



# A NECESSARY MEASURE AGAINST EXTRATERRITORIAL COERCION: TO COMPENSATE OUR VICTIMS

By Denis Verret, President, DV Conseil

**T**ime is exactly right to do so, to try to exploit the new US momentum in favor of multilateralism. The question is to get the application of such goodwill to stop the pandemic of extraterritorial measures sanctioning lack of alignment of third countries with the foreign policy of one particular one.

Due compensations to the victims must be part of the defensive part of a needed panoply of instruments that the EU Commission is preparing.

The EU Commission launched past April a public consultation on a new anti-coercion instrument.

As EU citizens and economic players, we have suffered and still suffer from the greatest wave ever of extraterritorial sanctions adopted under the Trump administration, through Presidential Executive orders or Congress legislations: at the expense of the political and economic rules-based international order. Apart of the encouraging Biden administration waiver past May of the sanctions on Nord Stream 2, there is no evidence thus far that the Biden administration and the new Congress are considering to stop or mitigate this wave of coercion!

The world is still confronted by the said coercive country with full disrespect of third party's sovereignty, that undermines, if not actively disqualifies any misaligned foreign policy that it perceives. The business environment is severely impacted by these uncertainties, threats and punishments: therefore, full compliance (if not over compliance) is the only possible response of the victims, individuals and economic actors. Without containment, which the EU needs to action seriously, this US wave of coercion

can only get bigger and in turn, embolden and trigger imitations from the other great world powers!

In looking at the countermeasures imagined by various think tanks in Europe, I note some excellent ideas, such as:

- EU resilience office
- cost assessment of third countries coercion
- EU resilience fund, to “offset the impact of these distortions on the European market”.

However, these proposals appear overcautious, particularly when these proposals require EU public means to compensate the European victims ; as if “over-caution of the State” was a collateral of the “over-compliance” of the private operators, both of them at the benefit of the rules breaker!

Back to basics, with focus on the victims of one third country, aiming with coercive instruments at imposing its foreign policy not followed by the other countries :

- the first role of a State (or association of States such as the EU) is to protect their citizens and companies: to protect the victims and compensate them: in the anti-coercion case, as much as they suffer for abiding by the extraterritorial law or for being prepared not to comply: protection/compensation must be put in place, but not double pain, such as contained in the current EU blocking statute, which fortunately is under review in Brussels
- at what cost? Clearly at the cost, they suffer!

If it's demonstrated to be very low in true terms (no public budget harm) then it is always healthy to act and burst the bubble. However, if substantial, the answer must be: “Whatever it costs!”. Not assuming it fully or being guilty of adopting an attitude of “benign neglect” would mean to consent a loss of sovereignty and international economic disorder, with even bigger political and economic damages, to expect in the future.

The paragraphs of the 60 pages excellent policy *Brief of ECFR* - October 2020 (“Defending Europe’s Economic Sovereignty: new ways to resist economic coercion”) : p. 53: “There is clear limit to the volume of financial support the EU and European governments can provide” and in the (excellent as well) 10-page paper of the Institute Jacques Delors March 2021 –“Sanctions extraterritoriales américaines”- the sub-chapter page titled “Fonds d’indemnisation: gel et saisie de certains avoires”, neither of these 2 contributions seems to match the challenge.

So, my recommendation to the EU Commission is to imagine with the member states, financial compensations simply in correspondence with the damage suffered by the victims, no more no less. So, why would the excellent proposal be made to measure the cost of the damages, if there is no intention to compensate it?

What is the likely impact to expect from this instrument (among others) of self-respect, fairness and due protection? I would reverse the famous motto: “the best attack is the defence!”. Full protection is a deterrent factor, at least because the EU and Member States, would be more motivated to be reimbursed of their compensation’s costs caused by the troublemaker.

Summing up, the aggrieved EU must foot this bill of the European victims without condition, restore proper international dignity and try ultimately to get compensation from the rule breaker: meaning in addition to any due compensation of our own EU victims, we must build proportionate countermeasures in full respect of the international law. The full protection of our victims cannot become the blind spot of a well-intentioned and comprehensive EU anti-coercion instrument. ■

GEOPOLITICAL OBSERVATORY OF COMPLIANCE

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OCTOBER 2021

*An observatory of*

**GEOPOLITICS AND BUSINESS PROGRAMME**

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