



2012/0060(COD)

10.9.2021

AMENDMENTS

43 - 187

Draft opinion

Ivan Štefanec

(PE695.252v01-00)

Access of third-country goods and services to the Union's internal market in public procurement and procedures supporting negotiations on access of Union goods and services to the public procurement markets of third countries

Proposal for a regulation

(COM(2016)0034 – C8-0018/2016 – 2012/0060(COD))

AM_Com_LegOpinion

Amendment 43

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Recital -1 (new)

Text proposed by the Commission

Amendment

(-1) Whereas foreign companies have nearly tripled their public procurement contracts in Europe in 5 years, and whereas, according to the Commission's figures, non-European companies were awarded public contracts in the European Union worth 32 billion in 2017 compared with 10-17 billion in 2021;

whereas the Commission admits that it has no information on the biggest procurement contracts awarded to European companies in the US and China.

Or. fr

Amendment 44

Anna Cavazzini, Claude Gruffat
on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 1

Text proposed by the Commission

Amendment

(1) In accordance with Article 21 of the Treaty on European Union, the Union is to define and pursue common policies and actions, and improve cooperation in all fields in international relations in order, inter alia, to encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade.

(1) In accordance with Article 21 of the Treaty on European Union, the Union is to define and pursue common policies and actions, and improve cooperation in all fields in international relations in order, inter alia, to encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade, ***to ensure sustainable development and to foster the sustainable economic, social and environmental development of***

developing countries, with the primary aim of eradicating poverty.

Or. en

Amendment 45

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) In accordance with Article 21 of the Treaty on European Union, the Union is to define and pursue common policies and actions, and improve cooperation in all fields in international relations in order, inter alia, to encourage the integration of all countries into the world economy, including through *the progressive abolition of restrictions on international trade*.

Amendment

(1) In accordance with Article 21 of the Treaty on European Union, the Union is to define and pursue common policies and actions, and improve cooperation in all fields in international relations in order, inter alia, to encourage the integration of all countries into the world economy, including through *limiting unnecessary barriers to European trade*.

Or. fr

Amendment 46

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) In accordance with Article 18 of the Treaty establishing the EEC in 1957, the Member States shall declare their willingness to contribute to the development of international trade and the reduction of barriers to trade by entering into reciprocal and mutually-advantageous arrangements.

Or. fr

Amendment 47

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) Pursuant to Article 206 of the Treaty on the Functioning of the European Union, the Union, by establishing a customs union, is to contribute, in the common interest, to the harmonious development of world trade, ***the progressive abolition of*** restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.

Amendment

(2) Pursuant to Article 206 of the Treaty on the Functioning of the European Union, the Union, by establishing a customs union, is to contribute, in the common interest, to the harmonious development of world trade ***by limiting unnecessary*** restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.

Or. fr

Amendment 48

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Cooperation in Europe will bear fruit for all countries only if it is based on Community preference.

Or. fr

Amendment 49

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 6

Text proposed by the Commission

Amendment

(6) Within the context of the WTO and

(6) Within the context of the WTO and

through its bilateral relations, the Union advocates an ambitious opening of international public procurement markets of the Union and its trading partners, in a spirit of reciprocity and mutual benefit.

through its bilateral relations, the Union advocates an ambitious opening of international public procurement markets of the Union and its trading partners, in a spirit of reciprocity, ***collaboration and cooperation*** and mutual benefit.

Or. en

Amendment 50

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Many third countries are reluctant to open their public procurement and their concessions markets to international competition, or to open those markets further than what they have already done. As a result, Union economic operators face restrictive procurement practices in many of the trading partner of the Union. Those restrictive procurement practices result in the loss of substantial trading opportunities.

Amendment

(8) Many third countries are reluctant ***or refuse*** to open their public procurement and their concessions markets to international competition, or to open those markets further than what they have already done. As a result, Union economic operators face restrictive procurement practices in many of the trading partner of the Union. Those restrictive procurement practices result in the loss of substantial trading opportunities. ***In this context, the introduction of measures aimed at encouraging the opening of third countries' public procurement markets and at achieving mutual reciprocity is a necessary stage in defending the commercial interests of the Member States and the Union. However, if the measures were to prove insufficient and European companies continued to encounter problems accessing the public procurement and concessions markets of third countries, the Commission and the Member States should investigate introducing more effective trade defence instruments without delay.***

Or. fr

Amendment 51

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Many third countries are reluctant to open their public procurement and their concessions markets to international competition, or to open those markets further than what they have already done. As a result, Union economic operators face restrictive procurement practices in many of the trading partner of the Union. Those restrictive procurement practices result in the loss of **substantial** trading opportunities.

Amendment

(8) Many third countries are reluctant to open their public procurement and their concessions markets to international competition, or to open those markets further than what they have already done. As a result, Union economic operators face restrictive procurement practices in many of the trading partner of the Union. Those restrictive procurement practices **may** result in the loss of trading opportunities. ***Nevertheless, it should be noted that many third countries apply such restrictions in order to pursue legitimate public policy objectives and development goals.***

Or. en

Amendment 52

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) Many third countries are reluctant to open their public procurement and their concessions markets to international competition, or to open those markets further than what they have already done. As a result, Union economic operators face restrictive procurement practices in many of the trading partner of the Union. Those restrictive procurement practices result in the loss of substantial trading opportunities.

Amendment

(8) Many third countries are reluctant to open their public procurement and their concessions markets to international competition, or to open those markets further than what they have already done. As a result, Union economic operators face restrictive procurement practices **and protectionist policies** in many of the trading partner of the Union. Those restrictive procurement practices result in the loss of substantial trading

opportunities.

Or. en

Amendment 53

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) While many third countries persist in limiting access to their public procurement markets, large sections of the Union's public procurement markets remain open to international competition. Union companies operating in the internal market are thus confronted by unfair competition from economic operators based outside the Union, particularly where the latter receive government subsidies.

Or. fr

Justification

European companies which are active abroad are not the only companies affected. The impact of foreign companies' participation in public procurement in the internal market is just as extensive, as European operators are often confronted by unfair competition from foreign companies receiving state subsidies.

Amendment 54

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) Alongside the application of reciprocity in international public

procurement markets by means of this Regulation, which is a good first stage, the Commission and the Member States are urged to investigate the level of interest in implementing a 'Buy European' act.

Or. fr

Amendment 55
Anna Cavazzini
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 9

Text proposed by the Commission

Amendment

(9) *Directive 2014/25/EU of the European Parliament and of the Council¹⁶ contains only a few provisions concerning the external dimension of the public procurement policy of the Union, in particular Articles 85 and 86 . These provisions have a limited scope and should be replaced.*

deleted

¹⁶ *Directive 2014/25/EU of the European Parliament and of the Council, of February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors (OJ L 94, 28.3.2014, p. 243).*

Or. en

Amendment 56
Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation
Recital 11

Text proposed by the Commission

Amendment

(11) In the interest of legal certainty for Union and third-country economic operators, contracting authorities and contracting entities, the international market access commitments undertaken by the Union towards third countries in the field of public procurement and concessions should be reflected in the legal order of the EU, thereby ensuring effective application thereof.

(11) In the interest of legal certainty for Union and third-country economic operators, contracting authorities and contracting entities, the international market access commitments undertaken by the Union towards third countries in the field of public procurement and concessions should be reflected in the legal order of the EU, thereby ensuring effective **and rigorous** application thereof.

Or. en

Amendment 57

Anna Cavazzini, Claude Gruffat
on behalf of the Verts/ALE Group

Proposal for a regulation **Recital 12**

Text proposed by the Commission

(12) The objectives of **improving** the access of Union economic operators to the public procurement and concessions markets of certain third countries **protected by restrictive and discriminatory procurement measures or practices** and of preserving equal conditions of competition within the internal **market** require to refer to the **non-preferential** rules of origin established in the EU customs legislation, so that contracting authorities and contracting entities know whether goods and services are covered by the international commitments of the Union.

Amendment

(12) The objectives of **addressing serious and recurrent impairment to** the access of Union economic operators to the public procurement and concessions markets of certain third countries and of preserving equal conditions of competition, **also with respect for environmental, social and labour standards**, within the internal **market** require to refer to the **non-preferential** rules of origin established in the EU customs legislation, so that contracting authorities and contracting entities know whether goods and services are covered by the international commitments of the Union.

Or. en

Amendment 58 **Carlo Fidanza**

Proposal for a regulation **Recital 15**

Text proposed by the Commission

Amendment

(15) In the light of the overall policy objective of the Union to support the economic growth of developing countries and their integration into the global value chain, which is the basis for the establishment by the Union of a generalised system of preferences as outlined in Regulation (EU) No 978/2012 of the European Parliament and of the Council¹⁹, this Regulation should not apply to tenders where more than 50% of the total value of the tender is made up of goods and services originating, in accordance with the Union's non-preferential rules of origin, in least-developed countries benefitting from the "Everything But Arms" arrangement or in developing countries considered to be vulnerable due to a lack of diversification and insufficient integration within the international trading system as defined respectively in Annexes IV and VII to Regulation (EU) No 978/2012.

deleted

¹⁹ Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

Or. en

Amendment 59

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 15

Text proposed by the Commission

Amendment

(15) In the light of the overall policy

(15) In the light of the overall policy

objective of the Union to support the economic growth of developing countries and their integration into the global value chain, which is the basis for the establishment by the Union of a generalised system of preferences as outlined in Regulation (EU) No 978/2012 of the European Parliament and of the Council¹⁹, this Regulation should not apply to tenders where more than 50% of the total value of the tender is made up of goods and services originating, in accordance with the Union's non-preferential rules of origin, in *least-developed* countries benefitting from the *"Everything But Arms" arrangement or in developing countries considered to be vulnerable due to a lack of diversification and insufficient integration within the international trading system as defined respectively in Annexes IV and VII to Regulation (EU) No 978/2012*.

¹⁹ Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

objective of the Union to support the economic growth of developing countries and their integration into the global value chain, *and in line with the Union's commitment to policy coherence for development pursuant to Article 208 of the Treaty on the functioning of the European Union*, which is the basis for the establishment by the Union of a generalised system of preferences as outlined in Regulation (EU) No 978/2012 of the European Parliament and of the Council¹⁸, this Regulation should not apply to tenders where more than 50% of the total value of the tender is made up of goods and services originating, in accordance with the Union's non-preferential rules of origin, in countries benefitting from the *Generalised System of Preferences*.

Or. en

Amendment 60

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) In the light of the overall policy objective of the Union to support the economic growth of developing countries and their integration into the global value chain, which is the basis for the establishment by the Union of a

Amendment

(15) In the light of the overall policy objective of the Union to support the economic growth of developing countries and their integration into the global value chain, which is the basis for the establishment by the Union of a

generalised system of preferences as outlined in Regulation (EU) No 978/2012 of the European Parliament and of the Council¹⁹, this Regulation should not apply to tenders where more than **50%** of the total value of the tender is made up of goods and services originating, in accordance with the Union's non-preferential rules of origin, in least-developed countries benefitting from the "Everything But Arms" arrangement or in developing countries considered to be vulnerable due to a lack of diversification and insufficient integration within the international trading system as defined respectively in Annexes IV and VII to Regulation (EU) No 978/2012.

¹⁹ Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

generalised system of preferences as outlined in Regulation (EU) No 978/2012 of the European Parliament and of the Council¹⁹, this Regulation should not apply to tenders where more than **70%** of the total value of the tender is made up of goods and services originating, in accordance with the Union's non-preferential rules of origin, in least-developed countries benefitting from the "Everything But Arms" arrangement or in developing countries considered to be vulnerable due to a lack of diversification and insufficient integration within the international trading system as defined respectively in Annexes IV and VII to Regulation (EU) No 978/2012.

¹⁹ Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

Or. en

Amendment 61

Anna Cavazzini, Claude Gruffat
on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) When assessing whether restrictive and/or discriminatory procurement measures or practices exist in a third country, the Commission should examine to what degree laws on public procurement and concessions of the country concerned ensure transparency in line with international standards in the field of public procurement and preclude any discrimination against Union goods,

Amendment

(17) When assessing whether restrictive and/or discriminatory procurement measures or practices exist in a third country, the Commission should examine to what degree laws on public procurement and concessions of the country concerned ensure transparency in line with international standards in the field of public procurement and preclude any discrimination against Union goods,

services and economic operators. In addition, it should examine to what degree individual contracting authorities or contracting entities maintain or adopt discriminatory practices against Union goods, services and economic operators.

services and economic operators. In addition, it should examine to what degree individual contracting authorities or contracting entities maintain or adopt discriminatory practices against Union goods, services and economic operators. ***In doing so, the Commission should assess and seek information from the country concerned regarding the extent to which such practices may be legitimate in accordance with the country's public policy objectives and development goals.***

Or. en

Amendment 62

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) When assessing whether restrictive and/or discriminatory procurement measures or practices exist in a third country, the Commission should examine to what degree laws on public procurement and concessions of the country concerned ensure transparency in line with international standards in the field of public procurement and preclude any discrimination against Union goods, services and economic operators. In addition, it should examine to what degree individual contracting authorities or contracting entities maintain or adopt discriminatory practices against Union goods, services and economic operators.

Amendment

(17) When assessing whether restrictive and/or discriminatory procurement measures or practices exist in a third country, the Commission should examine to what degree laws on public procurement and concessions of the country concerned ensure transparency in line with international standards in the field of public procurement and preclude any discrimination against Union goods, services and economic operators. In addition, it should examine to what degree individual contracting authorities or contracting entities maintain or adopt discriminatory practices against Union goods, services and economic operators ***and notify the authorities that do not comply with the common commercial policies.***

Or. en

Amendment 63

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 18

Text proposed by the Commission

Amendment

(18) In view of the fact that the access of third country goods and services to the public procurement market of the Union falls within the scope of the common commercial policy, Member States and their contracting authorities and contracting entities should not be able to restrict the access of third country goods or services to their tendering procedures by any other measure than those provided for in this Regulation.

deleted

Or. en

Amendment 64

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Recital 18

Text proposed by the Commission

Amendment

(18) In view of the fact that the access of third country goods and services to the public procurement market of the Union falls within the scope of the common commercial policy, Member States and their contracting authorities and contracting entities should not be able to restrict the access of third country goods or services to their tendering procedures by any other measure than those provided for in this Regulation.

(18) Member States and their contracting authorities and contracting entities *may, in keeping with the spirit of this Regulation*, restrict the access of third country goods or services to their tendering procedures *in order to ensure that foreign economic operators respect environmental, social and labour laws and all applicable national laws*.

Or. fr

Amendment 65

Anna Cavazzini, Claude Gruffat
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) Third country economic operators are not always bound by the equivalent environmental, social or labour standards as those applicable to EU economic operators creating an uneven level-playing field in the Union's public procurement market. Directives 2014/23/EU, 2014/24/EU and 2014/25/EU foresee a certain number of provisions for Member States and contracting authorities to ensure compliance with obligations in the fields of environmental, social and labour law at both national and Union level, as well as with obligations stemming from international conventions that may result in the exclusion of certain bidders. However, the application of those rules might prove insufficient to address possible distortions. The instruments foreseen under this Regulation should therefore aim at fostering the application of EU public procurement rules in this area;.

Or. en

Amendment 66

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation
Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) It is also imperative that, in view of an appropriate integration of environmental, social and labour requirements, contracting authorities take

relevant measures to ensure compliance with obligations in the fields of environmental, social and labour law that apply at the place where the works are executed and result from international obligations, laws, regulations, decrees and decisions, at both national and Union level, as well as from collective agreements.

Or. en

Amendment 67

Adriana Maldonado López, Inma Rodríguez-Piñero

Proposal for a regulation

Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) It is also imperative that, in view of an appropriate integration of environmental, social and labour requirements, contracting authorities take relevant measures to ensure compliance with obligations in the fields of environmental, social and labour law that apply at the place where the works are executed and result from international obligations, laws, regulations, decrees and decisions, at both national and Union level, as well as from collective agreements.

Or. en

Amendment 68

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In the determination of whether the start of an investigation and/or the adoption of a measure under the International Procurement Instrument ('IPI') is in the interest of the Union, the general objective of addressing serious and recurrent impairment to market access opportunities for Union economic operators should be given special consideration. The Commission should also take into account the presence of third country bidders on the EU procurement market at a given moment. IPI measures may not be applied where the Commission, on the basis of all information submitted, can clearly conclude that it is not in the Union interest to apply such measures; the Commission should pay particular attention to sectors that are considered strategic in respect of EU public procurement;

Or. en

Amendment 69
Liesje Schreinemacher

Proposal for a regulation
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In order to establish whether it is in the interest of the Union to launch an investigation, a variety of aspects should be taken into account, including the interests of the domestic industry, users, and consumers as part of broader EU interests. The main interest is the opening of third country markets and improving market access opportunities for Union economic operators in order to achieve reciprocity, which should be given priority.

Or. en

Amendment 70
Anna Cavazzini
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 19 b (new)

Text proposed by the Commission

Amendment

(19b) When conducting its investigation, the Commission should also take into consideration the application or non-application by a third country of environmental, social and labour standards stemming from international conventions in those fields which the country has ratified and that are listed in Annex X of Directive 2014/23/EU, Annex X of Directive 2014/24/EU and Annex XIV of Directive 2014/25/EU. The Commission should equally include findings on the implementation of the Paris Agreement by the third country in question. If the investigation confirms the non-conformity with applicable rules, the results of the investigation should be used by contracting authorities to apply provisions foreseen under Directives 2014/24/EU, 2014/23/EU, 2014/25/EU with respect to the performance of contracts or in cases of abnormally low tenders.

Or. en

Amendment 71
Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation
Recital 20

Text proposed by the Commission

Amendment

(20) If the existence of a restrictive

(20) If the existence of a restrictive

and/or discriminatory procurement measure or practice in a third country is confirmed, the Commission should invite the country concerned to enter into consultations with a view to improving the tendering opportunities for Union economic operators, goods and services in respect of public procurement in that country.

and/or discriminatory procurement measure or practice in a third country is confirmed, the Commission should invite the country concerned to enter into consultations with a view to improving the tendering opportunities for Union economic operators, goods and services in respect of public procurement in that country. ***In order to encourage the country concerned promptly to take an active part in this dialogue, the Commission should decide, when the consultation procedure starts, to introduce on a temporary basis some measures set out in this Regulation, namely exclusion from participation in tendering procedures in EU public procurement markets or from price adjustment measures. The measures would apply to tenders from economic operators originating in that country and/or which deal with products and services originating in that country.***

Or. fr

Amendment 72

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) It is of the utmost importance that the investigation is carried out in a transparent manner. A report on the main findings of the investigation should therefore be publicly available.

Amendment

(21) It is of the utmost importance that the investigation is carried out in a transparent manner ***and within a reasonable time***. A report on the main findings of the investigation should therefore be publicly available.

Or. en

Amendment 73

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) If the consultations with the country concerned do not lead to sufficient improvements to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission should be able to adopt, **where appropriate, price** adjustment measure applying to tenders **submitted by** economic operators originating in that country and/or including goods and services originating in that country.

Amendment

(22) If the consultations with the country concerned do not lead to sufficient improvements to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission should be able to adopt ***International Procurement Instrument (IPI) measures under the form of a score*** adjustment measure applying to tenders ***or by providing for the exclusion from the tender procedure of*** economic operators originating in that country and/or including goods and services originating in that country.

Or. en

Amendment 74

Dita Charanzová, Morten Løkkegaard, Liesje Schreinemacher

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) If the consultations with the country concerned do not lead to sufficient improvements to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission should be able to adopt, where appropriate, **price** adjustment **measure applying to** tenders **submitted by economic operators originating in that country and/or including goods and services originating in that country.**

Amendment

(22) If ***the investigation confirms the existence of the restrictive measures or practices and*** the consultations with the country concerned do not lead to sufficient ***corrective action(s) that result in*** improvements to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission should be able to adopt, where appropriate, ***under this Regulation, IPI measures in the form of a score*** adjustment ***or of the exclusion of*** tenders

Amendment 75

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) If the consultations with the country concerned do not lead to sufficient improvements to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission should be able to *adopt, where appropriate, price adjustment measure applying to tenders submitted by economic operators originating in that country and/or including goods and services originating in that country.*

Amendment

(22) If the consultations with the country concerned do not lead to sufficient improvements to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission should be able to *prolong the measures introduced at the start of the consultation procedure and where necessary to adopt additional measures contained in this Regulation.*

Amendment 76

Liesje Schreinemacher

Proposal for a regulation

Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) If the third country does not accept to enter into consultations with the European Union, the Commission should take appropriate action to address the lack of reciprocity on the third country procurement market.

Amendment 77

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) *Such measures should be applied only for the purpose of the evaluation of tenders comprising goods or services originating in the country concerned.*

To avoid circumvention of those measures, it may also be necessary to target certain foreign-controlled or owned legal persons that, although established in the European Union, are not engaged in substantive business operations that have a direct and effective link with the economy of at least one Member State . Appropriate measures should not be disproportionate to the restrictive procurement practices to which they respond.

Amendment

(23) To avoid circumvention of those measures, it may also be necessary to target certain foreign-controlled or owned legal persons that, although established in the European Union, are not engaged in substantive business operations that have a direct and effective link with the economy of at least one Member State . Appropriate measures should not be disproportionate to the restrictive procurement practices to which they respond.

Or. en

Amendment 78

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) *IPI measures are uniformly applied in the EU by contracting authorities and contracting entities. To take into account the diversity of administrative capacity of contracting authorities and contracting entities, Member States may request the exemption from IPI measures for a limited list of subcentral contracting authorities and contracting entities under certain strict requirements. Such exemption may also refer to procurement procedures that*

those contracting authorities and contracting entities may carry out under framework agreements or dynamic purchasing systems

Or. en

Amendment 79

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Recital 24

Text proposed by the Commission

Amendment

(24) Price adjustment measures should not have a negative impact on on-going trade negotiations with the country concerned. Therefore, where a country is engaging in substantive negotiations with the Union concerning market access in the field of public procurement, the Commission may suspend the measures during the negotiations.

deleted

Or. fr

Amendment 80

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Recital 24

Text proposed by the Commission

Amendment

(24) Price adjustment measures should not have a negative impact on on-going trade negotiations with the country concerned. Therefore, where a country is engaging in substantive negotiations with the Union concerning market access in the field of **public** procurement, the Commission may suspend the measures during the negotiations.

(24) IPI measures **under this Regulation** should not have a negative impact on on-going trade negotiations with the country concerned. Therefore, where a country is engaging in substantive negotiations with the Union concerning market access in the field of procurement, the Commission may suspend the measures during the negotiations.

Amendment 81

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) In order to simplify the application of **a price adjustment** measure by contracting authorities or contracting entities, there should be a presumption that all economic operators originating in a targeted third country with which there is no agreement on procurement will be subject to the measure, unless they can demonstrate that less than 50% of the total value of their tender is made up of goods or services originating in the third country concerned.

Amendment

(25) In order to simplify the application of **an IPI** measure by contracting authorities or contracting entities, there should be a presumption that all economic operators originating in a targeted third country with which there is no agreement on procurement will be subject to the measure, unless they can demonstrate that less than 50% of the total value of their tender is made up of goods or services originating in the third country concerned.

Amendment 82

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) Member States are best placed to identify the contracting authorities or contracting entities, or categories of contracting authorities or contracting entities, which should apply the price adjustment measure. To ensure that an appropriate level of action is taken and that a fair distribution of the burden among Member States is achieved, the Commission should take the final

Amendment

deleted

decision, based on a list submitted by each Member State. Where necessary, the Commission may establish a list on its own initiative.

Or. en

Amendment 83
Liesje Schreinemacher

Proposal for a regulation
Recital 26

Text proposed by the Commission

Amendment

(26) Member States are best placed to identify the contracting authorities or contracting entities, or categories of contracting authorities or contracting entities, which should apply the price adjustment measure. To ensure that an appropriate level of action is taken and that a fair distribution of the burden among Member States is achieved, the Commission should take the final decision, based on a list submitted by each Member State. Where necessary, the Commission may establish a list on its own initiative.

deleted

Or. en

Amendment 84
Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation
Recital 27

Text proposed by the Commission

Amendment

(27) It is imperative that contracting authorities and contracting entities have access to a range of high-quality products meeting their purchasing requirements at a

(27) It is imperative that contracting authorities and contracting entities have access to a range of high-quality products meeting their purchasing requirements at a

competitive price. Therefore contracting authorities and contracting entities should be able not to apply price adjustment measures limiting access of non-covered goods and services in case there are no Union and/or covered goods or services available which meet the requirements of the contracting authority or contracting entity to safeguard essential public needs, for example in the fields of health and public safety, or where the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

competitive price *while remaining aware of the need to guarantee the long-term economic and social interests of the Member States and European citizens and consumers*. Therefore contracting authorities and contracting entities should be able not to apply price adjustment measures limiting access of non-covered goods and services in case there are no Union and/or covered goods or services available which meet the requirements of the contracting authority or contracting entity to safeguard essential public needs, for example in the fields of health and public safety, or where the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

Or. fr

Amendment 85

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) It is imperative that contracting authorities and contracting entities have access to a range of high-quality products meeting their purchasing requirements at a competitive price. *Therefore* contracting authorities and contracting entities should be able not to apply *price adjustment* measures limiting access of non-covered goods and services in case there are no Union and/or covered goods or services available which meet the requirements of the contracting authority or contracting entity to *safeguard essential public needs*, for example in *the fields of health and public safety*, or where the application of the measure would lead to a disproportionate increase in the price or

Amendment

(27) It is imperative that contracting authorities and contracting entities have access to a range of high-quality products meeting their purchasing requirements at a competitive price *to safeguard the public interest. In exceptional situations*, contracting authorities and contracting entities should be able not to apply *IPI* measures limiting access of non-covered goods and services in case there are no Union and/or covered goods or services available which meet the requirements of the contracting authority or contracting entity to *ensure public safety*, for example in *a public health emergency or natural disaster*, or where the application of the measure would lead to a disproportionate increase in the price or costs of the

costs of the contract.

contract. *The application of these exceptions should require the approval of the Commission.*

Or. en

Amendment 86

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) It is imperative that contracting authorities and contracting entities have access to a range of high-quality products meeting their purchasing requirements at a competitive price. Therefore contracting authorities and contracting entities should be able not to apply *price adjustment* measures limiting access of non-covered goods and services in case there are no Union and/or covered goods or services available which meet the requirements of the contracting authority or contracting entity to safeguard essential public needs, for example in the fields of health and public safety, *or where the application of the measure would lead to a disproportionate increase in the price or costs of the contract.*

Amendment

(27) It is imperative that contracting authorities and contracting entities have access to a range of high-quality *and sustainable* products meeting their purchasing requirements at a competitive price. Therefore contracting authorities and contracting entities should be able, *in exceptional circumstances*, not to apply *IPI* measures limiting access of non-covered goods and services in case there are no Union and/or covered goods or services available which meet the requirements of the contracting authority or contracting entity to safeguard essential public needs, for example in the fields of health and public safety.

Or. en

Amendment 87

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 28

Text proposed by the Commission

Amendment

(28) In case of misapplication by contracting authorities or contracting entities of exceptions to **price adjustment** measures limiting access of non-covered goods and services, the Commission should be able to apply the corrective mechanism of Article 3 of Council Directive 89/665/EEC²⁰ or Article 8 of Council Directive 92/13/EEC²¹. In addition, contracts concluded with an economic operator by contracting authorities or contracting entities in violation of **price adjustment** measures limiting access of non-covered goods and services should be ineffective.

²⁰ Council Directive 89/665/EEC on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).

²¹ Council Directive 92/13/EEC coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23.3.1992, p. 14).

(28) In case of misapplication by contracting authorities or contracting entities of exceptions to **IPJ** measures limiting access of non-covered goods and services, the Commission should be able to apply the corrective mechanism of Article 3 of Council Directive 89/665/EEC²⁰ or Article 8 of Council Directive 92/13/EEC²¹. In addition, contracts concluded with an economic operator by contracting authorities or contracting entities in violation of **IPJ** measures limiting access of non-covered goods and services should be ineffective.

²⁰ Council Directive 89/665/EEC on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ L 395, 30.12.1989, p. 33).

²¹ Council Directive 92/13/EEC coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors (OJ L 76, 23.3.1992, p. 14).

Or. en

Amendment 88

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Recital 33

Text proposed by the Commission

(33) In accordance with the principle of proportionality, it is necessary and appropriate for achievement of the basic objective of establishing a common external policy in the field of public

Amendment

(33) In accordance with the principle of proportionality, it is necessary and appropriate for achievement of the basic objective of establishing a common external policy in the field of public

procurement to lay down common rules on the treatment of tenders which include goods and services not covered by the international commitments of the Union. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with the fourth paragraph of Article 5 of the Treaty on European Union,

procurement to lay down common rules on the *fair* treatment of tenders which include goods and services not covered by the international commitments of the Union. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with the fourth paragraph of Article 5 of the Treaty on European Union,

Or. en

Amendment 89

Anne-Sophie Pelletier

Proposal for a regulation

Article 1 – paragraph 1 – subparagraph 1

Text proposed by the Commission

This Regulation establishes measures intended to *improve* the access of Union economic operators, goods and services to the *public* procurement and concessions markets of third countries. It lays down procedures for the Commission to undertake investigations into alleged restrictive and discriminatory procurement measures or practices adopted or maintained by third countries against Union economic operators, goods and services, and to enter into consultations with the third countries concerned.

Amendment

This Regulation establishes measures intended to *link* the access of Union economic operators, goods and services to the procurement and concessions markets of third countries *to compliance on the part of the third countries concerned with the conventions of the International Labour Organization and European environmental standards*. It lays down procedures for the Commission to undertake investigations into alleged restrictive and discriminatory procurement measures or practices adopted or maintained by third countries against Union economic operators, goods and services, *such as social or environmental dumping practices*, and to enter into consultations with the third countries concerned *in order to determine what remedial action might be taken*.

Or. fr

Amendment 90

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 1 – paragraph 1 – subparagraph 1

Text proposed by the Commission

This Regulation establishes measures intended to **improve** the access of Union economic operators, goods and services to the public procurement and concessions markets of third countries. It lays down procedures for the Commission to undertake investigations into alleged restrictive and discriminatory procurement measures or practices adopted or maintained by third countries against Union economic operators, goods and services, and to enter into consultations with the third countries concerned.

Amendment

This Regulation establishes measures intended to ***ensure a fair level-playing field in the international procurement market and address practices that result in serious and recurrent impairment to*** the access of Union economic operators, goods and services to the public procurement and concessions markets of third countries. It lays down procedures for the Commission to undertake investigations into alleged restrictive and discriminatory procurement measures or practices adopted or maintained by third countries against Union economic operators, goods and services, and to enter into consultations with the third countries concerned.

Or. en

Amendment 91

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 1 – paragraph 1 – subparagraph 1

Text proposed by the Commission

This Regulation establishes measures intended to improve the access of Union economic operators, goods and services to the **public** procurement and concessions markets of third countries. It lays down procedures for the Commission to undertake investigations into alleged restrictive and discriminatory procurement measures or practices adopted or maintained by third countries against Union economic operators, goods and

Amendment

This Regulation establishes measures intended to improve the access of Union economic operators, goods and services to the procurement and concessions markets of third countries ***and to guarantee equal conditions of competition in the internal market***. It lays down procedures for the Commission to undertake investigations into alleged restrictive and discriminatory procurement measures or practices adopted or maintained by third countries against

services, and to enter into consultations with the third countries concerned.

Union economic operators, goods and services, and to enter into consultations with the third countries concerned.

Or. fr

Justification

European companies which are active abroad are not the only companies affected. The impact of foreign companies' participation in public procurement in the internal market is just as extensive, as European operators are often confronted by unfair competition from foreign companies receiving state subsidies.

Amendment 92

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 1 – paragraph 1 – subparagraph 2

Text proposed by the Commission

It provides for the possibility of applying price adjustment measures to certain tenders for contracts for the execution of works or a work, for the supply of goods and/or the provision of services and for concessions, on the basis of the origin of the economic operators, goods or services concerned. .

Amendment

It provides for the possibility of applying price adjustment measures to certain tenders for contracts for the execution of works or a work, for the supply of goods and/or the provision of services and for concessions, ***and measures aimed at excluding access to EU public procurement markets***, on the basis of the origin of the economic operators, goods or services concerned.

Or. fr

Amendment 93

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Article 1 – paragraph 1 – subparagraph 2

Text proposed by the Commission

It provides for the possibility of applying price adjustment measures to certain

Amendment

It provides for the possibility of applying price adjustment measures to ***certain***

tenders for contracts for the execution of works or a work, for the supply of goods and/or the provision of services and for concessions, on the basis of the origin of the economic operators, goods or services concerned. .

tenders or to exclude certain tenders for contracts for the execution of works or a work, for the supply of goods and/or the provision of services and for concessions, on the basis of the origin of the economic operators, goods or services concerned. .

Or. en

Amendment 94
Anne-Sophie Pelletier

Proposal for a regulation
Article 1 – paragraph 1 – subparagraph 2

Text proposed by the Commission

It provides for the possibility of applying ***price adjustment measures*** to certain tenders for contracts for the execution of works or a work, for the supply of goods and/or the provision of services and for concessions, on the basis of the origin of the economic operators, goods or services concerned. .

Amendment

It provides for the possibility of applying ***measures restricting access*** to certain tenders for contracts for the execution of works or a work, for the supply of goods and/or the provision of services and for concessions, on the basis of the origin of the economic operators, goods or services concerned. .

Or. fr

Amendment 95
Anna Cavazzini
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 1 – subparagraph 2

Text proposed by the Commission

It provides for the possibility of applying ***price adjustment*** measures to certain tenders for contracts for the execution of works or a work, for the supply of goods and/or the provision of services and for concessions, on the basis of the origin of the economic operators, goods or services concerned. .

Amendment

It provides for the possibility of applying ***IPI*** measures to certain tenders for contracts for the execution of works or a work, for the supply of goods and/or the provision of services and for concessions, on the basis of the origin of the economic operators, goods or services concerned. .

Amendment 96
Anna Cavazzini
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 4

Text proposed by the Commission

4. This Regulation shall apply **only** with regard to restrictive and/or discriminatory procurement measures or practices implemented by a third country in respect of purchases of non-covered goods and services. The application of this Regulation shall be without prejudice to any international obligations of the Union.

Amendment

4. This Regulation shall apply with regard to restrictive and/or discriminatory procurement measures or practices implemented by a third country in respect of purchases of non-covered goods and services. The application of this Regulation shall be without prejudice to any international obligations of the Union.

Amendment 97
Anna Cavazzini
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 1 – paragraph 5

Text proposed by the Commission

5. ***Member States and their contracting authorities and contracting entities shall not apply restrictive measures in respect of third country economic operators, goods and services beyond those provided for in this Regulation.***

Amendment

deleted

Amendment 98
Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus

Buchheit, Alessandra Basso

**Proposal for a regulation
Article 1 – paragraph 5**

Text proposed by the Commission

5. Member States and their contracting authorities and contracting entities ***shall not*** apply restrictive measures ***in respect of*** third country economic operators, goods and services beyond those provided for in this Regulation.

Amendment

5. Member States and their contracting authorities and contracting entities ***may, in keeping with the spirit of this Regulation,*** apply restrictive measures ***to*** third country economic operators, goods and services beyond those provided for in this Regulation ***in order to ensure that foreign economic operators comply with environmental, social and labour laws and all applicable national laws.***

Or. fr

Amendment 99

Anna Cavazzini

on behalf of the Verts/ALE Group

**Proposal for a regulation
Article 1 – paragraph 5 a (new)**

Text proposed by the Commission

Amendment

5a. This Regulation shall also provide tools for the effective enforcement of the provisions foreseen in Directives 2014/23/EU, 2014/24/EU and Directive 2014/25/EU in respect of covered and non-covered goods and services where investigations by the Commission demonstrate breaches with relevant international standards in the field of environmental, social and labour law as listed in Annexes X of Directives 2014/23/EU and 2014/24/EU and in Annex XIV of Directive 2014/25/EU, as well as with commitments undertaken under the Climate Paris Agreement.

Or. en

Amendment 100

Adriana Maldonado López, Inma Rodríguez-Piñero, Maria Grapini

Proposal for a regulation

Article 1 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall take appropriate measures to ensure that in the performance of public contracts economic operators comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X of the Directive 2014/24/EU and of the Paris Agreement.

Or. en

Amendment 101

Carlo Fidanza

Proposal for a regulation

Article 2 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) 'economic operator' means **any natural or legal person or public entity or group of such persons and/or entities, including any temporary association of undertakings, which submits a tender for the execution of works and/or a work, the supply of goods or the provision of services on the market;**

(a) 'economic operator' means **economic operator as defined in Directive 2014/24/EU.**

Or. en

Amendment 102

Dita Charanzová, Morten Løkkegaard, Liesje Schreinemacher

Proposal for a regulation

Article 2 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) ‘score adjustment measure’ means the relative diminution by a given percentage of the score of a tender resulting from its evaluation by a contracting authority or a contracting entity on the basis of the contract award criteria defined in the procurement documents; in cases where price or cost is the only contract award criterion, the score adjustment measure means the relative increase, for the purpose of the evaluation of tenders, by a given percentage of the price offered by a tenderer;

Or. en

Amendment 103

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) ‘IPI measure’ means a measure adopted by the Commission in accordance with this Regulation under the form of a Score Adjustment Measure applying to a tender or exclusion of a tender from the Union's procurement or concessions market;

Or. en

Amendment 104

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point f b (new)

Text proposed by the Commission

Amendment

(fb) ‘score adjustment measure’ means the relative diminution by a given percentage of the score of a tender resulting from its evaluation by a contracting authority or a contracting entity on the basis of the specified award criteria in the procurement notice; for cases where contracting authorities base the award of public contracts on the “most economically advantageous tender” approach, the score adjustment means applying a price penalty taking into consideration quality criteria, including environmental and/or social aspects, based on their relative weighting;

Or. en

Amendment 105

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

Amendment

Tenders shall be exempted from this Regulation where more than 50% of the total value of the tender is made up of goods and/or services originating in ***least-developed*** countries ***listed in Annex IV to Regulation (EU) No 978/2012²⁷***, and in ***developing countries considered to be vulnerable due to a lack of diversification and insufficient integration within the international trading system as defined in Annex VII to Regulation (EU) No 978/2012.***

Tenders shall be exempted from this Regulation where more than 50% of the total value of the tender is made up of goods and/or services originating in countries ***benefitting from the Generalised Scheme of Preferences in accordance with*** Regulation (EU) No 978/2012.

²⁷ Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

Or. en

Amendment 106
Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

Tenders shall be exempted from this Regulation where more than **50%** of the total value of the tender is made up of goods and/or services originating in least-developed countries listed in Annex IV to Regulation (EU) No 978/2012²⁷, and in developing countries considered to be vulnerable due to a lack of diversification and insufficient integration within the international trading system as defined in Annex VII to Regulation (EU) No 978/2012.

²⁷ Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

Amendment

Tenders shall be exempted from this Regulation where more than **70%** of the total value of the tender is made up of goods and/or services originating in least-developed countries listed in Annex IV to Regulation (EU) No 978/2012²⁷, and in developing countries considered to be vulnerable due to a lack of diversification and insufficient integration within the international trading system as defined in Annex VII to Regulation (EU) No 978/2012.

²⁷ Regulation (EU) No 978/2012 of the European Parliament and of the Council applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

Or. en

Amendment 107
Virginie Joron, Jean-Lin Lacapelle, Markus Buchheit

Proposal for a regulation

Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Where an Islamist terrorist act takes place in the EU which is supported by demonstrators in a third country without their facing action by the government, the country concerned shall not be granted trade preferences or exemptions for access to the European internal market.

Or. fr

Amendment 108

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Local elected representatives may promote local employment and use of the official language in local calls for tenders by means of environmental, social or linguistic clauses which are mandatory even for subcontractors.

Or. fr

Amendment 109

Anne-Sophie Pelletier

Proposal for a regulation

Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. The assessment by the Commission of whether the alleged restrictive and/or discriminatory procurement measures or practices have been adopted or are maintained by the third country concerned shall be made on the basis of the

2. The assessment by the Commission of whether the alleged restrictive and/or discriminatory procurement measures or practices have been adopted or are maintained by the third country concerned shall be made on the basis of the

information supplied by interested parties and Member States, of facts collected by the Commission during its investigation, or both. The **assessment** shall be concluded ***within a period of*** eight months after ***the*** initiation ***of the investigation***. In duly justified cases, this period may be extended by four months.

information supplied by interested parties and Member States, of facts collected by the Commission during its investigation, or both. The **investigation** shall be concluded eight months after ***its*** initiation. In duly justified cases, this period may be extended by four months. ***In its investigation the Commission shall pay due regard to compliance with the conventions of the International Labour Organization and to European environmental standards, as well as to any other kind of dumping practised by the third country concerned.***

Or. fr

Amendment 110

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Article 6 – paragraph 2

Text proposed by the Commission

2. The assessment by the Commission of whether the alleged restrictive and/or discriminatory procurement measures or practices have been adopted or are maintained by the third country concerned shall be made on the basis of the information supplied by interested parties and Member States, of facts collected by the Commission during its investigation, or both. The assessment shall be concluded within a period of ***eight*** months after the initiation of the investigation. In duly justified cases, this period may be extended by four months.

Amendment

2. The assessment by the Commission of whether the alleged restrictive and/or discriminatory procurement measures or practices have been adopted or are maintained by the third country concerned shall be made on the basis of the information supplied by interested parties and Member States, of facts collected by the Commission during its investigation, or both. The assessment shall be concluded within a period of ***six*** months after the initiation of the investigation. In duly justified cases, this period may be extended by four months.

Or. en

Amendment 111

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 6 – paragraph 2

Text proposed by the Commission

2. The assessment by the Commission of whether the alleged restrictive and/or discriminatory procurement measures or practices have been adopted or are maintained by the third country concerned shall be made on the basis of the information supplied by interested parties and Member States, of facts collected by the Commission during its investigation, or both. The **assessment** shall be concluded ***within a period of eight*** months after ***the*** initiation ***of the investigation***. In duly justified cases, this period may be extended by ***four*** months.

Amendment

2. The assessment by the Commission of whether the alleged restrictive and/or discriminatory procurement measures or practices have been adopted or are maintained by the third country concerned shall be made on the basis of the information supplied by interested parties and Member States, of facts collected by the Commission during its investigation, or both. The ***investigation*** shall be concluded ***six*** months after ***its*** initiation. In duly justified cases this period may be extended by ***three*** months.

Or. fr

Amendment 112

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In its investigation into alleged restrictive and/or discriminatory procurement measures or practices, the Commission shall also determine whether the third country concerned has major shortcomings in implementing obligations stemming from international conventions in the field of environmental, social and labour law and listed in Annex X of Directive 2014/23/EU, Annex X of Directive 2014/24/EU and Annex XIV of Directive 2014/25/EU with the view of enforcing the application of those Directives, as well as with commitments undertaken under the Paris Climate Agreement.

Amendment 113
Anne-Sophie Pelletier

Proposal for a regulation
Article 6 – paragraph 3

Text proposed by the Commission

3. Where the Commission concludes as a result of its investigation that the alleged restrictive and/or discriminatory procurement measures or practices are not maintained or that they do not result in restrictions to access by Union economic operators or Union goods and services to the public procurement or concession markets of ***the third country concerned, the Commission*** shall terminate the investigation. .

Amendment

3. Where the Commission concludes as a result of its investigation that the alleged restrictive and/or discriminatory procurement measures or practices are not maintained ***by the third country concerned*** or that they do not result in restrictions to access by Union economic operators or Union goods and services to the public procurement or concession markets of ***that country, it*** shall terminate the investigation. ***The termination of the investigation must be duly justified.***

Or. fr

Amendment 114
Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation
Article 6 – paragraph 4

Text proposed by the Commission

4. When the Commission has concluded its investigation, it shall make publicly available a report recording its main findings.

Amendment

4. When the Commission has concluded its investigation, it shall make publicly available a report recording its main findings ***within six months from the conclusion of the investigation.***

Or. en

Amendment 115

Proposal for a regulation

Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where it is found as a result of an investigation that restrictive and/or discriminatory procurement measures or practices have been adopted or maintained by a third country and the Commission considers it to be in the Union interest, the Commission shall invite the country in question to enter into consultations. Those consultations shall aim ***at ensuring*** that Union economic operators, goods and services can participate in tendering procedures for the award of public procurement or concession contracts in that country on conditions no less favourable than those accorded to national economic operators, goods and services of that country and also with a view to ensuring the application of the principles of transparency and equal treatment.

Amendment

Where it is found as a result of an investigation that restrictive and/or discriminatory procurement measures or practices have been adopted or maintained by a third country and the Commission considers it to be in the Union interest, the Commission shall invite the country in question to enter into consultations. Those consultations shall aim ***at ensuring*** that Union economic operators, goods and services can participate in tendering procedures for the award of public procurement or concession contracts in that country on conditions no less favourable than those accorded to national economic operators, goods and services of that country and also with a view to ensuring the application of the principles of transparency and equal treatment.

In order to encourage the country concerned promptly to take an active part in this dialogue, the Commission should decide, when the consultation procedure starts, to introduce on a temporary basis some measures set out in this Regulation, namely exclusion from participation in tendering procedures in EU public procurement markets or from price adjustment measures. The measures would apply to tenders from economic operators which originate in that country and/or which deal with products and services originating in that country.

Or. fr

Amendment 116

Anne-Sophie Pelletier

Proposal for a regulation

Article 7 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Where it is found as a result of an investigation that restrictive and/or discriminatory procurement measures or practices have been adopted or maintained by a third country and the Commission considers it to be in the Union interest, the Commission shall invite the country in question to enter into consultations. Those consultations shall aim **at ensuring** that Union economic operators, goods and services can participate in tendering procedures for the award of public procurement or concession contracts in that country on conditions no less favourable than those accorded to national economic operators, goods and services of that country and also with a view to ensuring the application of the principles of transparency and equal treatment.

Amendment

Where it is found as a result of an investigation that restrictive and/or discriminatory procurement measures or practices have been adopted or maintained by a third country and the Commission considers it to be in the Union interest, the Commission shall invite the country in question to enter into consultations **as soon as possible**. Those consultations shall aim **at ensuring** that Union economic operators, goods and services can participate in tendering procedures for the award of public procurement or concession contracts in that country on conditions no less favourable than those accorded to national economic operators, goods and services of that country and also with a view to ensuring the application of the principles of transparency and equal treatment.

Or. fr

Amendment 117

Anne-Sophie Pelletier

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1

Text proposed by the Commission

When, after the initiation of consultations, the country concerned takes satisfactory **remedial or** corrective measures, **but** without undertaking new market access commitments, the Commission may suspend or terminate the consultations.

Amendment

If, after the initiation of consultations, the country concerned takes satisfactory corrective measures without undertaking new market access commitments, the Commission may suspend or terminate the consultations **after first giving its reasons**.

Or. fr

Amendment 118
Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation
Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where the Commission finds that there have been restrictive practices of access by Union economic operators or Union goods and services to public procurement or concession contracts in the third country, similar measures shall be established for the third country in relation to the Union;

Or. en

Amendment 119
Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation
Article 7 – paragraph 3 – point i

Text proposed by the Commission

Amendment

(i) resume consultations with the third country concerned, and/or

(i) prolong the measure(s) introduced at the start of the consultation procedure;

Or. fr

Amendment 120
Anne-Sophie Pelletier

Proposal for a regulation
Article 7 – paragraph 3 – point ii – paragraph 1

Text proposed by the Commission

Amendment

decide, by implementing act, to **impose a price adjustment** measure **pursuant to Article 8.**

decide, by implementing act, to **withdraw access to European public procurement markets for the third country concerned; this measure shall not apply to tenders where more than 50% of the total value of**

the tender is made up of goods and/or services originating in the least-developed countries listed in Annex IV to Regulation (EU) 978/2012 or to developing countries which are considered to be vulnerable.

Or. fr

Amendment 121

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 7 – paragraph 3 – point ii – paragraph 1

Text proposed by the Commission

decide, by implementing act, to impose *a price adjustment measure pursuant to Article 8.*

Amendment

decide, by implementing act, to impose *additional measures under this Regulation.*

Or. fr

Amendment 122

Anne-Sophie Pelletier

Proposal for a regulation

Article 7 – paragraph 5 – point a

Text proposed by the Commission

(a) Accession to the WTO Agreement on Government Procurement;

Amendment

deleted

Or. fr

Amendment 123

Anne-Sophie Pelletier

Proposal for a regulation

Article 7 – paragraph 5 – point b

Text proposed by the Commission

Amendment

**(b) Conclusion of a bilateral agreement with the Union which includes market access commitments in the field of public procurement and/or concessions;
or** *deleted*

Or. fr

**Amendment 124
Anne-Sophie Pelletier**

**Proposal for a regulation
Article 7 – paragraph 5 – point c – paragraph 1**

Text proposed by the Commission

Amendment

Expansion of its market access commitments undertaken under the WTO Agreement on Government Procurement or under a bilateral agreement concluded with the Union. *deleted*

Or. fr

**Amendment 125
Anne-Sophie Pelletier**

**Proposal for a regulation
Article 7 – paragraph 5 – point c – paragraph 2**

Text proposed by the Commission

Amendment

The consultations may also be terminated in cases where the restrictive and/or discriminatory procurement measures or practices are still in place at the time these commitments are undertaken, as long as they include detailed provisions relating to the phasing-out of such measures or practices within a reasonable period of time. *deleted*

Or. fr

Amendment 126

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 7 – paragraph 6

Text proposed by the Commission

6. In the event that consultations with a third country do not lead to satisfactory results within 15 months from the day those consultations started, the Commission shall terminate the consultations and shall take appropriate action. In particular, the Commission may decide, by means of an implementing act, to impose a price adjustment measure, pursuant to Article 8. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 14(2).

Amendment

6. In the event that consultations with a third country do not lead to satisfactory results within 15 months from the day those consultations started, the Commission shall terminate the consultations and shall take appropriate action. In particular, the Commission may decide, by means of an implementing act, to impose ***or extend the exclusion of companies from the country concerned that are participating in tendering procedures for the award of EU public procurement contracts or to impose*** a price adjustment measure pursuant to Article 8. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 14(2).

Or. fr

Amendment 127

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Article 7 – paragraph 6

Text proposed by the Commission

6. In the event that consultations with a third country do not lead to satisfactory results within **15** months from the day those consultations started, the Commission shall terminate the consultations and shall take appropriate action. In particular, the Commission may decide, by means of an implementing act, to impose a price adjustment measure,

Amendment

6. In the event that consultations with a third country do not lead to satisfactory results within **9** months from the day those consultations started, the Commission shall terminate the consultations and shall take appropriate action. In particular, the Commission may decide, by means of an implementing act, to impose a price adjustment measure, pursuant to Article 8.

pursuant to Article 8. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 14(2).

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 14(2).

Or. en

Amendment 128
Anne-Sophie Pelletier

Proposal for a regulation
Article 8

Text proposed by the Commission

Amendment

Article 8

deleted

Price adjustment measures

1.

Tenders more than 50 % of the total value of which is made of goods and/or services originating in a third country, may be subject to a price adjustment measure where the third country concerned adopts or maintains restrictive and/or discriminatory procurement measures or practices.

Price adjustment measures shall only apply to contracts with an estimated value equal to or above EUR 5.000.000 exclusive of value-added tax.

2. The price adjustment measure shall specify the penalty of up to 20% to be calculated on the price of the tenders concerned. It shall also specify any restrictions to the scope of application of the measure, such as those related to:

(a) public procurement of specific categories of contracting authorities or contracting entities;

(b) public procurement of specific categories of goods or services or tenders submitted by specific categories of economic operators;

(c) public procurement above or within certain thresholds;

(d) tenders submitted for specific categories of concessions;

(e) the territories of certain subcentral levels of government.

3. Contracting authorities and contracting entities on the list adopted pursuant to Article 9 shall apply the price adjustment measure to the following:

(a) to tenders submitted by economic operators originating in the third country concerned, unless these economic operators can demonstrate that less than 50 % of the total value of their tender is made up of goods or services originating in the third country concerned; and

(b) to any tenders offering goods and services originating in the country concerned, where the value of these goods and services accounts for more than 50 % of the total value of the tender.

Or. fr

Amendment 129

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 8 – title

Text proposed by the Commission

Amendment

Price adjustment measures

Measures seeking exclusion from EU public procurement markets and price adjustment measures

Or. fr

Amendment 130

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 8 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Tenders more than 50 % of the total value of which is made of goods and/or services originating in a third country, may be subject to a price adjustment measure where the third country concerned adopts or maintains restrictive and/or discriminatory procurement measures or practices.

Amendment

Where it emerges, in the course of an investigation under Article 6 and after following the procedure specified in Article 7, that restrictive public procurement measures adopted or maintained by that third country are resulting in a substantial lack of reciprocity regarding market access between the Union and that third country, the Commission may adopt implementing acts in order to extend the exclusion of undertakings from the country concerned that are participating in tendering procedures for the award of EU public procurement contracts and/or adopt price adjustment measures.

Tenders more than 50% of the total value of which is made of goods and/or services originating in a third country, may be subject to such measures where the third country concerned adopts or maintains restrictive and/or discriminatory procurement measures or practices.

Or. fr

Amendment 131

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Article 8 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Tenders more than **50** % of the total value of which is made of goods and/or services originating in a third country, may be subject to a price adjustment measure where the third country concerned adopts or maintains restrictive and/or discriminatory procurement measures or

Amendment

Tenders more than **70** % of the total value of which is made of goods and/or services originating in a third country, may be subject to a price adjustment measure where the third country concerned adopts or maintains restrictive and/or discriminatory procurement measures or

practices.

practices.

Or. en

Amendment 132

Anne-Sophie Pelletier

Proposal for a regulation

Article 8 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Price adjustment measures shall only apply to contracts with an estimated value equal to or above EUR 5.000.000 exclusive of value-added tax.

deleted

Or. fr

Amendment 133

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 8 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

Price adjustment measures shall only apply to contracts with an estimated value equal to or above EUR 5.000.000 exclusive of value-added tax.

These measures shall only apply to contracts with an estimated value equal to or above EUR 5.000.000 exclusive of value-added tax.

Or. fr

Amendment 134

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 8 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. *The price adjustment measure shall specify the penalty of up to 20% to be calculated on the price of the tenders concerned. It shall also specify any restrictions to the scope of application of the measure, such as those related to:*

2. *Measures adopted pursuant to paragraph 1 may take one of the following forms:*

- (a) the exclusion of tenders of which over 50% of the total value is made up of goods or services originating in the country adopting or maintaining restrictive procurement practices and/or*
- (b) a price adjustment measure.*

Or. fr

Amendment 135

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) public procurement of specific categories of contracting authorities or contracting entities;

deleted

Or. fr

Amendment 136

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) public procurement of specific categories of contracting authorities or contracting entities;

(a) The price adjustment measure shall specify a penalty of 25-40% to be calculated on the tender prices in question, taking into account any state aid or other subsidies granted to the economic operator. It shall also specify any restrictions to the scope of the measure in

practice, such as those related to :

(a) public procurement by specific categories of contracting authorities or contracting entities;

(b) public procurement for specific categories of goods or services or tenders submitted by specific categories of economic operator;

(c) public procurement contracts above or below certain thresholds;

(d) tenders submitted for specific categories of concession;

(e) the territories of certain subcentral levels of government.

Or. fr

Amendment 137

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 8 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) public procurement of specific categories of goods or services or tenders submitted by specific categories of economic operators;

deleted

Or. fr

Amendment 138

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 8 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) public procurement above or within certain thresholds;

deleted

Amendment 139

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 8 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) tenders submitted for specific categories of concessions; **deleted**

Amendment 140

Virginie Joron, Jean-Lin Lacapelle, Marco Campomenosi, Markus Buchheit

Proposal for a regulation

Article 8 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) the territories of certain subcentral levels of government. **deleted**

Amendment 141

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Article 8 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) to any tenders offering goods and services originating in the country concerned, where the value of these goods and services accounts for more than **50 % of the total value of the tender.**

(b) to any tenders offering goods and services originating in the country concerned, where the value of these goods and services accounts for more than **70 % of the total value of the tender.**

Amendment 142
Liesje Schreinemacher

Proposal for a regulation
Article 9

Text proposed by the Commission

Amendment

Article 9

deleted

Authorities or entities concerned

The Commission shall determine the contracting authorities or entities or categories of contracting authorities or entities, listed by Member State, whose procurement is concerned by the measure. To provide the basis for this determination, each Member State shall submit a list of appropriate contracting authorities or entities or categories of contracting authorities or entities. The Commission shall ensure that an appropriate level of action is taken and that a fair distribution of the burden among Member States is achieved.

Or. en

Amendment 143
Anna Cavazzini
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 9

Text proposed by the Commission

Amendment

Article 9

deleted

Authorities or entities concerned

The Commission shall determine the contracting authorities or entities or categories of contracting authorities or entities, listed by Member State, whose procurement is concerned by the measure. To provide the basis for this

determination, each Member State shall submit a list of appropriate contracting authorities or entities or categories of contracting authorities or entities. The Commission shall ensure that an appropriate level of action is taken and that a fair distribution of the burden among Member States is achieved.

Or. en

Amendment 144

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Article 9 – paragraph 1 – point 1 (new)

Text proposed by the Commission

Amendment

(1) Upon a duly justified request by a Member State the Commission may adopt, with a view to a fair distribution of the award procedures subject to IPI measures among Member States, a list of sub-central contracting authorities or contracting entities in that Member State that are exempted from the application of this Regulation.

Or. en

Amendment 145

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Article 9 – paragraph 1 – point 2 (new)

Text proposed by the Commission

Amendment

(2) In its request, the Member State shall provide detailed information on the justification for the request for exemption and the value of the contracts above thresholds set in Article 5.3 of this Regulation, awarded by all listed

contracting authorities or contracting entities over the past 3 years from the 31st December preceding the request for exemption. An exemption may only be granted if the value of contracts above thresholds set in Article 5.3 of this Regulation, awarded by the contracting authorities or contracting entities not to be exempted exceeds 75% of the total value of above thresholds contracts falling under the scope of Directives 2014/23/EU, 2014/24/EU and 2014/25/EU awarded in the requesting Member State in the same 3-year period.

Or. en

Amendment 146

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Article 9 – paragraph 1 – point 3 (new)

Text proposed by the Commission

Amendment

(3) The exemption shall be limited to what is strictly necessary and proportionate.

Or. en

Amendment 147

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Article 9 – paragraph 1 – point 4 (new)

Text proposed by the Commission

Amendment

(4) The Commission informs Members States before adopting an exemption list. The exemption list, published in the Official Journal of the European Union, is adopted for a period of three years and can be revised or

renewed every three years upon duly justified request by the Member State concerned

Or. en

Amendment 148
Carlo Fidanza

Proposal for a regulation
Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

A Member State may request an exemption for the sub-central contracting authorities or contracting entities from the application of this Regulation in order to improve a fair distribution of the award procedures, subject to this regulation. Such request may be adopted by the Commission, upon reviewing a duly justified inquiry by a Member State.

Or. en

Amendment 149
Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation
Article 10 – title

Text proposed by the Commission

Amendment

Withdrawal or suspension of price adjustment measures

Withdrawal or suspension of **procurement market exclusion or** price adjustment measures

Or. fr

Amendment 150
Anne-Sophie Pelletier

Proposal for a regulation

Article 10 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Commission may decide, **byimplementing** act, to withdraw the price adjustment measure or suspend its application for a period of time if the country concerned takes satisfactory remedial or corrective actions.

Amendment

The Commission may decide, **by implementing** act, to withdraw the price adjustment measure or suspend its application for a period of time if the country concerned takes satisfactory remedial or corrective actions. ***The withdrawal of this measure shall be duly justified and the information made available to the public.***

Or. fr

Amendment 151

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 10 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Commission may decide, **byimplementing** act, to withdraw the price adjustment measure or suspend its application for a period of time if the country concerned takes satisfactory remedial or corrective actions.

Amendment

The Commission may decide, **by implementing** act, to withdraw the ***procurement market exclusion or*** price adjustment measure or suspend its application for a period of time if the country concerned takes satisfactory remedial or corrective actions.

Or. fr

Amendment 152

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 10 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the remedial or corrective actions taken by the third country concerned are rescinded, suspended or improperly implemented, the Commission may reinstate the application of the price adjustment measure, at any time, by means of an implementing act.

Amendment

Where the remedial or corrective actions taken by the third country concerned are rescinded, suspended or improperly implemented, the Commission may reinstate the application of the ***procurement market exclusion and/or*** price adjustment measure, at any time, by means of an implementing act.

Or. fr

Amendment 153

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 10 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the remedial or corrective actions taken by the third country concerned are rescinded, suspended or improperly implemented, the Commission may reinstate the application of the price adjustment measure, at any time, by means of an implementing act.

Amendment

Where the remedial or corrective actions taken by the third country concerned are rescinded, suspended or improperly implemented, the Commission may reinstate the application of the price adjustment ***or procurement market exclusion*** measure, at any time, by means of an implementing act.

Or. fr

Amendment 154

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 11

Text proposed by the Commission

[...]

Amendment

deleted

Or. en

Amendment 155

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 11 – title

Text proposed by the Commission

Amendment

Application of price adjustment measures

Application of **procurement market exclusion or** price adjustment measures

Or. fr

Amendment 156

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Marco Campomenosi, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 11 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Contracting authorities and contracting entities on the list adopted pursuant to Article 9 shall apply **price adjustment** measures to the following:

1. Contracting authorities and contracting entities on the list adopted pursuant to Article 9 shall apply **restrictive** measures to the following:

Or. fr

Amendment 157

Virginie Joron, Jean-Lin Lacapelle, Markus Buchheit

Proposal for a regulation

Article 11 – paragraph 1 – point b – paragraph 1

Text proposed by the Commission

Amendment

tenders offering goods and services originating in the third country concerned, where the value of those goods and services accounts for more than 50 % of the total value of the tender.

tenders offering goods and services originating in the third country concerned, where the value of those goods, **jobs** and services accounts for more than 50 % of the total value of the tender.

Amendment 158

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Article 11 – paragraph 1 – point b – paragraph 1

Text proposed by the Commission

tenders offering goods and services originating in the third country concerned, where the value of those goods and services accounts for more than **50** % of the total value of the tender.

Amendment

tenders offering goods and services originating in the third country concerned, where the value of those goods and services accounts for more than **70** % of the total value of the tender.

Amendment 159

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 11 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Where a price adjustment measure is applied, contracting authorities and contracting entities shall require tenderers to provide information on the origin of the goods and/or services contained in the tender, and on the value of the goods and services originating in the third country concerned as a percentage of the total value of the tender. ***They shall accept self-declarations from tenderers.***

Amendment

Where a price adjustment measure is applied, contracting authorities and contracting entities shall require tenderers to provide information on the origin of the goods and/or services contained in the tender, and on the value of the goods and services originating in the third country concerned as a percentage of the total value of the tender.

Amendment 160

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

1. Contracting authorities and contracting entities may decide not to apply the price adjustment measure with respect to a procurement or a concession procedure if:

Amendment

1. Contracting authorities and contracting entities may decide not to apply the ***procurement market exclusion*** ***or*** price adjustment measure with respect to a procurement or a concession procedure if:

Or. fr

Amendment 161

Dita Charanzová, Liesje Schreinemacher, Morten Løkkegaard

Proposal for a regulation

Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

1. Contracting authorities and contracting entities may decide not to apply the ***price adjustment*** measure with respect to a procurement ***or a concession*** procedure if:

Amendment

1. Contracting authorities and contracting entities may ***on an exceptional basis*** decide not to apply the ***IPI*** measure with respect to a procurement procedure if:

Or. en

Amendment 162

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 12 – paragraph 1 – introductory part

Text proposed by the Commission

1. Contracting authorities and contracting entities may decide not to apply the ***price adjustment*** measure with respect to a procurement or a concession procedure if:

Amendment

1. Contracting authorities and contracting entities may decide not to apply the ***IPI*** measure with respect to a procurement or a concession procedure if:

Amendment 163
Carlo Fidanza

Proposal for a regulation
Article 12 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) tender requirements are fulfilled only by economic operators originating from the same country, subject to this regulation; or

Or. en

Amendment 164
Dita Charanzová, Morten Løkkegaard

Proposal for a regulation
Article 12 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) this is justified for overriding reasons in the interest of public safety;

Or. en

Amendment 165
Liesje Schreinemacher

Proposal for a regulation
Article 12 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

deleted

Or. en

Amendment 166

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 12 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

deleted

Or. en

Amendment 167

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 12 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

deleted

Or. fr

Amendment 168

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Article 12 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

(b) without prejudice to Article 69 of Directive 2014/24/EU and Article 84 of Directive 2014/25/EU, based on predetermined objective criteria the application of the measure would lead to a disproportionate increase in the price or

costs of the contract *that would demonstrably render its execution economically unviable.*

Or. en

Amendment 169
Carlo Fidanza

Proposal for a regulation
Article 12 – paragraph 1 – point b

Text proposed by the Commission

(b) the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

Amendment

(b) the application of the measure would lead to a disproportionate increase in the price or costs of the contract *that would make its execution economically unviable.*

Or. en

Amendment 170
Carlo Fidanza

Proposal for a regulation
Article 12 – paragraph 1 – point b

Text proposed by the Commission

(b) the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

Amendment

(b) the application of the measure would lead to a disproportionate increase in the price or costs of the contract; *or*

Or. en

Amendment 171
Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Markus Buchheit, Alessandra Basso

Proposal for a regulation
Article 12 – paragraph 1 – point b – indent 1 (new)

Text proposed by the Commission

Amendment

- *this is justified for overriding reasons of public interest.*

Or. fr

Amendment 172

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 12 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

- (ba) the economic operator offers goods or services which are aligned with the criteria set out in Regulation (EU) 2020/852.*

Or. en

Amendment 173

Carlo Fidanza

Proposal for a regulation

Article 12 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

- (ba) such decision can be justified by overriding reasons relating to the public interest;*

Or. en

Amendment 174

Dita Charanzová, Liesje Schreinemacher, Morten Løkkegaard

Proposal for a regulation

Article 12 – paragraph 2

Text proposed by the Commission

2. Where a contracting authority or contracting entity intends not to apply a ***price adjustment*** measure, ***it shall indicate its intention in the contract notice that it publishes pursuant to Article 49 of Directive 2014/24/EU or Article 69 of Directive 2014/25/EU or in the concession notice pursuant to Article 31 of Directive 2014/23/EU.*** It shall notify the Commission no later than ***ten*** calendar days ***after the publication of the contract notice.***

Amendment

2. Where a contracting authority or contracting entity intends not to apply ***an IPI*** measure, it shall notify the Commission no later than ***thirty*** calendar days ***before the award of a contract*** .

Or. en

Amendment 175

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Markus Buchheit, Alessandra Basso

**Proposal for a regulation
Article 12 – paragraph 2**

Text proposed by the Commission

2. Where a contracting authority or contracting entity intends not to apply a ***price adjustment*** measure, it shall indicate its intention in the contract notice that it publishes pursuant to Article 49 of Directive 2014/24/EU or Article 69 of Directive 2014/25/EU or in the concession notice pursuant to Article 31 of Directive 2014/23/EU. It shall notify the Commission no later than ten calendar days after the publication of the contract notice.

Amendment

2. Where a contracting authority or contracting entity intends not to apply a ***restrictive*** measure, it shall indicate its intention in the contract notice that it publishes pursuant to Article 49 of Directive 2014/24/EU or Article 69 of Directive 2014/25/EU or in the concession notice pursuant to Article 31 of Directive 2014/23/EU. It shall notify the Commission no later than ten calendar days after the publication of the contract notice.

Or. fr

Amendment 176

Liesje Schreinemacher

Proposal for a regulation

Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any request for an exception requires the approval by the Commission before the award of the contract. The Commission may also reject the request for an exception if the requirements for the justification are not met.

Or. en

Amendment 177

Dita Charanzová, Liesje Schreinemacher, Morten Løkkegaard

Proposal for a regulation

Article 12 – paragraph 3 – point d

Text proposed by the Commission

Amendment

(d) the ground on which the decision not to apply the **price adjustment** measure is based, and a detailed justification for the use of the exception;

(d) the ground on which the decision not to apply the **IPi** measure is based, and a detailed justification for the use of the exception;

Or. en

Amendment 178

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 12 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Amendment

In the event that a contracting authority or contracting entity conducts a negotiated procedure without prior publication, under Article 2 of Directive 2014/24/EU or under Article 50 of Directive 2014/25/EU and decides not to apply a **price adjustment** measure, it shall indicate this in the contract award notice it publishes

In the event that a contracting authority or contracting entity conducts a negotiated procedure without prior publication, under Article 2 of Directive 2014/24/EU or under Article 50 of Directive 2014/25/EU and decides not to apply a **restrictive** measure, it shall indicate this in the contract award notice it publishes pursuant to Article 50 of

pursuant to Article 50 of Directive 2014/24/EU or Article 70 of Directive 2014/25/EU or in the concession award notice it publishes pursuant to Article 32 of Directive 2014/23/EU and notify the Commission no later than ten calendar days after the publication of the contract award notice.

Directive 2014/24/EU or Article 70 of Directive 2014/25/EU or in the concession award notice it publishes pursuant to Article 32 of Directive 2014/23/EU and notify the Commission no later than ten calendar days after the publication of the contract award notice.

Or. fr

Amendment 179

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. Contracts concluded with an economic operator in violation of price adjustment measures adopted or reinstated by the Commission pursuant to this Regulation shall be ineffective.

deleted

Or. en

Amendment 180

Liesje Schreinemacher

Proposal for a regulation

Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. Contracts concluded with an economic operator in violation of *price adjustment* measures adopted or reinstated by the Commission pursuant to this Regulation shall be ineffective.

2. Contracts concluded with an economic operator in violation of *IPI* measures adopted or reinstated by the Commission pursuant to this Regulation shall be ineffective.

Or. en

Amendment 181

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Article 14 – paragraph 3

Text proposed by the Commission

3. Where *reference is made to this paragraph*, Article 4 of Regulation (EU) No 182/2011 shall apply *and the competent committee shall be the Committee established by Council Decision 71/306/EEC*.

Amendment

3. Where *the competent 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*

Or. en

Amendment 182

Carlo Fidanza

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

By 31 December 2018 and at least every *three* years thereafter, the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation and on progress made in international negotiations regarding access for Union economic operators to *public contract or concession award procedures in* third countries undertaken under this Regulation. To this effect, Member States shall upon request provide the Commission with appropriate information.

Amendment

By 31 December 2018 and at least every *four* years thereafter, the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation and on progress made in international negotiations regarding access for Union economic operators to *procurement and concession markets of* third countries undertaken under this Regulation. To this effect, Member States shall upon request provide the Commission with appropriate information. *Upon submitting such report, the Commission shall additionally review the scope, functioning and efficiency of this Regulation and shall include its findings in an Annex to the report.*

Or. en

Amendment 183

Dita Charanzová, Morten Løkkegaard

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

By 31 December 2018 and at least every three years thereafter , the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation and on progress made in international negotiations regarding access for Union economic operators to public contract or concession award procedures in third countries undertaken under this Regulation. To this effect, Member States shall upon request provide the Commission with appropriate information.

Amendment

Two years after the date of entry into force of this Regulation and at least every three years thereafter , the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation and on progress made in international negotiations regarding access for Union economic operators to public contract or concession award procedures in third countries undertaken under this Regulation. To this effect, Member States shall upon request provide the Commission with appropriate information.

Or. en

Amendment 184

Maria Grapini, Maria-Manuel Leitão-Marques

Proposal for a regulation

Article 16 – paragraph 1

Text proposed by the Commission

By 31 December 2018 and at least every three years **thereafter** , the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation and on progress made in international negotiations regarding access for Union economic operators to public contract or concession award procedures in third countries undertaken under this Regulation. To this effect, Member States shall upon request provide the Commission with appropriate information.

Amendment

At least every three years **after the entry into force of this Regulation**, the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation and on progress made in international negotiations regarding access for Union economic operators to public contract or concession award procedures in third countries undertaken under this Regulation. To this effect, Member States shall upon request provide the Commission with appropriate information.

Amendment 185

Virginie Joron, Jean-Lin Lacapelle, Isabella Tovaglieri, Markus Buchheit, Alessandra Basso

Proposal for a regulation

Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall collect and publish annually information on the 10 largest contracts awarded to European companies in third countries;

The Commission shall collect and publish annually information on the 10 largest public procurement contracts awarded to third-country companies in the internal market.

Or. fr

Amendment 186

Anna Cavazzini

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Amendment of Directive 2014/25/EU

Articles 85 and 86 of Directive 2014/25/EU shall be deleted with effect from the entry into force of this Regulation.

Or. en

Amendment 187

Carlo Fidanza

Proposal for a regulation
Article 18 – paragraph 1

Text proposed by the Commission

This Regulation shall enter into force on the **60th** day following that of its publication in the Official Journal of the European Union.

Amendment

This Regulation shall enter into force on the **90th** day following that of its publication in the Official Journal of the European Union.

Or. en