

Economic coercion by third countries

2021/0406(COD) - 08/12/2021 - Legislative proposal

PURPOSE: to present a new tool to counteract third countries' economic coercion of the Union or a Member State.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: economic coercion refers to a situation where a third country is seeking to pressure the Union or a Member State into making a particular choice by applying, or threatening to apply, measures affecting trade or investment. Such practices unduly interfere with the legitimate policymaking space of the EU and its Member States and undermine the EU's open strategic autonomy.

Moreover, 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. Currently, the EU does not have a legislative framework for acting against economic coercion. Therefore, it is essential that the Union possess an appropriate instrument to deter and counteract economic coercion by third countries to safeguard its rights and interests and those of its Member States.

CONTENT: with a view to protecting the interests of the EU and its Member States by enabling the Union to respond to economic coercion, the proposal lays down rules and 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.

With this new instrument, the EU will be able to respond to cases of economic coercion in a structured and uniform manner. A dedicated legislative framework ensures predictability and transparency; it underlines the EU's adherence to a rules-based approach, also internationally. The EU will engage directly with the country concerned to stop the economic intimidation. If the economic intimidation does not stop immediately, the new instrument will allow the EU to react swiftly and effectively, providing a tailor-made and proportional response for each situation from imposing tariffs and restricting imports from the country in question, to restrictions on services or investment or steps to limit the country's access to the EU's internal market.

Scope

The proposed Regulation applies where a third country:

- 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
- by applying or threatening to apply measures affecting trade or investment.

In determining whether the above conditions are met, the following shall be taken into account:

- the intensity, severity, frequency, duration, breadth and magnitude of the third country's measure and the pressure arising from it;

- 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;
- the extent to which the third-country measure encroaches upon an area of the Union's or Member States' sovereignty;
- whether the third country is acting based on a legitimate concern that is internationally recognised;
- 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.

Engagement with the third country concerned

The proposal suggests that the Commission should 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:

- direct negotiations;
- mediation, conciliation or good offices to assist the Union and the third country concerned in these efforts;
- submitting the matter to international adjudication.

The Commission should seek to obtain the cessation of the economic coercion by also raising the matter in any relevant international forum.

Lastly, the Annexes to the proposal include the possible Union response measures and the rules of origins and nationality for goods, services, investments and intellectual property rightholders.