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General Secretariat

**Brussels, 02 February 2023**

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

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**WORKING DOCUMENT**

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| From: | Presidency                       |
| To:   | Working Party on Trade Questions |

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| Subject: | ACI - 5-column document with SE Presidency Assessment for the informal video conference of the members of the WPTQ on 6 February 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)

Version for discussion at the Working Party for Trade Questions 6 February 2023 with focus on the following clusters:

2. 1st stage: substantive provisions and process; 3. Union response (including criteria and design of measures (article 8 and 9); 5. Decision making (urgency procedure and delegated acts); 8. Rules of Origin

New PRES ASSESSMENTS in these lines (some of which have already been discussed as part of other clusters) have been **highlighted in yellow**.

|                | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|----------------|--|--|--|--|--------------------|
| 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 | 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 |   |   |   |   |                    |
| 6          | 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, | 6                  |
| Citation 2 |   |   |   |   |                    |
| 6          | 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,   | 6                  |
| 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,                                    | 6                  |
| Citation 4 |   |   |   |   |                    |
| 6          | 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,   | 6                  |
| Formula    |   |   |   |   |                    |
| 6          | Whereas:  | Whereas:  | Whereas:  | Whereas:  | 6                  |

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|-----------|---|---|---|---|--------------------|
| Recital 1 |   |   |   |   |                    |
| 9         | (1) Pursuant to Article 3(5) of the Treaty on European Union, in its relations with the wider world, the Union is to uphold and promote its values and interests and contribute to the protection of its citizens and, among other things, to solidarity and mutual respect among peoples and the strict observance and the development of international law, including respect for the principles of the United Nations Charter. | (1) Pursuant to Article 3(5) of the Treaty on European Union, in its relations with the wider world, the Union is to uphold and promote its values and interests and contribute to the protection of its citizens and, among other things, to solidarity and mutual respect among peoples and the strict observance and the development of international law, including respect for the principles of the United Nations Charter. | (1) Pursuant to Article 3(5) of the Treaty on European Union (TEU), in its relations with the wider world, the Union is to uphold and promote its values and interests and contribute to the protection of its citizens and is to contribute, among other things, to solidarity and mutual respect among peoples and the strict observance and the development of international law, including respect for the principles of the United Nations Charter (the "UN Charter"). | (1) Pursuant to Article 3(5) of the Treaty on European Union (TEU), in its relations with the wider world, the Union is to uphold and promote its values and interests and contribute to the protection of its citizens and is to contribute, among other things, to solidarity and mutual respect among peoples and the strict observance and the development of international law, including respect for the principles of the United Nations Charter (the "UN Charter"). |                    |
| 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   | (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   | (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  | (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  |                    |

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|-----------|---|--|--|--|----------------------------------|
|           | international law. It also states that the Union is to promote multilateral solutions to common problems.   | international law. It also states that the Union is to promote multilateral solutions to common problems.  | Charter and international law. It also states that the Union is to promote multilateral solutions to common problems.  | common problems.   |                                  |
| Recital 3 |   |  |  |  |                                  |
| 11        | (3) Pursuant to Article 1 of the United Nations Charter, the purposes of the United Nations include the purpose to develop friendly relations among nations based on respect for the principle of equal rights. | (3) Pursuant to Article 1 of the United Nations Charter, the purposes of the United Nations include the purpose to develop friendly relations among nations based on respect for the principle of equal rights. <u>Moreover, in accordance with the Declaration On Principles Of International Law Friendly Relations And Co-Operation Among States in accordance with the Charter Of The United Nations, international relations are to be conducted in line with the principles of sovereign equality and non-intervention<sup>1a</sup>.</u><br><u><sup>1a</sup> UN General Assembly, Declaration on Principles of International Law concerning Friendly</u> | (3) Pursuant to Article 1 of the <del>United Nations</del> UN Charter, <b>one of</b> the purposes of the United Nations <del>include the purpose</del> is to develop friendly relations among nations based on, <b>among other things</b> , 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. | SE PRES agrees (Council mandate) |

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|------------|--|--|--|---|--------------------|
|            |  | <a href="#"><u>Relations and Cooperation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/2625(XXV)</u></a>   |  |   |                    |
| Recital 4  |  |  |  |   |                    |
| 12         | (4) Article 21(2) of the Treaty on European Union requires the Union to define and pursue common policies and actions, and work for a high degree of cooperation in all fields of international relations, among other things in order to safeguard its values, fundamental interests, independence and integrity, consolidate and support the rule of law, and the principles of international law. | (4) Article 21(2) of the Treaty on European Union requires the Union to define and pursue common policies and actions, and work for a high degree of cooperation in all fields of international relations, among other things in order to safeguard its values, fundamental interests, independence and integrity, consolidate and support the rule of law, and the principles of international law. | (4) Article 21(2) of the <del>Treaty on European Union</del> 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 <b>in order to</b> , among other things <del>in order to</del> , safeguard its values, fundamental interests, independence and integrity, consolidate and support the rule of law, and the principles of international law. | (4) Article 21(2) 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 interests, independence and integrity, consolidate and support the rule of law, and the principles of international law. |                    |
| Recital 4a |  |  |  |   |                    |
| 12a        |  | <a href="#"><u>(4a) The international law of state responsibility for internationally wrongful acts has been codified by the United Nations'</u></a>   |  | <a href="#"><u>[(4a) The Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of</u></a>   |                    |

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|--|---------------------|---|-----------------|---|--------------------|
|  |                     | <p><u><i>International Law Commission in 2001<sup>1a</sup> 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"<sup>1b</sup> 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.</i></u></p> <p><u><i><sup>1a</sup> Internationally Wrongful Acts, adopted by the United Nations' International Law Commission at its fifty-third session, in 2001, and taken</i></u></p> |                 | <p><u><i>the United Nations, states that international relations are to be conducted in line with the principles of sovereign equality and non-intervention.<sup>1a</sup> 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 relations between third countries and the Union and its Member States. 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<sup>1b</sup> and are binding in the relations between third countries and the Union and its Member States.</i></u></p> |                    |

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|-----------|---|---|---|--|--------------------|
|           |   | <p><a href="#"><u>note of by the United Nations General Assembly in resolution 56/83.</u></a></p> <p><sup>1b</sup> <a href="#"><u>United Nations General Assembly Resolution 2625 (XXV) of 24 Oct 1970.</u></a></p>   |   | <p><sup>1a</sup> <a href="#"><u>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></a></p> <p><sup>1b</sup> <a href="#"><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.</u></a></p> |                    |
| Recital 5 |   |   |   |  |                    |
| 13        | <p>(5) The modern interconnected world economy creates an increased risk of, and opportunity for, economic coercion, as it provides countries with enhanced, including hybrid, means to deploy such coercion. It is desirable that the Union contribute to the creation, development and clarification of international frameworks for the prevention and elimination of situations of economic</p> | <p>(5) The modern interconnected world economy creates an increased risk of, and opportunity for, economic coercion, as it provides countries with enhanced, including hybrid, means to deploy such coercion. It is desirable that the Union contribute to the creation, development and clarification of international frameworks for the prevention and elimination of situations of economic</p> | <p>(5) The modern interconnected world economy <del>creates an increased</del><b>increases the</b> risk of, <del>and opportunity for,</del> 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</p> | <p>(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.</p>   |                    |



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|-----------|---|--|--|---|--------------------|
|           | coercion.   | coercion.  | coercion.  |   |                    |
| Recital 6 |   |  |  |   |                    |
| 14        | <p>(6) Whilst always acting within the framework of international law, it is essential that the Union possess an appropriate instrument to deter and counteract economic coercion by third countries in order to safeguard its rights and interests and those of its Member States. This is particularly the case where third countries take measures affecting trade or investment that interfere in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State. Such measures affecting trade or investment may include not only actions taken on, and having effects within, the territory of the third country, but also actions taken by the third country, including through entities controlled or</p> | <p>(6) Whilst always acting within the framework of international law, it is essential that the Union possess an appropriate instrument to deter and counteract economic coercion by third countries in order to safeguard its rights and interests and those of its Member States. This is particularly the case where third countries take, <u>fail to take or threaten to take</u> measures affecting trade or investment that interfere in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act, <u>including any form of a particular policy choice or a stance with regard to a policy choice such as European Parliament resolutions</u>, by the Union or a Member State. Such measures affecting trade or</p> | <p>(6) Whilst always acting within the framework of international law, it is essential that the Union possess an appropriate instrument to deter and counteract economic coercion by third countries in order to safeguard its rights and interests and those of its Member States. This is particularly the case where third countries take measures affecting trade or investment that interfere in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State. Such measures affecting trade or investment may include not only actions taken on, and having effects within, the territory of the third country <b>concerned</b>, but also actions taken by the third country, including through entities</p> | <p>(6) Whilst always acting within the framework of international law, it is essential that the Union possess an appropriate instrument to deter and counteract economic coercion by third countries in order to safeguard its rights and interests and those of its Member States. This is particularly the case where third countries take measures affecting trade or investment that interfere in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State, <u>including 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</p> |                    |

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|-----------|--|--|--|--|---------------------------|
|           | directed by the third country and present in the Union, that cause harm to economic activities in the Union.   | investment may include not only actions taken, <u>failures to act, or actions threatened or to be taken</u> on, and having effects within, the territory of the third country, but also actions taken <u>or threatened to be taken</u> by the third country, including through entities controlled or directed by the third country and present in the Union, that cause harm to economic activities in the Union, <u>such as, among others, some extraterritorial effects of third country sanctions affecting EU businesses and individuals, and ultimately the sovereignty of the European Union's choices.</u> | controlled or directed by the third country and present in the Union, that cause harm to economic activities in the Union.   | 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 Union's position in relation to the third country concerned.</u> |                           |
| Recital 7 |  |  |  |  |                           |
| 15        | (7) This Regulation aims to ensure an effective, efficient and swift Union response to economic coercion, including deterrence of economic coercion of the Union or a Member State and, in the last resort, countermeasures. | (7) This Regulation aims to ensure an effective, efficient and swift Union response to economic coercion, <u>including especially the</u> deterrence of economic coercion of the Union or a Member State and, <u>in the last resort where necessary because other instruments</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, <del>in the</del> <b>as a last resort, countermeasures. This Regulation is without</b> | (7) This Regulation aims to ensure an effective, efficient and swift Union response to economic coercion, <u>including 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  | SE PRES proposes to agree |

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|------------|---------------------|--|--|--|--------------------|
|            |                     | <p><u>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<sup>1a</sup>.</u></p> <p><u><sup>1a</sup> Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, OJ L 309,29.11.1996, p. 1.</u></p> | <p><b>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.</b></p>   | <p>international agreements, as well as actions taken thereunder, in the area of the common commercial policy, and to other Union policies.</p>  |                    |
| Recital 7a |                     |  |  |  |                    |
| 15a        |                     |  | <p><b>(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</b></p> | <p><del>(7bis)</del><sup>7a</sup> 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</p> |                    |

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|-----------|---|---|--|---|---------------------------|
|           |   |   | <b>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 any response to economic coercion by a third country.</b> | 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 any response to economic coercion by a third country.  |                           |
| Recital 8 |   |   |  |   |                           |
| 16        | (8) The objectives of this Regulation, in particular counteracting third countries' economic coercion of the Union or a Member State, cannot be sufficiently achieved by Member States acting on their own. This is because Member States as distinct actors under international law may not be entitled under international law to respond to economic | (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 | <del>(8) The objectives of this Regulation, in particular counteracting third countries' economic coercion of the Union or</del> <b>measures of economic coercion against a Member State, cannot be sufficiently achieved by Member States acting on their own. This is because</b> <b>affect the Union's internal market and the Union as a whole.</b> Member States, acting on their own                     | (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. | SE PRES proposes to agree |

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|--|--|--|---|---|--------------------|
|  | <p>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 at Union level.</p> | <p>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, <i>those objectives can be achieved with greater effectiveness</i> <u>it is necessary that the means for effectively achieving those objectives are created at the</u> Union level.</p> | <p><b>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 Union may. Moreover, Member States are prevented from taking common commercial policy measures as a response to as distinct actors under international law, may not be entitled to counteract third countries economic coercion directed against the Union. This Regulation is without prejudice to the division of competences as defined in the Treaties. Therefore, those objectives can be achieved with greater effectiveness at Union level.</b></p> | <p>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 competences as defined in the Treaties.</p> |                    |

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|-----------|---|---|---|---|--------------------|
| Recital 9 |   |   |   |   |                    |
| 17        | <p>(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 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</p> | <p>(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 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,</u></p> | <p>(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 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</p> | <p>(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 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</u></p> |                    |

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|--|--|--|--|--|--------------------|
|  | <p>effects, administrative burdens and costs imposed on Union economic operators as well as the Union's interest. Therefore, this Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.</p> | <p><u>where appropriate, the reparation for the injury caused.</u> The criteria for defining the Union response measures should take into account in particular the <u>effectiveness of the measures in inducing the cessation of the economic coercion and the potential of the measures to provide relief to the economic operators within the Union affected by the economic coercion, including via internal measures such as an ad hoc compensation fund for those economic operators. The need for a precise indication of the next steps to be taken and</u> <del>need</del> to avoid or minimise <u>the risks of escalation in international trade relations,</u> collateral effects, <u>disproportionate administrative burdens</u> <del>complexity</del> 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</p> | <p>effects, administrative burdens and costs imposed on Union economic operators as well as the Union's interest. Therefore, this Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union TEU.</p> | <p><u>the cessation of the economic coercion and the</u> need to avoid or minimise collateral effects, <u>disproportionate administrative 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.</p> |                    |

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|------------|---|---|---|---|----------------------------------|
|            |   | the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.  |   |   |                                  |
| Recital 10 |   |   |   |   |                                  |
| 18         | <p>(10) Any action undertaken by the Union on the basis of this Regulation should comply with the Union's obligations under international law. International law allows, under certain conditions, such as proportionality and prior notice, the imposition of countermeasures, that is to say of measures that would otherwise be contrary to the international obligations of an injured party vis-à-vis the country responsible for a breach of international law, and that are aimed at obtaining the cessation of the breach or reparation for it.<sup>1</sup> Accordingly, response measures adopted under this Regulation should take the form of either measures adhering to the Union's international obligations or</p> | <p>(10) Any action undertaken by the Union on the basis of this Regulation should comply with the Union's obligations under international law. <u><i>The Union should continue to support the rules-based multilateral trading system, with the World Trade Organisation (WTO) at its core.</i></u> International law allows, under certain conditions, such as proportionality and prior notice, the imposition of countermeasures, that is to say of measures that would otherwise be contrary to the international obligations of an injured party vis-à-vis the country responsible for a breach of international law, and that are aimed at obtaining the cessation of the breach or reparation for it.<sup>10</sup> Accordingly, response</p> | <p>(10) Any action undertaken by the Union on the basis of this Regulation should <del>comply with the Union's obligations under</del> <b>be consistent with international law, including customary international law.</b> <del>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.<sup>1</sup> Accordingly, response measures adopted under this Regulation should take the form of either measures</del></p> | <p>(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.</p> | SE PRES agrees (Council Mandate) |



|  | Commission Proposal   | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT |
|--|---|--|--|---|--------------------|
|  | <p>measures constituting permitted countermeasures. Under international law, and in accordance with the principle of proportionality, they should not exceed a level that is commensurate with the injury suffered by the Union or a Member State due to the third country's measures of economic coercion, taking into account the gravity of the third country's measures and the Union's rights and interests in question. In this respect, injury to the Union or a Member State is understood under international law to include injury to Union economic operators.</p> <p>1. See Articles 22 and 49-53 of the Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the United Nations' International Law Commission at its fifty-third session, in 2001, and taken note of by the United Nations General Assembly in resolution 56/83.</p> | <p>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 <del>not exceed a level that is</del> <u>be</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 and the Union's rights and interests in question. In this respect, injury to the Union or a Member State is understood under international law to include injury to Union economic operators.</p> <p><u><sup>10</sup> 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</u></p> | <p><del>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</del> <b>Among the international agreements concluded by the Union and the Member States, the Agreement establishing the World Trade Organization (WTO) is the cornerstone of the rules-based multilateral trading system. Therefore, it is important that the Union or a Member State due to the third country's measures of economic coercion, taking into account the gravity of the third country's measures and the Union's rights and interests in question. In this respect, injury to the Union or a Member State is understood under international law to include injury to Union economic operators</b> <b>continue to support that system, with</b></p> |   |                    |

|             | Commission Proposal | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|-------------|---------------------|--|--|---|--------------------|
|             |                     | <p><u><a href="#">note of by the United Nations General Assembly in resolution 56/83.</a></u></p> <p><del>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.</del></p> | <p>the WTO at its core, and to use its dispute settlement system where appropriate.</p> <p>1. See Articles 22 and 49-53 of the Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the United Nations' International Law Commission at its fifty-third session, in 2001, and taken note of by the United Nations General Assembly in resolution 56/83.</p>  |   |                    |
| Recital 10a |                     |  |  |   |                    |
| 18a         |                     |  | <p><b>(10bis) Customary international law, as reflected in Articles 22 and 49 to 53 of the Articles on Responsibility of States for Internationally Wrongful Acts ("ARSIWA"), adopted by the United Nations' International Law Commission at its fifty-third session in 2001 and taken note of by the United Nations General Assembly in resolution 56/83, allows, under certain conditions, such as proportionality and prior notice, the imposition of countermeasures, that is to say of measures that would otherwise be</b></p> | <p>(10bis) Customary international law, as reflected in Articles 22 and 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</p> |                    |

|  | Commission Proposal | EP Mandate | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|--|---------------------|------------|--|---|--------------------|
|  |                     |            | <p><b>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 the injury suffered by the Union or a Member State due to the third country’s measures of economic coercion, taking into</b></p> | <p>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 <del>at the</del> level <del>that is commensurate with</del> <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 and the Union’s rights and interests in question. In this respect, injury to the Union or a Member State is understood under international law to include injury to Union economic operators.</p> |                    |

|             | Commission Proposal         | EP Mandate                  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|-------------|-----------------------------|-----------------------------|--|---|--------------------|
|             |                             |                             | 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.  |   |                    |
| Recital 10b |                             |                             |  |   |                    |
| 18b         |                             |                             | <b>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.</b> | 10ter Where measures of economic coercion constitute an internationally wrongful act, the Union should, where appropriate, in addition to the cessation of economic coercion, request the third country concerned to make reparation of any injury caused to the Union or a Member State, in accordance with Articles 31 and 34-39 of the ARSIWA. |                    |
| Recital 11  |                             |                             |  |   |                    |
| 19          | (11) Coercion is prohibited | (11) Coercion is prohibited | (11) Coercion is prohibited  | (11) Coercion is prohibited and   | SE PRES proposes   |

|  | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|--|--|--|--|---|--------------------|
|  | <p>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.</p> | <p>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 <i>examine the third-country action on the basis of</i> <u>take into account</u> qualitative <i>and/or</i> quantitative criteria that help in determining whether the third country interferes in the legitimate sovereign choices of the Union or a Member State and whether its action constitutes economic coercion which requires a Union response.</p> | <p><b>and therefore a wrongful act</b> 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. <b>Among those criteria, there should be elements that characterise, both qualitatively and quantitatively, notably the form, the effects and the</b></p> | <p>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 <del>examine the third-country action on the basis of</del> <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 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</p> | <p>to agree.</p>   |

|            | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|------------|---|---|--|--|----------------------------------|
|            |   |   | <p><b>aim of the measures which the third country is deploying. Applying those criteria would ensure that only economic coercion with a sufficiently serious impact or, where the economic coercion consists in a threat, only a threat that is credible, would fall under this Regulation. In addition, the Commission should examine closely whether the third country pursues a legitimate cause, because its objective is 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.</b></p> | <p>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.</p> |                                  |
| Recital 12 |   |   |  |  |                                  |
| 20         | (12) Acts by third countries are understood under customary international law to include all forms of action that are attributable to a | (12) Acts by third countries are understood under customary international law to include all forms of action that are attributable to a | (12) Acts by third countries are understood under customary international law to include all forms of action <b>or omission, including</b>   | (12) Acts by third countries are understood under customary international law to include all forms of action or omission, including threats, that are  | SE PRES agrees (Council Mandate) |

|  | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|--|--|--|---|--|--------------------|
|  | <p>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.<sup>1</sup></p> <p><sup>1</sup> See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.</p> | <p>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.<sup>1</sup></p> <p><sup>1</sup> See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.</p> | <p><b>threats</b>, that are attributable to a State under customary international law. <b>Articles 2(a) and 4-11 of the ARSIWA confirm that customary</b> 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.<sup>‡</sup></p> <p>_____</p> | <p>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.</p> |                    |

|            | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT                    |
|------------|--|--|--|---|---------------------------------------|
|            |  |  | †. See Articles 2(a) and 4-11 of the Articles on Responsibility of States for Internationally Wrongful Acts, footnote 1 above.   |   |                                       |
| Recital 13 |  |  |  |   |                                       |
| 21         | (13) The Commission should examine whether third-country measures are coercive, on its own initiative or following information received from any source, including legal and natural persons or a Member State. Following this examination, the Commission should determine in a decision whether the third-country measure is coercive. The Commission should communicate any affirmative determination to the third country concerned, together with a request that the economic coercion cease and a request, where appropriate, that any injury be repaired. | (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 communicate <del>any</del> the result of this examination. In the case of an</u> affirmative determination, <u>the Commission should communicate</u> to the third country concerned, together with a request that the economic coercion cease and a request, where appropriate, | (13) The Commission <b>on its own initiative or upon a reasoned request of a Member State</b> should examine whether third-country measures are coercive, <del>on its own initiative or following.</del> <b>The Commission could carry out such examination on the basis of</b> information received from any <b>reliable</b> source, including legal and natural persons or a Member State. <del>Following this examination</del> <b>To determine if a third country applies or threatens to apply measures affecting trade or investment,</b> the Commission's <b>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-</b> | NO TEXT PROPOSED  | Corresponds to article 3(1), line 51. |



|             | Commission Proposal | EP Mandate                   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT |
|-------------|---------------------|------------------------------|---|---|--------------------|
|             |                     | that any injury be repaired. | <p><del>country measure is coercive.</del><br/> <b>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,</b><br/> <b>applies or threatens to apply coercive measures affecting trade or investment, the Commission should submit a proposal to the Council to adopt an implementing act determining that the economic coercion cease and a request, where appropriate, that any injury be repaired</b><br/> <b>third country is applying a measure of economic coercion. The Council should act expeditiously.</b></p> |   |                    |
| Recital 13a |                     |                              |   |   |                    |

|     | Commission Proposal | EP Mandate | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|-----|---------------------|------------|---|--|--------------------|
| 21a |                     |            | <p><b>(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 its actions and agrees to submit the matter to international adjudication, an international agreement</b></p> | <p>(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 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.</p> |                    |

|            | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|------------|--|--|---|--|---|
|            |  |  | with the third country should be concluded, as necessary. Such an international agreement could be concluded either by the Union, in accordance with the procedure laid down in Article 218 TFEU, or by the Member State concerned.   |  |   |
| Recital 14 |  |  |   |  |   |
| 22         | (14) The Union should support and cooperate with third countries affected by the same or similar measures of economic coercion or other interested third countries. The Union should participate in international coordination in bilateral, plurilateral or multilateral fora that are geared towards the prevention or elimination of the economic coercion. | (14) The Union should <del>support and</del> cooperate with <del>third countries</del> <u>partners</u> affected by the same or similar measures of economic coercion or other interested <del>third countries</del> <u>partners</u> . The Union should participate in international coordination in <u>any</u> bilateral, plurilateral or multilateral fora that are <del>geared towards</del> <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. <b>The Commission should express the Union position after having consulted the Council in accordance with the Treaties, where appropriate, with the participation of the</b> | (14) The Union should <del>support and</del> 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 <del>geared towards</del> <u>suitable for</u> the prevention or elimination of economic coercion. The Commission should express the Union position after having consulted the Council in accordance with the Treaties, where appropriate, with the participation of the Member States. | SE PRES proposes to accept. Notes that this is linked to acceptance of “partner” or possibly the use of “actor” in Article 6 (line 68). The language should correspond. |

|            | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT        |
|------------|---|---|---|---|---------------------------|
|            |   |   | Member States the economic coercion.  |   |                           |
| Recital 15 |   |   |   |   |                           |
| 23         | <p>(15) The Union should only impose countermeasures when other means such as negotiations, mediation or adjudication do not lead to the prompt and effective cessation of the economic coercion and to reparation of the injury it has caused to the Union or its Member States, and where action is necessary to protect the interests and rights of the Union and its Member States and it is in the Union's interest. It 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.</p> | <p>(15) The Union <del>should only impose countermeasures when other</del> <u>is encouraged to use proactively all available means of engagement with the third country concerned</u> such as negotiations, <del>adjudication or mediation or adjudication</del> <u>and should impose measures in cases where such means</u> do not lead to the prompt and effective cessation of the economic coercion and to reparation of the injury it has caused to the Union or its Member States, and where action is necessary to protect the interests and rights of the Union and its Member States and it is in the Union's interest. It is appropriate that the Regulation sets out the applicable rules and procedures for the imposition and application of Union response measures and permits expeditious action where necessary to</p> | <p>(15) The Union should only impose countermeasures <del>when response measures if</del> other means such as negotiations, mediation or adjudication do not lead to the prompt and effective cessation of the economic coercion and, <b>where appropriate and requested by the Union from the third country concerned, to the</b> 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 <b>under international law</b> and it is in the Union's interest <b>to take such action</b>. 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</p> | <p>(15) <u>It is desirable that</u> the Union <del>should only impose response measures if other means use</del> <u>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 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, <del>to</del> the 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 response measures and permits expeditious action where necessary to preserve the</u></p> | SE PRES proposes to agree |

|            | Commission Proposal  | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT         |
|------------|--|---|---|---|----------------------------|
|            |  | preserve the effectiveness of any Union response measures.  | action where necessary to preserve the effectiveness of any Union response measures.  | effectiveness of any Union response measures.   |                            |
| Recital 16 |  |   |   |   |                            |
| 24         | (16) Union response measures adopted in accordance with this Regulation should be selected and designed on the basis of objective criteria, including: the effectiveness of the measures in inducing the cessation of coercion by the third country; their potential to provide relief to economic operators within the Union affected by the third-country measures of economic coercion; the aim of avoiding or minimising negative economic and other effects on the Union; and the avoidance of disproportionate administrative complexity and costs. It is also essential that the selection and design of Union response measures take account of the Union's interest. Union response measures should be selected | (16) Union response measures adopted in accordance with this Regulation should be selected and designed on the basis of objective criteria, including: <u>first and foremost</u> , the effectiveness of the measures in inducing the cessation of coercion by the third country; <u>the effectiveness of the measures in repairing the injury caused by the economic coercion; and</u> their potential to provide relief to economic operators within the Union affected by the third-country measures of economic coercion. <u>The Commission should also consider other relevant factors such as</u> the aim of avoiding or minimising negative economic and other effects on the Union; and the avoidance of | (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; <del>the</del> <b>the</b> potential to provide relief to economic operators within the Union affected by the third-country measures of economic coercion; the aim of avoiding or minimising negative economic and other effects on the Union; and the avoidance of 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, <b>which includes, inter alia, the interests of</b> | (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 <del>by the third country</del> <u>and, where appropriate, the reparation of the injury it has caused</u> ; the potential to provide relief to economic operators within the Union affected by the third-country measures of economic coercion; the aim of avoiding or minimising negative economic and other effects on the Union; and the avoidance of disproportionate administrative complexity and costs. It is <del>also</del> 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 | SE PRES proposes to agree. |

|  | Commission Proposal   | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|--|---|--|---|--|--------------------|
|  | <p>from a wide array of options in order to allow the adoption of the most suitable measures in any given case.</p> | <p>disproportionate administrative complexity and costs. It is also essential that the selection and design of Union response measures take account of the Union’s interest. Union response measures should be selected from a wide array of options in order to allow the adoption of the most suitable measures in any given case.</p> | <p><b>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.</b><br/> Union response measures should be selected from a wide array of options in order to allow the adoption</p> | <p>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 adoption of the most suitable measures in any given case.</p> |                    |

|             | Commission Proposal | EP Mandate | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|-------------|---------------------|------------|---|--|---|
|             |                     |            | of the most suitable measures in any given case.  |  |   |
| Recital 16a |                     |            |   |  |   |
| 24a         |                     |            | <b>(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.</b> | (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. | SE PRES agrees (Council mandate)  |
| Recital 16b |                     |            |   |  |   |
| 24b         |                     |            | <b>(16ter) As part of the Union response in order to induce the cessation of economic coercion by third</b>   | (16ter) As part of the Union response in order to induce the cessation of economic coercion by third countries, the Commission   | SE PRES suggests making the addition of a reference to participation in Union framework |

|            | Commission Proposal | EP Mandate | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|------------|---------------------|------------|--|---|---|
|            |                     |            | <p><b>countries, the Commission could also adopt measures pursuant to other legal instruments that confer specific powers to the Commission, for example with regard to the granting of Union funding, following the applicable procedures set out therein. Measures adopted by the Commission pursuant to such other legal instruments should be synchronised with actions taken under this Regulation and be consistent with the Union’s obligations under international law. In particular, such measures, together with Union response measures adopted under this Regulation, as the case may be, should be commensurate with the injury caused by the third countries’ measures of economic coercion. This Regulation is without prejudice to rules and procedures under such other legal instruments.</b></p> | <p>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 <i>or possibilities to limit participation in Union framework programmes for research and innovation</i>, 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 <del>be commensurate with</del> <i>not exceed</i> the injury caused by the third countries’ measures of economic coercion. This Regulation is without prejudice to rules and procedures under such other legal instruments.</p> | <p>programmes conditional upon the removal of the reference to Union Funding in Annex I.</p> <p>SE PRES suggests accepting replacing "be commensurate with" with "not exceed"</p> |
| Recital 17 |                     |            |  |   |   |



|            | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|------------|---|---|--|--|----------------------------------|
| 25         | (17) It is appropriate to set out rules on the origin or nationality of goods, services and service providers, investment and holders of intellectual property rights, for the purposes of determining the Union response measures. The rules of origin or of nationality should be determined in the light of the prevailing rules for non-preferential trade and investment that are applicable under Union law and the Union's international agreements. | (17) It is appropriate to set out rules on the origin or nationality of goods, services and service providers, investment and holders of intellectual property rights, for the purposes of determining the Union response measures. The rules of origin or of nationality should be determined in the light of the prevailing rules for non-preferential trade and investment that are applicable under Union law and the Union's international agreements. | (17) It is appropriate to set out rules on the origin or nationality of goods, services and service providers, investment and holders of intellectual property rights, for the purposes of determining the Union response measures. The rules of origin <del>and</del> of nationality should be determined in the light of the prevailing rules for non-preferential trade and investment that are applicable under Union law and the Union's international agreements. <b>This regulation does not affect the division of competences between the Union and its Member States in the field of investment.</b> | (17) It is appropriate to set out rules on the origin or nationality of goods, services and service providers, investment and holders of intellectual property rights, for the purposes of determining the Union response measures. The rules of origin and of nationality should be determined in the light of the prevailing rules for non-preferential trade and investment that are applicable under Union law and the Union's international agreements. This regulation does not affect the division of competences between the Union and its Member States in the field of investment. | SE PRES agrees (Council mandate) |
| Recital 18 |   |   |  |  |                                  |
| 26         | (18) In pursuing the objective of obtaining the cessation of the measure of economic coercion, Union response measures consisting of restrictions on foreign direct investment or   | (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   | (18) In pursuing the objective of obtaining the cessation of <del>the</del> a measure of economic coercion, Union response measures consisting of restrictions on foreign direct investment or   | (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  |                                  |

|            | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|------------|--|--|---|---|--------------------|
|            | on trade in services should only apply with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union which are owned or controlled by persons of the third country concerned where necessary to ensure the effectiveness of Union response measures and in particular to prevent their avoidance. The decision to impose any such restrictions will be duly justified in implementing acts adopted pursuant to this Regulation in the light of the criteria specified in this Regulation. | measures consisting of restrictions on foreign direct investment or on trade in services should only apply with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union which are owned or controlled by persons of the third country concerned where necessary to ensure the effectiveness of Union response measures and in particular to prevent their avoidance. The decision to impose any such restrictions will be duly justified in implementing acts adopted pursuant to this Regulation in the light of the criteria specified in this Regulation. | 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 <b>and</b> 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 <del>will</del> <b>should</b> be duly justified in implementing acts adopted pursuant to this Regulation in the light of the criteria specified in this Regulation. | 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 pursuant to this Regulation in the light of the criteria specified in this Regulation. |                    |
| 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   | (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   | (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  | (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  |                    |

|             | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|-------------|---|---|--|---|---|
|             | 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. | 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. | 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.  | view to adjusting, suspending or terminating the response measures accordingly. It is therefore necessary to set out the rules and procedures for amending, suspending and terminating Union response measures and the situations in which these are appropriate.   |   |
| Recital 20  |   |   |  |   |   |
| 28          | (20) It is essential to provide for opportunities for stakeholder involvement for the purposes of adoption and amendment of Union response 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, <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, <del>where</del> as relevant, for the purposes of <b>their</b> 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. | SE PRES proposes to agree   |
| Recital 20a |   |   |  |   |   |
| 28a         |   | <u>(20a) In light of the evident increase in the use of economic leverages by foreign countries against</u>   |  | <u>(20a) In light of the evident increase in the use of economic coercion by foreign countries against the Union and its Member</u>   | SE PRES proposes to agree (cf corresponding article in line 133a (Single Contact Point), with |

|  | Commission Proposal | EP Mandate  | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
|--|---------------------|---|-----------------|--|--|
|  |                     | <p><u>the Union and the likely increase of the frequency and severity of these practices in the future, the Chief Trade Enforcement officer (CTEO) should be overall responsible for the functioning and the implementation of this Regulation and including with a view to strengthening the preparedness for such instances, assessing Union’s dependencies and assets, adopting the necessary coordinated measures and ultimately being able to react promptly when needed. Such a horizontal competence would provide necessary support to the Union in order to be able to better anticipate and effectively react to economic coercion.</u></p> |                 | <p><u>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 able to better anticipate and effectively react to economic coercion.</u></p> | <p>the suggested following change (replacing current proposed text):</p> <p>“(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 cases in the future, the Commission should be overall responsible for the functioning and the implementation of this Regulation and monitoring such cases of economic coercion including with a view to” so as to better align with the task given</p> |

|            | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
|------------|--|--|--|--|--|
|            |  |  |  |  | to the Commission in line 133...”  |
| Recital 21 |  |  |  |  |  |
| 29         | (21) It is important to ensure an effective communication and exchange of views and information between the Commission on the one hand and the European Parliament and the Council on the other, in particular on efforts to engage with the third country concerned to explore options with a view to obtaining the cessation of the economic coercion and on matters that may lead to the adoption of Union response measures under this Regulation. | (21) It is important to ensure <del>an</del> effective <del>communication and</del> <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 regard to measures of economic coercion and on the effectiveness on Union</u> | (21) It is important to ensure <del>an</del> effective communication and <del>an</del> 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 <del>engage</del> <b>enter into consultations</b> 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 <del>effective communication and an</del> <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 <del>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</del> <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 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> | SE PRES notes a slight change of focus away from “ <del>with a view to obtaining the cessation</del> ”. <del>However</del> , considers to agree depending on reaction from EP.<br><br>SE PRES proposes to NOT accept [1. <u>[determination with regard to measures of economic coercion]</u> (see corresponding proposed redrafting in line 153) as it would entail too much information to EP on matters we believe should be determined by Council |

|            | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
|------------|--|--|--|--|--|
|            |  | <a href="#"><u>response measures.</u></a>  |  |  |  |
| Recital 22 |  |  |  |  |  |
| 30         | (22) In order to allow the update of the range of Union response measures under this Regulation and the adjustment of the rules of origin or of other technical rules, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the list of Union responses set out in Annex I and technical rules necessary for the application of the Regulation, including rules of origin laid down in Annex II. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making. <sup>1</sup> In particular, to | (22) In order to allow the update of the range of Union response measures under this Regulation and the adjustment of the rules of origin or of other technical rules, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend the list of Union responses set out in Annex I and technical rules necessary for the application of the Regulation, including rules of origin laid down in Annex II. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making. <sup>1</sup> In particular, to | (22) In order to allow the <del>update</del> <b>adjustment</b> of the <del>range of Union response measures under this Regulation and the</del> <b>adjustment of the rules of origin or of other technical rules</b> <del>rules of origin or</del> <b>nationality to take account of relevant developments in international instruments</b> , the power to adopt acts in accordance with Article 290 <del>of the Treaty on the Functioning of the European Union</del> TFEU should be delegated to the Commission <del>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</del> <b>in</b> <del>respect of amending Annex II.</del> It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and | (22) In order to allow the adjustment of <del>the</del> 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 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. <sup>14</sup> 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 | SE PRES proposes not to accept and asks the COM to explain (cf Article 13(2) in line 140). |

|            | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                                  |
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|            | <p>ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p> <p>1. OJ L 123, 12.5.2016, p. 1.</p> | <p>ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p> <p>1. OJ L 123, 12.5.2016, p. 1.</p> | <p>that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making.<sup>1</sup> In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts systematically should have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p> <p><b>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).</b></p> | <p>access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p> <p><u><a href="#">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).</a></u></p> <p><del><i>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).</i></del></p> |   |
| Recital 23 |   |   |   |  |   |
| 31         | <p>(23) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred</p>  | <p>(23) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred</p>  | <p>(23) In order to ensure uniform conditions for the implementation of <b>Union response measures under</b> this Regulation,</p>   | <p>(23) In order to ensure uniform conditions for the implementation of <u>[Union response measures under]</u> this Regulation, implementing powers should be</p>  | <p>SE PRES proposes to agree (Council Mandate).</p> |

|            | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT         |
|------------|---|---|--|---|----------------------------|
|            | <p>on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.<sup>1</sup></p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p> | <p>on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.<sup>1</sup></p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p> | <p>implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 <b>of the European Parliament and of the Council.</b><sup>1</sup> †</p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p> | <p>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.<sup>1</sup></p> <p>1. Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>                   |                            |
| Recital 24 |   |   |  |   |                            |
| 32         | <p>(24) The examination procedure should be used for the adoption of Union response measures and their amendment, suspension or termination given that those acts determine the Union's responses to economic coercion falling within the scope of this Regulation.</p>   | <p>(24) The examination procedure should be used for the adoption of Union response measures and their amendment, suspension or termination given that those acts determine the Union's responses to economic coercion falling within the scope of this Regulation.</p>   | <p>(24) The examination procedure should be used for the adoption of Union response measures and their amendment, suspension or termination given that those <del>acts</del><b>measures</b> determine the Union's <del>responses</del><b>response</b> to economic coercion falling within the scope of this Regulation <b>and as determined by the Council. In exercising its implementing powers, special attention should be</b></p>   | <p>(24) <del>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.</del></p> | SE PRES proposes to agree. |



|            | Commission Proposal                          | EP Mandate                                   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                 |
|------------|--|--|---|--|------------------------------------|
|            |  |  | <p>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.</p> | <p><i>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.</i></p> |                                    |
| Recital 25 |  |  |   |  |                                    |
| 33         | (25) The Commission should adopt immediately | (25) The Commission should adopt immediately | (25) The Commission should adopt immediately  | (25) The Commission should adopt immediately applicable  | SE PRES proposes to agree (already |

|             | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                           |
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|             | 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. | 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. | 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 <del>so require</del> <b>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.</b> | implementing acts of limited duration where, in duly justified cases relating to the amendment, <del>suspension or termination or</del> <b>suspension</b> of Union response measures, imperative grounds of urgency <b>require</b> 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. | discussed in WPTQ 27 January)                |
| Recital 25a |  |  |   |  |  |
| 33a         |  |  | <b>(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</b>  | (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.  | SE PRES proposes to agree (Council Mandate). |

|  | Commission Proposal | EP Mandate | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|--|---------------------|------------|---|--|--------------------|
|  |                     |            | <p><b>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 Council<sup>1</sup>. 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 Council<sup>2</sup>.</b></p> <p><b>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).</b></p> <p><b>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</b></p> | <p>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 Council<sup>1</sup>. Processing of personal data <u>/by the Commission/</u> should be carried out in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>2</sup>.</p> <p>1. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).</p> <p>2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).</p> |                    |

|            | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT        |
|------------|---|---|---|--|---------------------------|
|            |   |   | 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).  |  |                           |
| 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 gaining sufficient experience with the existence or application of this Regulation. This review should cover the scope, functioning, efficiency and effectiveness of this Regulation. The Commission should report on its assessment to the European Parliament and the Council, | (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 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<sup>1a</sup>. The review of this Regulation:</u> <del>This review</del> should cover the scope, functioning, efficiency and effectiveness of this Regulation. The Commission should report on its assessment to the European Parliament and the | (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 gaining sufficient experience with the existence or application of this Regulation. This review should cover the scope, functioning, efficiency and effectiveness of this Regulation <b>and also its relationship to other Union policies and existing legal instruments.</b> The Commission should report on its assessment to the European Parliament and the Council, | (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 <u>and also its relationship to other Union policies and existing legal instruments, including the Blocking Statute<sup>1a</sup>. The</u> <del>This</del> 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> <del>and also its relationship to other Union policies and existing legal instruments.</del><br><br><u><sup>1a</sup> Council Regulation (EC) No</u> | SE PRES proposes to agree |

|              | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT        |
|--------------|--|--|---|--|---------------------------|
|              |  | Council,<br><u><sup>1a</sup> 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> |   | <u><a href="#">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</a></u><br><del>The Commission should report on its assessment to the European Parliament and the Council, <a href="#">OJ L 309, 29.11.1996, p. 1</a></del> |                           |
| 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 | 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   | 1. This Regulation lays down rules and procedures <del>in order</del> to ensure the effective protection of the interests of the Union and its Member States where a third country seeks, through | 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   | SE PRES proposes to agree |

|               | Commission Proposal  | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT   |
|---------------|--|---|---|---|--|
|               | 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. | <del>measures any form of action, failure to act or threat thereof</del> 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 <del>to deter, or have the third country desist from</del> <u>of deterring, or obtaining the cessation of</u> such actions <u>and, where appropriate, repairing the injury caused, thereby permitting the Union,</u> <del>whilst permitting the Union, in the last resort,</del> to counteract such actions. | measures affecting trade or investment, to coerce the Union or a Member State into adopting or refraining from adopting a particular act. <del>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.</del> | Union or a Member State into adopting or refraining from adopting a particular act.   |  |
| Article 1(1a) |  |   |   |   |  |
| 37a           |  |   | <b>2. This Regulation establishes a framework for the Union to respond to economic coercion with the objective of deterring, or having the third country</b>  | 2. This Regulation establishes a framework for the Union to respond <del>to</del> economic coercion with the objective of deterring, or having the third country desist from such <del>coercion</del> <u>coercion</u> <del>and,</del> | SE PRES suggests replacing "obtaining" with "requesting" the reparation of injury. |

|               | Commission Proposal  | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|---------------|--|---|--|--|----------------------------------|
|               |  |   | desist from such coercion, whilst enabling the Union, as a last resort, to counteract such coercion.   | <i>where appropriate, obtaining the reparation of the injury caused</i> , whilst enabling the Union, as a last resort, to counteract such coercion.  |                                  |
| 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. | 2. Any action taken under this Regulation shall be consistent with the Union's obligations under international law <i>and conducted in the context of the principles and objectives of the Union's external action.</i> | <del>23.</del> 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.  | SE PRES agrees (Council Mandate) |
| Article 1(2a) |  |   |  |  |                                  |
| 38a           |  |   | <b>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.</b> | 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 <del>shall</del> <i>does</i> not affect the division of competences between the Union and its Member States as defined by the Treaties. | SE PRES proposes to agree        |

|            | Commission Proposal | EP Mandate  | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
|------------|---------------------|---|-----------------|--|--|
| Article 1a |                     |   |                 |  |  |
| 38b        |                     | <p><u><i>Article 1a</i></u></p> <p><u><i>Definitions</i></u><br/> <u><i>For the purposes of this Regulation, the following definitions apply:</i></u></p> <p><u><i>1. "coercion" means any third-country action or measure interfering in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State;</i></u></p> <p><u><i>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;</i></u></p> <p><u><i>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;</i></u></p> <p><u><i>4. "failure to act" means failure by a third country to comply with its</i></u></p> |                 | <p><u><i>[Article 1a</i></u></p> <p><u><i>Definitions</i></u></p> <p><u><i>For the purposes of this Regulation, the following definitions apply:</i></u></p> <p><u><i>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, 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;</i></u></p> <p><u><i>2. "measure" means any act or omission;</i></u></p> <p><u><i>3. "third-country measure" means any measure attributable to a third country;</i></u></p> <p><u><i>4. "particular act" means any legal or other act, including an expression of a position by an institution or body of the Union or</i></u></p> | <p>SE PRES would like to discuss and possibly suggest reverting to original EP suggestion and refrain from defining "country" or "third country" in this regulation. This would mean also retaining the somewhat ambiguous term "partner" in line 68 (Article 6 International Cooperation) and line 22 (Recital 14) indicating possible for subject for EU co-operation against coercion, and change to "or partner" to signify that a country EU cooperate with does not necessarily also need to be a designated "partner".</p> <p>SE PRES would</p> |



|  | Commission Proposal | EP Mandate   | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|--|---------------------|--|-----------------|--|---|
|  |                     | <p><u>obligations under legally binding instruments of international law;</u></p> <p><u>5. "threat of coercion" means a substantiated threat of a third country action or measure that is credible, significant, and could be quickly and easily deployed;</u></p> <p><u>6. "economic coercion" means coercion through a third-country action or measure affecting trade or investment;</u></p> <p><u>7. "injury" means negative impact suffered by the Union or a Member State, including Union economic operators;</u></p> <p><u>8. "Union response measure" means any measure adhering to the Union's international obligations or permitted under international law vis-à-vis the third country responsible for economic coercion, which is commensurate with the injury suffered by the Union or a Member State and aims to obtain the cessation of economic coercion and, where appropriate, the</u></p> |                 | <p><u>a Member State;</u></p> <p><u>5. "injury to the Union" means injury to the Union or a Member State, including to Union economic operators;</u></p> <p><u>6. "injury" means negative impact, including economic damage;</u></p> <p><u>7. "country" means any State, separate customs territory or other subject of international law;</u></p> <p><u>8. "third country" means any country other than the Union or a Member State;</u></p> <p><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></p> <p><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</u></p> | <p>specifically ask MS views on including "any other measures adopted pursuant to other legal instruments that confer specific powers to the Commission" in the definition of "union response measures"</p> <p>SE PRES suggests, in order to streamline the Union interest definition with art 7bis, the following wording of 10. "Union interest":</p> <p>‘..., the interests of Union economic operators <b>and Member States</b>, including <b>their</b> upstream and downstream industries, ...’</p> <p>However, this part is still awaiting a response from the EP</p> |

|   | Commission Proposal                               | EP Mandate  | Council Mandate                                   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|---|---|---|---|---|---|
|   |   | <p><u>reparation for the injury caused;</u></p> <p><u>9. "Union interest" means first and foremost the need to preserve the policy space of the Union or its Member States to take legitimate sovereign choices in ensuring the social, political, and economic cohesion of the Union, and the upholding of its strategic and economic interests.</u></p> |   | <p><u>downstream industries, as well as the interests of Union final consumers. The Union interest shall be determined in accordance with Article 7bis.</u></p> | SE PRES suggests accepting the other definitions.   |
| Article 2   |   |   |   |   |   |
| 39  | Article 2 Scope                                   | Article 2 Scope   | Article 2 Scope                                   | Article 2 Scope   |   |
| Article 2(1), first subparagraph, introductory part |   |   |   |   |   |
| 40  | 1. This Regulation applies where a third country: | 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:   | SE PRES proposes to agree. However, note that with the definition of economic coercion in line 38b, this line could read "This Regulation applies only where a third country <i>takes measures of</i> |

|   | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|---|--|--|--|--|----------------------------------|
|   |  |  |  |  | <i>economic coercion</i> ".      |
| Article 2(1), first subparagraph, first indent  |  |  |  |  |                                  |
| 41  | - interferes in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State | - interferes in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State | - interferes in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State | - interferes in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State | -                                |
| Article 2(1), first subparagraph, second indent |  |  |  |  |                                  |
| 42  | - by applying or threatening to apply measures affecting trade or investment.  | - <del>by applying or threatening</del> <u>applies or threatens</u> to apply measures affecting trade or investment.   | - by applying or threatening to apply measures affecting trade or investment.  | - by applying or threatening to apply measures affecting trade or investment.  | SE PRES agrees (Council Mandate) |
| Article 2(1), second subparagraph               |  |  |  |  |                                  |
| 43  | For the purposes of this Regulation, such third-country actions shall be referred to as measures of economic coercion.   | <del>For the purposes of this Regulation, such third-country actions shall be referred to as measures of economic coercion.</del> <u>deleted</u>   | For the purposes of this Regulation, such third-country actions shall be referred to as 'measures of economic coercion'.   |  |                                  |
| Article 2(2), introductory part                 |  |  |  |  |                                  |
| 44  |  |  |  |  | SE PRES notes that               |

|                         | Commission Proposal   | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
|-------------------------|---|--|--|--|--|
|                         | 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 <del>following</del> <u>Commission</u> shall <del>be taken</del> <u>take</u> into account <del>the following</del> :  | 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 <del>following</del> <u>[Commission]/[Commissi on and the Council]</u> shall <del>be</del> <u>take</u> taken into account <del>the following</del> :              | this is dependent on agreement on decision-making in step 1. |
| Article 2(2), point (a) |   |  |  |  |  |
| 45                      | (a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure and the pressure arising from it;                          | (a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure <del>and/or</del> <u>failure to act or threat thereof as well as</u> the pressure arising from it; <u>the Commission shall assess whether such measures are part of a broader pattern of behaviour;</u> | (a) the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure, <b>including its impact on trade or investment relations with the Union,</b> and the pressure arising from it <b>on the Union or a Member State;</b> | (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; | SE PRES agrees (Council mandate)                             |
| Article 2(2), point (b) |   |  |  |  |  |
| 46                      | (b) whether the third country is engaging in a 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 <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, <del>a or from</del> Member <del>States</del> <b>State</b> 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;  | SE PRES agrees (Council mandate)                             |
| Article 2(2), point (c) |   |  |  |  |  |

|                         | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|-------------------------|--|--|--|--|----------------------------------|
| 47                      | (c) the extent to which the third-country measure encroaches upon an area of the Union's or Member States' sovereignty;  | (c) the extent to which the third-country measure <u>or failure to act or threat thereof</u> encroaches upon an area of the Union's or Member States' sovereignty;   | (c) the extent to which the third-country measure encroaches upon an area of the Union's or a Member States' <del>State's</del> sovereignty;   | (c) the extent to which the third-country measure encroaches upon an area of the Union's or a Member State's sovereignty;  | SE PRES agrees (Council mandate) |
| Article 2(2), point (d) |  |  |  |  |                                  |
| 48                      | (d) whether the third country is acting based on a legitimate concern that is internationally recognised;  | (d) whether the third country is acting based on a <del>legitimate</del> concern that is <del>internationally recognised</del> <u>recognised as legitimate by international law and conventions</u> ;  | (d) whether the third country is acting <del>based on</del> <b>the basis of</b> a legitimate concern that is internationally recognised;   | (d) whether the third country is acting <del>on</del> the basis of a legitimate concern that is internationally recognised;  | SE PRES agrees (Council mandate) |
| Article 2(2), point (e) |  |  |  |  |                                  |
| 49                      | (e) whether and in what manner the third country, before the imposition of its measures, has made serious attempts, in good faith, to settle the matter by way of international coordination or adjudication, either bilaterally or within an international forum. | (e) whether and in what manner the third country, before the imposition of its measures, has made serious attempts, in good faith, to settle the matter by way of international coordination or adjudication, either bilaterally or within an international forum. | (e) whether and in what manner the third country, before the <del>imposition</del> <b>application</b> 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. | (e) whether and in what manner the third country, before the <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. | SE PRES proposes to agree        |
| Article 3               |  |  |  |  |                                  |

|              | Commission Proposal   | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|--------------|---|--|---|---|---|
| 50           | Article 3<br>Examination of third-country measures  | Article 3<br>Examination of third-country measures   | Article 3<br>Examination of third-country measures  | Article 3<br>Examination of third-country measures  |   |
| Article 3(1) |   |  |   |   |   |
| 51           | 1. The Commission may examine any measure of a third country in order to determine whether it meets the conditions set out in Article 2(1). The Commission shall act expeditiously. | 1. The Commission may <u>or, in the case of a duly substantiated complaint, shall</u> examine any measure of a third country, <u>failure to act or threat thereof</u> in order to determine whether it meets the conditions set out in Article 2(1). The Commission shall act expeditiously. | 1. The Commission may, <b>on its own initiative or upon a reasoned request of a Member State</b> , examine any measure of a third country in order to determine whether it meets the conditions set out in Article 2(1). <del>The Commission shall act expeditiously.</del> | 1. The Commission may, on its own initiative, <u>or <del>or</del> upon a <del>reasonable</del> 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 out in Article 2(1). <u>The Commission shall act expeditiously and its examination shall normally not exceed four months.</u> | SE PRES welcomes MS views on the proposed compromise text in the first sentence. Corresponding recital found in line 21.<br><br>SE PRES suggests to accept the timeline (as a concession) - discussed on 27 January |
| Article 3(2) |   |  |   |   |   |
| 52           | 2. The Commission may carry out the examination referred to in paragraph 1 on its own initiative or following information received from any source. The Commission shall            | 2. The Commission <del>may</del> <u>shall</u> carry out the examination referred to in paragraph 1 <u>based on substantiated information collected</u> on its own initiative or <u>following</u>   | 2. The Commission <del>may</del> <u>shall</u> carry out the examination referred to in paragraph 1 on its own initiative or following the <b>basis of</b> information received from any <b>reliable</b>   | 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</u>   | SE PRES proposes to accept  |

|               | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT         |
|---------------|---|---|---|--|----------------------------|
|               | ensure the protection of confidential information in line with Article 12, which may include the identity of the supplier of the information. | <del>information</del> 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> | source. The Commission shall ensure the protection of confidential information in <del>line</del> accordance with Article 12, which may include the identity of the supplier of the information.                          | <u>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> |                            |
| Article 3(2a) |   |   |   |  |                            |
| 52a           |   |   | <b>2bis.</b> 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 | <del>2bis.3</del> <del>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</del> <u>The Commission shall duly and in a</u>   | SE PRES proposes to accept |

|                                   | Commission Proposal   | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
|-----------------------------------|---|--|--|--|--|
|                                   |   |  | them informed about developments.  | <u>timely manner inform the Member States of relevant developments as regards launched and ongoing examinations.</u>   |  |
| Article 3(2b)                     |   |  |  |  |  |
| 52b                               |   |  | <b>3. The Commission may request Member States to supply information on the impact of the measures of the third country concerned</b>                |  | SE PRES proposes to accept (moved to L53)  |
| Article 3(3), first subparagraph  |   |  |  |  |  |
| 53                                | 3. The Commission may seek information about the impact of the measures of the third country concerned.                                     | 3. The Commission may seek information about the impact of the measures of the third country concerned.  | <del>3</del> 4. The Commission <del>may</del> 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> | SE PRES proposes to accept   |
| Article 3(3), second subparagraph |   |  |  |  |  |
| 54                                | The Commission may publish a notice in the Official Journal of the European Union or through other suitable public communication means with | <u>The Commission shall inform duly, including in the form of an exchange of views, and in a timely manner the European Parliament and the Council</u> | 5. The Commission may publish a notice in the <b>Official Journal of the European Union and, where appropriate,</b> Official Journal of the European | 5. The Commission may publish a notice in <del>the</del> <u>the</u> <i>Official Journal of the European Union</i> and, where appropriate, through other suitable public communication means with an invitation to stakeholders to                          | SE PRES suggests to accept the timeline (as a concession)<br><br>As regards publication in OJ, |



|                                     | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                                |
|-------------------------------------|---|---|---|---|---|
|                                     | an invitation to submit information within a specified time limit. In that event, the Commission shall notify the third country concerned of the initiation of the examination. | <u>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 <del>or</del> <u>and</u> through other suitable public communication means <del>with</del> <u>of the launch of an examination procedure.</u> <u>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. | <del>Union or</del> through other suitable public communication means with an invitation <b>to stakeholders</b> 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. | submit information within a specified time limit <u>taking into account the timeline indicated in paragraph 1. In the <del>In that</del> event of the publication of a notice,</u> the Commission shall notify the third country concerned of the <del>initiation</del> <u>launch</u> of the examination. | SE PRES agrees.                                   |
| Article 3(3), second subparagraph a |   |   |   |   |   |
| 54a                                 |   |   | <b>6. The Commission and Member States shall act expeditiously throughout the examination.</b>  |   | SE PRES proposes to accept (moved to L51 and L53) |
| Article 4                           |   |   |   |   |   |

|                            | Commission Proposal   | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)         | SE PRES ASSESSMENT |
|----------------------------|---|--|---|---|--------------------|
| 55                         | Article 4<br>Determination with regard to the third-country measure   | Article 4<br>Determination with regard to the third-country measure  | Article 4<br>Determination with regard to the third-country measure   | Article 4<br>Determination with regard to the third-country measure |                    |
| Article 4, first paragraph |   |  |   |   |                    |
| 56                         | Following an examination carried out in accordance with Article 3, the Commission shall adopt a decision determining whether the measure of the third country concerned meets the conditions set out in Article 2(1). The Commission shall act expeditiously. | Following an examination carried out in accordance with Article 3, the Commission shall adopt a decision, determining whether the measure of the third country concerned meets the conditions set out in Article 2(1). <u>Where no notice was published pursuant to Article 3 and in the case of a positive determination, the decision shall include an indication of the timeline for the adoption of the implementing act referred to in Article 7, which shall not 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 | <b>1.</b> Following an examination carried out in accordance with Article 3, <b>in the event that the Commission considers that the measure of the third country concerned meets the conditions of Article 2(1), it shall submit a proposal to the Council to adopt a decision an implementing act determining whether that the measure of the third country concerned meets the conditions set out in Article 2(1). The Commission shall, where appropriate, propose that the country concerned repair the injury suffered by the Union or its Member States -act expeditiously.</b> |   |                    |

|                              | Commission Proposal | EP Mandate  | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|------------------------------|---------------------|---|-----------------|--|--------------------|
|                              |                     | <p>expeditiously. <u>The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council about the decision and publish it in the Official Journal of the European Union and through other suitable public communication means.</u></p> |                 |  |                    |
| Article 4, first paragraph a |                     |   |                 |  |                    |
| 56a                          |                     |   |                 | <p><u>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</u></p> |                    |

|                               | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT |
|-------------------------------|---|---|--|---|--------------------|
|                               |   |   |  | <u>wrongful act.</u>  |                    |
| Article 4, second paragraph   |   |   |  |   |                    |
| 57                            | Prior to adopting its decision, the Commission may invite the third country concerned to submit its observations. | 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 <del>decision</del> <b>the proposal referred to in paragraph 1, where useful for the purposes of the determination referred to in that paragraph,</b> the Commission <del>may</del> <b>shall</b> invite the third country concerned to submit its observations <b>within a reasonable period of time, without prejudice to Article 5.</b> |   |                    |
| Article 4, second paragraph a |   |   |  |   |                    |
| 57a                           |   |   | 3. <b>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.</b><br><br><b>The Council, acting by a qualified majority, may amend the Commission's proposal.</b>   |   |                    |

|                               | Commission Proposal  | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                                |
|-------------------------------|--|---|--|--|---|
| Article 4, second paragraph b |  |   |  |  |   |
| 57b                           |  |   | <b>4. The Council implementing act shall be published in the Official Journal of the European Union.</b>   |  |   |
| Article 4, third paragraph    |  |   |  |  |   |
| 58                            | Where the Commission decides that the measure of the third country concerned meets the conditions set out in Article 2(1), it shall notify the third country concerned of its decision and request it to cease the economic coercion and, where appropriate, repair the injury suffered by the Union or its Member States. | 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 <del>that third country</del> 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> . | <b>5. Where the Commission decides that the measure of the third country concerned meets the conditions set out in Article 2(1), it <del>adopts the implementing act referred to in this Article, the Commission shall notify the third country concerned of that decision and request it to cease the economic coercion and, where appropriate and so decided by the Council, request it to</del> repair the injury suffered by the Union or its Member States.</b> | 5. Where the <u>Council</u> adopts the implementing act referred to in this Article, the Commission <u>shall notify the third country concerned of that decision and request it to cease the economic coercion <u>immediately</u> and, where <del>appropriate and</del> so decided by the <del>Council</del>, <u>request it</u></u> to repair the injury suffered by the Union or its Member States. | SE PRES suggests accepting " <i>immediately</i> " |
| Article 5                     |  |   |  |  |   |
| 59                            | Article 5  | Article 5   | Article 5  | Article 5  |   |

|   | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
|---|--|--|--|--|--|
|   | Engagement with the third country concerned  | Engagement with the third country concerned  | Engagement with the third country concerned  | Engagement with the third country concerned  |  |
| Article 5, first paragraph, introductory part |  |  |  |  |  |
| 60  | <p>The Commission shall be open to engage on behalf of the Union with the third country concerned, to explore options with a view to obtaining the cessation of the economic coercion. Such options may include:</p> | <p><u>Following the notice referred to in Article 4</u>, the Commission shall be open to engage on behalf of the Union with the third country concerned <u>and, provided that the country concerned also engages in good faith, in a proactive manner</u>, to explore options with a view to obtaining the cessation of the economic coercion <u>and, where appropriate, reparation of the injury it has caused to the Union or its Member States</u>. Such options <u>shall not unduly delay the procedure and</u> may include:</p> | <p><b>1. Following the adoption of an implementing act in accordance with Article 4, the Commission shall provide adequate opportunity for consultations</b><br/>The Commission shall be open to engage on behalf of the Union with the third country concerned, to explore options with a view to obtaining the cessation of the economic coercion.</p> <p><b>If the third country concerned enters into consultations with the Union in good faith the Commission shall expeditiously engage in such consultations.</b></p> <p><b>In the course of such consultations the Commission may explore options with the third country concerned including</b> Such options may</p> | <p>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>.</p> <p>If the third country concerned enters into consultations with the Union in good faith, the Commission shall expeditiously engage in such consultations.</p> <p>In the course of such consultations, the Commission may, <u>without unduly delaying the procedure</u>, explore options with the third country concerned including:</p> | <p>SE PRES proposes to accept.</p> <p>SE PRES suggests accepting "without unduly delaying the procedure"</p> |

|   | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                                 |
|---|---|---|---|---|--|
|   |   |   | include:  |   |  |
| Article 5, first paragraph, first indent  |   |   |   |   |  |
| 61  | - direct negotiations;  | - direct negotiations;  | - direct negotiations;  | - direct negotiations;  |  |
| Article 5, first paragraph, second indent |   |   |   |   |  |
| 62  | - mediation, conciliation or good offices to assist the Union and the third country concerned in these efforts; | - <del>mediation, conciliation or good offices to assist the Union and the third country concerned in these efforts;</del> <del>deleted</del> | - mediation, conciliation or good offices <b>by a third party</b> to assist the Union and the third country concerned in these efforts; |   | SE PRES proposes to agree with moving to line 63a. |
| Article 5, first paragraph, third indent  |   |   |   |   |  |
| 63  | - submitting the matter to international adjudication.  | - submitting, <u>also in parallel to the other options,</u> the matter to international adjudication.   | - submitting the matter to international adjudication.  | - submitting the matter to international adjudication.  | SE PRES agrees (Council mandate)                   |
| 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> | SE PRES proposes to agree with move from line 63a. |
| Article 5, first paragraph a              |   |   |   |   |  |

|                             | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|-----------------------------|--|--|--|--|---|
| 63b                         |  |  |  | <p><u><i>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.</i></u><sup>FN</sup></p> <p><u><i>Footnote: Draft articles on diplomatic protection, Article 19, 2006.</i></u></p> | SE PRES proposes not to accept at this stage. Should it be included, it should be redrafted and put in a recital. |
| Article 5, second paragraph |  |  |  |  |   |
| 64                          | The Commission shall seek to obtain the cessation of the economic coercion by also raising the matter in any relevant international forum. | The Commission shall seek to obtain the cessation of the economic coercion by also raising the matter in any relevant international forum. | 2. The Commission shall seek to obtain the cessation of the economic coercion by also <b>by</b> raising the matter in any relevant international forum, <b>after having, in accordance with the Treaty, consulted the Council.</b> | 2. The Commission shall seek to obtain the cessation of the economic coercion also by raising the matter in any relevant international forum, after having, in accordance with the Treaty, consulted the Council.  | SE PRES agrees (Council mandate)  |
| Article 5, third paragraph  |  |  |  |  |   |
| 65                          | The Commission shall keep the European Parliament and  | The Commission shall keep the European Parliament and  | 3. The Commission shall keep the European  | 3. <del>The Commission shall keep the European Parliament and the</del>  | SE PRES proposes to agree with the notion of moving   |



|                             | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                           |
|-----------------------------|--|--|--|--|--|
|                             | the Council informed of relevant developments.   | the Council <i>fully</i> informed, <i>in a regular and timely manner, including in the form of an exchange of views, and shall notify them of any <del>of relevant</del> developments in the engagement with the third country concerned.</i>  | Parliament and the Council informed of <b>any</b> relevant developments <b>pursuant to paragraphs 1 and 2.</b>   | <i>Council informed of any relevant developments pursuant to paragraphs 1 and 2.</i>   | this to a horizontal provision in article 16 |
| Article 5, fourth paragraph |  |  |  |  |  |
| 66                          | The Commission shall remain open to engage with the third country concerned after the adoption of Union response measures pursuant to Article 7. The Commission may pursue these efforts, as the case may be, in conjunction with a suspension, pursuant to Article 10(2), of any Union response measures. | The Commission shall remain open to engage with the third country concerned after the adoption of Union response measures pursuant to Article 7. The Commission may pursue these efforts, as the case may be, in conjunction with a suspension, pursuant to Article 10(2), of any Union response measures. | <b>4. The Commission shall remain open to <del>engage</del> enter into consultations</b> with the third country concerned after the adoption of Union response measures pursuant to Article 7. <del>The Commission may pursue these efforts and,</del> as the case may be, in conjunction with a suspension, pursuant to Article 10(2), of any Union response measures <b>pursuant to Article 10(2).</b> | 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). | <b>SE PRES agrees (Council mandate)</b>      |
| Article 6                   |  |  |  |  |  |
| 67                          | Article 6<br>International cooperation   | Article 6<br>International cooperation   | Article 6<br>International cooperation   | Article 6<br>International cooperation   |  |
| Article 6, first paragraph  |  |  |  |  |  |

|    | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT   |
|----|--|--|--|---|--|
| 68 | <p>The Commission shall enter into consultations or cooperation, on behalf of the Union, with any other country affected by the same or similar measures of economic coercion or with any interested third country, with a view to obtaining the cessation of the coercion. This may involve, where appropriate, coordination in relevant international fora and coordination in response to the coercion.</p> | <p>The Commission shall enter into consultations or cooperation, on behalf of the Union, with any other country <u>and partner</u> affected by the same or similar measures of economic coercion or with any interested <del>third country</del> <u>and partner</u>, with a view to obtaining the cessation of the coercion. This may involve, where appropriate <u>coordination in sharing related information and experiences to facilitate a collective and coherent response to such coercive measures, and</u>; coordination in relevant international fora and coordination in response to the coercion. <u>Such consultation or cooperation shall not unduly delay the application of this instrument. The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council about the consultation or cooperation.</u></p> | <p>The Commission shall enter into consultations or cooperation, <del>on behalf of the Union</del>, with any other <del>third</del> country affected by the same or similar measures of economic coercion or with any interested third country, with a view to obtaining the cessation of the coercion, <b>after having, in accordance with the Treaty, consulted the Council.</b> This may involve, where appropriate, coordination in relevant international fora and coordination in response to the coercion. <b>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.</b></p> | <p>The Commission shall enter into consultations or cooperation with any third country affected by the same or similar measures of economic coercion or with any interested third country, with a view to obtaining the cessation of the coercion, after having, in accordance with the Treaty, consulted the Council. This may involve, where appropriate, <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. <del>The Commission shall keep the European Parliament and the Council informed of any relevant developments and</del> <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.</p> | <p>SE PRES proposes to accept the timeline.</p> <p>SE PRES agrees with the notion of moving the information provision to a horizontal provision in article 16.</p> <p>SE PRES proposes to accept the proposed added text "... sharing related information...".</p> <p>The term partner (preferably replaced by "actor") subject to discussions with EP, linked to definition of country.</p> |

|   | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                           |
|---|--|--|--|--|--|
| Article 7   |  |  |  |  |  |
| 69  | Article 7<br>Union response measures   | Article 7<br>Union response measures   | Article 7<br>Union response measures   | Article 7<br>Union response measures   |  |
| Article 7(1), first subparagraph, introductory part |  |  |  |  |  |
| 70  | 1. The Commission shall adopt an implementing act determining that it shall take a Union response measure where:   | 1. The Commission shall <del>adopt</del> <u>take a Union response measure by means of</u> an implementing act <del>determining that it shall take a Union response measure</del> <u>from among the measures provided for in Annex I</u> where:   | 1. The Commission shall adopt an implementing act <b>in accordance with the examination procedure referred to in Article 15(2)</b> determining that it shall take a Union response measure <b>under this Regulation</b> , where:                               | 1. The Commission shall <del>adopt</del> <u>take a Union response measure by means of</u> an implementing act in accordance with the examination procedure referred to in Article 15(2) <del>determining that it shall take a Union response measure under this Regulation</del> , where:  | SE PRES proposes to agree.                   |
| Article 7(1), first subparagraph, point (a)         |  |  |  |  |  |
| 71  | (a) action pursuant to the Articles 4 and 5 has not resulted in the cessation of the economic coercion and reparation of the injury it 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, <u>where appropriate, in the reparation of the injury it has caused to the Union or its Member State</u> <del>States</del> within <del>a</del> <u>reasonable</u> <del>the</del> period of time <u>set in the decision referred to in Article 4</u> ; | (a) action pursuant to <del>the</del> Articles 4 and 5 has not resulted in the cessation of the economic coercion and, <b>where appropriate, the reparation of the injury it has caused to the Union or a Member State</b> within a reasonable period of time; | (a) action pursuant to <del>Articles 4 and 5</del> 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> | SE PRES proposes to accept (as a concession) |
| Article 7(1), first subparagraph, point (b)         |  |  |  |  |  |

|    | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|----|---|---|---|--|---|
| 72 | (b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case, and | (b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case, and | (b) action is necessary to protect the interests and rights of the Union and its Member States in that particular case; <b>in light of the options available;</b> and | <p>(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;</p> <p><i><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 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></i></p> <p>-and</p> | Preliminary discussion held at WPTQ 18 January. Pending further discussion on reparation. |

|   | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT   |
|---|--|--|---|---|--|
| Article 7(1), first subparagraph, point (c) |  |  |   |   |  |
| 73  | (c) action is in the Union's interest.   | (c) action is in the Union's interest <u>in the particular case of economic coercion under examination.</u>  | (c) action is in the Union's interest <b>in accordance with Article 7bis.</b>   | (c) action is in the Union's interest, <u>as determined</u> in accordance with Article 7bis.  | SE PRES proposes to agree  |
| Article 7(1), second subparagraph           |  |  |   |   |  |
| 74  | In the implementing act, the Commission shall also determine the appropriate Union response from among the measures provided for in Annex I. Such measures may also apply with regard to natural or legal persons designated in accordance with Article 8. The Commission may also adopt measures which it can take pursuant to other legal instruments. | In the implementing act <u>referred to in the first subparagraph</u> , the Commission shall <del>also determine the appropriate Union response from among the measures provided for in Annex I</del> <u>justify that the conditions referred to in points (a), (b) and (c) are met. It shall also determine and justify the appropriate Union response.</u> Such measures may also apply with regard to natural or legal persons designated in accordance with Article 8. <del>The Commission may also adopt measures which it can take pursuant to other legal instruments.</del> | In the implementing act <b>referred to in the first subparagraph</b> , the Commission shall also determine the appropriate Union response <del>from among the</del> <b>consisting in one or more</b> measures provided for <del>in</del> <b>pursuant to</b> Annex I. Such measures may also apply with regard to natural or legal persons designated in accordance with Article 8. <del>The Commission may also adopt measures which it can take pursuant to other legal instruments.</del> | In the implementing act referred to in the first subparagraph, the Commission shall <del>also</del> determine the appropriate Union response <del>consisting in one or more measures pursuant to Annex I</del> . <u>The Commission shall pay particular 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. | SE PRES notes the removal of the reference to Annex I (in the EP mandate this reference is found in L70, and in the COM compromise in the definition of "union response measures" in L38b. This is to be solved depending on outcome of discussion on definitions.<br><br>SE PRES considers the wording "pay particular attention to" unclear and asks the COM to explain. MS views are welcome. |
| Article 7(1), third subparagraph            |  |  |   |   |  |

|                                    | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT   |
|------------------------------------|--|--|--|---|--|
| 75                                 | The implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2). | The implementing act <u>referred to in the first subparagraph</u> shall be adopted in accordance with the examination procedure referred to in Article 15(2). <u>The Commission shall inform, including in the form of an exchange of views, the European Parliament and the Council of the implementing act and publish it in the Official Journal of the European Union and through other suitable public communication means.</u> | <b>Insofar as the measures of the third country concerned constitute an internationally wrongful act, Union response measures</b> <del>The implementing act shall be adopted in accordance with the examination procedure referred to in Article 15(2)</del> <b>under this Regulation may consist of measures implying the non-performance of international obligations towards the third country concerned.</b> | 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. | SE PRES agrees (Council mandate)   |
| Article 7(1), third subparagraph a |  |  |  |   |  |
| 75a                                |  | <u>The Commission may also adopt measures that are not listed in Annex I pursuant to other legal instruments. Any such adoption shall be coordinated and consistent with action under this Regulation.</u>   |  | <u>The Commission may also adopt, 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>  | SE PRES proposes not to accept, and prefer Council language in recital 24b. Note discussion on definition of union response measures (line 38b). |
| Article 7(2)                       |  |  |  |   |  |
| 76                                 | 2. The Union response  | 2. The Union response  | 2. The Union response  | 2. The Union response measures  | SE PRES suggests   |

|              | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                      |
|--------------|---|---|---|---|---|
|              | measures shall apply from a specified date after the adoption of the implementing act referred to in paragraph 1. The Commission shall set this date of application, taking into account the circumstances, to allow for the notification of the third country concerned pursuant to paragraph 3 and for it to cease the economic coercion. | 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> . | measures shall apply from a specified date after the adoption of the implementing act referred to in paragraph 1. The Commission shall set <del>this</del> <b>specify the date of application of the Union response measures</b> , 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. | 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> . | accepting (as a concession)             |
| Article 7(3) |   |   |   |   |   |
| 77           | 3. The Commission shall, upon adoption of the implementing act, notify the third country concerned of the Union response measures adopted pursuant to paragraph 1. In the notification, the Commission shall, on behalf of the Union, call on the third country concerned to promptly cease   | 3. The Commission shall, upon adoption of the implementing act, notify the third country concerned of the Union response measures adopted pursuant to paragraph 1. In the notification, the Commission shall, on behalf of the Union, call on the third country concerned to  | 3. <del>The Commission shall,</del> Upon adoption of the implementing act, <del>notify the third country concerned of the Union response measures adopted pursuant to</del> <b>referred to in paragraph 1</b> . <del>In the notification, the Commission shall, on behalf of the Union, call on</del> <b>notify</b> the third country concerned <del>to</del>   | 3. Upon adoption of the implementing act referred to in paragraph 1, the Commission shall notify the third country concerned thereof and:   | <b>SE PRES agrees (Council mandate)</b> |

|                         | Commission Proposal   | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT               |
|-------------------------|---|--|--|---|----------------------------------|
|                         | 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. | <del>promptly</del> <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> | <del>promptly</del> 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 <b>thereof and:</b> |   |                                  |
| Article 7(3), point (a) |   |  |  |   |                                  |
| 77a                     |   |  | <b>(a) call on the third country concerned to promptly cease the economic coercion;</b>  | (a) call on the third country concerned to <del>promptly</del> <u>immediately</u> cease the economic coercion <u>and, where appropriate, to repair the injury caused;</u> | SE PRES proposes to accept.      |
| Article 7(3), point (b) |   |  |  |   |                                  |
| 77b                     |   |  | <b>(b) offer the third country concerned to negotiate a solution; and</b>  | (b) offer the third country concerned to negotiate a solution; and  | SE PRES agrees (Council mandate) |
| Article 7(3), point (c) |   |  |  |   |                                  |



|              | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|--------------|---|---|--|---|---|
| 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>and, where appropriate, the third country repairs the injury caused.</u>   | SE PRES proposes not to agree at this stage. If accepted, it should read "(..) where <b>requested and appropriate</b> (...)"  |
| Article 7(4) |   |   |  |   |   |
| 78           | 4. The implementing act referred to in paragraph 1 shall state that the application of the Union response measures shall be deferred for a period specified in that implementing act, where the Commission has credible information that the third country has ceased the economic coercion before the start of application of the adopted Union response measures. In that event, the Commission shall publish a notice in the Official Journal of the European Union indicating that there is such information and the date from which the deferral shall apply. If the third country ceases the economic | 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</u> for a period <u>that is necessary for the Commission to verify the actual cessation of the coercion or threat thereof and that needs to be</u> specified in that implementing act, where the Commission has credible information that the third country has <del>ceased</del> <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 | 4. The implementing act referred to in paragraph 1 shall <del>state that the</del> <b>provide for a deferred</b> application of the Union response measures <del>shall be deferred</del> for a period <b>of time</b> specified in that implementing act, where the Commission has credible information that the third country has ceased the economic coercion before the <del>start</del> <b>date</b> of application of the adopted Union response measures. <del>In that</del><br><b>In the event, that the Commission has the information referred to in the first subparagraph, it shall publish a notice in the Official Journal of the</b> | 4. The implementing act referred to in paragraph 1 shall provide for a deferred application of the Union response measures, <u>but only</u> for a period <u>that is necessary for the Commission to verify the actual cessation of the coercion and which needs to be</u> <del>of time</del> 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 <del>date</del> <u>start</u> of application of the adopted Union response measures.<br><br>In the event that the Commission has the information referred to in the first subparagraph, it shall publish a notice in the <i>Official</i> | SE PRES suggests accepting the addition of " <i>but only... that is necessary for the Commission to verify the actual cessation of the coercins and which needs to be</i> " |

|              | Commission Proposal  | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|--------------|--|---|--|--|---------------------|
|              | coercion before the Union response measures start to apply, the Commission shall terminate the Union response measures in accordance with Article 10.  | 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. | <del>Journal of the European Union</del> indicating that there is such information and the date from which the deferral shall apply.<br><br>If the third country ceases the economic coercion before the <del>Union response measures start to apply</del> <b>date of application of the Union response measures</b> , the Commission shall terminate the Union response measures in accordance with Article 10. | <i>Journal of the European Union</i> indicating that there is such information and the date from which the deferral shall apply.<br><br>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 measures in accordance with Article 10.                            |                     |
| Article 7(5) |  |   |  |  |                     |
| 79           | 5. Notwithstanding paragraphs 2, 3 and 4, the Union response measures may apply without the Commission, on behalf of the Union, first calling, once more, on the third country concerned to cease the economic coercion or without the Commission first notifying it that Union response measure will apply, where this is necessary for | 5. <del>Notwithstanding paragraphs 2, 3 and 4,</del> The Union response measures may apply without the Commission, on behalf of the Union, first calling, <del>once more</del> <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> ,  | 5. Notwithstanding paragraphs 2, 3 and 4, the <b>implementing act referred to in paragraph 1 may provide that</b> Union response measures <del>may</del> <b>shall</b> apply without the Commission, <del>on behalf of the Union,</del> first calling, once more, on the third country concerned to cease the economic coercion or without the Commission first notifying <del>it</del> <b>the third</b>          | 5. Notwithstanding paragraphs 2, 3 and 4, the implementing act referred to in <del>paragraph</del> <u>paragraph</u> 1 may provide that Union response measures shall apply without the Commission first calling, <del>once more</del> <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 | Linked to line 77c. |

|               | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                      |
|---------------|--|--|--|--|---|
|               | the preservation of the rights and interests of the Union or Member States, notably of the effectiveness of Union response measures. | where this is necessary for the preservation of the rights and interests of the Union or Member States, notably of the effectiveness of Union response measures. | <b>country concerned</b> that Union response measure will apply, where <b>in duly justified cases</b> , this is necessary for the preservation of the rights and interests of the Union or a Member <del>States</del> <b>State</b> , notably of the effectiveness of Union response measures.  | concerned that Union response measure will apply <u><i>pursuant to paragraph 3</i></u> , where in duly justified 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           |  |  | <b>5bis. Notwithstanding paragraphs 2 and 4, where economic coercion consists in a threat to apply measures affecting trade or investment in accordance with Article 2(1), the date of application of the Union response measures shall be the date when the third country starts applying such measures. The Commission shall specify such date of application in the implementing act referred to in paragraph 1. If the third country delays to a specific date the application of its measures, the Commission shall publish a notice in the</b> | 5bis. Notwithstanding paragraphs 2 and 4, where economic coercion consists in a threat to apply measures affecting trade or investment in accordance with Article 2(1), the date of application of the Union response measures shall be the date when the third country starts applying such measures. The Commission shall specify such date of application in the implementing act referred to in paragraph 1. If the third country delays to a specific date the application of its measures, the Commission shall publish a notice in the Official Journal of the European Union indicating that the Union response measures shall apply on that date. | <b>SE PRES agrees (Council mandate)</b> |

|              | Commission Proposal   | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT   |
|--------------|---|--|--|---|--|
|              |   |  | 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 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. | 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 <del>adopt</del> <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 <del>2 to 5</del> <u>1 to 4</u> shall apply <u>and the conditions listed in paragraph 5 are considered to be met</u> . Those acts shall remain in force for a period not exceeding three months <u>after which the measures may be adopted by</u> | <del>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.</del> |   | SE PRES agrees (Council mandate), deleted in both packages proposed by the COM |

|                                 | Commission Proposal   | EP Mandate  | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT               |
|---------------------------------|---|---|-----------------|---|----------------------------------|
|                                 |   | <u>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>  |                 |   |                                  |
| Article 7(7), introductory part |   |   |                 |   |                                  |
| 81                              | 7. The Commission is empowered to adopt delegated acts in accordance with Article 14 to amend the list provided for in Annex I in order to provide additional types of measures to respond to a third country's measure. The Commission may adopt such delegated acts where the types of response measures would: | 7. The Commission is empowered to adopt delegated acts in accordance with Article 14 to amend the list provided for in Annex I in order to provide additional types of measures to respond to a third country's measure, <u>after having informed the European Parliament and the Council of the delegated acts.</u> The Commission may adopt such delegated acts where the types of response measures would: | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |

|                                | Commission Proposal  | EP Mandate   | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT               |
|--------------------------------|--|--|-----------------|---|----------------------------------|
| <i>Article 7(7), point (a)</i> |  |  |                 |   |                                  |
| 82                             | (a) be as effective or more effective than the response measures already provided for in terms of inducing the cessation of measures of economic coercion; | (a) be as effective or more effective than the response measures already provided for in terms of inducing the cessation of measures of economic coercion; | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |
| <i>Article 7(7), point (b)</i> |  |  |                 |   |                                  |
| 83                             | (b) provide as effective or more effective relief to economic operators within the Union affected by the measures of economic coercion;                    | (b) provide as effective or more effective relief to economic operators within the Union affected by the measures of economic coercion;                    | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |
| <i>Article 7(7), point (c)</i> |  |  |                 |   |                                  |
| 84                             | (c) avoid or minimise the negative impact on affected actors; or   | (c) avoid or minimise the negative impact on affected actors; or   | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |
| <i>Article 7(7), point (d)</i> |  |  |                 |   |                                  |
| 85                             | (d) avoid or minimise administrative complexity and costs.   | (d) avoid or minimise administrative complexity and costs.   | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |
| <i>Article 7bis</i>            |  |  |                 |   |                                  |

|                 | Commission Proposal | EP Mandate | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|-----------------|---------------------|------------|---|---|---|
| 85a             |                     |            | Article 7bis<br>Union's interest  | Article <del>7bis</del> 7a<br><u>Article 7bis</u><br><u>Determination of the</u> Union's<br>interest  |   |
| Article 7bis(1) |                     |            |   |   |   |
| 85b             |                     |            | <b>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</b> | 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 that it is in the Union's interest to take such measures. | SE PRES is working on a counter-proposal from the EP, taking into the MS views expressed at the WPTQ 18 <sup>th</sup> of January. |

|   | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                      |
|---|--|--|---|---|---|
|   |  |  | be taken where the Commission concludes that it is in the Union's interest to take such measures.   |   |   |
| Article 8   |  |  |   |   |   |
| 86  | Article 8<br>Union response measures with regard to natural or legal persons   | Article 8<br>Union response measures with regard to natural or legal persons   | Article 8<br>Union response measures with regard to natural or legal persons  | Article 8<br>Union response measures with regard to natural or legal persons  |   |
| Article 8(1), first subparagraph, introductory part |  |  |   |   |   |
| 87  | 1. The Commission may provide, in the implementing act referred to in Article 7(1), or in a separate implementing act, that: | 1. The Commission may provide, in the implementing act referred to in Article 7(1), or in a separate implementing act, that: | 1. <del>The Commission may provide, in the implementing act referred to in</del> <b>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.</b> | 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. | <b>SE PRES agrees (Council mandate)</b> |
| Article 8(1), first subparagraph, point (a)         |  |  |   |   |   |
| 88  |  |  |   |   |   |



|   | Commission Proposal   | EP Mandate  | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT               |
|---|---|---|-----------------|---|----------------------------------|
|   | (a) legal or natural persons designated in accordance with paragraph 2 point (a) shall be subject to Union response measures; or  | (a) legal or natural persons designated in accordance with paragraph 2 point (a) shall be subject to Union response measures; or  | <i>deleted</i>  | <a href="#">(a)</a>   | SE PRES agrees (Council mandate) |
| Article 8(1), first subparagraph, point (b) |   |   |                 |   |                                  |
| 89  | (b) without prejudice to the responsibility of the third country under international law, Union natural or legal persons affected by the third country's measures of economic coercion shall be entitled to recover, from persons designated pursuant to paragraph 2, point (b), any damage caused to them by the measures of economic coercion up to the extent of the designated persons' contribution to such measures of economic coercion. | (b) without prejudice to the responsibility of the third country under international law, Union natural or legal persons affected by the third country's measures of economic coercion shall be entitled to recover, from persons designated pursuant to paragraph 2, point (b), any damage caused to them by the measures of economic coercion up to the extent of the designated persons' contribution to such measures of economic coercion. | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |
| Article 8(1), second subparagraph           |   |   |                 |   |                                  |
| 90  | Those measures shall apply as of the same date of application as the Union response measures adopted pursuant to Article 7, or as   | Those measures shall apply as of the same date of application as the Union response measures adopted pursuant to Article 7, or as   | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |

|   | Commission Proposal   | EP Mandate  | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT               |
|---|---|---|-----------------|---|----------------------------------|
|   | of a later date specified in the implementing act pursuant to this paragraph.                                       | of a later date specified in the implementing act pursuant to this paragraph.                                       |                 |   |                                  |
| <i>Article 8(1), third subparagraph</i> |   |   |                 |   |                                  |
| 91                                      | Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2). | Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2). | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |
| <i>Article 8(2), introductory part</i>  |   |   |                 |   |                                  |
| 92                                      | 2. The Commission may designate a natural or legal person where it finds:   | 2. The Commission may designate a natural or legal person where it finds:   | <i>deleted</i>  | <a href="#">2.</a>  | SE PRES agrees (Council mandate) |
| <i>Article 8(2), point (a)</i>          |   |   |                 |   |                                  |
| 93                                      | (a) that such person is connected or linked to the government of the third country concerned; or,                   | (a) that such person is connected or linked to the government of the third country concerned; or,                   | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |
| <i>Article 8(2), point (b)</i>          |   |   |                 |   |                                  |
| 94                                      | (b) that such person is connected or linked to the government of the third country concerned and has                | (b) that such person is connected or linked to the government of the third country concerned and has                | <i>deleted</i>  |   | SE PRES agrees (Council mandate) |

|                      | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|----------------------|--|--|---|--|----------------------------------|
|                      | additionally caused or been involved in or connected with the economic coercion. | additionally caused or been involved in or connected with the economic coercion. |   |  |                                  |
| <i>Article 8(2a)</i> |  |  |   |  |                                  |
| 94a                  |  |  | <b>3. Paragraph 1 shall only apply to natural or legal persons designated in accordance with this Article.</b>  | 3. Paragraph <a href="#">11</a> shall only apply to natural or legal persons designated in accordance with this Article.   | SE PRES agrees (Council mandate) |
| <i>Article 8(2b)</i> |  |  |   |  |                                  |
| 94b                  |  |  | <b>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.</b> | 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. | SE PRES agrees (Council mandate) |
| <i>Article 8(2c)</i> |  |  |   |  |                                  |
| 94c                  |  |  | <b>5. The implementing act referred to in paragraph 4 of this Article may be</b>  | 5. The implementing act referred to in paragraph 4 of this Article may be adopted simultaneously   | SE PRES agrees (Council mandate) |

|                                  | Commission Proposal | EP Mandate | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                      |
|----------------------------------|---------------------|------------|--|---|---|
|                                  |                     |            | <b>adopted simultaneously with the implementing act referred to in Article 7(1), or subsequently.</b>  | with the implementing act referred to in Article 7(1), or subsequently.   |   |
| Article 8(2d), introductory part |                     |            |  |   |   |
| 94d                              |                     |            | <b>6. A natural or legal person may be considered as connected or linked to the government of the third country concerned pursuant to paragraph 1 where:</b>   | 6. A natural or legal person may be considered as connected or linked to the government of the third country concerned pursuant to paragraph 1 where:   | <b>SE PRES agrees (Council mandate)</b> |
| Article 8(2d), point (a)         |                     |            |  |   |   |
| 94e                              |                     |            | <b>(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;</b> | (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; | <b>SE PRES agrees (Council mandate)</b> |
| Article 8(2d), point (b)         |                     |            |  |   |   |
| 94f                              |                     |            | <b>(b) such person benefits from exclusive or special</b>  | (b) such person benefits from exclusive or special rights or  | <b>SE PRES agrees (Council mandate)</b> |

|                          | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT               |
|--------------------------|--|--|--|---|----------------------------------|
|                          |  |  | <i>rights or privileges granted in law or in fact by the government of the third country concerned, if it operates in a sector where that government limits to one or more the number of suppliers or buyers, or if it is allowed directly or indirectly by that government to exercise practices which prevent, restrict or distort competition; or</i> | 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 |                                  |
| 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.   | SE PRES agrees (Council mandate) |
| Article 8(3)             |  |  |  |   |                                  |
| 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, | 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, | <i>deleted</i>   |   | SE PRES agrees (Council mandate) |

|                     | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                      |
|---------------------|--|--|---|---|---|
|                     | or are beneficially owned or otherwise effectively controlled by the government of the third country.  | or are beneficially owned or otherwise effectively controlled by the government of the third country.  |   |   |   |
| <i>Article 8(4)</i> |  |  |   |   |   |
| 96                  | 4. Where the Commission has grounds to consider that persons should be designated pursuant to paragraph 2, point (a) or point (b) it shall publish a provisional list of persons and, where relevant, the possible measures pursuant to Annex I that they would be subject to. Before deciding on designation, it shall give any persons provisionally designated and other interested parties the opportunity to submit comments on the possible designation, in particular whether they fall under the conditions of paragraph 2, point (a) or point (b). The Commission may also seek additional information it considers pertinent concerning the potential designation. | 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 pertinent concerning the potential designation. | <del>48. Where the Commission has grounds to consider that persons</del> <b>believe that a person</b> should be designated pursuant to <del>paragraph 2, point (a) or point (b) it shall publish a provisional list of persons</del> <b>1, it shall inform such person of its intention, including the grounds for designation</b> , and, where relevant, the possible measures pursuant to Annex I <del>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</del> | 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. | <b>SE PRES agrees (Council mandate)</b> |

|                                  | Commission Proposal | EP Mandate | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                           |
|----------------------------------|---------------------|------------|---|--|--|
|                                  |                     |            | <p><del>Commission may also seek additional information it considers pertinent concerning the potential designation.</del><br/> <b>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.</b></p> |  |  |
| Article 8(4a), introductory part |                     |            |   |  |  |
| 96a                              |                     |            | <p><b>Before deciding on the designation, the Commission shall give:</b></p>  | <p>Before deciding on the designation, the Commission shall give:<br/> <a href="#">L</a></p>   | <p>SE PRES agrees<br/> (Council mandate)</p> |
| Article 8(4a), point (a)         |                     |            |   |  |  |
| 96b                              |                     |            | <p><b><i>(a) any persons referred to in the first subparagraph the opportunity to submit observations on the possible designation, in particular on whether they fall under the conditions established in paragraph 1; within a reasonable period of time; and</i></b></p>                                  | <p><i>(a) any persons referred to in the first subparagraph the opportunity to submit observations on the possible designation, in particular on whether they fall under the conditions established in paragraph <a href="#">11</a>; within a reasonable period of time; and</i></p> | <p>SE PRES agrees<br/> (Council mandate)</p> |
| Article 8(4a), point (b)         |                     |            |   |  |  |

|               | Commission Proposal | EP Mandate | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|---------------|---------------------|------------|---|--|----------------------------------|
| 96c           |                     |            | <b>(b) other interested parties the opportunity to submit observations on the possible designation.</b>   | (b) other interested parties the opportunity to submit observations on the possible designation.   | SE PRES agrees (Council mandate) |
| Article 8(4b) |                     |            |   |  |                                  |
| 96d           |                     |            | <b>The Commission may also seek information it considers relevant concerning the potential designation under this Article, including by requesting such information from Member States.</b>   | The Commission may also seek information it considers relevant concerning the potential designation under this Article, including by requesting such information from Member States.   | SE PRES agrees (Council mandate) |
| Article 8(4c) |                     |            |   |  |                                  |
| 96e           |                     |            | <b>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.</b> | 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. | SE PRES agrees (Council mandate) |
| Article 9     |                     |            |   |  |                                  |



|                                 | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT   |
|---------------------------------|---|---|--|---|--|
| 97                              | Article 9<br>Criteria for selecting and designing Union response measures   | Article 9<br>Criteria for selecting and designing Union response measures   | Article 9<br>Criteria for selecting and designing Union response measures  | Article 9<br>Criteria for selecting and designing Union response measures   |  |
| Article 9(1)                    |   |   |  |   |  |
| 98                              | 1. Any Union response measure shall not exceed the level that is commensurate with the injury suffered by the Union or a Member State due to the third country's measures of economic coercion, taking into account the gravity of the third country's measures and the rights in question. | 1. Any Union response measure shall <del>not exceed</del> <u>be commensurate to</u> the level <del>that is commensurate with</del> <u>to</u> the injury suffered by the Union or a Member State due to the third country's measures of economic coercion, <del>taking into account the gravity of the third country's measures and the</del> <u>economic impact that those measures are having on the Union or a Member State and shall be effective in preserving the Union and its Member States'</u> rights in <del>question</del> <u>making legitimate sovereign choices with regard to particular acts, policies or stances.</u> | 1. Any Union response measure shall not exceed the level that is commensurate with the injury suffered by the Union or a Member State due to the third country's measures of economic coercion, taking into account the gravity of the third country's measures of <b>economic coercion</b> and the rights <del>in question</del> <b>of the Union or a Member State.</b> | 1. Any Union response measure shall not exceed <u>the level</u> <del>that is commensurate with</del> <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 <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> . | SE PRES would like to hear MS views, and notes need for editorial corrections (" , the" before "economic impact"). |
| Article 9(2), introductory part |   |   |  |   |  |
| 99                              | 2. The Commission shall   | 2. The Commission shall   | 2. The Commission shall  | 2. The Commission shall select  | SE PRES proposes   |

|                          | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                            |
|--------------------------|--|--|---|---|---|
|                          | 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, on the basis of available information, including as collected pursuant to Article 11, and the following criteria: | select and design an appropriate response measure taking into account the determination made pursuant to Article 4, the criteria set out in Article <del>2(2)</del> <i>and the Union's interest</i> <sup>2</sup> , on the basis of available information, including as collected pursuant to Article 11, and the following criteria: | 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 <b>pursuant to Article 7bis</b> , on the basis of available information, including as collected pursuant to Article 11, and the following criteria: | 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 pursuant to Article 11, and the following criteria: | to accept                                     |
| Article 9(2), point (a)  |  |  |   |   |   |
| 100                      | (a) the effectiveness of the measures in inducing the cessation of the economic coercion;  | (a) the effectiveness of the measures in inducing the cessation of the economic coercion <u>and, where appropriate, reparation of the injury caused to the Union and its Member States</u> ;   | (a) the effectiveness of the <b>Union response</b> 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> ;   | SE PRES proposes not to accept at this stage. |
| Article 9(2), point (aa) |  |  |   |   |   |
| 100a                     |  |  | <b>(abis) the avoidance or minimisation of negative impacts</b>   | (abis) the avoidance or minimisation of negative impacts  | SE PRES agrees (Council mandate)              |
| Article 9(2), point (ab) |  |  |   |   |   |

|                          | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|--------------------------|---|---|--|--|----------------------------------|
| 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, | SE PRES agrees (Council mandate) |
| Article 9(2), point (ac) |   |   |  |  |                                  |
| 100c                     |   |   | - on the investment environment in the Union or a Member State, including the impact on employment and regional development policy;  | - on the investment environment in the Union or a Member State, including the impact on employment and regional development policy;  | SE PRES agrees (Council mandate) |
| Article 9(2), point (b)  |   |   |  |  |                                  |
| 101                      | (b) the potential of the measures to provide relief to economic operators within the Union affected by the economic coercion; | (b) the potential of the measures to provide relief to economic operators within the Union affected by the economic coercion; | (b) the potential of the Union response measures to provide relief to Union economic operators within the Union affected by the economic coercion;   | (b) the potential of the Union response measures to provide relief to Union economic operators within the Union affected by the economic coercion;   | SE PRES agrees (Council mandate) |
| Article 9(2), point (c)  |   |   |  |  |                                  |
| 102                      | (c) the avoidance or minimisation of negative   | (c) the avoidance or minimisation of negative   | <del>(c) the avoidance or minimisation of negative</del>   |  | SE PRES agrees (Council mandate) |

|                          | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                      |
|--------------------------|---|---|--|--|---|
|                          | 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; | 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; | <del>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;</del> |  |   |
| Article 9(2), point (d)  |   |   |  |  |   |
| 103                      | (d) the avoidance or minimisation of negative effects on other Union policies or objectives;  | (d) the avoidance or minimisation of negative effects on other Union policies or objectives;  | (d) the avoidance or minimisation of negative effects on other Union policies or objectives <b>by Union response measures;</b>   | (d) the avoidance or minimisation of negative effects on other Union policies or objectives by Union response measures;      | <b>SE PRES agrees (Council mandate)</b> |
| Article 9(2), point (da) |   |   |  |  |   |
| 103a                     |   |   | <b>(dbis) any relevant action in the Union's common foreign and security policy;</b>   | (dbis) any relevant action in the Union's common foreign and security policy;  | SE PRES agrees (Council mandate)        |
| Article 9(2), point (e)  |   |   |  |  |   |
| 104                      | (e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;  | (e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;  | (e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures;   | (e) the avoidance of disproportionate administrative complexity and costs in the application of the Union response measures; | <b>SE PRES agrees (Council mandate)</b> |

|                                  | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
|----------------------------------|--|--|--|--|--|
| Article 9(2), point (f)          |  |  |  |  |  |
| 105                              | (f) the existence and nature of any response measures enacted by other countries affected by the same or similar measures of economic coercion, including where relevant any coordination pursuant to Article 6; | (f) the existence and nature of any response measures enacted by other countries affected by the same or similar measures of economic coercion, including where relevant any coordination pursuant to Article 6; | (f) the existence and nature of any response measures enacted by <del>other</del> <b>third</b> 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; | SE PRES agrees (Council mandate)   |
| Article 9(2), point (g)          |  |  |  |  |  |
| 106                              | (g) any other relevant criteria established in international law.  | (g) any other relevant criteria established in international law.  | (g) any other relevant criteria established in international law.  | (g) any other relevant criteria established in international law.  | SE PRES agrees (Council mandate)   |
| Article 9(2a)                    |  |  |  |  |  |
| 106a                             |  |  | <b>In selecting Union response measures, the Commission shall give predominant weight to measures which most effectively ensure compliance with criteria (a) and (abis).</b>   | In selecting Union response measures, the Commission shall give predominant weight to measures which most effectively ensure compliance with criteria (a) and (abis).  | SE PRES agrees (Council mandate) – lines 106a-f connected to possible limitations of annex I |
| Article 9(2b), introductory part |  |  |  |  |  |
| 106b                             |  |  | <b>2bis. Without prejudice to</b>  | <u>2bis.</u> Without prejudice to  | SE PRES agrees (Council mandate)   |

|                          | Commission Proposal | EP Mandate | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                             |
|--------------------------|---------------------|------------|--|--|--|
|                          |                     |            | <p><b>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:</b></p> | <p>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:<a href="#">L</a></p> |  |
| Article 9(2b), point (a) |                     |            |  |  |  |
| 106c                     |                     |            | <p><b>(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</b></p>   | <p><a href="#">L</a>(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 href="#">L</a></p>  | <p><b>SE PRES agrees (Council mandate)</b></p> |
| Article 9(2b), point (b) |                     |            |  |  |  |
| 106d                     |                     |            | <p><b>(b) measures affecting procedures not yet</b></p>  | <p><a href="#">L</a>(b) measures affecting procedures not yet completed upon the entry</p>   | <p><b>SE PRES agrees (Council mandate)</b></p> |

|               | Commission Proposal | EP Mandate | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT               |
|---------------|---------------------|------------|--|--|----------------------------------|
|               |                     |            | completed upon the entry into force of the implementing act referred to in Article 7(1) or 8(1), respectively.   | into force of the implementing act referred to in Article 7(1) or 8(1), respectively. <a href="#">/</a>  |                                  |
| Article 9(2c) |                     |            |  |  |                                  |
| 106e          |                     |            | Where none of the measures referred to in points (a) and (b) of the first subparagraph are available, the Commission may, in exceptional circumstances consider other response measures, where it has been demonstrated, in light of the information-gathering exercise conducted pursuant to Article 11, that those other measures would not disproportionately affect the upstream industries, downstream industries or final consumers within the Union or impose a disproportionate burden on the process of administration of relevant national regulations, whilst ensuring effectiveness. | <a href="#">/</a> Where none of the measures referred to in points (a) and (b) of the first subparagraph are available, the Commission may, in exceptional circumstances consider other response measures, where it has been demonstrated, in light of the information-gathering exercise conducted pursuant to Article 11, that those other measures would not disproportionately affect the upstream industries, downstream industries or final consumers within the Union or impose a disproportionate burden on the process of administration of relevant national regulations, whilst ensuring effectiveness. <a href="#">/</a> | SE PRES agrees (Council mandate) |

|   | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT   |
|---|--|--|---|---|--|
| Article 9(2d)                                       |  |  |   |   |  |
| 106f  |  |  | <b>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.</b>   | <u>In</u> 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. <u>l</u>  | SE PRES agrees (Council mandate)   |
| Article 9(3), first subparagraph, introductory part |  |  |   |   |  |
| 107   | 3. The Commission may decide to apply Union response measures under Articles 7 or 8 consisting of restrictions on foreign direct investment or on trade in services also with regard to services supplied, or direct investments made, within the Union by one or more legal persons established in the Union and owned or controlled by persons of the third country concerned where necessary to achieve | 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 | <b>3. Where necessary to achieve the objectives of this Regulation,</b> 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 | 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 | SE PRES proposes to agree (provided that the linked provision in annex I remains as in the Council mandate). |



|   | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                      |
|---|--|--|--|--|---|
|   | <p>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 such measures could be avoided. In assessing whether to adopt such a decision the Commission shall consider, in addition to the criteria in paragraphs 1 and 2, amongst other things:</p> | <p>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:</p> | <p>controlled by persons of the third country concerned <del>where necessary to achieve the objectives of this Regulation.</del> The Commission may decide on such application <del>whereof such</del> Union response measures <b>where</b> not covering such situations would be insufficient to effectively achieve the objectives of this Regulation, in particular where such measures could be avoided– <b>by the third country or the person concerned.</b></p> <p>In assessing whether to adopt <del>such a decision</del> <b>the decision referred to in the first subparagraph</b>, the Commission shall consider, in addition to the criteria <del>in</del> <b>under</b> paragraphs 1 and 2, amongst other things:</p> | <p>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.</p> <p>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:</p> |   |
| Article 9(3), first subparagraph, point (a) |  |  |  |  |   |
| 108   | <p>(a) the patterns of trade in services and investment in the sector targeted by the envisaged Union response measures and the risk of</p>  | <p>(a) the patterns of trade in services and investment in the sector targeted by the envisaged Union response measures and the risk of</p>  | <p>(a) the patterns of trade in services and investment in the sector targeted by the envisaged Union response measures and the risk of</p>  | <p>(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</p>  | <p>SE PRES agrees (Council mandate)</p> |

|   | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT         |
|---|---|---|--|---|----------------------------|
|   | avoidance of any Union response measures not applying to services supplied, or direct investments made, within the Union;   | avoidance of any Union response measures not applying to services supplied, or direct investments made, within the Union;   | avoidance <b>by the third country or the person concerned</b> of any Union response measures not applying to services supplied, or direct investments made, within the Union;  | 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 effective contribution of such intra-Union restrictions 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 to the objective of obtaining the cessation of the measure of economic coercion;  | (b) the effective contribution of such intra-Union restrictions <b>referred to in the first subparagraph to the objective of obtaining the cessation of the measure of economic coercion;</b><br><del>to the objective of obtaining the cessation of the measure of economic coercion;</del> | (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;   | SE PRES proposes to agree. |
| Article 9(3), first subparagraph, point (c) |   |   |  |   |                            |
| 110   | (c) the existence of alternative measures capable of achieving the objective of obtaining the cessation of the measure of economic coercion that are reasonably available and less restrictive of trade in services or investment within the Union. | (c) the existence of alternative measures capable of achieving the objective of obtaining the cessation of the measure of economic coercion that are reasonably available and less restrictive of trade in services or investment within the Union. | (c) the existence of alternative measures capable of achieving the objective of obtaining the cessation of the measure of economic coercion that are reasonably available and less restrictive of trade in services or investment within the Union.  | (c) the existence of alternative measures capable of achieving the objective of obtaining the cessation of the measure of economic coercion that are reasonably available and less restrictive of trade in services or investment within the Union. |                            |

|                                     | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|-------------------------------------|---|---|---|--|---|
| 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 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 <del>paragraph 1 of Article 7(1) and in Article 78(1)</del> <b>in the third paragraph of this Article.</b> | 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. | SE PRES agrees (Council mandate).                           |
| Article 9(3), second subparagraph a |   |   |   |  |   |
| 111a                                |   | <u><i>The Commission shall inform the European Parliament and the Council about the criteria for selecting and designing the Union response measures.</i></u>   |   |  | SE PRES agrees not to include EP proposal (Council mandate) |
| Article 10                          |   |   |   |  |   |
| 112                                 | Article 10<br>Amendment, suspension and termination of Union  | Article 10<br>Amendment, suspension and termination of Union  | Article 10<br>Amendment, suspension and termination of Union  | Article 10<br>Amendment, suspension and termination of Union response  |   |

|               | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                 |
|---------------|---|---|---|--|------------------------------------|
|               | response measures   | response measures   | response measures   | measures   |                                    |
| Article 10(1) |   |   |   |  |                                    |
| 113           | 1. The Commission shall keep under review the measures of economic coercion deployed by a third country that have triggered the Union response measures, the effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council informed thereof. | 1. The Commission shall keep under review the measures of economic coercion deployed by a third country that have triggered the Union response measures, the effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council <u>regularly</u> informed thereof.  | 1. The Commission shall keep under review the measures of economic coercion deployed by a third country that have triggered the Union response measures, the effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council informed thereof. | 1. The Commission shall keep under review the measures of economic coercion deployed by a third country that have triggered the Union response measures, the effectiveness of the Union response measures adopted and their effects on the Union's interests and shall keep the European Parliament and the Council <u>regularly</u> informed thereof.   | SE PRES proposes to agree          |
| Article 10(2) |   |   |   |  |                                    |
| 114           | 2. Where the third country concerned suspends the economic coercion, or where it is necessary in the Union's interest, the Commission may suspend the application of the respective Union response measure for the duration of the third country's suspension, or as long as necessary in light of the Union's interest. The          | 2. Where the third country concerned <u>entirely</u> suspends the economic coercion, <del>or where it is necessary in the Union's interest,</del> the Commission <del>may</del> <u>shall</u> suspend the application of the respective Union response measure for the duration of the third country's suspension, <del>or, where it is as long as</del> | 2. Where the third country concerned suspends the <b>measures of</b> economic coercion, or where it is necessary in the Union's interest <b>referred to in Article 7bis</b> , the Commission <del>may</del> <u>shall</u> suspend the application of the respective Union response measure for the duration of the <b>suspension</b>   | 2. Where the third country concerned <del>or</del> suspends the measures of economic coercion, or where it is necessary in the Union's interest <del>referred to in Article 7bis,</del> 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, <del>or</del> <u>concerned or for</u> as long as necessary in light of the | <b>SE PRES proposes to accept.</b> |

|  | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|--|---|---|--|---|--------------------|
|  | <p>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 and the third country is also suspending its measures of economic coercion. The Commission shall, by means of an implementing act, decide to suspend the Union response measure. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).</p> | <p>necessary in <del>light of</del> 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 Article 5 and if</u> <del>and</del> the third country <del>is also suspending</del> <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).</p> | <p><b>of the measures of economic coercion by the third country's suspension, or as long as necessary in light of the Union's interest.</b> <del>The Commission shall suspend the Union response measures if</del></p> <p><b>Where</b> the third country concerned has offered, and the Union <b>or the Member State concerned</b> has concluded, an agreement to submit the matter to binding international third-party adjudication and the third country <del>is also suspending</del> <b>also suspends</b> its measures of economic coercion, the Commission shall, <del>by means of an implementing act, decide to suspend the Union response measure. These implementing acts shall be</del> <b>suspend the Union response measures for the duration of the proceedings.</b></p> <p><b>The Commission shall, by means of an implementing act</b> adopted in accordance with the examination procedure referred to in</p> | <p>Union's interest <u>determination pursuant to Article 7bis</u>.</p> <p>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 Commission shall suspend the Union response measures for the duration of the proceedings.</p> <p>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.</p> |                    |

|  | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT          |
|--|--|--|--|--|-----------------------------|
|  |  |  | Article 15(2), <b>decide to suspend the Union response measure under this paragraph.</b>   |  |                             |
| Article 10(3)  |  |  |  |  |                             |
| 115  | 3. Where it is necessary to make adjustments to Union response measures taking into account the conditions and criteria laid down in Articles 2 and 9(2), or further developments, including the third country's reaction, the Commission may, as appropriate, amend Union response measures adopted in accordance with Article 7, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2). | 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 <del>may</del> <i>shall</i> , as appropriate, <i>swiftly</i> 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 <del>Articles</del> <b>Article 2 and paragraphs 2 and 9(2)3 of Article 9</b> , or further developments, including the third country's reaction, the Commission may, as appropriate, amend Union response measures adopted in accordance with <del>Article 7</del> <b>Articles 7 and 8</b> , 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 <del>Article 2 and paragraphs 2 and 3 of Article 9</del> <b>Articles 2 and 3 of Article 9</b> , or further developments, including the third country's reaction, the Commission <del>may</del> <i>shall</i> , as appropriate, amend Union response measures adopted in accordance with <del>Articles</del> <b>Article 7 and 8</b> , by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2). | SE PRES proposes to accept. |
| Article 10(4), first subparagraph, introductory part |  |  |  |  |                             |
| 116  | 4. The Commission shall terminate Union response measures under any of the following circumstances:  | 4. The Commission shall terminate Union response measures under any of the following circumstances:  | 4. The Commission shall terminate Union response measures under any of the following circumstances:  | 4. The Commission shall terminate Union response measures under any of the following circumstances:  |                             |

|   | Commission Proposal                         | EP Mandate   | Council Mandate                             | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|---|---|--|---|---|---|
| Article 10(4), first subparagraph, point (a)  |   |  |   |   |   |
| 117   | (a) where the economic coercion has ceased; | (a) where the economic coercion has ceased <u>and the injury caused has been repaired;</u> | (a) where the economic coercion has ceased; | (a) where the economic coercion has ceased <u>and the injury caused has been repaired, where requested;</u>   | SE PRES proposes not to accept                                |
| Article 10(4), first subparagraph, point (aa) |   |  |   |   |   |
| 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 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</u> | SE PRES proposes not to accept (discussed in WPTQ 18 January) |

|  | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|--|--|--|--|--|---|
|  |  |  |  | <u><i>through an internationally wrongful act;</i></u>   |   |
| Article 10(4), first subparagraph, point (b) |  |  |  |  |   |
| 118  | (b) where a mutually agreed solution has otherwise been reached;   | (b) where a mutually agreed solution has otherwise been reached;   | (b) where a mutually agreed solution has otherwise been reached;   | (b) where a mutually agreed solution has otherwise been reached;   |   |
| Article 10(4), first subparagraph, point (c) |  |  |  |  |   |
| 119  | (c) where a binding decision in international third-party adjudication in a dispute between the third country concerned and the Union or a Member State requires the withdrawal of the Union response measure; | (c) where a binding decision in international third-party adjudication in a dispute between the third country concerned and the Union or a Member State requires the withdrawal of the Union response measure <u><i>provided that the third country has taken concrete steps to implement the decision; or</i></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><i>on the issue of the economic coercion</i></u> and the Union or a Member State requires the withdrawal of the Union response measure <u><i>; or</i></u> | SE PRES proposes not to accept (added compromise text not in the EP mandate but added by the COM) |
| Article 10(4), first subparagraph, point (d) |  |  |  |  |   |
| 120  | (d) where it is appropriate in light of the Union's interest.  | (d) where it is appropriate in light of the Union's interest.  | (d) where it is appropriate in light of the Union's interest <b>referred to in Article 7bis.</b>   | (d) where it is appropriate in light of the Union's interest <del><i>referred to</i></del> <u><i>as determined pursuant to</i></u> Article 7bis.   | SE PRES proposes to accept  |
| Article 10(4), second subparagraph           |  |  |  |  |   |



|               | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|---------------|--|--|--|---|---|
| 121           | The termination of Union response measures adopted in accordance with Article 7 shall be decided, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).  | The termination of Union response measures adopted in accordance with Article 7 shall be decided, by means of an implementing act, in accordance with the examination procedure referred to in Article 15(2).  | The termination of Union response measures adopted in accordance with <del>Article 7</del> <b>Articles 7 and 8</b> 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).  | SE PRES proposes to agree (Council Mandate).                                  |
| Article 10(5) |  |  |  |   |   |
| 122           | 5. On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts suspending, amending or terminating Union response measures adopted in accordance with Article 7. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 15(3) and they shall remain in force for a period not exceeding two months. | 5. On duly justified imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts suspending, <del>amending or terminating</del> <b>amending</b> 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, <b><u>after which an implementing act referred to in paragraphs 2, 3 or 4 may be adopted as appropriate. The</u></b> | 5. On duly justified imperative grounds of urgency, <b>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</b> , the Commission shall adopt immediately applicable implementing acts suspending, amending or terminating Union response measures adopted in accordance with <del>Article 7</del> <b>Articles 7 and 8</b> . Those | 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, <del>amending or terminating</del> <b>amending</b> 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 | SE PRES proposes to agree (Council Mandate besides removal of "terminating"). |

|               | Commission Proposal  | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT         |
|---------------|--|---|--|--|----------------------------|
|               |  | <u><i>Commission shall keep the European Parliament informed without delay about the decision and its justification.</i></u>  | 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.   | not exceeding two months.  |                            |
| Article 11    |  |   |  |  |                            |
| 123           | Article 11<br>Information gathering related to Union response measures   | Article 11<br>Information gathering related to Union response measures  | Article 11<br>Information gathering related to Union response measures   | Article 11<br>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, through a notice published in the Official Journal of the European Union or through other suitable public communication means. The | 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 <u><i>and Union's interest as necessary</i></u> , through a notice published in the Official Journal of the European Union or through other suitable public | 1. Before the adoption of <del>Union response measures or their</del> amendment of <del>such</del> <b>Union response</b> 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 <b>economic</b> operators and Union's interest, through a notice published in the <b>Official Journal of the European Union and, where</b> | 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 <del>and</del> <u><i>Union's interest as necessary</i></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. | SE PRES proposes to agree. |

|               | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT         |
|---------------|---|---|--|--|----------------------------|
|               | notice shall indicate the period within which the input is to be submitted.   | communication means. The notice shall indicate the period within which the input is to be submitted.  | <del>appropriate, Official Journal of the European Union or</del> through other suitable public communication means. The notice shall indicate the period within which the input is to be submitted.   |  |                            |
| Article 11(2) |   |   |  |  |                            |
| 125           | 2. The Commission may start the information gathering at any time it deems appropriate.   | 2. The Commission may start the information gathering at any time it deems appropriate.   | 2. The Commission may start the information gathering at any time it deems appropriate.  | 2. The Commission may start the information gathering at any time it deems appropriate.  |                            |
| Article 11(3) |   |   |  |  |                            |
| 126           | 3. In conducting the information gathering under paragraph 1, the Commission shall inform and consult stakeholders, in particular industry associations, affected by possible Union response measures, and Member States involved in the preparation or implementation of legislation regulating the affected fields. | 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 <del>industry associations</del> <b>associations acting on behalf of Union economic operators</b> , affected by possible Union response measures, and Member States' <b>authorities</b> 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. | SE PRES proposes to agree. |

|                                  | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                |
|----------------------------------|--|--|--|---|-----------------------------------|
| Article 11(4), introductory part |  |  |  |   |                                   |
| 127                              | 4. Without unduly delaying the adoption of Union response measures, the Commission shall, in particular, seek information on:  | 4. Without unduly delaying the adoption of Union response measures, the Commission shall, in particular, seek information on:  | 4. Without unduly delaying the adoption of Union response measures, the Commission shall <b>identify possible options for Union response measures and</b> , in particular, seek information <b>and views</b> 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: | SE PRES agrees (Council mandate)  |
| 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 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 <b>economic operators'</b> 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;          | SE PRES agrees (Council mandate)  |
| Article 11(4), point (b)         |  |  |  |   |                                   |
| 129                              | (b) the interaction of such measures with relevant Member State legislation;   | (b) the interaction of such measures with relevant <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;  | SE PRES agrees (Council mandate). |
| Article 11(4), point (c)         |  |  |  |   |                                   |

|                          | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                |
|--------------------------|---|---|--|---|-----------------------------------|
| 130                      | (c) the administrative burden which may be occasioned by such measures;   | (c) the administrative burden which may be occasioned by such measures;   | (c) the administrative burden which may be occasioned by such measures;  | (c) the administrative burden which may be occasioned by such measures;   |                                   |
| Article 11(4), point (d) |   |   |  |   |                                   |
| 131                      | (d) the Union's interest.   | (d) the <del>Union's interest</del><br><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 <del>interest</del> referred to in Article 7bis.  | SE PRES agrees (Council mandate). |
| Article 11(5)            |   |   |  |   |                                   |
| 132                      | 5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the envisaged measures shall accompany the draft implementing act when submitted to the committee in the context of the examination procedure referred to in Article 15(2). | 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).<br><u>The Commission shall inform the European Parliament of such analysis</u> | 5. The Commission shall take utmost account of the information gathered during the information gathering exercise. An analysis of the envisaged measures shall accompany the draft implementing act when submitted to the committee in the context of the examination procedure referred to in Article 15(2).<br><b>That analysis shall include a thorough assessment of impact on both upstream and downstream industries</b> | 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, if relevant, point out any potential | SE PRES proposes to agree.        |

|               | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT         |
|---------------|--|--|---|--|----------------------------|
|               |  | <u><a href="#">in accordance with Article 10 of Regulation (EU) No 182/2011.</a></u>   | and final consumers within the Union and, if relevant, point out any potential disproportionate effects.  | disproportionate effects.  |                            |
| Article 11(6) |  |  |   |  |                            |
| 133           | 6. Prior to the adoption of an implementing act in accordance with Article 7(6) or Article 10(5), the Commission shall seek information and views from relevant stakeholders in a targeted manner, unless the imperative grounds of urgency are such that information seeking and consultations are not possible or not needed for objective reasons, for instance to ensure compliance with international obligations of the Union. | 6. <u><a href="#">The Commission shall seek information and views from relevant stakeholders especially the economic operators affected by the economic coercion, as a general principle</a></u> prior to the adoption of an implementing act in accordance with Article 7(6) or Article 10(5), <del>the Commission shall seek information and views from relevant stakeholders in a targeted manner, unless</del> <u><a href="#">unless the exceptional situation of</a></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. | 6. Prior to the adoption of an implementing act in accordance with <del>Article 7(6) or</del> Article 10(5), the Commission shall seek information and views from relevant stakeholders in a targeted manner, unless the imperative grounds of urgency are such that information seeking and consultations are not possible or not needed for objective reasons, for instance to ensure compliance with international obligations of the Union. | 6. <del>Prior to the adoption of an implementing act in accordance with Article 10(5), the Commission shall seek information and views from relevant stakeholders in a targeted manner</del> <u><a href="#">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),</a></u> unless the <u><a href="#">exceptional situation of</a></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. | SE PRES proposes to agree. |
| Article 11a   |  |  |   |  |                            |

|      | Commission Proposal | EP Mandate  | Council Mandate | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|------|---------------------|---|-----------------|---|---|
| 133a |                     | <p><u>Article 11a</u><br/> <u>The Chief Trade Enforcement Officer</u><br/> <u>The Chief Trade Enforcement Officer (CTEO) shall be responsible for the implementation of this Regulation and its coordination with other tools related to anti-coercion such as the Blocking Statute<sup>1a</sup>. For the purposes of this Regulation, the CTEO shall:</u><br/> <u>(a) gather information and provide cost and data analyses with a view to determining the nature of economic coercion measures;</u><br/> <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><br/> <u><sup>1a</sup> Council Regulation</u></p> |                 | <p><u>Article 11a</u><br/> <u>Single contact point</u></p> <p><u>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<sup>1a</sup>.</u></p> <p><u>For the purposes of this Regulation, the Commission shall:</u><br/> <u>(a) gather information and provide cost and data analyses with a view to determining the nature of economic coercion measures;</u><br/> <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><br/> <u><sup>1a</sup> 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</u></p> | <p>SE PRES proposes to agree. Also see suggested language in corresponding recital, line 28a.</p> |

|               | Commission Proposal   | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT        |
|---------------|---|--|--|---|---------------------------|
|               |   | <u><a href="#">(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).</a></u> |  | <u><a href="#">thereon or resulting therefrom (OJ L 309, 29.11.1996, p. 1.) (57).</a></u>   |                           |
| Article 12    |   |  |  |   |                           |
| 134           | Article 12 Confidentiality  | Article 12 Confidentiality   | Article 12 Confidentiality   | Article 12 Confidentiality  |                           |
| Article 12(1) |   |  |  |   |                           |
| 135           | 1. Information received pursuant to this Regulation shall be used only for the purpose for which it was requested.                                | 1. Information received pursuant to this Regulation shall be used only for the purpose for which it was <u><a href="#">supplied</a></u> , requested, <u><a href="#">or obtained</a></u> .  | 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><a href="#">supplied</a></u> , requested, <u><a href="#">or obtained</a></u> .                             | SE PRES proposes to agree |
| 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- | 2. The supplier of information may request that information supplied be treated as confidential. In such cases, it shall be accompanied by a non-  | 2. The supplier of information may request <del>that</del> <u><a href="#">such</a></u> information <del>supplied</del> be treated as confidential. In such cases, it shall be accompanied by a | 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><a href="#">but meaningful</a></u> summary of the information | SE PRES proposes to agree |



|               | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT   |
|---------------|--|--|---|---|--|
|               | confidential summary or a statement of the reasons why the information cannot be summarised. The Commission, the Council, the European Parliament, Member States or their officials shall not reveal any information of a confidential nature received pursuant to this Regulation, without specific permission from the supplier of such information. | confidential <i>but meaningful</i> 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 <del>shall not reveal</del> <i>are prohibited from revealing</i> any information of a confidential nature received pursuant to this Regulation, without specific permission from the supplier of such information. | non-confidential summary of <b>the information concerned</b> or a statement of the reasons <b>explaining</b> why the information <b>concerned</b> 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.           | 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           | 3. Paragraph 2 shall not preclude the Commission to disclose general information in a summary form, which does not contain information allowing to identify the supplier of the information. Such disclosure shall take into account the legitimate interest of the parties concerned in not having confidential information disclosed.                | 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 <del>disclose</del> <b>from disclosing</b> general information in a summary form, <del>which</del> <b>provided that such disclosure</b> does not contain information allowing to <del>identify</del> <b>the identity of</b> the supplier of the information <b>to be known</b> . Such disclosure shall take into account the legitimate interest of the parties concerned in not having | 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.<br><br><i>4. Member States officials obtaining information under this</i> | SE PRES proposes to agree<br><br>Point 4 moved from line 151b, identical with Council mandate. |

|               | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT      |
|---------------|---|---|---|---|-------------------------|
|               |   |   | confidential information disclosed.   | <u>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> |                         |
| Article 13    |   |   |   |   |                         |
| 138           | Article 13<br>Rules of origin   | Article 13<br>Rules of origin   | Article 13<br>Rules of origin <b>and nationality</b>  | Article 13<br>Rules of origin and nationality   |                         |
| Article 13(1) |   |   |   |   |                         |
| 139           | 1. The origin or nationality of a good, service, service provider, investment or intellectual property rightholder shall be determined in accordance with Annex II. | 1. The origin or nationality of a good, service, service provider, investment or intellectual property rightholder shall be determined in accordance with Annex II. | 1. The origin or nationality of a good, service, service provider, investment or intellectual property rightholder shall be determined in accordance with Annex II. | 1. The origin or nationality of a good, service, service provider, investment or intellectual property rightholder shall be determined in accordance with Annex II.   |                         |
| Article 13(2) |   |   |   |   |                         |
| 140           | 2. The Commission is  | 2. The Commission is  | 2. The Commission is  | 2. The Commission is empowered  | <b>SE PRES proposes</b> |

|               | Commission Proposal  | EP Mandate   | Council Mandate  |
|---------------|--|--|--|
|               | 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. | 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. | empowered to adopt delegated acts in accordance with Article 14 to <b>supplement or</b> amend points 2 <del>to 4</del> <b>and 3</b> of Annex II <del>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</del> to take account of relevant developments in international instruments <del>and experience in the application of measures under this Regulation or other Union acts..</del> |
| Article 14    |  |  |  |
| 141           | Article 14 Delegated Acts  | Article 14 Delegated Acts  | Article 14 Delegated Acts  |
| Article 14(1) |  |  |  |
| 142           | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.   | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.   | 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.   |
| Article 14(2) |  |  |  |

| COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT   |
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| to adopt delegated acts in accordance with Article 14 to <del>supplement or</del> amend points 2 <del>to 4 and 3</del> of Annex II <del>to take account of relevant developments in international instruments.</del> <u>and experience in the application of measures under this Regulation or other Union acts under this Regulation or other Union acts.</u> | - not to agree with reinserting point 4 with reference to the term national under TRIPS<br>- not to agree with reinserting the text following "...and experience in..." and asks the COM to explain. Cf line 30.<br><br>MS views are welcome |
| Article 14 Delegated Acts  |  |
| 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.   |  |

|               | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT               |
|---------------|--|--|---|---|----------------------------------|
| 143           | 2. The power to adopt delegated acts referred to in Articles 7(7) and 13(2) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force].  | 2. The power to adopt delegated acts referred to in Articles 7(7) and 13(2) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force].  | 2. The power to adopt delegated acts referred to in <del>Articles 7(7) and</del> Article 13(2) shall be conferred on the Commission for <del>an indeterminate</del> a period of time <b>five years</b> from [date of entry into force <b>of this Regulation</b> ]. <b>Such delegation of power shall be 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.</b> | 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 <del>the</del> <u>the</u> date of entry into force of this Regulation <del>7</del> . Such delegation of power shall be 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. | SE PRES agrees (Council mandate) |
| 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 | 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 | 3. The delegation of power referred to in <del>Articles 7(7) and</del> 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   | 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                                    | SE PRES agrees (Council mandate) |

|                                    | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT               |
|------------------------------------|---|---|---|---|----------------------------------|
|                                    | 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.  | 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.  | 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.  | the validity of any delegated acts already in force.  |                                  |
| Article 14(4)                      |   |   |   |   |                                  |
| 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. | 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  |   |   |   |   |                                  |
| 146                                | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.   | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.   | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.   | 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.   |                                  |
| Article 14(5), second subparagraph |   |   |   |   |                                  |
| 147                                | A delegated act adopted pursuant to Articles 7(7) and   | A delegated act adopted pursuant to Articles 7(7) and   | A delegated act adopted pursuant to <del>Articles 7(7)</del>  | A delegated act adopted pursuant to Article 13(2) shall enter into  | SE PRES agrees (Council mandate) |

|               | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|---------------|---|---|--|--|--------------------|
|               | 13(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the 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. | 13(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the 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. | <del>and</del> Article 13(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the 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. | force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the 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<br>Committee procedure   | Article 15<br>Committee procedure   | Article 15<br>Committee procedure  | Article 15<br>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   | 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   | 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  | 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.  |                    |

|               | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT                           |
|---------------|--|--|---|--|--|
|               | 182/2011.  | 182/2011.  | 182/2011.   |  |  |
| Article 15(2) |  |  |   |  |  |
| 150           | 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.  | 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.  | 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.<br><br><b>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.</b> | 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.<br><br>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. | SE PRES proposes to agree (Council Mandate). |
| Article 15(3) |  |  |   |  |  |
| 151           | 3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof, shall apply. | 3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof, shall apply. | 3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof, shall apply.  | 3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof, shall apply.   |  |
| Article 15a   |  |  |   |  |  |
| 151a          |  |  | <b>Article 15bis</b><br>--  |  |  |

|                | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT  |
|----------------|---|---|---|---|---|
| Article 15a(1) |   |   |   |   |   |
| 151b           |   |   | <p><b>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.</b></p> | <p><del>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.</del></p> | SE PRES agrees with moving this text to line 137 (Article 12, Confidentiality). |
| Article 16     |   |   |   |   |   |
| 152            | Article 16 Review   | Article 16 <u>Reporting and</u> Review  | Article 16 Review   | Article 16 <u>Reporting and</u> Review  | SE PRES proposes to agree   |
| Article 16(1)  |   |   |   |   |   |
| 153            | 1. The Commission shall evaluate any Union response measure adopted pursuant to | 1. The Commission shall evaluate any Union response measure adopted pursuant to | 1. The Commission shall evaluate any Union response measure adopted pursuant to   | 1. The Commission shall <u>evaluate any Union response measure adopted pursuant to Articles 7 and</u>   | SE PRES would specifically request MS views on this,                            |



|  | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT   |
|--|--|--|---|---|--|
|  | <p>Article 7 six months after its termination, taking into account stakeholder input and any other relevant information. The evaluation report shall examine the effectiveness and operation of the Union response measure, and draw possible conclusions for future measures.</p> | <p>Article 7 six months after its termination, taking into account stakeholder input, <u>and information provided by the European Parliament and the Council</u>, and any other relevant information. The <u>Commission shall publish every year an evaluation report</u> <del>shall examine</del> <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></p> | <p><del>Article 7</del> <b>Articles 7 and 8</b> six months after its termination, taking into account stakeholder input and any other relevant information. <del>The</del> <b>and shall report to the European Parliament and the Council.</b> In this evaluation report the <b>Commission shall</b> examine the effectiveness and operation of the Union response measure, and, <b>where appropriate, draw</b> possible conclusions for future <b>Union response measures and the review of this regulation pursuant to paragraph 2.</b></p> | <p><del>8 six months after its termination, taking into account stakeholder input and any other relevant information and shall report to the European Parliament and the Council. In this evaluation the Commission shall examine the effectiveness and operation of the Union response measure, and, 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 [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</del> where appropriate, <del>draw conclusions for future Union response measures and the review of this regulation pursuant to paragraph 2 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.</del></p> <p>1. The Commission shall evaluate any Union response measure</p> | <p>and believes it requires further discussion with COM and CLS.</p> <p>SE PRES proposes not to accept the last part (<u>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>) at this stage.</p> |

|               | Commission Proposal   | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT  |
|---------------|---|--|--|--|---|
|               |   |  |  | adopted pursuant to Articles 7 <u>and 8</u> 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 <del>report</del> the Commission shall examine the effectiveness and operation of the Union response measure, and, where appropriate, draw conclusions for future Union response measures and the review of this regulation pursuant to paragraph 2. |   |
| Article 16(2) |   |  |  |  |   |
| 154           | 2. No later than three years after the adoption of the first implementing act under this Regulation or six years after the entry into force of this Regulation, whichever is earlier, the Commission shall review this Regulation and its implementation and shall report to the European Parliament and the Council. | 2. No later than three years after the <del>adoption of the first implementing act under</del> <u>entry into force of</u> this Regulation, <u>and at the latest every four years thereafter</u> <del>or six years after the entry into force of this Regulation, whichever is earlier</del> , the Commission shall review this Regulation and its implementation, <u>in particular, in ensuring complementarity with the</u> | 2. No later than three years after the adoption of the first implementing act under this Regulation or <del>six</del> <u>five</u> years after the <b>date of</b> entry into force of this Regulation, whichever is earlier, <b>and every five years thereafter</b> , the Commission shall review this Regulation and its implementation and shall report to the European Parliament and the Council. | 2. No later than three years after the adoption of the first implementing act under this Regulation or <del>five</del> <u>three</u> years after the <del>date of</del> 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  | SE PRES proposes to agree with the addition of a reference to Blocking Statute<br><br>SE PRES believes three years of time before a review is short given that the regulation is meant to be used only in rare cases, but |

|                              | Commission Proposal  | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT                      |
|------------------------------|--|---|---|---|---|
|                              |  | <a href="#"><u>review of the Blocking Statute</u></a> and shall report to the European Parliament and the Council <a href="#"><u>notably in the relevant reporting of the Chief Trade Enforcement Officer</u></a> . | <b>In the course of such review, the Commission shall give particular consideration to any issues which may arise as regards the relationship of this Regulation to other existing Union instruments.</b> | consideration to any issues which may arise as regards the relationship of this Regulation to other existing Union instruments, <a href="#"><u>such as the Blocking Statute</u></a> . | proposes to accept if agreeable to COM. |
| Article 17                   |  |   |   |   |   |
| 155                          | Article 17<br>Entry into force   | Article 17<br>Entry into force  | Article 17<br>Entry into force  | Article 17<br>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.  | This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.  |   |
| Article 17, second paragraph |  |   |   |   |   |
| 157                          | This Regulation shall be binding in its entirety and directly applicable in all Member States.   | This Regulation shall be binding in its entirety and directly applicable in all Member States.  | This Regulation shall be binding in its entirety and directly applicable in all Member States.  | This Regulation shall be binding in its entirety and directly applicable in all Member States.  |   |
| Formula                      |  |   |   |   |   |

|   | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)     | SE PRES ASSESSMENT |
|---|---|---|---|---|--------------------|
| 158   | Done at Brussels,   | Done at Brussels,   | Done at Brussels,   | Done at Brussels,   |                    |
| Formula                                     |   |   |   |   |                    |
| 159   | For the European Parliament                                     | For the European Parliament                                     | For the European Parliament                                     | For the European Parliament                                     |                    |
| Formula                                     |   |   |   |   |                    |
| 160   | The President   | The President   | The President   | The President   |                    |
| Formula                                     |   |   |   |   |                    |
| 161   | For the Council   | For the Council   | For the Council   | For the Council   |                    |
| Formula                                     |   |   |   |   |                    |
| 162   | The President   | The President   | The President   | The President   |                    |
| Annex I, first heading                      |   |   |   |   |                    |
| 163   | Union response measures pursuant to Articles 7 and 8            | Union response measures pursuant to Articles 7 and 8            | Union response measures pursuant to Articles 7 and 8            | Union response measures pursuant to Articles 7 and 8            |                    |
| Annex I, first paragraph, introductory part |   |   |   |   |                    |
| 164   | Measures which may be adopted pursuant to Articles 7 and 8 are: | Measures which may be adopted pursuant to Articles 7 and 8 are: | Measures which may be adopted pursuant to Articles 7 and 8 are: | Measures which may be adopted pursuant to Articles 7 and 8 are: |                    |

|                                     | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|-------------------------------------|---|---|---|--|--------------------|
| Annex I, first paragraph, point (a) |   |   |   |  |                    |
| 165                                 | (a) the suspension of any tariff concessions, as necessary, and the imposition of new or increased customs duties, including the re-establishment of customs duties at the most-favoured-nation level or the imposition 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 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 <del>suspension of non-</del> <b>performance of applicable international obligations as regards</b> 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 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; |                    |
| 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   | (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   | (b) the <del>suspension non-</del> <b>performance</b> 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,  | (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  |                    |

|  | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|--|---|---|---|--|--------------------|
|  | export licences or other measures, or on the payment for goods;   | export licences or other measures, or on the payment for goods;   | import or export licences or other measures, or on the payment for goods;   | goods;   |                    |
| 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 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 <del>suspension</del> <b>non-performance</b> 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. |                    |
| Annex I, first paragraph, point (d), introductory part |   |   |   |  |                    |
| 168  | (d) the suspension of applicable international obligations concerning the right to participate in tender procedures in the area of public procurement, as necessary, and:   | (d) the suspension of applicable international obligations concerning the right to participate in tender procedures in the area of public procurement, as necessary, and:   | (d) the <del>suspension</del> <b>non-performance</b> 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:   |                    |
| Annex I, first paragraph, point (d)(i)                 |   |   |   |  |                    |
| 169  | (i) the exclusion from public procurement of goods,   | (i) the exclusion from public procurement of goods,   | (i) the exclusion from public procurement of goods,   | (i) the exclusion from public procurement of goods, services or  |                    |

|   | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|---|---|---|--|---|--------------------|
|   | 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   | 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   | 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 <del>percentage</del> <b>50 %</b> of goods or services <b>of originating in</b> the third country concerned; and/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 <del>50%</del> <b>a specified percentage</b> of goods or <del>services originating in</del> <b>services originating in</b> the third country concerned; and/or   |                    |
| Annex I, first paragraph, point (d)(ii) |   |   |  |   |                    |
| 170                                     | <p>(ii) the imposition of a mandatory price evaluation weighting penalty<sup>1</sup> on tenders of goods, services or suppliers of goods or services of the third country concerned.</p> <p>1. Mandatory price evaluation weighting penalty means an obligation for contracting authorities or entities conducting public procurement procedures to increase, subject to certain exceptions, the price of goods or services falling under this paragraph that have been offered in contract award procedures.</p> | <p>(ii) the imposition of a mandatory price evaluation weighting penalty<sup>1</sup> on tenders of goods, services or suppliers of goods or services of the third country concerned.</p> <p>1. Mandatory price evaluation weighting penalty means an obligation for contracting authorities or entities conducting public procurement procedures to increase, subject to certain exceptions, the price of goods or services falling under this paragraph that have been offered in contract award procedures.</p> | <p>(ii) the imposition of a <del>mandatory price evaluation weighting penalty</del> <b>score adjustment</b><sup>1</sup> on tenders of goods, services or suppliers of goods or services of the third country concerned.</p> <p>1. <del>Mandatory price evaluation weighting penalty</del> <b>Score adjustment</b> means an obligation for contracting authorities or entities conducting public procurement procedures to increase <b>relatively diminish</b>, subject to certain exceptions, the <del>price of goods or services falling under this paragraph that have been offered in</del> <b>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</b></p> | <p>(ii) the imposition of a score adjustment<sup>1</sup> on tenders of goods, services or suppliers of goods or services of the third country concerned.</p> <p><u><b>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</b></u></p> |                    |

|  | Commission Proposal | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|--|---------------------|---|---|--|--------------------|
|  |                     |   | price or cost is the only contract award procedure criterion, the score adjustment means the relative increase, for the purpose of the evaluation of tenders, by a given percentage of the price offered by a tenderer. | <u><a href="#">of the evaluation of tenders, by a given percentage of the price offered by a tenderer.</a></u><br><br><del>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.</del> |                    |
| Annex I, first paragraph, point (d), first paragraph |                     |   |   |  |                    |
| 6  | 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;   | 6                  |
| Annex I, first paragraph, point (e)                  |                     |   |   |  |                    |
|  | 172                 | (e) the suspension of applicable international obligations, as necessary, and the imposition of restrictions on the exportation of goods falling under the Union export control regime; | (e) the suspension of applicable international obligations, as necessary, and the imposition of restrictions on the exportation of goods falling under the Union export control regime;                                 | <i>deleted</i>   |                    |



|  | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|--|---|---|---|---|--------------------|
| <i>Annex I, first paragraph, point (f)</i> |   |   |   |   |                    |
| 173  | (f) the suspension of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services;   | (f) the suspension of applicable international obligations regarding trade in services, as necessary, and the imposition of measures affecting trade in services;   | (f) the <del>suspension</del> <b>non-performance</b> 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;  |                    |
| <i>Annex I, first paragraph, point (g)</i> |   |   |   |   |                    |
| 174  | (g) the suspension of applicable international obligations, as necessary, and the imposition of measures affecting foreign direct investment;   | (g) the suspension of applicable international obligations, as necessary, and the imposition of measures affecting foreign direct investment;   | (g) the <del>suspension</del> <b>non-performance</b> of applicable international obligations, as necessary, and the imposition of measures affecting <b>the access of foreign direct investment to the Union</b> ;  | (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;  |                    |
| <i>Annex I, first paragraph, point (h)</i> |   |   |   |   |                    |
| 175  | (h) the suspension of applicable international obligations with respect to trade-related aspects of intellectual property rights, as necessary, and the imposition of restrictions on the protection of such intellectual property rights or their commercial | (h) the suspension of applicable international obligations with respect to trade-related aspects of intellectual property rights, as necessary, and the imposition of restrictions on the protection of such intellectual property rights or their commercial | (h) the <del>suspension</del> <b>non-performance</b> of applicable international obligations with respect to trade-related aspects of intellectual property rights <b>granted by a Union institution or agency and valid throughout the Union</b> , as necessary, and the imposition of restrictions on | (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 Union,</u> as necessary, and the imposition of restrictions on the protection of such intellectual property rights or their commercial |                    |

|                                     | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
|-------------------------------------|---|---|---|--|--------------------|
|                                     | exploitation, in relation to right-holders who are nationals of the third country concerned;  | exploitation, in relation to right-holders who are nationals of the third country concerned;  | the protection of such intellectual property rights or their commercial exploitation, in relation to right-holders who are nationals of the third country concerned;  | exploitation, in relation to right-holders who are nationals of the third country concerned;   |                    |
| Annex I, first paragraph, point (i) |   |   |   |  |                    |
| 176                                 | (i) the suspension of applicable international obligations with respect to financial services, as necessary, and the imposition of restrictions for banking, insurance, access to Union capital markets and other financial service activities; | (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 <del>suspension</del> <b>non-performance</b> 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; |                    |
| Annex I, first paragraph, point (j) |   |   |   |  |                    |
| 177                                 | (j) the suspension of applicable international obligations with respect to the treatment of goods, as necessary, and the imposition of restrictions on registrations and authorisations under the chemicals legislation of the Union;           | (j) the suspension of applicable international obligations with respect to the treatment of goods, as necessary, and the imposition of restrictions on registrations and authorisations under the chemicals legislation of the Union;           | <i>deleted</i>  |  |                    |

|  | Commission Proposal   | EP Mandate  | Council Mandate                        | COM Proposal 9 January (as compared to the Council Mandate) | SE PRES ASSESSMENT               |
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| <i>Annex I, first paragraph, point (k)</i> |   |   |  |   |                                  |
| 178  | (k) the suspension of applicable international obligations with respect to the treatment of goods, as necessary, and the imposition of restrictions on registrations and authorisations related to the sanitary and phytosanitary legislation of the Union; | (k) the suspension of applicable international obligations with respect to the treatment of goods, as necessary, and the imposition of restrictions on registrations and authorisations related to the sanitary and phytosanitary legislation of the Union; | <i>deleted</i>                         |   |                                  |
| <i>Annex I, first paragraph, point (l)</i> |   |   |  |   |                                  |
| 179  | (l) the suspension of applicable international obligations, as necessary, and the imposition of restrictions on access to Union-funded research programmes or exclusion from Union-funded research programmes.  | (l) the suspension of applicable international obligations, as necessary, and the imposition of restrictions on access to Union-funded research programmes or exclusion from Union-funded research programmes.  | <i>deleted</i>                         |   |                                  |
| <i>Annex II, first heading</i>             |   |   |  |   |                                  |
| 180  | Rules of Origin   | Rules of Origin   | Rules of Origin <b>and Nationality</b> | Rules of Origin and Nationality                             | SE PRES agrees (Council mandate) |
| <i>Annex II, point (1)</i>                 |   |   |  |   |                                  |

|  | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT               |
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| 181                                    | <p>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.<sup>1</sup></p> <p><sup>1</sup> 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).</p> | <p>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.<sup>1</sup></p> <p><sup>1</sup> 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).</p> | <p>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.<sup>1</sup></p> <p><sup>1</sup> 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).</p> | <p>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.<sup>1</sup></p> <p><sup>1</sup> 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).</p> |                                  |
| Annex II, point (2), introductory part |   |   |   |   |                                  |
| 182                                    | <p>2. The origin of a service, including a service supplied in the area of public procurement, shall be determined on the basis of the origin of the natural or legal person providing it. The origin of the service provider shall be deemed to be:</p>  | <p>2. The origin of a service, including a service supplied in the area of public procurement, shall be determined on the basis of the origin of the natural or legal person providing it. The origin of the service provider shall be deemed to be:</p>  | <p>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 <del>origin</del> <b>nationality</b> of the service provider shall be deemed to be:</p>  | <p>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:</p>   | SE PRES agrees (Council mandate) |
| Annex II, point (2)(a)                 |   |   |   |   |                                  |
| 183                                    | <p>(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;</p>   | <p>(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;</p>   | <p>(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;</p>   | <p>(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;</p>   |                                  |

|   | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
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|   |   |   |   |   |                    |
| Annex II, point (2)(b), introductory part     |   |   |   |   |                    |
| 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:   | (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; | (i) if the service is provided other than through a commercial presence within the Union, the country where the legal person is constituted or otherwise organised under the laws of that country and in the territory of which the legal person is engaged in substantive business operations; |                    |
| Annex II, point (2)(b)(ii), introductory part |   |   |   |   |                    |
| 186   | (ii) if the service is provided through a commercial presence within the Union,   | (ii) if the service is provided through a commercial presence within the Union,   | (ii) if the service is provided through a commercial presence within the Union,   | (ii) if the service is provided through a commercial presence within the Union,   |                    |
| Annex II, point (2)(b)(ii)(a)                 |   |   |   |   |                    |
| 187   | (a) if the legal person is engaged in substantive   | (a) if the legal person is engaged in substantive   | (a) if the legal person is engaged in substantive   | (a) if the legal person is engaged in substantive business operations in  |                    |

|                               | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
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|                               | 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   | 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   | 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   | 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 (2)(b)(ii)(b) |   |   |   |   |                    |
| 188                           | (b) if the legal person providing the service is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the origin of that legal person shall be deemed to be the origin of the natural or legal persons which own or control it. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such | (b) if the legal person providing the service is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the origin of that legal person shall be deemed to be the origin of the natural or legal persons which own or control it. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such | (b) if the legal person providing the service is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the origin of that legal person shall be deemed to be the origin of the natural or legal persons which own or control it. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such | (b) if the legal person providing the service is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the origin of that legal person shall be deemed to be the origin of the natural or legal persons which own or control it. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country and "controlled" by persons of a given country if such persons have the power to name a majority of its directors or otherwise to legally direct its |                    |

|  | Commission Proposal   | EP Mandate  | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
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|  | persons have the power to name a majority of its directors or otherwise to legally direct its actions.  | persons have the power to name a majority of its directors or otherwise to legally direct its actions.  | persons have the power to name a majority of its directors or otherwise to legally direct its actions.   | actions.   |                    |
| Annex II, point (2)(b)(iii)            |   |   |  |  |                    |
| 189                                    | (iii) By derogation from sub-paragraph (ii)(a), if it is decided that Union response measures should apply to legal persons falling under subparagraph (ii)(a), the origin of that person shall be the nationality or the place of permanent residence of the natural or juridical person or persons who own or control the legal person in the Union. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country 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 sub-paragraph (ii)(a), if it is decided that Union response measures should apply to legal persons falling under subparagraph (ii)(a), the origin of that person shall be the nationality or the place of permanent residence of the natural or juridical person or persons who own or control the legal person in the Union. The legal person shall be considered to be "owned" by persons of a given country if more than 50 % of the equity interest in it is beneficially owned by persons of that country 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 sub-paragraph (ii)(a), if it is decided that Union response measures should apply to legal persons falling under subparagraph (ii)(a), the origin of that person shall be the nationality or the place of permanent residence of the natural or <del>juridical</del> 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. |                    |
| Annex II, point (3), introductory part |   |   |  |  |                    |

|                        | Commission Proposal  | EP Mandate   | Council Mandate  | COM Proposal 9 January (as compared to the Council Mandate)  | SE PRES ASSESSMENT |
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| 190                    | 3. The nationality of an investment shall be:  | 3. The nationality of an investment shall be:  | 3. The nationality of an investment shall be:  | 3. The nationality of an investment shall be:  |                    |
| Annex II, point (3)(a) |  |  |  |  |                    |
| 191                    | (a) if the investment is engaged in substantive business operations in the territory of the Member State where the investment is established such that it has a direct and effective link with the economy of that Member State the nationality of the investment shall be deemed to be that of the Member State in which it is established; | (a) if the investment is engaged in substantive business operations in the territory of the Member State where the investment is established such that it has a direct and effective link with the economy of that Member State the nationality of the investment shall be deemed to be that of the Member State in which it is established; | (a) if the investment is engaged in substantive business operations in the territory of the Member State where the investment is established such that it has a direct and effective link with the economy of that Member State the nationality of the investment shall be deemed to be that of the Member State in which it is established; | (a) if the investment is engaged in substantive business operations in the territory of the Member State where the investment is established such that it has a direct and effective link with the economy of that Member State the nationality of the investment shall be deemed to be that of the Member State in which it is established;                 |                    |
| Annex II, point (3)(b) |  |  |  |  |                    |
| 192                    | (b) if the investment is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the nationality of the investment shall be deemed to that of the natural or legal persons which own or control it. The investment                      | (b) if the investment is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the nationality of the investment shall be deemed to that of the natural or legal persons which own or control it. The investment                      | (b) if the investment is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the nationality of the investment shall be deemed to that of the natural or legal persons which own or control it. The investment                      | (b) if the investment is not engaged in substantive business operations such that it has a direct and effective link with the economy of the Member State in which it is established, the nationality of the investment shall be deemed to that of the natural or legal persons which own or control it. The investment shall be considered to be "owned" by |                    |



|     | Commission Proposal  | EP Mandate   | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|-----|--|--|---|---|--------------------|
|     | 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;  | 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;  | 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;   | 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 | (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 | (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 <del>juridical</del> 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 | (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 majority of its directors or |                    |

|                     | Commission Proposal   | EP Mandate  | Council Mandate   | COM Proposal 9 January (as compared to the Council Mandate)   | SE PRES ASSESSMENT |
|---------------------|---|---|---|---|--------------------|
|                     | "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.   | "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.   | 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.   | 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. | 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 <b>(TRIPS)</b> . | 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). |                    |