Commission proposal	AT BE DE DK ES FI FR IE IT LT LU LV MT NL PL PT RO SI SK **Drafting Suggestions**	AT BE DE DK ES FI FR IE IT LT LU LV MT NL PL PT **Comments**
2022/0278 (COD)		**LU (Comments):** *Comments from Luxembourg are without prejudice to further oral and written comments and questions.*
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	**FR (Drafting):** **Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing ~~a Single~~ *an Internal* Market emergency instrument and repealing Council Regulation No (EC) 2679/98**	**SK (Comments):** General comments by Slovakia: Provided comments are preliminary, we are still analysing the proposal and preparing our position. We have doubts about the implementation of SMEI in practice, therefore we would welcome concrete examples of the SMEI implementation in practice from the Commission. **FR (Comments):** The French authorities propose to replace "Single Market" by "Internal Market", in accordance with the Treaty. **RO (Comments):** Romania maintains a general scrutiny reserve
(Text with EEA relevance)		
THE EUROPEAN PARLIAMENT AND THE		

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COUNCIL OF THE EUROPEAN UNION,		
Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114, 21 and 45 thereof,	**DE (Drafting):** Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114, 21 and ~~45~~**46** thereof,	**DE (Comments):** Article 45 TFEU arguably does not constitute a legal basis to legislate. Subject to further examination and discussion DE maintains that Article 46 TFEU could be cited instead. **BE (Comments):** BE questions the proposed legal basis and would like the Commission to explain its decision to choose those articles and waits for the Council Legal Service to give its opinion on it. **PT (Comments):** We are waiting for the CLS opinion on the legal basis.
Having regard to the proposal from the European Commission,		
After transmission of the draft legislative act to the national parliaments,		
Having regard to the opinion of the European		

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Economic and Social Committee[1],		
Having regard to the opinion of the Committee of the Regions[2],		
Acting in accordance with the ordinary legislative procedure,		
Whereas:		
(1) Past crises, especially the early days of the COVID-19 pandemic, have shown that the internal market (also referred to as the Single Market and its supply chains can be severely affected by such crises, and appropriate crisis management tools and coordination mechanisms are either lacking, do not cover all aspects of the Single market or do not allow for a timely response to such impacts.	**DE (Drafting):** (1) Past crises, especially the early days of the COVID-19 pandemic, have shown that the internal market (also referred to as the Single Market**)** and its supply chains can be severely affected by such crises, and appropriate crisis management tools and coordination mechanisms are either lacking, do not cover all aspects of the Single market or do not allow for a timely response to such impacts. **BE (Drafting):** (1) Past crises, especially the early days of	**DE (Comments):** Missing right parenthesis **BE (Comments):** The most obvious difficulties during the COVID crisis were cross-border and are not reflected in the text. **DK (Comments):** Typo **IT (Comments):** We propose to add a recall to the Ukraine Crisis

[1] OJ C , , p. .
[2] OJ C , , p. .

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	the COVID-19 pandemic, have shown that the internal market (also referred to as the Single Market) and its supply chains can be severely affected by such crises, particularly at cross-border level, and appropriate crisis management tools and coordination mechanisms are either lacking, do not cover all aspects of the Single market or do not allow for a timely response to such impacts. **DK (Drafting):** (1) Past crises, especially the early days of the COVID-19 pandemic, have shown that the internal market (also referred to as the Single Market**)** and its supply chains can be severely affected by such crises, and appropriate crisis management tools and coordination mechanisms are either lacking, do not cover all aspects of the Single market or do not allow for a timely response to such impacts. **IT (Drafting):** Past crises, especially the early days of the COVID-19 pandemic **and the still in progress Ukraine Crisis**, have shown that the internal market (also referred to as the Single Market and its supply chains can be severely affected by such crises, and appropriate crisis management tools and coordination mechanisms are either lacking, do not cover all aspects of the Single market or do not allow for a timely response to	as it is mentioned in several preparatory document and has similar impact on the Single Market (Cfr. Para 2 of TCF Ukraine (2022/C 426/1): *"The Russian military aggression against Ukraine, the sanctions imposed and the counter measures taken, for example by Russia, will have economic repercussions on the entire internal market. Undertakings in the EU may be affected in multiple ways, both directly and indirectly. This may take the form of shrinking demand, interruption of existing contracts and projects, with the consequent loss of turn-over, disruptions in supply chains, in particular of raw materials and pre-products, or other inputs no longer being available or not being economically affordable"*. **MT (Comments):** Overall, Malta is in favour of having an instrument that would ensure the seamless functioning of the Single Market during crisis times and to make it more resilient in such situations that it might face in the future. In addition, Malta supports the overall aim of the Instrument to ensure that the necessary steps are taken in guaranteeing that the free movement of people, goods and services remains intact. This was an ongoing challenge during the

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	such impacts	Covid-19 crisis and therefore, an instrument such as SMEI is required to ensure that a functional, effective, and timely system is in place. Such crisis mitigation measures at EU-level should be necessary, proportional, and non-discriminatory and fully respect of the delineation of competences between the EU and Member States. Whilst being generally supportive of the SMEI initiative, Malta wishes to point out that there are added burdens to businesses within the framework of SMEI.
(2) The Union was not sufficiently prepared to ensure efficient manufacturing, procurement and distribution of crisis-relevant non-medical goods such as personal protective equipment, especially in the early phase of the COVID-19 pandemic and the ad-hoc measures taken by the Commission in order to re-establish the functioning of the Single Market and to ensure the availability of crisis-relevant non-medical goods during the COVID-19 pandemic were necessarily reactive The pandemic also revealed insufficient overview of manufacturing capacities across the Union as well as vulnerabilities related to the global supply chains.	**DE (Drafting):** (2) The Union was not sufficiently prepared to ensure efficient manufacturing, procurement and distribution of crisis-relevant ~~non-~~medical goods such as personal protective equipment~~,~~ ~~especially~~ in the early phase of the COVID-19 pandemic and the ad-hoc measures taken by the Commission in order to re-establish the functioning of the Single Market and to ensure the availability of crisis-relevant **medical and** non-medical goods during the COVID-19 pandemic were necessarily reactive**.** The pandemic also revealed insufficient overview of manufacturing capacities across the Union as well as vulnerabilities related to the global	**DE (Comments):** Personal protective equipment (PPE) is part of "other medical countermeasures" as defined in SCBHT-regulation (Art. 2 point 10). Deletion of the word "non" is therefore necessary. Accordingly, we propose to add the words "medical and" later in the sentence. The recital only talks about experiences made during the Covid 19-pandemic, but suggests that it might also refer to other crises. The suggested editorial change (deletion of "especially") could change that impression.

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	supply chains.	

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(3) Actions by the Commission were delayed by several weeks due to the lack of any Union wide contingency planning measures and ofclarity as to which part of the national administration to contact to find rapid solutions to the impact on the Single Market being cause by the crisis. In addition it became clear that uncoordinated restrictive actions taken by the Member States would further aggravate the impacts of the crisis on the Single market. It emerged that there is a need for arrangements between the Member States and Union authorities as regards contingency planning, technical level coordination and cooperation and information exchange.		**NL (Comments):** No comments from NL. **ES (Comments):** ES considers that the recitals do not contain sufficient information on the Advisory Group, its composition and functions. The current text could be further elaborated to allow for a better interpretation of Article 4.
(4) Representative organisations of economic operators have suggested that economic operators did not have sufficient information on the crisis response measures of the Member States during the pandemics, partly due to not knowing where to obtain such information, partly due to language constraints and the administrative burden implied in making repeated inquiries in all the Member States, especially in a constantly changing regulatory environment. This prevented them from making informed business decisions as to what extent they may rely on their free movement rights or		**DE (Comments):** We welcome the idea of providing economic operators with all relevant information, however, we want to remind that a constantly changing regulatory environment is, at least partly, unavoidable in the early days and weeks of a crisis. Providing information on regulations is necessary and can be helpful,but it's possible that the regulatory development surpasses the information available on regulation. We therefore agree with the wording of the last sentence "It is necessary to improve the

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continue cross-border business operations during the crisis. It is necessary to improve the availability of information on national and Union level crisis response measures		availability of information on national and Union level crisis response measures". **NL (Comments):** No comments from NL. **MT (Comments):** While providing information to economic operators is important, it does not mean that the operators would have the expertise and financial burden to handle it. Also, human resources necessary to address the crises could be limited.
(5) These recent events have also highlighted the need for the Union to be better prepared for possible future crises, especially as we consider the continuing effects of climate change and resulting natural disasters as well as global economic and geopolitical instabilities. Given the fact that it is not known which kind of crises could come up next and produce severe impacts on the Single Market and its supply chains in the future, it is necessary to provide for an instrument that would apply with regards to impacts on the Single Market of a wide range of crises.	**SI (Drafting):** These recent events have also highlighted the need for the Union to be better prepared **and coordinated** for possible future crises, especially as we consider the continuing effects of climate change and resulting natural disasters as well as global economic and geopolitical instabilities. Given the fact that it is not known which kind of crises could come up next and produce severe impacts on the Single Market and its supply chains in the future, it is necessary to provide for an instrument that would apply with regards to impacts on the Single Market of a wide range of crises.	**SI (Comments):** Coordination (related to preparation and implementation of measures) at the EU level is crucial in events such as crisis and should also be highlighted.

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	FI (Drafting): **<u>5a (New recital) Different authorities for coordination and information axchange already exist in Member States, and they should not be obliged to set up new national body for Central liaison officers.</u>**	**FI (Comments):** *Although, it is not limited in the proposal, which authority should carry out these duties of national Central liaison offices, it should be clarified in recital that Member States could appoint an existing authority to be responsible for the duties of the national Central liaison office.* **SI (Comments):** With regard to the following text *''...a crisis can amplify shortages of crisis-relevant goods and services on the Single Market. The Regulation should address both types of impacts on the Single Market.''* Shortages of crisis-relevant goods and services on the Single Market are related rather to the current problematics of disruption of supply chains in the global context than to functioning of the Single Market. In order to tackle this problems, synergies of this Regulation with other relevant instruments should be established
(6) The impact of a crisis on the Single Market can be two-fold. On the one hand, a crisis can lead to obstacles to free movement within the Single Market, thus disrupting its normal functioning. On the other hand, a crisis can amplify shortages of crisis-relevant goods and services on the Single Market. The		**NL (Comments):** No comments from NL. **IT (Comments):** It is necessary to align the text with Article 3.

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Regulation should address both types of impacts on the Single Market.		

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(7) Since any specific aspects of future crises that would impact the Single Market and its supply chains are hard to predict, this Regulation should provide for a general framework for anticipating, preparing for, mitigating and minimising the negative impacts which any crisis may cause on the Single Market and its supply chains. .	**DK (Drafting):** (7) Since any specific aspects of future crises that would impact the Single Market and its supply chains are hard to predict, this Regulation should provide for a general framework for anticipating, preparing for, mitigating and minimising the negative impacts which any crisis may cause on the Single Market and its supply chains.	**DK (Comments):** Typo. **NL (Comments):** This recital does not mention who should anticipate, prepare, mitigate, etc. The NL would like to stress that the own responsibility of businesses for working on their resilience should not be ignored or undermined. There is a risk of a moral hazard (of busineses leaning back if public authorities take an active role in this regard.
(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.		**NL (Comments):** No comments from NL.
(9) To this end, this Regulation provides:		

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– the necessary means to ensure the continued functioning of the Single Market, the businesses that operate on the Single Market and its strategic supply chains, including the free circulation of goods, services and persons in times of crisis and the availability of crisis relevant goods and services to citizens, businesses and public authorities at the time of crisis;	**NL (Drafting):** the necessary means to ensure the continued functioning of the Single Market, the businesses that operate on the Single Market ~~and its strategic supply chains,~~ including the free circulation **(movement)** of goods, services and persons**, and its strategic supply chains** in times of crisis and the availability of crisis relevant goods and services to citizens, businesses and public authorities at the time of crisis; **RO (Drafting):** the necessary means to ensure the continued functioning of the Single Market, the businesses that operate on the Single Market and its strategic supply chains, including the free circulation of goods, services**, persons and workers** in times of crisis and the availability of crisis relevant goods and services to citizens, businesses and public authorities at the time of crisis;	**RO (Comments):** Free movement of workers was seriously impacted by the COVID-19 pandemic crisis. The free movement of workers is one of the founding principles of the EU, this freedom being provided for in Article 45 of the Treaty on the Functioning of the European Union and is a fundamental right of workers, which complements the free movement of goods, capital and services in the European single market.
– a forum for adequate coordination, cooperation and exchange of information; and		
– the means for the timely accessibility and availability of the information which is		

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needed for a targeted response and adequate market behaviour by businesses and citizens during a crisis.		
(10) Where possible, this Regulation should allow for anticipation of events and crises, building on on-going analysis concerning strategically important areas of the Single Market economy and the Union's continuous foresight work.	**DK (Drafting):** (10) Where possible, this Regulation should allow for anticipation of events and crises, building on on-going analysis concerning ~~strategically~~ **critically** important areas of the Single Market economy and the Union's continuous foresight work. **NL (Drafting):** Where possible, this Regulation should allow for anticipation of events and crises, building on on-going analysis concerning ~~strategically~~ **critically** important areas of the Single Market economy and the Union's continuous foresight work.	**AT (Comments):** On "strategically important areas of the Single Market economy" and "Union's continuous foresight work", see Article 3(4) of the proposal. **DK (Comments):** Ammended following proposed changes in Article 3. **NL (Comments):** In NL, the use of the word 'critical' is often used in national legislation.
		BE (Comments): BE recalls the importance of consistency between this new proposal and pre-existing or future instruments, especially sectorial emergency instruments, as well as ongoing initiatives. A specific provision should be inserted in the text, notably in the recitals, specifying the articulation between the SMEI and the other emergency instruments.

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(11) This Regulation should not duplicate the existing framework for medicinal products, medical devices or other medical counter-measures under the EU Health Security Framework, including Regulation (EU) …/… on serious cross-border health threats [SCBTH Regulation (COM/2020/727)], Council Regulation (EU) …/… on a framework of measures for ensuring the supply of crisis-relevant medical counter-measures [Emergency Framework Regulation (COM/2021/577)], Regulation (EU) …/… on the extended mandate of the ECDC [ECDC Regulation (COM/2020/726)] and Regulation (EU) 2022/123 on the extended mandate of the EMA [EMA Regulation].Therefore, medicinal products, medical devices or other medical counter-measures, when they have been placed on the list referred to in Article 6(1) of the Emergency Framework Regulation, shall be excluded from the scope of this Regulation, except in relation to the provisions relating to free movement during the Single Market emergency, and in particular those designed to re-establish and facilitate free movement as well as the notification mechanism.	**DE (Drafting):** (11) This Regulation should not duplicate the existing framework for medicinal products, medical devices or other medical counter-measures under the EU Health Security Framework, including Regulation (EU) …/… on serious cross-border health threats [SCBTH Regulation (COM/2020/727)], Council Regulation (EU) …/… on a framework of measures for ensuring the supply of crisis-relevant medical counter-measures [Emergency Framework Regulation (COM/2021/577)], Regulation (EU) …/… on the extended mandate of the ECDC [ECDC Regulation (COM/2020/726)] and Regulation (EU) 2022/123 on the extended mandate of the EMA [EMA Regulation] **regarding crisis preparedness and response in the area of health. This EU Health Security Framework will take precedence over the Single Market Emergency Instrument when the conditions of the specific framework are met**.Therefore, medicinal products, medical devices or other medical counter-measures, when they have been placed on the list referred to in Article 6(1) of the Emergency Framework Regulation, shall be excluded from the scope of this Regulation, except in relation to the provisions relating to free movement during the Single Market	**DE (Comments):** It is not clear whether rec. 11 contains a “lex specialis” provision. We therefore suggest an addition to rec.11 and adding a new Art. 2 para 4 lit. a (see below). Background: Fear of undesireable duplications/overlap with EU Health Union legistation. E.g. as long as the monitoring list of the EU regulation on a framework of measures ensuring the supply of crisis-relevant medical countermeasures (so called “HERA emergency list”) does not exist, the SMEI Regulation fully applies to products under the category of "other medical countermeasures" under the SCBHT Regulation. **BE (Comments):** Recitals 11 to 15 do not really clarify the SMEI’s relationship with pre-existing and future EU emergency mechanisms, such as the Green Lanes Initiative, the Solidarity Corridors, the Chips Act, and the Raw Materials Act. BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome further clarifications in this regard in the recitals. For example, is it possible to build up

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	emergency, and in particular those designed to re-establish and facilitate free movement as well as the notification mechanism.	semiconductor reserves on the basis of the SMEI when this is not foreseen by the Chips Act? **NL (Comments):** No comments from NL.
(12) This Regulation should complement the Integrated Political Crisis Response mechanism operated by the Council under Council Implementing Decision (EU) 2018/1993 as regards its work on Single Market impacts of cross-sectoral crises that require political decision-making.		**DE (Comments):** The Integrated Political Crisis Response mechanism provides proper structures and concrete tools that are dedicated to respond to various crises, for example data collection and analysis as well as a point of contact. Furthermore, the member states can coordinate their crisis response measures with the help of council recommendations. Is there a potential overlap with other crisis response structures such as the road map on strengthening crisis anticipation, preparedness and response which is currently being developed in the Council? **BE (Comments):** BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome further clarifications in this regard in the recitals. For more details, see full comment on

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		recital 11. **NL (Comments):** No comments from NL. **PL (Comments):** It is necessary to establish a clear relationship between the provisions of the draft SMEI Regulation and the provisions on the EU's Integrated Political Crisis Response (IPCR), taking into account in particular the different reasons for the activation of the IPCR mechanism and the activation of the emergency situation mode for SMEI. SMEI is intended to complement the IPCR mechanism in relation to those horizontal crises of the internal market that require political decisions, which is not precise enough, especially in light of Art. 13 of the project. There is a different mode and different reasons for the activation of both mechanisms in the field of crisis response, as well as different definitions of a crisis / crisis situation, which are used in the IPCR decision and the draft regulation on SMEI.
(13) This Regulation should be without prejudice to the Union Civil Protection Mechanism ('UCPM'). This Regulation should be in complementarity with the UCPM and should support it, where neessary, as regards		**BE (Comments):** BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome

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availability of critical goods and free movement of civil protection workers, including their equipment, for crises that fall into the remit of that mechanism.		further clarifications in this regard in the recitals. For more details, see full comment on recital 11. **NL (Comments):** No comments from NL.
(14) This Regulation should be without prejudice to Articles 55 to 57 of Regulation (EC) No 178/2002 on the general plan on crisis management in the area of food and feed, implemented by Commission Decision (EU) 2019/300.		**BE (Comments):** BE would like to see a specific reference to coherence with both pre-existing and future mechanisms in the text and would welcome further clarifications in this regard in the recitals. For more details, see full comment on recital 11. **NL (Comments):** No comments from NL.
(15) The Regulation should be without prejudice to the European Food Security Crisis preparedness and response Mechanism (EFSCM). Nevertheless, food products should be governed by the provisions of this Regulation, including those concerning the notification mechanism and concerning restrictions to free movement rights . The measures concerning food products notified under this Regulation may be also reviewed for		**DE (Comments):** It should be clarified what “without prejudice” means in this context. How would measures taken under SMEI correspond to any measures taken by the EFSCM? **BE (Comments):** BE would like to see a specific reference to coherence with both pre-existing and future

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their compliance with any other relevant provisions of EU law.		mechanisms in the text and would welcome further clarifications in this regard in the recitals. For more details, see full comment on recital 11. **NL (Comments):** No comments from NL. **PL (Comments):** It is justified to list provisions of EU laws, specify the scope of application of the Regulation in this area and to define the relationship with other existing legal instruments. **MT (Comments):** It needs to be clarified as to whether the provisions in European Food Security Crises preparedness and response mechanism supersede the provisions in this regulation that are being proposed. It is understood that here food related provisions are to be treated under the provisions of this regulation unlike with regards to feed.
(16) In order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Singe Market of a Single Market emergency,	**DE (Drafting):** (16) In order to account for the exceptional nature of and potential far-reaching	**DE (Comments):** We welcome the central role of the Council in the decision on whether to activate the

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implementing powers should exceptionally be conferred on the Council for the activation of Single Market emergency mode pursuant to Article 281(2) of the Treaty on the Functioning of the European Union.	consequences for the fundamental operation of the Singe Market of a Single Market emergency, implementing powers should exceptionally be conferred on the Council for the activation of Single Market emergency mode pursuant to Article 2~~8~~**9**1(2) of the Treaty on the Functioning of the European Union , including its factual scope. **DK (Drafting):** (16) In order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Singe Market of a Single Market emergency, implementing powers should exceptionally be conferred on the Council for the activation of Single Market **vigilance and** emergency mode pursuant to Article 2**9**~~8~~1(2) of the Treaty on the Functioning of the European Union. **IT (Drafting):** In order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Singe Market of a Single Market emergency, implementing powers should exceptionally be conferred on the Council for the activation of Single Market emergency mode pursuant to **Article 291(2)** of the Treaty on the Functioning of the European Union	emergency mode. However, there seems to be an editorial mistake. Art. 281 TFEU refers to the statutes of the Court of Justice. In our view, it should read "Article 291(2)" instead. **AT (Comments):** *« […] implementing powers should exceptionally be conferred on the Council for the activation of Single Market emergency mode pursuant to […] » :* AT welcomes the conferral of implementing powers to Council for the activation of Single Market emergency mode according to this instrument. The conferral of implementing powers on Council is foreseen in Article 2**9**1(2) TFEU. Article 291(2) TFEU reads : *« 2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union, on the Council. » [underlining added by AT]* AT wants the reference here to be corrected. ***See Article 14(3) of the proposal.***

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		DK (Comments): Receital on Council implementing acts updated to reflect suggestions on the activation of vigilance mode in article 9(1) – 9(1a). Proposal references wrong TFEU article. **IT (Comments):** The correct reference is article 291 (instead of 281)
(17) Article 21 TFEU lays down the right of EU citizens to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and the measures adopted to give them effect. The detailed conditions and limitations are laid down in Directive 2004/38/EC. This Directive sets out the general principles applicable to these limitations and the grounds that may be used to justify such measures. These grounds are public policy, public security or public health. In this context, restrictions to freedom of movement can be justified if they are proportionate and non-discriminatory. This Regulation is not intended to provide for additional grounds for the limitation of the right to free movement of persons beyond those provided for in Chapter VI of Directive		

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2004/38/EC.		
(18) As regards the measures for re-establishing and facilitating free movement of persons and any other measures affecting the free movement of persons provided under this Regulation, they are based on Article 21 TFEU and complement Directive 2004/38/EC without affecting its application at the time of Single Market emergencies. Such measures should not result in authorising or justifying restrictions to free movement contrary to the Treaties or other provisions of Union law.		**DE (Comments):** According to this and the previous recital the SMEI Regulation is meant to be without prejudice to Directive 2004/38/EC. This should also include the Member States' capability to restrict the right of free movement based on the grounds of public policy, public security or public health in line with Chapter VI of the Directive. However, the recitals only emphazise that the regulation does not provide additional grounds for limitations or authorisation contrary to the existing Union law. Does the SMEI Regulation, especially Art. 16 and 17, affect the application of restrictions to the right of free movement in line with Chapter VI of Directive 2004/38/EC at the time of Single Market emergencies?
(19) Article 45 TFEU lays down the right to free movement of workers, subject to the limitations and conditions laid down in the Treaties and the measures adopted to give them effect. This Regulation contains provisions which complement the existing measures in order to reinforce free movement of persons,		**DE (Comments):** According to this recital the SMEI Regulation complements the existing measures in order to reinforce free movement of workers during Single Market emergencies. However, the right out of Article 45 TFEU is subject to limitations

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increase transparency and provide administrative assistance during Single Market emergencies. Such measures include setting up and making available of the single points of contact to workers and their representatives in the Member States and at Union level during the Single Market vigilance and emergency modes under this regulation.		justified on grounds of public policy, public security or public health. Does the SMEI Regulation, especially Articles 16 and 17, affect the application of restrictions to the right of free movement of workers in line with Article 45 TFEU at the time of Single Market emergencies? **BE (Comments):** Recital 19 is the only recital dealing with the Single Point of Contact and seems to only target workers and their representatives. BE would like the Single Point of Contact to be available also for service providers, consumers and citizen.
(20) If Member States adopt measures affecting free movement of goods or persons, goods or the freedom to provide services in preparation for and during Single Market emergencies, they should limit such measures to what is necessary and remove them as soon as the situation allows it. Such measures should respect the principles of proportionality and non-discrimination and should take into consideration the particular situation of border regions.	**NL (Drafting):** **Any restriction of the free movement goods, persons and services is prohibited between Member States, unless when allowed by the Treaty and Union law.** If Member States adopt measures affecting free movement of goods or persons, goods or the freedom to provide services in preparation for and during Single Market emergencies, they should limit such measures to what is necessary and remove them as soon as the situation allows it. Such measures should respect the principles of proportionality and non-discrimination and should take into	**DE (Comments):** Does this recital enumerate requirements for restrictions to the right of free movement beyond those applying in line with Directive 2004/38/EC or Article 45 TFEU or is it meant to be interpreted in accordance with the existing CJEU-jurisprudence concerning these provisions? **NL (Comments):** This basic principle of Single Market as safeguarded by the Treaties and long-standing

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	consideration the particular situation of border regions.	case-law should be mentioned explicitly and should structure the provisions on which restrictive measures Member States are allowed to take and are not allowed to take.
(21) The activation of the Single Market emergency mode should trigger an obligation for the Member States to notify crisis-relevant free movement restrictions.		**AT (Comments):** - Through which systems should the *"exchange of information"*, the notifications of crisis-relevant free movement restrictions under this proposal be effected in general? - In how far could, in EC's assessment, the TRIS database pursuant to Directive (EU) 2015/1535 also be used for notifications under this proposal (e.g. of crisis-relevant free movement restrictions upon activation of the Single Market emergency mode)?
(22) When examining the compatibility of any notified draft or adopted measures with the principle of proportionality, the Commission should pay due regard to the evolving crisis situation and often limited information that is at the disposal of the Member States when they seek to reduce the emerging risks in the context of the crisis. Where justified and necessary in the circumstances, the Commission may consider based on any available information, including specialised or scientific information,		**AT (Comments):** - How do the *"time-limits"* set out in this proposal (eg. for MS to notify crisis-relevant free movement restrictions) relate to the time-limits set out by Directive (EU) 2015/1535? - Would a kind of *"urgency procedure"* as in Directive (EU) 2015/1535 be used as a default in this proposal? If so, how would *"time-limits"* between this proposal and the urgency procedure under Directive (EU) 2015/1535

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the merits of Member State arguments relying on the precautionary principle as a reason for adoption of free movement of persons restrictions. It is the task of the Commission to ensure that such measures comply with Union law and do not create unjustified obstacles to the functioning of the Single Market. The Commission should react to the notifications of Member States as quickly as possible, taking into account the circumstances of the particular crisis, and at the latest within the time-limits set out by this Regulation.		align? - In any system through which the exchange of information under this proposal is to be effected in general, how would EC propose to solve the question of *"transparency"* vs. *"confidentiality"?* **NL (Comments):** No comments from NL.
(23) In order to ensure that the specific Single Market emergency measures provided for in this Regulation are used only where this is indispensable for responding to a particular Single Market emergency, such measures should require individual activation by means of Commission implementing acts, which indicate the reasons for such activation and the crisis-relevant goods or services that such measures apply to.		**AT (Comments):** - Can EC clarify, who decides which goods or which services are *"crisis-relevant"*?
(24) Furthermore, in order to ensure the proportionality of the implementing acts and due respect for the role of economic operators in crisis management, the Commission should only		

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resort to the activation of the Single Market emergency mode, where economic operators are not able to provide a solution on a voluntary basis within a reasonable time. Why this is the case should be indicated in each such act, and in relation to all particular aspects of a crisis.		
(25) Information requests to economic operators should be used by the Commission only where the information which is necessary for responding adequately to the Single Market emergency, such as information necessary for procurement by the Commission on behalf of the Member States or estimating the production capacities of manufacturers of crisis-relevant goods the supply chains of which have been disrupted, cannot be obtained from publicly available sources or as a result of information provided voluntarily.	**DE (Drafting):** (25) Information requests to economic operators should be used by the Commission only where the information which is necessary for responding adequately to the Single Market emergency, such as information necessary for procurement by the Commission on behalf of the Member States or estimating the production capacities of manufacturers of crisis-relevant goods the supply chains of which have been disrupted, **is not yet available to the Commission and** cannot be obtained from publicly available sources or as a result of information provided voluntarily.	**DE (Comments):** EU law already knows certain duties to provide information. We suggest that recital 25 also makes clear that double duties of disclosure in any form should be avoided. This is of particular importance since SMEI sets up the possibility of fines. **PT (Comments):** We have concerns with the impact of burdensome mandatory data sharing during a crisis where businesses (SMEs) will have to focus on remaining operational or even struggle to survive. **MT (Comments):** Malta's concern is whether all economic operators which could be impacted would be able and equipped to address the Commission queries. Furthermore, the administrative burden which could ensue cannot be underestimated.

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(26) The activation of the Single Market emergency mode, where needed, should also trigger the application of certain crisis-response procedures which introduce adjustments to the rules governing the design, manufacture, conformity assessment and the placing on the market of goods subject to Union harmonised rules. These crisis-response procedures should enable products, designated as crisis-relevant goods to be placed swiftly on the market in an emergency context. The conformity assessment bodies should prioritise the conformity assessment of crisis-relevant goods over any other ongoing applications for other products. On the other hand, in cases, where there are undue delays in the conformity assessment procedures, the national competent authorities should be able to issue authorisations for products, which have not undergone the applicable conformity assessment procedures to be placed on their respective market, provided that they comply with the applicable safety requirements. Such authorisations shall be only valid on the territory of the issuing Member State and limited to the duration of the Single Market emergency. In addition, in order to facilitate the increase in supply of crisis-relevant products, certain flexibilities should be introduced with respect to the mechanism of	**BE (Drafting):** (26) The activation of the Single Market emergency mode, where needed, should also trigger the application of certain crisis-response procedures which introduce adjustments to the rules governing the design, manufacture, conformity assessment and the placing on the market of goods subject to Union harmonised rules. These crisis-response procedures should enable products, designated as crisis-relevant goods to be placed swiftly on the market in an emergency context. The conformity assessment bodies should prioritise the conformity assessment of crisis-relevant goods over any other ongoing applications for other products. On the other hand, in cases, where there are undue delays in the conformity assessment procedures, the competent authorities of the Member States should be able to issue authorisations for products, which have not undergone the applicable conformity assessment procedures to be placed on their respective market, provided that they comply with the applicable safety requirements. Such authorisations shall be only valid on the territory of the issuing Member State and limited to the duration of the Single Market emergency. In addition, in order to facilitate the increase in	**BE (Comments):** The term "National competent authorities" should be replaced by the term "competent authorities of the Member States", in order to reflect the complex division of powers in many Member States regarding this matter.

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presumption of conformity. In the context of a Single Market emergency, the manufacturers of crisis-relevant goods should be able to rely also on national and international standards, which provide an equivalent level of protection to the harmonised European standards. In cases where the later do not exist or the compliance with them is rendered excessively difficult by the disruptions to the Single Market, the Commission should be able to issue common technical specifications of voluntary or of mandatory application in order to provide ready-to-use technical solutions to the manufacturers.	supply of crisis-relevant products, certain flexibilities should be introduced with respect to the mechanism of presumption of conformity. In the context of a Single Market emergency, the manufacturers of crisis-relevant goods should be able to rely also on national and international standards, which provide an equivalent level of protection to the harmonised European standards. In cases where the later do not exist or the compliance with them is rendered excessively difficult by the disruptions to the Single Market, the Commission should be able to issue common technical specifications of voluntary or of mandatory application in order to provide ready-to-use technical solutions to the manufacturers.	
(27) The introduction of these crisis-relevant adjustments to the relevant sectorial Union harmonised rules requires targeted adjustments to the following 19 sectorial frameworks: Directive 2000/14/EC, Directive 2006/42/EU, Directive 2010/35/EU, Directive 2013/29/EU, Directive 2014/28/EU, Directive 2014/29/EU, Directive 2014/30/EU, Directive 2014/31/EU, Directive 2014/32/EU, Directive 2014/33/EU, Directive 2014/34/EU, Directive 2014/35/EU, Directive 2014/53/EU, Directive 2014/68/EU, Regulation (EU) 2016/424, Regulation (EU)		**DE (Comments):** It is questionable whether Regulation (EU) 2019/1009 needs the envisaged adjustments for crises. Many instruments are already available to the Commission today on the basis of this regulation, which is only optionally applicable (for example the setting common specifications). Moreover, only a few Member States probably have the structures in place to allow conformity assessment of EU fertiliser products by public authorities in the event of a

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2016/425, Regulation (EU) 2016/426, Regulation (EU) 2019/1009 and Regulation (EU) 305/2011. The activation of the emergency procedures should be conditional upon the activation of the Single Market emergency and should be limited to the products designated as crisis-relevant goods.		crisis. In principle, Member States can regulate market access for fertiliser products anyway on the basis of national fertiliser regulations that are still in force.
(28) In cases where there are substantial risks to the functioning of the Single Market or in cases of severe shortages or an exceptionally high demand of goods of strategic importance, measures at Union level aimed to ensure the availability of crisis-relevant products, such as priority rated orders, may prove to be indispensable for the return to the normal functioning of the Single Market.	**DK (Drafting):** (28) In cases where there are substantial risks to the functioning of the Single Market or in cases of severe shortages or an exceptionally high demand of goods of ~~strategic~~ **critical** importance, measures at Union level aimed to ensure the availability of crisis-relevant products, such as priority rated orders, may prove to be indispensable for the return to the normal functioning of the Single Market.	**DE (Comments):** It is not fully clear how this corresponds to the building up of strategic reserves. Can the Commission use priority-rated orders to also build up strategic reserves on its own? **AT (Comments):** ***On the opaque delineation between "crisis-relevant products" and "goods of strategic importance", see Article 3(6) EC proposal.*** **DK (Comments):** Ammended following proposed changes in Article 3.
(29) In order to leverage the purchasing power and negotiating position of the Commission during the Single Market vigilance mode and the Single Market emergency mode, Member States should be able to request the		

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Commission to procure on their behalf.		
(30) Where there is a severe shortage of crisis-relevant products or services on the Single market during a Single Market emergency, and it is clear that the economic operators that operate on the Single market do not produce any such goods, but would in principle be able to repurpose their production lines or would have insufficient capacity to provide the goods or services needed, the Commission should be able to recommend to the Member States as a last resort to take measures to facilitate or request the ramping up or repurposing of production capacity of manufacturers or the capacity of the service providers to provide crisis-relevant services. In doing so the Commission would inform the Member States as to the severity of the shortage and the type of the crisis-relevant goods or services that are needed and would provide support and advice in relation to the flexibilities in the EU acquis for such purposes.		
(31) The measures ensuring regulatory flexibility would allow the Commission to recommend that Member States accelerate the procedures for granting permits that would be necessary for enhancement of the capacity to		

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produce crisis-relevant goods or provide crisis-relevant services.		
(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.		**AT (Comments):** - What are *« legitimate reasons »* for an economic operator to decline the EC *"invitation"* to prioritise certain orders? - What are the legal consequences of EC inviting economic operators to prioritise the orders? ***See Article 28(1)(b).***
(33) Furthermore, to ensure availability of crisis-relevant goods during the Single Market		**AT (Comments):** - What happens if a MS does not follow EC

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emergency, the Commission may recommend that Member States distribute strategic reserves, having with due regard to the principles of solidarity, necessity and proportionality.		recommendation to distribute its *"strategic reserves"* (e.g. if it faces a shortage of the crisis-relevant good in its own territory and wants to distribute them among its own citizens first, before assisting other fellow Member States facing a similar shortage)? - If a MS follows a EC recommendation and distributes its *"strategic reserves"* among other MS, which recompense would it get at which point in time (e.g. if the MS itself fell in need of those very goods only a short while later)?
(34) Where the activities to be carried out pursuant to this Regulation involve the processing of personal data, such processing should comply with the relevant Union legislation on personal data protection, namely Regulation (EU) 2018/1725 of the European Parliament and of the Council[3] and Regulation (EU) 2016/679 of the European Parliament and of the Council[4].		

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[3] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

[4] Regulation (EU) 2016/769 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

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(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.	**DK (Drafting):** (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~~ **critical** 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. **NL (Drafting):** In order to ensure uniform conditions for the implementation of this Regulation,	**DE (Comments):** A stronger involvement of Member States, e.g. via a more important role of Council / Committee, regarding specific decisions (Article 9, Article 12 paragraph 4) is necessary (see Germany's comments on the Commission's proposal for a Single Market Emergency Instrument (SMEI) from November 2022). **AT (Comments):** ***On EC recommendation to MS to "distribute", see AT comment on Recital 33.*** ***On AT's questions regarding "strategic reserves", see AT comment on the definition of "strategic reserves" in Article 3(7) as well as on Article 12.*** **DK (Comments):** Ammended following proposed changes in Article 3. **NL (Comments):** As is stated in recital 16, in order to account for the exceptional nature of and potential far-reaching consequences for the fundamental operation of the Singe Market of a Single Market emergency, implementing powers should be conferred on the Council for the activation of Single Market emergency mode.

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	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. **Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.** Furthermore, implementing powers should be conferred on the ~~Commission~~ **Council** 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~~ **Council** 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.~~ **RO (Drafting):** (35) In order to ensure uniform conditions for the implementation of this Regulation,	NL believes the same reasoning applies for activating the vigilance mode and establishing a list of individual targets for those strategic reserves that the Member States should maintain. **IT (Comments):** Italy suggests empowering the Council (instead of the Commission) with the task to activate the vigilance mode and establishing a list of individual targets (quantities and deadlines) (see drafting suggestions to Articles 9 ,10, 12). **RO (Comments):** We underline the opportunityof including a reference to the free movement of workers, considering that the free movement of workers, in general, was heavily impacted by the pandemic crisis. Special attention must be paid to the free movement of workers when restrictions on free movement are applied, especially since the COVID-19 pandemic has given rise to new challenges for mobile and cross-border workers and highlighted issues related to securing fair working conditions, health and safety, decent accommodation, transport etc **MT (Comments):** Uniformity to implement this Regulation

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	implementing powers should be conferred on the Commission as regards the possibility to adopt supportive measures for facilitating free movement of persons, **respectively free movement of workers,** 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.	throughout the EU is impossible given there are geographical and natural aspects of countries which cannot be changed by a Regulation. Such are the issues of small island states which do not have raw materials, have limited production and depend on sea and air transport.
(36) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter'). In	**DE (Drafting):** (36) This Regulation respects fundamental rights and observes the principles recognised in	**DE (Comments):** Article 26 adresses the integration of persons with disabilities; the right to collective

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particular, it respects the right to privacy of the economic operators enshrined in Article 7 of the Charter, right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, right to collective bargaining and action protected by Article 26 of the Charter and the right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU.	particular by the Charter of Fundamental Rights of the European Union (the 'Charter'). In particular, it respects the right to privacy of the economic operators enshrined in Article 7 of the Charter, right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, right to collective bargaining and action protected by Article 2~~6~~**8** of the Charter and the right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU. **AT (Drafting):** (36) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights	bargaining and action is laid down in Article 28. **SK (Comments):** We are concerned about the principles of proportionality and subsidiarity. **AT (Comments):** Recital 36: The *"right to collective bargaining and action protected by Art. 26"* is mentioned here. However, the *"right to collective bargaining and to take collective action to defend their interests, including strike action"* is not protected by Art. 26 but by Art. **28** EU Charter of Fundamental Rights (ECFR). The reference should be corrected. Would it be helpful, in the Council's Legal Service view, in order to maintain the level of protection of the right of collective bargaining and action, to include a reference to Article 28 ECFR also in the enacting terms of this Regulation or is such a reference unnecessary? ***See also Recital 36 and Article 45.*** *"[…] In particular, it [this Regulation] respects the right to privacy of the economic operators […] and the freedom of contract, which […]":* ***See Article 27 (Priority rated orders).*** **BE (Comments):** BE finds that this recital does not sufficiently

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	of the European Union (the 'Charter'). In particular, it respects the right to privacy of the economic operators enshrined in Article 7 of the Charter, right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, right to collective bargaining and action protected by Article ~~26~~**28** of the Charter and the right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU. **BE (Drafting):** (36) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter'). In	precise whether this regulation does not affect the right to strike, due to the repealing of Council Regulation (EC) 2679/98. This recital should at least mention that the right to strike is included in the art 28 of the Charter. For a better guarantee, it should be integrated in the articles of the proposal. Moreover the reference is incorrect: The right to collective bargaining and action is protected by Article 28 and not 26 of the Charter. **NL (Comments):** NL believes the prohibition of direct and indirect discrimination on grounds of nationality should be respected by this Regulation, in line with the rulings of the EU Court of Justice. **PL (Comments):** The right to collective bargaining and action is protected in Article 28 of the Charter, not in Article 26.

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	particular, it respects the right to privacy of the economic operators enshrined in Article 7 of the Charter, right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, right to collective bargaining and action, including the right to strike, protected by Article 28 of the Charter and the right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU. **NL (Drafting):** This Regulation **fully** respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the 'Charter'). In	

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	particular, it respects the right to privacy of the economic operators enshrined in Article 7 of the Charter, right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, **the prohibition of direct and indirect discrimination on grounds of nationality, protected by Article 21 of the Charter,** right to collective bargaining and **collective** action protected by Article 2~~6~~**8** of the Charter and the right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU. **PL (Drafting):** (36) This Regulation respects fundamental rights and observes the principles recognised in	

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	particular by the Charter of Fundamental Rights of the European Union (the 'Charter'). In particular, it respects the right to privacy of the economic operators enshrined in Article 7 of the Charter, right to data protection set out in Article 8 of the Charter, the freedom to conduct business and the freedom of contract, which are protected by Article 16 of the Charter, the right to property, protected by Article 17 of the Charter, the right to collective bargaining and action protected by Article ~~26~~ **28** of the Charter and the right to an effective judicial remedy and to a fair trial as provided for in Article 47 of the Charter. Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. The Regulation should not affect the autonomy of the social partners as recognised by the TFEU.	
	DK (Drafting): **<u>(36a) Data made available to public sector bodies, the Commission, the European</u>**	**DK (Comments):** Formulated with inspiration from Recital 65 from the third compromise of the Data Act.

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	<u>Central Bank or Union bodies on the basis of exceptional need should only be used for the purpose for which they were requested, unless the economic operator, who made the data available, has expressly agreed for the data to be used for other purposes. The data should be erased once it is no longer necessary for the purpose stated in the request, unless agreed otherwise, and the economic operator should be informed thereof.</u> **DK (Drafting):** **<u>(36b) When reusing data provided by data holders, public sector bodies, the Commission, the European Central Bank or Union bodies should respect both existing applicable legislation and contractual obligations to which the economic operator is subject. Where the disclosure of trade secrets of the economic operator to public sector bodies, the Commission, the European Central Bank or Union bodies is strictly necessary to fulfil the purpose for which the data has been requested, confidentiality of such disclosure should be guaranteed.</u>**	We do not see a reason why public authorities and Union bodies should take measures to protect trade secrets recived on the basis of the Data Act, but not for data received pursuant to SMEI. **DK (Comments):** Based on Recital 66 from the third compromise of the Data Act.
(37) The Union remains fully committed to international solidarity and strongly supports the principle that any measures deemed necessary taken under this Regulation, including those		**NL (Comments):** No comments from NL. **IT (Comments):**

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necessary to prevent or relieve critical shortages, are implemented in a manner that is targeted, transparent, proportionate, temporary and consistent with WTO obligations.		Italy is still assessing the proportionality of the provisions concerning strategic reserves (art. 12).
(38) The Union framework shall include interregional elements to establish coherent, multi-sectoral, cross-border Single Market vigilance and emergency response measures, in particular considering the resources, capacities and vulnerabilities across neighbouring regions, specifically border regions.		
(39) The Commission shall also where appropriate enter into consultations or cooperation, on behalf of the Union, with relevant third countries, with particular attention paid to developing countries, with a view to seeking cooperative solutions to address supply chain disruptions, in compliance with international obligations. This shall involve, where appropriate, coordination in relevant international fora.	**AT (Drafting):** (39) The Commission shall also where appropriate enter into consultations or cooperation, on behalf of the Union, with relevant third countries, with particular attention paid to developing countries, with a view to seeking**, after having, in accordance with the Treaty, consulted the Council,** cooperative solutions to address supply chain disruptions, in compliance with international obligations. This shall involve, where appropriate, coordination in relevant international fora.	**AT (Comments):** How would Council's Legal Service formulate this Recital in order to adequately reflect Council's policy-making powers? ***See AT comment on Art. 2(6)(a).*** **NL (Comments):** No comments from NL.
(40) In order to put in place a framework of	**AT (Drafting):**	**AT (Comments):**

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crisis protocols the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement the regulatory framework set out in this Regulation by further specifying the modalities of cooperation of the Member States and Union authorities during the Single Market vigilance and emergency modes, secure exchange of information and risk and crisis communication. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.	~~(40) In order to put in place a framework of crisis protocols the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement the regulatory framework set out in this Regulation by further specifying the modalities of cooperation of the Member States and Union authorities during the Single Market vigilance and emergency modes, secure exchange of information and risk and crisis communication. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making . In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.~~	AT continues to question the delegated powers envisaged here (further specifying the modalities of cooperation of the MS and Union authorities during the Single Market vigilance and emergency modes, secure exchange of information and risk and crisis communication) are *« non-essential elements »* of Union legislation. ***On "secure exchange of information", see Art. 6(1)(b) and Art. 6(2).*** **NL (Comments):** No comments from NL.
(41) Council Regulation (EC) 2679/98 which provides for a mechanism for bilateral discussions of obstacles to the functioning of the Single Market has been rarely used and is		**AT (Comments):** Article 2 Council Regulation (EC) 2679/98 provides for an explicit reference to the right or

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outdated. Its evaluation demonstrated that the solutions provided by that Regulation are not able to cater for the realities of complex crises, which are not limited to incidents happening at the borders of two neighbouring Member States. It should therefore be repealed.		freedom to strike. - Could CLS please elaborate, inhowmuch a repeal of Council Regulation (EC) 2679/98 and its Article 2 foreseen in this proposal may negatively affect the *"Right of collective bargaining and action*" protected by Article 28 ECFR? - Would it be helpful, in order to maintain the level of protection of the right of collective bargaining and action, to include a reference to Article 28 ECFR also in the enacting terms of this Regulation? - Or does the inclusion of an article in the Regulation, see below at Art. 1 (2), make more sense? ***See also Recital 36 and Article 45.*** **BE (Comments):** The repeal of Regulation (EC) No 2679/98 must not affect the right to strike. The inclusion of a reference to Article 28 of the Charter of Fundamental Rights in Recital 36 is in no way sufficient to guarantee the protection of the right to strike. Therefore BE requests that the right to strike be guaranteed by an article in the proposed regulation. (cf following proposal to introduce a new paragraph in article 2, inspired by the Council

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		Regulation (EC) 2679/98.)
HAVE ADOPTED THIS REGULATION:		**AT (Comments):** **General Comment:** in general, the need for a crisis mechanism is unquestioned, but this proposal raises fundamental questions and does need some adaptions. The scope is unclear and is therefore not in line with the aims of the rule of law. Provosions have to be specified as they interfere with fundamental rights. Furthermore, there are many practical questions, e.g. the allocation of costs that arise when building strategic reserves.
Part I General Provisions		
Title I Scope		
Article 1 Subject matter	**LV (Drafting):** Article 1 Subject matter **and objectives**	**LV (Comments):** Article 1 should provide subject matter and objectives like it was in the Chips Act Article 1 paragraph 2, because Article 1 currently does not provide all measures mentioned in the SMEI

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		proposal (for example measures for ad hoc early warnings, Advisory group has more tasks that it has been mentioned in paragraph 2 subparagraph (a), as well as proposal provides measures for monitoring the supply chains of goods and services of strategic importance, measures for trainings and simulations etc.).
1. This Regulation establishes a framework of measures to anticipate, prepare for and respond to impacts of crises on the Single Market, with the purpose of safeguarding the free movement of goods, services and persons and of ensuring the availability of goods and services of strategic importance and crisis-relevant goods and services in the Single Market.	**LU (Drafting):** 1. This Regulation establishes a framework of measures to ~~anticipate,~~ prepare for and address ~~respond to~~ the impacts of crises on the Single Market, with the purpose of safeguarding the free movement of goods, services and persons ~~and of ensuring the availability of goods and services of strategic importance and crisis-relevant goods and services in the Single Market~~. **LV (Drafting):** 1. This Regulation establishes a framework of measures to anticipate, prepare for and respond to impacts of crises on the Single Market, with the purpose of safeguarding the free movement of goods, services and persons ~~and of ensuring the availability of goods and services of strategic importance and crisis-relevant goods and services~~ in the Single Market.	**SK (Comments):** We recognise the need to solve problems in the single market during crisis situations through the SMEI tool. **AT (Comments):** It is necessary to have a much clearer scope of application therefore unclear provisions need to be clarified in order to meet the aims of the rule of law. If this is not possible in the text of the Regulation a clear process with decision making powers of the Member States needs to be foreseen. **PT (Comments):** In Article 1º (1) we consider vital to clearly define the subject of the SMEI Regulation. **LV (Comments):** We have particular concerns about the obligation to build strategic reserves of goods

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	NL (Drafting): This Regulation establishes a framework of measures to anticipate, prepare for and respond to impacts of crises on the Single Market **as an area without internal frontiers in which**, ~~with the purpose of safeguarding~~ the free movement of goods, services and persons **is ensured** and **with the purpose** of ensuring the availability of goods and services of strategic importance and crisis-relevant goods and services in the Single Market. **IE (Drafting):** 1. This Regulation establishes a framework of measures to anticipate, prepare for and respond to impacts of crises on the Single Market, with the purpose of safeguarding the free movement of goods, services and persons**, by ensuring unjustified cross-border barriers are not put in place,** and of ensuring the availability of goods and services of strategic importance and crisis-relevant goods and services in the Single Market. **PL (Drafting):** 1. This Regulation establishes a framework of measures to anticipate, prepare for and respond to impacts of crises on the Single Market, with the purpose of safeguarding the free movement of goods, services and persons	that are identified as strategic and crisis-relevant. No information has been provided on such important aspects as: a) where the Member States should stockpile goods that are identified as strategic and crisis-relevant b) what should be done with stockpiled goods when the emergency mode is not activated or is deactivated? and c) by which criteria the Commission will set individual targets for quantities of goods that the Member States should maintain? Considering that certain goods are stockpiled through other crisis mechanisms such as UCPM and RescEU, and there are too many uncertainties and questions regarding strategic reserves, Latvia is of view that obligations to build strategic reserves of goods identified as crisis-relevant should rather be part of existing horizontal crisis mechanism, either UCPM or IPCR. **NL (Comments):** Free movement is the core principle of the Single Market and this wording seems to be more in line with Article 26 TFEU. **IE (Comments):** Ensuring free movement should be central to the SMEI Regulation, and this includes preventing unjustified barriers.

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	and of ensuring the availability of goods and services ~~of strategic importance and crisis-relevant goods and services~~ **for which shortages may occur** in the Single Market. **RO (Drafting):** This Regulation establishes a framework of measures to anticipate, prepare for and respond to impacts of crises on the Single Market, with the purpose of safeguarding the free movement of goods, services and persons, **respectively workers** and of ensuring the availability of goods and services of strategic importance and crisis-relevant goods and services in the Single Market. **FI (Drafting):** (1) This Regulation establishes a framework of measures to anticipate, prepare for and respond to impacts of crises on the Single Market **and prevent cross-border barriers during crises**, with the purpose of safeguarding the free movement of goods, services and persons and of ensuring the availability of goods and services of strategic importance and crisis-relevant goods and services in the Single Market.	**PL (Comments):** Vide comments and drafting suggestions in Article 3(1a) **RO (Comments):** We underline the opportunity of including the reference to the free movement of workers, considering that the free movement of workers, in general, was heavily impacted by the pandemic crisis. As we mentioned at recital 35, special attention must be paid to the free movement of workers when restrictions on free movement are applied, especially since the COVID-19 pandemic has given rise to new challenges for mobile and cross-border workers and highlighted issues related to securing fair working conditions, health and safety, decent accommodation, transport for mobile workers. **FI (Comments):** *The SMEI Regulation should be an instrument that ensures the free movement of goods, services and people, with greater transparency, coordination, and fast-track decisions related to free movement within the European Union. Therefore, as noted during the COVID-19 crisis, it is crucial to prevent the emergence of cross-border barriers that different national*

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		restrictions may cause. **SI (Comments):** ‘’…and of ensuring the availability of goods and services of strategic importance and crisis-relevant goods and services in the Single Market.’’ Ensuring availability of goods and services of strategic importance and relevant for the crisis is rather related to relevant instruments tackling the problematics of the current disruption of supply chains globally. We are wondering whether this Regulation should primarily address this issue and whether it would not be more appropriate in this case to ensure synergies with other relevant instruments addressing the issue of disruption of supply chains in general. **MT (Comments):** At this stage Malta notes that the objective is to enhance the Single Market’s vigilance for response to and its smooth functioning in times of crisis, with the scope being to minimize obstacles to free movement of goods, services, and persons in times of crisis and address shortages, and also to safeguard the availability of crisis-relevant goods and services. Malta continues to follow the discussions on the subject matter as these evolve. What needs to be ensured is that, given that supply chains to

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		island regions can be more fragile, further considerations to such geographical settings should be made.
2. The measures referred to in paragraph 1 include:	**AT (Drafting):** **2. This Regulation may not be interpreted as affecting in any way the exercise of fundamental rights as recognised in the Member States, including the right or freedom to strike. This Regulation shall be without prejudice to national labour law and practice, i.e. any legal or contractual provisions concerning terms and conditions of employment, working conditions, including health and safety at work, and relations between employers and workers, including information, consultation and participation.** ~~2.~~ **3.** The measures referred to in paragraph 1 include: **LV (Drafting):** ~~2. The measures referred to in paragraph 1 include:~~	**AT (Comments):** It is necessary to state explicitly at this point that this regulation must in no way interfere with the exercise of fundamental rights or national labour law after the provisions of the Strawberry Regulation. **LV (Comments):** The measures list is no exhaustive, thus mentioning only few doesn't seem appropriate and should be deleted at all. Please see also comment regarding Article 1.

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(a) an advisory group to advise the Commission on the appropriate measures for anticipating, preventing or responding to the impact of a crisis on the Single Market;	**DE (Drafting):** (a) an advisory group ~~to advise~~ **which advises** the Commission on the appropriate measures for anticipating, preventing or responding to the impact of a crisis on the Single Market **and acts as an effective steering body for cooperation between the Commission and the Member States in times of crisis**; **BE (Drafting):** (a) a steering committee to advise the Commission on the appropriate measures for anticipating, preventing or responding to the impact of a crisis on the Single Market; **DK (Drafting):** This Regulation establishes a framework of measures to anticipate, prepare for and respond to impacts of crises on the Single Market, with the purpose of safeguarding the free movement of goods, services and persons and of ensuring the availability of goods and services of ~~strategic~~ **critical** importance and crisis-relevant goods and services in the Single Market. **LU (Drafting):** (a) an advisory group to exchange information and best practices among Member States and the Commission ~~advise the~~	**DE (Comments):** The advisory group should be designed in such a way that it is an agile crisis response team. It is important that the advisory group is able to work as an effective steering body for cooperation between the Commission and the Member States. **BE (Comments):** It is important that the advisory group is able to work as an effective steering body for cooperation between the Commission and the Member States, to better reflect the fact that steering is done under the leadership of COM, but in close coordination with the MS. **DK (Comments):** Ammended following proposed changes in Article 3. **LV (Comments):** The measures list is no exhaustive, thus mentioning only few doesn't seem appropriate and should be deleted at all. Please see also comment regarding Article 1. **IE (Comments):** The role of this group should be to work with the Commission on appropriate responses to

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	~~Commission on the appropriate measures for anticipating, preventing or responding to the impact of a crisis on the Single Market~~; **LV (Drafting):** ~~(a) an advisory group to advise the Commission on the appropriate measures for anticipating, preventing or responding to the impact of a crisis on the Single Market;~~ **IE (Drafting):** (a) a~~n advisory~~ group **made of experts from Member States** to **work with**~~advise~~ the Commission on **formulating** the appropriate measures for anticipating, preventing or responding to the impact of a crisis on the Single Market; **PL (Drafting):** (a) ~~an advisory group~~ a SMEI Forum to advise **and recommend** the Commission on the appropriate measures for anticipating, preventing or responding to the impact of a crisis on the Single Market; (b) **SI (Drafting):** (a) an advisory group to advise **and assist** the Commission on the appropriate measures for anticipating, preventing or responding to the impact of a crisis on the Single Market;	crises. **PL (Comments):** Vide comments and drafting suggestions in Article 4 **SI (Comments):** Advisory group should have a concrete and strong role and should not only advise but also asist the Commission on the appropriate measures. For the same reason we are also in favour of rather setting up a steering committee (as suggested by some MS at one of the previous meetings of the WP) that would allow for MS to have a more concrete tasks in relation to deciding on measures to be adopted for anticipation, prevention and response to the impact of a crisis. What will be the relation/synergies of this group with SMET Group and possibly other groups, forums, such as Industrial Forum and Chief Economists Network? **MT (Comments):** In relation to the governance and structure of SMEI, while we recognise that growing interdependencies necessitate a structured coordination of measures taken at Member State level in anticipation of or in response to a crisis,

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		the primary responsibility of crisis management remains with Member States. Malta wants to avoid a decision-making process which could lead to a one size fits all approach and one which could give too much powers to the Commission when national interests in times of crisis may need to prevail even though all efforts to safeguard the Single Market would be in place.
(b) measures for obtaining, sharing and exchanging the relevant information;	**LU (Drafting):** ~~(b) measures for obtaining, sharing and exchanging the relevant information;~~ **LV (Drafting):** ~~(b) measures for obtaining, sharing and exchanging the relevant information;~~ **FR (Drafting):** measures for obtaining, sharing and exchanging the relevant information**. Any sharing and exchange of information shall be proportionate and related to the anticipation or resolution of the impacts of a crisis on the Single Market**"	**PT (Comments):** Which measures would be implemented? **LV (Comments):** The measures list is no exhaustive, thus mentioning only few doesn't seem appropriate and should be deleted at all. Please see also comment regarding Article 1. **FR (Comments):** A disproportionate disclosure of information could infrige on trade secrets and thus affects the viability of companies.
(c) contingency measures aiming at anticipation and planning;	**LU (Drafting):** (c) contingency measures aiming at	**LV (Comments):** The measures list is no exhaustive, thus

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	~~anticipation and~~ planning; **LV (Drafting):** ~~(e) contingency measures aiming at anticipation and planning;~~	mentioning only few doesn't seem appropriate and should be deleted at all. Please see also comment regarding Article 1.
(d) measures for addressing Single Market impacts of significant incidents that have not yet resulted in a Single Market emergency (Single Market vigilance), including a set of vigilance measures and	**AT (Drafting):** d) **proposals for** measures for addressing Single Market impacts of significant incidents that have not yet resulted in a Single Market emergency (Single Market vigilance), including a set of vigilance measures and **LU (Drafting):** ~~(d) measures for addressing Single Market impacts of significant incidents that have not yet resulted in a Single Market emergency (Single Market vigilance), including a set of vigilance measures and~~ **LV (Drafting):** ~~(d) measures for addressing Single Market impacts of significant incidents that have not yet resulted in a Single Market emergency (Single Market vigilance), including a set of vigilance measures and~~ **NL (Drafting):** (d) measures for addressing ~~Single Market~~	**AT (Comments):** In order to ensure the acceptance of measures it is necessary to line out the competences of the EC and the MS. Therefore the first step is to develop proposals for measures in a decent time frame, those proposals of responding measures need to be decided on by the Council (see below) Concerning "significant incidents": seems rather unclear. Such terms should be avoided/defined. **PT (Comments):** What is the meaning of significant incident? It seems too vague and lacking clarification. **LU (Comments):** *We propose to integrate the main elements from the vigilance mode into the crisis protocole.* **LV (Comments):** The measures list is no exhaustive, thus mentioning only few doesn't seem appropriate

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	impacts **on the free movement of goods, persons and services** of significant incidents that have not yet resulted in a Single Market emergency (Single Market vigilance), including a set of vigilance measures and **PL (Drafting):** (d) measures for addressing Single Market **Vigilance** ~~impacts of significant incidents that have not yet resulted in a Single Market emergency (Single Market vigilance~~), including a set of vigilance **response** measures and	and should be deleted at all. Please see also comment regarding Article 1. **PL (Comments):** Vide comments and drafting suggestions in Article 3(2)
(e) measures for addressing Single Market emergencies, including a set of emergency response measures.	**AT (Drafting):** (e) **proposals for** measures for addressing Single Market emergencies, including a set of emergency response measures. **LV (Drafting):** ~~(e) measures for addressing Single Market emergencies, including a set of emergency response measures.~~	**AT (Comments):** In order to ensure the acceptance of measures it is necessary to line out the competences of the EC and the MS. Therefore the first step is to develop proposals for measure in a decent time frame, those proposals of responding measures need to be decided on by the Council (see below) **LU (Comments):** *We will comment on this when submitting comments on the emergency mode.* **LV (Comments):** The measures list is no exhaustive, thus mentioning only few doesn't seem appropriate

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		and should be deleted at all. Please see also comment regarding Article 1.
3. Member States shall regularly exchange information on all matters falling within the scope of this Regulation among themselves and with the Commission.	**AT (Drafting):** 3. Member States shall regularly exchange information on all matters falling within the scope of this Regulation among themselves and with the Commission **in the framework of the Committee referred to in Article 42 and using a secure system through which the exchange of information in provided for in this Regulation is to be effected set up by Commission pursuant to Article 6(1)(b) and Article 6(2).The Commission shall regularly exchange information with the Member States and update them on the application of this Regulation.** **BE (Drafting):** 3. Member States and the Commission shall regularly exchange information on all matters falling within the scope of this Regulation among themselves and with the Commission. **LU (Drafting):** ~~3. Member States shall regularly exchange information on all matters falling within the~~	**SK (Comments):** We feel concerned about the possible increase of burden on member states in connection with the required exchange of information. **AT (Comments):** The term "regular information on all matters" seems very broad at this stage. Furthermore, the exchange of information should go in both directions. AT believes that this regular exchange of information among Member States and with EC could best be done either in the framework of the Article 42 Committee or via a secure system for the exchange of information. **BE (Comments):** BE suggests that not only the Member States but also the Commission shall regularly exchange information. **PT (Comments):** • In Article 1º(3) it would be important to precise the term “regularly”. How often will

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	~~scope of this Regulation among themselves and with the Commission.~~ **LV (Drafting):** ~~3. Member States shall regularly exchange information on all matters falling within the scope of this Regulation among themselves and with the Commission.~~ **IE (Drafting):** 3. Member States **and the Commission** shall regularly exchange information on all matters falling within the scope of this Regulation ~~among themselves and with the Commission~~. **FR (Drafting):** Member States ***and the Commission*** shall regularly exchange information on all matters falling within the scope of this Regulation among themselves and with the Commission**,** ***duly ensuring the confidentiality and observing the commercial sensitivity of the information concerned***." **PL (Drafting):** 3. Member States shall regularly exchange information on all matters falling within **and related to** the scope of this Regulation among themselves and with the Commission.	the exchange of information happen? This seems to be too burdensome for MS. **LU (Comments):** *The exchange of information is already covered under paragraph 2(a) and relevant provisions in the Regulation. This provision is therefore redundant.* **LV (Comments):** Please see comment regarding Article 1. **NL (Comments):** What does 'regularly exchange information' mean? **IE (Comments):** The Member States and Commission should ensure all relevant information is shared. **FR (Comments):** The Commission must also be subject to this obligation to exchange information. It is important to ensure that there is no asymmetry as regards information between the Commission and Member States. French authorities recall the need to ensure the confidentiality and to observe the commercial sensitivity of information. The disclosure of confidential information could infrige on trade

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	LT (Drafting): 3. Member States **ensure secure regular** exchange **of** information falling within the scope of this Regulation among themselves and with the Commission. **DK (Drafting):** Member States **and the Commission** shall regularly exchange information on all matters falling within the scope of this Regulation among **each other** ~~themselves and with the Commission~~. **FI (Drafting):** (3) Member States shall regularly exchange information on all matters falling within the scope of this Regulation among themselves and with the Commission. **When necessary, the Commission shall share the information to Member States.**	secrets and thus affects the viability of companies. **PL (Comments):** Crisis management is a wide spectrum of issues that may affect the functioning of the Single Market and which may not fall within the scope of this Regulation. **LT (Comments):** A general comment. From the legal perspective, this para should be moved somewhere else, as it describes one of the measures (communication between MSs) and not the subject matter of the regulation. We find the obligation too broad (shall+all matters) and unclear. Therefore we suggest at least deleting a word "all" and explaining (in the operational part or in the recitals) the meaning of *regularly* (regular) and *how* information should be exchanged. In addition, the information exchange should be two-ways, meaning that the COM should also exchange information with the MSs; we would appreciate corresponding additions in this para. **DK (Comments):** It should be made clear that also the Commission shall be obligated to regularly exchange information.

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		FI (Comments): *The Commission shall share the information to Member States to ensure that they have updated information on the latest situation.*
4. The Commission may obtain any relevant specialised and/or scientific knowledge, which is necessary for the application of this Regulation.	**BE (Drafting):** 4. The Commission may obtain any relevant specialised and/or scientific knowledge, which is necessary for the application of this Regulation. Where appropriate, the Commission shares these knowledge with the Member States. **LU (Drafting):** ~~4. The Commission may obtain any relevant specialised and/or scientific knowledge, which is necessary for the application of this Regulation.~~ **LV (Drafting):** ~~4. The Commission may obtain any relevant specialised and/or scientific knowledge, which is necessary for the application of this Regulation.~~ **FR (Drafting):** The Commission may ~~obtain~~***share*** any relevant specialised and/or scientific knowledge which is necessary ~~for the application of this Regulation~~***to enlight the decision process under***	**AT (Comments):** At first glance, AT does not see the added value in this provision : - From whom may/should EC obtain this information? - How does this relate to the Committee referred to in Article 42 and, in particular, the Advisory Group pursuant to Article 4(1), which is supposed to include all relevant experts anyway? ***See Article 4(3)*** **LU (Comments):** *This provision has no normative value and is therefore redundant.* **LV (Comments):** It is unclear how the Commission will obtain specialised and/or the scientific knowledge for the application of this Regulation, thus this paragraph should be deleted. **FR (Comments):**

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	this Regulation **PL (Drafting):** 4. The Commission **and Member States** may obtain any relevant specialised and/or scientific knowledge, which is necessary for the application of this Regulation and shall share the obtained information with Member States. **LT (Drafting):** 4. The Commission may obtain any relevant specialised and/or scientific knowledge, which is necessary for the application of this Regulation; **this information shall be shared with the Advisory Group**.	The French authorities have doubts concerning the meaning of the wording proposed by the Commission ("*may obtain*"). **PL (Comments):** It should not be limited only to the Commission. **LT (Comments):** A general comment. From the legal perspective, this para should be moved somewhere else, as it describes one of the measures (the COM' instrument in ensuring proper application of SMEI) and not the subject matter of the regulation. In the same spirit as suggested regarding Art 1.3, we suggest adding that the knowledge, obtained by the COM, should be shared with the Advisory Group, because the SMEI in essence will be applied/enforced by the MS.
Article 2 Scope of application		**BE (Comments):** BE recalls the importance of consistency between this new proposal and pre-existing or future instruments, especially sectorial emergency instruments, as well as ongoing initiatives, such as the Green Lanes Initiative, the Solidarity Corridors, the Chips Act, and the Raw Materials Act. Therefore the simultaneous application of the SMEI and another emergency

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		mechanism needs to be clarified. **PT (Comments):** • In Article 2º on the scope it should be clarified if the proposed measures will cover all types of goods and services, provided they are of "strategic importance" or "relevant to the crisis". • What the list of goods and services of strategic importance and crisis-relevant goods and services consists of? Will it include raw materials and intermediate products or only final products? This should be clarified as it may have implications for other instruments. It could be interesting to introduce in the article an exemplary list. As it is presented, it is vague. • This Article should state that this Regulation does not affect the exercise of fundamental rights and freedoms. Only recital 36 states that this Regulation respect fundamental rights, which we believe is not sufficient. Thus, it must be clearly and explicitly stated in the article. Likewise, this Article should state that this Regulation does not affect other efforts, such as the environmental objectives as foreseen in the EU Green Deal and the Fit for 55-package. **IT (Comments):**

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		To avoid duplication and lack of coordination during emergencies, the interactions of the SMEI with the already existing emergency tools should be established more clearly. **MT (Comments):** At first glance it seems that SMEI is generally complementary to most instruments, however it will need to be seen how SMEI provisions can live side by side with the specific provisions in the various instruments and how one can ensure that there is no duplication of effort, waste of resources and confusion which could ultimately result in late action to be taken when a crisis hits due to bureaucracy and unclarity of which instrument should be resorted to or which parts would fall under SMEI and which would not.
1. The measures set out in this Regulation apply in relation to significant impacts of a crisis on the functioning of the Single Market and its supply chains.	**AT (Drafting):** **1a. The existence of a crisis is determined by an unanimously implementing act of the Council. Such an impelementing act shall at least contain the following:** **(a) the duration of the crisis,** **(b) an assessment of the potential impact of the crisis,** **(c) list of the goods and services of strategic**	**AT (Comments):** Implementing powers should be conferred on the Council to decide unanimously whether/that a crisis exists. The delegation of such implementing powers to the Council is possible in justified special cases (Art. 291 (2) TFEU). **BE (Comments):** What does “significant impacts” mean? **PT (Comments):**

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	importance concerned. **LU (Drafting):** 1. ~~The measures set out in~~ Tthis Regulation shall apply to preparation and addressing ~~relation to~~ significant impacts of a crisis on the functioning of the Single Market ~~and its supply chains~~. **NL (Drafting):** 1. The measures set out in this Regulation apply in relation to significant impacts of a crisis on the functioning of the Single Market **as an area without internal frontiers in which the free movement of goods, persons and services is ensured in accordance with the provisions of the Treaties,** and its supply chains.	• In Article 2º(1) we consider essential to clarify the meaning of "significant impacts" which is very open and insufficient, therefore lacking explanation. It could be interesting to introduce a list of significant impacts taking into consideration recent crisis. **LU (Comments):** *How can the expression "apply in relation to" actually define the scope of the Regulation? This vague reference creates legal and operational uncertainty which is undesirable in a situation of emergency.* *The focus of the SMEI should be on the Single Market and not on supply chains.* **LV (Comments):** Paragraph should include criteria by which a potential crisis situation could be considered as having a significant impact on the functioning of the Single Market and its supply chains. **NL (Comments):** What does 'significant impact' mean according to the Commission? There is a need to clarify the scope in relation to other crisis instruments. Does the SMEI not apply to the production or also to the use of the

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		final products mentioned in paragraph 2? Perhaps the indications mentioned in Article 8, para. 3, might be of help. E.g. for different stages of the value chain: raw materials, intermediate products. And after finalizing the final products – how does the SMEI apply? E.g. the cars industry in which chips/semiconductors are being used – do both the Chips Act and the SMEI apply? Need and possibility of clarifying 'significant impacts'? How? Number of Member States may not work, as a crisis in one Member State, especially a centrally located one (e.g. Germany – cf. the border closures in January 2021) may affect free movement in the whole EU. Amount of damage? May be hard to describe a threshold which justifies activating the mechanism. (What kind of criterium? Percentage of GDP, unemployment?) **LT (Comments):** We appreciate COM explanation on *significant disruption*: that it should be understood having in mind criteria mentioned in Art 8.3. Should related concepts, such as significant impact or significant incident, also be interpreted having in mind aforementioned criteria? If it is the case, we suggest specifying it in the operational part

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		of the text (e.g. via the definitions). **SI (Comments):** Similarly as in para 2 (d) it is not clear when an impact can be considered as significant impact of a crisis.
2. This Regulation shall not apply to the following:		**SK (Comments):** We are concerned about the insufficient connection of SMEI to other instruments. It is necessary to clearly define when to use SMEI and which tool shall prevail if several tools are activated, to avoid duplication and to have clear tasks for the MSs. We have some concerns about the exemptions that they will not be protected efficiently in case of a crisis. **AT (Comments):** - Which of the existing acts of sectoral legislation enumerated does include a recommendation/obligation for MS to maintain a *"strategic reserve"* for a which product/service? - If so, how does the existing act of sectoral legislation involve Member States in the choice for the products/services in which MS are to maintain a *"strategic reserve"*?

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		- How does the existing act of sectoral legislation involve MS in the setting up of individual targets regarding the quantities and the deadlines for those *"strategic reserves"?* - Does this existing sectoral legislation somehow specify, how MS are supposed to shoulder the costs of *"strategic reserves"* they are expected to maintain? Do they involve private sector stakeholders in *"strategic reserves"* to be maintained and how? - Could EC please give examples of products/services/measures, to which, in their view, this Regulation could apply in the future? ***See Recital 10 on "strategic foresight" and Article 3(4) on "strategically important areas".*** **BE (Comments):** BE has concerns regarding the exclusion or non-exclusion of some products in the SMEI proposal. BE asks the COM to clarify on what basis it decided to (not) exclude products and the circumstances in which they would be excluded from its scope, and what this means for other products or legislation, perhaps in the future. For example: - The SMEI would also apply to critical materials, but in case the Critical Raw Materials Act also foresees similar measures, we should

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		verify how one mechanism relates to the other and eventually add an additional exclusion under Art 2 §2 (g). - Did the Commission also consider an exclusion for goods in the area of protection and warfare, such as weapons? **PT (Comments):** It would be important to clarify the "application and derogation" of the Regulation in Article 2º. For instance, it is unclear how Article 2º(2) excludes from the application of the Regulation medicinal products, medical devices, and other medical countermeasures [art. 2º (2a), (2b), (2c)], while Article 2º(3) derogates from these provisions by referring that Articles 16 to 20 and 41 apply to them. **LU (Comments):** *The scope should be defined by what is covered rather than by what is not covered.* *The articulation with existing legislation is unclear. What does "shall not apply" mean in a concrete situation of crisis, where operational clarity is required? Would none of the SMEI provisions apply, even though – for example – the Directive 2001/83/EC on medicinal products does not contain any measures about procurement?*

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		LV (Comments): The Regulation scope is unclear due to the partial exceptions mentioned in this Article, for example, proposal doesn't apply to products and devices mentioned in Article 2 paragraph 2 subparagraphs (a), (b) and (c), but at the same time proposal's Articles 16 – 20 and Article 41 apply to the products and devices mentioned in Article 2 paragraph 2 subparagraphs (a), (b) and (c). There is a clear inconsistency and the wording "This Regulation shall not apply [..]" should not be used in this Article if it's only a partial exception. Additionally, why the partial exeption doesn't apply to products mention in Article 2 paragraph 2 subparagraph (d)? Latvia ephasizes that the scope of the proposal should be as clear as possible. **NL (Comments):** How does the exclusion of end products relate to the rest of the chain that lead to such end products? How to deal with semi-finished products, raw materials that lead to end products that are excluded from the scope of the SMEI? **PL (Comments):** PL questions the very broad scope of the proposals and the lack of consistency of the solutions contained in the draft with already

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		existing crisis management mechanisms. Crisis management mechanisms should not be duplicated and contradictory. The multitude of instruments and mechanisms and the lack of a clear delineation of the scope of their application may cause legal and coordination difficulties for the administrations of the Member States and economic operators. It must be clear for Member State administrations what instruments should be used in a given crisis situation, which bodies are to deal with a given crisis situation, who and how should make decisions regarding a given crisis situation and what role Member States will play in this process. On the other hand, it must be clear for economic operators which regulations will apply in a given crisis situation and what obligations result from these regulations for them. In addition, there is a risk of one entrepreneur being subject to the rigor of several different instruments. Therefore, it is necessary to map all existing and proposed crisis management mechanisms and their interactions.
(a) medicinal products as defined in Article 2, paragraph 2 of Directive 2001/83/EC;	**DE (Drafting):** medicinal products as defined in ~~Article 2, paragraph 2 of Directive 2001/83/EC;~~ **Article 1, point 2 of Directive 2001/83/EC**	**DE (Comments):** Incorrect reference.

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	IT (Drafting): (a) medicinal products as defined in Article ~~2~~ **1**, paragraph **1, point** 2**)** of Directive 2001/83/EC;	**LV (Comments):** Please see the previous comment. **IT (Comments):** We propose to modify par. A) in order to ensure that Article 2, paragraph 2 of the Commission proposal makes reference to the correct definition of medicinal product, provided by Article 1 paragraph 1, point 2) of Directive 2001/83/EC , according to which medicinal product means "*: (a) Any substance or combination of substances presented as having properties for treating or preventing disease in human beings; or (b) Any substance or combination of substances which may be used in or administered to human beings either with a view to restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action, or to making a medical diagnosis*." Moreover, we would suggest to clarify if advanced therapy medicinal products (ATMP) should be excluded from the scope of application of the present Commission proposal.

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(b) medical devices as defined in Article 2, point (e), of Regulation (EU) 2022/123 of the European Parliament and of the Council[5];	**DE (Drafting):** ~~in Article 2, point (e), of Regulation (EU) 2022/123 of the European Parliament and of the Council[6];~~ in-**Art. 2 No. 1, 2 of the regulation (EU) 2017/745 und Art. 2 No. 2, 4 of the regulation (EU) 2017/746**	**DE (Comments):** We suggest the reference to the definitions in both regulations (MDR und IVDR). **LV (Comments):** Please see the previous comment.
(c) other medical countermeasures as defined in Article 3, point (8), of Regulation (EU) …/… on Serious Cross-Border Threats to Health [the SCBTH Regulation] [7] and included in the list established in accordance with Article 6(1) of the proposal for] Council Regulation (EU) …/… on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures [8];	**DE (Drafting):** (c) other medical countermeasures as defined in Article 3, point (~~8~~ **10),** of Regulation (EU) …/… on Serious Cross-Border Threats to Health [the SCBTH Regulation] [9] and included in the list established in accordance with Article 6(1) of the proposal for] Council Regulation (EU) …/… on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures [10];	**DE (Comments):** DE requests to change the incorrect reference: "other medical countermeasures" are defined in Art. 3 Point 10 of SCBHT-regulation. **LV (Comments):** Please see the previous comment. **NL (Comments):** It is unclear if 'other medical countermeasures' are sufficiently covered by HERA/SCBTH

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5 Regulation (EU) 2022/123 of the European Parliament and of the Council of 25 January 2022 on a reinforced role for the European Medicines Agency in crisis preparedness and management for medicinal products and medical devices, OJ L 20, 31.1.2022, p. 12.

6 Regulation (EU) 2022/123 of the European Parliament and of the Council of 25 January 2022 on a reinforced role for the European Medicines Agency in crisis preparedness and management for medicinal products and medical devices, OJ L 20, 31.1.2022, p. 12.

7 [reference to adopted Act to be inserted once available]

8 [reference to adopted Act to be inserted once available]

10 [reference to adopted Act to be inserted once available]

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		because they are excluded from SMEI. NL would like clarification on this point.
(d) semiconductors as defined in Article 2(1) of the Regulation of the Council and of the European Parliament establishing a framework of measures for strengthening Europe's semiconductor ecosystem (Chips Act)[11];		**BE (Comments):** See above comment (Art 2 §2) For example: - Why are some products, for example semiconductors, excluded? Because of the existence of the Chips Act? BE believes the SMEI should be seen as the "basis instrument" with basic rules applicable on every product and additional legislation for certain products should be provided for specific measures. For example,the SMEI provides the possibility for member states to have a strategic reserve, while the Chips Act has not provided this possibility. **PT (Comments):** Considering that the scope of the Chips Act covers the entire semiconductor value chain (not just the semiconductors themselves), it would be important to understand how, for example, duplication of obligations will be avoided with respect to companies operating in different areas that relate to the semiconductor value chain. **LV (Comments):**

[11] [reference to adopted Act to be inserted once available]

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		Please see the previous comment. **PL (Comments):** In this context also the exclusion of Net-Zero Industry Act announced this week by the EC President, which is supposed to follow the same model as Chips Act (focusing investment on strategic projects along the entire supply chain and strenghtening ecosystems), should be considered.
(e) energy products as defined in Article 2, paragraph 1, of Directive 2003/96/EC[12], electricity as defined in Article 2, paragraph 2 of that Directive and other products as referred to in Article 2, paragraph 3, of that Directive.		**LV (Comments):** Please see the previous comment.
(f) financial services, such as banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice, including the services listed in Annex I to Directive 2013/36, as well as settlement and clearing activities and advisory, intermediation and other auxiliary financial services.	**FR (Drafting):** (f) financial services, such as banking, credit, insurance and re-insurance, occupational or personal pensions, securities, investment funds, payment and investment advice, including the services listed in Annex I to Directive 2013/36, as well as settlement and clearing activities and advisory, intermediation and other auxiliary financial services~~.~~ ***, as well as***	**LV (Comments):** Please see the previous comment. **FR (Comments):** The CER Directive covers critical entities providing essential services, including those of strategic importance in strategically important areas. Does the SMEI Regulation includes in its scope

[12] OJ L 283, 31.10.2003, p. 51.

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	critical entities as defined in article 2, paragraph 1, of the Directive 2020/0365 of the European Parliament and of the Council.	critical entities as defined in CER Directive and identified in a national level by the national competent authorities?
	PL (Drafting): **(g) critical raw materials as defined *in [the EU Critical Raw Materials Act]***	**PL (Comments):** It is necessary to add provisions relating to the planned Critical Raw Material Act. Depending on the future proposal, provisions of this Act should be excluded from the SMEI (Article 2.(g)) or included as complementary to the SMEI (Article 2.4a).
3. By way of derogation from paragraph 2, points (a), (b) and (c), Articles 16 to 20 and Article 41 of this Regulation shall apply to the products referred to in those points.		**PT (Comments):** As refered above, it would be important to clarify the "application and derogation" of the Regulation in Article 2º. For instance, it is unclear how Article 2º(2) excludes from the application of the Regulation medicinal products, medical devices, and other medical countermeasures [art. 2º (2a), (2b), (2c)], while Article 2º(3) derogates from these provisions by referring that Articles 16 to 20 and 41 apply to them. **LV (Comments):** Article 2 paragraphs 2 and 3 should be improved in terms of used terminology, wording and structure, given that paragraph 2 provides complete exceptions, while paragraph 3 provides derogation from these exceptions.

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	FR (Drafting): 4. This Regulation is without prejudice to the Union Civil Protection Mechanism set out in Decision 1313/13/EU**,** ~~and~~ the general plan on crisis management in the area of food and feed in accordance with Regulation (EC) No 178/2002 ***and the Integrated Political Crisis Response mechanism operated by the Council under Council Implementing Decision (EU) 2018/1993*** **PL (Drafting):** **3.a. This Regulation shall complement the Integrated Political Crisis Response mechanism operated by the Council under Council Implementing Decision (EU) 2018/1993, if and when activated, as regards its work on Single Market impacts of cross-sectoral crises that require political decision-making.**	**FR (Comments):** Could the Commission comment on why article 2 does not refer to the Integrated Political Crisis Response mechanism (IPCR), even though this instrument is mentioned at Recital 12 of this Regulation. **PL (Comments):** Scope of aplication should also refer to the Integrated Political Crisis Response mechanism as it is stated in the recital (12).
4. This Regulation is without prejudice to the Union Civil Protection Mechanism set out in Decision 1313/13/EU and the general plan on crisis management in the area of food and feed in accordance with Regulation (EC) No 178/2002.		**LU (Comments):** *What does "without prejudice" exactly mean in a concrete situation of emergency where operational clarity is needed? Which one prevails in which circumstances?* **PL (Comments):** SMEI should be complementary to UCPM, but we notice some inaccuracies or discrepancies.

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		SMEI gives the EC the option of joint procurement/joint purchasing by the Commission for some or all Member States in emergency situations. Such a possibility is also provided for in Decision 1313/2013 of the Council and the EP on the Union Civil Protection Mechanism, which states that in duly justified cases of urgency, the Commission may acquire, rent, lease or otherwise acquire rescEU capacities. Therefore, there is a need to specify the differences between the two instruments and to show situations in which individual instruments would be used. **MT (Comments):** There is a provision in the regulation that states that this Regulation 'should be without prejudice to Articles 55 to 57 of Regulation (EC) No 178/2002 on the general plan on crisis management in the area of food and feed, implemented by Commission Decision (EU) 2019/300.' and … 'prejudice to the European Food Security Crisis preparedness and response Mechanism (EFSCM). Nevertheless, food products should be governed by the provisions of this Regulation, including those concerning the notification mechanism and concerning restrictions to free movement rights . The measures concerning food products notified under this Regulation may be also reviewed for

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		their compliance with any other relevant provisions of EU law.' This is being understood that the provisions laid down in this regulation as to actions to overcome obstacles hindering food systems in the Single Market should not in any way supersede the framework laid down in the mentioned legal provisions. Malta would like a confirmation whether our understanding is correct.
	DE (Drafting): **4 a. This Regulation is without prejudice to Regulation (EU) 2022/2371 on serious cross-border threats to health, the HERA Crisis Regulation (EU) 2022/2372, the ECDC Regulation (EU) 2022/2370 and the EMA Regulation (EU) 2022/123.** **PL (Drafting):** **4a. This Regulation is without prejudice to *[the EU Critical Raw Materials Act]*.**	**DE (Comments):** DE sees the need to include a provision with regard to the EU Health Union package and SMEI within the SMEI Regulation itself to clarify in case of overlaps that the EU Health Union legislation as lex specialis takes precedence over SMEI(see above, comments on rec 11). **PL (Comments):** It is necessary to add provisions relating to the planned Critical Raw Material Act. Depending on the future proposal, provisions of this Act should be excluded from the SMEI (Article 2.(g)) or included as complementary to the SMEI (Article 2.4a).

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5. This Regulation is without prejudice to Union competition rules (Articles 101 to 109 TFEU and implementing regulations), including antitrust, merger and State aid rules.	**LU (Drafting):** ~~5. This Regulation is without prejudice to Union competition rules (Articles 101 to 109 TFEU and implementing regulations), including antitrust, merger and State aid rules.~~	**AT (Comments):** AT is concerned Art. 6(2)(b) and (c) could give rise to problems under competition law (formation of cartels) as well as problems with regard to business and trade secrets. Does this general provision, in Council Legal Service' view, suffice, in order to remove all competition law concerns under this Regulation? ***See also Article 6(2)(b) and (c) and Article 4(3) (ECs invitation to representatives of economic operators to attend meetings of the advisory group as observers).*** **LU (Comments):** *This provision is redundant as it flows from the Treaty.* **SI (Comments):** This is very important, the EU competition rules in general should be fully respected by any of measures in the context of this Regulation.
	IT (Drafting): **5.bis This Regulation is without prejudice to European Union rules on Intellectual property rights.**	**IT (Comments):** We propose a new paragraph 5bis to specify that the proposed regulation does not affect intellectual property rights and guarantees their economic value according to market rules. Ensuring the protection of intellectual property

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		rights, in supervision and crisis management is essential both to guide and limit the actions of the Authorities on the proprietary assets of companies, and to avoid the risk to discourage investments in innovation in the EU market.
6. This Regulation is without prejudice to the Commission:	**LU (Drafting):** ~~6. This Regulation is without prejudice to the Commission:~~	**LU (Comments):** *These provisions are redundant as the powers of the Commission and division of competence as they flow from the Treaty remain unaffected. This does not need to be spelled out in each individual legislation.*
(a) entering into consultations or cooperation, on behalf of the Union, with relevant third countries, with particular attention paid to developing countries, with a view to seeking cooperative solutions to avoid supply chain disruptions, in compliance with international obligations. This may involve, where appropriate, coordination in relevant international fora; or	**AT (Drafting):** (a) entering into consultations or cooperation~~, on behalf of the Union,~~ with relevant third countries, with particular attention paid to developing countries, with a view to seeking**, after having, in accordance with the Treaty, consulted the Council,** cooperative solutions to avoid supply chain disruptions, in compliance with international obligations. This may involve, where appropriate, coordination in relevant international fora; or **LU (Drafting):** ~~(a) entering into consultations or cooperation, on behalf of the Union, with relevant third countries, with particular attention~~	**AT (Comments):** See CLS opinion ST 11943/22, margin note 49 (with further references): *"Furthermore, it has been established by the case-law that the conclusion of non-binding instruments with third countries or international organisations falls within the Council's policy-making powers, whereas the conclusion of legally binding agreements with third countries or international organisations falls within the Council's treaty-making powers in accordance with Articles 207 and 218 TFEU."* How would CLS formulate this procision in order to adequately reflect Council's policy-making powers?

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	~~paid to developing countries, with a view to seeking cooperative solutions to avoid supply chain disruptions, in compliance with international obligations. This may involve, where appropriate, coordination in relevant international fora; or~~	***See AT comment on Recital 39.***
(b) assessing whether it is appropriate to impose restrictions to exports of goods in line with the international rights and obligations of the Union under Regulation (EU) 2015/479 of the European Parliament and of the Council [13].	**LU (Drafting):** ~~(b) assessing whether it is appropriate to impose restrictions to exports of goods in line with the international rights and obligations of the Union under Regulation (EU) 2015/479 of the European Parliament and of the Council [14].~~	**AT (Comments):** A crucial provision. In AT's view, during the Covid-19 pandemic, the imposition of restrictions to exports of goods necessary to fight the pandemic at Union level played an important role in keeping MS from imposing/maintaining national export restrictions at MS level. In this context, the following questions arise: - How does this provision help to strike the right balance between, on the one hand, safeguarding the functioning of the Single Market in particular in times of crises, while, on the other hand, not preventing MS impose restrictions to exports of goods/services necessary to fight a crisis? - Does this wording guarantee EC to assess on

[13] OJ L 83, 27.3.2015, p. 34.
[14] *OJ L 83, 27.3.2015, p. 34.*

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		time whether it is appropriate to impose restrictions to exports of goods at Union level (e.g. in face of an accumulation of national restrictions to exports of a good at MS level)? - How many MS need to impose a restriction to the export of a good at MS level before EC needs to assess whether it is appropriate to impose restrictions to the export of the same good at Union level?
7. Any actions under this Regulation shall be consistent with Union's obligations under international law	**LU (Drafting):** ~~7. Any actions under this Regulation shall be consistent with Union's obligations under international law~~ **PL (Drafting):** 7. Any actions under this Regulation shall be consistent with Union's **laws** and obligations under international law, **including WTO rules.**	**LU (Comments):** *This provision is redundant as the basic principles from the Treaty remain unaffected. This does not need to be spelled out in each individual legislation.* **PL (Comments):** The wide scope of application and exclusions from the application of the Regulation may cause problems, so care must be taken to ensure that any actions under this Regulation shall be consistent with Union's laws and obligations under international law, including WTO rules. **SI (Comments):** It should also clearly be stated that this Regulation is without prejudice to the EU Trade Policy

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	BE (Drafting): 7b. Any actions under the Regulation may not be interpreted as affecting in any way the exercise of fundamental rights as recognised in Member States, including the right or freedom to strike, as well as the environmental objectives of the EU. These rights may also include the right or freedom to take other actions covered by the specific industrial relations systems in Member States. **DK (Drafting):** **7a. This Regulation is without prejudice to the provisions laid out under Regulation 2020/0340 of the European Parliament and the of the Council ("Data Act").**	**BE (Comments):** BE wants more explicit safeguards to be built into the SMEI proposal to guarantee fundamental rights and environmental objectives. In this regard, BE insists on the right to strike to be guaranteed by a separate article in the SMEI proposal, not only in a recital. Inspired by the Council Regulation (EC) 2679/98, BE concretely wants a new Art. 2 (7bis) to be introduced, to protect the right to strike.BE also pleads for the priority given to environmental objectives to be reflected more in the text, such as those stemming from the Green Deal or Fit for 55. **DK (Comments):** It is crucial that data requests, sharing, and measures are preserved and protected. Ensuring that the provisions provided in the Data Act is included would significally diminish the risk of breaches of confidentiality as well as provide a clear framework, when sharing data with third parties. We find it both appropriate, useful, and less burdensome for all parties involved to refer to the process and obligations for public authorties' and Union bodies' access to privately held data in the Data Act.

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		We should benefit from the discussions that the Council have already had on this subject. Furthermore, it will lessen the confusion for both data recipients (i.e. Member States and the Commission) and economic operators if the same process is followed and the same rights apply in both acts, as they both cover similar situations.
8. This Regulation is without prejudice to the responsibility of the Member States to safeguard national security or their power to safeguard essential state functions, including ensuring the territorial integrity of the State and maintaining law and order.	**DE (Drafting):** 8. This Regulation is without prejudice to the responsibility of the Member States to safeguard national security or their power to safeguard essential state functions, including ensuring the territorial integrity of the State and maintaining law and order **and the responsibility of the Member States for public health**. **AT (Drafting):** 8. This Regulation is without prejudice to the responsibility of the Member States to safeguard national security or their power to safeguard essential state functions, including ensuring the territorial integrity of the State and maintaining law and order. **Member States have exclusive competence as regards the maintenance of public order and the safeguarding of internal security as well as in**	**DE (Comments):** In oder to adequately take into account MS responsibility for public health (see Art. 168 and Art. 36 TFEU) DE requests this addition. **AT (Comments):** This para. is very important. Competences of the MS should be clear. Recital 6 of Regulation 2679/98, regarding the exclusive MS competence for the maintenance of public order and the safeguarding of internal security in connection with the determination for the needed measures, should be added. **BE (Comments):** Article 4(2) TEU allows MS to intervene to safeguard their territorial integrity, the maintenance of public order and national security. Article 2(8) of the SMEI goes in this direction. But in concrete terms, BE wants this article to better outline the coexistence of the

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	determining whether, when and which measures are necessary and proportionate in order to facilitate the free movement of goods in their territory in a given situation. **LU (Drafting):** ~~8. This Regulation is without prejudice to the responsibility of the Member States to safeguard national security or their power to safeguard essential state functions, including ensuring the territorial integrity of the State and maintaining law and order.~~ **FI (Drafting):** 8. This Regulation is without prejudice to the responsibility of the Member States to safeguard national security or their power to safeguard essential state functions, including ensuring the territorial integrity of the State and maintaining law and order **as well as securing the economic functions and related technical systems necessary for the population's livelihood and the country's economic life *(security of supply)***.	SMEI with this article, which gives a power of action to the MS. **LU (Comments):** *This provision is redundant as the basic principles from the Treaty remain unaffected. This does not need to be spelled out in each individual legislation.* **ES (Comments):** ES considers that a explicit reference to article 4(2) of the EU Treaty could be made in order to clarified the scope and limits of this Regulation. **FI (Comments):** *The proposed addition aims to provide further examples of measures included in safeguarding essential state functions.* Questions to the Commission: What does '*state functions, including ensuring the territorial integrity of the State and maintaining law and order*' mean in practice? Which state functions are included?
	NL (Drafting): **9. This Regulation may not be interpreted as affecting in any way the exercise of fundamental rights laid down in the Charter of Fundamental Rights of the European Union (the 'Charter'), including the right or**	**NL (Comments):** This regards the introduction of a so-called 'Monti clause' similar to 'Article 2 of the ´Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the

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	freedom to strike or to take other action covered by the specific industrial relations systems in Member States in accordance with national law and practices. Nor does it affect the right to negotiate, conclude and enforce collective agreements and to take collective action in accordance with national law and practices. **FI (Drafting):** **<u>9. (new) This Regulation may not be interpreted as affecting in any way the exercise of fundamental rights as recognised in Member States, including the right or freedom to strike. These rights may also include the right or freedom to take other actions covered by the specific industrial relations systems in Member States.</u>**	internal market in relation to the free movement of goods among the Member States and honours the obligations of the Commission and the Member States under the Treaties. The purpose is, inter alia, to strengthen the fundamental rights safeguards in the SMEI (in particular also when it comes to social workers' and trade union rights). A strike action for example cannot be considered as a crisis for the purposes of the SMEI. Secondly, any measure triggered under the SMEI must not be used to undermine such strike action. **FI (Comments):** *As it is proposed that the SMEI would repeal the 'Strawberry Regulation' 2679/98 on the functioning of the internal market in relation to the free movement of goods among the Member States, it is crucial to take into account that the content of Article of the 'Strawberry Regulation' will be transferred to the SMEI. It is necessary to mention in Article that fundamental rights will be ensured.*
Article 3 Definitions		**AT (Comments):** In general, the definitions are vague, there are many unclear terms, such as "strategic importance", "critical importance" or "significant impact". The definition in para. 1 as

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		well as the definitions in para. 4 to 7 seem essential for the proposal and therefore need sufficient clarity. **BE (Comments):** The definitions and choices of words of the terms in Art. 3 are ambiguous. This ambiguity, as well as the proposed wide scope of the SMEI, risks proving problematic in providing legal certainty to Member States and economic actors. Clearly defined terms are therefore essential. Art. 3 should include definitions of frequently used terms to enhance legal certainty (see below at the end of this article) **ES (Comments):** ES welcomes the fact that the definitions establish a broad and flexible concept of crisis that allows any type of future event to be addressed, regardless of its nature or impact. The geographical dimension could be integrated into these definitions to allow for an approach that takes into account the area of impact of each crisis and the specificity of each territory.
For the purposes of this Regulation, the following definitions apply:		

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		IT (Comments): Given the exceptional nature of SMEI, it seems appropriate that the definitions be as clear, precise and circumscribed as possible to ensure compliance with the principle of proportionality of the measures envisaged.
(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;	**FR (Drafting):** (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 **AT (Drafting):** (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. **Collective actions such as strikes in compliance with the conditions laid down by national legislation taken by trade unions or civil society to draw attention to grievances can under no circumstances be considered as an exceptional event within the meaning of this provision;** **NL (Drafting):** 'crisis' means an exceptional, unexpected and sudden, natural or man-made event of extraordinary nature and scale that takes place	**FR (Comments):** **SK (Comments):** We are not sure that this definition is precise enough. **AT (Comments):** The definition of a crisis is broad and requires further concretisation and exceptions in order to be able to implement targeted measures in the event of crises in the Single Market. It should include the concept that an event must have a "significant impact on the Single Market" to be regarded as crises for the purposes of this regulation. Furthermore, collective actions shall not be consideres a crisis. **BE (Comments):** BE insists on the inclusion of more precise criteria and further clarifications, particularly regarding the definition of (1) "crisis". BE

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	inside or outside of the Union **that can have a detrimental effect to the functioning of the Single Market as an area without internal frontiers in which the free movement of goods, persons and services is ensured in accordance with the provisions of the Treaties**. **IE (Drafting):** (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 can have a detrimental effect to the functioning of the Single Market as an area without internal frontiers in which the free movement of goods, persons and services is ensured in accordance with the provisions of the Treaties.** **PL (Drafting):** (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~~;~~ **which may disrupts the free movements of goods, people and services on the Single Market and cause shortages of goods, semi-finished products, raw materials services and workers in the Single Market.**	argues for a holistic definition of the concept of 'crisis': when does it start, when does it end? How long does a crisis last? What does it cover and what does it not cover? If necessary, these elements could be included in a recital. The definition should refer to the negative consequences of the crisis on the internal market. **PT (Comments):** • In Article 3 (1) we underline the importance to clarify the definition of "crisis", a vital element of this proposal. For example, what is the duration of a crisis and when can it be considered over (we do not feel that Articles 9 and 10 provide a clear answer to these questions either) or what "extraordinary nature and scale" means (something affecting all EU countries? something affecting a certain number of EU citizens?...). • In the same vein, how the Commission can ensure that the instrument is not used in situations which go beyond a crisis of the single market? We find this is not clear. The concept of crisis, for the application of the regulation, should matter only when this crisis effectively affects the freedoms of the Single Market. In that sense, a clear reference to the free movement of goods, persons, and services

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	LT (Drafting): (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 **and has a detrimental effect to the functioning of the Single Market.** **IT (Drafting):** '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 **which has or may have a severe impact on the internal market and its functioning;** **DK (Drafting):** (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 can have a detrimental effect to the functioning of the Single Market as an area without internal frontiers in which the free movement of goods, persons and services is ensured in accordance with the provisions of the Treaties**. **FI (Drafting):**	should be included in the definition. **NL (Comments):** Overall, the aim should be to establish clear and unambiguous definitions. It has been added that the crisis must be detrimental to the functioning of the single market as the consequences of a crisis should be specific to the scope of the proposal. Furthermore, referring to the formulation of the treaty, it is described what exactly should be understood by the Single Market. **IE (Comments):** Overall, the aim should be to establish clear and unambiguous definitions. It has been added that the crisis must be detrimental to the functioning of the single market as the consequences of a crisis should be specific to the scope of the proposal. Furthermore, referring to the formulation of the treaty, it is described what exactly should be understood by the Single Market. **PL (Comments):** Definition of "crisis" is too general, imprecise, unclear, too broad and may lead to different interpretations and create legal uncertainty for national authorities and businesses. It is necessary to specify this definition so that there is no risk of unjustified activation of crisis

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	(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 can have a detrimental effect to the functioning of the Single Market as an area without internal frontiers in which the free movement of goods, persons and services is ensured in accordance with the provisions of the Treaties**; **MT (Drafting):** (1) 'crisis' means an exceptional unexpected, ~~and~~ sudden **and uncontrollable** natural or man-made event of extraordinary nature and scale that takes place inside or outside of the Union **that can result in a significant disruption of the free movement of goods, persons and services in the Single Market as provided in the Treaties;**	management modes under the SMEI in the case of each extraordinary event, which may have far-reaching negative consequences for the Single Market. It is important to highlight the impact such crisis may have (or not) on the Single Market. The impact of a crisis on the Single Market can be two-fold. On the one hand, a crisis can lead to obstacles to free movement within the Single Market. On the other hand, a crisis can amplify shortages of crisis-relevant goods and services on the Single Market. The Regulation should address both types of impacts on the Single Market and this should be reflected in the definition. **LT (Comments):** In our view, events, if they are to be treated as a single market crisis, should have a *negative* impact on freedoms of movement of goods, services and persons. Therefore we suggest adding another pre-condition: detrimental effect to the functioning of the Single Market. On the same note, we could support DK NL FI proposal. In addition, the reference to a crisis "outside of the Union" makes sense only if there is a direct link to an impact on the Single market. In addition, examples and explanations of the components which constitute crisis (exceptional/ unexpected/ sudden/ natural or man-made/

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		happening inside and outside of the Union) should be provided in the recitals. **IT (Comments):** It is necessary to align the text with Recital 6 to better define the meaning of crisis and its impact on the Single Market. For SMEI to be effective and targeted, so that crisis mitigation measures are proportionate and strictly defined, a legally certain definition of "crisis" is essential. Instead, the proposal provides a broad definition that leaves ample room for interpretation and consequently legal uncertainty. The definition also makes no reference to the interruption of the free movement of goods, services and persons, which ought be an important requirement. The definition of 'crisis' should include a reference to the negative impact of the exceptional event on the single market and its functioning to better circumscribe its scope, in line with the provisions of recital (6) and other emergency regulatory instruments (such as, for instance, Decision No. 1313/2013/UE of the European Parliament and the Councili (Art. 4, par. 1) or Council Implementing Decision (EU) 2018/1993 (Art. 3, par.1, lett.a). The revised definition of 'crisis' is necessary also to support and contain the definition of 'crisis relevant

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		good and services' according to the following paragraph 6. It would be preferable to connect this definition with the following point (2) and with the art. 8 which provide for propagation times of the relative effects of up to 6 months. The indicated integration is proposed. **DK (Comments):** Overall, the aim should be to establish clear and unambiguous definitions. It has been added that the crisis must be detrimental to the functioning of the single market as the consequences of a crisis should be specific to the scope of the proposal. Furthermore, referring to the formulation of the treaty, it is described what exactly should be understood by the Single Market. **FI (Comments):** *Overall, the aim should be to establish clear and unambiguous definitions. It has been added that the crisis must be detrimental to the functioning of the single market as the consequences of a crisis should be specific to the scope of the proposal. Furthermore, referring to the formulation of the treaty, it is described what exactly should be understood by the Single Market.*

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		SI (Comments): The concept should be better defined – crisis must have a detrimental effect to the functioning of the Single market as an area without internal borders with ensured free movement of goods, persons and services. **MT (Comments):** The proposed definition is too vast and leaves way to various interpretations. More precision in this definition is necessary in order to ensure that any kind of activation is based on a proper definition of a crisis.
	PL (Drafting): **(1a) 'shortage in the Single Market' means lack or deficiency of goods, semi-finished products, raw materials and/or services in the Single Market as a result of an exceptionally high demand or disruptions in the supply chains of goods and services and/or impediments to the movements of people.**	**PL (Comments):** The Regulation should be completed by the definition of 'shortage in the Single Market'. This is an integral part of the definition of a 'crisis' in the Single Market and this term defines the source of the problem. In the case of a crisis, measures have to be taken to address any identified shortages.
(2) 'Single Market vigilance mode' means a framework for addressing a threat of significant disruption of the supply of goods and services of strategic importance and which has the potential to escalate into a Single Market emergency within the next six months;	**AT (Drafting):** (2) 'Single Market vigilance mode' means a framework for addressing a threat of significant disruption of the supply of goods and services of strategic importance **in the Single Market** and which has the potential to escalate into a Single	**AT (Comments):** The significant disruption should as well be connected to the Single Market in this para. **BE (Comments):** Could the Commission elaborate as to what

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	Market emergency within the next six months; **LU (Drafting):** ~~(2) 'Single Market vigilance mode' means a framework for addressing a threat of significant disruption of the supply of goods and services of strategic importance and which has the potential to escalate into a Single Market emergency within the next six months;~~ **NL (Drafting):** 'Single Market vigilance mode' means a framework for addressing a **substantial and non-structural** threat of significant disruption of **the free movement of goods, persons and services on the Single Market or** the supply of goods and services of **critical** ~~strategic~~ importance and which has the potential to escalate into a Single Market emergency within the next six months; **IE (Drafting):** (2) 'Single Market vigilance mode' means a framework for addressing **a substantial and non-structural** threat of significant disruption of **the free movement of goods, persons and services on the Single Market or** the supply of goods and services of **critical**~~ strategic~~ importance and which has the potential to escalate into a Single Market emergency within	conditions are necessary to activate the vigilance mode or emergency mode? BE suggests to add an article previous to Art 9 to introduce the criteria for activation of the vigilance mode, just as Art 13 introduce them for the emergency mode. BE doesn't find COM's reply (wk00394/23) sufficient to explain why such article doesn't exist. **PT (Comments):** • In Article 3º (2), the single market vigilance mode, unlike the emergency mode, does not include disruptions to the functioning of the single market/free movement in the single market. Is there a specific reason for this? We consider that the link to the free movement of goods, persons, and services should be included here. • There is also a need to clearly distinguish between structural problems (requiring long-term structural solutions) and emergency situations that could require a coordinated action at the EU level. • What is the meaning of "goods and services of strategic importance" ? Vague concept. Why the reasoning for the choice of the six months? **LU (Comments):** *The SMEI should focus on preparation and*

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	the next six months; **PL (Drafting):** (2) 'Single Market vigilance mode' means a framework for addressing a threat of significant disruption of the supply of goods and services of strategic importance and **severe shortages of goods, semi-finished products, raw materials and services in the Single Market** ~~and which has the potential to escalate into a Single Market emergency within the next six months~~; **LT (Drafting):** (2) 'Single Market vigilance mode' means a framework for addressing a **substantial and non-structural** threat of significant disruption of **the free movement of goods, persons and services on the Single Market or** supply of goods and services of **critical** importance and which has the potential to escalate into a Single Market emergency within the next six months; **DK (Drafting):** (2) 'Single Market vigilance mode' means a framework for addressing a **substantial and non-structural** threat of significant disruption of **the free movement of goods, persons and services on the Single Market or** the supply of goods and services of **critical**~~strategic~~ importance and which has the potential to escalate into a Single Market emergency within	*addressing of crises. Adding different modes with different trigger mechanisms, and different rules, creates confusion in situations where operational and legal clarity is needed.* *We propose to integrate the more substantive elements from the vigilance mode into the crisis protocole.* **NL (Comments):** The first addition that the threat should be substantial and non-structural aims at 1) raising the bar for what constitutes a threat and 2) ensuring that more "structural" threats, such as long-term geopolitical tensions, does not qualify as threats in SMEI. The second addition ensures that also potential disruptions to the free movement of goods, persons and services on the Single Market can be a reason for activating the vigilance mode. The third amendment of replacing strategic with critical follows from the draft amendment in paragraph 5. **IE (Comments):** The first addition that the threat should be substantial and non-structural aims at 1) raising the bar for what constitutes a threat and 2) ensuring that more "structural" threats, such as long-term geopolitical tensions, does not qualify as threats in SMEI.

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	the next six months; **FI (Drafting):** (2) 'Single Market vigilance mode' means a framework for addressing a **substantial and non-structural** threat of significant disruption of **the free movement of goods, persons and services on the Single Market or** the supply of goods and services of **critical**~~strategic~~ importance and which has the potential to escalate into a Single Market emergency within the next six months; **SI (Drafting):** 'Single Market vigilance mode' means a framework for addressing a substantial threat of significant disruption **of the free movement of goods, persons and services** on the Single Market….	The second addition ensures that also potential disruptions to the free movement of goods, persons and services on the Single Market can be a reason for activating the vigilance mode. The third amendment of replacing strategic with critical follows from the draft amendment in paragraph 5. **PL (Comments):** We propose to delete Part III Single Market Viligance so this definition should be adjusted accordingly. **LT (Comments):** We support DK NL FI proposal and arguments provided in their paper. **DK (Comments):** The first addition that the threat should be substantial and non-structural aims at 1) raising the bar for what constitutes a threat and 2) ensuring that more "structural" threats, such as long-term geopolitical tensions, does not qualify as threats in SMEI. The second addition ensures that also potential disruptions to the free movement of goods, persons and services on the Single Market can be a reason for activating the vigilance mode. The third amendment of replacing strategic with critical follows from the draft amendment in

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		paragraph 5. **FI (Comments):** *The first addition that the threat should be substantial and non-structural aims at 1) raising the bar for what constitutes a threat and 2) ensuring that more "structural" threats, such as long-term geopolitical tensions, does not qualify as threats in SMEI.* *The second addition ensures that also potential disruptions to the free movement of goods, persons and services on the Single Market can be a reason for activating the vigilance mode.* *The third amendment of replacing strategic with critical follows from the draft amendment in Article 3(5).*
		SI (Comments): The addition ensures that also potential disruptions to the free movement of goods, persons and services on the Single Market can be a reason for activating the vigilance mode.
(3) 'Single Market emergency' means a wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement on the Single Market or the functioning of the supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market;	**DE (Drafting):** (3) 'Single Market emergency' means a wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement on the Single Market or the functioning of the supply chains that are **of systemic importance**	**DE (Comments):** For the declaration of the emergency mode, it is important to make reference to supply chains that are of a systemic nature in the single market (see also Germany's comments on the Commission's proposal for a Single Market

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	<u>and thus</u> indispensable in the maintenance of vital societal or economic activities in the Single Market; **NL (Drafting):** 'Single Market emergency' means a **significant** wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement **of goods, persons and services** on the Single Market or the functioning of the supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; **IE (Drafting):** (3) 'Single Market emergency' means a **significant** wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement **of goods, persons and services** on the Single Market or the functioning of the supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; **PL (Drafting):** (3) 'Single Market emergency' means a wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement on the Single Market**~~, or~~** the functioning of the supply chains **and causes shortages of goods, semi-finished products, raw materials and**	Emergency Instrument (SMEI) from November 2022). **AT (Comments):** Article 3 (3) defines a "Single Market emergency" as a crisis (see Article 3 (1)) […] that has wide-ranging impacts on the Single Market, on the free movement of people and goods, on the functioning of supply chains and on the maintenance of the Single market. It is questionable whether these impacts must be cumulative, or whether it is already sufficient that only out of the here " wide-ranging impact" enumerated exists. In general, the term " wide-ranging" is not precise enough and risks being interpreted differently by those affected, which in turn leads to more legal uncertainty. Consequently, it is not sufficiently clear when the scope of this regulation is opened. Clarification or a complete revision is required here. **PT (Comments):** • "means a wide ranging impact of a crisis" is too vague. It needs to be densified. As stated above, a clear reference to the free movement of goods, persons, and services should be included here. **LU (Comments):**

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	services that are indispensable in the maintenance of vital societal or economic activities in the Single Market; **LT (Drafting):** (3) 'Single Market emergency' means a **significant** wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement **of goods, services and persons** on the Single Market or the functioning of the supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; **DK (Drafting):** (3) 'Single Market emergency' means a **significant** wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement **of goods, persons and services** on the Single Market or the functioning of the supply chains that are indispensable in the maintenance of vital societal or economic activities in the Single Market; **FI (Drafting):** (3) 'Single Market emergency' means a **significant** wide-ranging impact of a crisis on the Single Market that severely disrupts the free movement **of goods, persons and services** on the Single Market or the functioning of the supply chains that are indispensable in the	*We will comment on this definition in subsequent comments related to the emergency phase.* **NL (Comments):** Considering the potential far-reaching instruments included in the emergency mode, the addition of significant aims at raising the bar for the impact of a crisis for the emergency mode to be activated. The addition of goods, persons and services makes explicit what is meant by free movement. **IE (Comments):** Considering the potential far-reaching instruments included in the emergency mode, the addition of significant aims at raising the bar for the impact of a crisis for the emergency mode to be activated. The addition of goods, persons and services makes explicit what is meant by free movement. **PL (Comments):** A "single market emergency" is defined as a wide-ranging impact of a crisis based on either 1) the disruption of the free movement on the Single Market or 2) the functioning of indispensable supply chains. But it also should be clarified by a provision specifying what is the result of the crisis, i.e. a shortage of goods and

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	maintenance of vital societal or economic activities in the Single Market;	services relevant in the context of the crisis. **LT (Comments):** We support DK NL FI proposal and arguments provided in their paper. In addition, we suggest elaborating in the recitals the meaning of "vital societal or economic activities in the Single Market". **DK (Comments):** Considering the potential far-reaching instruments included in the emergency mode, the addition of <u>significant</u> aims at raising the bar for the impact of a crisis for the emergency mode to be activated. The addition <u>of goods, persons and services</u> makes explicit what is meant by free movement. **FI (Comments):** *Considering the potential far-reaching instruments included in the emergency mode, the addition of <u>significant</u> aims at raising the bar for the impact of a crisis for the emergency mode to be activated.* *The addition <u>of goods, persons and services</u> makes explicit what is meant by free movement.*
(4) 'strategically important areas' means	**LU (Drafting):**	**AT (Comments):**

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those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market;	~~(4) 'strategically important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market;~~ **LV (Drafting):** ~~(4) 'strategically important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market;~~ **NL (Drafting):** '~~strategically~~ **critically** important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market**, especially the free movement of goods, persons, and services;**	Could EC please explain: - What *"strategically important areas of the Single Market economy"* emerge from *"Union's continuous foresight work"*? - How MS are involved in identifying *"strategically important areas of the Single Market economy"* and in *"Union's continuous foresight work"*? - What is the value-added of this definition as compared to *"goods and services of strategic importance"?* Could EC pursuant to Article 9(2) in connection with Article 11(1) and 42(2) of the proposal identify *"goods and services of strategic importance"* also in areas that are not *"strategically important areas"?* Or would EC as per the proposal be able to identify *"goods and services of strategic importance"* exclusively in *"strategically important areas"?* **BE (Comments):** BE also requests to further reflect on the definition of (4) "strategically important areas". Words such as "areas" give a wide scope of application. BE wants these terms to be further defined to further determine the scope and intent

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	IE (Drafting): (4) '~~strategically~~ **critically** important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market**, especially the free movement of goods, persons, and services**; **PL (Drafting):** (4) 'strategically important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market **in particular food, transport, energy, defence, health, cybersecurity, information and digital technology, industrial technologies, ..**; **LT (Drafting):** (4) ' **critically** important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public	of the regulation. For example, SMEI does not apply to semiconductors (covered by the Chips Act). However, given that the Chips Act covers the entire value chain of semiconductors, how will a clash of obligations and efforts be avoided with regard to companies that are connected to the semiconductor value chain? **PT (Comments):** • The concept is quite vague and broad, therefore lacking explanation. It should clearly explicit the free movement of goods, persons and services in the sentence. **LU (Comments):** *The definitions of "strategically important areas", "goods and services of strategic importance" and "crisis-relevant goods and services" are confusing. In times of crisis, clarity is needed. Moreover, it is unclear how these definitions are actually relevant to the Single Market. The Single Market should aim for free movement of all goods and services, irrespective of whether they are strategic or not. Arguably, in a crisis, any service or good that is prevented from cross-border provision, becomes strategic in itself.* **LV (Comments):**

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	safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market, **especially the free movement of goods, services and persons**; **DK (Drafting):** (4) '~~strategically~~ **critically** important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market**, especially the free movement of goods, persons, and services;** **FI (Drafting):** (4) '~~strategically~~ **critically** important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market**, especially the free movement of goods, persons, and services, including but not limited to tranport, industry, digital**	The term "stretegically important areas" is not used in none of the Articles of the poposal. **NL (Comments):** Replacing strategically with critically serves the purpose of narrowing the scope of which areas that can be subject to the instruments of the vigilance mode. In general, SMEI should focus on those areas, goods, services etc. that are really critical to the functioning of the Single Market. Furthermore, it is important that SMEI remains a crisis tool rather than a means to pursue strategic objectives, which may often differ across Member States. Again, the addition of goods, persons and services makes explicit what is meant by free movement. **IE (Comments):** Replacing strategically with critically serves the purpose of narrowing the scope of which areas that can be subject to the instruments of the vigilance mode. In general, SMEI should focus on those areas, goods, services etc. that are really critical to the functioning of the Single Market. Furthermore, it is important that SMEI remains a crisis tool rather than a means to pursue strategic objectives, which may often differ across Member States.

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	<u>infrastructure, space and production, processing and distribution of food</u>. **SI (Drafting):** 'critical sector' means any sector referred to in the Annex to Directive (EU) No …/… of the European Parliament and of the Council on the resilience of critical entities, in the version in force on …, as well as the defence and security sectors;	Again, the addition of <u>goods, persons and services</u> makes explicit what is meant by free movement. **PL (Comments):** Definition should be clarified and described in a more detailed manner by adding such strategically important areas. **LT (Comments):** LT supports NL, FI, DK proposal and arguments provided in their paper. **DK (Comments):** Replacing strategically with <u>critically</u> serves the purpose of narrowing the scope of which areas that can be subject to the instruments of the vigilance mode. In general, SMEI should focus on those areas, goods, services etc. that are really critical to the functioning of the Single Market. Furthermore, it is important that SMEI remains a crisis tool rather than a means to pursue strategic objectives, which may often differ across Member States. Again, the addition <u>of goods, persons and services</u> makes explicit what is meant by free movement. **FI (Comments):** *'Strategically important areas' should be*

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		defined with greater clarity. One option cloud be to link strategically important areas to the Annex of the CER Directive[15] *as far as the areas are not outside the scope of the SMEI. Strategically important areas should only include those sectors on which the Single Market is dependent.* *Replacing strategically with critically serves the purpose of narrowing the scope of which areas that can be subject to the instruments of the vigilance mode. In general, SMEI should focus on those areas, goods, services etc. that are really critical to the functioning of the Single Market. Furthermore, it is important that SMEI remains a crisis tool rather than a means to pursue strategic objectives, which may often differ across Member States.* *The addition of goods, persons and services makes explicit what is meant by free movement.* A question to the Commission: Is it in all cases that the SMEI Regulation does not overlap with the CER Directive? **SI (Comments):** The definition of critical sectors should be added as reffered to in the Annex of the

[15] Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC (Text with EEA relevance)

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		Directive on the resilience of critical entities. The proposed wording is form the general approach text of the Chips Act and is in our opinion relevant also for this Regulation since the term critical sector/s is being used throughout the Regulation.
	IT (Drafting): 'strategically important areas' means those areas with critical importance to the Union and its Member States, in that they are of systemic and vital importance for public security, public safety, public order or public health, and the disruption, failure, loss or destruction of which would have a significant impact on the functioning of the Single Market, **such as** ….[to be completed with reference to the "Regulation on the control of foreign direct investment" or to the annexe to the "Directive on the resilience of critical entities"; or inserting directly, totally or in part, the list in the annexe of "Directive on the resilience of critical entities"]	**FR (Comments):** Could the Commission explain why it is necessary to distinguish between 'goods and services of strategic importance' and 'crisis-relevant goods and services' **IT (Comments):** The definition of 'strategically important areas' contained in Article 3(4) should be integrated with a non-exhaustive list of areas deemed to be of strategic importance in view of their relevance to security and public order. The "ex ante", though non exhaustive, definition of strategically important areas is also necessary to support and contain the definition of 'good and services of strategic importance' under the following paragraph (5) and of 'strategic reserves' under the following paragraph (7). For instance, the Critical Entities Resilience (CER) Directive proposal covers 10 sectors (energy, transport, banking, financial market infrastructures, health, drinking water, waste water, digital infrastructure, public

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		administration and space) defined as critical. In addition, it would also be useful to include specific supply disruptions that lead to significant shortages in the Union, with negative economic effects on key and strategic sectors. The definition of "strategically important areas" could be based on assessments already made by the European legislator, for example in Regulation (EU) 2019/452 on the control of foreign direct investment, or to the Directive on the resilience of critical entities which for the definition of 'critical entity' refers to a list of sectors deemed relevant indicated in the Annex to the directive (art. 2, paragraph 1 and art. 6). The indication of a list appears consistent also with recital 10 which in indicating that the regulation should allow for the anticipation of events and crises on the basis of a constant analysis concerning the sectors of strategic importance of the market economy unique, seems to suggest that these sectors should be identified ex ante.
(5) 'goods and services of strategic importance' means goods and services that are indispensable for ensuring the functioning of the Single Market in strategically important areas and which cannot be substituted or diversified;	**LU (Drafting):** ~~(5) 'goods and services of strategic importance' means goods and services that are indispensable for ensuring the functioning of the Single Market in strategically important areas and which cannot be substituted or diversified;~~	**SK (Comments):** We would welcome to have, as an example, an indicative list of strategic goods **AT (Comments):** Pursuant to Article 9(2) in connection with

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	LV (Drafting): ~~(5) 'goods and services of strategic importance' means goods and services that are indispensable for ensuring the functioning of the Single Market in strategically important areas and which cannot be substituted or diversified;~~ **NL (Drafting):** 'goods and services of ~~strategic~~ **critical** importance' means goods and services that are indispensable for ensuring the functioning of the Single Market in ~~strategically~~ **critically** important areas and which cannot be substituted or diversified; **IE (Drafting):** (5) 'goods and services of ~~strategic~~ **critical** importance' means goods and services that are indispensable for ensuring the functioning of the Single Market in ~~strategically~~ **critically** important areas and which cannot be substituted or diversified; **PL (Drafting):** (5) 'goods and services of strategic importance' means goods, **semi-finished products, raw materials** and services that are indispensable for ensuring the functioning of the Single Market in strategically important areas **describes in Article 3(4)** and which cannot be	Article 11(1) and 42(2) of the proposal, EC identifies *"goods and services of strategic importance"* in the implementing act activating the vigilance mode. In AT's view, as reported back at the WP meeting on 13.01.2023, the activation of the vigilance mode should be done through the Council's implementing act to strengthen the role of the MS. **BE (Comments):** The legal basis of the proposed regulation is Article 21, 45 and 114 of the Treaty on the Functioning of the European Union. The SMEI is intended to ensure free flow of goods and services that are indispensable for ensuring the functioning of the Single Market in strategically important areas. However, BE wants the Commission to : - provide a analyse on what extent there is a risk that measures taken under the SMEI (e.g. Article 12) could lead to disruptions to the functioning of the Single Market in non-strategically important areas; and if there is such a risk, to explain how it believes such a potential disruption can be reconciled with the legal basis of Article 21, 45 and 114 TFEU? .

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	substituted or diversified **by the EU**; **LT (Drafting):** (5) 'goods and services of **critical** importance' means goods and services that are indispensable for ensuring the functioning of the Single Market in **critically** important areas and which cannot be substituted or diversified; **DK (Drafting):** (5) 'goods and services of ~~strategic~~ **critical** importance' means goods and services that are indispensable for ensuring the functioning of the Single Market in ~~strategically~~ **critically** important areas and which cannot be substituted or diversified; **FI (Drafting):** (5) 'goods and services of ~~strategic~~ **critical** importance' means goods and services that are indispensable for ensuring the functioning of the Single Market in ~~strategically~~ **critically** important areas and which cannot be substituted or diversified;	**PT (Comments):** There is a need to clarify the difference between "goods and services of strategic importance" (Article 3º(5)) and "crisis-relevant goods and services" (Article 3º(6)). Vague concepts. **LV (Comments):** Latvia does not support obligation to build strategic reserves of goods that are identified as strategically important. Please see comment regarding Article 1 paragraph 1. **NL (Comments):** The same reasons as highlighted in the paragraph prior to this one applies for the two draft amendments in this paragraph. **IE (Comments):** The same reasons as highlighted in the paragraph prior to this one applies for the two draft amendments in this paragraph. **PL (Comments):** Articles only very generally describe the terms "goods and services". It should be clarified and described in a more detailed manner. **LT (Comments):** LT supports NL, FI, DK proposal and arguments provided in their paper.

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		DK (Comments): The same reasons as highlighted in the paragraph prior to this one applies for the two draft amendments in this paragraph. **FI (Comments):** *'Goods and services of strategic importance' should also be defined with greater clarity. At least it is important to define strategically important areas more accurately. This would make it possible to prepare in advance for possible shortcomings of strategic goods and services in the Single Market. Preparedness should be carried out during normal times before vigilance or emergency mode.* *SMEI could ensure the mobility of products and services in the sectors listed in the CER Directive during the emergency mode.* *Replacing strategic with critical serves the purpose of narrowing the scope of which goods and services can be subject to the instruments. In general, SMEI should focus on those areas, goods, services etc. that are really critical to the functioning of the Single Market.* Questions to the Commission: Could the Commission give examples of cases of what the goods and services of strategic importance would be? For whom are they

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		important and how does the shortage of these goods and services affect the functioning of society?
		IT (Comments): It would be appropriate to indicate which areas are considered critical to define goods and services of strategic importance. **SI (Comments):** The definition is extremely broad and can cover all goods that are not expressly excluded from use. In our opinion, it would be reasonable to define at least the categories of goods that are considered goods of strategic importance in the regulation or in the annex to the regulation. At the national level, the Republic of Slovenia has already established commodity reserves of foodstuffs, medicines, medical devices and equipment for the needs of the protection and rescue forces, but it does not have, for example, formed commodity reserves of raw materials for production needs. Creating stocks of new types of goods is very demanding from the point of view of ensuring adequate storage capacities and qualified personnel. It is impossible to consider the finacial aspect of measures that relate to goods and services of strategic importance if it is not clear what these goods and services are.

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(6) 'crisis-relevant goods and services' means goods and services that are indispensable for responding to the crisis or for addressing the impacts of the crisis on the Single Market during a Single Market emergency ;	**LV (Drafting):** ~~(6) 'crisis-relevant goods and services' means goods and services that are indispensable for responding to the crisis or for addressing the impacts of the crisis on the Single Market during a Single Market emergency ;~~ **NL (Drafting):** 'crisis-relevant goods and services' means goods and services that are indispensable for responding to the crisis or for addressing the impacts of the crisis on the Single Market, **especially free movement of goods, persons and services,** during a Single Market emergency. **IE (Drafting):** (6) 'crisis-relevant goods and services' means goods and services that are indispensable for responding to the crisis or for addressing the impacts of the crisis on the Single Market**, especially free movement of goods, persons and services** during a Single Market emergency **PL (Drafting):** (6) 'crisis-relevant goods and services' means goods, **semi-finished products, raw materials** and services that are indispensable for responding to the crisis or for addressing the impacts of the **potencial** crisis on the Single	**SK (Comments):** The relationship and difference to point 5 is not clear. **AT (Comments):** - Who designates *"crisis-relevant products and services"* in which procedure using which criteria? - Could EC give a timeline for the procedure under this EC proposal? In which are clearly stated the points in time in the procedure when *"goods of strategic importance"* and when *"crisis-relevant products*" are identified? **PT (Comments):** There is a need to clarify the difference between "goods and services of strategic importance" (Article 3º(5)) and "crisis-relevant goods and services" (Article 3º(6)). **LV (Comments):** Please see the previous comment. **NL (Comments):** The addition of goods, persons and services provides further guidance on what is to be understood by impacts on the Single Market. **IE (Comments):** The addition of goods, persons and services

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	Market during **a Single Market Vigilance** or a Single Market emergency; **LT (Drafting):** (6) 'crisis-relevant goods and services' means goods and services that are indispensable for responding to the crisis or for addressing the impacts of the crisis on the Single Market, **especially the free movement of goods, services and persons,** during a Single Market emergency ; **DK (Drafting):** 6. 'crisis-relevant goods and services' means goods and services that are indispensable for responding to the crisis or for addressing the impacts of the crisis on the Single Market, **especially free movement of goods, persons and services,** during a Single Market emergency. **FI (Drafting):** (6) 'crisis-relevant goods and services' means goods and services that are indispensable for responding to the crisis or for addressing the impacts of the crisis on the Single Market**,** **especially free movement of goods, persons and services**, during a Single Market emergency; **SI (Drafting):**	provides further guidance on what is to be understood by impacts on the Single Market. **PL (Comments):** Articles only very generally describe the term 'crisis-relevant goods and services'. It should be clarified and described in a more detailed manner. **LT (Comments):** LT supports NL, FI, DK proposal and arguments provided in their paper. **DK (Comments):** The addition of goods, persons and services provides further guidance on what is to be understood by impacts on the Single Market. **FI (Comments):** *'Crisis-relevant goods and services' should be defined with greater clarity. According to the proposal for a regulation, crisis-relevant goods and services could likely be almost any goods and services.* *The addition of goods, persons and services provides further guidance on what is to be understood by impacts on the Single Market.* **SI (Comments):** The addition of goods, persons and services

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	6. 'crisis-relevant goods and services' means goods and services that are indispensable for responding to the crisis or for addressing the impacts of the crisis on the Single Market, **especially free movement of goods, persons and services**, during a Single Market emergency.	provides further guidance on what is to be understood by impacts on the Single Market.
(7) 'strategic reserves' means a stock of goods of strategic importance for which building a reserve may be necessary to prepare for a Single Market emergency, under the control of a Member State.	**LU (Drafting):** ~~(7) 'strategic reserves' means a stock of goods of strategic importance for which building a reserve may be necessary to prepare for a Single Market emergency, under the control of a Member State.~~ **LV (Drafting):** ~~(7)~~ ~~'strategic reserves' means a stock of goods of strategic importance for which building a reserve may be necessary to prepare for a Single Market emergency, under the control of a Member State.~~ **PL (Drafting):** (7) 'strategic reserves' means a stock of goods of strategic importance for which building a reserve may be necessary to prepare for **a potencial crisis** ~~Single Market emergency, under the control of a Member State.~~	**DE (Comments):** DE asks for clarification how this paragraph and e.g. Art. 12, 32 SMEI work in view of the fact that SMEI fully applies to "other medical countermeasures" (only) until a monitoring list according to the HERA crisis Regeulation is available.We ask for clarification, especially with regard to national health reserves. **AT (Comments):** AT assumes MS are expected to shoulder costs of storage and stockpiling of *"strategic reserves"*? - How would private undertakings be included in MS obligation to maintain *"strategic reserves"*? - In case this EC proposal would enable MS to oblige private undertakings to maintain *"strategic reserves"* for them: Who would recompense private enterprises for these costs

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	RO (Drafting): 'strategic reserves' means a stock of goods of strategic importance for which building a reserve may be necessary to prepare for a Single Market emergency, under the control of ~~a~~ **each** Member State.	associated with this stockpiling of *"strategic reserves"*? - What happens to perishable *"strategic reserves"* when the *"date of expiry"* is surpassed? MS should be involved in the designation/identification of those *"goods and services of strategic importance"* in which MS are expected to maintain *"strategic reserves"* as well as in involved in any EC establishing a list of individual targets (quantities and deadlines). **BE (Comments):** BE would like the definition (7) "strategic reserves" to be more clearly delineated (cfr. concerns under article 12). **LV (Comments):** Please see the previous comment. **PL (Comments):** This definicion should be adjusted accordingly to the amendments/deletions of Article 12. **RO (Comments):** We propose rewording so that it is not understood that the strategic reserves are under the control of a single member state
	IT (Drafting):	**IT (Comments):**

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	8 “significant accidents"	See comment to article 8
Title II Governance		
		BE (Comments): BE calls for a clarification of the relationship between the competent authorities of the MS, the central liaison offices, the Advisory group (or rather Steering Committee - see comment on Art.4) and the Commission: Who can work directly with whom? And what about national single points of contact?
Article 4 Advisory group	**BE (Drafting):** Article 4 Steering Committee **PL (Drafting):** Article 4 ~~Advisory group~~ **SMEI Forum/Task Force** **LT (Drafting):** Article 4 **Steering Committee**	**BE (Comments):** It is important that the advisory group is able to work as an effective steering body for cooperation between the Commission and the Member States, to better reflect the fact that steering is done under the leadership of COM, but in close coordination with the MS. **LV (Comments):** The distinction between the "group" and "board" is unclear and should be clarified by the Comission. Similar mechanisms, like, the Chips Act or HERA incorporate boards which have similar tasks as Advisory group under SMEI. The consistency should be provided or a clear explanation from the Comission why the chosen format differs in this prosposal/mechanism.

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		Additionally, it is not clear what is the interlinkage and foreseen cooperation mechanism between Advisory group and other groups or boards established under other crisis response mechanisms? **NL (Comments):** NL believes that the advisory group should have a more prominent role in the preparation of decisions that can be taken under this Regulation. Perhaps it should become a steering committee instead, to ensure the active involvement of Member States. **PL (Comments):** The provisions on the Advisory group are not appropriate and comprehensive. It should have greater powers and influence on decisions taken by the EC. The advisory group established under Art. 4 of the SMEI Regulation does not fall within the framework of *COMMISSION DECISION establishing horizontal rules on the creation and operation of Commission expert groups (C(2016)3301).* Therefore, it may be misleading so it seems reasonable that the name of this body is be changed in the Regulationin. It could be for example SMEI Forum because it

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		will be a platform/forum for cooperation between different bodies relevant to the crisis. **LT (Comments):** We support BE proposal for changing the name (and role) of the Advisory Group. The role of the Advisory Group (Steering Committee) should be strengthened as the assisting/advising functions are not sufficient to ensure proper involvement of the Member States in the processes under the SMEI. **FI (Comments):** *According to the proposal, Member states mainly have an advisory role in decision-making as members of the Advisory Committee. It is crucial that Member States have a genuine opportunity to participate in the decision-making process and in the planning of vigilance and emergency mode measures, and that the role of Member States be defined more clearly in the Regulation.* *Perhaps the advisory committee should become a steering committee instead, to ensure the active involvement of Member States.* **SI (Comments):** As emphasized already in Art 1 para 2(a) the advisory group should haave a strong role in the process of working together with the

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		Commission in relation to all the tasks as stated below and that synergies with other relevant groups, bodies, committees will clearly be defined in order to ensure an effective and efficient coordination of all relevant activities at the EU level.
		BE (Comments): The purpose of the Advisory Group/Steering committee is to advise the Commission, but the Commission chairs the Steering Committee and therefore takes part in the preparation of decisions: - In these conditions, how can the Commission be advised by a body of which it is a member (it is therefore both judge and party)? - Assuming that the Commission chairs but does not take part in the preparation of the Steering Committee's opinions, can the Commission disregard an opinion of this committee if its point of view differs from that opinion? BE is not convinced by the answer given by COM during the WP on 6/12 and asks for a closer coordination with the MS.
1. An advisory group is established.	**BE (Drafting):** 1. A steering committee is established. **PL (Drafting):**	**IE (Comments):** As stated previously, this group should be central to all decisions made under the Regulation and its role should be defined as

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	1. ~~An advisory group~~ **A SMEI Forum** is established.	being more than "advisory".
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.	**BE (Drafting):** 2. The steering committee shall be composed of one representative from each Member State. Each Member State shall nominate a representative and an alternate representative. The Member States may nominate different representatives and alternate representatives according to the type of crisis, as long as they are appointed when the crisis happens. **PL (Drafting):** 2. The **SMEI Forum** ~~advisory group~~ shall be composed of one representative from each Member State. Each Member State shall nominate a representative and an alternate representative.	**SK (Comments):** The group should have a strong mandate. We also suggest to consult indepent (not governmental) experts or academics as well. **BE (Comments):** Depending on the type of crises the EU will face, the profiles of the full and alternate members will differ. Therefore, there may be more than one person nominated, but once the crisis is established, it is important that the representatives are appointed. Moreover, BE stresses the importance of coordination with the advisory groups of connected instruments. In this regard, BE asks the COM to clarify what other such advisory groups exist and how synergies could be established. **PT (Comments):** • The participation of the representatives of economic operators as stated in the proposal is optional and in the quality of observers. There is a need for a more active participation of economic operators in the

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		decision-making process. They are the main recipients of measures proposed by the advisory board. Likewise, there should be full use of the knowledge and experience of the social partners, relevant civil society organisations. Sharing pratical and "on the ground" experiences is crucial. **ES (Comments):** The composition of the Advisory Group could follow a flexible approach in order to adapt its configuration to different crises and events. **MT (Comments):** It is not currently clear how much weight will be given to the decisions that are taken by the advisory group. It is essential that the main responsibility of crisis management remains with Member States. Malta wants to avoid a decision-making process that could lead to Member States with little room for manoeuvre and having to implement measures which may not be the most suitable measures for their realities. For this purpose, Malta is not convinced that the governance structure proposed, that of having an advisory group, would be the best choice to safeguard the Member States sovereignty and national interests, particularly in times of crisis.

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		Any governance structure to be opted for should allow for expeditious decisions and actions. MT notes that costs will be incurred in relation to advisory group meetings and more specific costs during vigilance and emergency modes related to specific measures activated in those modes. This, besides needing to nominate an individual to form part of this group. MT wishes to enquire regarding who will be footing these added costs whether it will be the Member State or if there will be any funds allocated.
		BE (Comments): A paragraph 2b should be added to explain who can convene the Steering committee or at whose request. **FR (Comments):**
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 Area[16], representatives of economic operators, stakeholder organisations, social partners and	**DE (Drafting):** 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 Area[17],	**DE (Comments):** In addition to the representatives with expertise in internal market issues, another sector specific representative from the respective member-states should be appointed on an ad hoc basis for each type of crisis and take part in the

[16] OJ L 1, 3.1.1994, p. 3.
[17] OJ L 1, 3.1.1994, p. 3.

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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.	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. **In addition, Member States shall appoint a sector-specific ad hoc representative if this is appropriate depending on the nature of the crisis.** **BE (Drafting):** 3. The Commission shall chair the steering committee 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 Area[18], to attend meetings of the steering committee as observers. The Commission and the Member States may also invite as observers representatives of economic operators, stakeholder organisations, social partners and experts.-The Commission shall invite the representatives of other crisis-relevant bodies at Union level as observers to the relevant meetings of the steering committee. **NL (Drafting):**	advisory group. Furthermore, in view of security-related aspects, the advisory group should additionally meet regularly in the format of a restricted group of the Commission/the Member States. **AT (Comments):** AT takes a sceptical view as to the invitation of representatives of individual economic operators by EC to the *"advisory group"* as an expert group. While to some extent it is up to EC to invite to the expert groups, could repetitive involvement of individual economic operators by EC also give rise to problems under competition law, in spite of Article 2(5), which rather generically declares this Regulation to be without prejudice to Union competition rules? What is CLS' perspective? Is this provision in line with the horizontal rules on participation in EC expert groups? **BE (Comments):** Member States should also be able to invite representatives of economic operators, stakeholder organisations, social partners and experts (not only the Commission). **PT (Comments):**

[18] OJ L 1, 3.1.1994, p. 3.

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	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 Area[19], 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. **Before adopting an opinion as foreseens in Articles 9; 10, 14, paragraph 2, 15 and 31 the advisory group will consult a representative of the European Parliament, representatives of EFTA States that are contracting parties to the Agreement on the European Economic Area , representatives of economic operators, stakeholder organisations, social partners and experts.** **PL (Drafting):** 3. The Commission shall chair the **SMEI Forum** ~~advisory group~~ and ensure its secretariat. The Commission may invite a representative of the European Parliament, representatives o f EFTA States that are	• The participation of the representatives of economic operators as stated in the proposal is optional and in the quality of observers. There is a need for a more active participation of economic operators in the decision-making process. They are the main recipients of measures proposed by the advisory board. Likewise, there should be full use of the knowledge and experience of the social partners, relevant civil society organisations. Sharing pratical and "on the ground" experiences is crucial. **NL (Comments):** In order to ensure relevant stakeholders, including the business community, are consulted carefully. **IE (Comments):** The listed parties should be consulted on decisions and not just be "observers".

[19] OJ L 1, 3.1.1994, p. 3.

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	contracting parties to the Agreement on the European Economic Area, representatives of economic operators, stakeholder organisations, social partners and experts, to attend meetings of the ~~advisory group~~ **the SMEI Forum** as observers. It shall invite the representatives of other crisis-relevant bodies at Union level as observers to the relevant meetings of the **SMEI Forum** ~~advisory group~~.	
	DE (Drafting): Add new paragraph 3a: **<u>The advisory group shall act as an effective steering body for cooperation between the Commission and the Member States in times of crisis and for the management of the Single Market vigilance and emergency modes.</u>**	**DE (Comments):** The advisory group should be designed in such a way that it is an agile crisis response team. It is important that the advisory group is able to work as an effective steering body for cooperation between the Commission and the Member States.
4. For the purpose of contingency planning under Articles 6 to 8, the advisory group shall assist and advise the Commission as regards the following tasks:	**BE (Drafting):** 4. For the purpose of contingency planning under Articles 6 to 8, the steering committee shall assist and advise the Commission as regards the following tasks: **LU (Drafting):** 4. For the purpose of contingency planning under Articles 6 to 8, the advisory group shall ~~assist and advise the Commission as regards~~ fulfill the following tasks:	**PT (Comments):** • Regarding the Advisory Group there is a need for strong involvement of the Member States in all decision-making processes. • The powers for the Commission seem too broadly defined. It would be important to introduce more precise wording. It is important to clarify what other advisory groups exist in associated instruments and how synergies could be established. The measures

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	PL (Drafting): 4. For the purpose of contingency planning under Articles 6 to 8, the **SMEI Forum** ~~advisory group~~ shall assist, ~~**and**~~ advise and **recommend** the Commission as regards the following tasks: **IT (Drafting):** The Commission shall chair the advisory group and ensure its secretariat. The Commission ~~may~~ **invites**, **where relevant,** a representative of the European Parliament, representatives of EFTA States that are contracting parties to the Agreement on the European Economic Area[20], 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. **DK (Drafting):** The Commission shall chair the advisory group and ensure its secretariat. The Commission may, **following consultation of the advisory group,** invite a representative of the European Parliament, representatives of EFTA States that	should build on existing instruments as much as possible regarding notifications, standards, etc. **PL (Comments):** The tasks of the Advisory group do not ensure the active role of the Member States in the decisions-making process relevant to crisis management, as the Advisory group does not take any binding decisions, it can only formulate opinions or recommendations and submit reports, while the Commission and its services remain fully independent in taking decisions. **IT (Comments):** In order to implement more extensive sharing of decisions, the Commission should have the obligation, not just the option, to invite among the others, representatives of economic operators to the meetings of the advisory group, when the decision to be taken is relevant to them. **DK (Comments):** The advisory group should be consulted upon the Commission inviting external parties to participate in the meetings of the group. The reason being that the meetings of the group might involve rather delicate and potentially confidential discussions, including the exchange

[20] OJ L 1, 3.1.1994, p. 3.

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	are contracting parties to the Agreement on the European Economic Area[21], representatives of economic operators, stakeholder organisations, social partners and experts, to attend **specific** meetings of the advisory group as observers, **where such attendance is relevant considering the agenda of the meeting**. It shall invite the representatives of other crisis-relevant bodies at Union level as observers to the relevant meetings of the advisory group.	of information gathered from Member States and economic operators as well as exchange of views on potentially introducing certain measures. It is furthermore important to highlight that any invitation should relate to specific meetings – not meetings in general – and that the agenda of the meeting should be taken into account. **ES (Comments):** ES would welcome greater clarity on the scope and nature of the Advisory Group's functions. The current text does not clearly state whether the involvement of the Advisory Group is optional or mandatory. The scope, nature or level of bindingness of its reports/opinions or the moment when the Advisory Group should participate (ex ante/ex post) are also unclear.
(a) proposing arrangements for administrative cooperation between the Commission and the Member States at the time of the Single Market vigilance and emergency modes that would be contained in the crisis protocols;	**LU (Drafting):** (a) ~~proposing arrangements for administrative cooperation~~ facilitate the exchange of information between the Commission and the Member States ~~at the time of the Single Market vigilance and emergency modes that would be contained in the crisis~~	**PT (Comments):** Should "administrative cooperation" cover all the elements, mentioned in Article 6 (cooperation, exchange of information and communication)? How will the advisory group be involved? It needs clarification. **LU (Comments):**

[21] OJ L 1, 3.1.1994, p. 3.

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	~~protocols;~~ **PL (Drafting):** (a) proposing arrangements for administrative cooperation between the Commission and the Member States at the time of the Single Market vigilance and emergency modes that would be contained in the crisis protocols;	*The most pressing need in times of preparedness and during a crisis is the exchange of information and best practices. This is the added value of the advisory group.* **LT (Comments):** The COM has mentioned that detailed administrative arrangements (Art. 6.2) are outside of the Advisory Group. If it is the case, we suggest in para a) clarifying "proposing arrangements for *administrative cooperation*" by making instead a reference to "proposing arrangements for ***crisis cooperation, exchange of information and crisis communication***" (exact wording from Art. 6.1, which falls under the competence of the Advisory group).
(b) assessingment of significant incidents that the Member States have alerted the Commission to.	**LU (Drafting):** ~~(b) assessingment of significant incidents that the Member States have alerted the Commission to.~~ **DK (Drafting):** (b) **assessment** ~~assessingment~~ of significant incidents that the Member States have alerted the Commission to.	**AT (Comments):** There is no definition of "significant incidents", which is used in Article 4, point 4(b). The term should be clearly defined. **LU (Comments):** *This task is unclear and should be deleted.* **DK (Comments):** Purely linguistic amendment.

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5. For the purpose of of the Single Market vigilance mode as referred to in Article 9, the advisory group shall assist the Commission in the following tasks:	**AT (Drafting):** 5. For the purpose of of the Single Market vigilance mode as referred to in Article 9, the advisory group shall assist the Commission **and the Council in respect of Art. 2 par. 1a** in the following tasks: **BE (Drafting):** 5. After establishing whether the threat referred to in Article 3(2) is present or imminent, and the scope of such threat, and for the purpose of the Single Market vigilance mode as referred to in Article 9, the steering committee shall assist the Commission in the following tasks: **LU (Drafting):** ~~5. For the purpose of of the Single Market vigilance mode as referred to in Article 9, the advisory group shall assist the Commission in the following tasks:~~ **LV (Drafting):** 5. For the purpose of of the Single Market vigilance mode as referred to in Article 9, the advisory group shall ~~assist the Commission~~ **have the rights to** ~~in the following tasks~~: **PL (Drafting):** 5. For the purpose of of the Single Market	**AT (Comments):** The advisory group shall also provide the Know-How to the Council in respect of the definition of a "crisis" and the relevant scope. See proposal for Art. 2 par. 1a **BE (Comments):** Actions (b) to (f) must be conditional on the existence of a threat (a). **LU (Comments):** *The vigilance mode is out of scope of the SMEI and does not provide clear added value to measures related to the preparation and addressing of crises. We suggest to include the most substantive elements of the vigilance mode in the crisis protocole.* **LV (Comments):** How the duplication of the Advisory group tasks with other groups/boards established under other crisis response mechanisms will be prevented? For example, (1) HERA board tasks include threat assessment, monitoring and forecasts regarding medical countermeasures, (2) IPCR tasks include coordination and response at Union political level for crises, which have a wide-ranging impact or political significance, (3) Article 222 paragraph 4 of the the Treaty on the Functioning of the European

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	vigilance mode as referred to in Article 9, the **SMEI Forum** ~~advisory group~~ shall assist **and recommend** the Commission in the following tasks:	Union provides that the The European Council regularly assess the threats facing the Union, (4) UCPM determines measures for preventing, preparing for and responding to potential disasters. Latvia is of view that Advisory group should have more significant role during vigilance mode and at least 3 members of the Advisory group should have the rights to come up with a proposal to activate, review or deactivate vigilance mode.
(a) establishing whether the threat referred to in Article 3(2) is present, and the scope of such threat;	**BE (Drafting):** **LU (Drafting):** ~~(a) establishing whether the threat referred to in Article 3(2) is present, and the scope of such threat;~~ **PL (Drafting):** (a) establishing whether the threat **or severe shortages of goods services and workers in the Single Market** referred to in Article 3(2) **are** present, and the scope of such threat; **IT (Drafting):** 5. For the purpose of **proposing the activation and then managing** the Single Market	**BE (Comments):** See above **IT (Comments):** The advisory group's tasks and stakeholder involvement should be better coordinated in the supervisory and emergency phases (Article 4(6)). Additionally, the task of determining whether the criteria for activating or deactivating the emergency mode have been met (Article 4(6)(b)) should also have a correspondence in the supervisory phase under Article 4(5). In paragraph 5, the meaning of the sentence “for the purpose of the Single Market vigilance mode” should be clarified by specifying that the

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	vigilance mode as referred to in Article 9, the advisory group shall assist the Commission in the following tasks:	Advisory group assists the Commission both in proposing to the Council the activation of the vigilance mode and in managing the vigilance mode.
	FR (Drafting): "gathering foresight, data analysis and market intelligence, ***duly ensuring the confidentiality and observing the commercial sensitivity of the information concerned***." **DK (Drafting):** **(a1) establishing whether the criteria for activation or deactivation of the vigilance mode have been fulfilled;**	**FR (Comments):** French authorities recall the need to ensure the confidentiality and to observe the commercial sensitivity of information. **DK (Comments):** In accordance with the suggestion to add a new article on criteria for the activation of the vigilance mode (article 8a).
(b) gathering foresight, data analysis and market intelligence;	**LU (Drafting):** ~~(b) gathering foresight, data analysis and market intelligence;~~	**PT (Comments):** Which data will be gathered? Economic operators should have an active voice on the definition of data to be shared.
(c) consulting the representatives of economic operators, including SMEs, and industry to collect market intelligence;	**AT (Drafting):** (c) consulting the representatives of **workers and** economic operators, including **workers' representatives,** SMEs, and industry to collect market intelligence; **BE (Drafting):** (c) consulting the representatives of	**SK (Comments):** What is meant by market intelligence? **AT (Comments):** It is essential to include workers' representatives in consultations in order to have an overview of all actors in the Single Market. **BE (Comments):**

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	economic operators, including SMEs, social partners and industry to collect market intelligence; **LU (Drafting):** ~~(c) consulting the representatives of economic operators, including SMEs, and industry to collect market intelligence;~~ **DK (Drafting):** (c) consulting the representatives of economic operators, including SMEs, and industry to collect market intelligence, **with due regard to the protection and confidentiality of trade and business secrets and other sensitive and confidential information**;	"Social partners" should be added as in paragraph 3. **DK (Comments):** Whilst consulting relevant representatives of economic operators is crucial, in order to ensure updated and relevant information, it must not be at the cost of the protection of trade and business secrets.
(d) analysing aggregated data received by other crisis-relevant bodies at Union and international level;	**LU (Drafting):** ~~(d) analysing aggregated data received by other crisis-relevant bodies at Union and international level;~~	
(e) facilitating exchanges and sharing of information, including with other relevant bodies and other crisis-relevant bodies at Union level, as well asthird countries, as appropriate, with particular attention paid to developing countries, and international organisations;	**DE (Drafting):** Separate words: “as third” instead of “asthird” **BE (Drafting):** (e) facilitating exchanges and sharing of	**DE (Comments):** typo **BE (Comments):** Why do Articles 4(5)(e), 4(6)(e) and 4(7) only

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	information, including with other relevant bodies and other crisis-relevant bodies at Union and Member States level, as well as third countries, as appropriate, with particular attention paid to developing countries, and international organisations; **LU (Drafting):** ~~(e) facilitating exchanges and sharing of information, including with other relevant bodies and other crisis-relevant bodies at Union level, as well asthird countries, as appropriate, with particular attention paid to developing countries, and international organisations;~~	mention the competent crisis bodies at Union level? The national crisis bodies should also be mentionned. With regard to developing countries, is there an EU programme or funding dedicated to them? **LT (Comments):** Can the COM explain, why there is a special reference to "*with particular attention paid to developing countries*"? (e.g. in the recitals). **SI (Comments):** Which information can be subject to exchange with third countries? "As appropriate" needs to be clarified - **which information can and which cannot** be subject to exchange with third countries.
(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	**LU (Drafting):** ~~(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~~	
6. For the purposes of the Single Market emergency mode as referred to in Article 14, the advisory group shall assist the Commission in the following tasks:	**BE (Drafting):** 6. After establishing whether the criteria for activation of the emergency mode have been	**SK (Comments):** We support a balance between the coordination and cooperation by the EC and the member

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	fulfilled, and for the purposes of the Single Market emergency mode as referred to in Article 14, the steering committee shall assist the Commission in the following tasks: **LV (Drafting):** 6. For the purposes of the Single Market emergency mode as referred to in Article 14, the advisory group **shall have the rights to** ~~assist the Commission in the following tasks~~: **PL (Drafting):** 6. For the purposes of the Single Market emergency mode as referred to in Article 14, the **SMEI Forum** ~~advisory group~~ shall assist **andrecommend** the Commission in the following tasks:	states. **BE (Comments):** Actions (a) and (c) to (e) must be conditional on the activation of emergency mode (b). **LV (Comments):** As mentioned in previous comment Advisory group should have more significant role during the emergency mode and at least 3 members of the Advisory group should have the rights to come up with a proposal to activate, review or deactivate emergency mode, as well as Advisory group members should have the rights to defend the domestic economic operators who could be fined for providing false or misleading information or for failing to provide it. **PL (Comments):** The amendment is intended to strengthen the role of the Member States.
(a) analysing crisis-relevant information gathered by Member States or the Commission;	**LU (Drafting):** ~~(a) analysing crisis-relevant information gathered by Member States or the Commission;~~ facilitate the exchange of information between the Commission and the Member States **IT (Drafting):**	**LU (Comments):** *The most pressing need in times of preparedness and during a crisis is the exchange of information and best practices. This is the added value of the advisory group.* **IT (Comments):**

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	6. For the purposes of **proposing the activation and then managing** the Single Market emergency mode as referred to in Article 14, the advisory group shall assist the Commission in the following tasks:	The advisory group's tasks and stakeholder involvement should be better coordinated in the supervisory (Article 4(5) and emergency phases. The involvement of economic operators in the advisory group in the emergency phase shall be clarified (Article 4(6)) as it is in the vigilance mode (Article 4(5)(c)). As paragraph 5, also paragraph 6 should clarify that the Advisory group assists the Commission both in proposing the activation of the emergency mode and, subsequently, in managing the emergency mode.
(b) establishing whether the criteria for activation or deactivation of the emergency mode have been fulfilled;	**BE (Drafting):** (b) establishing whether the criteria for deactivation of the emergency mode have been fulfilled; **PL (Drafting):** (b) establishing whether the criteria for activation or deactivation of the emergency mode have been fulfilled; **DK (Drafting):** (b) establishing whether the criteria for activation or deactivation of the emergency mode have been fulfilled **pursuant to the presence of a Single Market emergency**	**BE (Comments):** See above **DK (Comments):** The Commission's proposal does not provide a linkage between the definition of a Single Market emergency in Article 3(3) and the activiation of the emergency mode. The drafting suggestion is inspired by the linkage existing in the activation of the vigilance mode in article 9. Furthermore, the Commission's proposal states that the advisory group can "establish" whether the criterias are adhered to, whereas the wording

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	referred to in Article 3(3);	in article 9 and 14 only states that they have provided an opinion.
(c) advising on the implementation of the measures chosen to respond to Single Market emergency at Union level;	**PL (Drafting):** (c) **recommending** ~~advising~~ on the implementation of the measures chosen to respond to Single Market emergency at Union level;	**LU (Comments):** *We will comment on this in subsequent comments related to the emergency phase.* **PL (Comments):** The amendment is intended to strengthen the role of the Member States.
(d) performing a review of national crisis measures;	**LU (Drafting):** ~~(d) performing a review of national crisis measures;~~	**SK (Comments):** We need more information on this provision. **LU (Comments):** *A ranking or name-and-shaming of Member States' crisis measures by Member States (who make up the advisory group) does not seem conducive to a better operational management of a crisis.*
(e) facilitating exchanges and sharing of information, including with other crisis-relevant bodies at Union level, as well as, as appropriate, third countries, with particular attention paid to developing countries, and international organisations.	**BE (Drafting):** (e) facilitating exchanges and sharing of information, including with other crisis-relevant bodies at Union and Member States level, as well as, as appropriate, third countries, with	**BE (Comments):** Why do Articles 4(5)(e), 4(6)(e) and 4(7) only mention the competent crisis bodies at Union level? The national crisis bodies should also be mentionned.

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	particular attention paid to developing countries, and international organisations.	
7. The Commission shall ensure the participation of all bodies at Union level that are relevant to the respective crisis. The advisory group shall cooperate and coordinate closely, where appropriate, with other relevant crisis-related bodies at Union level. The Commission shall ensure coordination with the measures implemented through other Union mechanisms, such as the Union Civil Protection Mechanism (UCPM) or the EU Health Security Framework. The advisory group shall ensure information exchange with the Emergency Response Coordination Centre under the UCPM.	**DE (Drafting):** 7. The Commission shall ensure the participation of all bodies at Union level that are relevant to the respective crisis. The advisory group shall cooperate and coordinate closely~~,~~ ~~where appropriate,~~ with other relevant crisis-related bodies at Union level. The Commission shall ensure coordination with ~~the~~ measures implemented through other Union mechanisms, such as the Union Civil Protection Mechanism (UCPM) **the Integrated Political Crisis Response (IPCR) Mechanism** or the EU Health Security Framework. The advisory group shall ensure information exchange with the Emergency Response Coordination Centre under the UCPM **and the Integrated Situational Awareness and Analysis (ISAA) support capability under the IPCR**. **BE (Drafting):** 7. The Commission shall ensure the participation of all bodies at Member States and Union level that are relevant to the respective crisis. The steering committee shall cooperate and coordinate closely, where appropriate, with	**DE (Comments):** Coordination with the IPCR shall also be ensured (see also proposal for a new paragraph 10). **BE (Comments):** Why do Articles 4(5)(e), 4(6)(e) and 4(7) only mention the competent crisis bodies at Union level? The national crisis bodies should also be mentionned. Moreover Article 4(7) mentions the need for collaboration with other "relevant crisis-related bodies"; it would nevertheless seem appropriate that a dynamic list of the bodies concerned be provided either in art. 4(7) or in a recital. On reading the Commission Paper "Articulation of the proposals of the Single Market Emergency Instrument package with relevant existing and proposed legislation", it is clear that coordination will take place between the SMEI advisory group (or rather steering committee – see comment on Art 4) and other bodies under other instruments. We note the following bodies

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	other relevant crisis-related bodies at Member States and Union level. The Commission shall ensure coordination with the measures implemented through other Union mechanisms, such as the Union Civil Protection Mechanism (UCPM) or the EU Health Security Framework. The steering committeeshall ensure information exchange with the Emergency Response Coordination Centre under the UCPM. **PL (Drafting):** 7. The Commission shall ensure the participation of all bodies at Union level that are relevant to the respective crisis. The **SMEI Forum** ~~advisory group~~ shall cooperate and coordinate closely, ~~where appropriate~~, with other relevant crisis-related bodies at Union level. The Commission shall ensure coordination with the measures implemented through other Union mechanisms, such as the Union Civil Protection Mechanism (UCPM), IPCR, ~~or~~ the EU Health Security Framework, ***[the Chips Act]***, ***[the EU Critical Raw Materials]*****.** The **SMEI Forum** ~~advisory group~~ shall ensure information exchange with the Emergency Response Coordination Centre under the UCPM.	- The Health Crisis Board as well as HERA; - The Emergency Response Coordination Centre (ERCC) under the UCPM - The Network of National Transport Contact Points; - The European Food Security Crisis preparedness and response Mechanism (EFSCM); - The Advisory Board of the Chips Act. On this specific point, even if the two regulations are hermetic (see exclusion of the scope), BE wants the kind of exchange between these two bodies to be explained. BE also notes that only the Health Security Framework and the ERCC-UCPM are mentioned in Art. 4(7) and wonders why this is the case.What about the network of Directors-General of European Crisis Centres (DG Network)? What about the ad hoc working group on preparedness, response capacity and resilience to future crises? Finally, beyond the objectives of coordination and exchange of information, it would seem appropriate for the Commission to specify the synergies to be envisaged at the level of the crisis management bodies in order to obtain coherence in the missions/actions to be carried

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		out and to guarantee complementarities (lex generalis <- > lex specialis). **PL (Comments):** Coordination should engage participation of all bodies at the Union level that are relevant to the crisis and all Union crisis management mechanism, including possible planned mechanisms under the framework of [the Chips Act] and/or [the EU Critical Raw Materials]. **IT (Comments):** It is not clear what information will be shared with third countries and how the exchange will be facilitated. Italy would appreciate more details about this process. **SI (Comments):** It would be beneficial if the advisory group would also ensure a cooperation and exchange /sharing of information with other relevant groups/forums that are active in the areas of single market and industry such as SMET, Industrial Forum, Chief Economists Network. That should be done in a structured manner in order to avoid unnecessary duplication of tasks
	IT (Drafting): (f) new **consulting the representatives of**	**IT (Comments):** The consultation of representative of economic

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	economic operators, including SMEs, and industry;	operators, which is already foreseen in the purpose of the ”vigilance mode”, should also be foreseen in the purpose of the “emergency mode”
8. The advisory group shall meet at least three times a year. At its first meeting, on a proposal by and in agreement with the Commission, the advisory group shall adopt its rules of procedure.	**BE (Drafting):** 8. The steering committeeshall meet at least three times a year. At its first meeting, on a proposal by and in agreement with the Commission, the steering committee shall adopt its rules of procedure. **PL (Drafting):** 8. The **SMEI Forum** ~~advisory group~~ shall meet at least three times a year. At its first meeting, on a proposal by and in agreement with the Commission, the **SMEI Forum** ~~advisory group~~ shall adopt its rules of procedure.	**DE (Comments):** We welcome the idea of the advisory group meeting at least a certain number of times since it can contribute to strengthen EU vigilance regarding potential future crises. However, it should be possible to also go without the full number of meetings if no situation of vigilance or emergency becomes apparent. **LU (Comments):** *The rules of procedure shall be further spelled out in the SMEI itself, for example the voting procedure for adopting its opinions and recommendations, as well as the nature (oral or written) of these opinion and recommendations.* **LV (Comments):** The Advisory group meetings frequency should be determined on the basis of the situation and need, whether there is a threat of potential crisis or not, therefore the Advisory group should meet on ad hoc basis, which may be proposed

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		by the Commission or the Member States. Also paragraph 8 should clarify the timeframe in which the Advisory group should gather for its first meeting. **NL (Comments):** NL believes it would be good to define the process for deciding when and based on what conditions the advisory group will meet. It would be good if Member States could call for a meeting on request as well.
9. The advisory group may adopt opinions, recommendations or reports in the context of its tasks set out in paragraphs 4 to 6.	**BE (Drafting):** 9. The steering committee may adopt opinions, recommendations or reports in the context of its tasks set out in paragraphs 4 to 6. **PL (Drafting):** 9. The **SMEI Forum** ~~advisory group~~ may adopt opinions, recommendations or reports in the context of its tasks set out in paragraphs 4 to 6. **RO (Drafting):** The advisory group may adopt opinions, recommendations or reports in the context of its tasks set out in paragraphs 4 to 6. **The Commission will inform the Advisory Group on how it has taken this opinion into account**	**RO (Comments):** In order to clarify how the opinion is taken into consideration by the Commission - see art. 6(1) **LT (Comments):** It is not clear who has the primal responsibility for the tasks set out in para 4-6: the COM or Advisory group? The wording in para 9 of this Art could be interpreted as meaning that these tasks are assigned to Advisory group („of *its* tasks set out..“). If it is the case, we find some tasks difficult to implement, e.g. maintaining a repository; therefore, we suggest making a clarification in this paragraph. However, it still remains unclear *which* tasks will be assigned to the COM, Advisory group and/or Secretariat; any clarification will be helpful in supporting

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	LT (Drafting): 9. The advisory group may adopt opinions, recommendations or reports in the context of **the** tasks set out in paragraphs 4 to 6.	this Art.
	DE (Drafting): **<u>10. The tasks of the advisory group shall be limited to Single Market impacts of crises and in this respect to advice and steering with regard to the mechanisms and competences laid down in this regulation.</u>** **<u>The Commission shall ensure the consistency of approaches to the management of a crisis between this mechanism and the Integrated Political Crisis Response mechanism operated by the Council under Council Implementing Decision (EU) 2018/1993. It shall cooperate closely with the Presidency of the Council in this regard.</u>**	
Article 5 Central liaison offices		**BE (Comments):** BE would welcome clarifications regarding the number of liaison offices per Member State. In addition to regional and/or federal offices, are sectoral liaison offices needed? Will the competent authorities of a Member State be able to collaborate directly with the Commission, the Steering committee or the

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		competent authorities of other Member States or will they systematically and without exception have to go through the central liaison office. **PT (Comments):** • The network of central liaison offices at the national and European levels, which will be responsible for contacts, coordination and exchange of information, as referred to in Article 5, means more coordination structures to be added to those already in existence. The creation of new structures has been one of the critical points highlighted by Portugal, given the proliferation of bodies/ contact points responsible for the internal market domain. **In** our understanding clarification is needed how these bodies will be managed. Clarification is needed on whether each MS designate one or more central liaison offices. The way it is written may lead to different interpretations.
	IT (Drafting): The advisory group may adopt opinions, recommendations or reports in the context of its tasks set out in paragraphs 4 to 6. **The Commission shall take the utmost account of the opinion delivered by the Advisory group. It shall inform the Advisory group of the**	**IT (Comments):** The advisory group should play a more central and role with regard to decision-making for crisis management.

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	manner in which the opinion has been taken into account.	
1. Member States shall designate central liaison offices responsible for contacts, coordination and information exchange with the central liaison offices of other Member States and Union level central liaison office under this Regulation. Such liaison offices shall coordinate and compile the inputs from relevant national competent authorities.	**DE (Drafting):** 1. Member States shall designate central liaison offices responsible for contacts, coordination and information exchange with the central liaison offices of other Member States and Union level central liaison office under this Regulation. Such liaison offices shall coordinate and compile the inputs from relevant national competent authorities. **Member States may designate existing bodies as central liaison offices under this Article.** **AT (Drafting):** 1. Member States shall designate central liaison offices responsible for contacts, coordination and information exchange with the central liaison offices of other Member States and Union level central liaison office under this Regulation. Such liaison offices shall coordinate and compile the inputs from relevant national competent authorities **including inputs from national social partners**. **BE (Drafting):** 1. Member States shall designate central liaison offices responsible for contacts, coordination and information exchange with the	**DE (Comments):** We propose to add a new sentence 3 in order to make clear that also existing bodies can be designated as central liaison offices. **SK (Comments):** We find this important for communication and coordination between the COM and the MSs. However, we have some doubts if this solution will be efficient enough as there will be lots of entities involved. **AT (Comments):** In times of crisis, it is essential to know the impressions and mood of the members of the social partnership and to take them into account accordingly. In Art. 5: the role of the *"central liaison offices"* in relation to other *"competent authorities"* and to the *"single points of contact"* is unclear; it is important that existing resources are used and that the bureaucracy remains at a miminum. **BE (Comments):** The term "National competent authorities" should be replaced by the term "competent authorities of the Member States", in order to

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	central liaison offices of other Member States and Union level central liaison office under this Regulation. Such liaison offices shall coordinate and compile the inputs from relevantcompetent authorities of the Member States. **LU (Drafting):** 1. Member States shall designate central liaison offices responsible for contacts, coordination and information exchange with the central liaison offices of other Member States and Union level central liaison office under this Regulation. ~~Such liaison offices shall coordinate and compile the inputs from relevant national competent authorities.~~ **PL (Drafting):** 1. Member States shall designate central liaison offices responsible for contacts, coordination and information exchange with the central liaison offices of other Member States and Union level central liaison office under this Regulation. Such liaison offices shall coordinate and compile the inputs from relevant national ~~competent~~ authorities. **LT (Drafting):** 1. Member States shall designate **the** central liaison office responsible for contacts, coordination and information exchange with the central liaison offices of other Member States	reflect the complex division of powers in many member states regarding this matter. **LU (Comments):** *It should be up to Member States to decide on the exact set-up and way of functioning of such central liaison offices. For instance, this could be the same as the member of the Advisory Group.* **LV (Comments):** There is inconsistency with paragraph 1 (Member States central liaison offices) and paragraph 2 (Comission Union level central liaison office).Why for the Member States there is an obligation to designate central liaison offices under this Regulation in general, while for the Commission its foreseen to designate a Union level central liaison office only for the Single Market vigilance and emergency modes? **PL (Comments):** We have doubts if the establishment of central liaison offices in the Member States for the purposes of SMEI will not duplicate the tasks of other national contact points established under other crisis management mechanisms, so this should be taken into account when mapping crisis management tools. At the national level, crisis management has a

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	and Union level central liaison office under this Regulation. Such liaison offices shall coordinate and compile the inputs from relevant national competent authorities.	very broad dimension, including a political and military ones, which means that there is a risk that national liaison offices set up for SMEI will not have access to all information, and this will limit a proper coordination and compile the full inputs from the national authorities. All national authorities should be included in the coordination process. The word "competent" is very confusing here. **LT (Comments):** As the COM explained, one MS will have to designate one CLO, therefore we suggest making a clarification in the text. **FI (Comments):** *Although, it is not limited in the proposal, which authority should carry out these duties of national Central liaison offices, it should be clarified in recital that Member States could appoint an existing authority to be responsible for the duties of the national Central liaison office.* **5a (New recital) Different authorities for coordination and information axchange already exist in Member States, and they should not be obliged to set up new national body for Central liaison officers.** **SI (Comments):**

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		What will be **the relation** between the Advisory Group and national liaison offices? The tasks of both, the Advisory Group and national liaison offices should carefully be designated and distributed in order to ensure that there will be no overlaps of work. **MT (Comments):** Malta is not against the proposed arrangement of having a central contact point / liaison office, this would surely lead to the need for more manpower in order to run the office, as well as additional costs for the Member States. Will there be any funds allocated to these offices; will training be provided?
2. The Commission shall designate a Union level central liaison office for contacts with the central liaison offices of the Member States during the Single Market vigilance and emergency modes under this Regulation. The Union level central liaison office shall ensure the coordination and information exchange with the central liaison offices of the Member States for the management of the Single Market vigilance and emergency modes.	**LU (Drafting):** 2. The Commission shall designate a Union level central liaison office for contacts with the central liaison offices of the Member States ~~during the Single Market vigilance and emergency modes under this Regulation~~. The Union level central liaison office shall ensure the coordination and information exchange with the central liaison offices of the Member States ~~for the management of the Single Market vigilance and emergency modes~~. **PL (Drafting):**	**DE (Comments):** Does the Commission serve as a mediator or is it possible for Member State liasion offices to contact other offices independently? A clarification could be added. **LU (Comments):** *The Union level central liaison office shall function irrespective of any mode in order to ensure operational clarity in emergency situations.* **LV (Comments):**

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	2. The Commission shall designate a Union level central liaison office for contacts with the central liaison offices of the Member States during the Single Market vigilance and emergency modes under this Regulation. The Union level central liaison office shall ensure the coordination and information exchange with the central liaison offices of the Member States **and the bodies at Union level that are relevant to the respective crisis** for management of the Single Market vigilance and emergency modes.	Please see the previous comment. **PL (Comments):** Similarly at the EU level - the Union level central liaison office may not be included with other crisis management fora, it will not have a holistic view of the different types of crises/emergencies and will not be able to properly ensure coordination and information exchange. Coordination should engage participation of all bodies at the Union level that are relevant to the crisis. **SI (Comments):** What will be **the relation** between the Advisory Group and a Union level central liaison office? How it will be ensured that national liaisons offices will get all necessary and relevant data/information? Certain data are treated as confidential which means that liaison officess will not have access to all information needed for the management of the SM vigilancy and emergency mode.
Part II Single Market contingency planning		**BE (Comments):** We appreciate the gradual nature of the crisis phases. In particular, BE would like to see more

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		emphasis on crisis contingency planning. **LT (Comments):** General comment. Involvement of stakeholders, particularly which might be a target of vigilance/emergency measures, should be guaranteed.
Article 6 Crisis protocols		**SK (Comments):** We support the provisions to ensure the cooperation, coordination, exchange of information between MSs, COM during the crises on IM. **BE (Comments):** In terms of crisis protocols and ad hoc alerts for early warning, BE requests clarifications regarding the relationship and cooperation between competent authorities of the MS, the advisory group (or rather steering committee - see comment on Art.4) and the central liaison office. **PT (Comments):** Article 6 states that when setting out a crisis protocol, the Commission will consult the Member States. How this consultation will be made? It needs further clarification. We consider that Member States must be involved

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		in the decision-making of a crisis protocol.
		FR (Comments): The French authorities have douts as to the what would be more appropriate between delegated act and implementing act, and ask for the opinion of the Legal Service.
1. The Commission taking into consideration the opinion of the advisory group and the input of relevant Union level bodies, is empowered after consulting the Member States, to adopt a delegated act to supplement this Regulation with a framework setting out crisis protocols regarding crisis cooperation, exchange of information and crisis communication for the Single Market vigilance and emergency modes, in particular:	**AT (Drafting):** 1. The **Council** ~~Commission~~ taking into consideration the opinion of the advisory group **and the Commission** and the input of relevant Union level bodies, is empowered after consulting the Member States, to adopt a**n implementing** ~~delegated~~ act to supplement this Regulation with a framework setting out crisis protocols regarding crisis cooperation, exchange of information and crisis communication for the Single Market vigilance and emergency modes, in particular: **BE (Drafting):** 1. The Commission taking into consideration the opinion of the steering committee and the input of relevant Union level bodies, is empowered after consulting the Member States, to adopt a delegated act to supplement this Regulation with a framework setting out crisis protocols regarding crisis cooperation, exchange of information and crisis communication for the Single Market vigilance	**SK (Comments):** It seems that the COM has wide powers for this case. Transparency of the process needs to be assured. **AT (Comments):** AT is questioning the need for a delegated act here. In AT's view para. 1 contains important elements of the Regulation. The involvement of the Member States must be ensured. Generally AT prefers this delegation to be removed, and this element of legislation to be regulated in the main body/enacting terms of this Regulation. According to CLS comments in the WP meeting at the 13.01.2023, regarding a possible council implementing act, para. 1 would need a concretisation of the points regulated. We would kindly ask for this concretisation. **BE (Comments):** When stating "after consulting the Member

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	and emergency modes, in particular: **LU (Drafting):** 1. The Commission taking into consideration the opinion of the advisory group and the input of relevant Union level bodies, is empowered after consulting the Member States, to adopt a delegated act to supplement this Regulation with a framework setting out crisis protocols regarding crisis cooperation, exchange of information and crisis communication for the Single Market ~~vigilance and~~ emergency mode~~s~~, in particular: **PL (Drafting):** ~~1. The Commission taking into consideration the opinion of the advisory group and the input of relevant Union level bodies, is empowered after consulting the Member States, to adopt a delegated act to supplement this Regulation with a framework setting out crisis protocols regarding crisis cooperation, exchange of information and crisis communication for the Single Market vigilance and emergency modes, in particular:~~ **DK (Drafting):** The Commission taking into consideration the opinion of the advisory group and the input of relevant Union level bodies, is empowered after consulting the Member States, to adopt ~~a~~	States", does it mean the consultation of the experts according to Art 43? Or is it a separate and specific consultation of the Member States? This must be better delineated in this article. Moreover, BE considers that the use of delegated act should be strictly limited to non-essential parts of the SMEI; therefore this article must be formulated with more precise criteria regarding adoption of delegated acts. A framework setting out crisis protocol should be included and elaborated as far as possible in the proposal. **LU (Comments):** *Crisis protocoles can provide an added value to the management of a crisis. However, more details need to be included in the Regulation itself to give the necessary predictability for Member States. We also suggest that in their crisis protocoles, Member States indicate any measures in place for constituting strategic reserves at national level, thereby replacing Article 12. We also suggest that in the crisis protocole, Member States shall demonstrate the necessary arrangements for monitoring their industrial sector, thereby replacing Article 11.* **LV (Comments):** How the Commision intends to cooperate with the Member States in the adoption process of

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	~~delegated~~ **an implementing** act to supplement this Regulation with a framework setting out crisis protocols regarding crisis cooperation, exchange of information and crisis communication for the Single Market vigilance and emergency modes, in particular:	this delegated act? Is the cooperation planned through the Single Market Emergency Instrument Committee mentioned in Article 42? The used wording "is empowered" creates confusion whether the voting of Member States is foreseen. **IE (Comments):** The first line is very vague- it speaks of "taking into consideration the opinion of the advisory group" and "consulting the Member States" before adopting a delegated act without giving any indication of how much influence the Member States actually have. Member States must be central to decision making. **PL (Comments):** There is no justification for adopting delegated acts to supplement this Regulation with a framework setting crisis protocol regarding crisis cooperation, exchange of information and crisis communication for the Single Market Vigilance Mode and Single Market Emergency Mode. All the more there should be one crisis protocol to be used for each crisis, and not different one for each crisis. So **we propose to include relevant provisions on crisis protocol in the draft regulation.** The delegated acts may interfere with entrepreneurial freedom. Crises should not be

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		considered as excuses to bypass common legislative processes involving the Council and the European Parliament. Crisis protocol's provisions are of the utmost importance and should be ready at the same moment when the SMEI Regulation would be adopted and not later. The past crisis showed that the Union was not sufficiently prepared as regards crisis protocols and is still not ready. There is a need for setting arrangements as regards cooperation, exchange of information and communication as soon as possible also because it is to serve the purpose of the SMEI Regulation. **RO (Comments):** Romania considers that it is unclear how the Commission will "take into account the opinion of the advisory group and the input of relevant Union level bodies". Further clarification on the consultation procedure should be provided in the text. One solution could be to modify art. 4(9) as suggested above. **LT (Comments):** If the consultation will be carried out during the preparation and negotiation of the delegated act (aka normal procedure), we suggest deleting "after consulting the Member States", because it

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		brings uncertainty what *other* formats of consultations are envisaged; but if these are foreseen by the COM, they should be explained in a more detailed/clear way. We could support MSs, which ask to delete the delegated act and to include its content in the operational part of SMEI. Crisis cooperation, exchange of information and crisis communication are essential elements before and during the crisis, therefore they should be agreed in advance by the co-legislators. If necessary, technical arrangements could be left for the COM implementing act. Finally, we once again ask if and how business will be involved in the preparation of the crisis protocols. It is essential that all stakeholders would have a saying in this process as all of them will be required to comply with the rules afterwards. One of the examples which comes to our mind – the Digital Services act (Art 48, Crisis Protocols: "2. *The Commission shall encourage and facilitate the providers of very large online platforms, of very large online search engines and, where appropriate, the providers of other online platforms or of other online search engines, to participate in the drawing up, testing and application of those crisis protocols*<>". **DK (Comments):**

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		An implementing act is considered more appropriate rather than a delegted act. Refering to the Commission's reasoning for choosing a delegated act (in reference to Working Party meeting on January 13), we don't find that the Commission is limited in consulting the Member States, prior to presenting a draft of the implementing act. **ES (Comments):** ES considers that the crisis protocols should only refer to the non-essential elements of the proposal, as they are adopted by delegated act. Consequently, they should not lay down additional elements, e.g. new powers for the Commission, new measures or new obligations for Member States. The current wording could be revised to add more details on these instruments. **FI (Comments):** *A comment on delegates acts. It should be elaborated as far as possible in the Regulation, what will be included in a framework setting out crisis protocols. Use of delegated act should be strictly limited to non-essential parts of the Regulation.* **MT (Comments):** It is important that the primary responsibility of

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		crisis management remains with Member States. Malta wants to avoid a decision-making process which could lead to a one size fits all approach. The wording "after consulting the Member States" found in Article 6(1) is essential, as this ensures that Member States are given the power when it comes to decision making.
		IT (Comments): The effectiveness of the SMEI will depend on the full cooperation between the EC, MS and stakeholders, including also economic operators who should be consulted at every stage, including in the preparation of crisis protocols, through the Advisory Group.
(a) cooperation between national and Union level competent authorities for the management of the Single Market vigilance and emergency modes in vigilance and emergency modes across the sectors of the Single Market;	**BE (Drafting):** (a) cooperation between Member States and Union level competent authorities for the management of the Single Market vigilance and emergency modes in vigilance and emergency modes across the sectors of the Single Market; **LU (Drafting):** (a) cooperation between national and Union level competent authorities ~~for the management of the Single Market vigilance and emergency modes in vigilance and emergency modes across the sectors of the Single Market~~; **PL (Drafting):**	**SK (Comments):** All sectors, or strategic only? If all = high burden.

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	~~(a) cooperation between national and Union level competent authorities for the management of the Single Market vigilance and emergency modes in vigilance and emergency modes across the sectors of the Single Market;~~	
	IT (Drafting): 1. ~~The Commission taking into consideration the opinion of the advisory group and the input of relevant Union level bodies, is empowered after consulting the Member States, to adopt a delegated act to supplement this Regulation with~~ A framework setting out crisis protocols regarding crisis cooperation, exchange of information and crisis communication for the Single Market vigilance and emergency modes, in particular: [this article should be completed inserting provisions concerning protocols]	**IT (Comments):** This Regulation should be considered itself as a protocol that is activated by the crisis. It could be appropriate to rely on the experience of the already existing horizontal crisis response mechanisms, such as the IPCR or the Union Civil Protection Mechanism, for which the measures to prevent and manage crisis and to ensure coordination between the Commission and the Member States are set by a legislative act. As an alternative, the delegation to the Commission should more detailed specify the framework for crisis protocols (cooperation, exchange of information, risk and crisis communication, management of the framework) also indicating guidance criteria to this regard.
(b) general modalities for secure exchange of information;	**PL (Drafting):** ~~(b) general modalities for secure exchange of information;~~	**AT (Comments):** Art. 6 para. 1 lit. b: *"secure exchange of information"* is mentioned here and in other places (e.g. Recital 40 and Art. 6(2)).

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		AT is in favor of avoiding duplication and several parallel workstrands, at Union level as well as in implementation of EU law. Here - as in other EU legal acts (e.g. Dual-Use Regulation, FDI Screening Regulation) - a single provision should be made for EC to provide a secure encrypted communication system through which the entire exchange of information between the EC and the MS on matters covered by the Regulation must take place. Does the intended encrypted CIRCABC, as mentioned in the WP meeting at 13.01.2023, ensure this secure communication?
(c) a coordinated approach to risk and crisis communication also vis-à-vis the public with a coordinating role for the Commission;	**PL (Drafting):** ~~(c) a coordinated approach to risk and crisis communication also vis-à-vis the public with a coordinating role for the Commission;~~ **DK (Drafting):** (c) a coordinated approach to risk and crisis communication ~~also vis-à-vis the public with a coordinating role for the Commission~~ **without prejudice to national procedures on risk and crisis communication**.;	**DK (Comments):** The role of communicating with the public – particularly that of a (potential) crisis – has always rested with the repective Member States, as they have their own methods and communication channels.
(d) the management of the framework.	**LU (Drafting):**	**LU (Comments):**

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	~~(d) the management of the framework.~~ **PL (Drafting):** ~~(d) the management of the framework.~~	*It is unclear what this means. If the legal text is confusing, this will not help operational clarity in an emergency situation.* **LT (Comments):** It is not clear what is meant by the management of the framework; any explanation in the operation part or recitals would be much appreciated.
2. The Commission and the Member States shall put in place detailed administrative arrangements for ensuring timely cooperation and secure exchange of information between the Commission, the relevant Union-level bodies and the Member States concerning:	**LU (Drafting):** 2. The Commission ~~and the Member States~~ shall put in place ~~detailed~~ administrative arrangements for ensuring timely cooperation and secure exchange of information between the Commission, the relevant Union-level bodies and the Member States concerning:	**AT (Comments):** ***On "secure exchange of information", see Recital 40 and Art. 6(1)(b).*** **NL (Comments):** What will be the legal status of these 'administrative arrangements'? **IE (Comments):** Could you please provide further details of the administrative arrangements mentioned here? **LT (Comments):** COM has mentioned that administrative arrangements will not be a part of the delegated act; this should be made clear from the text. In addition, legal clarity requires explanation how these administrative arrangements will be agreed upon (format), e.g. via Advisory group?

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		In addition, the same question on how stakeholders will be consulted while preparing administrative arrangements, especially para b). **DK (Comments):** It is unclear how the mentioned "administrative arrangements" will be put in place. Can the Commission clarify in this regard?
(a) an inventory of relevant national competent authorities, the central liaison offices designated in accordance with Article 5 and single points of contact referred to in Article 21, their contact details, assigned roles and responsibilities during the vigilance and emergency modes of this Regulation under national law;	**BE (Drafting):** (a) an inventory of relevant competent authorities of the Member States, the central liaison offices designated in accordance with Article 5 and single points of contact referred to in Article 21, their contact details, assigned roles and responsibilities during the vigilance and emergency modes of this Regulation under national law; **LU (Drafting):** (a) an inventory of relevant national competent authorities, the central liaison offices designated in accordance with Article 5 ~~and single points of contact referred to in Article 21~~, their contact details, assigned roles and responsibilities ~~during the vigilance and emergency modes of this Regulation~~ under national law; **PL (Drafting):**	**SK (Comments):** This obligation seems to be important, but it will require a lot of administrative effort. **AT (Comments):** As mentioned in Art. 5 it is important that existing resources are used and that the bureaucracy remains at a miminum. The *« single points of contact »* according to Art. 21 could be combined with the *"central liaison office"*. **LU (Comments):** *For the sake of operational clarity during an emergency situation, overly bureaucratic and duplicating approaches should be avoided.* **LV (Comments):** Which competent authorities should be notified by the Member State as competent authorities may vary in each potential crisis? Should the

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	(a) an inventory of ~~relevant~~ national competent authorities, the central liaison offices designated in accordance with Article 5 and single points of contact referred to in Article 21, their contact details, assigned roles and responsibilities during the vigilance and emergency modes of this Regulation ~~under national law~~;	competent authorities be notified only once, or before each relevant crisis situation? The Commission should provide information or guidelines on potential crises division in order to allow Member States to identify and notify all competent authorities and their assigned roles and responsibilities during the vigilance and emergency modes. **PL (Comments):** Word 'relevant' is unnecessary as well as reference to the national law. This Regulation shall be binding in its entirety and directly applicable in all Member States. There is no need to implement it.
	IT (Drafting): 2. **Taking into consideration the opinion of the advisory group,** the Commission and the Member States shall put in place detailed administrative arrangements for ensuring timely cooperation and secure exchange of information between the Commission, the relevant Union level bodies and the Member States concerning:	**IT (Comments):** The role of the advisory group for the purpose of contingency planning under Artt. 6 to 8 of the Regulation is established in general terms in Art. 4.4. It should be explicitly recalled also in Art. 6.2, dealing with the task of the Commission and the Member States to put in place detailed administrative arrangements for cooperation and exchange of information.
(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	**AT (Drafting):** (b) consultation of the representatives of economic operators and social partners, including SMEs, on their initiatives and actions	**AT (Comments):** Consultation in the direction of effects on the labour market, social aspects and the supply of the population should also be taken into

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shortages of goods and services in the Single Market;	to mitigate and respond to potential supply chain disruptions and overcome potential shortages of goods and services in the Single Market **and consultations on effects on the labour market, social aspects and the supply for the population;** **LU (Drafting):** (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;~~	account. Art. 6(2)(b) and (c): this could give rise to problems under competition law (formation of cartels) as well as problems with regard to business and trade secrets; lit. c could also give rise to problems under competition law. What is CLS' view? **BE (Comments):** BE would like to receive more information on these consultations: at what pace and how often will these consultations take place ? **LU (Comments):** *This provision can constitute the basis for the monitoring under Article 9 (which we propose to delete).* **LV (Comments):** Article 6 paragraph 2 subparagraphs b and c determine consultations with the economic operators and technical level cooperation during the vigilance and emergency modes. How the cooperation is planned and whether it should be regulated in national legislation? **SI (Comments):** Similarly as in recital 6 and article 1.1 we would like to stress that as far as the consultations related to potential supply chain disruption are

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		concerned, it will be necessary to ensure **cooperation with relevant other instruments and mechanisms that are primarily dealing with this issue** (e.g. DG GROW Chief Economists Network)
(c) technical level cooperation in the vigilance and emergency modes across the sectors of the Single Market;	**LU (Drafting):** (c) technical level cooperation in the ~~vigilance and~~ emergency mode~~s~~ across the sectors of the Single Market; **DK (Drafting):** (c) technical level ~~cooperation~~ **assistance** in the vigilance and emergency modes across the sectors of the Single Market;	**AT (Comments):** Art. 6(2)(b) and (c): this could give rise to problems under competition law (formation of cartels) as well as problems with regard to business and trade secrets; lit. c could also give rise to problems under competition law. What is CLS' view? **LV (Comments):** Please see the previous comment. **DK (Comments):** As the paragraph does not specify what technical level cooperation entails, the level is therefore suggested to be demoted to "assisting".
(d) risk and emergency communication, with a coordinating role for the Commission, adequately taking into account already existing structures;	**LU (Drafting):** (d) risk and emergency communication, with a coordinating role for the Commission, ~~adequately~~ taking into account already existing structures;	**LT (Comments):** Art 6.1c and 6.2d are almost identical as both should set up a framework for communication with a coordinating role for the Commission. Could the COM explain the difference between

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	DK (Drafting): (d) risk and emergency communication, ~~with a coordinating role for the Commission,~~ adequately taking into account already existing structures;	these two paragraphs and, if necessary, suggest amendments (e.g. by listing authorities, between which the communication will be conducted? E.g. national CLOs and EU CLO?) to avoid possible duplication. **DK (Comments):** Member States have their own national communication channels and methods, whereby an active coordinating role for the Commission is considered unnecessary and too forward.
3. In order to ensure the operation of the framework referred to in paragraph 1, the Commission may conduct stress tests, simulations and in-action and after-action reviews with Member States, and propose the relevant Union-level bodies and the Member States to update the framework as necessary.	**DK (Drafting):** 3. In order to ensure the operation of the framework referred to in paragraph 1, the Commission may **propose for the Member States to** conduct stress tests, simulations and in-action and after-action reviews with Member States, and propose the relevant Union-level bodies and the Member States to update the framework as necessary.	**LV (Comments):** How often stress tests will be conducted? **DK (Comments):** It is important to highlight that Member States already are conducting own stress tests and simulation; the proposed paragraph should therefore be voluntary based and adhering to national perogatives.
	DE (Drafting): **4. The Commission, when adopting the delegated act referred to in paragraph 1 of this Article, shall take into account existing preparedness policies including under Article 12 of Council Implementing Decision (EU)**	**DE (Comments):** Existing preparedness policies (including under the IPCR) should be taken into account.

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	2018/1993 on IPCR.	
Article 7 Trainings and simulations		**PT (Comments):** What are the costs incurred for Member States regarding trainings and simulations? **RO (Comments):** Romania welcomes the intention of the Commission to organise and finance training and simulations.
	IT (Drafting): 3. In order to ensure the operation of the framework **established** in paragraph 1, the Commission may conduct stress tests, simulations and in-action and after-action reviews with Member States and propose to update the framework as necessary.	**IT (Comments):** It would be valuable to specify what the stress tests, simulations, and in-action and after-action reviews with Member States consist of. Par. 3 should be made consistent with par. 1 which (under our proposal) lays down the framework for crisis protocols.
The Commission shall organise the training on crisis coordination, cooperation and information exchange referred to in Article 6 for the staff of the designated central liaison offices. It shall organise simulations involving the staff of the central liaison offices from all Member States based on potential scenarios of Single Market emergencies.	**DE (Drafting):** The Commission shall organise the training on crisis coordination, cooperation and information exchange referred to in Article 6 for the staff of the designated central liaison offices. It shall organise simulations involving the staff of the central liaison offices from all Member States based on potential scenarios of Single Market emergencies. **Trainings and simulations under this Article shall draw on existing**	**DE (Comments):** Existing preparedness policies (including under the IPCR) should be taken into account. **SK (Comments):** We support such trainings and simulations, but have some worries if such activities will be sufficient and about their costs. **LV (Comments):** Trainings and simulations should be organised

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	preparedness policies, including trainings, exercises and lessons learned under Article 12 paragraphs 3, 4 and 6 of Council Implementing Decision (EU) 2018/1993 on IPCR.	not only for the staff of the Member States' central liaison offices, but also for the Comission Union level central liaison office and other competent authorities of the Member States. **LT (Comments):** A technical question – does "the training" refer to *one single* event? **DK (Comments):** There is a need for clarifying to a larger extent the terms "training and simulations". Depending on what is exactly to be understood by these terms, i.e. how extensive, how often etc., it could potentially require substantial budgetary expenses for Member States to take part. Furthermore, it is again unclear what is understood by "potential scenarios of Single Market emergencies". It should be described in more detail what these potential scenarios could be. It is generally important to ensure a cost-efficient and risk-based approach to contingency planning. Planning for any potential scenario is neither feasible nor doable.
Article 8 Ad hoc alerts for early warning		**PT (Comments):** There is a need to clarify the meaning of significant disruption that will deploy the ad hoc

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		alert for early warning. **ES (Comments):** ES would welcome more clarity on the development of ad hoc alerts and their connection with the vigilance or emergency mode. The current wording does not clarify some important elements such as the involvement of the Advisory Group, whether the COM should analyse each notification, the criteria for prioritising different notifications or the procedural connection with the vigilance or emergency modes activations.
	IT (Drafting): The Commission shall organise the training on crisis coordination, cooperation and information exchange referred to in Article 6 for the staff of the designated central liaison offices. It shall organise simulations involving the staff of the central liaison offices from all Member States based on potential scenarios of Single Market emergencies, **with the participation of relevant economic operators potentially involved in the crisis scenarios.**	**IT (Comments):** The implementation of training programs on coordination and exchange of information regarding the crisis as well as the organization of simulations on potential market emergency scenarios are important elements for the effectiveness of SMEI. These initiatives should also be extended to economic actors potentially affected by the different crisis scenarios.
1. The central liaison office of a Member State shall notify the Commission and the central liaison offices of other Member States without undue delay of any incidents that	**LU (Drafting):** 1. The central liaison office of a Member State shall notify the Commission and the	**SK (Comments):** We can support this requiremet, however we have some questions.

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significantly disrupt or have the potential to significantly disrupt the functioning of the Single Market and its supply chains (significant incidents).	central liaison offices of other Member States without undue delay of any incidents that significantly disrupt or have the potential to significantly disrupt the functioning of the Single Market ~~and its supply chains (significant incidents)~~. **PL (Drafting):** 1. The central liaison office of a Member State shall notify the Commission and the central liaison offices of other Member States without undue delay of any incidents that significantly disrupt or have the potential to significantly disrupt the functioning of the Single Market and its supply chains **and could lead to shortages in the Single Market** (significant incidents). **DK (Drafting):** 1. The central liaison office of a Member State shall notify the Commission and the central liaison offices of other Member States without undue delay of any incidents that **may represent or develop into a threat referred to in Article 3(2) or a Single Market emergency referred to in Article 3(3).** ~~significantly disrupt or have the potential to significantly disrupt the functioning of the Single Market and its supply chains (significant incidents).~~	**AT (Comments):** There is no definition of "significant incidents", which is used in Article 8, point 1. The term should be clearly defined. **BE (Comments):** The indicators that the central liaison offices need to consider prior to notifying the Commission and other Member States on a significant disruption should be outlined. **LU (Comments):** *We are unsure who will decide on what is a "significant" disruption?* *Could a restriction notified by Member State under Article 19 be a reason for an ad hoc alert by another Member State, because the notified restriction could have a "significant" impact on the Single Market? Would this not result in a circular alerting and notifying process between Member States?* **LV (Comments):** Article 8 should set the conditions for what period of time, and criteria of what kind of information must be provided to the Commission and other Member States about potential incidents or disruptions that could threaten the Single Market or its supply chains.

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		PL (Comments): In line with the proposed changes to the definition in Article 3 **LT (Comments):** We subscribe to the questions, raised by other MSs, regarding a definition of a significant disruptions/ significant incidents. **DK (Comments):** It is difficult to define what exactly is to be understood by "significantly disrupt". As it currently states, it could risk either, a) crucial incidents are <u>not</u> notified or b) incidents of no significant are <u>notified</u>. In order to diminish such risk, we propose that the central liaison office would notify based on the definitions for vigilance mode and emergency mode in Article 3. **SI (Comments):** It is necessary to specify more concretely what "significant disruption" is. We propose this to be clafied in Article 3.
2. The central liaison offices and any relevant national competent authorities shall, in accordance with Union law and national	**BE (Drafting):** 2. The central liaison offices and any	**BE (Comments):** In terms of crisis protocols and ad hoc alerts for

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legislation that complies with Union law, treat the information referred to in paragraph 1 in a way that respects its confidentiality, protects the security and public order of the European Union or its Member States, and protects the security and commercial interests of the economic operators concerned.	relevant competent authorities of the Member States shall, in accordance with Union law and national legislation that complies with Union law, treat the information referred to in paragraph 1 in a way that respects its confidentiality, protects the security and public order of the European Union or its Member States, and protects the security and commercial interests of the economic operators concerned.	early warning, BE requests clarifications regarding the relationship and cooperation between competent authorities of the MS, the advisory group (or rather steering committee - see comment on Art.4) and the central liaison office. **IE (Comments):** There are security concerns around the sharing of commercially sensitive data of economic operators.
		IT (Comments): Attention is drawn to the reference to "significant accidents" as the subject of notifications by member states under Article 8(1). However, "significant incidents" are not included in the definitions in Article 3 with the risk of creating uncertainty and confusion for both notifying authorities and potentially affected economic operators as well as leading to uncertainty on how the confidentiality clause (Article 8(2)) is applied.
3. In order to determine whether the disruption or potential disruption of the functioning of the Single Market and its supply chains of goods and services is significant and should be the object of an alert, the central liaison office of a Member State shall take the following into account:	DE (Drafting): “Should” should be changed to “shall therefore” **LU (Drafting):**	DE (Comments): The suggested change would make clear that notifications are mandatory. Right now, it could also be interpreted in a way that would leave a

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	3. In order to determine whether the disruption or potential disruption of the functioning of the Single Market ~~and its supply chains of goods and services~~ is significant and should be the object of an alert, the central liaison office of a Member State shall take the following into account:	discretionary power to the liasion office. **SK (Comments):** We have some doubts whether the central liaison offices (CLOs) will be capable of recognising the level of disruption. We would welcome clearer criteria for such judgements. How will CLOs gather the information to determine the degree of disruption? **LT (Comments):** We subscribe to the questions, raised by other MSs, regarding parameters, listed in Art 8.3, e.g. how the proportion of the Single Market affected by the disruption should be counted. We do acknowledge a positive aspect of giving MSs more flexibility. However in practice if parameters are too broad/unclear/lead to a different interpretation, they might not be used as often as the COM expects. **DK (Comments):** As a general comment, the parameters included in this paragraph should be very much aligned with the definitions of Single Market vigilance mode and Single Market emergency mode, according to article 3(2) and 3(3), respectively. – Considering this as well as our suggestions for amendments to article 3(2) and 3(3), the following indicators

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		should be included in the list: The extent to which the [threat of] disruption or potential disruption is substantial and non-structural – The actual or anticpated effect of the disruption or potential disruption on the free movement on goods, persons, and services on the Single Market The actual or anticipated effect of the disruption or potential disruption on the supply of goods and services of critical importance Etc. **SI (Comments):** When is a "(potential) disruption of the functioning of the Single Market and its supply chains" considered as **significant**? Based on what will this be assessed? We propose this to be clarified in the recitals
		IT (Comments): Paragraph 2 of Article 8 introduces a confidentiality clause on information about incidents that significantly disrupt the single market and related supply chains, including for the purpose of ensuring public safety and order. This wording, while essential, seems overly general: some more specific operational modalities should be provided to ensure uniform levels of protection among all MS. Helpful would be a reference to the rules and parameters

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		of cyber security
(a) the number of economic operators affected by the disruption or potential disruption;	**BE (Drafting):** (a) the number and/or strategic importance of economic operators affected by the disruption or potential disruption; **LU (Drafting):** ~~(a) the number of economic operators affected by the disruption or potential disruption;~~ **NL (Drafting):** (a) the ~~number~~ **market share** of economic operators affected by the disruption or potential disruption; **DK (Drafting):** (a) the number of economic operators **at EU-level** affected by the disruption or potential disruption;	**LU (Comments):** *The number of economic operators is not a reliable indicator. There can by economic operators who by their size or by their area of activity will be crucial, even if they are very limited in numbers. However, including any economic operator will defy the relevance of this criterion and should therefore be deleted.* **NL (Comments):** The market share tells us more than the number of companies affected.
		IT (Comments): In order to notify incidents that significantly disrupt or are threatening to disrupt the functioning of the single market, the Member State could take into consideration reports from economic operators or stakeholders to avoid potential disruptions.
(b) the duration or anticipated duration of a	**LT (Drafting):**	**LT (Comments):**

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disruption or potential disruption;	(b) the duration or anticipated duration of an **ongoing** disruption or **identified** potential disruption **in the near future**;	The term *potential* disruption is too wide and broad, it does not create clarity to identify criteria in sending ad hoc alerts.
(c) the geographical area; the proportion of the Single Market affected by the disruption or potential disruption; the impact on specific geographical areas particularly vulnerable or exposed to supply chain disruptions including the EU outermost regions;	**LU (Drafting):** ~~(c) the geographical area; the proportion of the Single Market affected by the disruption or potential disruption; the impact on specific geographical areas particularly vulnerable or exposed to supply chain disruptions including the EU outermost regions;~~ **NL (Drafting):** the geographical area; the proportion of the Single Market **and especially free movement of goods, persons and services** affected by the disruption or potential disruption; the impact on specific geographical areas particularly vulnerable or exposed to supply chain disruptions including the EU outermost regions; **DK (Drafting):** (c) the geographical ~~area; the~~ proportion of the Single Market affected by the disruption or potential disruption; ~~the impact on specific geographical areas particularly vulnerable or exposed to supply chain disruptions including the EU outermost regions;~~	**LU (Comments):** *Geographical area is an unclear indicator. If size is what is meant, then this is not relevant: any disruption creating barriers to cross-border trade inside the EU should be treated equally.* **DK (Comments):** While certain geographical areas are inheriently more exposed and vulnerable to supply chain disruptions, it is important that the SMEI does not risk becoming an instrument that can be utilized to administer, what can be defined as expected disruptions. We propose that the parameter should instead regard 'the geographical proportion' and therefore maintain objective criterias only refering to the actual (potential) disruption's effect on the Single Market.

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(d) the effect of the disruption or potential disruption on non-diversifiable and non-substitutable inputs.	**LU (Drafting):** (d) the effect of the disruption or potential disruption on non-diversifiable and non-substitutable inputs.	**LU (Comments):** *We wonder what the direct link of a non-diversifiable and non-substitutable input is with the Single Market?*
	BE (Drafting): (e) the critical sectors, as defined in Article 3 (8), and the goods and services of strategic importance, as defined in Article 3 (5). **DK (Drafting):** **4. the advisory group shall, shortly after a notification purusant to paragraph 1 and in adherence of the parameters in paragraph 3a-d, convene and establishing whether the threat referred to in Article 3(2) is present, and the scope of such threat through an opinion.**	**DK (Comments):** It is important that the advisory group is notified early, when a central liaison of the Member State has raised the alarm on a (potential) disruption of the functioning of the Single Market. The Commission's proposal could potentially result in that the Commission can maintain this knowledge indefinitly.
Part III Single Market Vigilance	**LU (Drafting):** ~~Part III~~ ~~Single Market Vigilance~~ **PL (Drafting):** ~~Part III~~ ~~Single Market Vigilance~~	**LU (Comments):** *The SMEI should focus on preparation and addressing of crises. Adding different modes with different trigger mechanisms, and different rules, creates confusion in situations where operational and legal clarity is needed.* *Could the Commission demonstrate the link with the Single Market and the activation of the vigilance mode? The measures seem to focus on*

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		supply chains rather than barriers to cross-border trade between Member States. *If needed, we suggest to integrate the more substantive elements of the vigilance mode – monitoring and strategic reserves – into the crisis protocole.* **PL (Comments):** We propose to delete Part III Single Market Viligance because if we delete Article 12, then it becomes unreasonable to maintain a separate Single Market Viligance Mode. The issues remaining after the removal of the provision on strategic reserves should be in different modes. **LT (Comments):** General comment. Involvement of stakeholders, particularly which might be a target of vigilance/emergency measures, should be guaranteed.
Title I Vigilance mode	**LU (Drafting):** ~~Title I~~ ~~Vigilance mode~~	**BE (Comments):** In this phase, the Commission has broad powers and can impose numerous constraints on the Member States (monitoring, constitution of strategic reserves) simply taking account of the opinion of the advisory group (or Steering committee - see comment on Art.4). Belgium questions the proportionality of these measures,

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		which will entail heavy administrative burdens for both national administrations and companies. BE would like a framework to be defined that would allow for more transparency and predictability when triggering the different modes and measures.
	DK (Drafting): **<u>Article 8a</u>** **<u>Criteria for activation</u>** **DK (Drafting):** **<u>When assessing whether the threat referred to in Article 3(2) is present, the Commission shall, based on concrete and reliable evidence, take into account at least the following indicators:</u>** **DK (Drafting):** **<u>(1) The anticipated time before the threat escalates into a Single Market Emergency;</u>** **DK (Drafting):** **<u>(2) The number of economic operators or market shares expected to be affected considering the nature of threat;</u>** **DK (Drafting):** **<u>(3) The proportion of the Single Market</u>**	**BE (Comments):** BE suggests to add an article previous to Art 9 to introduce the criteria for activation of the vigilance mode, just as Art 13 introduce them for the emergency mode. BE doesn't find COM's reply (wk00394/23) sufficient to explain why such article doesn't exist. **DK (Comments):** Suggestion to add a new article including criteria for activating the vigilance mode. A similar article is in place for the emergency mode (art. 13) and the structure of this new article is therefore based hereon. The objective is to bring further clarity and predictability regarding how and on what basis the Commission will consider whether a threat is present. The suggested indicators should be seen as a first draft in the sense that some of the indicators might be more relevant and useful if

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	expected to be affected considering the nature of the threat; **DK (Drafting):** **(4) The amount of goods and services of critical importance expected to be affected considering the nature of the threat;** **FI (Drafting):** **Article 8a (new) Criteria for activation** **When assessing whether the threat referred to in Article 3(2) is present, the Commission shall, based on concrete and reliable evidence, take into account at least the following indicators:** **(1) The anticipated time before the threat escalates into a Single Market Emergency;** **(2) The number of economic operators or market shares expected to be affected considering the nature of threat;** **(3) The proportion of the Single Market expected to be affected considering the nature of the threat;** **(4) The amount of goods and services of critical importance expected to be affected considering the nature of the threat;**	formulated differently as well as the fact that further indicators might be relevant to add. In this regard, it could be considered to add all of the indicators provided for in Article 13 related to the activation of the emergency mode. Finally, consistency should be ensured with article 8(3). **FI (Comments):** *Suggestion to add a new article including criteria for activating the vigilance mode. A similar article is in place for the emergency mode (art. 13) and the structure of this new article is therefore based hereon.* *The objective is to bring further clarity and predictability regarding how and on what basis the Commission will consider whether a threat is present.* *The suggested indicators should be seen as a first draft in the sense that some of the indicators might be more relevant and useful if formulated differently as well as the fact that further indicators might be relevant to add. In this regard, it could be considered to add all of the indicators provided for in Article 13 related to the activation of the emergency mode. Finally, consistency should be ensured with article 8(3).*
Article 9	**LU (Drafting):**	**ES (Comments):**

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Activation	~~Article 9~~ ~~Activation~~	The procedural elements could be reviewed in order to acquire the establishment of a "checks and balances system" that can be applied in each scenario in order to specify the powers and measures applicable in each specific case. The involvement of Member States could be reinforced during the activation and implementation of the vigilance mode.
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:	**DE (Drafting):** Where the Commission, taking into ~~consideration~~**account** the opinion provided by the advisory group, considers that the threat referred to in Article 3(2) is present, it shall **propose to the Council to** activate the vigilance mode ~~for a maximum duration of~~**.** **The Council may activate the Single Market emergency mode by means of a Council implementing act. The duration of the activation, shall be specified in the implementing act, and shall be a maximum of** six months ~~by means of an implementing act~~. Such an implementing act shall contain the following: **AT (Drafting):** 1. Where the **Council** ~~Commission~~, taking into consideration the opinion provided by the advisory group, considers that the threat referred	**DE (Comments):** DE believes there is a need for a Council Implementing Decision in order to activate the vigilance mode and stipulate its scope. Such a Council Implementing Decision can be also objectively justified on the basis of the far-reaching consequences of the vigilance mode with regard to strategic reserves (Article 12). See also Germany's comments on the Commission's proposal for a Single Market Emergency Instrument (SMEI) from November 2022. A respective role for the Council should also be foreseen with regard to the extension and deactivation of the vigilance mode (Article 10). **SK (Comments):** We have doubts about the efficiency of such a

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	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: **BE (Drafting):** 1. Where the Commission, taking into consideration the opinion provided by the steering committee, considers that the threat referred to in Article 3(2) is present, it shall propose to the Council to activate the vigilance mode. **LU (Drafting):** ~~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:~~ **NL (Drafting):** 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 **propose to the Council to activate the Single Market vigilance mode. Where the consideration of the Commission diverges from the opinion of the advisory group, the Commission shall**	procedure. **AT (Comments):** At present, Art. 9 and 10 do not provide for concrete criteria for the activation or extension of the vigilence. Which parameters will the Commission take into account. Specific criteria are necessary and should be included under Art. 9 in order to provide for legal certainty. As mentioned by EC at the WP meeting at the 13.01.2023, a referral to the parameters mentioned in Art. 8 (3) is not sufficient enough. Limiting the vigilance mode makes sense. In this context, it is necessary that this mode does not last longer than an identified crisis. **BE (Comments):** Cfr. the concerns regarding the definitions in Article 3, how (criteria, process, etc.) will the Commission determine whether a disruption of a supply chain (or threat thereof) has taken place? Further clarification and elaboration on the specific criteria for activating the vigilance mode is necessary. **PT (Comments):** • Article 9 does not contain any concrete criteria for the activation of the vigilance mode. It needs further clarification.

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	provide a valid justification. ~~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:~~ **1a. The Council may activate the Single Market vigilance mode by means of a Council implementing act. The duration of the activation shall be specified in the implementing act and shall be a maximum of six months.** **1b. As soon as the Single Market vigilance mode is activated, the Commission shall, without undue delay and following consultation of the advisory group, adopt an implementing act containing the following:** **IE (Drafting):** 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 **propose to the Council to activate the Single Market vigilance mode. Where the consideration of the Commission diverges from the opinion of the advisory group, the Commission shall provide a valid justification.** ~~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:~~	• The vigilance mode is activated only by means of a COM implementing act considering the opinion of the Advisory Group. We consider that the powers of the COM under the proposal should be reconsidered. There is a need to (re)establish a balance by including Member States in the decision-making process of the vigilance mode. • In this sense, the Single Market vigilance mode should be activated by the Council (just like the emergency mode). We also consider that a justification should be provided by the Comission where its assessment of the threats diverges from the Advisory Group. **NL (Comments):** Activating the viligance mode makes it possible to introduce quite far-reaching measures, including especially measures related to strategic reserves. Strict safeguards with adequate Member State involvement should therefore be ensured. It is therefore suggested to change the activation procedure so that the Council decides on the activation. The language is inspired by the article on activation of the emergency mode (art. 14), since this mode is also activated by the Council.

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	<u>1a. The Council may activate the Single Market vigilance mode by means of a Council implementing act. The duration of the activation shall be specified in the implementing act and shall be a maximum of six months.</u> **<u>1b. As soon as the Single Market vigilance mode is activated, the Commission shall, without undue delay and following consultation of the advisory group, adopt an implementing act containing the following:</u>** **PL (Drafting):** ~~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:~~ **RO (Drafting):** 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 propose to the Council**, **to** activate the vigilance mode for a maximum duration of six months. **The vigilance mode shall be activated** by means of an implementing act **of the Council**. Such an	Furthermore, it is suggested to include that the Commission should <u>provide a justification</u> where its assessment of the threat diverges from the Council. Amendments follow from the overall change that the Council should activate the vigilance mode. The language is inspired by the article on activation of the emergency mode (art. 14), since this is as well activated by the Council. Amendments follow from the overall change that the Council should activate the vigilance mode. The language is inspired by the article on activation of the emergency mode (art. 14), since this is as well activated by the Council. **IE (Comments):** Activating the viligance mode makes it possible to introduce quite far-reaching measures, including especially measures related to strategic reserves. Strict safeguards with adequate Member State involvement should therefore be ensured. It is therefore suggested to <u>change the activation procedure so that the Council decides on the activation</u>. The language is inspired by the article on activation of the emergency mode (art. 14), since this mode is also activated by the Council. Furthermore, it is suggested to include that the Commission should <u>provide a justification</u>

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	implementing act shall contain the following: **LT (Drafting):** 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 **propose to the Council to activate the Single Market vigilance mode. Where the consideration of the Commission diverges from the opinion of the advisory group, the Commission shall provide a valid justification.** **DK (Drafting):** 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 **propose to the Council to activate the Single Market vigilance mode. Where the consideration of the Commission diverges from the opinion of the advisory group, the Commission shall provide a valid justification.** ~~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:~~ **FI (Drafting):** 1. Where the Commission, taking into consideration the opinion provided by the advisory group, considers that the threat referred	where its assessment of the threat diverges from the Council. Amendments follow from the overall change that the Council should activate the vigilance mode. The language is inspired by the article on activation of the emergency mode (art. 14), since this is as well activated by the Council. Amendments follow from the overall change that the Council should activate the vigilance mode. The language is inspired by the article on activation of the emergency mode (art. 14), since this is as well activated by the Council. **RO (Comments):** The Vigilance Mode allows the imposition of extremely intrusive interventions in the economy, with significant economic-financial effects on MS and undertakings, through monitoring, but especially through the establishment of strategic reserves. **LT (Comments):** LT supports NL, FI, DK proposal and arguments provided in their paper. In addition, how stakeholders will be consulted while preparing the list of the goods and services of strategic importance concerned and choosing concrete vigilance measures? **DK (Comments):**

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	to in Article 3(2) is present, it shall **propose to the Council to activate the Single Market vigilance mode. Where the consideration of the Commission diverges from the opinion of the advisory group, the Commission shall provide a valid justification.** ~~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:~~ **1a. (new) The Council may activate the Single Market vigilance mode by means of a Council implementing act. The duration of the activation, shall be specified in the implementing act, and shall be a maximum of six months.** **1b. (new) As soon as the Single Market vigilance mode is activated, the Commission shall, without undue delay and following consultation of the advisory group, adopt an implementing act containing the following:**	Activating the viligance mode makes it possible to introduce quite far-reaching measures, including especially measures related to strategic reserves. Strict safeguards with adequate Member State involvement should therefore be ensured. It is therefore suggested to change the activation procedure so that the Council decides on the activation. The language is inspired by the article on activation of the emergency mode (art. 14), since this mode is also activated by the Council. Furthermore, it is suggested to include that the Commission should provide a justification where its assessment of the threat diverges from the Council. **FI (Comments):** *Activating the vigilance mode makes it possible to introduce quite far-reaching measures, including especially measures related to strategic reserves. Strict safeguards with adequate Member State involvement should therefore be ensured. Therefore, activation procedure should be changed so that the Council decides on the activation. The language is inspired by the article on activation of the emergency mode (art. 14), since this mode is also activated by the Council.* *Furthermore, it is suggested to include that the*

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		Commission should provide a justification where its assessment of the threat diverges from the Council. **MT (Comments):** *Malta would prefer if the Council is involved in the activation of the vigilance mode, in the same manner as its involvement in the activation of the Emergeny mode i.e. activation through a Council Implementing Act as per Article 14.3.*
	BE (Drafting): 1a. The Council may activate the vigilance mode by means of a Council implementing act. The duration of the activation, shall be specified in the implementing act, and shall be a maximum of six months. 1b. As soon as the Single Market vigilance mode is activated, the Commission shall, without undue delay and following consultation of the steering committee, adopt an implementing act containing the following: **LT (Drafting):** **1a. The Council may activate the Single Market vigilance mode by means of a Council implementing act. The duration of the activation shall be specified in the implementing act and shall be a maximum of six months.** **1b. As soon as the Single Market vigilance**	**BE (Comments):** To ensure that the Member States are adequately involved in important decisions, BE considers there is a need for a Council Implementing Decision in order to activate the vigilance mode and delineate its scope. Such a Council Implementing Decision can be also objectively justified on the basis of the far-reaching consequences of the vigilance mode with regard to strategic reserves (Article 12). **LT (Comments):** LT supports NL, FI, DK proposal and arguments provided in their paper. **DK (Comments):** Amendments follow from the overall change that the Council should activate the vigilance mode. The language is inspired by the article on activation of the emergency mode (art. 14),

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	mode is activated, the Commission shall, without undue delay and following consultation of the advisory group, adopt an implementing act containing the following: **DK (Drafting):** **1a. The Council may activate the Single Market vigilance mode by means of a Council implementing act. The duration of the activation shall be specified in the implementing act and shall be a maximum of six months.** **DK (Drafting):** **1b. As soon as the Single Market vigilance mode is activated, the Commission shall, without undue delay and following consultation of the advisory group, adopt an implementing act containing the following:**	since this is as well activated by the Council. **DK (Comments):** Amendments follow from the overall change that the Council should activate the vigilance mode. The language is inspired by the article on activation of the emergency mode (art. 14), since this is as well activated by the Council.
(a) an assessment of the potential impact of the crisis;	**BE (Drafting):** (a) an assessment of the disruption or potential disruption of the crisis on the functionning of the Single Market; **LU (Drafting):** ~~(a) an assessment of the potential impact of the crisis;~~ **NL (Drafting):** (a) an assessment of the potential impact of the	**BE (Comments):** To refer to the definition of the vigilance mode (art 3 §2). **NL (Comments):** At the stage of activating the vigilance mode, the crisis has not emerged yet – hence, the assessment should focus on the *potential* crisis. **IE (Comments):** At the stage of activating the vigilance mode,

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	potential crisis; **IE (Drafting):** (a) an assessment of the potential impact of the **potential** crisis; **PL (Drafting):** ~~(a) an assessment of the potential impact of the crisis;~~ **DK (Drafting):** (a) an assessment of the potential impact of the **potential** crisis; **FI (Drafting):** (a) an assessment of the potential impact of the **potential** crisis;	the crisis has not emerged yet – hence, the assessment should focus on the **potential** crisis. **DK (Comments):** At the stage of activating the vigilance mode, the crisis has not emerged yet – hence, the assessment should focus on the *potential* crisis. **FI (Comments):** *At the stage of activating the vigilance mode, the crisis has not emerged yet – hence, the assessment should focus on the potential crisis.*
	IT (Drafting): Where **the ~~Commission~~ Council, on a proposal from the Commission which takes** 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	**IT (Comments):** We suggest empowering the Council with the task of activating (extending and deactivating) the vigilance for a full involvement of MSs and stakeholders in relation to the assessment of the possible impact of the crisis; the list of goods and services of strategic importance; and the supervisory measures to be taken.
(b) list of the goods and services of strategic importance concerned, and	**BE (Drafting):** (b) list of the goods and services of strategic importance and a list of critical sectors	**AT (Comments):** How will such a list be drawn up? Determining the specific goods and services without

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	concerned, and **LU (Drafting):** ~~(b) list of the goods and services of strategic importance concerned, and~~ **LV (Drafting):** ~~(b) list of the goods and services of strategic importance concerned, and~~ **NL (Drafting):** (b) list of the goods and services of ~~strategic~~ **critical** importance **whose functioning and/or supply is at risk of being significantly disrupted** ~~concerned~~, and **IE (Drafting):** (b) list of the goods and services of ~~strategic~~ **critical** importance **whose functioning and/or supply is at risk of being significantly disrupted** ~~concerned~~, and **PL (Drafting):** ~~(b) list of the goods and services of strategic importance concerned, and~~ **RO (Drafting):** Deletion or insertion of a new paragraph: **(b^1)The measures aimed at prevending speculative behaviour of undertakings with regard to the goods and services included in**	involving MS would be very risky. Will undertakings be involved in the assessment? Which criteria will be used to determine the strategic importance of a good/service? The list of goods needs to be determined by the MS. **BE (Comments):** In line with BE suggestion to add a point (e) in Art 8 § 3. **PT (Comments):** • What are the criteria for the identification of these "goods and services of strategic importance concerned"? The proposal does not provide enough information on what constitutes goods and services of strategic importance. • We find extremely important that Member States are involved in developing the list of "goods and services of strategic importance". The list of goods and services of strategic importance will also include raw materials and intermediate products or just final products? **LV (Comments):** Latvia does not support the obligation to build strategic reserves therefore we do not support the need for the list of the goods and services of strategic importance. Please see the comment

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	the list **LT (Drafting):** (b) list of the goods and services of **critical** importance, **functioning or supply of which is at risk of being significantly disrupted** , and **DK (Drafting):** (b) list of the goods and services of ~~strategic~~ **critical** importance **whose functioning and/or supply is at risk of being significantly disrupted** ~~concerned~~, and **FI (Drafting):** b) list of the goods and services of ~~strategic~~ **critical** importance **whose functioning and/or supply is at risk of being significantly disrupted** ~~concerned~~, and	regarding Article 1 paragraph 1. **NL (Comments):** The first amendment of replacing strategic with critical follows from the draft amendment in paragraph 5. The second amendment aims at providing more clarity and predictability regarding which goods and services should be included in the list. Instead of the rather vague language that it should be those that are "concerned", the amendment specifies what it means to be concerned. **IE (Comments):** The first amendment of replacing strategic with critical follows from the draft amendment in paragraph 5. The second amendment aims at providing more clarity and predictability regarding which goods and services should be included in the list. Instead of the rather vague language that it should be those that are "concerned", the amendment specifies what it means to be concerned. **RO (Comments):** The publication of the list of goods and services of strategic importance may by itself cause speculative behaviour/price gouging, e.g. the

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		creation of an artificial shortage or the practice of excessive prices, if it is not accompanied by immediate measures to combat such effects; moreover, it could affect the proper functioning of national regulatory instruments setting up mechanisms aimed at pereventing such practices. **LT (Comments):** LT supports NL, FI, DK proposal and arguments provided in their paper. **DK (Comments):** The first amendment of replacing strategic with critical follows from the draft amendment in paragraph 5. The second amendment aims at providing more clarity and predictability regarding which goods and services should be included in the list. Instead of the rather vague language that it should be those that are "concerned", the amendment specifies what it means to be concerned. **FI (Comments):** *The first amendment of replacing strategic with critical follows from the draft amendment in Article 3(5).* *The second amendment aims at providing more clarity and predictability regarding which*

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		goods and services should be included in the list. Instead of the rather vague language that it should be those that are "concerned", the amendment specifies what it means to be concerned
(c) the vigilance measures to be taken.	**LU (Drafting):** ~~(c) the vigilance measures to be taken.~~ **NL (Drafting):** (c) the vigilance measures to be taken **including assessments justifying the need for taking those measures. The adoption of measures to be taken shall be without prejudice to measure specific activation procedures where such are in place.** **IE (Drafting):** (c) the vigilance measures to be taken **including assessments justifying the need for taking those measures. The adoption of measures to be taken shall be without prejudice to measure specific activation procedures where such are in place**. **PL (Drafting):** ~~(c) the vigilance measures to be taken.~~ **LT (Drafting):**	**SK (Comments):** It is necessary that the measures adopted be well focused not to influence negatively the rest of the economy. **PT (Comments):** This should also include the justification/the assements made for the vigilance measures that will be taken. **NL (Comments):** The first amendment that assessments should be made aims at ensuring that adequate levels of documentation and reasoning are in place before their activation. This is important not only for Member States, but also in explaining and justifying to the wider public and companies affected why the measures are introduced. The second amendment makes clear that measure specific activation procedures should be respected. For example, for certain measures in the vigilance mode, such as the measure of requiring a Member State to build up its

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	(c) the vigilance measures to be taken, **including assessments justifying the need for taking those measures. The adoption of measures to be taken shall be without prejudice to measure specific activation procedures where such are in place.** **DK (Drafting):** (c) the vigilance measures to be taken **including assessments justifying the need for taking those measures. The adoption of measures to be taken shall be without prejudice to measure specific activation procedures where such are in place.** **FI (Drafting):** (c) the vigilance measures to be taken **including assessments justifying the need for taking those measures. The adoption of measures to be taken shall be without prejudice to measure specific activation procedures where such are in place.**	strategic reserves, it is specified that an individual implementing act shall be made. **IE (Comments):** The first amendment that assessments should be made aims at ensuring that adequate levels of documentation and reasoning are in place before their activation. This is important not only for Member States, but also in explaining and justifying to the wider public and companies affected why the measures are introduced. The second amendment makes clear that measure specific activation procedures should be respected. For example, for certain measures in the vigilance mode, such as the measure of requiring a Member State to build up its strategic reserves, it is specified that an individual implementing act shall be made. **LT (Comments):** LT supports NL, DK and FI proposal and arguments provided in their paper. **DK (Comments):** The first amendment that assessments should be made aims at ensuring that adequate levels of documentation and reasoning are in place before their activation. This is important not only for Member States, but also in explaining and justifying to the wider public and companies

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		affected why the measures are introduced. The second amendment makes clear that measure specific activation procedures should be respected. For example, for certain measures in the vigilance mode, such as the measure of requiring a Member State to build up its strategic reserves, it is specified that an individual implementing act shall be made. **FI (Comments):** *The first amendment that assessments should be made aims at ensuring that adequate levels of documentation and reasoning are in place before their activation. This is important not only for Member States, but also in explaining and justifying to the wider public and companies affected why the measures are introduced.* *The second amendment makes clear that measure specific activation procedures should be respected. For example, for certain measures in the vigilance mode, such as the measure of requiring a Member State to build up its strategic reserves, it is specified that an individual implementing act shall be made.*
	NL (Drafting): *****New article on criteria for activation***** **Article 8a) Criteria for activation**	**NL (Comments):** Suggestion to add a new article including criteria for activating the vigilance mode. A similar article is in place for the emergency

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	When assessing whether the threat referred to in Article 3(2) is present, the Commission shall, based on concrete and reliable evidence, take into account at least the following indicators: **(1) The anticipated time before the threat escalates into a Single Market Emergency;** **(2) The number of economic operators or market shares expected to be affected considering the nature of threat;** **(3) The proportion of the Single Market expected to be affected considering the nature of the threat;** **(4) The amount of goods and services of critical importance expected to be affected considering the nature of the threat;** **LT (Drafting):** **<u>Article 8a) Criteria for activation</u>** **<u>When assessing whether the threat referred to in Article 3(2) is present, the Commission shall, based on concrete and reliable evidence, take into account at least the following indicators:</u>** **<u>(1) The anticipated time before the threat escalates into a Single Market Emergency;</u>** **<u>(2) The number of economic operators or</u>**	mode (art. 13) and the structure of this new article is therefore based hereon. The objective is to bring further clarity and predictability regarding how and on what basis the Commission will consider whether a threat is present. The suggested indicators should be seen as a first draft in the sense that some of the indicators might be more relevant and useful if formulated differently as well as the fact that further indicators might be relevant to add. In this regard, it could be considered to add all of the indicators provided for in Article 13 related to the activation of the emergency mode. Finally, consistency should be ensured with article 8(3). **IT (Comments):** See comment art. 3 **LT (Comments):** LT supports NL, DK and FI proposal and arguments provided in their paper

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	market shares expected to be affected considering the nature of threat; **(3) The proportion of the Single Market expected to be affected considering the nature of the threat;** **(4) The amount of goods and services of critical importance expected to be affected considering the nature of the threat;**	
2. The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 41(2).	**AT (Drafting):** ~~2. The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 41(2).~~ **BE (Drafting):** 2. The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 42(2). **LU (Drafting):** ~~2. The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 41(2).~~ **LV (Drafting):** 2. The implementing act referred to in paragraph 1 shall be adopted in accordance with	**BE (Comments):** Typo **LV (Comments):** There seems to be a technical error regarding the reference to Article 41(2), as implementing acts are not referred in this paragraph.

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	the examination procedure referred to in Article **42(2)**. **PL (Drafting):** 2. ~~The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 41(2).~~ **FI (Drafting):** ~~2. The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 41(2).~~	
	IE (Drafting): **<u>Article 8(a) (NEW) Criteria for activation</u>** **<u>When assessing whether the threat referred to in Article 3(2) is present, the Commission shall, based on concrete and reliable evidence, take into account at least the following indicators:</u>** **<u>(1) The anticipated time before the threat escalates into a Single Market Emergency;</u>** **<u>(2) The number of economic operators or market shares expected to be affected considering the nature of threat;</u>** **<u>(3) The proportion of the Single Market expected to be affected considering the</u>**	**IE (Comments):** Suggestion to add a new article including criteria for activating the vigilance mode. A similar article is in place for the emergency mode (art. 13) and the structure of this new article is therefore based hereon. The objective is to bring further clarity and predictability regarding how and on what basis the Commission will consider whether a threat is present. The suggested indicators should be seen as a first draft in the sense that some of the indicators might be more relevant and useful if formulated differently as well as the fact that further indicators might be relevant to add. In

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	nature of the threat; **(4) The amount of goods and services of critical importance expected to be affected considering the nature of the threat;**	this regard, it could be considered to add all of the indicators provided for in Article 13 related to the activation of the emergency mode. Finally, consistency should be ensured with article 8(3).
Article 10 Extension and deactivation	**LU (Drafting):** ~~Article 10~~ ~~Extension and deactivation~~	**LU (Comments):** *Could the Commission provide timelines for the activation, extension and deactivation of the vigilance mode to demonstrate the agility of reaction of the proposed mechanism?* **LT (Comments):** How stakeholders will be consulted while considering Extension and deactivation of vigilance mode?
	IT (Drafting): ~~The implementing act referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 41(2).~~	**IT (Comments):** The paragraph shoud be deleted because the implementing act referred to in paragraph 1 is adopted by the Council and not by the Commission.
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.	**AT (Drafting):** 1. The **Council** ~~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	**SK (Comments):** It is not clear if such an extension can only occur once, or repeatedly. **AT (Comments):** See above **BE (Comments):**

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	means of an implementing act. **BE (Drafting):** 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 steering committee, shall propose to the Council to extend the vigilance mode. The Council may extend the vigilance mode for a maximum duration of six months by means of an implementing act. **DK (Drafting):** **<u>(1) The anticipated time before the threat escalates into a Single Market Emergency;</u>** **LU (Drafting):** ~~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.~~ **NL (Drafting):** 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	See above comment on Art 9 new § 1a. **PT (Comments):** • As stated in the article the COM may extend the vigilance mode for a maximum duration of six months by means of an implementing act. How often the Commission may extend the vigilance mode? This needs further clarification. As already refered above, the vigilance mode should be activated by the Council. So, the extension of the vigilance mode should be decided by the Council. **LV (Comments):** Latvia is of view that the wording of paragraph 1 should be improved to clearly indicate that the vigilance mode can be extended for unlimited number of times (according to the provided information by the Comission in the meetings). **NL (Comments):** These amendments follow from introducing that the vigilance mode should be activated through Council implementing act in Article 9. **IE (Comments):** These amendments follow from introducing that the vigilance mode should be activated through

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	advisory group, may **propose to the Council to** extend the vigilance mode for a maximum duration of six months by means of ~~an~~ **Council** implementing act. **IE (Drafting):** 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 **propose to the Council to** extend the vigilance mode for a maximum duration of six months by means of a~~n~~ **Council** implementing act. **PL (Drafting):** ~~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.~~ **RO (Drafting):** **The Council, acting upon a** Commission **proposal**, 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	Council implementing act in Article 9. **RO (Comments):** Otherwise, the vigilance mode could be extended indefinitely, creating the conditions for a permanent vigilance mode. **LT (Comments):** LT supports NL, DK and FI proposal and arguments provided in their paper. **DK (Comments):** These amendments follow from introducing that the vigilance mode should be activated through Council implementing act in Article 9. **FI (Comments):** *The Member States must be able to decide on the activation, extension and deactivation of vigilance mode in the same way as activation, extension and deactivation of emergency mode.*

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	for a maximum duration of six months by means of an implementing act. **LT (Drafting):** 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 **propose to the Council to** extend the vigilance mode for a maximum duration of six months by means of a **Council** implementing act. **DK (Drafting):** 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 **propose to the Council to** extend the vigilance mode for a maximum duration of six months by means of a~~n~~ **Council** implementing act. **FI (Drafting):** 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 **propose to the Council to** extend the vigilance mode for a maximum duration of six months by means of a~~n~~ **Council**	

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	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.	**AT (Drafting):** 2. Where the **Council**~~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. **BE (Drafting):** 2. Where the Commission, taking into consideration the opinion provided by the steering committee, 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 propose to the Council to deactivate the vigilance mode in full or in part by means of an implementing act. **LU (Drafting):** ~~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~~	**AT (Comments):** See above **BE (Comments):** See above comment on Art 9 new § 1a. **NL (Comments):** These amendments follow from introducing that the vigilance mode should be activated through Council implementing act in Article 9. **IE (Comments):** These amendments follow from introducing that the vigilance mode should be activated through Council implementing act in Article 9. **LT (Comments):** LT supports NL, DK and FI proposal and arguments provided in their paper **DK (Comments):** These amendments follow from introducing that the vigilance mode should be activated through Council implementing act in Article 9.

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	~~all of the goods and services, it shall deactivate the vigilance mode in full or in part by means of an implementing act.~~ **NL (Drafting):** **Where the advisory group has concrete and reliable evidence that the Single Market vigilance mode should be deactivated, it may formulate an opinion to that effect and transmit it to the Commission**. 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 **without delay propose to the Council to** deactivate the vigilance mode ~~in full or in part by means of an implementing act.~~ **IE (Drafting):** **Where the advisory group has concrete and reliable evidence that the Single Market vigilance mode should be deactivated, it may formulate an opinion to that effect and transmit it to the Commission**. 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	

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	goods and services, it shall **without delay propose to the Council to** deactivate the vigilance mode ~~in full or in part by means of an implementing act.~~ **PL (Drafting):** ~~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.~~ **LT (Drafting):** 2. **Where the advisory group has concrete and reliable evidence that the Single Market vigilance mode should be deactivated, it may formulate an opinion to that effect and transmit it to the Commission**. 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 **without delay propose to the Council to** deactivate the vigilance mode. **DK (Drafting):**	

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	2. **Where the advisory group has concrete and reliable evidence that the Single Market vigilance mode should be deactivated, it may formulate an opinion to that effect and transmit it to the Commission**. 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 **without delay propose to the Council to** deactivate the vigilance mode ~~in full or in part by means of an implementing act.~~ **FI (Drafting):** 2. **Where the advisory group has concrete and reliable evidence that the Single Market vigilance mode should be deactivated, it may formulate an opinion to that effect and transmit it to the Commission**. 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 **without delay propose to the Council to** deactivate the vigilance mode ~~in full or in part by means of an implementing act.~~	

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	IT (Drafting): The ~~Commission~~ **Council,** if considers that the reasons for activating the vigilance mode pursuant to Article 9(1) remain valid, **on a proposal from the Commission that takes** 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.	**IT (Comments):** See comment art. 9
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).	**AT (Drafting):** ~~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).~~ **LU (Drafting):** ~~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).~~ **NL (Drafting):** ~~Implementing acts referred to in paragraphs 1 and 2 shall be adopted in accordance with the examination procedure referred to in Article 42(2).~~ **IE (Drafting):** ~~3. Implementing acts referred to in~~	**IE (Comments):** No longer required when previous changes incorporated.

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	~~paragraphs 1 and 2 shall be adopted in accordance with the examination procedure referred to in Article 42(2).~~ **PL (Drafting):** ~~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).~~ **DK (Drafting):** ~~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).~~ **FI (Drafting):** ~~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).~~	
	IT (Drafting): Where the ~~Commission~~ **Council, on a proposal from the Commission which takes** 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	**IT (Comments):** See comment art. 9

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	an implementing act.	
Title II Vigilance measures	**LU (Drafting):** ~~Title II~~ ~~Vigilance measures~~	
	IT (Drafting): ~~Implementing acts referred to in paragraphs 1 and 2 shall be adopted in accordance with the examination procedure referred to in Article 42(2).~~	**IT (Comments):** The paragraph shoud be deleted because the implementing act referred to in paragraph 1 and paragraph 2 is adopted by the Council and not by the Commission
Article 11 Monitoring	**LU (Drafting):** ~~Article 11~~ ~~Monitoring~~ **IE (Drafting):** **DELETE- Monitoring could be included elsewhere in the Regulation without the need for a separate Article.** **FI (Drafting):** **deleted** **Move the idea on monitoring to be included in Articles 4 and 5 in a way that monitoring would be carried out by the Member States' central liaison offices.**	**SK (Comments):** The question is if there is obligation of monitoring for MSs and voluntarity for economic operators (EOs) to provide the information. We support the voluntary nature of information to be provided by EOs. **BE (Comments):** The COM could map the monitoring systems set up by the Member States. Sharing the results and best practices of monitoring systems with other MS could improve national systems and avoid duplicating certain elements of existing national systems, by setting up the SMEI. **PT (Comments):** The measures foreseen must meet the principles of necessity and proportionality otherwise they

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		risk creating unnecessary further barriers, restrictions, and burdens, which need to be avoided, especially in times of crisis. **LU (Comments):** *To what extent will the analyses done by the Chief Economists Network as well as the consultations under Article 6(2)(b) not already provide the necessary information? If necessary, we suggest to include monitoring in Article 6 on crisis protocoles.* **IE (Comments):** The Central Liaison Offices could carry out this role. Again, there are security concerns around the sharing of commercially sensitive data of economic operators. **RO (Comments):** Romania in concerned about the administrative burden generated by the inventory of economic operators and, above all, the collection of data and information regarding supply chains, stocks, production capacities, etc. **LT (Comments):** From our perspective, it is essential to avoid unnecessary administrative burden for MSs and businesses (especially SMEs), which will be the

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		target of the monitoring measure. **FI (Comments):** *Monitoring could be carried out utilizing the knowledge of Member States' central liaison offices: During the vigilance mode, Member States' central liaison offices could find out which goods and services are available in the Single Market and whether it is possible to increase their availability in the market. In addition, central liaison offices could give a brief in the advisory group about Member State's stockpiling situation and the production capacity of goods of strategic importance.* Note: It is important to be ensure the information-secure transmittance, processing and storage of enterprises' data.
1. When the vigilance mode has been activated in accordance with Article 9, national competent authorities shall monitor the supply chains of goods and services of strategic importance that have been identified in the implementing act activating the vigilance mode.	**BE (Drafting):** 1. When the vigilance mode has been activated in accordance with Article 9, competent authorities of the Member States shall monitor the supply chains of goods and services of strategic importance that have been identified in the implementing act activating the vigilance mode. **LU (Drafting):** ~~1. When the vigilance mode has been~~	**PT (Comments):** How detailed and comprehensive must supply chain monitoring be? It will be important to clarify as these are additional and extraordinary measures during a crisis. **LV (Comments):** How the Commision sees the monitoring of supply chains of goods and services of strategic importance during the vigilance mode and how the national competent authorities of the

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	~~activated in accordance with Article 9, national competent authorities shall monitor the supply chains of goods and services of strategic importance that have been identified in the implementing act activating the vigilance mode.~~ **IE (Drafting):** ~~1. When the vigilance mode has been activated in accordance with Article 9, national competent authorities shall monitor the supply chains of goods and services of strategic importance that have been identified in the implementing act activating the vigilance mode.~~ **LT (Drafting):** 1. When the vigilance mode has been activated in accordance with Article 9 **and if monitoring is included in the Commission' implementing act as one of the vigilance measures to be taken**, national competent authorities shall monitor the supply chains of goods and services of critical importance that have been identified in the **Commission'** implementing act **DK (Drafting):** 1. When the vigilance mode has been activated in accordance with Article 9, national competent authorities shall monitor the supply chains of goods and services of ~~strategic~~ **critical** importance that have been identified in the	Member States should do this? **LT (Comments):** The changes are related with the new role of the Council to decide on activation. MS will have to follow obligation under Art 11 only if the COM implementing act would foresee this vigilance measure. Therefore we suggest a small change to reflect this pre-condition. The second part of the amendment (a word critical) is in relation to the changes, proposed by DK FI NL. Also we would like to know HOW MSs have to implement their obligation to monitor supply chains if information requests to businesses are voluntary. We are not stating that the latter shall be mandatory, but rather we want to figure out what the COM had in mind while drafting this specific obligation (how in practice the COM foresee implementation of Art. 11?). Just a reminder, that the SMEI is a regulation, meaning no implementation via national laws is required/allowed (unless clearly stated otherwise). **DK (Comments):** As a general comment, much more clarity is needed on what it entails that national

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	implementing act activating the vigilance mode.	competent authorities "shall monitor". From a technical and practical point of view, what is exactly expected of national authorities in this regard? Without any details on what "monitoring" entails, this paragraph seem very open to interpretation. Amendment of changing strategic to critical follows proposed changes in Article 3. **SI (Comments):** The question is **which authorities** will monitor supply chains. In practice, this data is not collected. SURS (Statistical Office of the Republic of Slovenia) collects some data, but even this data is often only indicative, as it is survey data. **MT (Comments):** This will lead to additional obligations for businesses which will leave direct or indirect effects on SMEs as these are applies across supply chains.
2. The Commission shall provide for standardised and secure means for the collection and processing of information for the purpose of paragraph 1, using electronic means. Without prejudice to national legislation requiring collected information including business secrets	**AT (Drafting):** 2. The Commission shall provide for standardised and secure means for the collection and processing of **aggregated** information for the purpose of paragraph 1, using electronic means. Without prejudice to national legislation	**SK (Comments):** We are afraid of the admin. burden for gov. bodies and companies. The confidentiality of the information can also be an issue. **AT (Comments):**

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to be kept confidential, confidentiality with regard to the commercially sensitive informationand information affecting the security and public order of the Union or its Member States shall be ensured.	requiring collected information including business secrets to be kept confidential, confidentiality with regard to the commercially sensitive informationand information affecting the security and public order of the Union or its Member States shall be ensured. **LU (Drafting):** ~~2. The Commission shall provide for standardised and secure means for the collection and processing of information for the purpose of paragraph 1, using electronic means. Without prejudice to national legislation requiring collected information including business secrets to be kept confidential, confidentiality with regard to the commercially sensitive informationand information affecting the security and public order of the Union or its Member States shall be ensured.~~ **IE (Drafting):** ~~2. The Commission shall provide for standardised and secure means for the collection and processing of information for the purpose of paragraph 1, using electronic means. Without prejudice to national legislation requiring collected information including business secrets to be kept confidential, confidentiality with regard to the commercially sensitive informationand information affecting the security and public order of the Union or its~~	MS should only be require to transmit aggregated information to EC, so as to keep business secrets as far as possible confidential. How does EC ensure business secrets to be kept confidential in case of only one or few operators in a MS? **LV (Comments):** It's important to keep in mind that information on monitoring the supply chains of goods and services that are identified as strategically important may be sensitive or may contain trade secrets, which will make information exchancge difficult. Latvia is of view that SMEI should specify which persons could have access to sensitive information. **LT (Comments):** The amendments are necessary to clarify that the requirements to provide information is without prejudice to national legislation requiring to ensure that information on national reserves and State secrets is kept confidential. It is necessary to have a common understanding about the scope of the monitoring (which information will have to be collected/to what extent, etc.). Therefore we would suggest either to include essential elements of that information in the operational part or supplement this article with an obligation for the COM to provide, e.g.

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	~~Member States shall be ensured.~~ **LT (Drafting):** 2. The Commission shall provide for standardised and secure means for the collection and processing of information for the purpose of paragraph 1, using electronic means. Without prejudice to national legislation requiring collected information including business secrets to be kept confidential, confidentiality with regard to the commercially sensitive information and information affecting the security and public order of the Union or its Member States shall be ensured.	a questionnaire template or guidelines regarding this topic.
	IT (Drafting):	
3. Member States shall set up and maintain an inventory of the most relevant economic operators established on their respective national territory that operate along the supply chains of goods and services of strategic importance that have been identified in the implementing act activating the vigilance mode.	**LU (Drafting):** ~~3. Member States shall set up and maintain an inventory of the most relevant economic operators established on their respective national territory that operate along the supply chains of goods and services of strategic importance that have been identified in the implementing act activating the vigilance mode.~~ **IE (Drafting):** ~~3. Member States shall set up and maintain an inventory of the most relevant economic operators established on their respective~~	**SK (Comments):** Who determines "the most relevant" and on what criteria? We find this requirement discriminatory. **AT (Comments):** What consequences will such an inventory have on the competition between economic operators? Will the level playing field be distorted? **BE (Comments):** Most relevant economic operators' requires a

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	~~national territory that operate along the supply chains of goods and services of strategic importance that have been identified in the implementing act activating the vigilance mode.~~ **PL (Drafting):** 3. Member States shall set up and maintain an inventory of the ~~**most relevant**~~ economic operators established on their respective national territory that operate along the supply chains of goods and services of strategic importance that have been identified in the implementing act activating the vigilance mode. **DK (Drafting):** 3. Member States shall set up and maintain an inventory of the most relevant economic operators established on their respective national territory that operate along the supply chains of goods and services of ~~strategic~~ **critical** importance that have been identified in the implementing act activating the vigilance mode	clearer definition. Does this definition entail only those operators that produce the final strategic good or also operators in the entire supply and value chain? Moreover, how will the Member State identify "the most relevant economic operators"? **PT (Comments):** We emphasize the need for clarity on the concept of the "most relevant economic operators". **NL (Comments):** What does this obligation entail exactly? How detailed should the inventory be? **PL (Comments):** Distinction between the most relevant and less relevant economic operators to the market may affect competition rules and create unequal condition of doing business. **LT (Comments):** We have reservations regarding the inventory. The COM mentioned, that the reason why this inventory is necessary – information requests according to Art 24 will be addressed to business, included in the inventory. However, the COM also mentioned, that emergency mode can be activated WITHOUT vigilance mode,

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		meaning that inventory in this case *will not be necessary*. In addition, in small MS, where you can count businesses on your hands, this list makes no sense; however administrative costs creating it and maintaining will still have to be covered. Furthermore, para 4 of this Art states, that voluntary information requests should be directed not only to the businesses, listed in the inventory, but to „*other relevant stakeholders established in their respective*" (aka inventory plays no important role in the vigilance mode). Finally, list naming concrete enterprises can have a negative connotation; instead a sincere cooperation with enterprises should be a way forward. Therefore we question the added value of this list and suggest deleting it (or, as a compromise – paraphrasing it into a recommendation for MS). **DK (Comments):** More clarity is needed on what is to be understood by "most relevant economic operators". It could be relevant to specify criteria for what constitute such an economic operator, including in order to narrow the exercise to those economic operators that are really important. Inspired by the definition of key market actors in Chips Act, the criteria could fx include: – the number of other Union undertakings

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		relying on the service or good of critical importance provided by the economic operator; – the Union or global market share of the economic operator in the market for such services or goods of critical importance – the importance of the economic operator in maintaining a sufficient level of supply of a service or good of critical importance in the Union, taking into account the availability of alternative means for the provision of that service or good; – the impact a disruption of supply of the service or good of critical importance provided by the economic operator may have on the Union's security of supply. Amendment of changing strategic to critical follows proposed changes in Article 3.
	IT (Drafting): The Commission shall provide for standardised and secure means for the collection and processing of information for the purpose of paragraph 1, using electronic means. **To this purpose the Commission shall carry out a consultation with the advisory group extended to the participation of the economic operators, with a view to identifying the appropriate and proportionate content of the**	**IT (Comments):** It would be helpful to specify what is meant by protection and how the security of acquired information is classified. It is important to understand just how confidentiality of information will be ensured. For the economic operators it is essential to keep under control costs and administrative burdens related to the collection of information.

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	information, the reasonable deadline to provide them, and to evaluate how to better protect sensitive information. Without prejudice to national legislation requiring collected information including business secrets to be kept confidential, confidentiality with regard to the commercially sensitive information and information affecting the security and public order of the Union or its Member States shall be ensured	To this end, it is essential a good calibration of the content, deadline and means to protect the information. Therefore, it is important that those elements be evaluated in consultation with the advisory group and the economic operators. Article 11(2) guarantees the confidentiality of sensitive and secret information. It is an assertion of principle that as useful as it may be should already be declined in the provision into measures and methods to ensure the confidentiality of the information (e.g. cybersecurity measures, blockchain)
4. On the basis of the inventory set up pursuant to Article 6, national competent authorities shall address requests for voluntary provision of information to the most relevant operators along the supply chains of goods and services identified in the implementing act adopted pursuant to Article 9 and other relevant stakeholders established in their respective national territory. Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of strategic importance is requested. Each economic operator/stakeholder that voluntarily provides information shall do so on an individual basis in line with the Union rules on competition governing the exchange of information. The national competent authorities	**AT (Drafting):** 4. On the basis of the inventory set up pursuant to Article 6, national competent authorities shall address requests for voluntary provision of information to the most relevant operators along the supply chains of goods and services identified in the implementing act adopted pursuant to Article 9 and other relevant stakeholders established in their respective national territory. Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of strategic importance is requested. Each economic operator/stakeholder that voluntarily provides information shall do so on an individual basis in line with the Union rules on competition governing the exchange of	**SK (Comments):** We support the voluntariness of the provision of information by economic operators. **AT (Comments):** AT is sceptical towards a direct transmssion of information of potentially confidential nature from MS. How would CLS evaluate this from a horizontal perspective? Are there any precedents? **BE (Comments):** - Who are the “relevant stakeholders” : business federation, trade unions, consumers? - In Article 6, cooperation is direct between the competent authorities of the Member States and

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shall transmit the relevant findings to the Commission and the advisory group without undue delay via the respective central liaison office.	information. The national competent authorities shall transmit the relevant **aggregated** findings to the Commission ~~and the advisory group~~ without undue delay via the respective central liaison office. **BE (Drafting):** 4. On the basis of the inventory set up pursuant to Article 6, competent authorities of the Member States shall address requests for voluntary provision of information to the most relevant operators along the supply chains of goods and services identified in the implementing act adopted pursuant to Article 9 and other relevant stakeholders established in their respective national territory. Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of strategic importance is requested. Each economic operator/stakeholder that voluntarily provides information shall do so on an individual basis in line with the Union rules on competition governing the exchange of information. The competent authorities of the Member States shall transmit the relevant findings to the Commission and the steering committee without undue delay via the respective central liaison office. **LU (Drafting):**	the Union. Why in Article 11 does the transmission of the data collected have to go through the central liaison office? BE wants the mechanism of both articles to be aligned. **PT (Comments):** • Concerns on the proportionality of the measures. Requests for information to economic operators need to be assessed as they may affect economic freedoms unevenly on the market (severely affecting competition and trade), and can create risks of, directly or indirectly, exposing trade secrets. • It is also crucial to evaluate the financial impacts. Consideration must be given to whether economic operators would be entitled to compensation for damages. It is necessary to avoid unnecessary administrative burdens on businesses, especially SMEs, and on public administrations. **PL (Comments):** SMEI should establish legal provisions that support collaboration between national authorities, companies, and the European Commission to make the mechanism work but without excessive burden. The provisions detailing the information requests to market operators represent a heavy burden due to

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	~~4. On the basis of the inventory set up pursuant to Article 6, national competent authorities shall address requests for voluntary provision of information to the most relevant operators along the supply chains of goods and services identified in the implementing act adopted pursuant to Article 9 and other relevant stakeholders established in their respective national territory. Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of strategic importance is requested. Each economic operator/stakeholder that voluntarily provides information shall do so on an individual basis in line with the Union rules on competition governing the exchange of information. The national competent authorities shall transmit the relevant findings to the Commission and the advisory group without undue delay via the respective central liaison office.~~ **IE (Drafting):** ~~4. On the basis of the inventory set up pursuant to Article 6, national competent authorities shall address requests for voluntary provision of information to the most relevant operators along the supply chains of goods and services identified in the implementing act adopted pursuant to Article 9 and other relevant~~	extensive reporting obligations. **LT (Comments):** We would be grateful if the second sentence (*Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of strategic importance is requested*) would be clarified (e.g. what factors are we talking about?) **DK (Comments):** We generally question the effectivness of this paragraph. Furthermore, any voluntary requests should be limited to the "most relevant economic operators" – it should not be widened to include other relevant stakeholders, especially considering that it is a very vague concept. Amendment of changing strategic to critical follows proposed changes in Article 3.

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	~~stakeholders established in their respective national territory. Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of strategic importance is requested. Each economic operator/stakeholder that voluntarily provides information shall do so on an individual basis in line with the Union rules on competition governing the exchange of information. The national competent authorities shall transmit the relevant findings to the Commission and the advisory group without undue delay via the respective central liaison office.~~ **PL (Drafting):** 4. On the basis of the inventory set up pursuant to Article 6, national competent authorities shall address requests for voluntary provision of information to the ~~most relevant~~ operators along the supply chains of goods and services identified in the implementing act adopted pursuant to Article 9 and other ~~relevant~~ stakeholders established in their respective national territory. Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of strategic/critical importance is requested. Each economic operator/stakeholder that voluntarily provides information shall do so	

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	on an individual basis in line with the Union rules on competition governing the exchange of information. The national competent authorities shall transmit the relevant findings **in the national language** to the Commission and the **SMEI Forum** ~~advisory group~~ without undue delay via the respective central liaison office. **LT (Drafting):** 4. On the basis of the inventory set up pursuant to Article 6, national competent authorities shall address requests for voluntary provision of information to the most relevant operators along the supply chains of goods and services identified in the implementing act adopted pursuant to Article 9 and other relevant stakeholders established in their respective national territory. Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of critical importance is requested. Each economic operator/stakeholder that voluntarily provides information shall do so on an individual basis in line with the Union rules on competition governing the exchange of information. The national competent authorities shall transmit the relevant findings to the Commission and the advisory group without undue delay via the respective central liaison office.	

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	DK (Drafting): 4. On the basis of the inventory set up pursuant to Article 6, national competent authorities shall address requests for voluntary provision of information to the most relevant operators along the supply chains of goods and services identified in the implementing act adopted pursuant to Article 9 ~~and other relevant stakeholders established in their respective national territory~~. Such requests shall in particular states which information about factors impacting the availability of the identified goods and services of ~~strategic~~ **critical** importance is requested. Each economic operator/stakeholder that voluntarily provides information shall do so on an individual basis in line with the Union rules on competition governing the exchange of information. The national competent authorities shall transmit the relevant findings to the Commission and the advisory group without undue delay via the respective central liaison office.	
	IT (Drafting): 3. Member States shall set up and maintain an inventory of the most relevant economic operators established on their respective national territory that operate along the supply chains of goods and services of strategic importance that have been identified in the	**IT (Comments):** Article 11(3) should clearly stipulate that the inventory of economic operators of greatest interest should remain confidential, both to avoid the risk that such an inventory could turn into a "signal" to the market, as well as to exclude facilitation in the exchange of

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	implementing act activating the vigilance mode. **Member States and the Commission adopt all the technological measures to keep the operators' inventory confidential and define confidentiality agreements with the operators concerned**	information between operators. Confidentiality and industrial secrets are important and should be granted.
5. National competent authorities shall have due regard to the administrative burden on economic operators and in particular SMEs, which may be associated with requests for information and ensure it is kept to a minimum.	**BE (Drafting):** 5. The Commission and competent authorities of the Member States shall have due regard to the administrative burden on economic operators and in particular SMEs, which may be associated with requests for information and ensure it is kept to a minimum. **LU (Drafting):** ~~5. National competent authorities shall have due regard to the administrative burden on economic operators and in particular SMEs, which may be associated with requests for information and ensure it is kept to a minimum.~~ **IE (Drafting):** ~~5. National competent authorities shall have due regard to the administrative burden on economic operators and in particular SMEs, which may be associated with requests for information and ensure it is kept to a minimum.~~ **PL (Drafting):** 5. National competent authorities shall	**SK (Comments):** We support the requirement to take into account the needs of small and medium-sized enterprises when implementing the SMEI measures. **BE (Comments):** BE is of the opinion that all competent authorities of the member states as well as the Commission should have due regard to the administrative burden. Therefore, the Commission should be added to this article. **LU (Comments):** *This provision does not have any normative value and is therefore redundant.* **NL (Comments):** The Commission too should have due regard. How will this be ensured (as recently different legislative proposals have been presented without any impact assessments or rather succinct impact assessments)? **IE (Comments):**

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	have due regard to the administrative burden on economic operators and in particular SMEs, ~~which may be associated with requests for information and~~ **for whom the information request should be facilitated** and ensure it is kept to a minimum. **DK (Drafting):** 5. National competent authorities **and the Commission** shall have due regard to the administrative burden on economic operators and in particular SMEs, which may be associated with requests for information and ensure it is kept to a minimum.	The Commission should also have regard to the administrative burden on economic operators. **PL (Comments):** A "minimum" has never been defined which makes it impossible to determine the scope of obligations or the impact of certain provisions on SMEs. As the text stands, there is no simplified regime for smaller economic operators, which are generally the first to be impacted. **LT (Comments):** We welcome this para. However, it is difficult to understand how in practice this would work. An explanation in the recitals might help. In addition, which concept should be used to define SMEs? As foreseen in the Recommendation 2003/361/EC? **DK (Comments):** We support that due regard is made regarding to the administrative burden of economic operators, it is important that this consideration is made by not only the national competent authorities, but also the Commission. **SI (Comments):** We support this para and would like to stress that it is very important **not to impose excessive**

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		additional administrative burden for SMEs. There's however also a question on how to limit administrative burden while imposing additional requests. We're therefore worried from the perspective of the additional administrative burden. **MT (Comments):** Can MS provide incentives to counter this expense?
6. The Commission may ask the advisory group to discuss the findings and prospects of evolution based on the monitoring of supply chains of goods and services of strategic importance.	**AT (Drafting):** 6. The Commission may ask the advisory group to discuss the **aggregated** findings and prospects of evolution **based on a Commission aggregation of the information obtained by Member States pursuant to paras 1 and 4 regarding** ~~the~~**their** monitoring of supply chains of goods and services of strategic importance. **BE (Drafting):** 6. The Commission will ask the steering committee to discuss the findings and prospects of evolution based on the monitoring of supply chains of goods and services of strategic importance. **LU (Drafting):** ~~6. The Commission may ask the advisory~~	**AT (Comments):** ***See AT comment on para 4 above on business secrets, confidentiality and a potential "need to aggregate".*** **LV (Comments):** Please see the comment below for paragraph 7. **PL (Comments):** The amendment is intended to strengthen the role of the Member States and in accordance with the changes proposed in Articles 3 and 4. **LT (Comments):** The advisory group shall be included in all aspects of the process. Therefore we suggest changing *may* – to *shall*. A technical remark – evolution of what?

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	~~group to discuss the findings and prospects of evolution based on the monitoring of supply chains of goods and services of strategic importance.~~ **IE (Drafting):** ~~6. The Commission may ask the advisory group to discuss the findings and prospects of evolution based on the monitoring of supply chains of goods and services of strategic importance.~~ **PL (Drafting):** 6. The Commission **shall** ~~may~~ ask the SMEI Forum ~~advisory group~~ to discuss the findings and prospects of evolution based on the monitoring of supply chains of goods, **semi-products raw materials** and services of strategic importance **and shortages in the Single Market.** **DK (Drafting):** 6. The Commission may ask the advisory group to discuss the findings and prospects of evolution based on the monitoring of supply chains of goods and services of ~~strategic~~ **critical** importance**, with due regard to the protection of confidentiality of trade and business secrets and other sensitive and confidential information**.	**DK (Comments):** Amendment of changing strategic to critical follows proposed changes in Article 3.

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	FR (Drafting): "On the basis of the information collected through the activities carried out in accordance with paragraph 1, the Commission may provide a report of the aggregated findings***, duly ensuring the confidentiality and observing the commercial sensitivity of the information concerned***."**	**FR (Comments):** French authorities recall the need to ensure the confidentiality and to observe the commercial sensitivity of information. **IT (Comments):**
7. On the basis of the information collected through the activities carried out in accordance with paragraph 1, the Commission may provide a report of the aggregated findings.	**LU (Drafting):** ~~7. On the basis of the information collected through the activities carried out in accordance with paragraph 1, the Commission may provide a report of the aggregated findings.~~ **LV (Drafting):** 7. On the basis of the information collected through the activities carried out in accordance with paragraph 1, the Commission ~~may~~ **shall** provide a report of the aggregated findings. **IE (Drafting):** ~~7. On the basis of the information collected through the activities carried out in accordance with paragraph 1, the Commission may provide a report of the aggregated findings.~~ **PL (Drafting):** 7. On the basis of the information collected through the activities carried out in accordance	**LV (Comments):** Paragraph 7 should be placed before paragaph 6 because at first the Commission should provide report of the aggregated findings and then the Commission could ask the opinion of the Advisory group about findings on the monitoring of supply chains of goods and services that are identified as strategically important.

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	with paragraph 1, the Commission **shall** ~~may~~ provide a report of the aggregated findings.	
	IT (Drafting): The Commission ~~may~~ ask**s** the advisory group to discuss the findings and prospects of evolution based on the monitoring of supply chains of goods and services of strategic importance.	**IT (Comments):** The Commission is obliged to discuss the relevant findings with the advisory group since the implications of such monitoring are potentially far-reaching and underlie the subsequent procedural steps in initiating the emergency mode.
Article 12 Strategic reserves	**AT (Drafting):** **12. The Commission may adopt an imlementing act, including if absolutely necessary certain measures for the economic goods listed in the implementing act pursuant to Art. 9(1)(b) in the event of an imminent disruption of supply or in order to remedy a disruption that has already occurred, provided that such disruptions** **1. do not constitute a seasonal shortage, and** **2. cannot be averted or remedied by market measures, or cannot be averted or remedied in time or only by disproportionate means;** **LU (Drafting):** ~~Article 12~~ ~~Strategic reserves~~ **LV (Drafting):**	**SK (Comments):** We do have doubts about the implementation of this art. in practice (distribution of strategic reserves, not used strategic reserves) and costs for MSs and economic operators **AT (Comments):** A general Article of principle must be included in the framework of the strategic reserves to ensure that this measure can only be applied under the conditions mentioned in the drafting suggestion. **BE (Comments):** BE is not convinced that such strategic reserves can be build on the legal basis of Art 114, 21 and 45 TFUE and therefore waits on the CLS's opinion on it. Meanwhile BE would like to receive more

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	~~Article 12~~ ~~Strategic reserves~~ **IE (Drafting):** Suggest that this Article be deleted. **FI (Drafting):** **deleted** **Move the idea on stockpiling from Part III Single Market Vigilance to Part II Single Market contingency planning. A need for a text modification including the following idea:** **Article 4 Advisory group** **4. (c) (new)** **recommending Member States to ensure the availability of strategic goods and services in the market.** **4. (d) (new) recommending, if the availability of a product cannot be adequately guaranteed, Member States to purchase a specific strategic good from outside the Single Market and ensure the availability of certain services in accordance with the Member State's own needs.** **MT (Drafting):** **Deletion of Article 12**	information on the added value of these strategic reserves and be reassured that this measure does not go beyond the scope of an emergency instrument of the Internal Market and does not fall within the framework of strategic autonomy. Our problems of strategic dependencies should not be solved by an emergency instrument. Moreover, BE requests the COM to further delineate the concept of strategic reserves. It must be clear for which products and in which circumstances this can apply. In this regard many questions remain unanswered. For example, BE understands that this is initially a non-binding instrument, although targets may be imposed. BE requests the COM to clarify how will this be followed up, if necessary? Furthermore, BE wonders to what extent the measures regarding strategic reserves impact member states industrial policy? Also, BE asks the COM to clarify how strategic reserves for goods coming from outside the EU will be built up. Also, BE questions the proportionality of these measures, which will entail heavy administrative burdens for both national administrations and companies (How will the Commission ensure that the proportionality of the measures in Article 12 is maintained? In

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		particular that the financial burden for Member States and economic operators as well as the effects on competition remains proportional to the disruption or potential thereof that underlies the activation of the vigilance mode). Are the Member states obliged to follow certain transparency rules with regard to strategic stocks, for instance with regards to the European Commission and other Member States? Has the Commission considered measures after deactivation of the vigilance (or emergency) mode? For example, how Member States should deal with the strategic reserves that they have built after deactivating the vigilance (or emergency) mode. Finally, the Commission should also take into account the market impact of such stockpiling measures (price increases, see energy crisis). **PT (Comments):** Article 12 on Strategic Reserves needs to be throroughly clarified before proceeding to its consideration. Several Questions arise that need to be clarified (below). **LU (Comments):** *We suggest to include provisions on strategic reserves in Article 6 on crisis protocoles. Member States may adequately prepare, in*

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		respect of their national competences, for the necessary strategic reserves. *This article does not meet the principle of necessity and proportionality, as well as respecting competences. It could even further accentuate a threat by creating a stockpiling race and rising market prices of the goods concerned. Without a concrete scope of SMEI, such a provision will always be inadequate to a given crisis and should therefore be deleted.* **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **NL (Comments):** From a preliminary both principled and practical point of view, we are not convinced of the need and merit of some of the proposed measures included in article 12 on strategic reserves, including especially that individual targets can be set for Member States and that Member States can be obliged to build up reserves based on these targets. **It would be appreciated to have the Presidency and Commission organise a Technical Workshop on the matter.** In taking the discussion forward, the following points should be considered: • Focusing more on addressing the supply

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		issue rather than stockpiling. Considering the focus on stockpiling goods in the vigilance mode, focus should to a larger extent be on ensuring that goods are able to enter into and flow freely at the market. • The importance of the responsibility of business themselves in ensuring resilient supply chains. • Timing of stockpiling is key. In principle, stockpiling of goods should be based on precise estimations and careful considerations already before a threat of or an actual emergency occurs, i.e. before the vigilance or emergency mode is activated. Already today and during normal times, Member States stockpile to a larger or lesser extent goods for their own purpose. Hence, once a threat of significant disruption occurs, it is very questionable to what extent stockpiling would be possible and feasible. Effects on markets should be considered very carefully. Incorrectly timed stockpiling measures risks hindering the free flow of the respective goods and thereby the functioning of the Single market. It is crucial that administrative decision on market interventions do not harm markets during the vigilance mode. Hence, it should be ensured that goods already provided within the Single Market is not stockpiled, thereby affecting negatively already well-functioning market dynamics. **IE (Comments):**

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		The decision to have strategic reserves should be made by a Member State. Stockpiling of goods may well have a negative effect on the market. Again, there are security concerns around the sharing of commercially sensitive data of economic operators. **RO (Comments):** Romania is carefully analysing the Finnish proposal to completely remove this article **LT (Comments):** **LT proposes to delete the Article 12**. As discussions have showed, stockpiling requires preparation, time, infrastructure (costs for establishing, maintaining, distribution and/or destruction of stocks); MSs already do that with products which are essential in crisis of a general nature. For specific products we already have HERA, Union Civil Protection Mechanism (UCPM), Critical Raw Material Act (?). Compulsory instructions from the COM on stockpiling (e.g. Art 12.4, 12.6) go beyond the scope and aim of SMEI. In addition, this aspect becomes more worrying in the light of the COM vision that these reserves should be stockpiled (and compensated?) by the businesses. In our view, with a help of other SMEI

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		provisions, such as joint public procurement, improved administrative *cooperation and information sharing*, Member States, while maintaining their competence over national strategic reserves, would be able to prepare for the crisis. Another aspect with which we do not agree: the obligation for the Member States to transmit detailed information about the national reserve of strategic products, including information from privately owned reserves, to the Commission. Having in mind a horizontal nature of SMEI, this amount of sensitive information in hands of one organisation cannot be considered proportionate. In a nutshell, we suggest instead of Art 12 to include (e.g. in the Art 6) a general provision for the Member States to stockpile reserves. p.s. all our written questions, submitted regarding Art 12, remain valid if the discussion on strategic reserves continue. **DK (Comments):** From a preliminary both principled and practical point of view, we are not convinced of the need and merit of some of the proposed measures included in article 12 on strategic reserves, including especially that individual targets can be set for Member States and that Member

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		States can be obliged to build up reserves based on these targets. **Therefore, it would be appreciated to have the Presidency and Commission organise a Technical Workshop on the matter.** In taking the discussion forward, the following points should be considered: • Focusing more on addressing the supply issue rather than stockpiling. Considering the focus on stockpiling goods in the vigilance mode, focus should to a larger extent be on ensuring that goods are able to enter into and flow freely at the market. • Timing of stockpiling is key. In principle, stockpiling of goods should be based on precise estimations and careful considerations already before a threat of or an actual emergency occurs, i.e. before the vigilance or emergency mode is activated. Already today and during normal times, Member States stockpile to a larger or lesser extent goods for their own purpose. Hence, once a threat of significant disruption occurs, it is very questionable to what extent stockpiling would be possible and feasible. Effects on markets should be considered very

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		carefully. Incorrectly timed stockpiling measures risks hindering the free flow of the respective goods and thereby the functioning of the Single market. It is crucial that administrative decision on market interventions do not harm markets during the vigilance mode. Hence, it should be ensured that goods already provided within the Single Market is not stockpiled, thereby affecting negatively already well-functioning market dynamics. **FI (Comments):** *Instead of stockpiling strategic goods in vigilance mode, it should be ensured that goods enter into the market. The stockpiling of strategic goods should be based on a precise estimation already before the vigilance or emergency mode when there is a threat of significant disruption of the supply of goods and services of strategic importance. Member States should take care of stockpiling strategic goods for their own purpose already during normal times. It should remain in the competence of the Member States in the future too.* *It is probably too late to stockpile strategic goods when a threat of significant disruption of the supply of goods is threating the Single Market. Incorrectly timed stockpiling measures only hinder the functioning of the internal market. It is crucial that administrative decision*

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		on market interventions do not harm markets during the vigilance mode. Instead, the Union should ensure that goods that are provided in the Single Market will not be stockpiled during the vigilance mode to ensure supply to economic operators. Questions to the Commission: - How Article 12 would have been functioned for procuring personal protective equipment during the Covid pandemic? - It is always necessary to define the purpose and objective of stockpiling. Is the aim of reserves to "buy time" that markets can recover or ensure the availability of goods and services? - If the national reserves of strategic goods are used for Single Market purposes, what criteria will be used to set the level of stockpiling? - For what purpose are stockpiles established, who provides the necessary information, and who would stockpile the strategic goods (Member States or economic operators)? - Does strategic reserves mean only those reserves that will be established during the vigilance mode or would national preparedness, obligatory and security stockpiles also be included in the strategic reserves? For example, seed cereals must be

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		- suitable for geographical growing conditions. If national storages are included, national legislation should be amended to allow the use of stocks for purposes other than national use. - It is important to consider how to get rid of the reserves once the good is no longer needed. Especially if the reserve contains goods for a purpose other than the Member State's own use. **Examples and experiences based on Finland's national preparedness system and stockpiling:** **Time reserved for establishing stockpiles** According to the National Emergency Supply Agency of Finland (NESA) time reserved for advance planning, procurement processes etc. of national reserve stockpiles, security stockpiles and compulsory stockpiles typically takes **at least six months** but the period can be longer depending on the goods that are planned to be stockpiled. **Example on shortage of food packaging materials in 2021**: Stockpiling was not an option because there already was a shortage. Instead, other possible solutions were considered, including using alternative packaging materials, possibilities for changing regulations for instance for shelf life

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		requirements, possibilities for fastening and easing approval processes for other materials etc. These were considered simultaneously with thorough monitoring of developments in the market. Finally, the market recovered, and these actions were not needed, but there was readiness to take them into use if the situation had worsened. **Briefly on the national emergency stockpiling:** In Finland, goods and materials vital to the functioning of society are stockpiled to secure the well-being of the population and the functioning of the economy **against major crises or serious disruptions affecting availability or supply.** Provisions on emergency stockpiling are carried out in three different ways: maintaining *national emergency stockpiles* is the responsibility of the National Emergency Supply Agency (NESA), *compulsory stockpiling* is the responsibility of companies and other key operators, and *security stockpiling* is based on agreements between relevant companies and the NESA. Public actors have an obligation to prepare in their own operations, which also includes adequate material preparation. **Business' and public actors' own material preparedness is always the primary means of securing**

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		security of supply. The three different types of **emergency stockpiles can only be supplementary to that – to be used only in major crises or serious disruptions as a last resort.** *The national emergency stockpiles* contain, for example, imported fuels, grain, hospital supplies, medicines, alloy metals, chemicals and critical imported raw materials. The Government decides on the release of the national emergency stockpiles. The NESA does not have actual stockpiles of its own. Instead, **the amounts of goods to be stockpiled are agreed upon with the relevant companies** to ensure that the products included in stockpiles circulate as part of the companies' normal operations. *Compulsory stockpiling* is **the responsibility of companies and other key players**. Its purpose is to secure the country's security of supply in the event of a serious disruption in the supply of imported fuels or medicines. Compulsory storage products include crude oil, oil products, coal, natural gas, medicines and medicinal substances. *Security stockpiling* is agreed upon between the companies in the industry and the NESA. The purpose is to secure the livelihood of the population and the production activities of

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		companies in the event of disruptions in the supply of essential raw materials and materials. The products to be stored are critical products and materials. The NESA does not have its own security stockpiles. **The quantities to be stored are agreed with the companies in the industry, so that the products circulate with normal operations**. The company owns the stored material, but its release into use requires a permission from the Ministry of Economic Affairs and Employment. In the system, the company acquires an additional stock of raw materials, for which it receives a state-guaranteed and interest-subsidized loan from a financial institution. Products that are poorly suited for long-term storage, perishable or quickly become technically obsolete are avoided in the state's material preparedness. The stored products are often different raw materials. For example, the national emergency stockpiles must contain grain for an amount corresponding to at least six months' average human consumption. In addition, seeds that ensure primary production, feed protein and other necessary production inputs are stored. Sufficient financial resources are reserved for plant breeding and variety maintenance.
	IT (Drafting):	**IT (Comments):**

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	On the basis of the information collected through the activities carried out in accordance with paragraph 1, the Commission ~~may~~ provides a report of the aggregated findings.	The Commission should provide the Advisory group with a report of aggregated findings
1. 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.	**AT (Drafting):** 1. 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~~ **involve** the Member States ~~thereof~~**in a sufficient manner**. **BE (Drafting):** 1. 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. **LU (Drafting):** ~~1. The Commission may, among the goods of strategic importance listed in an~~	**AT (Comments):** AT would kindly ask EC to answer a few questions of the general nature on "strategic reserves": - How will the MS be involved in this process? - What happens to the strategic reserves that were built up in vigilance mode for a possible emergency mode that does not materialize? - Which criteria will be taken into account when building strategic reserves? The number of undertakings in a MS or the number of inhabitants? - When can Member States again dissolve or disband their strategic reserves with which effect on market prices, or are strategic reserves to be maintained indefinitely or could MS sell them off at a time of their own choosing ? - What happens, if a Member State does not agree with the necessity of holding a particular « strategic reserve » on its territory ? *"[…] The Commission shall inform the Member*

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	~~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.~~ **LV (Drafting):** ~~1. 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.~~ **NL (Drafting):** The ~~Commission~~ **Council** 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. **IE (Drafting):**	*States thereof." […]:* - How can Member States feed in their preferences for goods of strategic importance that require a strategic reserve? **BE (Comments):** typo **PT (Comments):** • On what basis will the COM decide that a Member State should build up its strategic reserves? Member States must be involved in the decision-making process that leads to the building of strategic reserves. • Further clarification is needed on which products? And on in which circumstances this can apply? • How to estimate the level of strategic reserves that need to be stockpiled? What parameters should be used to measure this? • For how long the Member States need to maintain the strategic reserves? • What happens to those strategic reserves after the crisis when they are no longer needed? There is no information on the financial impacts of this article 12. **LV (Comments):**

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	~~1. 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.~~ **PL (Drafting):** ~~1. The Commission may, among the goods of strategic/critical 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 Council the Member States thereof.~~ **IT (Drafting):** **7.a) The MS and the Commission ensure the confidentiality of trade secret information and prepare the legal and technological measures to guarantee confidentiality.** **In the event of accidental disclosure of secret commercial information, economic operators are entitled to compensation for damages**	Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **NL (Comments):** Who is responsible for building and keeping stocks, Member States or economic operators? Need to prevent waste when reserves are being disbanded/terminated. **PL (Comments):** The SMEI proposal goes far beyond the general objective and introduces solutions that violate the principles of subsidiarity and proportionality regarding, inter alia, strategic reserves. The provisions of the SMEI Regulation on strategic reserves interfere with national solutions and rules in the area of national security with regard to their purpose, scope, principles of building up, distribution and financing. Art. 12 directly affects the issues of security and public order of the Member States, i.e. areas beyond the competences of the EU. Member States are entitles to freedom as regards organisation of their strategic reserves, and should be allowed to withhold information about their reserves for security reasons and the protection of classified information, especially

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	DK (Drafting): 1. The Commission may, among the goods of ~~strategic~~ **critical** 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.	since national goods from the military list may also be collected in the reserves. This area may be the subject of recommendations and guidelines addressed to Member States and economic operators. So Article 12 should be deleted. **IT (Comments):** The information collection requirements relate to commercially sensitive information primarily from businesses, the disclosure of which could have unforeseeable effects in turbulent markets. It is therefore important to make detailed provisions on how the Commission and national authorities will ensure the secrecy of sensitive information and compensation for damages due to accidental disclosure. **RO (Comments):** - Romania considers that it is unclear how the strategic reserves established under SMEI will correlate with the national systems of state/strategic reserves created in the Member States; - The proposal does not include provisions regarding the logistical issues generated by the need to build up reserves; - The proposal does not deal with the issue of costs generated, on the one hand, by stockpilling and, on the other hand, by the difference

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		between the purchase price and the distribution/subsequent sale price; - Another aspect that needs to be clarified is who will bear the costs in those situations where, in the implementing act, the Commission overestimates the level of the necessary reserves. **DK (Comments):** Amendment following proposed changes in Article 3. **MT (Comments):** This will require companies to increase production in ensuring that there are enough emergency reserves – this could result in huge financial burdens as well as storage issues. The legislation must avoid a one size fits all policy particularly for SMEs that have limited resources, whereby ramping up productivity levels, might not be realistically possible. Malta is therefore not in favour of the Commission legislating on Strategic Reserves and therefore proposes the deletion of this Article.
Capacities which are a part of the rescEU reserve in accordance with Article 12 of Decision No 1313/2013/EU are excluded from the application of this Article.	**LU (Drafting):** ~~Capacities which are a part of the resceEU reserve in accordance with Article 12 of Decision No 1313/2013/EU are excluded from~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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	~~the application of this Article.~~ **LV (Drafting):** ~~Capacities which are a part of the rescEU reserve in accordance with Article 12 of Decision No 1313/2013/EU are excluded from the application of this Article.~~ **IE (Drafting):** ~~Capacities which are a part of the rescEU reserve in accordance with Article 12 of Decision No 1313/2013/EU are excluded from the application of this Article.~~	
2. 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:	**DE (Drafting):** After "information" the following could be added: "(…) not yet available to the Commission," **LU (Drafting):** ~~2. 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:~~ **LV (Drafting):** ~~2. The Commission may require, by means of implementing acts, that the Member States~~	**DE (Comments):** EU law already knows certain duties to provide information that also include current stockings, e.g. in Regulation (EU) 2017/1185 (last amended by implementing order 2022/791). We suggest that the SMEI regulation makes clear-clearer than it's done by Recital 25 – that double duties of disclosure in any form should be avoided. **SK (Comments):** The collection of such information by MSs may be problematic. **BE (Comments):**

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	~~provide information on the goods listed in an implementing act adopted pursuant to Article 9(1), as regards all of the following:~~ **IE (Drafting):** ~~2. 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:~~ **PL (Drafting):** 2. ~~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:~~	Has the requirement to provide information been assessed by the Commission in light of national legislation actually permitting authorities to obtain such information from economic operators? **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.
(a) the current stock in their territory;	**LU (Drafting):** ~~(a) the current stock in their territory;~~ **LV (Drafting):** ~~(a) the current stock in their territory;~~ **IE (Drafting):** ~~(a) the current stock in their territory;~~ **PL (Drafting):** ~~(a) the current stock in their territory;~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **SI (Comments):** We draw attention to the difficulty of collecting data on the commercial stocks of enterprises that are not part of the national commodity reserves.

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(b) any potential for further purchase;	**LU (Drafting):** ~~(b) any potential for further purchase;~~ **LV (Drafting):** ~~(b) any potential for further purchase;~~ **IE (Drafting):** ~~(b) any potential for further purchase;~~ **PL (Drafting):** ~~(b) any potential for further purchase;~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **IT (Comments):** The information collection requirements relate to commercially sensitive information primarily from businesses, the disclosure of which could have unforeseeable effects in turbulent markets. It is therefore important to make detailed provisions on how the Commission and national authorities will ensure the secrecy of sensitive information and compensation for damages due to accidental disclosure.
(c) any options for alternative supply;	**LU (Drafting):** ~~(c) any options for alternative supply;~~ **LV (Drafting):** ~~(c) any options for alternative supply;~~ **IE (Drafting):** ~~(c) any options for alternative supply;~~ **PL (Drafting):** ~~(c) any options for alternative supply;~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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(d) further information that could ensure the availability of such goods.	**LU (Drafting):** ~~(d) further information that could ensure the availability of such goods.~~ **LV (Drafting):** ~~(d) further information that could ensure the availability of such goods.~~ **IE (Drafting):** ~~(d) further information that could ensure the availability of such goods.~~ **PL (Drafting):** ~~(d) further information that could ensure the availability of such goods.~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.
The implementing act shall specify the goods for which information is to be given.	**LU (Drafting):** ~~The implementing act shall specify the goods for which information is to be given.~~ **LV (Drafting):** ~~The implementing act shall specify the goods for which information is to be given.~~ **IE (Drafting):** ~~The implementing act shall specify the goods for which information is to be given.~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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	PL (Drafting): ~~The implementing act shall specify the goods for which information is to be given.~~	
	FR (Drafting): "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, ***duly ensuring the confidentiality and observing the commercial sensitivity of the information concerned***."	**FR (Comments):** Can the Commission elaborate on the differences between "levels of strategic reserves of goods of strategic importance" and "the levels of other stocks of such goods held on their territory" ? In other words, does it imply that public or industrial stocks have to be differently implemented given the framework or a Single Market Crisis or any other crisis that would affect an economic operator or an industry? French authorities recall the need to ensure the confidentiality and to observe the commercial sensitivity of information.
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.	**LU (Drafting):** ~~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.~~ **LV (Drafting):** ~~Member States shall report to the Commission the levels of strategic reserves of goods of~~	**BE (Comments):** BE questions the feasibility and practicability of the measure. How can a Member State be aware of strategic reserves "*held on their territory*" (privately held?) ? **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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	~~strategic importance held by them, and the levels of other stocks of such goods held on their territory.~~ **IE (Drafting):** ~~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.~~ **PL (Drafting):** ~~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.~~ **DK (Drafting):** Member States shall report to the Commission the levels of strategic reserves of goods of ~~strategic~~ **critical** importance held by them, and the levels of other stocks of such goods held on their territory.	**DK (Comments):** Amendment following proposed changes in Article 3.
3. Taking due account of stocks held or being built up by economic operators on theirterritory, Member States shall deploy their best efforts to build up strategic reserves of the goods of strategic importance identified in	**DE (Drafting):** After sentence 1 or at the end, the following could be added:	**DE (Comments):** Since building up reserves can be quite expensive, it should be clarified that Member States do not have to build up additional

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accordance with paragraph 1. The Commission shall provide support to Member States to coordinate and streamline their efforts.	Member States can at first fall back upon reserves already available on their territory. **BE (Drafting):** 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. **LU (Drafting):** ~~3. Taking due account of stocks held or being built up by economic operators on theirterritory, 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.~~ **LV (Drafting):** ~~3. Taking due account of stocks held or being built up by economic operators on theirterritory, 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~~	strategic reserves for those goods of which they already have them (e.g. the federal grain reserve in Germany). Furthermore, reserves built up on a European Basis (e.g.through the Farm to Fork iniative, as long it contains such measures) should be taken into account. With regards to grain, we also ask to consider that grain reserves can, in our opinion, only help to cover short-term shortages. In general, we are critical of using strategic reserves for market supervision since this could lead to market upheaval. **SK (Comments):** The creation of strategic reserves can lead to a shortage on the local markets and price increase, which should be avoided. The costs of creating and managing reserves are also relevant. Will the COM help? **AT (Comments):** What happens if the MS' *"best efforts"* to build up a *"strategic reserve"* do not amount to much because the crisis precisely consists in a shortage of the good that needs to be stockpiled? What are the effects on market prices once the Union decides to stockpile a "good of strategic importance"? What are the effects on prices once (the Union? the MS?) decide they can

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	~~shall provide support to Member States to coordinate and streamline their efforts.~~ **IE (Drafting):** ~~3. Taking due account of stocks held or being built up by economic operators on theirterritory, 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.~~ **PL (Drafting):** 3. ~~Taking due account of stocks held or being built up by economic operators on theirterritory, 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.~~	divest themselves again of "strategic reserves" no longer deemed necessary? **BE (Comments):** typo **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **NL (Comments):** How will the Commission support the Member States in this? This text seems to suggest that Member States have to build up stocks in any case. A more open wording would be desirable. **PL (Comments):** Economic operators should be guaranteed the freedom to conduct business activity, and the procedures should facilitate conducting business during a crisis, especially in areas that will be considered as strategic areas. Operators should be able to independently take decisions regarding their crisis management strategies, including those related to the functioning of their supply chains, e.g. by increasing stocks, searching for new suppliers or new technological and logistic solutions. Excessive

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		control of entrepreneurs should be avoided. **SI (Comments):** It is not entirely clear whether the Member State's efforts to build up stocks refer to national stocks or to encouraging the creation of commercial stocks by companies. The establishment of new stocks also raises the question of financing stocks, as the amounts involved are usually large. In addition to the purchase of the stocks themselves, it is necessary to ensure storage capacity and to take into account the possibility of maintaining the quality of the goods.There're also questions regarding the relation between national and strategical reserves and the issue of what happens with the stocks when they're no longer needed when the issue becomes of logistical and financial nature.
	FR (Drafting): 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,	**FR (Comments):** The French authorities have douts as to the appropriateness of implementing acts. Member States should play a more active role in drawing the list of individual targets, in particular to underscore sector or national specific constraints. For instance, all critical materials do not have the same issues and specificities at the national and/or Union level : for example, magnesium cannot be stored for a

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	the Commission shall take into account:	long time, because of chemical reasons. A "one size fits all" approach should thus be avoided. On a more general note, French authorities would be in favor of waiting for the Critical Raw Materials Act to be published before deciding on which crisis measures should be included in this Regulation.
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:	**LU (Drafting):** ~~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:~~ **LV (Drafting):** ~~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~~	DE (Comments): The Commission should also be required to make statements in the proposal for the implementing act on the likely costs concerning individual Member States (statements on the costs must be possible at this point in time, as the products to be stored/raw materials and the nature of the crisis are already known). **SK (Comments):** We are not sure about the competence of the COM for such a list of targets and deadlines. **AT (Comments):** *"[…] 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 […]":* When EC *"draws up by means of implementing*

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	~~Member States should maintain. When setting the individual targets for each Member State, the Commission shall take into account:~~ **IE (Drafting):** ~~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:~~ **PL (Drafting):** ~~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:~~ **DK (Drafting):**	*acts",* a list of individual targets for MS, how [i.e. in what procedure] are MS involved? **BE (Comments):** How will the Commission assess and establish the individual targets for quantities of goods that the Member States should maintain? Are there safeguards to prevent overestimations of required quantities? **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **RO (Comments):** The proposal should include the criteria to be used by the Commission in setting up the individual targets of Member States. **DK (Comments):** Amendment following proposed changes in Article 3.

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	4. Where the building of strategic reserves of goods of ~~strategic~~ **critical** 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:	
(a) the probability and impact of shortages referred in paragraph 1;	**LU (Drafting):** ~~(a) the probability and impact of shortages referred in paragraph 1;~~ **LV (Drafting):** ~~(a) the probability and impact of shortages referred in paragraph 1;~~ **IE (Drafting):** ~~(a) the probability and impact of shortages referred in paragraph 1;~~ **PL (Drafting):** ~~(a) the probability and impact of shortages referred in paragraph 1;~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **IT (Comments):** Member States will face administrative and compliance costs for a number of measures in the toolbox, including the establishment of strategic reserves in vigilance mode. Under the current set-up, the costs related to the emergency mode, namely building up of strategic reserves, the secure supply, such as those related to procurement of goods and services of strategic importance and crisis-relevant goods, or to priority rated orders would

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		be borne exclusively by the Member States. It is proposed to consider cost sharing with European funds to cover the cost of implementing this process. We suggest to involve the advisory council in this phase. Therefore, the Commission should provide the Advisory group with the collected information and aggregated findings, in order to ask the advisory group an opinion on the need to build up the reserves and on the best way to proceed and communicate it to the market.
	IT (Drafting): **3bis The MS and the Commission ensure the confidentiality of trade secret information and prepare the legal and technological measures to guarantee confidentiality.** **In the event of accidental disclosure of secret commercial information, economic operators are entitled to compensation for damages.**	**FR (Comments):** Public and private stocks are not considered the same way depending on the economic operator. **IT (Comments):** The information collection requirements relate to commercially sensitive information primarily from businesses, the disclosure of which could have unforeseeable effects in turbulent markets. It is therefore important to make detailed provisions on how the Commission and national authorities will ensure the secrecy of sensitive information and compensation for damages due to accidental disclosure.
(b) the level of existing stocks of the economic operators and strategic reserves across the Union, and any information on economic	**LU (Drafting):** ~~(b) the level of existing stocks of the economic operators and strategic reserves across~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment

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operators' ongoing activities to increase their stocks;	~~the Union, and any information on economic operators' ongoing activities to increase their stocks;~~ **LV (Drafting):** ~~(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;~~ **IE (Drafting):** ~~(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;~~ **PL (Drafting):** ~~(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;~~	regarding Article 1 paragraph 1.
	FR (Drafting): (c) the costs for building and maintaining such strategic reserves***, and the effect on the market of the constitution of strategic reserves of goods of strategic importance.***	**FR (Comments):** Care should be taken to ensure that the constitution of strategic stocks does not create new market failures, additional inflation or possible distortions of competition between economic operators.

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		IT (Comments): Italy is considering the proportionality of this and the following provisions Unintended market effects may arise from the announcement and actual establishment of such reserves.
(c) the costs for building and maintaining such strategic reserves.	**LU (Drafting):** ~~(c) the costs for building and maintaining such strategic reserves.~~ **LV (Drafting):** ~~(c) the costs for building and maintaining such strategic reserves.~~ **IE (Drafting):** ~~(c) the costs for building and maintaining such strategic reserves.~~ **FR (Drafting):** 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	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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	Commission shall ~~facilitate~~ ***ensure*** cooperation between the Member States which have already reached their targets and the other Member States. **PL (Drafting):** ~~(c) the costs for building and maintaining such strategic reserves.~~	
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.	**DE (Drafting):** The following sentence could be added here: If necessary, the Commission can share information on the state of strategic reserves between Member States. **LU (Drafting):** ~~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~~	**DE (Comments):** For times of supply crisis, we regard it as useful to collect the necessary information about strategic reserves. An addition can be useful to make clear that the Commission is allowed to share information about the current state of strategic reserves in Member states. **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **NL (Comments):** What does ‘regularly’ entail? **PL (Comments):** Decisions on national strategic reserves are the sole competence of the Member States.

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	~~reached their targets and the other Member States.~~ **LV (Drafting):** ~~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.~~ **IE (Drafting):** ~~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~~	**SI (Comments):** In this Article, we reiterate the difficulty of collecting data on the commercial stocks of enterprises, whereas data on government stocks of basic commodities are available at any time.

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	~~between the Member States which have already reached their targets and the other Member States.~~ **FR (Drafting):** 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***, and following the consultation of the advisory group,*** assess the need to take further measures to build up strategic reserves of goods of strategic importance identified pursuant to paragraph 1. **PL (Drafting):** ~~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~~	

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	~~States.~~	
6. 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.	**LU (Drafting):** ~~6. 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.~~ **LV (Drafting):** ~~6. 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.~~ **IE (Drafting):** ~~6. Where the strategic reserves of a Member State continuously fall significantly~~	**AT (Comments):** How did EC decide at the request to be made by 14 Member States? Are there any precedents in EU law on this quorum? What is CLS' opinion? **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **IE (Comments):** How would this work in practice? **RO (Comments):** Romania has doubts about the proportionality of the imposition, by delegated act of the Commssion, of an obligation on a Member State to build up strategic reserves within a certain deadline. Those doubts are redoubled by the provison of such an obligation in the context of the state of vigilance, i.e. in the absence of certainty regarding the triggering of the emergency regime. Morevoer, it is doubtfull whether such an approach does take into account the principle of subsidiarity.

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	~~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.~~ **PL (Drafting):** ~~6. 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.~~	In the case of the establishment of such an obligation, it must be clarified which entity will be responsible for bearing the costs of a possible overestimation of the strategic reserves required to be built up. **DK (Comments):** The article does not consider the actuality that Member States may not be able to build up the reserves – regarding whether a deadline has been set or not. Paragraph 6 runs a significant risk of creating critical strains to a Member State's fiscal capacity and worsening an already insecure situation.
Following such an assessment, where the Commission establishes, supported by objective data, that	**LU (Drafting):** ~~Following such an assessment, where the Commission establishes, supported by objective data, that~~ **LV (Drafting):** ~~Following such an assessment, where the Commission establishes, supported by objective~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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	~~data, that~~ **IE (Drafting):** ~~Following such an assessment, where the Commission establishes, supported by objective data, that~~ **PL (Drafting):** ~~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,	**LU (Drafting):** ~~(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,~~ **LV (Drafting):** ~~(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,~~ **IE (Drafting):** ~~(a) the needs for the good in question remain unchanged or have increased compared~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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	~~to the situation at the time the target referred to in paragraph 4 was first set or last amended pursuant to paragraph 4,~~ **PL (Drafting):** ~~(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,~~	
	IT (Drafting): 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, **consulted the advisory group,** assess the need to take further measures to build up strategic reserves of goods of strategic importance identified pursuant to paragraph 1	**IT (Comments):** While Italy is still considering the proportionality of this provision, consulting the advisory group before taking «further measures» seems necessary. A dedicated financial instrument to support the build up of strategic reserves should also be taken into account.
(b) access to the concerned good is indispensable to ensure preparedness for a Single Market emergency	**LU (Drafting):** ~~(b) access to the concerned good is indispensable to ensure preparedness for a Single Market emergency~~ **LV (Drafting):** ~~(b) access to the concerned good is indispensable to ensure preparedness for a~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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	~~Single Market emergency~~ **IE (Drafting):** ~~(b) access to the concerned good is indispensable to ensure preparedness for a Single Market emergency~~ **PL (Drafting):** ~~(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	**LU (Drafting):** ~~(c) the Member State concerned has not provided sufficient evidence to explain the failure to meet the individual target, and~~ **LV (Drafting):** ~~(c) the Member State concerned has not provided sufficient evidence to explain the failure to meet the individual target, and~~ **IE (Drafting):** ~~(c) the Member State concerned has not provided sufficient evidence to explain the failure to meet the individual target, and~~ **PL (Drafting):** ~~(c) the Member State concerned has not provided sufficient evidence to explain the~~	**LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1.

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	~~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,	**LU (Drafting):** ~~(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,~~ **LV (Drafting):** ~~(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,~~ **IE (Drafting):** ~~(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,~~ **PL (Drafting):** ~~(d) exceptional circumstances exist, in that the failure by that Member State, considering its~~	**PT (Comments):** Who would evaluate/check the exceptionality, importance, gravity? Requires clarification. **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **FR (Comments):** The French authorities have douts as to the appropriateness of implementing acts. Member States should play a more active role in drawing the list of individual targets, in particular to underscore sector or national specific constraints. For instance, all critical materials do not have the same issues and specificities at the national and/or Union level : for example, magnesium cannot be stored for a long time, because of chemical reasons. A "one size fits all" approach should thus be avoided. On a more general note, French authorities would be in favor of waiting for the Critical Raw Materials Act to be published before deciding on which crisis measures should be included in this Regulation

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	~~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.	**DK (Drafting):** Member States shall report to the Commission the levels of strategic reserves of goods of ~~strategic~~ **critical** importance held by them, and the levels of other stocks of such goods held on their territory. **LU (Drafting):** ~~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.~~ **LV (Drafting):** ~~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.~~ **IE (Drafting):** ~~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.~~	**AT (Comments):** What happens if the MS still does not build up its strategic reserves of the goods concerned by a set deadline, even after Commission has adopted an implementing act, requiring the MS in question to build up its "strategic reserves" of the goods concerned? **BE (Comments):** Could further measures taken by the Commission entail an obligation of a Member State to build a strategic reserve even if the Member State itself does not produce the good or service in question? What if the good is only obtainable from outside the EU? If there is a general shortage (as seen with masks during Covid-19): - How will the Member State be able to increase its stocks and what will happen if the Member State does not respect the implementing act? (infringement procedure?) - To what extent can a MS be required to distribute things to others if they themselves

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	PL (Drafting): ~~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.~~	have to draw on their Strategic stocks? **DK (Comments):** Amendment following proposed changes in Article 3. **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **IE (Comments):** If a Member State has been unable to reach targets already set for it, what benefit would a second implementing act be?
7. 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.	**LU (Drafting):** ~~7. 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.~~ **LV (Drafting):** ~~7. When acting under this Article, the Commission shall seek to ensure that the building up of strategic reserves does not create~~	**BE (Comments):** **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **NL (Comments):** How will the Commission ensure this? Additional conditions needed? How will the evolvement of a new crisis be avoided? **FR (Comments):**

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	~~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.~~ **IE (Drafting):** ~~7. 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.~~ **FR (Drafting):** The Commission shall consult the Member States and adapt its action under this Article, taking fully into account any national security concerns raised by Member States. **PL (Drafting):** ~~7. 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.~~	The French authorities would like to clarify the extent of this provision and, in particular, to specify the guarantees available to the Member States in this respect. **PL (Comments):** Building up of strategic reserves, in accordance with the proposed procedure, may lead to even greater distortions in the Single Market and to higher prices, which may be counterproductive.
The Commission shall take fully into account	**DK (Drafting):**	**BE (Comments):**

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any national security concerns raised by Member States.	4. Where the building of strategic reserves of goods of ~~strategic~~ **critical** 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: **LU (Drafting):** ~~The Commission shall take fully into account any national security concerns raised by Member States.~~ **LV (Drafting):** ~~The Commission shall take fully into account any national security concerns raised by Member States.~~ **IE (Drafting):** ~~The Commission shall take fully into account any national security concerns raised by Member States.~~ **PL (Drafting):** ~~The Commission shall take fully into account any national security concerns raised by~~	Strategic reserves are an important part of the national security of the Member States. How precisely does the Commission intend to take into account the potential for Member States to be unwilling to create a strategic reserve at the direction of the Commission or share strategic goods or information with other Member States? **DK (Comments):** Amendment following proposed changes in Article 3. **LV (Comments):** Latvia does not support obligation to build strategic reserves. Please see comment regarding Article 1 paragraph 1. **PL (Comments):** The Commission may not interfere with national laws relating to national security, including those relating to strategic reserves.

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8. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 42(2).	**DE (Drafting):** 8. The implementing acts referred to in ~~this Article~~ **paragraphs 2 and 7** shall be adopted in accordance with the examination procedure referred to in Article 42(2). **The implementing acts referred to in paragraph 4 shall be adopted in accordance with the examination procedure referred to in Article 42(2, 2a).** **LU (Drafting):** ~~8. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 42(2).~~ **LV (Drafting):** ~~8. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 42(2).~~ **IE (Drafting):** ~~8. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article~~	**DE (Comments):** The Commission Implementing Decision under paragraph 4, which stipulates a list of individual targets regarding the quantities and deadline for the setup of strategic reserves, should not be taken without a comment on the part of the comitology committee (no opinion clause), since under paragraph 4 (c), it shall take into account, among other things, the costs for building and maintaining such strategic reserves, which in the Commission's view should be borne by the Member States (cf. Budgetary Implications section). In this sense already Germany's comments on the Commission's proposal for a Single Market Emergency Instrument (SMEI) from November 2022. **AT (Comments):** MS should be involved in any implementing act on *"strategic reserves"* at least be in NONA comitology procedure. **LV (Comments):** Latvia does not support obligation to build

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	~~42(2).~~ **FR (Drafting):** **End** **PL (Drafting):** ~~8. The implementing acts referred to in this Article shall be adopted in accordance with the examination procedure referred to in Article 42(2).~~	strategic reserves. Please see comment regarding Article 1 paragraph 1. **FR (Comments):** **End**
	DE (Drafting): Add new paragraph 2a in Article 42: **2a. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.** **NL (Drafting):** **Part I. General provisions** **Title III. Measures for safeguarding free movement** *Article 5a* Any restriction of the free movement goods, persons and services is prohibited between Member States, unless when allowed by the Treaty and Union law.	**NL (Comments):** In order to avoid any unclarity the basic principle that restrictions on free movement of goods, persons and services are in principle prohibited should be stated unequivocally prior to the other articles on which restrictive measures MS are and are not allowed to take. This principle as well as the framework for which Member States are and are not allowed to take should apply to all three modes foreseen in the Regulation. Therefore, it should be part of Part I which includes the general provisions of the Regulation. This should avoid for example Member States introducing intra-EU export restrictions in the vigilance mode which may lead to shortages and to a crisis. We would like to suggest to devote a specific title to the aformentioned provisions.

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	Article 5b (former Article 16) 1. When adopting and applying national measures in response to a underlying crisis, Member States shall ensure that their actions fully comply with the Treaty and Union law and, in particular, with the requirements laid down in this Article. 2. Any restriction shall be limited in time and removed as soon as the situation allows it. Additionally, any restriction should take into account the situation of border regions. 3. Any requirement imposed on citizens and businesses shall not create an undue or unnecessary administrative burden. 4. Member States shall inform citizens, consumers, businesses, workers and their representatives about measures that affect their free movement rights in a clear and unambiguous manner. 5. Member States shall ensure that all affected stakeholders are informed of measures restricting free movement of goods, services and persons, including workers and service providers, before their entry into force. Member States shall ensure a continuous dialogue with stakeholders, including communication with social partners and international partners.	

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	Article 5c (former Article 17) 1. During a crisis Member States shall refrain from introducing any of the following: a. intraUnion export bans or other measures having equivalent effect on crisis- relevant goods or services listed in an implementing act adopted pursuant to Article 14, paragraph 5; b. restrictions on the intra-EU export of goods or provision or receipt of services, or measures having equivalent effect, where those restrictions do any of the following (i) disrupt supply chains of crisis-relevant goods and services that are listed in an implementing act adopted pursuant to Article 14, paragraph 5, or (ii) create or increase shortages of such goods and services in the single market; c. discrimination between Member States or between citizens, including in their role as service providers or workers, based on nationality or, in the case of companies, the location of the registered office, central administration or principal place of business; d. Restrictions on the free movement of persons involved in the production of crisis-relevant goods that are listed in an implementing act adopted pursuant to Article 14, paragraph 5 and	

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	their parts or in provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14 paragraph 5, or other measures having equivalent effect, that: (i) cause shortages of necessary workforce on the Single Market and thus disrupt supply chains of crisis-relevant goods and services or create or increase shortages of such goods and services in the Single market or (ii) are discriminatory based on nationality of the person. 2. During a crisis Member States shall refrain from any of the following, unless to do so is inherent to the nature of the crisis: a. applying more generous rules to goods originating from a neighbouring Member State, any other Member State or a group of Member States, as compared to goods originating from other Member States; b. Selectively refusing the entry of goods originating from specific other Member States to their territory; c. Introducing prohibitions of the operation of freight transport 3. During a crisis Member States shall refrain from any of the following unless to do so is inherent to the nature of the crisis/Single Market	

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	emergency: a. banning types of services or modes of service provision; b. locking flows of passenger transport 4. During a crisis Member States shall refrain from any of the following: a. applying of more generous rules to travel to or from one Member State to or from another Member State or group of Member States, as compared to travel to and from other Member States unless to do so is inherent to the nature of the crisis/Single Market emergency; b. denying, to beneficiaries of the right of free movement under Union law, of the right to enter the territory of their Member State of nationality or residence, the right to exit the territory of Member States to travel to the Member State of nationality or residence, or the right to transit through a Member State in order to reach the Member State of nationality or residence; c. prohibiting of business travel linked to the research and development, to adopted pursuant to Article 14, paragraph 5, or their placing on the market or to the related inspections. d. imposing prohibitions on travel, including travel for imperative family reasons, which are not appropriate for the achievement of any	

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	legitimate public interest purportedly pursued by such measures or which manifestly go beyond what is necessary to achieve that aim e. imposing restrictions on workers and service providers and their representatives, unless to do so in inherent to the nature of the crisis or Single Market emergency and it does not manifestly go beyond what is necessary for that purpose. 5. When a Single Market vigilance mode or emergency has been activated in accordance with Article 14 and the activities exercised by the service providers, business representatives and workers are not affected by the crisis in the Member State and safe travel is possible despite the crisis, that Member State shall not impose travel restrictions on such categories of persons from other Member States that would prevent them from having access to their place of activity or workplace. 6. When a Single Market vigilance mode or emergency has been activated in accordance with Article 14 and exceptional circumstances resulting from the crisis do not allow all service providers, business representatives and workers from other Member States to travel and to have unhindered access to their place of activity or workplace, but travelling is still possible, Member States shall not impose travel restrictions, on:	

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	a. Those service providers that provide crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5), or business representatives or workers that are involved in production of crisis-relevant goods or provision of crisis-relevant services that are listed in an implementing act adopted pursuant to Article 14(5) to allow them to have access to the place of their activities, if activities in the sector concerned are still allowed in the Member State; b. civil protection workers to allow them to have unhindered access to their place of activity with their equipment in any of the Member States. 7. When taking the measures referred to in this provision, the Member States shall ensure full compliance with the Treaties and Union law. Nothing in this provision shall be construed as authorising or justifying restrictions to free movement contrary to the Treaties or other provisions of Union law. *Article 5d (former Article 18)* 1. During the Single Market vigilance and emergency mode, the Commission may provide for supportive measures to reinforce free movement of persons referred to in Article 17(6) and 17(7) by means of implementing acts. Those implementing acts shall be adopted in	

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	accordance with the examination procedure referred to in Article 422(2). On duly justified imperative grounds of urgency relating to the impacts of the crisis on the free movement of goods, persons and services, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 42(3). 2. During the Single Market vigilance and emergency mode, where the Commission establishes that Member States have put in place templates for attesting that the individual of economic operator is a service provider that provides crisis-relevant services, a business representative or worker that is involved in production of crisis-relevant goods or provision of crisis-relevant services or a civil protection worker and it considers that the use of different templates by each Member States is an obstacle to the free movement at the time of a Single Market emergency, the Commission may issue, if it considers it necessary for supporting the free movement of such categories of persons and their equipment during the ongoing Single Market vigilance mode emergency, templates for attesting that they fulfil the relevant criteria for the application Article 17(6) in all Member States by means of implementing acts. 3. The implementing acts referred to in	

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	paragraphs 1 and 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).	
	End	**End**

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NOTE

From:	Presidency
To:	Delegations
Subject:	SMEI: Consolidated comments on articles 1-12