

EU moves to bolster free movement of goods through extended mutual recognition

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The Austrian presidency of the Council today reached a provisional agreement with the European Parliament on measures which will facilitate the circulation of goods across the EU. The new rules improve and expand the application of the mutual recognition principle.

More reliance on the principle of mutual recognition is good for manufacturers, good for traders and good for consumers. The new rules will lead to less bureaucracy, more business opportunities, a wider choice for consumers and more competitive prices.

Margarete Schramböck, Federal Minister for Digital and Economic Affairs of Austria

The draft regulation is expected to improve the application of the principle of mutual recognition in the following ways :

- it clarifies the **scope of mutual recognition**. This will increase legal certainty for businesses and national authorities as to when the principle of mutual recognition can be applied;
- it introduces a **mutual recognition declaration** to make it easier to demonstrate that the goods in question have already been lawfully marketed in an EU country. This is meant to enable economic operators to benefit from the use of such a declaration within the framework of assessment of goods in question;
- it establishes a **problem-solving mechanism** based on the SOLVIT network. This is expected to provide practical solutions in case of disputes regarding the compatibility of an administrative decision denying or restricting market access with the principle of mutual recognition;
- it improves administrative cooperation through **Product Contact Points** and enhanced recourse to **IT technology**. These are expected to enhance the exchange of information and trust among national authorities;
- it provides for the possibility of **EU financial support** for setting up the above mechanisms established under the new rules.

After formal approval of the proposed regulation by the Parliament and the Council, the new rules will be applied **twelve months** after the entry into force of the regulation.

Next steps

The provisional agreement will have to be endorsed by the European Parliament and the Council before it is formally adopted.

Background

The existing legislative framework does not allow businesses to rely sufficiently on the principle of mutual recognition when they enter new markets in other EU countries. Goods which are lawfully commercialised in one EU country are still occasionally denied market access in another EU country for no good reason. As a consequence, businesses tend to adapt their goods to the various requirements of each national market when trying to enter new markets. This entails unwarranted costs and delays.

The principle of mutual recognition derives from the case-law of the Court of Justice of the European Union. It is one of the means of ensuring the free movement of goods within the internal market. According to this principle, a member state may not prohibit the sale on its territory of products which are lawfully marketed in another member state, even where those products were manufactured in accordance with technical rules different from those to which domestic products are subject. The only exceptions to the principle are restrictions which are justified on grounds of a legitimate public interest and which are proportionate to the pursued objectives.

The Commission tabled the proposal for the new regulation on 19 December 2017 as part of the “Goods package”, which also contains a proposal for a regulation laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products.

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