

Internal Market Emergency and Resilience Act (IMERA)

Former 'Single market emergency instrument'

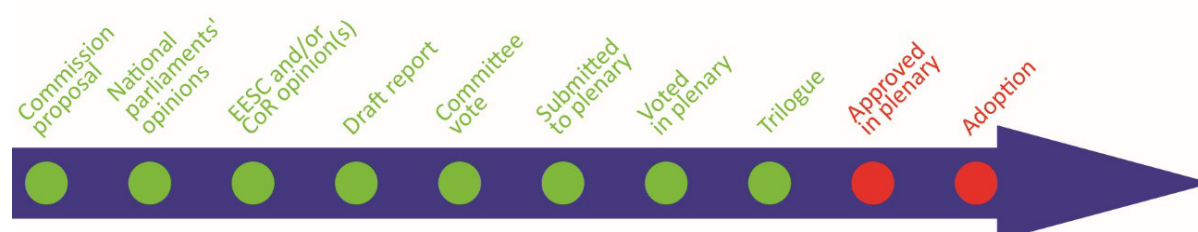
OVERVIEW

In 2023, the EU celebrated the 30th anniversary of the single market. Recent shocks have shown not only how vulnerable to crises the single market is, but also the extent to which the EU economy relies on a well-functioning single market. It is now considered to be a key driver of EU resilience.

In September 2022, the Commission put forward a single market emergency instrument (SMEI) package. It includes one main proposal for a regulation establishing a SMEI, and two accompanying proposals amending harmonised product legislation to ensure that strategic goods can be marketed quickly to address shortages in the event of market crises. The main proposal establishes measures for contingency planning, such as an early warning system. A 'vigilance mode' could be activated after a threat has been identified. If a wide-ranging crisis hits the single market, an 'emergency mode' could be triggered.

The co-legislators reached a provisional agreement on the package on 1 February 2024, after four trilogue meetings. This agreement still needs to be formally approved by both institutions.

Proposal for a Regulation of the European Parliament and of the Council establishing a Single Market emergency instrument and repealing Council Regulation No (EC) 2679/98		
<i>Committee responsible:</i>	Committee on the Internal Market and Consumer Protection (IMCO)	COM(2022) 459 19.9.2022
<i>Rapporteur:</i>	Andreas Schwab (EPP, Germany)	2022/0278(COD)
<i>Shadow rapporteurs:</i>	René Repasi (S&D, Germany) Dita Charanzová (Renew, Czechia) Anna Cavazzini (Greens/EFA, Germany) Adam Bielan (ECR, Poland) Marco Campomenosi (ID, Italy) Anne-Sophie Pelletier (The Left, France)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Next steps expected:</i>	Final first-reading vote in plenary	



Introduction

30 years of the single market

In 2023, the EU celebrated the [30th anniversary](#) of the single market, often considered to be the cornerstone of European integration. The 'four freedoms' (free movement of goods, capital, services, and persons) have been at its heart since 1993.¹ Initially home to 345 million people, the single market today numbers 447 million consumers and 23 million companies. It consists of the 27 Member States of the EU, as well as Iceland, Liechtenstein and Norway under the [European Economic Area](#) (EEA) Agreement; Switzerland has partial access by means of [bilateral agreements](#). On 1 January 2021, the United Kingdom [left](#) the EU single market.

Since 1993, trade flows have [increased](#) both in absolute terms and as a share of EU GDP; EU Member States trade more within the EU than with the rest of the world. [In 2021](#), intra-EU exports of goods were worth €3 428 billion (representing 61 % of total exports by Member States, and even more for some countries), intra-EU exports of services were worth €965 billion, and intra-EU investments were worth €8 163 billion. The Commission has [stressed](#) that trade within the single market accounts for 56 million European jobs, and that the estimated economic benefits of the single market range between 8 % and 9 % of EU gross domestic product (GDP). In the services sector, the extent of European integration [varies widely](#): whereas some services are true European markets (telecommunications, computer and advertising services), others are still largely segmented across national borders (construction, and a number of highly regulated business services). A lack of digitalisation of EU businesses partly explains the low level of integration in a number of services (more than 25 % of EU businesses are still not investing significantly in digitalisation).

The single market as a key driver for EU resilience

The COVID-19 pandemic has disrupted the single market in many ways. From May to June 2020, intra-EU trade [fell](#) by 24 % and GDP by 7 %, with differences across Member States.

These dramatic falls were worsened by the unilateral introduction of a range of restrictions by Member States – for instance, [controls or restrictions at borders](#), the first measures to be introduced in 2020 in almost all Member States. Restrictions were not implemented consistently across the EU.

These measures resulted in disruptions to the free flow of goods, services and people, affecting supply chains, economic activity and the level of employment. In addition, they were frequently and unpredictably updated, leading to legal uncertainty and pushing some Member States to carry out national stockpiling. In its 2021 [annual single market report](#), the Commission noted that companies complained about the difficulty of finding relevant information on restrictions, which was often only available in the national language of the Member State. Businesses also pointed to the fact that Member States had different approaches regarding the measures to apply, even in similar epidemiological situations. Furthermore, Member States did not notify the Commission of numerous measures (or only notified them after they had been adopted), which hindered the Commission and other authorities from raising potential concerns. The Commission also reported that overly cumbersome border controls restricted the free movement of people, causing significant delays in freight traffic and, in some cases, blocking the delivery of goods to other Member States.

In addition, forced temporary closures of 'non-essential businesses', travel restrictions and a lack of clarity on applicable rules affected the free movement of services. The sectors particularly affected include construction (e.g. posting of workers), retail (e.g. difficulties for frontier workers to reach the workplace), agri-food (e.g. lack of seasonal workers), health (e.g. hospitals in border regions having staff from across the border) and energy-intensive industries (e.g. engineers unable to carry out urgent cross-border maintenance services on industrial equipment).

The Commission concluded that 'the single market needs to be better prepared to face a future crisis, based on forward-looking and structural solutions that allow for predictability and legal certainty'. The single market is still developing and adapting to new challenges. Recent shocks have

shown how vulnerable to crises the single market is, and the extent to which the EU economy relies on a well-functioning single market. It is now considered to be a key driver of EU resilience.

Parliament's starting position

In its [resolution](#) of 17 September 2020 on COVID-19: EU coordination of health assessments and risk classification and the consequences for Schengen and the single market, Parliament stressed that it is crucial that essential goods such as food, medical devices and protective equipment continue to be delivered across the EU at all times. Parliament also insisted that the EU needed a comprehensive strategy to ensure the free circulation of goods at all times, and to avoid unilateral restrictive measures. Parliament believes that, while respecting public security and public health measures, the strategy should foster economic recovery to strengthen the resilience of the internal market and prepare for new crises. In its [resolution](#) of 25 November 2020 on a new industrial strategy for Europe, Parliament highlighted that a well-functioning single market should be at the very core of all Union strategies. In its [resolution](#) of 17 February 2022 on tackling non-tariff and non-tax barriers in the single market, Parliament welcomed the Commission's intention to present a SMEI. It also called on the Commission to develop the SMEI as a legally binding structural tool to ensure the free movement of persons, goods and services in case of future crises. In its [resolution](#) of 18 January 2023 on the 30th anniversary of the single market: celebrating achievements and looking towards future developments, Parliament highlighted that the single market was a key tool in times of crisis if Member States can act in a coordinated way. Parliament believes that the SMEI should be central to ensuring such coordination, in order to prevent shortages and ensure the smooth functioning of the single market, including the free movement of essential goods and services throughout the EU. Parliament is committed to advancing the SMEI to ensure the EU's security of supply, crisis management and resilience.

Council and European Council starting position

In its [conclusions](#) of 1-2 October 2020, the European Council stressed that lessons from the COVID-19 pandemic should be drawn, and that remaining fragmentation, barriers and weaknesses of the single market should be addressed. In its [conclusions](#) of 23 November 2021 on enhancing preparedness, response capability and resilience to future crises, the Council stressed that the COVID-19 pandemic showed the need to strengthen the resilience of the single market to disruptions, particularly in key EU supply chains and economic sectors (such as pharmaceuticals, medical devices and semiconductors). The Council believes that the situation of cross-border communities and vital transit regions should be taken into account. The Council also highlighted that crisis-related measures should be temporary, proportionate and fully coordinated, with the aim of resuming, as soon as possible, the normal functioning of the single market, including the free movement of persons, goods, services and capital as envisaged in the Treaties.

Preparation of the proposal

In its communication of May 2021 updating the 2020 new industrial strategy, the Commission stressed that EU industry needed a stronger and well-functioning single market to lead the twin green and digital transitions. As [announced](#) by Commission President Ursula von der Leyen in February 2021 at the EU Industry Days, the communication explained that the Commission would propose a single market emergency instrument to provide a structural solution to ensure the availability and free movement of persons, goods and services in the context of possible future crises.

A [call for evidence](#) for the preparation of the impact assessment (IA) was open between 13 April and 11 May 2022 and resulted in 55 feedback instances. A [public consultation](#) took place in parallel, leading to 25 feedback instances.

The [impact assessment](#) carried out by the Commission recalled that the general objective of the SMEI was to enhance the single market's vigilance for and response to crises, and its smooth

functioning in times of crisis. Its two specific objectives are to minimise obstacles to the free movement of goods, services and persons in times of crisis, and to address shortages and safeguard availability of crisis-relevant goods and services. Based on the analysis of eight problem drivers (for example, the current lack of preventive measures at EU and national level, such as forecasting, emergency training or mitigation measures for crisis situations), the IA puts forward eight 'building blocks' (including 'crisis contingency planning') encompassing different measures that could apply either at all times, only in a 'vigilance mode', or only in an 'emergency mode'. The IA then applies to each building block three gradual implementation 'approaches': 1) soft law; 2) 'targeted legal solutions combined with soft law'; and/or 3) a 'comprehensive legal framework combined with some soft law'. Annex 5 of the IA presents a detailed overview of the policy approaches per building block. The IA does not point to a preferred option: 'the preferred option is left for political decision based on the comparison of policy options included in ... this report. On the basis of this comparison, all three policy options appear to be effective in meeting specific objective 1 to minimise obstacles to free movement of goods, services and persons in times of crisis, however policy option 3 scores as the most effective in meeting specific objective 2 to address shortages and safeguard availability of crisis-relevant goods and services, with policy option 2 scoring in between.'

Annex 9 of the IA ([Part 2](#)) includes a detailed mapping of existing emergency instruments and responses (such as the [integrated political crisis response mechanism](#) and the [EU civil protection mechanism](#)). The first draft of the IA received a [negative opinion](#) from the Regulatory Scrutiny Board (RSB) on 8 July 2022. The revised IA then received a final [positive opinion with reservations](#) on 17 August 2022.

The [initial appraisal of the impact assessment](#) carried out by EPRS in December 2022 pointed out that the IA openly acknowledged major uncertainties and limitations (notably owing to a lack of data). The appraisal highlighted the fact that the IA developed a clear intervention logic, linking the problems with the objectives to be achieved through three policy options, but without fully complying with the better regulation guidelines. The interaction with other EU or national anti-crisis tools, including the proposed EU chips act, could have been addressed more thoroughly, and more effort could have been made to quantify at least some effects.

The changes the proposal would bring

The Commission put forward a '[SMEI package](#)' on 19 September 2022. It included one main [proposal](#) for a regulation establishing a SMEI, and two accompanying proposals (one [amending 14 directives](#) and the other one [amending five regulations](#)) concerning emergency procedures for the conformity assessment, adoption of common specifications and market surveillance for certain products. The SMEI package is one of the key priorities included in the [joint declaration on EU legislative priorities for 2023 and 2024](#), on which the EU co-legislators and the Commission aim to achieve the best possible progress by the next European elections in 2024.

The proposed SMEI Regulation would set up measures to anticipate, prepare for and respond to the impacts of crises on the single market. It aims to ensure the free movement of goods, services and persons, and to ensure that strategic and crisis-relevant goods and services remain available. It would not apply to medical products and devices, semiconductors, energy products or financial services (article 2). The proposed regulation would set up an **advisory group** to assist and advise the Commission (article 4), composed of representatives from Member States and chaired by the Commission. The Commission could invite representatives from the Parliament and stakeholders, and would have to invite representatives from EU crisis-relevant bodies. The advisory group would also cooperate with other crisis-related EU bodies. In addition, the Commission would designate an **EU-level central liaison office**, which would ensure coordination and information exchange with national central liaison offices (to be designated by Member States) during the vigilance and emergency modes (see below).

In the context of **contingency planning**, the Commission would be empowered to adopt a [delegated act](#)² establishing **crisis protocols** (article 6). The protocols would concern cooperation

between national and EU competent authorities in vigilance and emergency modes, arrangements for secure exchange of information and coordination of communication on risks and crisis. The Commission would also have to organise **training** on crisis coordination, cooperation and information exchange for the staff of the central liaison offices, and **simulations** on potential scenarios of single market emergencies (article 7). National central liaison offices would have to notify ('**early warning**') the Commission and other central liaison offices of any 'significant incidents', taking into account the number of economic operators affected, the duration of the disruption, the size of the area concerned, and whether the disruption would affect non-diversifiable and non-substitutable inputs (article 8).

If the Commission considers that there is a threat of disruption to the supply of strategic goods and services, which could lead within the next six months to a single market emergency, it could activate a **vigilance mode** by means of an [implementing act](#) for a maximum of six months (article 9). The implementing act would mention which goods or services of strategic importance are concerned, the potential impact of the crisis and the vigilance measures taken. This mode could be extended once, or deactivated if the threat disappears (article 10).

Vigilance measures would include **monitoring** by national competent authorities of the supply of the strategic goods and services concerned, including through requests for voluntary provision of information to the most relevant economic operators in the relevant supply chains (article 11). Furthermore, the Commission could identify the strategic goods for which it would be necessary to build **strategic reserves** to prepare for a single market emergency. Member States, supported by the Commission, would then 'deploy their best efforts to build up strategic reserves' of these goods (article 12). If the setting up of these reserves would be more effective if streamlined among Member States, the Commission could set individual targets (on quantities and deadlines) for the strategic reserves through implementing acts. If a Member State did not reach its target, the Commission, on its own initiative or at the request of 14 Member States, could assess the situation and set a deadline by which the reserve must be built up.

If a severe disruption negatively affects the single market, the Commission could propose that the Council, through an implementing act, activate another phase: a single market **emergency mode**, for a maximum of six months (article 14). Beforehand, the Commission would have to take into account at least nine indicators, listed in article 13 (e.g. geographical area affected). The Commission would then draw up a list of crisis-relevant goods and services through an implementing act.

The emergency mode could be activated even without the vigilance mode having been triggered. The activation of the emergency mode would not prevent the activation or continued application of the vigilance mode.

The emergency mode could be extended or deactivated by the Council based on a proposal by the Commission (article 15). The Commission would assess the effectiveness of the measures taken no later than three months after the expiry of the measures.

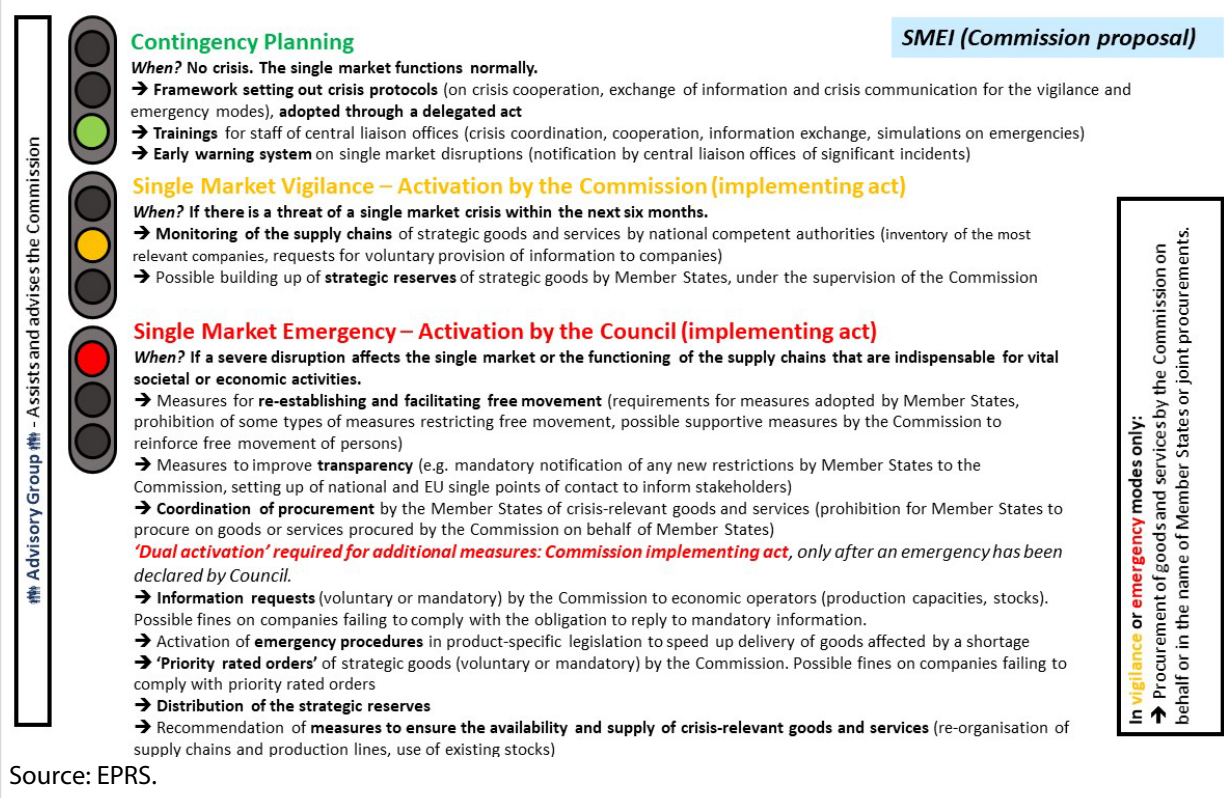
The proposal also includes **requirements concerning the measures restricting free movement** adopted by Member States during an emergency. They must be limited in time and lifted when the situation allows it, and all affected stakeholders must be informed ahead of their entry into force (article 16). Some types of restrictions would be **forbidden**, such as intra-EU export bans of crisis-relevant goods or services (listed in an implementing act), or bans that have an impact on their supply chains, restrictions on the free movement of persons providing crisis-relevant services, and denying the right to enter the territory of their Member State of nationality or residence (article 17). The Commission would also be empowered to adopt **supportive measures** to support the free movement of persons through implementing acts (article 18).

Member States would have to notify the Commission of any crisis-related measure restricting the free movement of goods, services and persons (and explain their rationale). The Commission would examine the **compatibility** of such measures with EU law and could adopt a decision requiring the Member State to refrain from adopting it or to abolish it (article 19). Member States would also have

to set up national **single points of contact** to assist stakeholders regarding restrictions of movement or crisis procedures under a single market emergency (article 21). There would also be an EU-level single point of contact, assisting stakeholders regarding EU-level crisis measures and procedures, and list all national crisis measures and contact points (article 22).

Furthermore, after a single market emergency has been activated through a Council implementing act, the Commission would be allowed to adopt **binding measures** through implementing acts ('**dual activation**' is required for these measures), listing the crisis-relevant goods and services to which these measures would apply (article 23). The Commission may ask economic operators in relevant supply chains to share information on a voluntary basis on production capacities, stocks or any relevant supply chain disruptions. If they do not reply, the Commission may issue a **mandatory information request** through an implementing act (article 24).

Figure 1 – Functioning of the proposed single market emergency instrument



Source: EPRS.

The Commission would also be allowed to **activate**, by means of implementing acts, **the emergency procedures included in the EU harmonised product-specific legislation** as amended by the two other proposals in the SMEI package (see Box 1), to ensure that strategic goods can be marketed quickly to address the market shortages (article 26).

Box 1: Proposed amendments to EU harmonised product legislation

The two other legislative proposals³ (the 'omnibus' proposals) included in the SMEI package would amend 14 directives (e.g. on machinery, measuring instruments, and radio equipment) and five regulations (e.g. concerning personal protective equipment, construction products, and fertilisers). These texts are so-called 'EU harmonised product legislation', which set up harmonised product-specific rules on the design, manufacture, conformity assessment and placing on the market of these products. They introduce for each product category the essential safety requirements that they should meet, and the procedures to assess compliance with these requirements. As they set up full harmonisation, Member States cannot derogate from these rules, even in case of a market emergency, unless the respective framework provides for such a possibility.

The two proposals aim to address the impact of crises affecting products that have been designated as crisis-relevant goods. These emergency procedures would only be available after the activation of a single market emergency and only when a product covered by those texts would be designated as crisis-relevant. The proposals would introduce provisions requiring conformity assessment bodies to **prioritise the conformity assessment** applications of crisis-relevant products.

Furthermore, national authorities **could authorise** the placing on the market of products that have **not undergone the conformity assessment procedures** required by EU legislation in cases where the involvement of a notified body is mandatory, for a limited period of time and on the territory of the issuing Member State. They could issue authorisations for those products, provided that they comply with the applicable essential safety requirements. Compliance with those requirements could be demonstrated by a range of means, such as testing of samples carried out by the national authorities. Moreover, if there are no harmonised **standards** (used by manufacturers as a reference to benefit from a presumption of conformity for their product) or if compliance with them would be too difficult due to the market crisis, national authorities could consider that products manufactured in accordance with national or international standards (instead of European ones) comply with the relevant essential health and safety requirements. The Commission could also adopt common specifications through implementing acts, on which the manufacturers could (or would have to) rely in order to benefit from a presumption of conformity with the applicable essential requirements. In addition, the proposals would lay down rules for **enhanced market surveillance** for crisis-relevant goods, to ensure that the level of safety provided by the harmonised products is not compromised by the emergency.

Furthermore, the Commission may ask economic operators in crisis-relevant supply chains to accept and prioritise **priority-rated orders** (i.e. orders for the production or supply of crisis-relevant goods) (articles 27 to 31). If the economic operator does not accept it, following an assessment of the reasons behind the refusal, and in exceptional circumstances, the Commission may require the company to accept the priority-rated order. The company could also explain why it is not able to comply with the request (e.g. due to insufficient production capacity).

The Commission **could fine** companies failing to reply to mandatory information requests or to comply with priority-rated orders, intentionally or through gross negligence, by means of a decision. Furthermore, the Commission may recommend to Member States to **redistribute strategic reserves** with a view to ending the market emergency (article 32). Moreover, the Commission could recommend that Member States take specific measures to ensure the availability and supply of crisis-relevant goods and services, such as facilitating the setting up of production capacities, or accelerating permitting of crisis-relevant goods (article 33).

During vigilance and emergency modes, two or more Member States could ask the **Commission to launch procurement of goods and services** of strategic importance or crisis-relevant goods and services (articles 34 to 36). The Commission would act as a '**central purchasing body**'. In cases of **joint procurement** between the Commission and one or more Member States, the Member States could also acquire, rent or lease the capacities jointly procured with the Commission (article 37). Furthermore, during an emergency, Member States would have to consult each other in the advisory group and the Commission to **coordinate their procurements** of crisis-relevant goods and services (article 38). If the Commission had already launched procurement on behalf of Member States, the Member States concerned would **not be allowed** to launch procurement of the same goods or services (article 39).

Advisory committees

The **European Economic and Social Committee** (EESC) [adopted](#) its opinion on the Commission proposal on 14 December 2022. The EESC believes that the SMEI should, as a priority, foster information sharing, cooperation, communication and solidarity among Member States. Moreover, rather than intervening in the supply chains of goods and services, the SMEI should focus on ensuring the free movement of goods, services and people, and citizens' welfare, in times of crisis. In addition, the EESC believes that the clarity of the provisions should be improved (e.g. some definitions, such as 'crisis-relevant goods and services'). The EESC stressed that the proposed

regulation should explicitly mention that a strike cannot constitute a crisis under the SMEI. The EESC highlighted that the interventionist powers granted to the Commission by the proposal could negatively affect the single market as they represent an element of unpredictability.

The **European Committee of the Regions** (CoR) (rapporteur: Muhterem Aras, Greens, Germany) adopted its [opinion](#) on 8 February 2023. The CoR called, in particular, for the SMEI to have a stronger territorial focus, to make sure that it is effective. It also pointed to the specific role of border regions for the functioning of the single market and their vulnerability to border closures during crises.

National parliaments

The deadline for the submission of reasoned opinions on grounds of subsidiarity was 17 January 2023. The Riksdag (Swedish Parliament) adopted a [reasoned opinion](#) on 21 December 2022. It stressed that the Commission should clarify the relationship between the legal basis of the proposal and the provisions aiming to ensuring access to goods and services of strategic importance. It also pointed out that the compatibility of the proposal with the principle of proportionality should be clarified with regard to the consequences for Member States and the impact on competition.

Stakeholder views⁴

The [feedback period](#) on the Commission proposal on an SMEI was open between 6 October 2022 and 13 January 2023. [SMEunited](#) stressed the need to ensure consistency with other EU instruments, and asked for some definitions to be clarified (such as 'goods and services' and 'crisis-relevant goods and services'). In addition, SMEunited believes that: the advisory group should be involved in more steps of the decision-making process; the reporting obligations under the vigilance mode should not impose additional unnecessary burdens on companies; the Commission should apply the 'only once principle'; the financial responsibility that comes with the stockpiling obligations, and the way stocks will be distributed in the event of a crisis, should be clarified. Furthermore, SMEunited raises concerns about the 'list of most relevant economic operators', in terms of signals to the market and the impact on companies from a competition perspective. Priority-rated orders of crisis-relevant goods and products could be counterproductive and miss the goal of protecting the single market, so clear criteria for activating them would be essential. SMEunited also believes that: ramping up production could send some companies into insolvency and lead to market disruption; the fines on companies for providing incomplete information are counterproductive and disproportionate; the concept of 'gross negligence' (article 28) should be better specified; the regulation should set up a liability mechanism under which the Commission goes before Parliament to justify activation of the different modes and to present the results of its actions.

The [European Trade Union Confederation](#) (ETUC) stressed that the SMEI proposal raised concerns regarding the right to strike. It insisted that safeguarding the proper functioning of the single market during a crisis must never be at the expense of fundamental social, workers' and trade union rights. ETUC called on the co-legislators to reinforce the protection of the social, workers' and trade union rights in the proposed instrument. For ETUC, a mere reference to the Charter of Fundamental Rights in a recital, as in the proposed regulation, is not sufficient. It proposed to include a 'Monti clause' in the proposal, similar to the text of article 2 in [Council Regulation \(EC\) No 2679/98](#), known as the 'strawberry regulation' (the SMEI proposal would repeal this regulation).

[BusinessEurope](#) expressed very strong concerns over the scope and what it regards as disproportionately far-reaching interventionist measures in the proposed SMEI. While welcoming the provisions prohibiting restrictions on freedoms of the single market during crises and those fostering administrative cooperation among the Member States and the Commission, BusinessEurope does not support a number of provisions under the vigilance mode (which should even be deleted in its current form) and emergency mode, as they relate to industrial and trade policy and should not be included in the SMEI. BusinessEurope therefore advocates a narrower scope for the proposal, focused on protecting the single market freedoms.

[CLEPA](#), the European association of automotive suppliers, recommended that the co-legislators largely amend the provisions on single market vigilance (Part III) and single market emergency (Part IV), as it believes that governments lack the necessary experience and capabilities to manage supply chains. While CLEPA agrees that governments could act to increase transparency in case of crises, and could build critical reserves in the areas of public health, raw materials and energy, it warns that they should not overload companies with information requests (and should not ask them to provide confidential information or trade secrets), nor further destabilise supply chains with priority-rated orders or poorly designed stockpiling measures.

The concerns of [DigitalEurope](#) relate to the proposed involvement of stakeholders in the advisory group, which it regards as insufficient, the lack of sufficient checks and balances before a crisis is activated and the potential information requirements from companies, which pose a risk of sensitive data exposure.

Legislative process

The Council adopted its [mandate for negotiations](#) with the Parliament on 7 June 2023. In Parliament, the file was allocated to the Committee on the Internal Market and Consumer Protection (IMCO). The Committee on Industry, Research and Energy (ITRE) was associated under [Rule 57](#). Parliament's [position](#) for negotiations with the Council was adopted on 18 July 2023, with 476 votes in favour, 121 against and 51 abstentions. The co-legislators reached a provisional agreement on the package on 1 February 2024, after four trilogue meetings (on [IMERA](#), the accompanying [proposal amending 14 Directives](#), and the accompanying [proposal amending five Regulations](#)); this agreement still needs to be formally approved by both institutions. The agreed texts were [endorsed](#) on 16 February 2024 by Coreper, and were [approved](#) by IMCO on 22 February 2024.

Under the agreement, the main Regulation of the SMEI package is renamed '**Internal Market Emergency and Resilience Act (IMERA)**', as requested by the European Parliament. The group assisting and advising the Commission is renamed accordingly ('**Internal Market Emergency and Resilience Board**'). The Board should meet at least three times a year, and the Chair of the Board should invite a representative from the European Parliament as a permanent observer.

The Regulation keeps the distinction between contingency measures, and vigilance and emergency modes. Defence-related products are explicitly excluded from the scope of the Regulation. It is also now specified that the Regulation should not affect the exercise of fundamental rights, in accordance with the Charter of Fundamental Rights of the EU (in particular, the rights to strike, to negotiate, to conclude and enforce collective agreements, and to take collective action in accordance with national law and practice).

At Parliament's request, a new '**emergency and resilience dialogue**' will be set up: the competent committee of the European Parliament may invite the Commission in its capacity as Chair of the IMERA Board to discuss all matters under the scope of the Regulation, particularly after each meeting of the Board and after each deactivation of the vigilance or emergency modes. An '**emergency and resilience stakeholders platform**' will also facilitate sector-specific dialogue and partnerships concerning internal market crises, and particularly allow stakeholders to indicate voluntary actions needed to respond to an internal market emergency.

In the context of **contingency planning**, the Commission may adopt an implementing act setting a contingency framework. It should also encourage and facilitate the drawing up of 'voluntary crisis protocols' by economic operators, and conduct and coordinate **stress tests** regularly (at least once every two years at EU level), including simulations that aim to anticipate and prepare for a crisis. At the request of two or more Member States, the Commission may conduct stress tests in specific geographical areas or border regions.

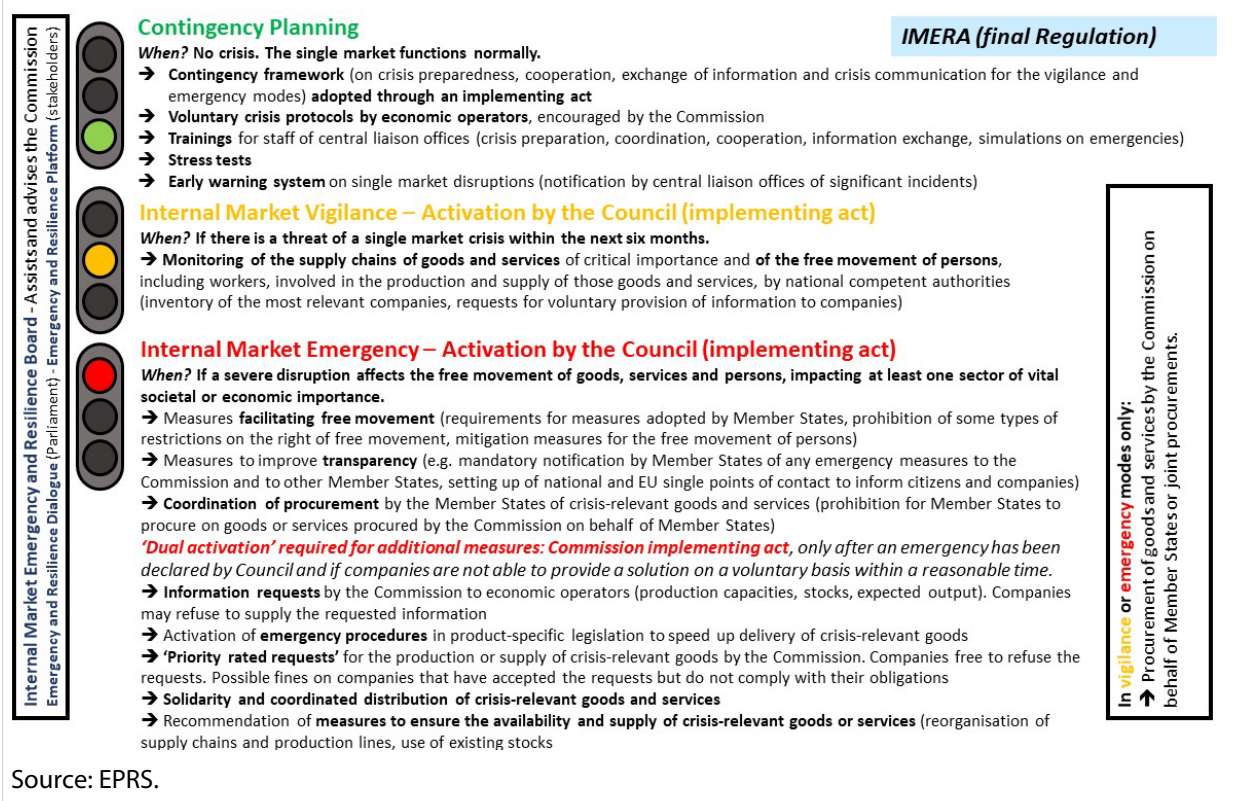
The internal market **vigilance mode** may be activated by the Council by means of a Council implementing act. In a vigilance mode, competent authorities should monitor the supply chains of goods and services of critical importance and the free movement of persons, including workers,

involved in the production and supply of those goods and services. The specific provisions on strategic reserves, included in the proposal, are deleted.

To activate the **emergency mode**, the Commission and the Council should assess whether the crisis creates one or more obstacles to the free movement of goods, services or persons, having an impact on at least one sector of vital societal or economic importance. If the crisis disrupts the functioning of supply chains, the Commission and the Council should assess whether the goods, services or workers concerned can be diversified or substituted. The Council may activate the emergency mode and adopt a list of crisis-relevant goods and services by means of a Council implementing act.

During an emergency, Member States should particularly ensure that the measures restricting free movement comply with EU law and are removed as soon as they are no longer justified. Some restrictions on the right to free movement would be prohibited (such as bans on intra-EU exports of crisis-relevant goods and services or measures imposing travel restrictions on service providers, business representatives and workers, preventing them from travelling between Member States to access their place of activity or workplace when there are no such restrictions on travel within the Member State introducing such a measure). Regarding mitigation measures, the Commission should, for example, identify the categories of persons involved in the production or supply of crisis-relevant goods and services for which it is necessary to facilitate free movement, by establishing templates which may be used by the Member States on a voluntary basis).

Figure 2 – Functioning of the agreed internal market emergency and resilience act



The Regulation also includes measures that can only be adopted by the Commission when an internal market emergency mode has been activated and a list of crisis-relevant goods and services has been established by the Council:

- **Information requests:** The Commission may invite the relevant economic operators in the supply chains of crisis-relevant goods or services to transmit, on a voluntary basis and within a set time limit, specific information where there are severe shortages of crisis-relevant goods or services or an immediate threat thereof. If no information is transmitted to the Commission on a voluntary basis within the set time limit, or if the information gathered by the Commission

remains insufficient to assess whether the deployment of measures would allow the severe shortages of crisis-relevant goods or services to be reduced, the Commission may make a request for information, by means of an implementing act. The information requests may only concern the production capacities and possible existing stocks of the crisis-relevant goods, the schedule of the expected production output of crisis-relevant goods for the following three months, and any relevant disruptions or shortages of supply chains of crisis-relevant goods or services. A company may refuse to supply the requested information, and provide the Commission with the reasons for any refusal. The Commission should inform the competent authority of the Member State concerned and should transmit the information acquired if requested by the competent authority. The information requests should not entail the supply of information that are contrary to the Member States' national security.

- The Commission may activate by means of implementing acts the **emergency procedures** included in the EU legal frameworks amended by the two accompanying ('omnibus', see Box 1) legislative proposals, as regards emergency procedures for the conformity assessment, adoption of common specifications and market surveillance due to an internal market emergency.
- **Priority-rated requests:** The Commission may, in exceptional situations, after consulting the Member States in which the companies are established, address a request to one or more companies established in the EU to accept and prioritise certain requests for the production or supply of crisis-relevant goods when there is a severe and persistent shortage of such goods and the production or supply of them could not be achieved by other measures provided for in the Regulation. The company remains free to refuse the request. The priority-rated requests should be placed at a fair and reasonable price, taking into account the economic operator's opportunity costs when fulfilling the priority-rated requests vis-à-vis existing contractual obligations. The priority request should not include goods or services the production or supply of which would be contrary to the Member States' national security or defence. The Commission may impose a fine on companies that have accepted the requests but do not comply with their obligations (maximum €100 000 (for SMEs, €25 000)).
- **Solidarity and coordinated distribution of crisis-relevant goods and services:** The Member States concerned by a shortage of crisis-relevant goods and services may indicate to the Commission the quantities they require. The Commission should transmit the information to all competent authorities and streamline the coordination of Member States' responses. The Commission may also recommend to other Member States to distribute the crisis-relevant goods or services in a targeted way to meet the needs linked to the market emergency in a given Member State.
- **Measures to ensure the availability and supply of crisis-relevant goods or services:** If the Commission is informed that there is a risk of a shortage of crisis-relevant goods and services in a Member State, it may recommend that Member States take specific measures. These measures should ensure the efficient reorganisation of supply chains and production lines and the use of existing stocks to increase the availability and supply of crisis-relevant goods and services, such as aiming to accelerate authorisation and registration requirements of crisis-relevant services.

Concerning **public procurement**, during vigilance and emergency modes, the Commission may be asked by Member States to procure crisis-relevant goods and services on their behalf. Furthermore, the Commission and one or more contracting authorities from the participating Member States may carry out a joint procurement procedure, for the provision of crisis-relevant goods or services or goods and services of critical importance. Participation in the joint procurement procedure should be open to all Member States, the European Free Trade Association States and EU candidate countries.⁵ During an emergency, Member States should make their best efforts to inform each other and the Commission about the ongoing individual procurement procedures of crisis-relevant goods and services.

By 18 months after the date of entry into force of the Regulation, the Commission and the Member States should, where there are no existing tools or IT infrastructures, set up interoperable digital tools or IT infrastructures supporting the objectives of the Regulation (such as standardised, secure

and effective digital tools for the collection and exchange of information, as well as a dedicated single digital portal or website where citizens and businesses can find and submit declaration, registration or authorisation forms).

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

Kramer E., [Single market emergency instrument – initial appraisal of a Commission impact assessment](#), EPRS, European Parliament, December 2022.

Marcus J. et al., [The impact of COVID-19 on the internal market](#), study commissioned by the Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, February 2021.

OTHER SOURCES

European Parliament, [Single market emergency instrument](#), Legislative Observatory (OELI).

ENDNOTES

- ¹ The [single market scoreboard](#) monitors the Member States' performance in implementing the four freedoms.
- ² An important distinction between delegated acts and implementing acts is that, although Parliament can object to implementing acts, its objections are not binding on the Commission. The situation is different for delegated acts, on which Parliament has veto rights within the period set out in the basic act.
- ³ [Proposal](#) for a Directive of the European Parliament and of the Council amending Directives 2000/14/EC, 2006/42/EC, 2010/35/EU, 2013/29/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU and 2014/68/EU as regards emergency procedures for the conformity assessment, adoption of common specifications and market surveillance due to a single market emergency (2022/0280(COD)); [Proposal](#) for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2016/424, (EU) 2016/425, (EU) 2016/426, (EU) 2019/1009 and (EU) No 305/2011 as regards emergency procedures for the conformity assessment, adoption of common specifications and market surveillance due to a single market emergency (2022/0279(COD)).
- ⁴ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.
- ⁵ As well as the Principalities of Andorra and of Monaco, the Republic of San Marino and the Vatican City State.

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eprs@ep.europa.eu (contact)

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