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COMMISSION STAFF WORKING DOCUMENT

EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT REPORT

Accompanying the document

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

for a Single Market Emergency Instrument

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

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Executive Summary Sheet

Impact Assessment for the Single Market Emergency Instrument

What is the problem and why is it a problem at EU level?

Recent crises, such as the COVID-19 pandemic or Russia's invasion of Ukraine, have demonstrated how fragile the Single Market can be in case of unforeseen disruptions and, at the same time, how much the European economy and all its stakeholders rely on a well-functioning Single Market. The impact of a crisis on the Single Market can be two-fold. On the one hand, a crisis can lead to the appearance of obstacles to free movement within the Single Market, thus disrupting its normal functioning. On the other hand, a crisis can amplify the shortages of crisis-relevant goods and services if the Single Market is fragmented and is not functioning. As a result, supply chains can swiftly become interrupted, companies face difficulties in sourcing, supplying or selling goods and services. Consumer access to key products and services becomes disrupted. Lack of information and legal clarity further exacerbate the impact of these disruptions. In addition to direct societal risks caused by the crisis, citizens, and in particular vulnerable groups, are confronted with strong negative economic impacts.

The Impact Assessment will look at two separate but interrelated problems:

1. Obstacles to free movement of goods, services and persons in times of crisis
2. Shortages of crisis-relevant goods and services

What should be achieved?

The scope of this initiative is not to provide solutions to overcome a future crisis as a whole, but rather to enable a swift and flexible response to Single Market impacts of a crisis, notably in relation to free movement obstacles and shortages of crisis-relevant goods and services. The general objective of SMEI is to enhance the Single Market's vigilance for and response to crises as well as its smooth functioning in times of crisis. To this end, SMEI will equip the EU with a well-calibrated crisis toolbox that permits a rapid and effective response to any future crisis that threatens to hamper the functioning of the Single Market. It will complement other existing EU mechanisms, including through better coordination, transparency and speed. This initiative pursues two specific objectives:

1. Minimise obstacles to free movement of goods, services and persons in times of crisis: The aim is to provide a toolbox of solutions consisting of vigilance, coordination and transparency measures assuring more aligned and targeted Member States responses and providing needed transparency when it comes to obstacles to free movement.

2. Address shortages and safeguard availability of crisis-relevant goods and services: The aim is to facilitate quick and practical solutions to issues of supply in times of crisis and to provide adequate vigilance, coordination and transparency mechanisms for a targeted policy response by enabling information exchange and close cooperation with industry/stakeholders for identifying crisis-relevant supply chain bottlenecks and capacity needs, and taking further action where necessary.

What is the value added of action at the EU level (subsidiarity)?

The economic activities across the Single Market are deeply integrated. The objective of ensuring the smooth and undisrupted functioning of the Single Market cannot be achieved by means of unilateral national measures. The EU added value of this instrument would be the joint ability of Commission and Member States to have a quick and structured way of communication, coordination and information exchange when the Single Market is put under strain, and to be able to take necessary measures in a transparent way – reinforcing or speeding up existing mechanisms as well as adding new exceptional and targeted emergency tools.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

The options establish a governance body and a framework for contingency planning, vigilance and emergency modes. Both Single Market vigilance mode and Single Market emergency mode would be activated according to specific criteria and triggering mechanisms. Certain measures in the toolbox would need additional activation.

On the basis of analysis of problem drivers and gaps in the relevant sector-specific legislation, eight building blocks of measures were defined by grouping measures into blocks applying at different times (at all times, in vigilance mode and in emergency mode). For each building block, three policy approaches were analysed ranging from non-legislative measures to a hybrid approach to a more comprehensive legislative framework. On the basis of this analysis, some or all approaches were retained for each building block and were combined into

three realistic policy options reflecting different levels of political ambition and stakeholder support.

Mode	Building blocks	Policy Option 1 TRANSPARENCY	Policy Option 2 COOPERATION	Policy Option 3 SOLIDARITY
All times	1. governance, coordination and cooperation	*Approach 2* Formal Advisory Group as the technical-level forum and obligation of the MS to share information within the group in anticipation and during the crisis		
All times	2. crisis contingency planning	*Approach 2* Recommendation to the MS for risk assessment, training and drills & compendium of crisis response measures	*Approach 3* - Recommendation to MS for risk assessment & compendium of crisis response measures and - Obligation to the Commission for Union level risk assessment - Obligation to MS to train their relevant crisis management staff regularly	
Vigilance	3. Single Market vigilance	*Approach 2* - Recommendation to the Member States on information gathering concerning identified strategic supply chains - Recommendations to the Member States for building up strategic reserves of goods of strategic importance		*Approach 3* - Obligation to MS to gather information concerning identified strategic supply chains - Obligation of the Commission to draw up and regularly update list with targets for strategic reserves - Obligations to MS[1] to build up strategic reserves for selected goods of strategic importance if the MS strategic reserves fall significantly short of the targets
Emergency	4. key principles and supportive measures for facilitating free movement during emergency	*Approach 2* Reinforcing key principles of free movement of crisis-relevant goods and services in binding rules where appropriate for effective crisis management		
Emergency	5. transparency and administrative assistance during emergency	*Approach 3* Binding full-fledged fast-track notification mechanism, flash peer review and possibility to declare the notified measures incompatible with EU law; contact points and electronic platform		
Emergency	6. speeding up the placing of crisis-relevant products on the market during emergency	*Approach 2* Targeted amendments of existing Single Market harmonisation legislation: faster placing of crisis-relevant products on the market; Commission can adopt technical specifications; MS prioritise market surveillance for crisis-relevant products		
Emergency	7. public procurement during emergency	*Approach 2* New provision on joint procurement/common purchasing by the Commission for some or all Member States		

[1] Subject to additional trigger

Emergency	8. measures impacting crisis-relevant supply chains during emergency mode	*Approach 1* Guidance on ramping up production capacity; speeding up permitting procedures; accepting and prioritising orders of crisis relevant goods Recommendations to businesses to share crisis-relevant information	*Approach 2* Recommendations to MS for the distribution of stockpiled products; speeding up permitting procedures; encouraging economic operators to accept and prioritise orders Empowering MS[2] to oblige economic operators to ramp up production capacity and to address binding information requests to economic operators	*Approach 3* Obligations to MS[3] to distribute products previously stockpiled; speeding up permitting procedures, Obligations to businesses to accept and prioritise orders; ramp up production capacity and provide crisis-relevant information

The Impact Assessment does not present a preferred option.

What are different stakeholders' views? Who supports which option?

Stakeholders largely agree with the need to ensure free movement as well as greater transparency and coordination in times of crisis. Most experiences described by stakeholders came from the COVID-19 crisis. When it comes to ensuring availability of crisis-relevant goods, Member States have expressed support for measures such as coordination of public procurement, fast-track conformity assessment and improved market surveillance. A number of Member States have voiced concern about including measures to ensure general crisis preparedness and to address difficulties in supply chains. Some business stakeholders have expressed support for a clear definition of an emergency, greater coordination and transparency, measures to ensure free movement of workers, fast-track notifications of national measures, fast track procedures for development and publishing of harmonised standards, EU and national single points of information, emergency drills for experts. However, some voiced concerns about mandatory measures targeting economic operators.

C. Impacts of the options

What are the benefits of the options (if any, otherwise of main ones)?

Option 1 is expected to bring economic benefits for companies, in particular during an emergency, due to better EU-level crisis response leading to less obstacles to free movement and better availability of crisis-relevant products. Measures easing free movement will have a significant positive impact on workers because they will lead to securing employment by ensuring higher cross-border trade and fewer disruptions in economic activity during crises. Cross-border workers and outermost regions will particularly benefit of this option. Measures to ensure better availability of crisis-relevant products will result in direct social benefits, as they will improve crisis-specific response of the EU, thereby contributing to better quality of life of citizens in times of crisis. However due to the voluntary nature of the measures in blocks 2, 3 and 8 under this Option, the ability to ensure the availability of such crisis-relevant products would be severely limited.

Option 2 will bring further benefits compared with Option 1, thanks to a better EU-level crisis response. Particularly, the binding measures in block 8 would provide additional social benefits. Member States' capability to require economic operators crisis-relevant information and to ramp up production of crisis-relevant products could address the demand for such products during the crisis at stake and thus result in a substantively better overall EU crisis response, leading to a direct social impact in terms of improving living conditions and quality of life.

Option 3 is expected to bring even larger economic benefits for companies, in particular during an emergency, as compared to Option 2. Such benefits could be harvested thanks to making available stronger measures that allow to further improve EU-level crisis response thus leading to significantly better availability of crisis-relevant products and less obstacles to free movement. Furthermore, having a harmonised EU wide tool avoids the situation where Member States may introduce individual

[2] Subject to additional trigger

[3] Subject to additional trigger

national measures fragmenting the Single Market. It is also expected to provide higher social benefits. The measures impacting crisis-relevant supply chains during emergency (block 8) would all serve as exceptional measures that could however be decisive in ensuring the availability of crisis-relevant products in case of a dire need in a crisis. This in turn allows a much better overall EU crisis response, leading to an even stronger direct social impact in terms of improving living conditions and quality of life and, depending on the crisis, saving lives of citizens.

What are the costs of the options (if any, otherwise of main ones)?

Option 1 does not entail costs for companies, as all measures that could have a negative impact in terms of costs are voluntary. There are some direct costs for the Commission and the Member States such as administrative costs linked to organisation and participation in the Advisory Group meetings as well as compliance costs linked to measures in blocks 4 and 5 during an emergency such as compliance with key principles and notifications.

Option 2 could entail some costs for companies linked to measures applicable during an emergency mode as compared to Option 1. Such costs are compliance costs for information requests and opportunity costs linked to the obligation to ramp up or repurpose production. Also, additionally to the costs of Option 1, there would be costs for Member States for trainings and drills, as well as costs linked to the measures in block 8 such as information requests and ramping up production. Additional costs will be also for the Commission in particular linked to the measures under block 2 such as risk assessment and trainings and drills.

Option 3 For companies, in addition to costs under Option 2, there could be opportunity costs linked to measures in emergency mode such as priority rated orders. For Member States, compared to Option 2, there could be additional costs linked to measures in vigilance mode such as constitution of strategic reserves (block 3) and measures in emergency mode such as distribution of strategic reserves and speeding up permitting (block 8). Overall, the absence of harmonised rules and cooperation would lead to a fragmentation of the Single Market, causing costs for companies.

What are the impacts on SMEs and competitiveness?

The initiative is considered relevant for **SMEs**. As all companies, SMEs will benefit from the overall better EU-level crisis response due to less obstacles to free movement and better availability of crisis-relevant products. Overall, no costs for SMEs are expected under Option 1. SMEs could be particularly negatively affected by the mandatory information requests under Options 2 and 3. SMEs could particularly benefit from the obligation to ramp up production with appropriate financial support under Options 2 and 3. SMEs could further benefit from measures to speed up permitting and from priority-rated orders under Option 3.

Under Option 1, there would be better transparency and legal certainty as well as lower costs for EU companies due to easing of free movement and measures to ensure transparency, thus improving **competitiveness**. Additional impact under Option 2 compared to Option 1 is expected to be small as the direct measures will concern only a very limited number of companies. Under Option 3 there could be a significant positive effect on competitiveness compared to Option 2 as it would have a significant effect on the companies concerned and would ensure a better overall crisis response.

Will there be significant impacts on national budgets and administrations?

Member States will incur recurrent costs linked to the Advisory Group meetings and specific costs during vigilance and emergency modes linked to specific measures activated in those modes.

Will there be other significant impacts?

No other significant impacts have been identified.

Proportionality?

The proposed actions address the objectives of the initiative and do not go beyond what is necessary to ensure the resilience and functioning of the Single Market in times of crisis. Stakeholders and Member States have expressed doubts about whether in particular the measures impacting crisis-relevant supply chains during emergency under Option 3 comply with the principle of proportionality.

D. Follow up

The Commission will carry out an evaluation of the effectiveness, efficiency, coherence, relevance and EU added value of this legislative initiative and present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions five years after the date of application of the legislative acts. The Commission may propose based on the evaluation report how to improve the Single Market Emergency Instrument.