



Instrument to deter and counteract coercive action by non-EU countries

Consultation strategy

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0.0 version : Name

Date: 19-03-2021

Trade

1. Background information

In recent years, there has been an increase in the practices of countries outside the EU seeking to coerce EU Member States or the EU itself to take, or not take, particular policy measures. These non-EU countries object and wish to prevent particular policy measures, or demand and wish to obtain particular outcomes, in an increasingly politicised economic environment. They sometimes do so by using measures that restrict trade or investment to the detriment of EU economic operators, e.g. imposing additional import duties on imports from the EU, banning the sale of certain EU products altogether, or refusing investment permits to EU companies.

Such practices unduly interfere with the freedom of the EU and its Member States to make policy choices. If not addressed, the coercive practices can compromise the economic and geopolitical interests of the EU and its Member States, and can undermine the EU's [open strategic autonomy](#).

In the legislative process to amend the [EU Trade Enforcement Regulation](#), the European Parliament and EU Member States raised concerns about these practices, when directed at the EU or its Member States. This led to a [political agreement](#) on a [Joint Declaration](#) of the Commission, the Council and the European Parliament, to create a new legislative instrument to deter and counteract coercion.

This initiative was announced by the Commission's President in her [Letter of Intent to the President of the Parliament and President in office of the Council](#) of 16 September 2020. It is also in the [Commission Work Programme 2021](#).

The objective of the initiative is to tackle the coercive practices by non-EU countries in two concrete ways:

- a) deterring non-EU countries from using coercion or the threat of coercion against the EU or a Member State – by the mere existence of an anti-coercion instrument;
- b) counteracting the effects of coercion that is taking place, by swiftly enacting trade, investment or other policy measures against the non-EU country responsible, with a view to inducing that country to cede and imposing a cost in the meantime.

Ultimately, the goal is to reinforce the EU's [open strategic autonomy](#) and effectively protect the interests of the EU and its Member States, where they are endangered by such practices.

To that end, the initiative aims to create a mechanism that will enable action in line with public international law. The initiative is considering various policy measures in designing a regulation (by the European Parliament and the Council) to empower the Commission – in specific situations where coercion is involved – to intervene in the form of trade, investment or other policy measures against the country responsible.

You can consult the [Inception Impact Assessment](#) for the preliminary concepts.

2. Consultation scope and objectives

The consultation has the objective of complementing the evidentiary base for the initiative. More specifically, the consultation will primarily gather information, views and evidence on existing and potential coercive practices by countries outside the EU and their impact on the economic and geopolitical interests of the EU and its Member States. It will also gather views on the possible policy options and their likely various impact. Stakeholders will be encouraged to provide quantitative data where appropriate and available, in particular as regards costs.

The collected input will enable the Commission to ensure whatever action it takes is justified and supported, and also consistent with other Commission initiatives.

The [Joint Declaration](#) of the Commission, the Council and the European Parliament to create an instrument to deter and counteract coercion has already defined that the intended policy intervention would be in the form of a new legislative instrument. Therefore, it is not foreseen to consult stakeholders on alternatives to a legislative instrument. The consultation will focus on various policy measures in the designing of the instrument, namely the triggers (or the circumstances in which the EU may act), the countermeasures (types of measures the EU may employ to tackle coercion), and the likely impact of the various designs.

Considering that the intended framework falls primarily into the area of EU exclusive competence according to Article 207 of the Treaty on the Functioning of the European Union (TFEU), it is not foreseen to consult stakeholders on subsidiarity.

Finally, the initiative is distinct from initiatives announced in the Communication ["The European economic and financial system: fostering openness, strength and resilience"](#). As announced in that Communication, the Commission will work on additional policy options to further deter and counteract the unlawful extra-territorial application of unilateral sanctions by non-EU countries to EU economic operators (including possibly by amending [Regulation \(EC\) No 2271/96](#), the 'Blocking Statute'). The Commission will pursue both initiatives and ensure they are consistent with one another. Any information obtained in the consultations for each initiative that is relevant to the other will be shared (and any confidential information protected).

3. Stakeholders

The following key stakeholder categories and main areas of interest have been identified:

- EU businesses (including SMEs) and their associations, trade unions, including those active outside the EU, as well as EU Member States' public authorities. They might experience likely impacts directly and in the short- and/or medium-term, including potential costs and benefits. Each might experience impacts differently. This category is considered to have a high interest and stake in the initiative.
- Research and academic institutions, think tanks, consultancies and non-governmental organisations and platforms could also contribute, in particular as regards identifying and studying the problem of coercion. This category is considered to have a high to moderate interest and stake in the initiative.
- Finally, non-EU governments and non-EU businesses, as well as international institutions and bodies, might have an interest in providing input. They might experience indirect impacts or in some cases direct impacts, in the short- and/or medium-term, including likely positive or negative impacts. This category is considered to have a high to moderate interest and stake in the initiative.

4. Consultation activities and their accessibility

The consultation strategy foresees the following activities:

4.1. *Public consultation with citizens and stakeholders*

The central consultation activity is an online questionnaire-based public consultation. The consultation aims to give a possibility to a wide-range of stakeholders and citizens to make

known their views and interests and to feed in the preparatory work of the Commission. All organisations and individuals, within the EU and outside, will be invited to provide input on the problem definition, the policy intervention options and their likely impact. The consultation will be open to all citizens and stakeholders which might have an interest in the exercise but it might be of a particular interest to the three key stakeholder categories identified above (point 3).

The consultation will take form of a questionnaire, to be hosted on the Commission's [Have your Say portal](#). It will be available in all official EU languages and respondents may reply in any of the official EU languages.

The consultation period is 12 weeks, to **start at the end of March and continue until June 2021**.

4.2. Stakeholder meeting

An online stakeholder meeting will accompany the public internet-based consultation. The aim will be to provide more information to the citizens and stakeholders across the EU and abroad, and assist them in the participation in the consultation.

The exact format and possible specific target groups remain to be decided on the basis of appropriateness and availability of resources.

The online stakeholder meeting is tentatively planned for **April 2021**, to accompany the launch of the public consultation.

4.3. Targeted consultation activities

Additionally, the Commission intends to carry out targeted consultations with specific groups of stakeholders. The aim will be to generate exchanges and technical discussions with respective stakeholders on specialised subjects in relation to the problem of coercion and the possible policy options in response. This will be an opportunity for the respective stakeholders to provide their expertise. The targeted consultations will aim to complement the public consultation.

Planned activities include:

- Dedicated bilateral meetings with EU business associations, and with business associations active in countries where targeted coercive practices are likely to arise, such as European Chambers of Commerce;
- Academic conferences and seminars with research and academic institutions, think tanks, consultancies or Non-governmental organisations and platforms;
- Dedicated meetings with EU Member States to identify any particular concerns about coercive practices and discuss likely impact of a policy intervention.

The specific meetings may be held in a closed or open session, depending on the level of the technical detail and the information to be exchanged.

The Commission intends to approach the respective stakeholders specifically in order to organise the targeted consultation activities. Nevertheless, any stakeholders interested to provide input and share views are encouraged to contact the Directorate-General for Trade (trade-anti-coercion@ec.europa.eu) to discuss if a particular event would be appropriate and necessary.

The targeted consultation activities will take place throughout **March-June 2021**. The appropriate format, timing and possible specific target categories remain to be considered/planned.

4.4. *Dedicated events in the Council and the European Parliament*

Dedicated debates in the Council and the European Parliament may complement the consultation activities. They would ensure that the envisaged policy intervention corresponds to the co-legislators' concerns and views, at an early stage in the process. They may take place in the period of **March-June 2021**.

5. Consultation webpage & communication activities

The consultation process is managed via the Commission's [Have your Say portal](#) page for the initiative. That page will serve to announce the planned dates for the consultation activities and contains the documents relevant for this policy initiative: the Inception Impact Assessment and feedback received, and a synopsis report once the consultation period is closed.

To encourage stakeholders' active participation, the Directorate-General for Trade (DG Trade) will announce and promote the various consultation activities and developments of the initiative via dedicated channels ([EU Trade Twitter account](#), [EU Trade newsletter](#), [DG Trade website](#)), press activities and direct outreach.

The present Consultation Strategy is published on [DG Trade website](#).