



2021/0114(COD)

16.12.2021

DRAFT OPINION

of the Committee on Economic and Monetary Affairs

for the Committee on International Trade

on the proposal for a regulation of the European Parliament and of the Council
on foreign subsidies distorting the internal market
(COM(2021)0223 – C9-xxxx – 2021/0114(COD))

Rapporteur for opinion: Stéphanie Yon-Courtin

PA_Legam

SHORT JUSTIFICATION

Background

In May 2021, the European Commission proposed a new instrument to address potential distortive effects of foreign subsidies in the internal market. This draft regulation follows a White Paper on foreign subsidies in 2020 and is one of the key proposals to deliver on the Open Strategic Autonomy. The aim of the Foreign Subsidies Regulation is to close the regulatory gap in the internal market, protect competition and tackle distortive subsidies granted by non-EU countries.

The draft Regulation is country-neutral and based on three investigation tools;

1. A notification-based tool to investigate concentrations involving a financial contribution by a non-EU government, where the EU turnover of the company to be acquired is EUR 500 million or more and the foreign financial contribution is at least EUR 50 million;
2. A notification-based tool to investigate bids in public procurement procedures involving a financial contribution by a non-EU government, where the estimated value of the procurement is EUR 250 million or more; and
3. A tool to investigate all other market situations and smaller concentrations and public procurement procedures, which the Commission can start on its own initiative (ex-officio) and may request ad-hoc notifications.

Role of ECON Committee

Although INTA is the lead Committee on foreign subsidies matters, ECON has been associated under 'Rule 57+', with exclusive competence on concentrations and shared competence on some Articles.

Draft Report

The Rapporteur fully supports the overall aims of the proposed Regulation, namely to ensure the proper functioning of the internal market by tackling distortive subsidies granted by non-EU countries. She also supports the objective to ensure that all companies compete on an equal footing to maintain a level playing field and to ensure Europe's competitiveness in order to support the recovery of the EU economy. The Rapporteur believes the Regulation must remain WTO compliant at all times and that there is an efficient interplay of the new instrument with the existing ones such as the Merger Regulation, the EU foreign investment screening mechanism and the International Procurement Instrument.

Chapter on Concentrations

The Rapporteur has prioritised the chapter on concentrations, where ECON is responsible.

Thresholds: The Rapporteur believes that the Commission has set thresholds at a fair level, however suggests adding a review clause to ensure a targeted review of this Regulation after a year, if needed. Additionally, she underlines some key strategic sectors that need more attention from the Commission, in particular in the context of the ex officio instrument in cases below the ex-ante notification threshold.

Alert mechanism: The Rapporteur proposes to set up an alert mechanism to allow Member States and the concerned EU undertakings to have the possibility to alert the Commission

about a potentially distortive foreign subsidy. This will facilitate the use of the ex officio instrument for cases below the thresholds.

Notification mechanism: The Rapporteur suggests setting up a notification mechanism, which alerts Member States when the Commission initiates a preliminary review or an in-depth investigation for all the procedures included in this regulation. In order to ensure data protection and to limit the administrative burden on the Commission, this alert could be calibrated in its content and be communicated only to the Member States concerned by the concentration.

The Rapporteur also makes proposals to Articles where ECON has shared competence:

Definition of foreign subsidies: The Rapporteur suggests extending the definition to any regulatory intervention support that could affect the internal market such as a competitive advantage provided by a domestic market or restricted to foreign competitors.

Balancing test: The Rapporteur proposes to link the appreciation of positive impacts to the contribution of distortive subsidies to the achievement of the objectives of pre-existing EU policies. This is a general competition tool with no priority sectors, however, the Rapporteur believes that it could be relevant to identify strategic sectors, as for the foreign investment screening investments to look at first (especially in case of an excessive number of notifications).

Review: The Rapporteur suggests reviewing the Regulation in three years instead of five years in order to learn lessons from first years of experience and fix the loopholes if needed.

AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on International Trade, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) *The new instrument should be coherent with existing instruments, such as Council Regulation (EC) No 139/2004^{1a}, Directive 2014/24/EU of the European Parliament and of the Council^{1b} or Regulation (EU) 2019/452 of the European Parliament and of the Council^{1c}. In its application of the different instruments, the Commission should pay attention to ensure an efficient*

sharing of necessary information to safeguard a comprehensive approach.

^{1a} Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1).

^{1b} Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

^{1c} Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I, 21.3.2019, p. 1).

Or. en

Amendment 2

Proposal for a regulation Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) Without prejudice to the budgetary procedure and through existing financial instruments, adequate human, financial and technical resources should be allocated to the Commission to ensure that it can effectively perform its duties and exercise its powers in respect of the enforcement of this Regulation.

Or. en

Amendment 3

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) Rules and procedures to investigate foreign subsidies that actually or potentially distort the internal market should be laid down and, where relevant, those distortions should be redressed. Foreign subsidies could distort the internal market if the undertaking benefitting from the foreign subsidy engages in an economic activity in the Union. This Regulation should therefore establish rules for all undertakings engaging in an economic activity in the Union. Given the significance of the economic activities pursued by SMEs, and their contribution to the fulfilment of the Union's key policy goals, special attention is given to the impact of this Regulation on them.

Amendment

(6) Rules and procedures to investigate foreign subsidies that actually or potentially distort the internal market should be laid down and, where relevant, those distortions should be redressed. Foreign subsidies could distort the internal market if the undertaking benefitting from the foreign subsidy engages in an economic activity in the Union. ***An efficient enforcement of the principles laid down in this Regulation will contribute to achieve the necessary resilience of the internal market towards external economic influence and resilience of Europe.*** This Regulation should therefore establish rules for all undertakings engaging in an economic activity in the Union. Given the significance of the economic activities pursued by SMEs, and their contribution to the fulfilment of the Union's key policy goals, special attention is given to the impact of this Regulation on them.

Or. en

Amendment 4

Proposal for a regulation Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) Such a financial contribution should also include a situation where the beneficiary has privileged access to its domestic market, namely through exclusive or special rights or equivalent measures, for the provision of goods or services in the third country conferred by

national law or the benefit of a domestic captive market due to the prevailing legal and economic conditions. This could lead to an artificial competitive advantage that could be leveraged in the EU internal market and thereby exacerbate the distortive effect of any subsidy.

Or. en

Amendment 5

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) The Commission should take into account the positive effects of the foreign subsidy on the development of the relevant subsidised economic activity. The Commission should weigh these positive effects against the negative effects of a foreign subsidy in terms of distortion on the internal market in order to determine, if applicable, the appropriate redressive measure or accept commitments. The balancing may also lead to the conclusion that no redressive measures should be imposed. Categories of foreign subsidies that are deemed most likely to distort the internal market are less likely to have more positive than negative effects.

Amendment

(16) The Commission should take into account the positive effects of the foreign subsidy on the development of the relevant subsidised economic activity. The Commission should weigh these positive effects against the negative effects of a foreign subsidy in terms of distortion on the internal market in order to determine, if applicable, the appropriate redressive measure or accept commitments. ***The positive effect of the foreign subsidy on the achievement of the objectives of existing Union policies should be taken into account.*** The balancing may also lead to the conclusion that no redressive measures should be imposed. Categories of foreign subsidies that are deemed most likely to distort the internal market are less likely to have more positive than negative effects.

Or. en

Amendment 6

Proposal for a regulation Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Member States and undertakings should have a predefined information system and a contact point at their disposal by which the Commission can receive alerts and information concerning evidence of the existence of a potentially distortive subsidy.

Or. en

Amendment 7

Proposal for a regulation

Recital 22

Text proposed by the Commission

Amendment

(22) The Commission should be given adequate investigative powers to gather all necessary information. It should therefore have the power to request information from any undertaking or association of undertakings throughout the whole procedure. In addition, the Commission should have the power to impose fines and periodic penalty payments for failure to timely supply the requested information or for supplying incomplete, incorrect or misleading information. The Commission could also address questions to Member States or to third countries. Furthermore, the Commission should have the power to make fact-finding visits at the Union premises of the undertaking, or, subject to agreement by the undertaking and the third country concerned, at the premises of the undertaking in the third country. The Commission should also have the power to take decisions on the basis of facts available if the undertaking in question does not cooperate.

(22) The Commission should be given adequate investigative powers to gather all necessary information. It should therefore have the power to request information from any undertaking or association of undertakings throughout the whole procedure. ***However, the obligation to provide information should not put at risk essential security interests of the Member States.*** In addition, the Commission should have the power to impose fines and periodic penalty payments for failure to timely supply the requested information or for supplying incomplete, incorrect or misleading information. ***To reinforce the dissuasive character of this Regulation, there should be the possibility to apply the different sanctions like redressive measures, fines or periodic penalty payments simultaneously if necessary.*** The Commission could also address questions to Member States or to third countries. Furthermore, the Commission should have the power to make fact-finding visits at the Union premises of the undertaking, or, subject to agreement by the undertaking and the third country

concerned, at the premises of the undertaking in the third country. The Commission should also have the power to take decisions on the basis of facts available if the undertaking in question does not cooperate.

Or. en

Amendment 8

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) It is necessary to strike a balance between effective protection of the internal market and the need to limit the administrative burden on undertakings subject to this Regulation. Therefore, only concentrations meeting combined thresholds as defined in this Regulation based on the size of the turnover in the Union and the size of the subsidy should be subject to mandatory prior notification.

Amendment

(30) It is necessary to strike a balance between effective protection of the internal market and the need to limit the administrative burden on undertakings subject to this Regulation. Therefore, only concentrations meeting combined thresholds as defined in this Regulation based on the size of the turnover in the Union and the size of the subsidy should be subject to mandatory prior notification. ***The effectiveness of those thresholds shall be subject to review after one year of application.***

Or. en

Amendment 9

Proposal for a regulation Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) Whereas the instrument should focus on all sectors horizontally, when applying the ex officio review and dealing with notifications, the Commission should also take into account the strategic sectors of the Union, including the sectors related

to national security and public order. The Commission should pay attention to specific strategic sectors such as artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum and nuclear technologies as well as nanotechnologies and biotechnologies.

Or. en

Amendment 10

Proposal for a regulation Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) The Commission should issue guidelines regarding the correct application and implementation of the ex ante notifications and specify the information to be provided therein.

Or. en

Amendment 11

Proposal for a regulation Recital 42

Text proposed by the Commission

Amendment

(42) The undertakings or associations of undertakings concerned by an investigation under this Regulation should have the opportunity of submitting their observations. While ensuring preservation of the rights of defence of the undertakings concerned, it is essential that business secrets be protected.

(42) The undertakings or associations of undertakings concerned by an investigation under this Regulation should have the opportunity of submitting their observations; ***this comprises observations on the intended reasoning for interim measures or a revocation decision.*** While ensuring preservation of the rights of defence of the undertakings concerned, it is essential that business secrets be protected.

Or. en

Amendment 12

Proposal for a regulation Recital 44 a (new)

Text proposed by the Commission

Amendment

(44a) The application of this Regulation, including the request of information by the Commission, is without prejudice to the protection of the essential security interests of Member States in accordance with Article 346 TFEU.

Or. en

Amendment 13

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

Amendment

(2) This Regulation addresses foreign subsidies granted to an undertaking engaging in an economic activity in the internal market. An undertaking acquiring control or merging with an undertaking established in the Union or an undertaking participating in a public procurement procedure is considered to be engaging in an economic activity in the internal market.

2. This Regulation addresses foreign subsidies granted to an undertaking engaging in an economic activity in the internal market. ***Among others***, an undertaking acquiring control or merging with an undertaking established in the Union or an undertaking participating in a public procurement procedure is considered to be engaging in an economic activity in the internal market.

Or. en

Justification

The term “economic activity” is not restricted to the establishment of an undertaking in the Union or its participations in a public procurement.

Amendment 14

Proposal for a regulation

Article 2 – paragraph 2 – point a – introductory part

Text proposed by the Commission

(a) a financial contribution shall include:

Amendment

(a) a financial contribution shall include ***inter alia***:

Or. en

Justification

This amendment clarifies that the term "financial contribution" is not restrictive.

Amendment 15

Proposal for a regulation

Article 2 – paragraph 2 – point b – point iii a (new)

Text proposed by the Commission

Amendment

(iiia) any regulatory intervention which favours certain undertakings or the production of certain goods as regards the profitability of some actors on their domestic markets.

Or. en

Justification

This amendment (and the corresponding recital) aims to take into account the situation in which the beneficiary has a privileged access to its domestic market, leading to an artificial competitive advantage that could be leveraged in the EU internal market and thereby exacerbate the distortive effect of any subsidy.

Amendment 16

Proposal for a regulation

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

(1) A distortion on the internal market

Amendment

1. A distortion on the internal market

shall be deemed to exist where a foreign subsidy is liable to improve the competitive position of the undertaking concerned in the internal market and where, in doing so, it actually or potentially negatively affects competition on the internal market. Whether there is a distortion on the internal market shall be determined on the basis of indicators, which may include the following:

shall be deemed to exist where a foreign subsidy is liable to improve the competitive position of the undertaking concerned in the internal market and where, in doing so, it actually or potentially negatively affects competition on the internal market. Whether there is a distortion on the internal market shall be determined on the basis of indicators, which may include, *inter alia*, the following:

Or. en

Justification

The basis of indicators should not be restrictive.

Amendment 17

Proposal for a regulation

Article 3 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) *the sector concerned;*

Or. en

Justification

This amendment aims to take into account the case of the sectors, which are massively subsidised. Although this is a general competition tool, special attention must be paid to strategic sectors.

Amendment 18

Proposal for a regulation

Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) *the level of economic activity of the undertaking concerned on the domestic market;*

Justification

This amendment aims to take into account the situation in which the beneficiary has a privileged access to its domestic market (notably, through measures equivalent to special or exclusive rights), leading to an artificial competitive advantage that could be leveraged in the EU internal market and thereby exacerbate the distortive effect of any subsidy.

Amendment 19**Proposal for a regulation
Article 5 – paragraph 1***Text proposed by the Commission*

(1) The Commission shall, where warranted, balance the negative effects of a foreign subsidy in terms of distortion on the internal market with positive effects on the development of the relevant economic activity.

Amendment

1. The Commission shall, where warranted, balance the negative effects of a foreign subsidy in terms of distortion on the internal market with positive effects on the development of the relevant economic activity, ***taking into account the contribution of a foreign subsidy to the objectives of Union policies in the field concerned.***

Justification

While the balancing test is quite vague and leaves a lot of discretion to the European Commission, it would be beneficial to link the appreciation of positive impacts to the contribution of distortive subsidies to the fulfilment of the objectives of pre-existing EU policies. It would allow a better balance and more precise assessment.

Amendment 20**Proposal for a regulation
Article 6 – paragraph 1***Text proposed by the Commission*

(1) To remedy the distortion on the internal market actually or potentially caused by a foreign subsidy, the Commission may impose redressive

Amendment

1. To remedy the distortion on the internal market actually or potentially caused by a foreign subsidy, the Commission may impose redressive

measures. The undertaking concerned may also offer commitments.

measures. The undertaking concerned may also offer commitments. ***Commitments and redressive measures may be imposed simultaneously.***

Or. en

Justification

This amendment aims to clarify that even if an undertaking offers commitments, it does not exclude the possibility for the Commission to impose redressive measures.

Amendment 21

Proposal for a regulation

Article 6 – paragraph 3 – introductory part

Text proposed by the Commission

(3) Commitments or redressive measures may consist of the following:

Amendment

3. Commitments or redressive measures may consist, ***inter alia***, of the following:

Or. en

Justification

The list of the redressive measures should not be restrictive.

Amendment 22

Proposal for a regulation

Article 6 – paragraph 3 – point b

Text proposed by the Commission

(b) reducing capacity or market presence;

Amendment

(b) reducing capacity or market presence, ***including by means of a temporary sale restriction on the internal market***;

Or. en

Justification

The Regulation should hint at a larger spectrum of potential remedies, notably as far as

behavioural remedies are concerned.

Amendment 23

Proposal for a regulation

Article 6 – paragraph 3 – point h a (new)

Text proposed by the Commission

Amendment

(ha) restricting to participate, directly or indirectly, in new public procurement or concession contract procedures in the internal market.

Or. en

Justification

This amendment aims at introducing the prohibition of participation in public procurement and concession procedures to the list of commitments and redressive measures.

Amendment 24

Proposal for a regulation

Article 11 – title

Text proposed by the Commission

Amendment

Information requests

Information requests ***and provision***

Or. en

Amendment 25

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

Amendment

(1) The Commission may require an undertaking concerned to provide all necessary information.

1. The Commission may require an undertaking concerned to provide all necessary information ***to carry out the duties assigned to it in this Regulation.***

Justification

This clarification aims at ensuring legal certainty.

Amendment 26

Proposal for a regulation
Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. An undertaking, which is in possession of evidence of the existence of a potentially distortive subsidy, may provide such evidence to the Commission, by replying to standard questionnaires, published by the Commission in all official languages of the Union.

Or. en

Justification

This amendment introduces an alert mechanism for the undertakings to facilitate the investigation of the Commission. Undertakings might be able to provide information regarding potentially distortive foreign subsidies.

Amendment 27

Proposal for a regulation
Article 11 – paragraph 4

Text proposed by the Commission

Amendment

(4) At the request of the Commission, Member States shall provide it with all necessary information to carry out the duties assigned to it by this Regulation.

4. At the request of the Commission, Member States shall provide it with all necessary information to carry out the duties assigned to it by this Regulation, ***without prejudice to essential security interests of Member States.***

Or. en

Justification

This amendment does not question the cooperation of the Member States with the Commission but clarifies that the provision of information relating to sensitive economic transactions must not lead to the undermining of the national security and essential security interests of Member States.

Amendment 28

Proposal for a regulation

Article 11 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. A Member State that is in possession of evidence of the existence of a potentially distortive subsidy, may provide such evidence to the Commission. To that end, each Member State and the Commission shall establish a contact point for the implementation of this Regulation. A secure system shall be provided by the Commission to support direct cooperation and exchange of information between the contact points and the Commission.

Or. en

Justification

As for the undertakings, this amendment should allow Member States to have the possibility to alert the Commission about a potentially distortive foreign subsidy in order to facilitate the investigations of the Commission.

Amendment 29

Proposal for a regulation

Article 23 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Each preliminary review or in-depth investigation is notified to the Member States, which may be concerned

by the concentration.

Or. en

Justification

This amendment aims to ensure a proper coordination between the procedural and substantive application of this Regulation as well as of the other instruments, which may be applied simultaneously (Screening of investments, Regulation 139/2004 on the control of concentrations...)

Amendment 30

Proposal for a regulation

Article 25 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The fines and periodic penalty payments set out in this Article may be imposed simultaneously.

Or. en

Justification

This precision aims to clarify that the several fines and periodic penalty payments may be imposed simultaneously by the Commission.

Amendment 31

Proposal for a regulation

Article 27 – paragraph 2

Text proposed by the Commission

Amendment

(2) For the purpose of Article 28, a notifiable foreign financial contribution in an EU public procurement procedure shall be deemed to arise where the estimated value of that public procurement is equal or greater than EUR 250 million.

2. For the purposes of Article 28, a notifiable foreign financial contribution in an EU public procurement procedure shall be deemed to arise where the estimated value of that public procurement is equal or greater than EUR **150 million for goods and services contracts and EUR 250 million for public work contracts.**

Justification

This amendment suggests reviewing the threshold value for public procurement contract envisaged in the proposed Regulation, which seems too high to capture ex-ante many market distortions based on foreign subsidies, especially for public contracts for the supply of goods or of services other than construction services. The proposed threshold would prove more effective to review these subsidies.

Amendment 32**Proposal for a regulation
Article 28 – paragraph 2***Text proposed by the Commission*

(2) The obligation to notify foreign financial contributions under this paragraph shall extend to economic operators, groups of economic operators referred to in Article 26(2) of Directive 2014/23/EU, Article 19(2) of Directive 2014/24/EU and Article 37(2) of Directive 2014/25/EU, main subcontractors and main suppliers. A subcontractor or supplier shall be deemed to be main where their participation ensures key elements of the contract performance and in any case where the economic share of their contribution exceeds **30%** of the estimated value of the contract.

Amendment

2. The obligation to notify foreign financial contributions under this paragraph shall extend to economic operators, groups of economic operators referred to in Article 26(2) of Directive 2014/23/EU, Article 19(2) of Directive 2014/24/EU and Article 37(2) of Directive 2014/25/EU, main subcontractors and main suppliers. A subcontractor or supplier shall be deemed to be main where their participation ensures key elements of the contract performance and in any case where the economic share of their contribution exceeds **10%** of the estimated value of the contract.

Justification

This amendment suggests reviewing the thresholds, which seem too high for certain sectors, notably the railway sector, in which an economic contribution of up to 30% by a subcontractor or a supplier rarely exists.

Amendment 33**Proposal for a regulation
Article 29 – paragraph 4**

Text proposed by the Commission

(4) The Commission may adopt a decision closing the in-depth investigation no later than **200** days after it received the notification. In exceptional circumstances, this time limit may be extended after consultation with the concerned contracting authority or contracting entity.

Amendment

4. The Commission may adopt a decision closing the in-depth investigation no later than **120** days after it received the notification. In exceptional circumstances, this time limit may be extended after consultation with the concerned contracting authority or contracting entity.
If the Commission does not adopt a decision within that time limit, the undertakings concerned shall be allowed to continue to participate in the public procurement procedure.

Or. en

Justification

This amendment aims to ensure legal certainty by shortening the time limits.

Amendment 34

**Proposal for a regulation
Article 31 – paragraph 7**

Text proposed by the Commission

(7) The principles governing public procurement, including proportionality, non-discrimination, equal treatment, **and** transparency, shall be observed as regards all undertakings involved in the public procurement procedure. The investigation of foreign subsidies pursuant to this Regulation shall not result in the contracting authority or the contracting entity treating the undertaking concerned in a way that is contrary to those principles.

Amendment

7. The principles governing public procurement, including proportionality, non-discrimination, equal treatment, transparency **and competition** shall be observed as regards all undertakings involved in the public procurement procedure. The investigation of foreign subsidies pursuant to this Regulation shall not result in the contracting authority or the contracting entity treating the undertaking concerned in a way that is contrary to those principles.

Or. en

Amendment 35

Proposal for a regulation

Article 32 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The fines and periodic penalty payments set out in this Article may be imposed simultaneously.

Or. en

Amendment 36

Proposal for a regulation

Article 38 – paragraph 1

Text proposed by the Commission

Amendment

(1) The Commission shall, before adopting a decision pursuant to Articles 9, **15**, 24(3) point (c), 25, 30(2) or 32 give the undertaking concerned the opportunity to submit observations on the grounds on which the Commission intends to adopt its decision.

1. The Commission shall, before adopting a decision pursuant to Articles 9, **10, 15, 16**, 24(3) point (c), 25, 30(2) or 32 give the undertaking concerned the opportunity to submit observations on the grounds on which the Commission intends to adopt its decision.

Or. en

Justification

This amendment aims to also give the undertakings concerned the opportunity to submit observations on the grounds on which the Commission intends to adopt interim measures or revocation.

Amendment 37

Proposal for a regulation

Article 45 – paragraph 6

Text proposed by the Commission

Amendment

(6) A delegated act adopted pursuant to Article 44 shall enter into force only if no objection has been expressed either by the

6. A delegated act adopted pursuant to Article 44 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.

European Parliament or by the Council within a period of *three* 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 *three* months at the initiative of the European Parliament or of the Council.

Or. en

Justification

The usual periods for legislation within ECON's competence would be 3+3 months due to the complexity of the subject. The Regulation is complex and if three committees need to give input on a delegated act, this might be more time consuming as anticipated by the Commission.

Amendment 38

Proposal for a regulation Article 46 – paragraph 1

Text proposed by the Commission

Within *five* years after the entry into force of this Regulation at the latest, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation, accompanied, where the Commission considers it appropriate, by relevant legislative proposals.

Amendment

Within *three* years after the entry into force of this Regulation at the latest, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation, accompanied, where the Commission considers it appropriate, by relevant legislative proposals.

Or. en

Justification

This amendment aims to ensure co-legislators can assess this Regulation as soon as possible.

Amendment 39

Proposal for a regulation Article 46 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall report on the operation of the notification thresholds as set out in Articles 18 and 27 to the European Parliament and the Council by ... [twelve months after the entry into force of this Regulation] and shall upon request of the European Parliament and the Council amend those thresholds taking into account the effectiveness of their application.

Or. en

Justification

This amendment aims to introduce a targeted review clause on threshold to assess if they are fit for purpose and change them if needed.