

BUSINESSEUROPE



Public Hearing
of the
Committee on the Internal Market and Consumer Protection

Internal Market package for Goods

Session 1

**Ensuring free movement of goods, in the non-harmonised area,
through the mutual recognition of national technical rules**

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The Commission's "Goods" package

The Commission's "Goods" package aims at a better enforcement of the internal market legislation.

It includes:

- Regulation setting out the requirements for **accreditation** and **market surveillance** relating to the marketing of products.
- Decision on a **common framework for the marketing of products**.
- Regulation on *mutual recognition*.



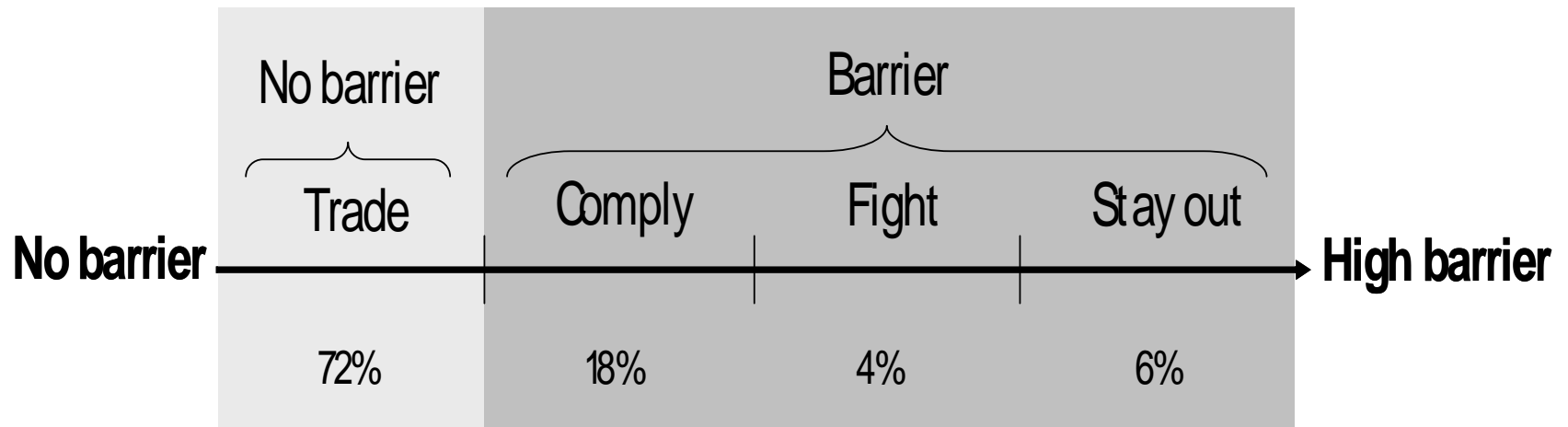
A. Relevance of a better enforcement of the mutual recognition principle?

1. → because it is not working as it should do!

- There is a **lack of awareness** of the principle both by national authorities and by business operators.
- It is not properly **enforced** due to unjustified application of technical legislation.
- Companies are not **challenging decisions**.



Company reaction to barriers



Source: European Business Test Panel (2004) 'Trading Goods Across the EU – Applying the Principle of Mutual Recognition'.



A. Relevance of a better enforcement of the mutual recognition principle?

2. National technical requirements are the most severe barriers

Legislative barriers

		Prevalence*
Late transposition of directives		Low
Incorrect transposition of directives		Low
Gold-plating		Medium
<i>National technical requirements</i>	High	
Spill-over from service barriers		Low

Administrative barriers

Incorrect application of directives		Low
Conformity assessment barriers	Medium	

(* based on proportion of products governed by each instrument, the number of infringement case, of judgements, of SOLVIT cases and companies opinions)



A. Relevance of a better enforcement of the mutual recognition principle?

3. Mutual Recognition is the main pillar of free trade

- The basic principle in the treaty (Art. 28 and 30)
- Large practical relevance in intra community trade
- Its scope is widening:
 - In the new approach, for the non harmonised parts
 - Due to legislative restraint (i.e. withdrawal of the precious metal draft directive + its inclusion under the scope of this principle)
 - Increasing relevance in regulatory dialogues with third countries



B. BUSINESSEUROPE's view on the Commission's proposals

BUSINESSEUROPE **supports** the Commission's draft regulation on the application of national technical rules in the Mutual recognition field, the purpose of which is:

- to reverse the burden of the proof. It is up to the national authority which intends to adopt a decision according to a national technical rule **to notify** its intention and **to justify** it by reference to an overriding requirement in the public interest and **to allow** at least 20 days for comment.
- to make sure that an negative decision should specify the **remedies** available
- to set up **products contact Points** to provide information on the National rules and the responsible authorities



Some fine-tuning is necessary... (i)

- ❑ As the Mutual Recognition principle is to be applied whenever there is no harmonisation, establishing a **list of products** which would fall under the scope of the regulation is not appropriate
- ❑ Exclusion of the urgency procedure provided for by the **General Product Safety Directive** (GPSD) from the scope of the regulation is not appropriate.

Instead it should be foreseen that where dangerous products require rapid intervention, the 20 working days' standstill need not to be respected by the public authorities.

- ❑ the proposed **product contact points** should also be open to public authorities and the system of contact points should be structured in a similar way to those which has been established in the Services Directive.



Some fine-tuning is necessary... (ii)

- ❑ Member States and the Commission should **report on the implementation** of the regulation once a year
- ❑ Problems related to **national** extra requirements related to **conformity assessment** in the harmonised area need to be addressed in the body of this regulation.

