



2012/0060(COD)

18.10.2021

AMENDMENTS

103 - 318

Draft report

Daniel Caspary

(PE695.192v01-00)

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))

Amendment 103
Emmanuel Maurel

Draft legislative resolution
Citation 4 a (new)

Draft legislative resolution

Amendment

— *having regard to the European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL))*

Or. fr

Amendment 104
Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation
Title 1

Text proposed by the Commission

Amendment

Amended proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on the 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

REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on the access of third-country ***economic***
operators, goods and services to the
Union's procurement ***market*** and
procedures supporting negotiations on
access of Union ***economic operators***,
goods and services to the procurement
markets of third countries

Or. en

Amendment 105
Emmanuel Maurel

Proposal for a regulation
Recital 2

Text proposed by the Commission

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, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.*

(2) Pursuant to Article 206 of the Treaty on the Functioning of the European Union (TFEU) the Union, by establishing a customs union, is to contribute, in the common interest, to the development of world trade.

Or. fr

Amendment 106
Emmanuel Maurel

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) In accordance with the Charter of Fundamental Rights, the European Union promotes trade in goods and services that respects human dignity by prohibiting forced labour, ensuring equality between men and women in the area of employment, work and pay, promoting working conditions which respect workers' health, safety and dignity, and protecting intellectual property.

Or. fr

Amendment 107
Emmanuel Maurel

Proposal for a regulation
Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) In line with its international commitments, the European Union seeks

to protect biodiversity and combat climate change in its approach to managing trade in goods and services.

Or. fr

Amendment 108

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 5

Text proposed by the Commission

Amendment

(5) The revised plurilateral WTO Agreement on Government Procurement provides only for limited market access for Union companies to the public procurement markets of third countries and applies only to a limited number of WTO Members, which are parties to that Agreement. The revised Agreement on Government Procurement was concluded by the Union in December 2013.

deleted

Or. en

Amendment 109

Herve Juvin, Danilo Oscar Lancini, Marco Campomenosi, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation

Recital 6

Text proposed by the Commission

Amendment

(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.

(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.

It is important to strengthen the concept of consistent economic activity, which has already been identified and legitimised by the WTO as a criterion for selecting companies eligible for public tender. This concept may and should be supplemented by criteria relating to the date of establishment, place of recruitment, percentage of local turnover and contribution to local and national society, in particular through taxes and contributions paid;

It is also crucial to develop an indicator based on the national, territorial and environmental responsibility of the company, or to outline a new and more relevant method of assessment than an indicator based on social and environmental responsibility;

Or. fr

Amendment 110
Emmanuel Maurel

Proposal for a regulation
Recital 6

Text proposed by the Commission

(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*.

Amendment

(6) The Union *should only advocate the* opening of international public procurement markets of the Union and its trading partners *on the strict condition that doing so is legally and materially confirmed to be reciprocal*.

Or. fr

Amendment 111
Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques

Proposal for a regulation

Recital 6

Text proposed by the Commission

(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.

Amendment

(6) Within the context of the WTO and through its bilateral relations, the Union advocates an ambitious opening of international procurement markets of the Union and its trading partners, in a spirit of reciprocity and mutual benefit

Or. en

Amendment 112 Emmanuel Maurel

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Access of third-country goods and services to the Union's internal market in public procurement should be subject to economic and environmental objectives, in particular the implementation of the Paris Agreement on climate change, and social objectives, in particular the application of the conventions of the International Labour Organization, in keeping with the EU Trade Policy Review communicated by the Commission on 18 February 2021.

Or. fr

Amendment 113 Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas on behalf of the ID Group

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) To achieve greater strategic autonomy, when third countries are neither Party to the WTO Agreement on Public Procurement nor part of a bilateral agreement with the European Union in this area of competence, the European Union may prevent companies from those countries from submitting tenders for any EU public procurement contract.

Or. fr

Amendment 114

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The plurilateral WTO Agreement on Government Procurement and EU trade agreements that include provisions on procurement provide for market access for Union economic operators only to the procurement markets of third countries that are parties to these agreements.

Or. en

Amendment 115

Emmanuel Maurel

Proposal for a regulation

Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) Access of third-country goods and services to the Union's internal market in public procurement should be subject to compliance with rules on due diligence and on limiting the impact of those goods

and services on climate change.

Or. fr

Amendment 116

Maximilian Krah, Herve Juvin

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) If the country concerned is a Party to the WTO Agreement on Government Procurement or has concluded a trade agreement with the EU that includes provisions on public procurement, the Commission should follow the consultation mechanisms and/or dispute settlement procedures set out in that agreement when the restrictive practices relate to procurement covered by market access commitments undertaken by the country concerned towards the Union.

Amendment

(7) If the country concerned is a Party to the WTO Agreement on Government Procurement or has concluded a trade agreement with the EU that includes provisions on public procurement, the Commission should follow the consultation mechanisms and/or dispute settlement procedures set out in that agreement when the restrictive practices relate to procurement covered by market access commitments undertaken by the country concerned towards the Union, ***and calls on the Commission to assist European companies in advising on legal issues in the target country so public projects led there can be flexibly adapted to local regulations.***

Or. de

Amendment 117

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) If ***the country concerned*** is a Party to the WTO Agreement on Government Procurement or has concluded a trade agreement with the EU that includes

Amendment

(7) If ***a third*** country is a Party to the WTO Agreement on Government Procurement or has concluded a trade agreement with the EU that includes

provisions on **public** procurement, the Commission should follow the consultation mechanisms and/or dispute settlement procedures set out in **that agreement** when the restrictive practices relate to procurement covered by market access commitments undertaken by **the** country **concerned** towards the Union.

provisions on procurement, the Commission should follow the consultation mechanisms and/or dispute settlement procedures set out in **those agreements** when the restrictive practices relate to procurement covered by market access commitments undertaken by **that third** country towards the Union.

Or. en

Amendment 118
Emmanuel Maurel

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) In accordance with the EU Trade Policy Review, the Commission should also verify that third countries that are Party to the Agreement on Public Procurement or that have concluded a trade agreement containing provisions on public procurement have taken effective measures and have adopted the corresponding practices intended to improve the application of environmental standards, in particular the Paris Agreement on climate change, and social standards, in particular the conventions of the International Labour Organization.

Or. fr

Amendment 119
Maximilian Krah, Herve Juvin

Proposal for a regulation
Recital 8

Text proposed by the Commission

Amendment

(8) Many third countries are reluctant

(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.

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; ***considers that, by introducing ever-tighter regulations, in particular in environmental legislation, the EU continuously hampers the competitiveness of European companies on the global market.***

Or. de

Amendment 120
Emmanuel Maurel

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) ***Outside the European Union, most*** third countries are reluctant, ***for economic, social and sovereign reasons,*** to open their public procurement and their concessions markets to international competition, or to open those markets further than what they have already done.

Or. fr

Amendment 121
Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida 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 procurement and 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 **partners** of the Union. Those restrictive procurement practices result in the loss of substantial trading opportunities.

Or. en

Amendment 122

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Recital 9

Text proposed by the Commission

(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.*

Amendment

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 123

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Directive 2014/25/EU *of the European Parliament and of the Council*¹⁶ 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.

Amendment

(9) *Article 86 of Directive 2014/25/EU acknowledges that EU economic operators being bound by international labour standards may encounter difficulties when attempting to secure the award of contracts in third countries due to the non-observance of international labour conventions. This can lead the Commission to propose the suspension or the restriction of the award of service contracts to economic operators originating in third countries. The same should apply in relations to all the labour and environmental conventions annexed to EU procurement Directives, as well as to the Paris Agreement.*

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 124

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) *Regulation 2018/46/EU of the*

European Parliament and of the Council on the financial rules applicable to the general budget of the Union provides that procurement rules and principles applicable to public contracts awarded by Union institutions on their own account should be based on the rules set out in Directives 2014/23/EU and 2014/24/EU of the European Parliament and of the Council. It is therefore appropriate to also apply this Regulation and IPI measures to procurement procedures covered by Regulation 2018/46/EU.

Or. en

Amendment 125

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Regulation (EU) No 654/2014 of the European Parliament and of the Council¹⁷ lays down rules and procedures in order to ensure the exercise of the Union's rights under international trade agreements concluded by the Union. No rules and procedures exist for the treatment of goods and services not covered by such international agreements.

¹⁷ Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules and amending Council Regulation (EC) No 3286/94 laying down Community procedures in the field of common commercial policy in order to ensure the exercise of the Community's rights under

Amendment

(10) Regulation (EU) No 654/2014 of the European Parliament and of the Council⁴ lays down rules and procedures in order to ensure the exercise of the Union's rights under international trade agreements concluded by the Union. No ***such*** rules and procedures exist for the treatment of ***economic operators***, goods and services not covered by such international agreements.

⁴ Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules and amending Council Regulation (EC) No 3286/94 laying down Community procedures in the field of common commercial policy in order to ensure the exercise of the Community's rights under

international trade rules, in particular those established under the auspices of the World Trade Organization (OJ L 189, 27.6.2014, p. 50.)

international trade rules, in particular those established under the auspices of the World Trade Organization (OJ L 189, 27.6.2014, p. 50.)

Or. en

Amendment 126
Emmanuel Maurel

Proposal for a regulation
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) On 10 March 2021, the European Parliament adopted a legislative own-initiative report on due diligence and corporate responsibility, calling for mandatory rules to be introduced on due diligence to protect human rights, the environment and good governance in value chains, which would enable Member States to deny public support, particularly through public procurement, to companies that fail to meet the due diligence objectives;

Or. fr

Amendment 127
Emmanuel Maurel

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

deleted

concessions should be reflected in the legal order of the EU, thereby ensuring effective application thereof.

Or. fr

Amendment 128

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 11

Text proposed by the Commission

(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.*

Amendment

(11) International market access commitments undertaken by the Union towards third countries in the field of *procurement and concessions require, among other things, equal treatment of economic operators from those countries. Consequently, measures adopted under this Regulation can only apply to economic operators, goods or services from countries that are not Parties to the plurilateral WTO Agreement on Government Procurement or to bilateral or multilateral trade agreements with the Union that include commitments on access to procurement and concessions markets, or from countries that are Parties to such agreements but only with respect to procurement procedures for goods, services or concessions that are not covered by those agreements. Irrespective of the application of measures adopted under this Regulation and in accordance with the European Commission's Communication "Guidance on the participation of third-country bidders and goods in the EU procurement market" of 24 July 2019^{1a} and Directives 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and of the Council, economic operators from third countries, which do not have any agreement providing for the opening of*

the EU procurement market or whose goods, services and works are not covered by such an agreement do not have secured access to procurement procedures in the EU and could be excluded.

^{1a} C(2019) 5494 final

Or. en

Amendment 129

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Recital 11

Text proposed by the Commission

(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.***

Amendment

(11) International market access commitments undertaken by the Union towards third countries in the field of public procurement and concessions ***require, inter alia, the equal treatment of economic operators from those countries. Consequently, measures adopted under this Regulation can only apply to economic operators, goods or services from countries that are not parties to the plurilateral WTO Agreement on Government Procurement or to bilateral or multilateral trade agreements with the Union that include commitments on access to procurement and concessions markets, or from countries that are parties to such agreements but only regarding procurement procedures for goods, services or concessions that are not covered by those agreements. Irrespective of the application of measures adopted under this Regulation, and in accordance with the Communication from the Commission of 24 July 2019 on ‘Guidance on the participation of third-country bidders and goods in the EU procurement market’ and with Directives 2014/23/EU, 2014/24/EU and 2014/25/EU***

of the European Parliament and of the Council, economic operators from third countries which do not have any agreement providing for the opening of the Union's procurement market or whose goods, services and works are not covered by such an agreement, do not have secured access to procurement procedures in the Union and could be excluded.

Or. en

Amendment 130

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 11

Text proposed by the Commission

(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.***

Amendment

(11) International market access commitments undertaken by the Union towards third countries in the field of ***procurement and concessions require, inter alia, the equal treatment of economic operators from those countries. Consequently, measures adopted under this Regulation can only apply to economic operators, goods or services from countries that are not parties to the plurilateral WTO Agreement on Government Procurement or to bilateral or multilateral trade agreements with the Union that include commitments on access to procurement and concessions markets, or from countries that are parties to such agreements but only regarding procurement procedures for goods, services or concessions that are not covered by those agreements. Irrespective of the application of measures adopted under this Regulation, and in accordance with the Communication from the Commission of 24 July 2019 on ‘Guidance on the participation of third-country bidders and goods in the EU***

procurement market’ and with Directives 2014/23/EU, 2014/24/EU and 2014/25/EU of the European Parliament and of the Council, economic operators from third countries which do not have any agreement providing for the opening of the Union’s procurement market or whose goods, services and works are not covered by such an agreement, do not have secured access to procurement procedures in the Union and could be excluded.

Or. en

Amendment 131

Herve Juvin, Danilo Oscar Lancini, Marco Campomenosi, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation

Recital 11

Text proposed by the Commission

(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.

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.

In accordance with the principle of reciprocity in international matters, when third countries deny access to our companies, their companies should be denied access to our European public procurement market.

Or. fr

Amendment 132

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) In cases where foreign operations are deemed to be aggressive, or at the request of a Member State where the case in question affects a national strategic sector, a review clause based on the legitimacy of EU citizens and the Member States should be provided by the European Parliament to enable it, when a two-thirds majority is in favour of such a move, to urgently introduce a clause.

Or. fr

Amendment 133

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation
Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) Given that, under EU law, the EU's international commitments place actors from third countries which are signatories on an equal footing, the European Parliament should be able to call on the Council to decide by a two-thirds majority to suspend or limit the award of public procurement contracts to countries that disregard the principle of reciprocity. The European Commission may call for coercive measures and, at the same time, offer an effective monitoring and surveillance tool.

Or. fr

Amendment 134

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID 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) ***It is important to step up the EU's objectives, stop being naive and be more realistic. It is also vital to steer away from free trade towards 'proper' trade, which will, by means of clear priorities and sustained reasoning, reduce unfair competition .***

Major economic powers waging a war on EU companies competing with their own, including through the application of their extraterritorial law, must be kept away from our single market.

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.

Or. fr

Amendment 135

Maximilian Krah, Herve Juvin

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 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; ***calls, in cases where a company from a third country is awarded a public tender, for the cooperation model to be used, requiring 50% of the capital to go towards services, personnel and materials in the EU, thereby also supporting European companies.***

Or. de

Amendment 136

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

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***

Amendment

(12) The ***effective application of any measure adopted under this Regulation with a view to*** improving the access of Union economic operators to the procurement and concessions markets of certain third countries ***requires a clear set of rules of origin for economic operators,***

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.

goods and services.

Or. en

Amendment 137
Tiziana Beghin, Dino Giarrusso

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 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 ***treatment of operators and 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.

Or. en

Amendment 138
Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) The origin of a good should be determined in accordance with **Article 22 to 26 of Council Regulation (EEC) No 2913/1992**¹⁸.

¹⁸ Council Regulation (EEC) No 2913/1992 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 9.10.1992, p. 1)

Amendment

(13) The origin of a good should be determined in accordance with **Articles 59 to 62 of Regulation (EU) No 952/2013**⁵ of the European Parliament and of the Council.

⁵ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1)

Or. en

Amendment 139

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) The origin of a good should be determined in accordance with **Article 22 to 26 of Council Regulation (EEC) No 2913/1992**¹⁸.

¹⁸ Council Regulation (EEC) No 2913/1992 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 9.10.1992, p. 1)

Amendment

(13) The origin of a good should be determined in accordance with **Articles 59 to 62 of Regulation (EU) No 952/2013**⁵ of the European Parliament and of the Council.

⁵ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1)

Or. en

Amendment 140

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) The origin of a service should be determined on the basis of the origin of the natural or legal person providing it.

Amendment

(14) The origin of a service should be determined on the basis of the origin of the natural or legal person providing it. ***The origin of a legal person should be considered to be the country under the laws of which a legal person is constituted or organised and in the territory of which the legal person is engaged in substantive business operations. The criterion of substantive business operations should not allow the potential circumvention of any measure adopted under this Regulation by the creation of letterbox companies. The term ‘substantive business operations’ is a concept used in the WTO General Agreement on Trade in Services. In Union law it is equivalent to the term ‘effective and continuous link with the economy’ and is closely linked to the right of establishment set out in Article 49 of the Treaty on the Functioning of the European Union. The Commission regularly publishes guidelines based on the case law related to the right of establishment, addressing, inter alia, the concept of effective or stable and continuous link with the economy. Article 86 of Directive 2014/25/EU also refers to the concept of “direct and effective link with the economy” which is equivalent to the concept of ‘substantive business operations’.***

Or. en

Amendment 141

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Recital 15

(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 142

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 15

(15) *In the light of the overall policy objective of the Union to support the* **deleted**

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).

Or. en

Amendment 143

Reinhard Bütikofer

on behalf of the Greens/EFA Group

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.

generalised system of preferences as outlined in Regulation (EU) No 978/2012 of the European Parliament and of the Council¹⁹, *and unless there are reasonable indications of circumvention of any adopted IPI measures*, this Regulation should not apply to tenders *that have been submitted by an economic operator* originating 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. *This Regulation should also not be applied to tenders submitted by an economic operator originating in developing countries that are beneficiaries of the general arrangement referred to in point (a) of Article 1(2) of Regulation (EU) No 978/2012, when the subject matter of those tenders is related to the green and digital transformation, development and cooperation priorities or other priorities in the framework of the EU's Global Gateway initiative.*

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).

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 144
Emmanuel Maurel

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.

¹⁹ 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).

(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. ***However, no country listed in these annexes and identified in a Union act, including a Parliament resolution, as being in serious and repeated violation of human rights, civil liberties or the basic principles of the rule of law shall benefit from the aforementioned exemption.***

¹⁹ 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. fr

Amendment 145
Jan Zahradil, Geert Bourgeois
on behalf of the ECR Group

Proposal for a regulation
Recital 16

Text proposed by the Commission

Amendment

(16) *In the light of the overall policy objective of the Union to support small and medium-sized enterprises, this Regulation should also not apply to tenders submitted by SMEs established in the Union and in engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.* **deleted**

Or. en

Amendment 146

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) *In the light of the overall policy objective of the Union to support small and medium-sized enterprises, this Regulation should also not apply to tenders submitted by SMEs established in the Union and in engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.* **deleted**

Or. en

Amendment 147

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) *In the light of the overall policy* **deleted**

objective of the Union to support small and medium-sized enterprises, this Regulation should also not apply to tenders submitted by SMEs established in the Union and in engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.

Or. en

Amendment 148

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) In the light of the overall policy objective of the Union to support small and medium-sized enterprises, this Regulation should also not apply to tenders submitted by SMEs established in the Union and in engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.

deleted

Or. en

Amendment 149

Herve Juvin, Marco Campomenosi, Danilo Oscar Lancini, Jean-Lin Lacapelle,

Maximilian Krah, Roman Haider, Maxette Pirbakas

on behalf of the ID Group

Proposal for a regulation

Recital 16

Text proposed by the Commission

Amendment

(16) In the light of the overall policy objective of the Union to support small and medium-sized enterprises, this Regulation

(16) In the light of the overall policy objective of the Union to support small and medium-sized enterprises, this Regulation

should also not apply to tenders submitted by SMEs established in the Union and in engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.

should also not apply to tenders submitted by SMEs established in the Union and in engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.

National public authorities have the right to include criteria that give preference to independent businesses run by craftsmen or small traders, or family-run SMEs or ETIs in their calls for tender.

Or. fr

Amendment 150
Tiziana Beghin, Dino Giarrusso

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) In the light of the overall policy objective of the Union to support small and medium-sized enterprises, this Regulation should also not apply to tenders submitted by **SMEs** established in the Union and in engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.

Amendment

(16) In the light of the overall policy objective of the Union to support small and medium-sized enterprises, this Regulation should also not apply to tenders submitted by **autonomous SMEs, as defined by Commission Recommendation 2003/361/EC**, established in the Union and in engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.

Or. en

Amendment 151
Emmanuel Maurel

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) In the light of the overall policy

Amendment

(16) In the light of the overall policy

objective of the Union to support small and medium-sized enterprises, this Regulation should also not apply to tenders submitted by SMEs established in the Union and **in** engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.

objective of the Union to support small and medium-sized enterprises, this Regulation should also not **uniformly** apply to tenders submitted by SMEs established in the Union and **long** engaged in substantive business operations entailing a direct and effective link with the economy of at least one Member State.

Or. fr

Amendment 152

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation **Recital 16 a (new)**

Text proposed by the Commission

Amendment

(16a) It is important to encourage each Member State to take measures restricting access to its markets that are not covered. In this regard, they should be called upon to develop a legitimate criterion for public tenders to better defend the integrity of a local area and local commercial networks. The local supply should determine whether and to what extent access to a market may be opened or restricted. Companies from third countries that do not meet the same level of social and environmental standards should not be granted access to the internal market of the European Union or its Member States.

Or. fr

Amendment 153

Jan Zahradil, Geert Bourgeois
on behalf of the ECR Group

Proposal for a regulation **Recital 16 a (new)**

Text proposed by the Commission

Amendment

(16a) In the light of the overall policy objective of the Union to support small and medium sized enterprises (SMEs), this Regulation should also not apply to tenders submitted by autonomous SMEs manufacturing the goods or providing services subject to the procurement covered by IPI measures.

Or. en

Amendment 154

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) On the contrary, this Regulation should also apply to tenders where SMEs established in the Union are committed to subcontract more than 10% of the total value of the contract to economic operators originating in a third country.

Or. en

Amendment 155

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation

Recital 16 b (new)

Text proposed by the Commission

Amendment

(16b) National public authorities have the right, in their calls for tender, to include criteria that give preference to companies that prioritise quality over quantity by applying, for example, the highest health, gastronomic, local and

social standards.

Or. fr

Amendment 156

Reinhard Bütikofer

on behalf of the Greens/EFA 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, 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 measures or practices exist in a third country, *that may result in the impairment of access of Union goods, services or economic operators to the procurement or concession markets*, the Commission should examine to what degree laws *rules or other measures* on procurement and concessions of the country concerned ensure transparency in line with international standards *and do not result in serious and recurrent restrictions* against Union goods, services *or* economic operators. In addition, it should examine to what degree individual contracting authorities or contracting entities maintain or adopt *restrictive* practices *impairing access to* Union goods, services and economic operators *in a significant and recurrent manner, by taking into account the economic values concerned, the sectors where the practices occur or the kinds or discriminatory actions put in place by contracting authorities or entities, also based on relevant international guidance.*

Or. en

Amendment 157

Daniel Caspary, Christophe Hansen, Sven Simon, Iuliu Winkler, Arnaud Danjean, Anna-Michelle Asimakopoulou, Massimiliano Salini, Jörgen Warborn, Danuta Maria

Hübner, Gabriel Mato

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 measures or practices exist in a third country **that could result in the impairment of access of Union goods, services or economic operators to the procurement or concession markets**, the Commission should examine to what degree laws, **rules or other measures** on procurement and concessions of the country concerned ensure transparency in line with international standards, **and do not result in serious and recurring restrictions** against Union goods, services **or** economic operators. In addition, it should examine to what degree individual contracting authorities or contracting entities maintain or adopt **restrictive** practices against Union goods, services **or** economic operators.

Or. en

Amendment 158

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida 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**

Amendment

(17) When assessing whether **specific** measures or practices exist in a third country **that could result in the impairment of access of Union goods, services or economic operators to the procurement or concession markets**, the Commission should examine to what degree laws, **rules or other measures** on procurement and concessions of the

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.

country concerned ensure transparency in line with international standards, **and do not result in serious and recurring restrictions** against Union goods, services **or** economic operators. In addition, it should examine to what degree individual contracting authorities or contracting entities maintain or adopt **restrictive** practices against Union goods, services **or** economic operators.

Or. en

Amendment 159

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

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 measures or practices exist in a third country **that result in the impairment of access of Union goods, services or economic operators to the procurement or concession markets**, the Commission should examine to what degree laws, **rules or other measures** on procurement and concessions of the country concerned ensure transparency in line with international standards, **and do not result in serious and recurring restrictions** against Union goods, services **or** economic operators. In addition, it should examine to what degree individual contracting authorities or contracting entities maintain or adopt **restrictive** practices against Union goods, services **or** economic operators.

Or. en

Amendment 160

Tiziana Beghin, Dino Giarrusso

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, **rules and measures** on public procurement and concessions of the country concerned ensure transparency **and access** 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.

Or. en

Amendment 161
Reinhard Bütikofer
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 18

Text proposed by the Commission

(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.

Amendment

deleted

Or. en

Amendment 162

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

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 163

Tiziana Beghin, Dino Giarrusso

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) 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 be able to restrict the access of third country goods or services, **whether the related country is not respecting social and environmental standards and conventions**, to their tendering procedures **in full respect of measures** provided for in this Regulation.

Or. en

Amendment 164

Herve Juvin, Marco Campomenosi, Danilo Oscar Lancini, Jean-Lin Lacapelle,
Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation Recital 18

Text proposed by the Commission

(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.*

Amendment

(18) In view of *this* fact, their contracting authorities and contracting entities *can, in the spirit of this Regulation,* restrict the access of third country goods or services to their tendering procedures *to ensure that foreign economic operators comply with environmental, social and labour law or any applicable national law.*

Or. fr

Amendment 165

Jan Zahradil, Geert Bourgeois
on behalf of the ECR Group

Proposal for a regulation Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) In order to determine whether an investigation is in the interest of the Union, the Commission should consider a wide variety of aspects of political, economic or any other nature, in relation to the investigation and its potential consequences. The Commission should weigh up effects of starting the investigation against the impact of the investigation (and potential measures under this Regulation) on the EU's broader interest. The general objective of

opening third country markets and improving market access opportunities for EU economic operators should be taken into account. The objective of limiting any unnecessary administrative burden for contracting authorities and contracting entities as well as economic operators should be taken into account. Member States and interested parties should have the possibility to present their views with regard to the interest of the Union.

Or. en

Amendment 166

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation **Recital 19**

Text proposed by the Commission

(19) The Commission should be able, on its own initiative or at the application of interested parties or a Member State, to initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council.

Amendment

(19) ***The Commission should ensure that a general monitoring tool is set up to look out for unusually low prices in responses to tenders and, where necessary, a one-off or general exclusion tool at the request of the contracting entities. These instruments could be seen as tools for EU economic diplomacy services.***

The Commission should be able, on its own initiative or at the application of interested parties or a Member State, to initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council.

Or. fr

Amendment 167

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The Commission should be able, ***on its own initiative or at the application of interested parties or a Member State***, to initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. . ***Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council .***

Amendment

(19) The Commission should be able to initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country, ***if it considers that such an investigation is in the interest*** of the Union.

Or. en

Amendment 168

Jörgen Warborn

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The Commission should be able, on its own initiative or at the application of interested parties or a Member State, to initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. . Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council .

Amendment

(19) The Commission should be able, on its own initiative or at the application of interested parties or a Member State, to initiate at any time an ***external and transparent procurement*** investigation into restrictive ***or discriminatory*** procurement measures or practices allegedly adopted or maintained by a third country. Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council.

Or. en

Amendment 169
Tiziana Beghin, Dino Giarrusso

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) The Commission should be able, on its own initiative or at the application of interested parties or a Member State, to initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. . Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council .

Amendment

(19) The Commission should be able, on its own initiative or at the application of ***the European Parliament or of other*** interested parties or a Member State, to initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. . Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council .

Or. en

Amendment 170
Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) The Commission should ***be able***, on its own initiative ***or*** at the application of interested parties or a Member State, ***to*** initiate ***at any time*** an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. . ***Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council .***

Amendment

(19) The Commission should ***at any time***, on its own initiative, at the application of ***EU*** interested parties or a Member State, ***or at the request of the European Parliament***, initiate an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. ***The Committee on International Trade can initiate and approve such a request on behalf*** of the European Parliament.

Or. en

Amendment 171

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The Commission should ***be able***, on its own initiative or at the application of interested parties or a Member State, ***to*** initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. . ***Such investigative procedures should be without prejudice to Regulation (EU) No 654/2014 of the European Parliament and of the Council .***

Amendment

(19) The Commission should, on its own initiative or at the application of interested parties or a Member State, initiate at any time an investigation into restrictive procurement measures or practices allegedly adopted or maintained by a third country. The European Parliament, ***at the initiative of its International Trade Committee, may request that the Commission initiate an investigation.***

Or. en

Amendment 172

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) The determination whether an investigation is in the interest of the Union should be based on an appreciation of all the various interests taken as a whole, including the interests of the domestic industry, users, consumers, workers and social partners. The Commission is in any case responsible of determining the interest of the Union, and should weigh up the consequences of starting an investigation against its impact, and the potential measures that could be adopted under this Regulation on EU's broader interests. The general objective of opening third-country markets and improving market access

opportunities for Union economic operators should be taken into account. The objective of limiting any unnecessary administrative burden for contracting authorities and contracting entities as well as economic operators should also be taken into account.

Or. en

Amendment 173
Reinhard Bütikofer
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In the determination of whether the adoption of an IPI measure is in the interest of the Union, the general objective of opening third-country markets and improving market access opportunities for Union economic operators should be given special consideration. When addressing serious and recurrent impairment to market access opportunities, the Commission should apply the principle of reciprocity by taking 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 174

Daniel Caspary, Christophe Hansen, Sven Simon, Iuliu Winkler, Arnaud Danjean, Anna-Michelle Asimakopoulou, Massimiliano Salini, Jörgen Warborn, Danuta Maria Hübner, Gabriel Mato

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) The determination whether an investigation is in the interest of the Union should be based on an appreciation of all the various interests taken as a whole, including the interests of the domestic industry, users and consumers. The Commission should weigh up the consequences of starting an investigation against its impact, and the potential measures that could be adopted under this Regulation, on EU's broader interests. The general objective of opening third country markets and improving market access opportunities for EU economic operators should be given special consideration. The objective of limiting any unnecessary administrative burden for contracting authorities and contracting entities as well as economic operators should also be taken into account.

Or. en

Amendment 175

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) When determining whether the adoption of an IPI measure is in the EU interest, the objective of achieving reciprocity by opening third country procurement markets and improving

market access opportunities for Union economic operators should be prioritized.

Or. en

Amendment 176

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

**Proposal for a regulation
Recital 19 b (new)**

Text proposed by the Commission

Amendment

(19b) Given the overall policy objective of the Union to support the economic growth of least developed countries (LDCs) and their integration into global value chains, it would not be in the Union's interest to start an investigation against such countries under this Regulation, unless there are reasonable indications of circumvention of any adopted IPI measures. Consequently, this Regulation is not intended to apply to LDCs benefitting from the "Everything But Arms" arrangement as defined in Regulation (EU) No 978/2012.

Or. en

Amendment 177

Liesje Schreinemacher, Samira Rafaela

**Proposal for a regulation
Recital 19 b (new)**

Text proposed by the Commission

Amendment

(19b) If the Commission concludes that there is a considerable market presence of economic operators from the third country concerned on the European Single Market, it should consider exclusion instead of a score adjustment

measure when adopting an IPI measure.

Or. en

Amendment 178

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Recital 19 c (new)

Text proposed by the Commission

Amendment

(19c) Given the overall policy objective of the Union to support the economic growth of least developed countries (LDCs) and their integration into global value chains, it would not be in the Union's interest to start an investigation against such countries under this Regulation, unless there are reasonable indications of circumvention of any adopted IPI measures. Consequently, this Regulation is not intended to apply to LDCs benefitting from the "Everything But Arms" arrangement as defined in Regulation (EU) No 978/2012.

Or. en

Amendment 179

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

Proposal for a regulation

Recital 20

Text proposed by the Commission

Amendment

(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

(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.

economic operators, goods and services in respect of public procurement in that country. ***To encourage the country concerned to engage promptly and actively in this dialogue, the Commission should decide, when the consultation procedure starts, to introduce some measures set out in this Regulation on a temporary basis, 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 goods and services originating in that country.***

Or. fr

Amendment 180
Tiziana Beghin, Dino Giarrusso

Proposal for a regulation
Recital 20

Text proposed by the Commission

(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.

Amendment

(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 ***eliminating any restrictive, discriminating measures or practices and*** improving the tendering opportunities for Union economic operators, goods and services in respect of public procurement in that country.

Or. en

Amendment 181
Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Recital 20

Text proposed by the Commission

(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.

Amendment

(20) ***When conducting the investigation***, the Commission should invite the ***third*** country concerned to enter into consultations with a view to ***eliminating and remedying any restrictive measures or practices and effectively*** improving the tendering opportunities for Union economic operators, goods and services in respect of procurement ***and concession markets*** in that country.

Or. en

Amendment 182

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 20

Text proposed by the Commission

(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.

Amendment

(20) ***When conducting the investigation***, the Commission should invite the ***third*** country concerned to enter into consultations with a view to ***eliminating and remedying any restrictive measures or practices and*** improving the tendering opportunities for Union economic operators, goods and services in respect of procurement ***and concessions markets*** in that country.

Or. en

Amendment 183

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 20

Text proposed by the Commission

(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.

Amendment

(20) ***When conducting the investigation***, the Commission should invite the ***third*** country concerned to enter into consultations with a view to ***eliminating any restrictive measures or practices and*** improving the tendering opportunities for Union economic operators, goods and services ***regarding*** procurement ***and concessions markets*** in that country.

Or. en

Amendment 184

Tiziana Beghin, Dino Giarrusso

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, ***coherent and non-discriminatory*** manner. A report on the main findings of the investigation should therefore be publicly available.

Or. en

Amendment 185

Inma Rodríguez-Piñero, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

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

Amendment

(22) ***If the investigation confirms the existence of restrictive measures or practices and*** the consultations with the country concerned do not lead to sufficient

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.*

satisfactory corrective actions that result in improvements to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission, *where appropriate,* should be able to adopt *under this Regulation measures ('IPI measures')* in the form of a score adjustment *or of exclusion of* tenders.

Or. en

Amendment 186
Tiziana Beghin, Dino Giarrusso

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 *the removal of restrictive measures, along with the effective implementation of international social and environmental standards, having as effect a sufficient and a fair improvement* to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission should be able to *decide*, where appropriate, *the exclusion of* tenders *(IPI measures)* submitted by *the* economic operators originating in that country and/or including goods and services originating in that country.

Or. en

Amendment 187
Liesje Schreinemacher, Samira Rafaela, Dita Charanzová

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 *third* country concerned do not lead to sufficient *satisfactory corrective action(s) that effectively result in* improvements to the tendering opportunities for Union economic operators, goods and services within a *short* timeframe, *or the third country concerned declines to enter into consultations*, the Commission should adopt, *under this Regulation, IPI measures in the form of a score adjustment or exclusion of* tenders.

Or. en

Amendment 188

Reinhard Bütikofer

on behalf of the Greens/EFA 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 investigation confirms the existence of the restrictive measures or practices and* the consultations with the country concerned do not lead to *satisfactory corrective action(s) that result in remedying the serious and recurrent impairment of access* for Union economic operators, goods and services within a reasonable timeframe, the Commission should be able to adopt, where appropriate *under this Regulation, measures (IPI measures) in the form of a score adjustment or of exclusion of* tenders.

Or. en

Amendment 189

Enikő Győri, László Trócsányi

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 **satisfactory corrective actions that result in** improvements to the tendering opportunities for Union economic operators, goods and services within a reasonable timeframe, the Commission, **where appropriate,** should be able to adopt **measures under this Regulation in the form of a score adjustment or of exclusion of tenders ("IPI measures").**

Or. en

Amendment 190

Jörgen Warborn

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 **third** country concerned do not lead to **satisfactory 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, measures in the form of exclusion of tenders ('IPI measures').**

Or. en

Amendment 191

Jan Zahradil, Geert Bourgeois
on behalf of the ECR 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, where appropriate, **IPI** measure applying to tenders submitted by economic operators originating in that country and/or including goods and services originating in that country.

Or. en

Amendment 192

Herve Juvin, Marco Campomenosi, Danilo Oscar Lancini, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID 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**

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 **and prolong the measures introduced at the start of the consultation procedure and, where necessary, to adopt additional measures contained in this Regulation.**

originating in that country.

Or. fr

Amendment 193

Inma Rodríguez-Piñero, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

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) *A score adjustment measure* should be applied only for the purpose of the evaluation of tenders *submitted by economic operators* originating in the country concerned. *It* should not *affect the price actually due to be paid under the contract to be concluded with the successful tenderer.*

Or. en

Amendment 194

Jörgen Warborn

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

Amendment

(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.

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. ***Measures should not aim to completely restrict foreign competition in the European procurement market, there should be efficiency and flexibility for the EU to continue to procure high quality goods and services at reasonable prices of taxes for the Member State.***

Or. en

Amendment 195

Liesje Schreinemacher, Samira Rafaela, Dita Charanzová

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) ***A score adjustment measure*** should be applied only for the purpose of the evaluation of tenders ***submitted by economic operators*** originating in the country concerned. ***It*** should not ***affect the price actually due to be paid under the contract to be concluded with the successful tenderer.***

Or. en

Amendment 196

Enikő Győri, László Trócsányi

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) *A score adjustment measure* should be applied only for the purpose of the evaluation of tenders *submitted by economic operators* originating in the country concerned. *It* should not *affect the price actually due to be paid under the contract to be concluded with the successful tenderer.*

Or. en

Amendment 197

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) *IPI measures should apply to procurement procedures falling under the scope of this Regulation, including framework agreements and dynamic purchasing systems. IPI measures should also apply in the case of specific contracts awarded under a dynamic purchasing system, when those dynamic purchasing systems were subject to an IPI measure. However, they should not apply to such contracts below a certain threshold with a*

view to limiting the overall administrative burden for contracting authorities and contracting entities. In order to avoid a possible double application of IPI measures, such measures should not apply to contracts awarded based on a framework agreement, once they have already been applied at the stage of concluding that framework agreement.

Or. en

Amendment 198

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) In light of the overall policy objective of the Union to support small and medium-sized enterprises (SMEs), the Commission and contracting authorities and contracting entities should duly consider the effects under this Regulation, with a view to limiting the administrative burden for SMEs. The Commission in cooperation with the Member States should make available guidelines for best practices for SMEs, in order to ensure the efficiency of this Regulation and the consistency of its implementation.

Or. en

Amendment 199

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) In the light of the overall policy objective of the Union to support small and medium-sized enterprises (SMEs), the Commission and contracting authorities and contracting entities should duly support the application of the instrument to SMEs. The Commission in cooperation with the Member States should make available guidelines providing for best practices to support SMEs and in order to ensure the efficiency of this Regulation and the consistency of its implementation.

Or. en

Amendment 200

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

**Proposal for a regulation
Recital 23 b (new)**

Text proposed by the Commission

Amendment

(23b) In the light of the overall policy objective of the Union to support small and medium-sized enterprises (SMEs), the Commission and contracting authorities and contracting entities should duly consider the effects of this Regulation, with a view to preventing an overburdening of SMEs. The Commission in cooperation with the Member States should make available guidelines for best practices to achieve this objective, in order to ensure the efficiency of this Regulation and the consistency of its implementation.

Or. en

Amendment 201

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

**Proposal for a regulation
Recital 23 b (new)**

Text proposed by the Commission

Amendment

(23b) To avoid possible circumvention of an IPI measure, additional contractual obligations should be imposed and its implementation monitored after the award of the contract. Those obligations should only apply in case of procurement procedures to which an IPI measure is applicable, as well as to contracts awarded based on a framework agreement where such contracts are equal to or above a certain threshold and when that framework agreement was subject to an IPI measure.

Or. en

Amendment 202

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 23 c (new)

Text proposed by the Commission

Amendment

(23c) To avoid possible circumvention of an IPI measure, it will also be necessary to impose additional contractual obligations on any successful tenderer. Those obligations should apply only in case of procurement procedures to which an IPI measure is applicable, as well as to contracts awarded based on a framework agreement where such contracts are equal or above a certain threshold and when that framework agreement was subject to an IPI measure.

Or. en

Amendment 203

Emmanuel Maurel

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 204

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID Group

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 205

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques

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. en

Amendment 206

Reinhard Bütikofer

on behalf of the Greens/EFA Group

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. en

Amendment 207

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Recital 24

Text proposed by the Commission

Amendment

(24) Price adjustment measures should *deleted*

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.

Or. en

Amendment 208

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela

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. en

Amendment 209

Tiziana Beghin, Dino Giarrusso

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

(24) *IPI* measures should have a *direct* 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

field of public procurement, the Commission may suspend the measures *during* the negotiations.

procurement, the Commission may suspend the measures *after the conclusion of* the negotiations.

Or. en

Amendment 210

Jan Zahradil, Geert Bourgeois
on behalf of the ECR Group

Proposal for a regulation **Recital 24**

Text proposed by the Commission

(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.

Amendment

(24) ***IP*** 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.

Or. en

Amendment 211

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

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***

Amendment

deleted

goods or services originating in the third country concerned.

Or. en

Amendment 212

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Recital 25

Text proposed by the Commission

Amendment

(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. *deleted*

Or. en

Amendment 213

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 25

Text proposed by the Commission

Amendment

(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 *deleted*

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.

Or. en

Amendment 214
Emmanuel Maurel

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 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 **30%** of the total value of their tender is made up of goods or services originating in the third country concerned.

Or. fr

Amendment 215
Jan Zahradil, Geert Bourgeois
on behalf of the ECR 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

Amendment

(25) In order to simplify the application of *API measures* 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

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.

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.

Or. en

Amendment 216

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

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 217

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 26

Text proposed by the Commission

Amendment

(26) Member States are best placed to identify the contracting authorities or

deleted

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.

Or. en

Amendment 218

Reinhard Bütikofer

on behalf of the Greens/EFA Group

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 219

Herve Juvin, Marco Campomenosi, Danilo Oscar Lancini, Jean-Lin Lacapelle,

Maximilian Krah, Roman Haider, Maxette Pirbakas

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

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 ***can and should offer a monitoring and surveillance tool*** based on ***the proposals*** submitted by each Member State.

Or. fr

Amendment 220
Tiziana Beghin, Dino Giarrusso

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

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 ***IPi measures***. 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.

Or. en

Amendment 221

Jan Zahradil, Geert Bourgeois
on behalf of the ECR 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 products meeting their purchasing requirements at a competitive price. Therefore contracting authorities and contracting entities should be able not to apply **IP**I 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 **regarding public security or health emergencies**, or where the application of the measure would lead to a disproportionate increase in the price or costs of the contract. **The disproportionate increase in price or costs should be assessed by comparing the remaining offers with the estimated value of the contract notice. The exception should only apply in cases where the estimated value is significantly lower than the value in the remaining offers, rendering the execution of the contract economically unviable. When contracting authorities or contracting entities apply these exceptions, the Commission should be informed in a timely and comprehensive manner to allow for appropriate monitoring of the implementation of this Regulation.**

Or. en

Amendment 222

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 products meeting their purchasing requirements at a competitive price. Therefore, contracting authorities and contracting entities should be able, ***on an exceptional basis, to*** not apply ***IP*** measures limiting access of non-covered goods and services ***if*** there are no Union and/or covered goods or services available which meet the requirements of the contracting authority or contracting entity ***or where such action relates to safeguarding*** essential public ***policy*** needs in the ***field of public security or public health***. The application of ***these exceptions should require the prior approval*** of the ***Commission before awarding any*** contract. ***The contracting authorities and contracting entities should consult with the Commission in a timely and comprehensive manner when they intend to submit a request for an exception, as well as to allow for appropriate monitoring of the implementation of this Regulation.***

Or. en

Amendment 223
Reinhard Bütikofer
on behalf of the Greens/EFA Group

Proposal for a regulation
Recital 27

Text proposed by the Commission

(27) It is imperative that contracting authorities and contracting entities have

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. 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.

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, *on an exceptional basis*, not to apply *IPI* measures limiting access of non-covered goods and services *as necessary for the safeguard of essential public policy needs in relation to public security, public health emergencies, or such environmental considerations as environmental footprint*. The application of *any exception should require the consultation of the Commission*. *The contracting authorities and contracting entities should notify the Commission and enter in consultation with it in due time before the award of the contract. National review bodies and other procedures as foreseen by Council Directive 89/665/EEC and Council Directive 92/13/EEC should also apply to the application of exceptions from IPI measures.*

Or. en

Amendment 224

Herve Juvin, Marco Campomenosi, Danilo Oscar Lancini, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID 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

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 *and, at the same time, remain aware of the need to protect the long-term economic and social interests of the Member States and European people and consumers*. Therefore contracting authorities and contracting entities should

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.

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 225

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

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 products meeting their purchasing requirements at a competitive price. Therefore contracting authorities and contracting entities should be able, ***on an exceptional basis***, not to apply ***IPJ*** measures limiting access of non-covered goods and services ***if*** there are no Union and/or covered goods or services available which meet the requirements of the contracting authority or contracting entity ***or where such action relates to safeguarding*** essential public ***policy*** needs, for example ***regarding public security or public health emergencies.***

Or. en

Amendment 226
Tiziana Beghin, Dino Giarrusso

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 products meeting their purchasing requirements at a competitive price. Therefore contracting authorities and contracting entities should be able not to apply **the** 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 **public** health and **national security**, or where the application of the measure would lead to a disproportionate increase in the price or costs of the contract.

Or. en

Amendment 227
Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation
Recital 28

Text proposed by the Commission

(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**

Amendment

(28) In case of misapplication by contracting authorities or contracting entities of **IPI** measures, **which negatively affects the chances of economic operators having a right to participate in the procurement procedure, Council Directives 89/665/EEC and 92/13/EEC should be applicable. The affected economic operator may therefore initiate a review procedure according to the**

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.

national law implementing these Directives, if, for example, a competing economic operator should have been excluded or a bid should have been ranked lower due to the application of an IPI measure. The Commission should *also* be able to apply the corrective mechanism *according to* Article 3 of Council Directive 89/665/EEC⁷ or Article 8 of Council Directive 92/13/EEC⁸.

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 228

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 28

Text proposed by the Commission

(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/EEC*²⁰ or Article 8 of

Amendment

(28) In case of misapplication *of IPI measures, including of exclusion from IPI measures*, by contracting authorities or contracting entities, *which negatively affects the chances to participate in the procurement procedure of economic operators having such a right, Council Directives 89/665/EEC and 92/13/EEC*

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.*

should be applicable. The affected economic operator could therefore initiate a review procedure according to the national law implementing these Directives, if, for example, a competing economic operator should have been excluded. The Commission should *also* be able to apply the corrective mechanism according to Article 3 of Council Directive 89/665/EEC¹⁹ or Article 8 of Council Directive 92/13/EEC²⁰

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 229

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 28

Text proposed by the Commission

(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

Amendment

(28) In case of misapplication *of IPI measures* by contracting authorities or contracting entities, *which negatively affects the chances to participate in the procurement procedure of economic operators having such a right, Council Directives 89/665/EEC and 92/13/EEC*

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).

should be applicable. The affected economic operator could therefore initiate a review procedure according to the national law implementing these Directives, if, for example, a competing economic operator should have been excluded. The Commission should ***also*** be able to apply the corrective mechanism ***according to*** Article 3 of Council Directive 89/665/EEC¹⁹ or Article 8 of Council Directive 92/13/EEC²⁰.

¹⁹ 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).

²⁰ 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 230

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Recital 28

Text proposed by the Commission

(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

Amendment

(28) In case of misapplication ***of the IPI measures*** by contracting authorities or contracting entities, 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

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).

addition, contracts concluded with an economic operator by contracting authorities or contracting entities in violation of **IPI** 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 231

Jan Zahradil, Geert Bourgeois
on behalf of the ECR Group

Proposal for a regulation Recital 28

Text proposed by the Commission

(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

Amendment

(28) In case of misapplication by contracting authorities or contracting entities of exceptions to **IPI** 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

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).

authorities or contracting entities in violation of **IPI** 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 232

Jan Zahradil, Geert Bourgeois
on behalf of the ECR Group

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) The examination procedure should be used for the adoption of implementing acts regarding the adoption, withdrawal, or suspension or reinstatement of **a the price adjustment measure**.

Amendment

(30) The examination procedure should be used for the adoption of implementing acts regarding the adoption, withdrawal, or suspension or reinstatement of **IPI measures and the Commission should be assisted by the Committee set up under the Trade Barriers Regulation. If necessary and for matters affecting the Union's legal framework on public procurement, the Commission may also seek the advice of the Advisory Committee on Public Procurement established by Council Decision 71/306/EEC.**

Amendment 233

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) The examination procedure should be used for the adoption of implementing acts regarding the adoption, withdrawal, or suspension or reinstatement of ***a the price adjustment*** measure.

Amendment

(30) The examination procedure should be used for the adoption of implementing acts regarding the adoption, withdrawal, or suspension or reinstatement of ***an IPI*** measure ***and the Commission should be assisted by the Committee set up under the Trade Barriers Regulation. If necessary and for matters affecting the Union's legal framework on public procurement, the Commission may also seek the advice of the Advisory Committee on Public Procurement established by Council Decision 71/306/EEC.***

Amendment 234

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) The examination procedure should be used for the adoption of implementing acts regarding the adoption, withdrawal, or suspension or reinstatement of ***a the price adjustment*** measure.

Amendment

(30) The examination procedure should be used for the adoption of implementing acts regarding the adoption, withdrawal, or suspension or reinstatement of ***the IPI*** measure.

Amendment 235

**Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques**

Proposal for a regulation

Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) Information received pursuant to this Regulation should only be used for the purpose for which it was requested and with due respect to the applicable Union and national data protection and confidentiality requirements. Regulation (EC) No 1049/2001 as well as Article 28 of Directive 2014/23/EU, Article 21 of Directive 2014/24/EU and Article 39 of Directive 2014/25/EU, should apply accordingly.

Or. en

Amendment 236

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Recital 32

Text proposed by the Commission

Amendment

(32) Regular reporting by the Commission should *make it possible to monitor the application* and efficiency of *the procedures established by this Regulation.*

(32) In line with the inter-institutional agreement on better law making and with the view, among others, to ease administrative burdens, the Commission should review the scope, functioning and efficiency of this Regulation. Such review will address, inter alia, the possibility of making use of any means available for facilitating the exchange of information, including electronic procurement facilities such as the standard forms for the publication of notices in the field of public procurement¹⁰, the effectiveness of value thresholds above which this Regulation applies, the effectiveness of

the score adjustment as an IPI measure, the use of exceptions from IPI measures. The Commission should report on its assessment to the European Parliament and the Council. The review may be followed up by appropriate legislative proposals.

Or. en

Amendment 237

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) *Regular reporting* by the Commission should *make it possible to monitor the application* and efficiency of *the procedures established by* this Regulation.

Amendment

(32) *In line with the Interinstitutional Agreement of 13 April 2016 on Better Law-Making and with the view, among others, to ease administrative burdens, in particular on Member States, the Commission should review the scope, functioning and efficiency of this Regulation. Such review will address, inter alia, the effectiveness of the IPI measures, the thresholds, the additional contractual obligations, as well as the use of exceptions. The Commission should report on its assessment to the European Parliament and the Council. The review may be followed up by appropriate legislative proposals.*

Or. en

Amendment 238

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Recital 32

Text proposed by the Commission

Amendment

(32) ***Regular reporting*** by the Commission should ***make it possible to monitor the application*** and efficiency of ***the procedures established by this Regulation***.

(32) ***In line with the Interinstitutional Agreement of 13 April 2016 on Better Law-Making^{9a} and with a view, inter alia, to reduce administrative burdens, in particular on Member States, the Commission should regularly review the scope, functioning and efficiency of this Regulation. The Commission should report on its assessment to the European Parliament and the Council. The review may be followed up by appropriate legislative proposals.***

Or. en

Amendment 239

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Recital 33

Text proposed by the Commission

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,***

deleted

Or. en

Amendment 240

Jan Zahradil, Geert Bourgeois
on behalf of the ECR Group

Proposal for a regulation
Recital 33

Text proposed by the Commission

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, **deleted**

Or. en

Amendment 241

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation
Recital 33

Text proposed by the Commission

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, **deleted**

Amendment 242

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

**Proposal for a regulation
Recital 33 a (new)**

Text proposed by the Commission

Amendment

(33a) It is also imperative that, in view of an appropriate integration of environmental, social and labour requirements, Member States 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.

Amendment 243

Reinhard Bütikofer

on behalf of the Greens/EFA Group

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

Text proposed by the Commission

Amendment

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

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, **regarding non-covered procurement**. It lays down procedures for the Commission to undertake investigations into alleged **third country** measures or practices against Union

adopted or maintained by third countries
against Union economic operators, goods
and services, and to enter into consultations
with the third countries concerned.

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

Or. en

Amendment 244

**Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques**

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 improve the access of Union
economic operators, goods and services to
the public procurement and concessions
markets of third countries, ***in respect of***
non-covered procurement. It lays down
procedures for the Commission to
undertake investigations into alleged ***third***
country measures or practices against
Union economic operators, goods and
services, and to enter into consultations
with the third countries concerned.

Or. en

Amendment 245

Herve Juvin, Jean-Lin Lacapelle, Maximilian Krah, Roman Haider, Maxette Pirbakas
on behalf of the ID 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

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. .

and/or the provision of services and for concessions, ***and measures to exclude access to EU public procurement markets,*** on the basis of the origin of the economic operators, goods or services concerned.

Or. fr

Amendment 246

Tiziana Beghin, Dino Giarrusso

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 ***for the Commission to exclude, by means of implementing acts,*** 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 247

Reinhard Bütikofer

on behalf of the Greens/EFA 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

This Regulation provides for the possibility ***for the Commission to impose IPI measures, by means of implementing acts, in relation to such third country measures or practices to restrict the access of economic operators, goods or services from third countries to Union procurement procedures.***

Amendment 248

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida 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 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

This Regulation provides for the possibility for the Commission to adopt implementing acts imposing IPI measures, in relation to such third country measures or practices to restrict the access of economic operators, goods or services from third countries to procurement procedures.

Amendment 249

Jan Zahradil, Geert Bourgeois
on behalf of the ECR 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 250

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 1 – paragraph 2 – introductory part

Text proposed by the Commission

2. This Regulation shall apply to ***contracts*** covered by the following acts:

Amendment

2. This Regulation shall apply to ***procurement procedures*** covered by the following acts:

Or. en

Amendment 251

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ca) Regulation 2018/1046/EU^{1a}

^{1a} Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union

Or. en

Amendment 252

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. ***This Regulation shall apply to the award of contracts for the supply of goods***

deleted

and/or services and to the award of works and services concessions. It shall only apply where the goods or services are procured for governmental purposes. It shall not apply where the goods are purchased with a view to commercial resale or with a view to use in the production of goods for commercial sale. It shall not apply where the services are purchased with a view to commercial resale or with a view to use in the supply of services for commercial sale.

Or. en

Amendment 253

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. *This Regulation shall apply to the award of contracts for the supply of goods and/or services and to the award of works and services concessions. It shall only apply where the goods or services are procured for governmental purposes. It shall not apply where the goods are purchased with a view to commercial resale or with a view to use in the production of goods for commercial sale. It shall not apply where the services are purchased with a view to commercial resale or with a view to use in the supply of services for commercial sale.* ***deleted***

Or. en

Amendment 254

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Article 1 – paragraph 3

Text proposed by the Commission

3. This Regulation shall apply to the award of contracts for the supply of goods and/or services and to the award of works and services concessions. It shall only apply where the goods or services are procured for governmental purposes. ***It shall not apply where the goods are purchased with a view to commercial resale or with a view to use in the production of goods for commercial sale. It shall not apply where the services are purchased with a view to commercial resale or with a view to use in the supply of services for commercial sale.***

Amendment

3. This Regulation shall apply to the award of contracts for the supply of goods and/or services and to the award of works and services concessions. It shall only apply where the goods or services are procured for governmental purposes ***or in case of pre-commercial procurements.***

Or. en

Amendment 255

Reinhard Bütikofer

on behalf of the Greens/EFA 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

deleted

Or. en

Amendment 256

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation
Article 1 – paragraph 4

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 257
Tiziana Beghin, Dino Giarrusso

Proposal for a regulation
Article 1 – paragraph 4

Text proposed by the Commission

Amendment

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.

4. This Regulation shall apply only with regard to restrictive and/or discriminatory procurement measures, *rules* 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.

Or. en

Amendment 258
Emmanuel Maurel

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.

Or. fr

Amendment 259
Emmanuel Maurel

Proposal for a regulation
Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. This Regulation shall also apply in relation to measures taken or the practices of countries that are Party to the Agreement on Public Procurement or third countries in breach of the Charter of Fundamental Rights, in particular the rights referred to in recital 2a.

Or. fr

Amendment 260
Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques

Proposal for a regulation
Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The application of this Regulation shall be without prejudice to any international obligations of the Union or measures that Member States and their contracting authorities and contracting

entities may take in accordance with the acts mentioned in paragraph 2.

Or. en

Amendment 261

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. This Regulation shall be without prejudice to any international obligations of the Union or measures that Member States and their contracting authorities and contracting entities may take in accordance with the acts referred to in paragraph 2.

Or. en

Amendment 262

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 1 – paragraph 5

Text proposed by the Commission

Amendment

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.

deleted

Or. en

Amendment 263

Liesje Schreinemacher, Marie-Pierre Vedrenne, Samira Rafaela, Dita Charanzová

Proposal for a regulation

Article 1 – paragraph 5

Text proposed by the Commission

Amendment

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. **deleted**

Or. en

Amendment 264

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 1 – paragraph 5

Text proposed by the Commission

Amendment

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. **deleted**

Or. en

Amendment 265

Emmanuel Maurel

Proposal for a regulation

Article 1 – paragraph 5

Text proposed by the Commission

Amendment

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.

5. Member States and their contracting authorities and contracting entities ***may*** not apply restrictive measures in respect of third country economic operators, goods and services beyond those provided for in this Regulation, ***other than in the event of force majeure, exceptional circumstances or a threat to the integrity of a European or national economic sector directly or indirectly linked to the subject matter of the public contract in question.***

Or. fr

Amendment 266
Tiziana Beghin, Dino Giarrusso

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

Text proposed by the Commission

Amendment

5a. Member States and their contracting authorities and contracting entities may apply restrictive measures in respect of third country economic operators, goods and services if the country is not respecting international social and environmental standards and conventions. The Commission shall create and update a list of third countries having restrictive measures in their public procurements and concessions listing their adoption and implementation of International social and environmental standards and Conventions for the disposal of Members States and their contracting authorities and contracting entities.

Or. en

Amendment 267
Reinhard Bütikofer

on behalf of the Greens/EFA Group

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

Text proposed by the Commission

Amendment

5a. This Regulation shall only apply to procurement procedures launched after its entry into force. An IPI measure shall only apply to procurement procedures which are covered by the IPI measure and have been launched at any moment between the entry into force of that IPI measure and its expiry, withdrawal or suspension. A reference to the application of this Regulation and any applicable IPI measure shall be included by contracting authorities and contracting entities in the procurement documents for procedures falling within the scope of an IPI measure.

Or. en

Amendment 268

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

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

Text proposed by the Commission

Amendment

5a. This Regulation shall apply only to procurement procedures launched after its entry into force. An IPI measure shall only apply to procurement procedures which are covered by the IPI measure and have been launched at any moment between the entry into force of that IPI measure and its expiry, withdrawal or suspension. A reference to the application of this Regulation and any applicable IPI measure shall be included by contracting authorities and contracting entities in the procurement documents for procedures

falling within the scope of an IPI measure.

Or. en

Amendment 269

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 1 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. 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 270

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

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**

(a) 'economic operator' means **an economic operator as defined in Directives 2014/23/EU, 2014/24/EU and 2014/25/EU respectively;**

services on the market;

Or. en

Amendment 271

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(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;*

Amendment

(a) 'economic operator' means *an economic operator as defined in Directives 2014/23/EU, 2014/24/EU and 2014/25/EU respectively;*

Or. en

Amendment 272

Liesje Schreinemacher, Samira Rafaela, Dita Charanzová

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 273

Enikő Győri, László Trócsányi

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 274

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(aa) ‘a good or goods’ means goods referred to in the object of the public procurement tender and in accordance with the specifications of the contract. It does not cover any input, material or ingredient incorporated in a good or in

the supplied goods;

Or. en

Amendment 275

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(aa) 'goods' means goods referred to in the object of the public procurement tender and in the specifications of the contract, but does not cover any input, material or ingredient incorporated in the supplied goods;

Or. en

Amendment 276

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ab) 'estimated value' means the estimated value of a contract as calculated in accordance with Directives 2014/23/EU, 2014/24/EU and 2014/25/EU respectively;

Or. en

Amendment 277

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation
Article 2 – paragraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(ab) 'estimated value' means estimated value as calculated in accordance with Directives 2014/23/EU, 2014/24/EU and 2014/25/EU respectively;

Or. en

Amendment 278
Inma Rodríguez-Piñero, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation
Article 2 – paragraph 1 – point a c (new)

Text proposed by the Commission

Amendment

(ac) '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.

For the purposes of contract award criteria, Member States shall integrate environmental, social and labour requirements 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.

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 279

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ac) ‘evidence’ means any information, certificate, supporting document, statement and other means of proof aimed at proving compliance with the obligations set out in Article 9a(1)(c), such as:

(i) certificates of origin, supplier declarations or import declarations for goods originating in third countries;

(ii) description of manufacturing processes (including samples, descriptions or photographs) for goods to be supplied;

(iii) extract of relevant registers or of financial statements for the origin of services, including a VAT identification number;

Or. en

Amendment 280

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 2 – paragraph 1 – point b

Text proposed by the Commission

Amendment

*(b) ‘contracting authority’ means ‘contracting authority’ as defined in **Article 2(1) of Directive 2014/24/EU**;*

*(b) ‘contracting authority’ means **a** contracting authority as defined in **Directives 2014/23/EU, 2014/24/EU and 2014/25/EU respectively**;*

Or. en

Amendment 281

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) ‘contracting authority’ means ‘contracting authority’ as defined in **Article 2(1) of Directive 2014/24/EU**;

Amendment

(b) ‘contracting authority’ means **a** contracting authority as defined in **Directives 2014/23/EU, 2014/24/EU and 2014/25/EU respectively**;

Or. en

Amendment 282

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) ‘contracting entity’ means ‘contracting entity’ as defined in **Article 4(1) of Directive 2014/25/EU and Article 7 of Directive 2014/23/EU** ;

Amendment

(c) ‘contracting entity’ means **a** ‘contracting entity’ as defined in Directive 2014/25/EU and Directive 2014/23/EU ;

Or. en

Amendment 283

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ca) ‘interested party’ means any Member State and any person,

*undertaking or association of
undertakings, trade unions or civil society
organisations, such as consumers
organisations whose interest might
be affected by a third country measure;*

Or. en

Amendment 284

**Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques**

Proposal for a regulation

Article 2 – paragraph 1 – point d

Text proposed by the Commission

Amendment

**(d) ‘covered goods or services’ means
goods or services originating in a country
with which the Union has concluded an
international agreement in the field of
public procurement and/or concessions
including market access commitments
and in respect of which the relevant
agreement applies;** **deleted**

Or. en

Amendment 285

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 2 – paragraph 1 – point d

Text proposed by the Commission

Amendment

**(d) ‘covered goods or services’ means
goods or services originating in a country
with which the Union has concluded an
international agreement in the field of
public procurement and/or concessions
including market access commitments
and in respect of which the relevant** **deleted**

agreement applies;

Or. en

Amendment 286

**Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques**

Proposal for a regulation

Article 2 – paragraph 1 – point e

Text proposed by the Commission

Amendment

<p>(e) ‘non-covered goods or services’ means goods or services originating in a country with which the Union has not concluded an international agreement in the field of public procurement or concessions including market access commitments, as well as goods or services originating in a country with which the Union has concluded such an agreement but in respect of which the relevant agreement does not apply</p>	<p>deleted</p>
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Or. en

Amendment 287

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 2 – paragraph 1 – point e

Text proposed by the Commission

Amendment

<p>(e) ‘non-covered goods or services’ means goods or services originating in a country with which the Union has not concluded an international agreement in the field of public procurement or concessions including market access commitments, as well as goods or services originating in a country with which the Union has concluded such an agreement</p>	<p>deleted</p>
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but in respect of which the relevant agreement does not apply

Or. en

Amendment 288

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 2 – paragraph 1 – point f

Text proposed by the Commission

(f) **‘restrictive and/or discriminatory procurement** measure or practice’ means any legislative, regulatory or administrative measure, procedure or practice, or combination thereof, adopted or maintained by public authorities or individual contracting authorities or contracting entities in a third country, that result in a serious and recurrent impairment of access of Union goods, services and/or economic operators to the public procurement or concession market of that country.

Amendment

(f) **third country** measure or practice’ means any legislative, regulatory or administrative measure, procedure or practice, or combination thereof, **of a general nature, stemming from a national or sub-national policy**, adopted or maintained by public authorities or individual contracting authorities or contracting entities in a third country, that result in a serious and recurrent impairment of access of Union goods, services and/or economic operators to the public procurement or concession market of that country. ***A serious and recurrent impairment shall also be presumed where the non-observance of the international conventions listed in Annex X of EU Directive 2014/23/EU, Annex X of Directive 2014/24/EU and Annex XIV of Directive 2014/25/EU in the third country, as well as the non-observance of commitments undertaken under the Paris Agreement, have led to difficulties encountered by European economic operators and reported to the Commission, when those European economic operators have tried to secure the award of contracts and concessions in third countries;***

Or. en

Amendment 289
Tiziana Beghin, Dino Giarrusso

Proposal for a regulation
Article 2 – paragraph 1 – point f

Text proposed by the Commission

(f) ‘restrictive and/or discriminatory procurement measure or practice’ means any legislative, regulatory or administrative measure, procedure or practice, or combination thereof, adopted or maintained by public authorities or individual contracting authorities or contracting entities in a third country, that result in a serious **and** recurrent impairment of access of Union goods, services and/or economic operators to the public procurement or concession market of that country.

Amendment

(f) ‘restrictive and/or discriminatory procurement measure or practice’ means any legislative, regulatory or administrative measure, procedure or practice, or combination thereof, adopted or maintained by public authorities or individual contracting authorities or contracting entities in a third country, that result in a serious ***breach of international social and environmental standards and conventions and leading to*** recurrent impairment of access of Union goods, services and/or economic operators to the public procurement or concession market of that country.

Or. en

Amendment 290
Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation
Article 2 – paragraph 1 – point f

Text proposed by the Commission

(f) ‘***restrictive and/or discriminatory procurement*** measure or practice’ means any legislative, regulatory or administrative measure, procedure or practice, or combination thereof, adopted or maintained by public authorities or individual contracting authorities or contracting entities in a third country, that result in a serious and recurrent impairment of access of Union goods, services and/or economic operators to the ***public*** procurement or concession ***market of that***

Amendment

(f) ‘***third country*** measure or practice’ means any legislative, regulatory or administrative measure, procedure or practice, or combination thereof, adopted or maintained by public authorities or individual contracting authorities or contracting entities in a third country, that result in a serious and recurrent impairment of access of Union goods, services and/or economic operators to the procurement or concession ***markets***.

country.

Or. en

Amendment 291

**Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques**

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 limiting the access of economic operators and/or goods and services originating in the third country to the Union procurement or concessions market in the area of non-covered procurement;

Or. en

Amendment 292

Reinhard Bütikofer

on behalf of the Greens/EFA 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 under this Regulation limiting the access of economic operators and/or goods and services originating in third countries to the Union procurement or concessions market in the area of non-covered procurement;

Or. en

Amendment 293

**Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž,
Margarida Marques**

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(fb) ‘non-covered procurement’ means procurement procedures for goods, services or concessions regarding which the Union has not undertaken market access commitments in an international agreement in the field of procurement or concessions;

Or. en

Amendment 294

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(fb) ‘non-covered procurement’ means procurement procedures for goods, services or concessions regarding which the Union has not undertaken market access commitments in an international agreement in the field of procurement or concessions;

Or. en

Amendment 295

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(fc) ‘contracts’ means ‘public contracts’ as defined in Directive 2014/24/EU, ‘concessions’ as defined in Directive 2014/23/EU and ‘supply, works and service contracts’ as defined in Directive 2014/25/EU;

Or. en

Amendment 296

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(fc) ‘contract’ means public contracts as defined in Directive 2014/24/EU, concessions as defined in Directive 2014/23/EU and supply, works and service contracts as defined in Directive 2014/25/EU;

Or. en

Amendment 297

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(fd) ‘tenderer’ means a tenderer as defined in Directives 2014/23/EU, 2014/24/EU and 2014/25/EU respectively;

Or. en

Amendment 298

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(fd) ‘tenderer’ means a tenderer as defined in Directives 2014/23/EU, 2014/24/EU and 2014/25/EU respectively;

Or. en

Amendment 299

Inma Rodríguez-Piñero

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ga) ‘to subcontract’ means to arrange with a third party to execute part of a contract. The simple delivery of goods or parts necessary for the execution of a service is not considered to be subcontracting. When that delivery of goods or parts represents more than 10% of the total value of the contract, the delivery will be considered as ‘subcontracting’.

Or. en

Amendment 300

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ga) ‘subcontracting’ means arranging the part execution of a contract by a third party; the simple delivery of goods or parts necessary for the provision of a service is not considered to be subcontracting.

Or. en

Amendment 301

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 2 – paragraph 1 – point h

Text proposed by the Commission

Amendment

(h) SME means SME as defined in Commission Recommendation 2003/361/EC²⁵.

deleted

²⁵ *Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).*

Or. en

Amendment 302

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 2 – paragraph 1 – point h

Text proposed by the Commission

Amendment

(h) SME means SME as defined in Commission Recommendation 2003/361/EC²⁵.

deleted

²⁵ *Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).*

Or. en

Amendment 303

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ha) 'Union interest' means a determination as to whether the Union's interest calls for intervention shall be based on an appreciation of all the various interests taken as a whole, including the interests of the domestic industry and users and consumers. Measures may not be applied where the authorities, on the basis of all the information submitted, can clearly conclude that it is not in the Union's interest to apply such measures.

(See mutatis mutandis Article 21 Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (codification))

Or. en

Amendment 304

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ha) ‘Evidence’ means any information, certificate, supporting document, statement and other means of proof aimed at proving compliance with the obligations set out in Art. 7.1 (c). This may refer to:

(i) certificates of origin, supplier declarations or import declarations for goods originating in third countries;

(ii) description of manufacturing processes (including samples, descriptions or photographs) for goods to be supplied; and

(iii) extract of relevant registers or of financial statements for the origin of services, including a VAT identification number;

Or. en

Amendment 305

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ha) ‘sub-contracting’ means delegating the part execution of a contract by a third party;

Or. en

Amendment 306

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. 'IPI measure' means a measure adopted by the Commission under the terms of this Regulation, by means of implementing acts, excluding the access of third country economic operators and/or goods and services into the Union procurement market; IPI measure may apply to economic operators and/or goods and services originating in countries not implementing international social and environmental standards and conventions as indicated by the Commission;

Or. en

Amendment 307

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 2 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purpose of this Regulation, the execution of works **and/or** a work within the meaning of **Directives 2014/25/EU**, 2014/24/EU and **Directive 2014/23/EU** shall be considered as the provision of a service.

2. For the purpose of this Regulation, **except for Articles 8a(3) and 8a(6) thereof**, the execution of works **or** a work within the meaning of **Directives 2014/23/EU**, 2014/24/EU and **Directive 2014/25/EU** shall be considered as the provision of a service.

Or. en

Amendment 308

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 2 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purpose of this Regulation, the execution of works and/or a work within the meaning of Directives **2014/25/EU**, 2014/24/EU and Directive **2014/23/EU** shall be considered as the provision of a service.

2. For the purpose of this Regulation, ***except for Articles 5(3) and 5(7)***, the execution of works and/or a work within the meaning of Directives **2014/23/EU**, 2014/24/EU and Directive **2014/25/EU** shall be considered as the provision of a service.

Or. en

Amendment 309

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 3 – title

Text proposed by the Commission

Amendment

Rules of origin

Determination of origin

Or. en

Amendment 310

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 3 – title

Text proposed by the Commission

Amendment

Rules of origin

Determination of origin

Or. en

Amendment 311

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. The origin of a good shall be determined in accordance with Article 22 to 26 of Council Regulation (EEC) No 2913/1992²⁶. *deleted*

²⁶ *Council Regulation (EEC) No 2913/1992 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).*

Or. en

Amendment 312

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

**Proposal for a regulation
Article 3 – paragraph 1**

Text proposed by the Commission

Amendment

1. The origin of a good shall be determined in accordance with Article 22 to 26 of Council Regulation (EEC) No 2913/1992²⁶. *deleted*

²⁶ *Council Regulation (EEC) No 2913/1992 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).*

Or. en

Amendment 313

Reinhard Bütikofer

on behalf of the Greens/EFA Group

**Proposal for a regulation
Article 3 – paragraph 2**

Text proposed by the Commission

Amendment

2. *The origin of a service shall be determined on the basis of the origin of the economic operator providing it.* *deleted*

Or. en

Amendment 314

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

**Proposal for a regulation
Article 3 – paragraph 2**

Text proposed by the Commission

Amendment

2. *The origin of a service shall be determined on the basis of the origin of the economic operator providing it.* *deleted*

Or. en

Amendment 315

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

**Proposal for a regulation
Article 3 – paragraph 3 – point a**

Text proposed by the Commission

Amendment

- (a) in the case of a natural person, the country of which the person is a national or where *he* has a right of permanent residence;
- (a) in the case of a natural person, the country of which the person is a national or where *that person* has a right of permanent residence;

Or. en

Amendment 316

Reinhard Bütikofer

on behalf of the Greens/EFA Group

Proposal for a regulation

Article 3 – paragraph 3 – point a

Text proposed by the Commission

(a) in the case of a natural person, the country of which the person is a national or where **he** has a right of permanent residence;

Amendment

(a) in the case of a natural person, the country of which the person is a national or where **that person** has a right of permanent residence;

Or. en

Amendment 317

Tiziana Beghin, Dino Giarrusso

Proposal for a regulation

Article 3 – paragraph 3 – point b – point i

Text proposed by the Commission

(i) ***if the service is not provided through a commercial presence within the Union***, the country under the laws of which the legal person is constituted or otherwise organised and in the territory of which the legal person is engaged in substantive business operations;

Amendment

(i) the country under the laws of which the legal person is constituted or otherwise organised and in the territory of which the legal person is engaged in substantive business operations;

Or. en

Amendment 318

Inma Rodríguez-Piñero, Raphaël Glucksmann, Pedro Silva Pereira, Miroslav Číž, Margarida Marques

Proposal for a regulation

Article 3 – paragraph 3 – point b – point i

Text proposed by the Commission

(i) ***if the service is not provided through a commercial presence within the Union***, the country under the laws of which the legal person is constituted or otherwise organised and in the territory of which the legal person is engaged in

Amendment

(i) the country under the laws of which the legal person is constituted or otherwise organised and in the territory of which the legal person is engaged in substantive business operations, ***entailing a direct and effective link with the economy of the***

substantive business operations;

country concerned;

Or. en