

Response to EC Better Regulation consultation on an anti-coercion instrument

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Introduction

Insurance Europe welcomes the opportunity to contribute to the European Commission's consultation on the proposal for a regulation for an anti-coercion instrument (ACI).

Insurance Europe strongly supports the aim of the proposal; the EU should be empowered to react when a third country adopts or threatens to adopt measures to pressure the EU or a member state into making a particular policy choice.

However, the future regulation needs to be balanced and should not be used as a tool for the EU to achieve political objectives. The ACI should not be used as a protectionist tool and it is crucial that the EU remains open to international trade and investment.

To that end, Insurance Europe believes that the following need to be ensured:

- The **proportionality approach** of the ACI is of the utmost importance and it is positive that the regulation focuses on deterrence and prevention. This instrument should only be used as a last resort and only in the context of trade measures.
- The future regulation should include a **compensation mechanism** for companies affected by third countries' coercive measures.
- This instrument should **respect EU obligations and commitments under international law**, in particular WTO commitments.

Detailed comments

■ Scope

Insurance Europe welcomes the fact that the proposal foresees that the ACI should be activated exclusively in reaction to economic coercion and includes a wide array of possible third-country measures of economic coercion that could trigger a response from the Union.

However, Insurance Europe believes that extra-territorial sanctions should be included in the scope of the regulation. The impact assessment mentions that the regulation should only cover extra-territorial sanctions, insofar as they simultaneously coerce the home government of the economic operators, but there is no explicit mention of such sanctions in the regulation.

Extra-territorial sanctions are a significant part of the arsenal of economic coercion tools of third countries and should be part of the scope of this regulation, to complement the Blocking Statute Regulation.

Furthermore, Insurance Europe suggests specifying what is understood by “third country” in Article 2 of the proposed regulation. In particular, it should be clearly stated that coercive measures taken by any physical and legal entities representing or owned by the third country should fall within the scope of the regulation. This would include behaviour by state-owned enterprises and administrative services of a state that are sources of coercion.

■ Use of anti-coercion measures

It is right to place a strong focus of the instrument on deterrence and prevention. In particular, Insurance Europe welcomes the multi-step procedures established to dissuade third countries from adopting or maintaining measures of economic coercion and considers that anti-coercion measures should only be adopted as a last resort.

However, Insurance Europe believes that the regulation should specify more precisely which coercive measures can entail which reactions. While the current approach to select and design measures (Article 9) allows for flexibility in the response, it also risks undermining the desired deterrent effect due to the vague wording of the regulation.

Insurance Europe welcomes the fact that some sanctions are aimed directly at the services sectors in the coercing country, including the possibility to impose restrictions in the financial services sectors (including insurance). However, caution would be required when deciding to adopt such measures, which would be unprecedented.

Insurance Europe is particularly concerned about the possibility of applying such sanctions to companies established in the EU and owned or controlled by persons of the third country concerned (Article 8(3)). This is particularly worrying, as it could threaten foreign direct investments in the EU.

Furthermore, Insurance Europe is of the opinion that a consultation mechanism should be included in the regulation. Should the adoption of anti-coercion measures be considered, Insurance Europe believes that the European Commission should consult the sectors concerned before taking any definitive action. A mechanism similar to the one included in the Enforcement Regulation could be set up, which requires the Commission to consult with stakeholders to establish the Union's economic interest and to take their input into account. This is particularly important for the services sector.



■ **Inclusion of compensation mechanism**

Although the Commission decided against the inclusion of a compensation mechanism in the regulation, Insurance Europe would request that this is reconsidered. While it is not possible to absorb any and all damages caused by economic coercion, the possibility to recover the damages should at the very least exist.

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