



2022/0278(COD)

15.6.2023

OPINION

of the Committee on Industry, Research and Energy

for the Committee on the Internal Market and Consumer Protection

on the 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
(COM(2022)0459 – C9-0315/2022 – 2022/0278(COD))

Rapporteur for opinion (*): Eva Maydell

(*) Associated committee – Rule 57 of the Rules of Procedure

PA_Legam

SHORT JUSTIFICATION

1. Introduction

The COVID-19 crisis and Russia's illegal war in Ukraine have presented unprecedented and unique challenges for the Union. As Europe emerges from the crisis, it seeks to learn lessons and put in place mechanisms for dealing with a crisis, and preventing and preparing for one.

Crises can often birth multiple crises: threat to life, economic harm, restrictions to freedom of movement, damage to competitiveness, and vulnerabilities to law and order. Therefore, the "Single Market Emergency Instrument" aims to provide measures and fora for better cooperation and information exchange between Member States and economic operators.

2. The Draft Opinion

The Single Market has been one of the greatest achievements and assets in the history of the EU, and has created a path to prosperity and growth for many Member States. The Rapporteur fully supports the objective to provide the Single Market with tools to ensure greater resilience and protection – "fail to prepare and prepare to fail".

When it comes to crisis, prevention will always be better than cure. This therefore, places particular importance upon the role of the Advisory Group in providing foresight and conducting broad and meaningful consultation with representatives of economic operators, stakeholder organisations and experts. Such an approach will help enable the Single Market to safeguard and ensure the continuity of its most precious commodity – the four freedoms.

It is essential the Regulation provide a clear and precise framework of measures that focus on increasing cooperation, communication, and preparedness among Member States and economic operators. It must help ensure business continuity, limit industrial disruption, and make sure the heavy hand of market intervention is a last resort.

Any measures adopted must ensure that they both help protect the functioning of the Single Market, while enabling the Union to be competitive, innovative, agile, and an attractive place to invest. According to the competences of the ITRE Committee, the Rapporteur has focused on the following Articles:

A: Activation:

Clarity, precision, and proportionality are essential for Member States, economic operators, and workers regarding the vigilance and emergency stage measures.

The vigilance mode should be activated once there is clear evidence and justification for it. Given the serious measures to be taken during this phase, ensuring there are checks and balances in place when activating the mode is essential – including the involvement of the Advisory Group, the drafting of a Single Market Crisis Protection Report and, if necessary, a vote.

The end of the vigilance mode should also provide for reflection, to improve its use in the future. Therefore, a review should be carried out. Extending or deactivating the Vigilance

Mode requires further clarity and safeguards around the decision-making process. This is particularly critical for when the prolongation is used as a preventative measure for triggering the Emergency Framework, or if there is a need to end the Vigilance Mode early. To ensure coherence, the Rapporteur has merged Articles 9 and 10.

B: Strategic Reserves:

Given the potentially serious and significant impact on the Single Market, free trade, and business continuity of building strategic reserves, the Rapporteur has sought to include important checks and balances.

There should be a greater role for the Advisory Group to ensure a streamlined, communicative, and collaborative approach in building strategic reserves. Solidarity and effective action can best be secured by ensuring as much transparency and proportionality as possible in the actions taken.

The Rapporteur introduces a new article on ‘Long-Term Strategic Reserve Planning’. This provision utilises a review procedure to provide recommendations as to the necessity and usefulness of Member States and the Commission establishing a long-term plan for maintaining a permanent or phased reserve of goods of strategic importance. This will assist with preventing future shortages and the activation of the vigilance or crisis mode.

C: Priority Rated Orders and Procurement:

There may be occasions when priority rated orders are necessary. However, it is essential that there is a clear process that protects the integrity of the Single Market, the economic health of economic operators, and the future competitiveness of the Union.

It is vital that when priority rated orders are requested, that they are a measure of last resort. Full and due consideration must be given to the ability of, and impact on, economic operators to carry out the order.

Given the significant market intervention that priority orders represent, it is essential that there is a right to be heard by economic operators, and a larger role for scrutiny, approval, and the resolution of disagreements, for the Advisory Group and economic operators.

D: Digital Tool:

It is the intention that digital tools shall support the objectives of this Regulation. Therefore, it is important that the Commission ensure sufficient resources and budget for these tasks are provided, and that high levels of data protection and cybersecurity are applied.

There should also be a focus on interoperability and usability, in particular for SMEs and citizens.

AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

Amendment 1
Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) The framework of measures set out under this Regulation should be deployed in a coherent, transparent, efficient, proportionate and timely manner, having due regard to the need to maintain vital societal functions, meaning including public security, safety, public order, or public health respecting, the responsibility of the Member States to safeguard national security and their power to safeguard other essential state functions, including ensuring the territorial integrity of the State and maintaining law and order.

Amendment

(8) The framework of measures set out under this Regulation should be deployed in a coherent, transparent, efficient, proportionate and timely manner, having due regard to the need to maintain vital societal functions, meaning including public security, safety, public order, or public health respecting, the responsibility of the Member States to safeguard national security and their power to safeguard other essential state functions, including ensuring the territorial integrity of the State and maintaining law and order. ***The Regulation should not restrict national measures on security and defence policy. National defence capabilities must be taken into account when applying proportionate measures in the event of a crisis.***

Amendment 2
Proposal for a regulation
Recital 9 – indent 3

Text proposed by the Commission

– the means for the timely accessibility and availability of the information which is needed for a targeted response and adequate market behaviour by businesses and citizens during a crisis.

Amendment

– the means for the timely accessibility and availability of the information which is needed for a targeted response and adequate market behaviour by businesses, ***workers***, and citizens during a crisis.

Amendment 3
Proposal for a regulation
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Highlights the importance of the

Advisory Group in providing strategic foresight and conducting broad and comprehensive consultations with economic operators, social partners, stakeholder organisations and experts, for the purpose of preventing and tackling a crisis.

Amendment 4
Proposal for a regulation
Recital 32

Text proposed by the Commission

(32) Additionally, to ensure **that** crisis-relevant goods are available during the Single Market emergency, the Commission may invite the economic operators that operate in crisis-relevant supply chains to prioritise the orders of inputs necessary for the production of final goods that are crisis relevant, or the orders of such final goods themselves. Should an economic operator **refuse to accept and prioritise such orders, following objective evidence that the availability of crisis-relevant goods is indispensable, the Commission may decide to invite the economic operators concerned to accept and prioritise certain orders, the fulfilment of which will then take precedence over any other private or public law obligations. In the event of failure to accept, the operator in question should explain its legitimate reasons for declining the request. The Commission may make such reasoned explanation or parts of it public, with due regard to business confidentiality.**

Amendment

(32) Additionally, to ensure crisis-relevant goods are available during the Single Market emergency, the Commission, **after consulting the Advisory Group**, may invite the economic operators that operate in crisis-relevant supply chains to prioritise the orders of inputs necessary for the production of final goods that are crisis relevant, or the orders of such final goods themselves. Should an economic operator **not accept the priority rated order, they shall provide** legitimate reasons **as to why** the request **cannot be carried out.**

Amendment 5
Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) In order to ensure uniform conditions for the implementation of this

Amendment

(35) In order to ensure uniform conditions for the implementation of this

Regulation, implementing powers should be conferred on the Commission as regards the possibility to adopt supportive measures for facilitating free movement of persons, for establishing a list of **individual targets (quantities and deadlines) for those** strategic reserves that the Member States should maintain, so that the objectives of the initiative are achieved. Furthermore, implementing powers should be conferred on the Commission as regards activating the vigilance mode and vigilance measures in order to carefully monitor the strategic supply chains and coordinate the building up of strategic reserves for goods and services of strategic importance. Moreover, implementing powers should be conferred on the Commission as regards activation of specific emergency response measures at the time of a Single Market emergency, to allow for a rapid and coordinated response. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

Regulation, implementing powers should be conferred on the Commission as regards the possibility to adopt supportive measures for facilitating free movement of persons, for establishing a list of strategic reserves that the Member States should maintain, so that the objectives of the initiative are achieved. Furthermore, implementing powers should be conferred on the Commission as regards activating the vigilance mode and vigilance measures in order to carefully monitor the strategic supply chains and coordinate the building up of strategic reserves for goods and services of strategic importance. Moreover, implementing powers should be conferred on the Commission as regards activation of specific emergency response measures at the time of a Single Market emergency, to allow for a rapid and coordinated response. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

Amendment 6
Proposal for a regulation
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) The success of digital tools and their development will depend on the close collaboration between the Commission and Member States, in order to ensure Union wide interoperability of such tools, and where possible and necessary, a common user interface integrated into the existing services, such as Your Europe portal.

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

Text proposed by the Commission

(1) ‘crisis’ means an exceptional unexpected and sudden, natural or man-made event of extraordinary nature and scale that takes place inside or outside of the Union;

Amendment

(1) ‘crisis’ means an exceptional unexpected and sudden, natural or man-made event of extraordinary nature and scale that takes place inside or outside of the Union; ***that may have a detrimental effect to the functioning of the Single Market, including a significant disruption of supply chains and the freedom of movement of goods, capital, people, and services.***

Amendment 8
Proposal for a regulation
Article 3 – paragraph 1 – point 7 a (new)

Text proposed by the Commission

Amendment

(7a) ‘economic operator’ means the manufacturer, authorised representative, importer, distributor, service provider or any other natural or legal person who is subject to obligations in relation to the provision of a service or the manufacture of products, and making them available on the market or putting them into service;

Amendment 9

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Emergency and Resilience Dialogue

In order to enhance the dialogue between the institutions of the Union, in particular the European Parliament, the Council and the Commission, in relation to resilience and the effective response to crises and to ensure greater transparency and accountability, the competent committee of the European Parliament

may invite the President of the Council and Commission to appear before the committee to discuss:

(a) exchanges of information on all matters falling within the scope of this Regulation;

(b) opinions, recommendations and reports adopted by the Advisory Group;

(c) crisis protocols and their implementation and their affect on industry and notifications of significant incidents;

(d) the activation of the vigilance mode, its extension and deactivation, and the vigilance measures pursuant to Part III of this Regulation, and notifications submitted by the Member States during the vigilance mode;

(e) the outcome of the internal market protection and resilience assessments report under Article 9 of this Regulation.

(f) the activation of the emergency mode, its extension and deactivation, and the measures for upholding, re-establishing and facilitating the free movement of goods, services and persons;

(g) priority rated orders pursuant to Article 27 of this Regulation;

(h) the procurement of goods and services of strategic importance and crisis-relevant goods;

(i) any further initiatives, decisions or measures taken under this regulation. 2.

The competent committee of the European Parliament may offer the opportunity to a concerned Member State to participate in an exchange of views. 3. The Council and the Commission shall regularly inform the European Parliament of the application of this Regulation.

Proposal for a regulation
Article 4 – paragraph 2

Text proposed by the Commission

2. The advisory group shall be composed of one representative from each Member State. Each Member State shall nominate a representative and an alternate representative.

Amendment

2. The advisory group shall be composed of one representative from each Member State **and a representative of the European Parliament**. Each Member State shall nominate a **high-level** representative and an alternate representative.

Amendment 11
Proposal for a regulation
Article 4 – paragraph 3

Text proposed by the Commission

3. The Commission shall chair the advisory group and ensure its secretariat. The Commission may invite **a representative of the European Parliament**, representatives of EFTA States that are contracting parties to the Agreement on the European Economic Area⁴⁹, representatives of economic operators, stakeholder organisations, social partners and experts, to attend meetings of the advisory group as observers. It shall invite the representatives of other crisis-relevant bodies at Union level as observers to the relevant meetings of the advisory group.

Amendment

3. The Commission shall chair the advisory group and ensure its secretariat. The Commission may invite representatives of EFTA States that are contracting parties to the Agreement on the European Economic Area⁴⁹, representatives of economic operators, stakeholder organisations, social partners and experts, to attend meetings of the advisory group as observers. It shall invite the representatives of other crisis-relevant bodies at Union level as observers to the relevant meetings of the advisory group.

⁴⁹ OJ L 1, 3.1.1994, p. 3.

⁴⁹ OJ L 1, 3.1.1994, p. 3.

Amendment 12
Proposal for a regulation
Article 4 – paragraph 5 – point c

Text proposed by the Commission

(c) consulting the representatives of economic operators, including SMEs, and industry to collect market intelligence;

Amendment

(c) consulting the representatives of economic operators, including SMEs, **social partners**, and industry to collect market intelligence;

Amendment 13
Proposal for a regulation
Article 4 – paragraph 5 – point f

Text proposed by the Commission

Amendment

(f) maintaining a repository of national and Union crisis measures that have been used in previous crises that have had an impact on the Single Market and its supply chains

deleted

Amendment 14
Proposal for a regulation
Article 4 – paragraph 5 – point f a (new)

Text proposed by the Commission

Amendment

(fa) Identify supply chains, and crisis goods and services within the Single Market that are of strategic importance and necessary for the maintenance of vital societal or economic activities. This task shall be performed as part of the crisis preparedness and single market protection report drawn up in article 9.

Amendment 15
Proposal for a regulation
Article 4 – paragraph 9

Text proposed by the Commission

Amendment

9. The advisory group may adopt opinions, recommendations or reports in the context of its tasks set out in paragraphs 4 to 6.

9. The advisory group may adopt opinions, recommendations or reports in the context of its tasks set out in paragraphs 4 to 6. ***The minutes of the Advisory Group meetings shall be made available to the Council and the European Parliament as soon as they have been approved.***

Amendment 16
Proposal for a regulation

Article 4 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. The Advisory Group shall ensure confidentiality of information and data obtained in carrying out their tasks and activities in such a manner as to protect intellectual property rights, commercially sensitive data, and trade secrets as defined in EU Law.

Amendment 17

Proposal for a regulation

Article 4 – paragraph 9 b (new)

Text proposed by the Commission

Amendment

9b. In order to enhance the dialogue between the institutions of the Union in the context of the Single Market Emergency Instrument, and to ensure greater transparency, accountability and coordination, the competent committee of the European Parliament may invite the Commission in its capacity as Chair of the Advisory Group to appear before the committee to provide information on all matters falling within the scope of this regulation.

Amendment 18

Proposal for a regulation

Article 4 – paragraph 9 c (new)

Text proposed by the Commission

Amendment

9c. The Commission shall ensure that the European Parliament is regularly informed regarding the application of this Regulation.

Amendment 19

Proposal for a regulation

Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) consultation of the representatives of economic operators and social partners, including SMEs, on their initiatives and actions to mitigate and respond to potential supply chain disruptions and overcome potential shortages of goods and services in the Single Market;

Amendment

(b) consultation of the representatives of economic operators and social partners, including SMEs, on their initiatives and actions to mitigate and respond to potential supply chain disruptions and overcome potential shortages **and disruptions** of goods and services in the Single Market;

Amendment 20

Proposal for a regulation

Article 8 – paragraph 3 – point a

Text proposed by the Commission

(a) the number of economic operators affected by the disruption or potential disruption;

Amendment

(a) the number of economic operators **and workers** affected by the disruption or potential disruption;

Amendment 21

Proposal for a regulation

Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where the Commission, **taking into consideration the opinion provided by the advisory group, considers** that the threat referred to in Article 3(2) is present, **it** shall activate the vigilance mode for a maximum **duration** of six months by means of **an** implementing act. **Such an implementing act shall contain the following:**

Amendment

1. Where the Commission **becomes aware** that the threat referred to in Article 3, point (2) is present, **the Commission shall consult with the Advisory Group and provide concrete and reliable evidence as to the need to activate the Vigilance Mode. The Commission shall propose to the Council to** activate the Vigilance Mode for a maximum of six months.

The Council, acting by qualified majority, may activate the vigilance mode by means of **a Council** implementing act.

Amendment 22

Proposal for a regulation

Article 9 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) an assessment of the potential impact of the crisis; *deleted*

Amendment 23

Proposal for a regulation

Article 9 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) list of the goods and services of strategic importance concerned, and *deleted*

Amendment 24

Proposal for a regulation

Article 9 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the vigilance measures to be taken. *deleted*

Amendment 25

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 41(2). *deleted*

Amendment 26

Proposal for a regulation

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Upon activation of the vigilance mode, the Council implementing act shall be accompanied by a Crisis Preparation and Single Market Protection Report, drawn up by the Commission and the Advisory Group.

The report shall lay out:

- (a) why the crisis is of critical importance to the Union and its Member States;*
- (b) the necessity and proportionality of the vigilance mode;*
- (c) the anticipated impact on the Single Market and the period of time before the threat escalates into a Single Market Emergency;*
- (d) the potential impact of the crisis on fundamental rights, public health and public security;*
- (e) the estimated cost and resources required during the vigilance mode;*
- (f) a list of the goods and services of strategic importance whose functioning and/or supply is at risk of being significantly disrupted;*
- (g) the specific recommendations for preventive measures and remedial actions;*
- (h) which Member States most likely to be affected by the crisis;*
- (i) the impact of measures taken on workers and citizens;*
- (j) third countries who are involved in the current supply chain under threat.*

The report shall be provided to the European Parliament without undue delay.

Amendment 27
Proposal for a regulation
Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *If necessary and proportionate, and if the reasons for activating the vigilance mode pursuant to Article 9 (1) are still valid, the Commission, in consultation with the Advisory Group, shall propose to the Council that the vigilance mode shall be extended for a*

maximum of six months. The Council, acting by qualified majority, may extend the vigilance mode by means of a Council implementing act.

Amendment 28
Proposal for a regulation
Article 9 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. *An additional Crisis Preparation and Single Market Protection Report shall be produced each time the vigilance mode is extended. The vigilance mode shall not be extended more than twice. The extension of the vigilance mode shall be approved only on the basis of clear evidence as regards the necessity and proportionality of the extension.*

Amendment 29
Proposal for a regulation
Article 9 – paragraph 2 d (new)

Text proposed by the Commission

Amendment

2d. *When extending the Vigilance Mode, specific consideration shall be given to whether strategic reserves require building further, and whether the extension of the vigilance mode could help to avoid the activation of the emergency mode. The activation of the emergency mode is to be used as a measure of a last resort.*

Amendment 30
Proposal for a regulation
Article 9 – paragraph 2 e (new)

Text proposed by the Commission

Amendment

2e. *Where the Commission, after consultation with the advisory group, finds that the threat referred to in Article*

3(2) is no longer present, with respect to some or all vigilance measures or for some or all of the goods and services, the Commission shall propose to the Council to deactivate the Single Market vigilance mode. The Council, acting by qualified majority, may deactivate the vigilance mode by means of a Council implementing act.

Amendment 31
Proposal for a regulation
Article 9 – paragraph 2 f (new)

Text proposed by the Commission

Amendment

2f. Not later than six months after the end of the duration of the vigilance mode, the Commission shall present to the Advisory Group a report detailing the lessons learned from the measures adopted to address the Single Market Emergency. The report shall be used for the purpose of the review provided for in Article 44. The Commission shall also update the criteria for the monitoring referred to in Article 11, to reflect the findings of this report.

The report shall also assess the necessity for long-term strategic reserve planning. The Commission shall make this report available to the Council and to the European Parliament.

Amendment 32
Proposal for a regulation
Article 9 – paragraph 2 g (new)

Text proposed by the Commission

Amendment

2g. In order to ensure the greatest possible degree of transparency and accountability, the relevant European Parliament committees may invite the ‘responsible Commissioners’ to present information about the state of play of the

vigilance mode and the content of the ‘crisis preparation and Single Market Protection report’.

Amendment 33
Proposal for a regulation
Article 9 – paragraph 2 h (new)

Text proposed by the Commission

Amendment

2h. Before the adoption of any implementing act pursuant to this Regulation, and taking its urgency into account, the Council shall invite the European Parliament to submit their comments within a reasonable timeframe.

Amendment 34
Proposal for a regulation
Article 10

Text proposed by the Commission

Amendment

Article 10

deleted

Extension and deactivation

1. The Commission, if it considers that the reasons for activating the vigilance mode pursuant to Article 9(1) remain valid, and taking into consideration the opinion provided by the advisory group, may extend the vigilance mode for a maximum duration of six months by means of an implementing act.

2. Where the Commission, taking into consideration the opinion provided by the advisory group, finds that the threat referred to in Article 3(2) is no longer present, with respect to some or all vigilance measures or for some or all of the goods and services, it shall deactivate the vigilance mode in full or in part by means of an implementing act.

3. Implementing acts referred to in paragraphs 1 and 2 shall be adopted in accordance with the examination

procedure referred to in Article 42(2).

Amendment 35

Proposal for a regulation

Article 12 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The Commission may, among the goods of strategic importance listed in an implementing act adopted pursuant to Article 9(1), identify those for which it may be necessary to build a reserve in order to prepare for a Single Market emergency, taking into account the probability and impact of shortages. The Commission shall **inform the** Member States **thereof**.

Amendment

The Commission, **after consulting with the Advisory Group, relevant economic operators, and where appropriate and necessary, third countries**, may among the goods of strategic importance listed in an implementing act adopted pursuant to Article 9(1), identify those for which **a shortage is possible and** it may be necessary **for Member States** to build a reserve in order to prepare for **or prevent a** Single Market emergency, taking into account the probability and impact of shortages. The Commission shall **provide that information to** Member States, **the Council and the European Parliament**.

Amendment 36

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

The Commission may require, by means of implementing acts, that the Member States provide information on the goods listed in an implementing act adopted pursuant to Article 9(1), as regards all of the following:

Amendment

Member States **shall** provide information **to the Commission and the Advisory Group** on the goods listed in an implementing act adopted pursuant to Article 9(1), as regards all of the following:

Amendment 37

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) **the** current **stock** in their territory;

Amendment

(a) current **reserves** in their territory;

Amendment 38
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) existing and anticipated shortages;

Amendment 39
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point a b (new)

Text proposed by the Commission

Amendment

(ab) existing or pending plans to increase reserves;

Amendment 40
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point a c (new)

Text proposed by the Commission

Amendment

(ac) existing actions to increase reserves;

Amendment 41
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) **any** potential for further purchase;

(b) potential for further purchase;

Amendment 42
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) **any** options for alternative supply;

(c) options for alternative supply **or substitute goods;**

Amendment 43
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) *further information that could ensure the availability of such goods.* *deleted*

Amendment 44
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) existing bilateral agreements as regards supply with another Member State;

Amendment 45
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) existing agreements or obligations with third countries regarding the supply of goods listed;

Amendment 46
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) current demand for supply;

Amendment 47
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(dd) expected demand for supply in the

short and medium term;

Amendment 48

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point d e (new)

Text proposed by the Commission

Amendment

(de) Current or potential shortages of labour force related to the production of goods listed;

Amendment 49

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point d f (new)

Text proposed by the Commission

Amendment

(df) The estimated financial and societal costs and impact associated with building a reserve of the goods listed for both Member States and economic operators, and in particular SMEs;

Amendment 50

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point d g (new)

Text proposed by the Commission

Amendment

(dg) the potential negative impact on the free movement of goods, services and persons.

Amendment 51

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The implementing act shall specify the goods for which information is to be given.

deleted

Amendment 52
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

Member States shall report to the Commission the levels of strategic reserves of goods of strategic importance held by them, and the levels of other stocks of such goods held on their territory.

deleted

Amendment 53
Proposal for a regulation
Article 12 – paragraph 2 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

Confidential information shall be treated in line with existing EU guidelines and laws.

Amendment 54
Proposal for a regulation
Article 12 – paragraph 3

Text proposed by the Commission

Amendment

3. Taking due account *of* stocks held or being built up by economic operators on *their territory*, Member States shall *deploy their best efforts to* build up strategic reserves of the goods of strategic importance identified in accordance with paragraph 1. The Commission shall provide support to Member States to coordinate and streamline their efforts.

3. Taking due account *for* stocks held or being built up by economic operators on *their territory*, Member States, *where necessary, technically and economically possible*, shall build up strategic reserves of the goods of strategic importance identified in accordance with paragraph 1. *Where requested by Member States*, the Commission shall provide support to Member States to coordinate and streamline their efforts.

Amendment 55
Proposal for a regulation
Article 12 – paragraph 4 – introductory part

Text proposed by the Commission

4. Where ***the building of strategic reserves of goods of strategic importance identified pursuant to paragraph 1 can be rendered more effective by streamlining among Member States***, the Commission ***may draw up and regularly update, by means of implementing acts***, a list of individual targets ***regarding the quantities and the deadlines for those strategic reserves that the Member States should maintain***. When setting the individual targets for each Member State, the Commission shall take into account:

Amendment 56

Proposal for a regulation

Article 12 – paragraph 4 – point b

Text proposed by the Commission

(b) the level of existing stocks of the economic operators and strategic reserves across the Union, ***and any information on economic operators' ongoing activities to increase their stocks***;

Amendment 57

Proposal for a regulation

Article 12 – paragraph 4 – point b a (new)

Text proposed by the Commission

Amendment 58

Proposal for a regulation

Article 12 – paragraph 4 – point c

Text proposed by the Commission

(c) the costs for building and maintaining such strategic reserves.

Amendment

4. Where ***appropriate and necessary*** the Commission ***after consulting with the Advisory Group may establish*** a list of ***recommended*** individual targets ***for*** Member States. When setting the individual targets for each Member State, the Commission ***and the Advisory Group*** shall take into account:

Amendment

(b) the level of existing stocks of the economic operators and strategic reserves across the Union;

Amendment

(ba) actions taken to increase stocks by the Member States and across the Union;

Amendment

(c) The ***financial*** costs ***for Member States*** for building and maintaining such

strategic reserves;

Amendment 59
Proposal for a regulation
Article 12 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(ca) The financial costs and negative impact on economic operators;

Amendment 60
Proposal for a regulation
Article 12 – paragraph 4 – point c b (new)

Text proposed by the Commission

Amendment

(cb) the impact on Union competitiveness, inward investment to the Single Market, and economic operators in that Member State.

Amendment 61
Proposal for a regulation
Article 12 – paragraph 5

Text proposed by the Commission

Amendment

5. The Member States shall regularly inform the Commission about the current state of their strategic reserves. Where a Member State has reached the individual targets referred to in paragraph 4, it shall inform the Commission if it has at its disposal any stocks of the goods in question in excess of their target. ***The Member States whose reserves have not reached the individual targets shall explain to the Commission the reasons for this situation. The Commission shall facilitate cooperation between the Member States which have already reached their targets and the other Member States.***

5. The Member States shall regularly, ***and where necessary at an agreed interval,*** inform the Commission ***and the Advisory Group*** about the current state of their strategic reserves. Where a Member State has reached the individual targets referred to in paragraph 4, it shall inform the Commission ***and the Advisory Group*** if it has at its disposal any stocks of the goods in question in excess of their target ***or if their proposed targets have not been met. Where necessary and proportionate,*** the Commission ***and Advisory Group*** shall ***provide recommendations on how to address any remaining shortfalls.***

Amendment 62
Proposal for a regulation
Article 12 – paragraph 6

Text proposed by the Commission

Amendment

Where the strategic reserves of a Member State continuously fall significantly short of the individual targets referred to in paragraph 4 and economic operators on its territory are not able to compensate that shortfall, the Commission may, at its own initiative or at the request of 14 Member States, assess the need to take further measures to build up strategic reserves of goods of strategic importance identified pursuant to paragraph 1.

deleted

Following such an assessment, where the Commission establishes, supported by objective data, that

(a) the needs for the good in question remain unchanged or have increased compared to the situation at the time the target referred to in paragraph 4 was first set or last amended pursuant to paragraph 4,

(b) access to the concerned good is indispensable to ensure preparedness for a Single Market emergency

(c) the Member State concerned has not provided sufficient evidence to explain the failure to meet the individual target, and

(d) exceptional circumstances exist, in that the failure by that Member State, considering its importance to the supply chain concerned, to build up such strategic reserves gravely imperils the Union's preparedness in the face of an impending threat of a Single Market emergency,

the Commission may adopt an implementing act, requiring the Member State in question to build up its strategic reserves of the goods concerned by a set deadline.

Amendment 63
Proposal for a regulation
Article 12 – paragraph 7 – subparagraph 1

Text proposed by the Commission

When acting under this Article, the Commission shall seek to ensure that **the** building up of strategic reserves does not create **a** disproportionate strain on the supply chains of the goods identified in accordance to paragraph 1, **or on** the fiscal capacity of the Member State concerned.

Amendment

When acting under this Article, the Commission **and the Advisory Group** shall seek to ensure that **recommendations for** building up of strategic reserves does not create **unjustified and** disproportionate strain on the supply chains of the goods identified, in accordance to paragraph 1; **and the competitiveness and capacity of the Single Market, Union industrial sectors, labour market, and** the fiscal capacity of the Member State concerned.

Amendment 64
Proposal for a regulation
Article 12 – paragraph 7 – subparagraph 2

Text proposed by the Commission

The Commission shall take fully into account any national security concerns raised by Member States.

Amendment

The Commission shall take fully into account any **public health, safety and** national security concerns, **and any other relevant factors** raised by Member States.

Amendment 65
Proposal for a regulation
Article 12 – paragraph 8

Text proposed by the Commission

8. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 42(2).

Amendment

deleted

Amendment 66
Proposal for a regulation
Article 12 a (new)

Text proposed by the Commission

Amendment

Article 12a

Long-term Strategic Reserves of Critical Importance

- 1. In order to minimise disruption to the Single Market and to the Union's industrial production capabilities and competitiveness, the outcome of the review provided for in Article 9(2c) shall include recommendations as regards the necessity, proportionality and usefulness of Member States and the Commission establishing a long-term plan for maintaining permanent, phased, and voluntary strategic reserves of goods of strategic importance, in order to help prevent future shortages and the activation of the vigilance or emergency mode.*
- 2. Due consideration shall be given to the costs and practicalities of building and maintaining such long-term or phased strategic reserves. Consideration shall also be given to the possible need for better cooperation, coordination and information exchange between Member States, economic operators, and where relevant third countries, in order to increase the resilience of the Single Market, improve the reliability of global supply chains in times of crisis or the run-up to a crisis, and to ensure that market intervention is a method of a last resort. The Commission may, where requested by Member States, coordinate this process.*
- 3. Member States shall seek to strengthen the Union's supply-chain resilience and reduce third country dependencies for goods and services of strategic importance, including by developing manufacturing capacities in the Union where appropriate.*
- 4. Capacities which are part of the rescEU reserve in accordance with Article 12 of Decision No 1313/2013/EU shall be excluded from the application of this Article.*

Amendment 67
Proposal for a regulation
Article 14 – paragraph 2

Text proposed by the Commission

2. Where the Commission, taking into consideration the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode.

Amendment

2. Where the Commission, taking into consideration the opinion provided by the advisory group, considers there is a Single Market emergency, it shall propose to the Council to activate the Single Market emergency mode. ***The Commission shall inform the European Parliament of such a proposal without delay.***

Amendment 68
Proposal for a regulation
Article 27 – paragraph 1

Text proposed by the Commission

1. The Commission may invite one or more economic operators in crisis-relevant supply chains established in the Union to accept and prioritise certain orders for the production or supply of crisis-relevant goods ('priority rated order').

Amendment

1. ***Where necessary and proportionate and as a measure of last resort, the Commission, after consultation with the Advisory Group, may invite one or more economic operators in crisis-relevant supply chains established in the Union to accept and prioritise certain orders for the production or supply of crisis-relevant goods ('priority rated order'). The request to fulfil a priority order shall be based on objective and up-to-date data and information, and shall be accompanied by a detailed justification.***

Amendment 69
Proposal for a regulation
Article 27 – paragraph 2

Text proposed by the Commission

2. If an economic operator does not accept and prioritise priority rated orders, the Commission ***may, at its own initiative or at the request of 14 Member States,***

Amendment

2. If an economic operator does not accept and prioritise priority rated orders, the Commission, ***in consultation with the Advisory Group,*** shall give the economic

assess the necessity and proportionality of resorting to priority rated orders in such cases, the Commission shall give the economic operator concerned as well as any parties demonstrably affected by the potential priority rated order, the opportunity to state their position within a reasonable time limit set by the Commission in light of the circumstances of the case. In exceptional circumstances, following such an assessment, the Commission may address an implementing act to the economic operator concerned, requiring it to either accept and prioritise the priority rated orders specified in the implementing act or explain why it is not possible or appropriate for that operator to do so. The Commission's decision shall be based on objective data showing that such prioritisation is indispensable to ensure the maintenance of vital societal economic activities in the Single Market

operator concerned, as well as any parties demonstrably affected by the potential priority rated order, the right to be heard and to provide explanation as to why the request will not be carried out.

Amendment 70
Proposal for a regulation
Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The economic operator referred to in paragraph 2 shall provide to the Commission within 10 days from the notification of the request, a reasoned explanation setting out duly justified reasons why it is not possible or appropriate, in light of the objectives of this provision, for it to comply with the request.

Such reasons shall include the inability of the operator to perform the priority rated order on account of insufficient production capacity, technical grounds, a serious risk that accepting the order would entail particular hardship or economic burden for the operator including risk in business continuity, or

other considerations of comparable gravity.

Amendment 71
Proposal for a regulation
Article 27 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. If the Commission, after its consultation with the Advisory Group and the examination of the economic operator's reasoned explanation, believes that the grounds for refusing the priority order are insufficient, then in serious and duly justified cases where an alternative solution cannot be found, the economic operator may be subject to the fines referred to in Article 28. Any further action shall be determined by national law.

Amendment 72
Proposal for a regulation
Article 27 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the economic operator to which the decision referred to in paragraph 2 is addressed declines to accept the requirement to accept and prioritise the orders specified in the decision, it shall provide to the Commission, within 10 days from the notification of the decision, a reasoned explanation setting out duly justified reasons why it is not possible or appropriate, in light of the objectives of this provision, for it to comply with the requirement. Such reasons include the inability of the operator to perform the priority rated order on account of insufficient production capacity or a serious risk that accepting the order would entail particular hardship or economic burden for the operator, or

deleted

other considerations of comparable gravity.

The Commission may make such reasoned explanation or parts of it public, with due regard to business confidentiality.

Amendment 73
Proposal for a regulation
Article 27 – paragraph 5

Text proposed by the Commission

5. When an economic operator established in the Union is subject to a measure of a third country which entails a priority rated order, it shall inform the Commission thereof.

Amendment

5. When an economic operator established in the Union is subject to a measure of a third country, which entails a priority rated order, it shall inform the Commission thereof. ***The Member State concerned and the Commission shall engage in dialogue with the third country in order to seek an amicable and managed outcome in order to limit or prevent long-term damage to the economic operator.***

Amendment 74
Proposal for a regulation
Article 27 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The Commission may work with the Advisory Group and where relevant with third countries, to exchange best practices with regard to the future application of priority rated orders.

Amendment 75
Proposal for a regulation
Article 27 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. The Commission may work together with the Member States to help them introduce or improve other

incentives applied to the economic operators carrying out a priority rated order, in particular for SMEs.

Amendment 76
Proposal for a regulation
Article 27 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. *Entities and persons affected by the necessary breach of the contractual obligations for compliance with the required prioritization shall not be liable for any breach of contractual obligations derived from the original breach.*

Amendment 77
Proposal for a regulation
Article 27 – paragraph 8

Text proposed by the Commission

Amendment

8. *The implementing acts referred to in paragraph 2 shall be adopted in accordance with the examination procedure referred to in Article 42(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the Single Market, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3).*

deleted

Amendment 78
Proposal for a regulation
Article 27 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. *The Commission shall ensure that there is full coherence and operational continuity with other existing Union law that require priority rated orders and procurement orders during crises. Where*

appropriate, the Advisory Group shall consult the Management and Advisory Boards and Groups established under other existing Union law.

Amendment 79
Proposal for a regulation
Article 27 – paragraph 8 b (new)

Text proposed by the Commission

Amendment

8b. Priority Rated Orders as requested under this Regulation, are without prejudice to Article 5(3) of the Treaty on European Union (TEU) and Protocol (No 2) on the application of the principles of subsidiarity and proportionality.

Amendment 80
Proposal for a regulation
Article 28 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) where ***a representative organisation of economic operators*** or an economic operator, intentionally or through gross negligence, supplies incorrect, incomplete or misleading information in response to a request made pursuant to Article 24, or does not supply the information within the prescribed time limit;

(a) where an economic operator, intentionally or through gross negligence, supplies incorrect, incomplete or misleading ***information, or fails to provide any*** information in response to a request made pursuant to Article 24, or does not supply the information within the prescribed time limit;

Amendment 81
Proposal for a regulation
Article 28 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) where an economic operator, intentionally or through gross negligence, does not comply with the obligation to inform the Commission of a third country obligation pursuant to Article 27 ***or fails to explain why it has not accepted a priority***

(b) where an economic operator, intentionally or through gross negligence, does not comply with the obligation to inform the Commission of a third country obligation pursuant to Article 27.

rated order;

Amendment 82
Proposal for a regulation
Article 28 – paragraph 2

Text proposed by the Commission

2. Fines imposed in the cases referred to in paragraph 1 (a) and (b) shall not exceed 200 000 EUR.

Amendment

2. Fines imposed in the cases referred to in paragraph 1 (a) and (b) shall not exceed ***a maximum of 200 000 EUR. If the economic operator concerned is an SME, the penalty payments imposed shall not exceed a maximum of 50 000 EUR.***

Amendment 83
Proposal for a regulation
Article 28 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. If the economic operator concerned is an SME, the penalty payments imposed shall not exceed 0,5 % of total turnover in the preceding business year.

Amendment 84
Proposal for a regulation
Article 28 – paragraph 4

Text proposed by the Commission

4. In fixing the amount of the fine, regard shall be had to the size and economic resources of the economic operator concerned, ***to*** the nature, gravity and duration of the infringement, ***taking*** due account of the principles of proportionality and appropriateness.

Amendment

4. In fixing the amount of the fine, regard shall be had to:

(a) the size and economic resources of the economic operator concerned;

(b) the nature, gravity and duration of the infringement;

(c) any previous negative decisions taken in the context of this Regulation or another Union crisis measure;

(d) any positive actions taken in the context of this Regulation or another Union crisis measure;

(e) whether there was an intention not to comply with the requirements of this Regulation;

(f) the impact such a fine would have on the economic health of the economic operator and their business continuity.

When fixing the amount of the fine referred to in the first subparagraph, due account shall be taken of the principles of proportionality and appropriateness of the level of fine in question.

Amendment 85
Proposal for a regulation
Article 29 – paragraph 2

Text proposed by the Commission

2. The time shall begin to run on the day on which the ***Commission becomes aware of the*** infringement. However, in case of continuous or repeated infringements, time shall begin to run on the day on which the infringement ceases

Amendment

2. The time shall begin to run on the day on which the infringement ***was committed***. However, in case of continuous or repeated infringements, time shall begin to run on the day on which the infringement ceases.

Amendment 86
Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

1. The power of the Commission to enforce decisions taken pursuant to Article 28 shall be subject to a limitation period of ***five*** years.

Amendment

1. The power of the Commission to enforce decisions taken pursuant to Article 28 shall be subject to a limitation period of ***three*** years.

Amendment 87
Proposal for a regulation

Article 31 – paragraph 1 – introductory part

Text proposed by the Commission

1. Before adopting a decision pursuant to Article 28, the Commission shall give the economic operator or representative organisations ***of economic operators*** concerned the opportunity of being heard on:

Amendment

1. Before adopting a decision, pursuant to Article 28, the Commission shall give the economic operator or representative organisations concerned the opportunity of being heard on:

Amendment 88

Proposal for a regulation

Article 31 – paragraph 4

Text proposed by the Commission

4. The rights of defence of the economic operator or representative organisations ***of economic operators*** concerned shall be fully respected in any proceedings. The economic operator or representative organisations ***of economic operators*** concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of economic operators in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or the authorities of the Member States. ***In particular, the right of access shall not extend to correspondence between the Commission and the authorities of the Member States.*** Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement.

Amendment

4. The rights of defence of the economic operator or representative organisations concerned shall be fully respected in any proceedings. The economic operator or representative organisations concerned shall be entitled to have access to the Commission's file under the terms of a negotiated disclosure, subject to the legitimate interest of economic operators in the protection of their business secrets. The right of access to the file shall not extend to confidential information and internal documents of the Commission or the authorities of the Member States. Nothing in this paragraph shall prevent the Commission from disclosing and using information necessary to prove an infringement.

Amendment 89

Proposal for a regulation

Article 34 – paragraph 1

Text proposed by the Commission

Amendment

1. Two or more Member States *may request that the Commission launch a procurement* on behalf of *the* Member States *that wish to be represented by the Commission ('participating Member States')*, for the *purchasing* of goods and services of strategic importance listed in an implementing act adopted pursuant to Article 9(1) or crisis-relevant goods and services listed in an implementing act *adopted pursuant to Article 14(5)*.

Amendment 90

Proposal for a regulation

Article 34 – paragraph 1 a (new)

Text proposed by the Commission

1. *The Commission may, upon the request of* two or more Member States, *act as a central purchasing body* on behalf of *all* Member States *willing to participate ('participating Member States')* for the *public procurement* of goods and services of strategic importance listed in an implementing act adopted pursuant to Article 9(1) or crisis-relevant goods and services listed in an implementing act.

Amendment

1a. The request to the Commission to procure goods and services on the behalf of Member States, shall set out the reasons for the request, and shall demonstrate that the request is used exclusively to address supply chain disruptions and shortages of goods and services related to the specific emergency situation within the Single Market, and that all other options have been considered.

Amendment 91

Proposal for a regulation

Article 34 – paragraph 2

Text proposed by the Commission

2. The Commission shall assess the utility, necessity and proportionality of the request. *Where the Commission intends not to follow the request, it shall inform the Member States concerned and the advisory group referred to in Article 4 and give reasons for its refusal.*

Amendment

2. The Commission shall *consult with the Advisory Group to* assess the utility, necessity and proportionality of the request.

Amendment 92

Proposal for a regulation
Article 34 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In the event the Commission in consultation with the Advisory Group decides that the Commission should not follow the request, it shall inform the Member States concerned and give reasons for its refusal in the form of a written explanation outlining its decision.

Amendment 93
Proposal for a regulation
Article 34 – paragraph 3

Text proposed by the Commission

Amendment

3. **Where** the Commission **agrees to procure on behalf of the Member States, it** shall draw up a proposal for a framework agreement to be concluded with the participating Member States allowing the Commission to procure on their behalf. This agreement shall lay down the detailed conditions for the procurement on behalf of the participating Member States referred to in paragraph 1.

3. **When a positive decision is made,** the Commission shall draw up a proposal for a framework agreement to be concluded with the participating Member States allowing the Commission to procure on their behalf. This agreement shall lay down the detailed conditions, **practical arrangements, and the rules of decision making** for the procurement on behalf of the participating Member States referred to in paragraph 1, **including justification as regards the use of the procurement of goods and services by the Commission on behalf of the Member States concerned, including mechanisms and liabilities to be assumed. Upon agreement of carrying out the procurement, the Commission shall launch a call for other Member States who wish to participate in the procurement procedure.**

Amendment 94
Proposal for a regulation
Article 34 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Procurement under this Regulation shall be carried out by the Commission in accordance with the rules set out in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (the Financial Regulation) for its own procurement. The Commission may have the ability and responsibility, on behalf of all participating Member States, to enter into contracts with economic operators, including individual producers of crisis-relevant products, concerning the purchase of such products or concerning the financing of the production or the development of such products in exchange for a priority right to the result.

**Amendment 95
Proposal for a regulation
Article 34 – paragraph 3 b (new)**

Text proposed by the Commission

Amendment

3b. The Commission shall carry out the procurement procedures and conclude the contracts with economic operators on behalf of the participating Member States. The Commission shall invite the participating Member States to appoint representatives to take part in the preparation of the procurement procedures.

The deployment of procurement pursuant to this Article is without prejudice to other instruments provided in the Financial Regulation.

**Amendment 96
Proposal for a regulation
Article 34 – paragraph 3 c (new)**

Text proposed by the Commission

Amendment

3c. If the Commission is unable to award the contract to a suitable economic

operator, the Commission shall immediately inform the Member States, and therefore, Member States shall have a right to initiate their own procurement processes without delay.

Amendment 97
Proposal for a regulation
Article 34 – paragraph 3 d (new)

Text proposed by the Commission

Amendment

3d. *When Member States become aware of a change in circumstance after the framework agreement is concluded between the Commission and the Member States, the Commission shall be duly notified in a timely manner. If such changes have a significant effect on the original agreement, the European Commission shall review the decision, and if necessary amend or terminate the agreement.*

Amendment 98
Proposal for a regulation
Article 34 – paragraph 3 e (new)

Text proposed by the Commission

Amendment

3e. *Where the Commission procures crisis relevant goods and services on behalf of participating Member States, this shall be without prejudice to the procurement of non-participating Member States.*

Amendment 99
Proposal for a regulation
Article 35 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *The European Commission shall provide written explanation to the Advisory Group, the European*

Parliament, and the Council, detailing the reasons for the economic operator chosen to fulfil the procurement contract.

Amendment 100
Proposal for a regulation
Article 36 – paragraph 2

Text proposed by the Commission

2. The contracts **may** include a clause stating that a Member State which has not participated in the procurement procedure may become a party to the contract after it has been signed, laying out in detail the procedure for doing so and its effects.

Amendment

2. The contracts **shall** include a clause stating that a Member State which has not participated in the procurement procedure may become a party to the contract after it has been signed, laying out in detail the procedure for doing so and its effects.

Amendment 101
Proposal for a regulation
Article 38 – paragraph 1

Text proposed by the Commission

When the Single Market emergency mode has been activated pursuant to Article 14, Member States **shall consult each other and** the Commission and **coordinate their actions with the Commission and the representatives of the other Member States in** the advisory group prior to launching procurement of crisis-relevant goods and services listed in an implementing act adopted pursuant to Article 14(5) in accordance with Directive 2014/24/EU of the European Parliament and of the Council⁵⁵.

Amendment

When the Single Market emergency mode has been activated pursuant to Article 14, Member States, the Commission, and the advisory group **shall coordinate and consult** prior to launching procurement of crisis-relevant goods and services listed in an implementing act adopted pursuant to Article 14(5) in accordance with Directive 2014/24/EU of the European Parliament and of the Council⁵⁵.

⁵⁵ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65)..

⁵⁵ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65)..

Amendment 102

Proposal for a regulation
Article 39 – title

Text proposed by the Commission

Ban of individual procurement action by participating Member States

Amendment

Individual procurement action by participating Member States

Amendment 103
Proposal for a regulation
Article 39 – paragraph 1

Text proposed by the Commission

Where the Single Market emergency mode has been activated pursuant to Article 16 and procurement by the Commission on behalf of Member States has been launched in accordance with Articles 34 to 36, the contracting authorities of the participating Member States shall not procure goods or services covered by such procurement by other means.

Amendment

Where the Single Market emergency mode has been activated pursuant to Article 16 and procurement by the Commission on behalf of Member States has been launched in accordance with Articles 34 to 36, the contracting authorities of the participating Member States shall not procure goods or services covered by such procurement by other means ***without informing the Commission and the Advisory Group.***

Amendment 104
Proposal for a regulation
Article 41 – paragraph 1

Text proposed by the Commission

The Commission and the Member States may set up interoperable digital tools or IT infrastructures supporting the objectives of this Regulation. Such tools or infrastructures ***may*** be developed outside the duration of the Single Market Emergency.

Amendment

The Commission and the Member States may set up interoperable digital tools or IT infrastructures supporting the objectives of this Regulation. Such tools or infrastructures ***shall*** be developed outside the duration of the Single Market Emergency, ***in order to be prepared to respond to possible future emergencies in a timely and efficient manner.***

Amendment 105
Proposal for a regulation
Article 41 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall seek to make any digital tools compatible with existing structures already established by Member States, ensuring the highest levels of interoperability in the Union's digital tools in order to avoid duplication of system requirements and any additional administrative burden, so that all citizens, businesses and administrations, in all Member States, can benefit from these digital tools.

Amendment 106
Proposal for a regulation
Article 41 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

These digital tools shall be user friendly, accessible through various electronic devices, and developed and optimised for different web browsers.

Amendment 107
Proposal for a regulation
Article 41 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

The Commission shall ensure that the highest levels of cybersecurity and data protection are employed in the development and operation of any digital tools.

Amendment 108
Proposal for a regulation
Article 41 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

Special consideration shall be given to SMEs and citizens in order to prioritise the accessibility and usability of any

digital tools and digital systems developed.

Amendment 109
Proposal for a regulation
Article 41 – paragraph 1 e (new)

Text proposed by the Commission

Amendment

The Commission shall ensure through budgetary means that digital tools are adequately funded and resourced.

Amendment 110
Proposal for a regulation
Article 41 – paragraph 2

Text proposed by the Commission

Amendment

The Commission shall, by means of implementing acts, set out the technical aspects of such tools or infrastructures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

The Commission shall, by means of implementing acts, set out the technical aspects *applicable standards and interoperability requirements* of such tools or infrastructures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

Amendment 111
Proposal for a regulation
Article 44 – title

Text proposed by the Commission

Amendment

Report *and* review

Report, review *and transparency*

Amendment 112
Proposal for a regulation
Article 44 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. When implementing this Regulation, all actors shall act with the greatest possible degree of transparency, taking into account the protection of trade

secrets, business confidentiality, and security related matters.

Amendment 113
Proposal for a regulation
Article 44 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission shall inform the European Parliament in a timely and correct manner, in particular when Members of the European Parliament ask written questions.

Amendment 114
Proposal for a regulation
Article 44 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. The Commission shall give due consideration to the opinions of the European Ombudsman, especially where they relate to transparency of decision-making. Where the Commission does not follow those opinions, it will duly justify this in a report and submit it to the Council and the Parliament.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Establishing a Single Market emergency instrument and repealing Council Regulation No (EC) 2679/98
References	COM(2022)0459 – C9-0315/2022 – 2022/0278(COD)
Committee responsible Date announced in plenary	IMCO 9.11.2022
Opinion by Date announced in plenary	ITRE 15.12.2022
Associated committees - date announced in plenary	20.4.2023
Rapporteur for the opinion Date appointed	Eva Maydell 15.12.2022
Discussed in committee	25.4.2023
Date adopted	12.6.2023
Result of final vote	+: 37 –: 6 0: 19
Members present for the final vote	François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Marc Botenga, Jerzy Buzek, Maria da Graça Carvalho, Ignazio Corrao, Beatrice Covassi, Ciarán Cuffe, Nicola Danti, Marie Dauchy, Christian Ehler, Valter Flego, Claudia Gamon, Jens Geier, Bart Groothuis, Christophe Grudler, Henrike Hahn, Ivo Hristov, Ivars Ijabs, Seán Kelly, Izabela-Helena Kloc, Zdzisław Krasnodębski, Miapetra Kumpula-Natri, Eva Maydell, Georg Mayer, Marina Mesure, Dan Nica, Angelika Niebler, Johan Nissinen, Mauri Pekkarinen, Mikuláš Peksa, Tsvetelina Penkova, Morten Petersen, Clara Ponsatí Obiols, Manuela Ripa, Sara Skyttedal, Maria Spyrali, Beata Szydło, Grzegorz Tobiszowski, Evžen Tošenovský, Henna Virkkunen, Pernille Weiss
Substitutes present for the final vote	Alex Agius Saliba, Andrus Ansip, Marek Paweł Balt, Damien Carême, Matthias Ecke, Martin Hojsík, Andrius Kubilius, Elena Lizzi, Dace Melbārde, Marcos Ros Sempere, Jordi Solé, Marion Walsmann
Substitutes under Rule 209(7) present for the final vote	Asim Ademov, Rosanna Conte, Estrella Durá Ferrandis, Andrey Kovatchev, Andrey Novakov, Jan-Christoph Oetjen, Tom Vandenkendelaere

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

37	+
ECR	Izabela-Helena Kloc, Zdzisław Krasnodębski, Johan Nissinen, Beata Szydło, Grzegorz Tobiszowski, Evžen Tošenovský
PPE	Asim Ademov, François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Jerzy Buzek, Maria da Graça Carvalho, Christian Ehler, Seán Kelly, Andrey Kovatchev, Andrius Kubilius, Eva Maydell, Dace Melbārde, Angelika Niebler, Andrey Novakov, Sara Skytvedal, Maria Spyrali, Tom Vandenkendelaere, Henna Virkkunen, Marion Walsmann, Pernille Weiss
Renew	Andrus Ansip, Nicola Danti, Valter Flego, Claudia Gamon, Bart Groothuis, Christophe Grudler, Martin Hojsík, Ivars Ijabs, Jan-Christoph Oetjen, Mauri Pekkarinen, Morten Petersen

6	-
ID	Rosanna Conte, Marie Dauchy, Elena Lizzi, Georg Mayer
The Left	Marc Botenga, Marina Mesure

19	0
NI	Clara Ponsatí Obiols
S&D	Alex Agius Saliba, Marek Paweł Balt, Beatrice Covassi, Estrella Durá Ferrandis, Matthias Ecke, Jens Geier, Ivo Hristov, Miapetra Kumpula-Natri, Dan Nica, Tsvetelina Penkova, Marcos Ros Sempere
Verts/ALE	Damien Carême, Ignazio Corrao, Ciarán Cuffe, Henrike Hahn, Mikuláš Peksa, Manuela Ripa, Jordi Solé

Key to symbols:

+ : in favour

- : against

0 : abstention