



Council of the
European Union

Brussels, 17 January 2022
(OR. en)

5381/22

COMPET 28
IND 9
MI 37

NOTE

From: Trio Presidency
To: Working Party on COMPETITIVENESS and GROWTH (High Level)
Subject: Discussion on the Single Market Emergency Instrument (SMEI)

Delegations will find in Annex a note from the Trio Presidency for the discussion on the Single Market Emergency Instrument (SMEI), in view of the meeting of the members of the Working Party on Competitiveness and Growth (High Level) on 3 February 2022.

**Note from the Trio Presidency – discussion on the Single Market Emergency Instrument
(SMEI)****3rd February 2022, Working Party on Competitiveness and Growth (High Level)**

The four freedoms are fundamental for competitiveness on the Single Market. They have helped strengthen the Union by boosting jobs and growth for 30 years. The effective flow of goods and services is based on common principles and instruments, but also on the trust between Member States and between Member States and the European Commission. However, as outlined in the updated EU Industrial Strategy of May 2021, the outbreak of the COVID-19 pandemic had a negative effect on the free movement of goods, services and persons on the Single Market. Businesses and citizens suffered from restrictions, border closures, supply disruptions, predictability and a lack of information on which rules applied due to national measures introduced for the protection of the public health. In addition, the global value chains that were disrupted caused implications for the supply of some essential goods, but global value chains in combination with EU production later contributed to satisfying the demand surges related to the pandemic (e.g. the supply of personal protective equipment). This shows that Europe has benefitted from being an open economy with access to goods and services from other parts of the world. It also underlines the importance of co-operation and communication between countries in times of crisis and the value of diversified supply chains.¹ Nevertheless, even after the peak of the pandemic, there are many notable trade flow disruptions.

¹ OECD report; Strengthening Economic Resilience Following the COVID-19 Crisis : A Firm and Industry Perspective | OECD iLibrary (oecd-ilibrary.org)

The free movement of persons is interlinked to the free movement of goods and services. In the beginning of the pandemic, barriers to the movement of persons affected the free movement of services (for example, services in the area of transport and logistics, or sending essential repair or installation personnel) which in turn had a negative impact on the movement of goods. Measures in terms of crisis management were applied differently among the EU Member States depending on the national context which hampered the ability of the Union to provide a collective EU response to the pandemic. In addition, national restrictive measures in the Single Market were often not notified to the Commission and other Member States which led to a lack of transparency for businesses and hampered the ability to identify barriers in the Single Market. This crisis demonstrated the need and importance of a well-functioning Single Market even in times of crisis, as well as the need for improving existing tools. The crisis also showed the importance of effective implementation of existing rules and prevention and removal of barriers.

To handle the effects of the pandemic on the free movement in the Single Market, several ad hoc actions were adopted by the Commission in close coordination with Member States. These actions include for example guidelines on border management to improve the free movement of goods and services, and practical advice on the free movement of essential workers. Furthermore, green lanes and Covid-passes were introduced, and barriers discussed within the Single Market Enforcement Taskforce (SMET).

Against this background, the Commission announced in the update of the Industrial Strategy of May 2021 a proposal for a Single Market Emergency Instrument (SMEI). As addressed in the strategy, the purpose of the new instrument is to allow for a rapid and effective response to any future crisis that threatens to hamper the functioning of the Single Market, including through better coordination, transparency and speed. The Industrial Strategy update announced that SMEI could *inter alia* contain the following elements:



As stated in the General Affairs Council conclusions of 23 November 2021, the EU must be ready to face different types of acute crises. Future crises could be multi-faceted, of a hybrid nature, have cascading effects or occur simultaneously. This requires an improved cross-sectoral and cross-border crisis management and “an all-hazards approach” for longer-term action. A creation of a one-time mechanism should be thus avoided.

The purpose of this discussion is to give a better overview of the Member States’ views on the purpose of the new instrument, its content and added value. In this context, and to prepare for future crises, the right lessons from the crisis need to be drawn and there is a need for sound analysis of the effects and impacts of the current ongoing crisis in the Single Market. The trio Presidency would like to invite delegations to respond to the following questions:

Questions

1. *In your view, taking into account previous and ongoing crises as described above, what should be the primary focus and purpose of the Single Market Emergency Instrument and for what reasons? Should the instrument be strictly limited to crisis situations and how can we actually define such crisis situations in the Single Market? How can duplication with other similar policy initiatives and current procedures be avoided?*
 2. *What would you particularly like to have addressed in the instrument for an open and resilient Single Market? Should the instrument also address how trade with businesses outside the EU and global cooperation can be facilitated/maintained in times of crisis?*
 3. *What should be the preventive (meaning prior-crisis) application of the SMEI and should this instrument even include elements of preparedness? What kind of cooperation and coordination structures between the Member States, the Commission and stakeholders would be most appropriate and efficient?*
-