

EUROPEAN ECONOMIC AREA

STANDING COMMITTEE OF THE EFTA STATES

Ref. 23-777

18 April 2023

SUBCOMMITTEE IV FLANKING AND HORIZONTAL POLICIES

EEA EFTA Comment

on the Proposal for a Regulation establishing a Single Market Emergency Instrument and repealing Council Regulation (EC) 2679/98

1. EXECUTIVE SUMMARY

- *The EEA Agreement extends the Single Market to the EEA EFTA States (Iceland, Liechtenstein, and Norway).*
- *The EEA EFTA States welcome the Commission's proposal for a Single Market Emergency Instrument (SMEI), and support the overall objective of the proposal, which is to ensure the functioning of the Single Market in times of emergency.*
- *The EEA EFTA States underline that the terms of their participation in the SMEI Advisory Group should be mutually agreed upon in the Joint Committee Decision incorporating the Act into the EEA Agreement, as needed. Therefore, they encourage the European Parliament and Council to delete the existing reference to the EEA EFTA States as observers as proposed in Article 4.*
- *To increase preparedness in Member States, the Commission is invited to outline scenarios of practical consequences when different SMEI modes are triggered.*

2. GENERAL REMARKS

1. The EEA Agreement extends the Single Market to the EEA EFTA States (Iceland, Liechtenstein, and Norway). The EEA EFTA States face the same challenges as the European Union (EU) with regards to how citizens and businesses can be impacted

within the context of a crisis and agree that the functioning of the Single Market needs to be guaranteed in times of emergency.

2. The COVID-19 pandemic highlighted that the ability to effectively respond to emergency situations in a coordinated response throughout the EEA needs to be strengthened. The continued functioning of the Single Market, the businesses that operate in the Single Market and its strategic supply chains, including the free circulation of goods, services, and persons in times of crisis should be ensured.
3. It is important during times of crisis to address shortages and safeguard the availability of crisis-relevant goods and services, for instance through joint procurement processes to ensure equal treatment within the Single Market.
4. Therefore, the EEA EFTA States welcome the Commission's proposal for a Single Market Emergency Instrument (SMEI) and support the overall objective of ensuring the functioning of the Single Market in times of emergency.
5. The EEA EFTA States raise their concerns over the broad scope and vague definitions of the proposal. They call upon the European Parliament and Council to further define what circumstances constitute a crisis in terms of Article 3(1) as the current definition could risk that the Single Market will be in permanent state of crisis.
6. It is crucial that the principle of proportionality is respected and that SMEI does not introduce unnecessary administrative burdens on businesses. Mandatory information exchange should also be limited as far as possible. Otherwise, the act risks harming the competitiveness of European businesses.
7. As regards the proposed provisions allowing for sanctions to be imposed on economic operators, the EEA EFTA States stress the importance of ensuring that any competence concerning the issuing of penalties is proportionate and strikes the right balance between the role of national authorities and the role of the Commission.
8. Finally, regarding preparedness, the EEA EFTA States recommend that the Commission draws up different scenarios for what national administrations should do when each of the SMEI modes is triggered. It should be clarified what competent authorities would need to act upon under complementing legislative mechanisms to ensure coordination of relevant measures.
9. These comments are given without prejudice to further comments from the EEA EFTA States and the assessment of the final act, which will be carried out by the EEA EFTA States once adopted.

3. SPECIFIC REMARKS

10. The EEA EFTA States have noted that according to both the Commission Proposal¹ and the Internal Market and Consumer Protection (IMCO) draft Report² the EEA EFTA States should participate as observers in the proposed advisory group/board.
11. The EEA EFTA States appreciate the intention of the Commission and IMCO to ensure their participation in the proposed advisory group/board.
12. However, the EEA EFTA States' participation in the advisory group/board should not be regulated directly in a legal act as proposed.
13. The SMEI advisory group/board to be established under Article 4 of the proposed instrument falls under Article 101 of the EEA Agreement.³ It follows from that provision that the modalities of the EEA EFTA States' participation should, where needed, be regulated in the Joint Committee Decision incorporating the act into the EEA Agreement.
14. Thus, in accordance with the EEA Agreement, the EEA EFTA States should be guaranteed full participation, without the right to vote. This is an important principle to ensure the good functioning of the Single Market.
15. Therefore, they propose that Article 4 is amended so that references to the EEA EFTA States are deleted.

¹ [COM\(2022\) 459](#), Article 4.3.: *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 Area⁵⁰, representatives of economic operators, stakeholder organisations, social partners and experts, to attend meetings of the advisory group as observers.*

² [Draft Report by IMCO](#), Amendment to Article 4.2.: *The advisory board shall be composed of one representative from each Member State. Each Member State shall nominate a representative and an alternate representative. European Free Trade Association (EFTA) States may participate as observers in accordance with the Agreement on the European Economic Area, as well as in accordance with the bilateral agreements between the Union and the Swiss Confederation.*

³ [EEA Agreement](#), Article 101.1.: *In respect of committees which are covered neither by Article 81 nor by Article 100 experts from EFTA States shall be associated with the work when this is called for by the good functioning of this Agreement. These committees are listed in Protocol 37. The modalities of such an association are set out in the relevant sectoral Protocols and Annexes dealing with the matter concerned.*