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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Trade Questions

Subject:	Compromise texts agreed on at the political trilogue on 27-28 March 2023
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Compromise texts agreed on at the political trilogue 27-28 March

At the political trilogue on the 27-28 March all outstanding issues were discussed. The overall provisional political agreement is what was reported to the Working Party for Trade Questions on the 28th of March, and to Coreper on the 29th of March, and this was agreed orally between the two negotiators. On some of the issues discussed, text based negotiations were undertaken. The outcome of these negotiations are listed below. However, given that technical work still needs to be done on the entire texts, the texts below are only shared for transparency reasons, and might still be further elaborated upon in technical discussions.

Joint Statement of the European Parliament, the Council and the Commission on the Regulation on protection from economic coercion by third countries

Economic coercion may affect any area of the Union's or a Member State's activities and may have complex political, economic and legal implications. This Regulation is a necessary and effective response to economic coercion and operates through deterrence but can lead to the adoption of countermeasures, where necessary in the last resort. This Regulation has no precedent, it is designed carefully and with due regard to the significant implications of cases of economic coercion. It follows that this Regulation and approaches therein, in particular the conferral of implementing powers to the Council under Article 4, are strictly subject-specific and they do not present a precedent for other legislative files based on Article 207 TFEU, or for proposing such acts. Equally, the rules on comitology agreed in this instrument do not prejudice the outcome of other on-going or future legislative negotiations and are not to be seen as precedent for other legislative files. This Regulation therefore shall not be considered as a precedent for other acts.

Recital 13 (Line 21)

[....]. In order to ensure uniform conditions for the implementation of this Regulation, and in view of the unique nature of economic coercion affecting trade and investment, implementing powers should be conferred on the Council. Therefore, following the Commission's examination and in the event that the third country applies or threatens to apply coercive measures affecting trade or investment, the Commission should submit a proposal to the Council to adopt an implementing act determining that the third country is applying a measure of economic coercion. Conferring implementing powers to the Council for the determination of economic coercion is limited to and address the circumstances arising from the economic coercion and is not to be considered as a precedent. The Council should act expeditiously and in the exercise of its implementing powers it should act in accordance with the conditions and criteria set out in this Regulation.

New recital

Economic coercion falling under this Regulation may impact the Union or any Member State implying that there will be a need to act quickly under this Regulation consistent with Union principles of solidarity between Member States and the principle of sincere co-operation. As a consequence, in acting pursuant to this Regulation, the Council should act as quickly as possible, and shall therefore act expeditiously and make all necessary efforts to adopt a decision normally within 10 weeks of the submission of the proposal by the Commission.

Article 4 (3) (Line 57a)

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. The Council shall act within eight weeks of the submission of the proposal from the Commission.

By a way of derogation, the Council may act after the eight-week period provided that it informs the Commission of the reasons for the delay.

The total period of time for the Council to act shall normally not exceed 10 weeks.

The Council, acting by a qualified majority, may amend the Commission's proposal.

In the exercise of its implementing powers, the Council shall apply the conditions laid down in Article 2(1) of this Regulation. The Council shall explain in the implementing act how the conditions set out in Article 2(1) are met.

Article 4 (New point/New line)

Prior to submitting the proposal referred to in paragraph 1, the Commission shall inform the European Parliament of the outcome of its examination.

The European Parliament shall be informed of any implementing acts proposed or adopted pursuant to this article.

Article 9 (1) (New line 100d)

on the promotion of economic growth and employment through the protection of intellectual property rights as a means to spur innovation and a knowledge economy in the Union or a Member State;

Article 9 (2bis) (New line 106g)

Union response measures taken according to the first subparagraph shall not interfere with administrative decisions of Union and Member State authorities that are based on the evaluation of scientific evidence.

Article 10 p 4 (Line 117a)

Where the Council has decided pursuant to Article 4 to request reparation and the third country has ceased the economic coercion but has not repaired the injury, unless it is necessary in the light of the achievement of the objective of this regulation, taking into account all circumstances of the particular case, to maintain the measures.

Article 16(1) (Line 153)

The Commission shall keep the European Parliament and the Council informed, regularly and in a timely manner, of relevant developments in the application of this Regulation at the stage of examination, including its launch, of engagement with the third country and international cooperation, and in the period during which Union response measures are in force.

In light of the information received, the European Parliament or the Council may invite the Commission for an exchange of views where appropriate. The European Parliament may express its views via any appropriate means.

Annex I point b (Line 166)

the non-performance of applicable international obligations, as necessary, and the introduction or increase of restrictions on the importation or exportation of goods, including, where appropriate, on export control goods, whether made effective through quotas, import or export licences or other measures, or on the payment for goods;

Annex I point h (Line 175)

the non-performance of applicable international obligations with respect to trade-related aspects of intellectual property rights, as necessary, and the imposition of restrictions on the protection of such intellectual property rights or their commercial exploitation, in relation to right-holders who are nationals of the third country concerned;

Annex I point j (Line 177)

the non-performance of applicable international obligations as necessary, and the introduction or increase of restrictions on the possibility to place on the market goods falling under the Union's chemicals legislation

Annex I point k (Line 178)

the non-performance of applicable international obligations as necessary, and the introduction or increase of restrictions on the possibility to place on the market goods falling under the Union's sanitary and phytosanitary legislation;