u> 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			
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:

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			No changes of 4th column text 3.5 Union response: termination	
	Article 10(4), first subparagraph, point (a)			
R	117	(a) where the economic coercion has ceased;	(a) where the economic coercion has ceased <u>and the injury caused has been repaired, where requested</u>; 29/11/22: Suggested that there should be a flexibility that measures are terminated when the coercion is terminated but the injury not repaired. It would be difficult to always argue to keep measures in place when the coercion stops but the injury is not repaired. 9/1/23:; language on reparation developed as requested by co-legislators, guidance for consideration proposed 3.5 Union response: termination 4. Reparation of injury	(a) <u>[where the economic coercion has ceased and the injury caused has been repaired, where requested];</u>
	Article 10(4), first subparagraph, point (aa)			
R	117a		<u>(abis) where the third country has ceased the economic coercion but has not repaired in full the injury as requested, but it is nevertheless</u>	<u>[(abis) where the third country has ceased the economic coercion but has not repaired in full the injury as requested, but it is nevertheless</u>

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			<u>appropriate to terminate the Union response measures. The consideration of whether it is appropriate to terminate the Union response measures shall be based on the nature and extent of the damage caused and all other circumstances of the particular case. Specifically, the decision shall be guided by the overall relationship with the third country concerned, other aspects of Union interest, including the desirability for Union persons having suffered damage to have that damage repaired, and the general obligation under customary international law to make full reparation for the injury caused through an internationally wrongful act;</u> 9/1/23:; language on reparation developed as requested by co-legislators, guidance for consideration proposed 29/11/22: Suggested that there should be a flexibility that measures are terminated when the coercion is terminated but the injury not repaired. It would be difficult to always argue to keep measures in place when the coercion stops but the injury is not repaired.	<u>appropriate to terminate the Union response measures. The consideration of whether it is appropriate to terminate the Union response measures shall be based on the nature and extent of the damage caused and all other circumstances of the particular case. Specifically, the decision shall be guided by the overall relationship with the third country concerned, other aspects of Union interest, including the desirability for Union persons having suffered damage to have that damage repaired, and the general obligation under customary international law to make full reparation for the injury caused through an internationally wrongful act;]</u>

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			3.5 Union response: termination 4. Reparation of injury Union Interest	
Article 10(4), first subparagraph, point (b)				
G	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; No changes to 4th column text.	(b) where a mutually agreed solution has otherwise been reached;
Article 10(4), first subparagraph, point (c)				
Y	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 <u>provided that the third country has taken concrete steps to implement the decision; 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 <u>on the issue of the economic coercion</u> and the Union or a Member State requires the withdrawal of the Union response measure; <u>or</u> 29/11/22: Additional condition not included because it is not certain that it will be required; arguably a ruling will be on its own the reason to terminate the EU measures or the compliance mechanism would add to the conditions and no need to spell them out here; 9/1/23: last reference deleted as misplaced; 3.5 Union response: termination	<u>[(c) where a binding decision in international third-party adjudication in a dispute <u>covering the matter of the economic coercion</u> between the third country concerned and the Union or a Member State requires the withdrawal of the Union response measure:]</u>

	EP Mandate	Council Mandate	COM proposal 9 January 23	Prov/tent. outcome tech. mtgs
	Article 10(4), first subparagraph, point (d)			
Y	120	(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 referred to <u>as determined pursuant to</u> Article 7bis. 9/1/23: editorial change. SE pres agrees (Council mandate) 3.5 Union response: termination Union Interest	(d) <u>where</u> it is appropriate in light of the Union's interest referred to in <u>as determined pursuant to</u> Article 7bis <u>.</u>
	Article 10(4), second subparagraph			
G	121	The termination of Union response measures adopted in accordance with Article 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).	The termination of Union response measures adopted in accordance with 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). No change to 4th column text. SE pres agrees (Council mandate) 5.3 Decision making amendment/suspension/termination 3.5 Union response: termination	The termination of Union response measures adopted in accordance with 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)			
G	122			

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	5. On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts suspending- amending or terminating or <u>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 about the decision and its justification.</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 7Articles 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.	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 or <u>amending</u> Union response measures adopted in accordance with 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. 9/1/23: Text reflects suggestion in packages non-paper of 9/1/23 to maintain urgency procedure for suspension and amendment, but delete for termination. Other changes editorial and to align with comitology rules. No text proposed 29/11/22: 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	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 or <u>amending</u> Union response measures adopted in accordance with 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.

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			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. 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 or amending Union response measures adopted in accordance with 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. 3.5 Union response: termination 5.4 Decision-making: urgency procedure 3.3-4 Union response: amendment/suspension SE pres agrees 5.3 Decision making amendment/suspension/terminati	
	Article 11			
123	Article 11	Article 11	Article 11	Article 11

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	Information gathering related to Union response measures	Information gathering related to Union response measures	Information gathering related to Union response measures No changes to 4th column text.	Information gathering related to Union response measures
Article 11(1)				
124	1. Before the adoption of Union response measures or the amendment of such 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 <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.	1. Before the adoption of Union response measures or the amendment of such Union response 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 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.	1. Before the adoption or amendment of Union response 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 economic operators and Union's interest <u>as necessary</u>, through a notice published in the <i>Official Journal of the European Union</i> -and, where appropriate, through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted. 29/11/22: Reference to Union interest not kept because indeed the information necessary for the appreciation of the various 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.)	1. Before the adoption or amendment of Union response 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 economic operators and Union's interest, through a notice published in the <i>Official Journal of the European Union</i> -and, where appropriate, through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted.

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			9/1/23: text can be maintained and brackets deleted; same reasoning applies; 3.5 Union response: termination 3.6 Union response: information gathering 3.3-4 Union response: amendment/suspension Union Interest SE pres agrees	
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. No changes to 4th column text.	2. The Commission may start the information gathering at any time it deems appropriate.
Article 11(3)				
126	3. In conducting the information gathering under 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.	3. In conducting the information gathering under 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.	3. In conducting the information gathering under paragraph 1, the Commission shall inform and consult stakeholders, in particular associations acting on behalf of Union economic operators <u>and Union social partners</u>, affected by possible Union response measures, and Member States' authorities involved in the preparation or implementation of legislation regulating the affected fields. No changes to 4th column text.	3. In conducting the information gathering under paragraph 1, the Commission shall inform and consult stakeholders, in particular associations acting on behalf of Union economic operators, <u>and trade unions</u> , affected by possible Union response measures, and Member States' authorities involved in the preparation or implementation of legislation regulating the affected fields.

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			3.6 Union response: information gathering SE pres agrees Union Interest	
Article 11(4)				
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 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: 29/11/22: Consolidation/clarification No changes to 4th column text. SE pres agrees (Council mandate) 3.6 Union response: information gathering	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:
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 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; 29/11/22: Consolidation/clarification No changes to 4th column text. SE pres agrees (Council mandate) 3.6 Union response: information gathering	(a) the impact of such measures on third-country actors or Union economic operators' <u>competitors and their competitors in the Union</u> , users or , consumers or on Union employees <u>employees in the EU</u> , business partners or clients of such <u>third-country</u> actors <u>in the EU</u> ;

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	Article 11(4), point (b)			
129	(b) the interaction of such measures with relevant <u>Union and</u> 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; 29/11/22: Not necessary to ask stakeholders about Union legislation No changes to 4th column text. SE pres agrees (Council mandate) 3.6 Union response: information gathering	(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; No changes to 4th column text. SE pres agrees (Council mandate)	(c) the administrative burden which may be occasioned by such measures;
	Article 11(4), point (d)			
131	(d) the Union's interest <u>effect of such measures on diminishing the negative impact of the third country's coercive measures.</u>	(d) the Union's interest referred to in Article 7bis.	(d) the Union's interest referred to in Article 7bis. 9/1/23: In view of the current drafting of the Union interest, it now makes sense to refer to it here.	(d) the Union's interest referred to in Article 7bis.

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			3.6 Union response: information gathering Union Interest SE pres agrees (Council mandate)	
Article 11(5)				
y	132	5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the 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>	5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the 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). 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. 29/11/22: Consolidation/clarification 9/1/23: square brackets removed 3.6 Union response: information gathering Union Interest SE pres agrees	5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the 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). 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. <u>[The Commission shall inform the European Parliament of such analysis in accordance with Article 10 of Regulation (EU) No 182/2011.]</u>
Article 11(6)				
y	133	6. Prior to the adoption of an implementing act in accordance	6. Prior to the adoption of an implementing act in accordance	6. Prior to the adoption of an implementing act in accordance

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	<u>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 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.	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.	with Article 10(5), the Commission shall seek information and views from relevant stakeholders in a targeted manner <u>The Commission shall seek information and views in a targeted manner from relevant stakeholders prior to the adoption of an implementing act in accordance with Article 10(5), unless the exceptional 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. 9/1/23: square brackets deleted; appropriate to focus on all actors, not just those affected by coercion (e.g., those potentially affected by the Union response measures). 29/11/22: Consolidation/clarification Need to have 'targeted manner' to differentiate from the general info gathering 3.6 Union response: information gathering SE pres agrees	with Article 10(5), the Commission shall seek information and views from relevant stakeholders in a targeted manner <u>The Commission shall seek information and views in a targeted manner from relevant stakeholders prior to the adoption of an implementing act in accordance with Article 7(6) Article 10(5), unless the exceptional 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			
y	133a	<u>Article 11a</u>	<u>Article 11a</u>	y

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	<u><i>The Chief Trade Enforcement Officer</i></u> <u><i>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}. For the purposes of this Regulation, the CTEO shall:</i></u> <u><i>(a) gather information and provide cost and data analyses with a view to determining the nature of economic coercion measures;</i></u> <u><i>(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;</i></u> <u><i>^{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).</i></u>		<u><i>Single contact point</i></u> 9/1/23: square brackets removed, editorial adjustment. 7. Horizontal provisions 1.2 Relations with other instruments and policies 3.6 Union response: information gathering	
	Article 11a(1)			
y	133b			y

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			<u>1. There shall be a single contact point within the Commission in relation to the implementation of this Regulation and its coordination with other tools related to anti-coercion policy such as the Blocking Statute^{1a}.</u> <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> 3.6 Union response: information gathering	<u>1. There shall be a single contact point within the Commission in relation to the application of this Regulation and its coordination with any relevant [instruments] [related to anti-coercion policy such as the Blocking Statute^{1a}.]</u> <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>
	Article 11a(2)			
Y	133c		<u>2. For the purposes of this Regulation, the Commission shall:</u> 3.6 Union response: information gathering	<u>2. [For the purposes of this Regulation, the Commission shall:]</u>
	Article 11a(2), point (a)			
Y	133d		<u>(a) gather information and provide cost and data analyses with a view to determining the nature of economic coercion measures;</u>	<u>(a) [gather information and provide cost and data analyses with a view to determining the nature of economic coercion measures;]</u>

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			3.6 Union response: information gathering	
	Article 11a(2), point (b)			
Y	133e		<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> 3.6 Union response: information gathering	<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>
	Article 12			
G	134	Article 12 Confidentiality	Article 12 Confidentiality	Article 12 Confidentiality
	Article 12(1)			
G	135	1. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.	1. Information received pursuant to this Regulation shall be used only for the purpose for which it was <u>supplied</u>, requested, <u>or obtained</u>. 29/11/22: Consolidation/clarification No changes to 4th column text.	1. Information received pursuant to this Regulation shall be used only for the purpose for which it was <u>supplied</u> , requested, <u>or obtained</u> .

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			SE pres agrees 7. Horizontal provisions	
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 <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 shall not reveal <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 such information 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. 29/11/22: Consolidation/clarification 'prohibit' is not suitable for this text. There is no divergence on the logic No changes to 4th column text. 7. Horizontal provisions SE pres agrees	2. The supplier of information may request such information 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.
Article 12(3)				
137				

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	3. Paragraph 2 shall not 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.	3. Paragraph 2 shall not 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.	3. Paragraph 2 shall not preclude the Commission from disclosing general information in summary <i>but meaningful</i> form, provided that such disclosure does not contain information allowing 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. 29/11/22: Consolidated No changes to 4th column text. SE pres agrees 7. Horizontal provisions	3. Paragraph 2 shall not preclude the Commission from disclosing general information in summary <i>but meaningful</i> form, provided that such disclosure does not contain information allowing 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.
Article 12(3a)				
137a			<u>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.</u>	

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Article 13				
Y	138	Article 13 Rules of origin	Article 13 Rules of origin and nationality	Article 13 Rules of origin and nationality
Article 13(1)				
G	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. No changes to 4th column text.	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)				
Y	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 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 <u>to 4 and 3</u> 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 <u>and experience in the application of measures under this Regulation or other Union acts.</u> 29/11/22: What is meant is amendment, not supplement; technically they require separate justification and conditions; Needs discussion.	2. The Commission is empowered to adopt delegated acts in accordance with Article 14 to supplement or amend <u>[points 2 to 4] and 3</u> of Annex II to take account of relevant developments in international instruments <u>and experience in the application of this Regulation or other Union acts.</u>

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			9/1/23: brackets deleted and reference to experience in application of measures retained for prudence. Intellectual property added to account for potential changes in international instruments. 5.5 Decision-making: delegated acts 8. Rules of origin	
Article 14				
G	141	Article 14 Delegated Acts	Article 14 Delegated Acts	Article 14 Delegated Acts
Article 14(1)				
G	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.
Article 14(2)				
Y	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 Article 13(2) shall be conferred on the Commission for a period of five years from <u>the</u> date of entry into force of this Regulation . Such delegation of power shall be tacitly extended for periods of an identical duration	2. The power to adopt delegated acts referred to in <u>Article 7(7)</u> Article 13(2) shall be conferred on the Commission for a period of five years from <u>the</u> date of entry into force of this Regulation . Such delegation of power shall be tacitly extended for periods of an identical

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		tacitly extended for periods of an identical duration unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.	unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. 29/11/22: Bracketed text for discussion 9/1/23: suggested approach to delegation. 5.5 Decision-making: delegated acts SE pres agrees (Council mandate)	duration unless the 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 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 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. 29/11/22: Bracketed text for discussion 9/1/23: alignment with other changes for delegated acts.	3. The delegation of power referred to in <u>[Article 7(7)]</u> 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.

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			5.5 Decision-making: delegated acts SE pres agrees (Council mandate)	
Article 14(4)				
G	145 4. Before adopting a delegated act, the 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.	4. Before adopting a delegated act, the 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.	4. Before adopting a delegated act, the 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. No changes to 4th column text.	4. Before adopting a delegated act, the 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.
Article 14(5), first subparagraph				
G	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. No changes to 4th column text.	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				
Y	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	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	A delegated act adopted pursuant to 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	A delegated act adopted pursuant to [Article 7(7)] 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

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	the European Parliament 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.	the European Parliament 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.	European Parliament 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. 29/11/22: Bracketed text for discussion 9/1/23: alignment with other changes for delegated acts. 5.5 Decision-making: delegated acts SE pres agrees (Council mandate)	the European Parliament 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.
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. No changes to 4th column text.	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)				

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R	150	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. 29/11/22: For discussion; 9/1/23: appears in both packages in packages non-paper of 9/1/23; square brackets removed. 5.2 Decision-making: stage 2 SE pres agrees (Council mandate)	
Article 15(3)				
G	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. No changes to 4th column text SE pres agrees (Council mandate)	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				
Y	151a	Article 15bis		Y

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	Article 15a(1)			
Y	151b	1. 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.	1. 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. Moved to Article 12 7. Horizontal provisions	
	Article 16			
Y	152	Article 16 Review	Article 16 <u>Reporting and</u> Review 7. Horizontal provisions	Article 16 <u>Reporting and</u> Review
	Article 16(1)			
R	153	1. The Commission shall evaluate any Union response measure adopted pursuant to Article 7 six	1. <u>The Commission shall keep the European Parliament and the Council informed, regularly and in</u>	

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	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 response measure, and draw possible conclusions for future measures. <u>The Commission shall present such report to the European Parliament and the Council.</u>	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 draw possible conclusions for future Union response measures and the review of this regulation pursuant to paragraph 2.	<u>a timely manner, of relevant developments in the application of this Regulation at the stage of examination [of any acts proposed or adopted pursuant to Article 4], engagement and international cooperation, and in 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 European Parliament or the Council. The European Parliament may express its views to [the Council and] the Commission via any appropriate means.</u> <u>1.</u> The Commission shall evaluate any Union response measure adopted pursuant to Articles <u>Article</u> 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 the <u>report the</u> Commission shall examine the effectiveness and operation of the Union response measure, and, where appropriate, draw <u>possible</u> conclusions for future Union response measures and the review	

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			of this regulation pursuant to paragraph 2. 29/11/22: A suggestion for a horizontal provision on reporting. If accepted, it should replace the individual references throughout the regulation. 9/1/23: first and second sentences merged to make the list closed; Bracketed text valid only in the scenario of package 1; in the scenario of package 2 the information obligation for determination will exist under Comitology Regulation and we should not duplicate it here 7. Horizontal provisions	
Article 16(2)				
154	2. No later than three years after the adoption of the first implementing act under <u>entry into force of</u> this Regulation, and at the latest every four years thereafter 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</u>	2. No later than three years after the adoption of the first implementing act under this 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	2. No later than three years after the adoption of the first implementing act under this Regulation or 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	

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	<u>relevant reporting of the Chief Trade Enforcement Officer.</u>	the relationship of this Regulation to other existing Union instruments.	the relationship of this Regulation to other existing Union instruments, <u>such as the Blocking Statute.</u> 29/11/22: Reconciled – taking ideas from each amendment 9/1/23: further revision to reconcile the positions, and to each scenario; reference to Blocking Statute as among the instruments that may be related. 1.2 Relations with other instruments and policies 9. Review clause and final provision 7. Horizontal provisions	
Article 17				
155	Article 17 Entry into force	Article 17 Entry into force	Article 17 Entry into force	Article 17 Entry into force
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. No changes to 4th column text.	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				

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	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. No changes to 4th column text.	This Regulation shall be binding in its entirety and directly applicable in all Member States.
	Formula			
G 158	Done at Brussels,	Done at Brussels,	Done at Brussels,	Done at Brussels,
	Formula			
G 159	For the European Parliament	For the European Parliament	For the European Parliament	For the European Parliament
	Formula			
G 160	The President	The President	The President	The President
	Formula			
G 161	For the Council	For the Council	For the Council	For the Council
	Formula			
G 162	The President	The President	The President	The President
	Annex I			
	162.1			
	Annex I, first heading			

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R	163	Union response measures pursuant to Articles 7 and 8	Union response measures pursuant to Articles 7 and 8 3.1 Union response: type of measures	Union response measures pursuant to Articles 7 and 8
	Annex I, first paragraph			
R	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: 3.1 Union response: type of measures	Measures which may be adopted pursuant to Articles 7 and 8 are:
	Annex I, first paragraph, point (a)			
R	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 of customs duties beyond the most-favoured-nation level, or the introduction of any additional charge on the importation or exportation of goods;	(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 customs duties beyond the most-favoured-nation level, or the introduction of any additional charge on the importation or exportation of goods; 29/11/22: Clarification No changes to 4th column text. 3.1 Union response: type of measures	(a) the 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 customs duties beyond the most-favoured-nation level, or the introduction of any additional charge on the importation or exportation of goods;

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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 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 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; 29/11/22: Clarification No changes to 4th column text. 3.1 Union response: type of measures	(b) <u>the</u> 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; <u></u>
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 through measures applying to transiting goods or internal measures applying to goods.	(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 goods or internal measures applying to goods.	(c) the non-performance of applicable international obligations, as necessary, and the introduction of restrictions on trade in goods made effective through measures applying to transiting goods or internal measures applying to goods. 29/11/22: Clarification No changes to 4th column text. 3.1 Union response: type of measures	(c) <u>the</u> non-performance of applicable international obligations, as necessary, and the introduction of restrictions on trade in goods made effective through measures applying to transiting goods or internal measures applying to goods. <u></u>
Annex I, first paragraph, point (d)				

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R 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 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 non-performance of applicable international obligations concerning the right to participate in tender procedures in the area of public procurement, as necessary, and: 29/11/22: Clarification No changes to 4th column text. 3.1 Union response: type of measures	(d) <u>the</u> non-performance of applicable international obligations concerning the right to participate in tender procedures in the area of public procurement, as necessary, and: <u>l</u>
Annex I, first paragraph, point (d)(i)				
R 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 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 50 % <u>a specified percentage</u> of goods or services originating in the third country concerned; and/or 29/11/22: Consolidation/Clarification; Some substantive changes for discussion 9/1/23: suggesting to use “specified percentage” rather than a fixed percentage to provide flexibility for the most appropriate Union response measures.	(i) <u>the</u> 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 50 % <u>a [50%] [specified percentage]</u> of goods or services originating in the third country concerned; and/or <u>l</u> 09/02: [a specified percentage of 50%] as in the CL mandate in line with IPI

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			3.1 Union response: type of measures	
	Annex I, first paragraph, point (d)(ii)			
R 170	(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. 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.	(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. 1. Mandatory price evaluation weighting penalty¹ 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 procedures 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.	(ii) the imposition of a score adjustment¹ on tenders of goods, services or suppliers of goods or services of the third country concerned. <u>1. Score adjustment means an obligation for contracting authorities or entities conducting public procurement procedures to increase relatively diminish, subject to certain exceptions, the 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 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.</u> <i>1. Score adjustment means an obligation for contracting authorities or entities conducting public procurement procedures to increase relatively diminish, subject to certain exceptions, the score of a tender resulting from its evaluation, on the basis of the contract award criteria defined in the relevant public procurement documents, by</i>	(ii) [the imposition of a score adjustment¹ on tenders of goods, services or suppliers of goods or services of the third country concerned. <u>1. Score adjustment means an obligation for contracting authorities or entities conducting public procurement procedures to increase relatively diminish, subject to certain exceptions, the 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 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.]</u> <i>1. Score adjustment means an obligation for contracting authorities or entities conducting public procurement procedures to increase relatively diminish, subject to certain exceptions, the score of a tender resulting from its evaluation, on the basis of the contract award criteria defined in the relevant public procurement documents, by</i>

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			<i>a given percentage. In cases where price or cost is the only contract award 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.</i> 29/11/22: Consolidation/clarification; Some substantive changes for discussion 9/1/23: square brackets removed, aligned on Council position. 3.1 Union response: type of measures	<i>a given percentage. In cases where price or cost is the only contract award 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.</i> 09/02: "score adjustment" in line with IPI
	Annex I, first paragraph			
G	171	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;
			3.1 Union response: type of measures	
	Annex I, point (e)			
R	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;	<i>deleted</i> No text proposed See package non-paper of 9/1/23. 3.1 Union response: type of measures	(e) [the suspension the non-performance] of applicable international obligations, as necessary, and the imposition of restrictions on the exportation of goods falling under the Union export control regime; <u>L</u>
	Annex I, point (f)			
R	173			

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	(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 non-performance of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services; 29/11/22: Clarification No changes to 4th column text. 3.1 Union response: type of measures	(f) <u>the</u> non-performance of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services; <u>;</u>
Annex I, point (g)				
R 174	(g) the suspension of applicable international obligations, as necessary, and the imposition of measures affecting foreign direct investment;	(g) the suspension non-performance of applicable international obligations, as necessary, and the imposition of measures affecting the access of foreign direct investment to the Union ;	(g) the non-performance of applicable international obligations, as necessary, and the imposition of measures affecting <u>the access of</u> foreign direct investment to the Union; 29/11/22: For discussion See package non-paper of 9/1/23. 3.1 Union response: type of measures	(g) <u>the</u> non-performance of applicable international obligations, as necessary, and the imposition of measures affecting <u>the access of</u> foreign direct investment to the Union; <u>;</u>
Annex I, point (h)				
R 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	(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	(h) the non-performance of applicable international obligations with respect to trade-related aspects of intellectual property rights <u>granted by a Union institution or agency and valid throughout the</u>	(h) <u>the</u> non-performance of applicable international obligations with respect to trade-related aspects of intellectual property rights <u>granted by a Union institution or agency and valid throughout the</u>

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	intellectual property rights or their commercial exploitation, in relation to right-holders who are nationals of the third country concerned;	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;	Union, <u>l</u> 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; 29/11/22: For discussion See package non-paper of 9/1/23. 3.1 Union response: type of measures	Union, <u>l</u> 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; <u>l</u>
Annex I, point (i)				
R 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 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 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; 29/11/22: Clarification No changes to 4th column text. 3.1 Union response: type of measures	(i) <u>l</u> the 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; <u>l</u>
Annex I, point (j)				
R 177	(j) the suspension of applicable international obligations with respect to the treatment of goods, as	<i>deleted</i>	No text proposed	(j) <u>[the suspension of applicable international obligations with respect to the treatment of goods,</u>

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	necessary, and the imposition of restrictions on registrations and authorisations under the chemicals legislation of the Union;		See package non-paper of 9/1/23. 3.1 Union response: type of measures	<u>as necessary, and the imposition of restrictions on registrations and authorisations under the chemicals legislation of the Union;]</u>
Annex I, point (k)				
R	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;	deleted	No text proposed See package non-paper of 9/1/23. 3.1 Union response: type of measures	(k) <u>[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;]</u>
Annex I, point (l)				
R	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.	deleted	See recital 16ter 9/1/23: Removed from Annex I, referred to in recital 16ter, covered under Commission existing powers. 3.1 Union response: type of measures	(l) <u>[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.]</u>
Annex II				
	179.1			
Annex II, first heading				
Y	180 Rules of Origin	Rules of Origin and Nationality	Rules of Origin and Nationality	Y

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			29/11/22: Clarification SE pres agrees (Council mandate) 8. Rules of origin	
Annex II, point (1)				
g	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 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). No changes to 4th column text. 8. Rules of origin	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).
Annex II, point (2)				
y	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 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 nationality of the service provider shall be deemed to be: 29/11/22: Clarification	

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			No changes to 4th column text. SE pres agrees (Council mandate) 8. Rules of origin	
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; No changes to 4th column text.	(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)				
184	(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: No changes to 4th column text.	(b) in the case of a legal person any of the 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; No changes to 4th column text.	(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;

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Annex II, point (2)(b)(ii)				
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, No changes to 4th column text.	(ii) if the service is provided through a commercial presence within the Union,
Annex II, point (a)				
187	(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 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	(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 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	(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 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 No changes to 4th column text.	(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 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 (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	(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	(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	(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

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	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.	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.	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. No changes to 4th column text.	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(iii)				
189	(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 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.	(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 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. 29/11/22: Clarification	(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 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.

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			No changes to 4th column text.	
Annex II, point (3)				
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: No changes to 4th column text.	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; No changes to 4th column text.	(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)				
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	(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	(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	(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

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	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;	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;	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; No changes to 4th column text.	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 subparagraph (a), if it is 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	(c) by derogation from subparagraph (a), if it is 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 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	(c) by derogation from subparagraph (a), if it is 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 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	(c) by derogation from subparagraph (a), if it is 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 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

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	majority of its directors or otherwise to legally direct its actions.	majority of its directors or otherwise to legally direct its actions.	majority of its directors or otherwise to legally direct its actions. No changes to 4th column text. 29/11/22: Clarification	majority of its directors or otherwise to legally direct its actions.
Annex II, point (4)				
194	4. Regarding trade-related aspects of intellectual property 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.	4. Regarding trade-related aspects of intellectual property 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 (TRIPS) .	4. Regarding trade-related aspects of intellectual property 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 (TRIPS). 29/11/22: Clarification No changes to 4th column text.	4. Regarding trade-related aspects of intellectual property 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 (TRIPS).