



Internal market for goods: the new package

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Regulatory approach to free circulation of products

Package of proposals adopted by the Commission on 14 February 2007:

1. « **Mutual Recognition Proposal** » (EP and Council Regulation)
2. « **Accreditation and Market Surveillance Proposal** » (EP and Council Regulation)
3. « **New Approach Revision** » (EP and Council Decision)
4. Car registration communication

1. Mutual Recognition Proposal

WHAT IS MUTUAL RECOGNITION?

- A method for ensuring free movement of goods in the **non-harmonised area** (articles 28 and 30 EC Treaty)
- **Two pillars:**
 - The **general rule** (Article 28 – free movement)
 - The **exception** (Article 30 – Justified & proportionate restrictions)

1. Mutual Recognition Proposal

- It applies in case of **technical obstacles to a product lawfully marketed in another MS**, i.e. obstacles that require changes to the product
- Origin: **Cassis de Dijon-case (1979)**

1. Mutual Recognition Proposal

PROBLEMS WITH MUTUAL RECOGNITION **IN THE AREA OF PRODUCTS:**

1. **Lack of awareness** (*businesses and administrations*)
2. **Legal uncertainty about the scope of the principle and the burden of proof** (*businesses and administrations*)
3. **Risk in another Member State** (*businesses*)
4. **The absence of a dialogue between authorities** (*administrations*)

1. Mutual Recognition Proposal

PROPOSAL FOR AN EP AND COUNCIL REGULATION [COM(2007)36]

- Subject-matter and scope: non-harmonised area for products
- Reversal of the burden of proof in case of technical obstacles for a product lawfully marketed in another Member State
- Product Contact Points
- Repeal of Decision 3052/95/CE

1. Mutual Recognition Proposal

ADVANTAGES OF THE PROPOSAL:

- One harmonised method of applying mutual recognition throughout the EU
- National authorities obliged to apply mutual recognition
- Efficiency gains by lifting the uncertainty about the burden of proof
- Proposal does not prevent harmonisation of national technical rules on specific categories of products
- No comparison of national rules

2. “New Approach” Proposals

HARMONISED AREA: PROBLEMS (1)

- +/- 1700 Notified Bodies
- Notification procedures & criteria
- Role of accreditation
- Incoherence definitions & conformity assessment
- Relationship CE marking/others

2. “New Approach” Proposals

PROBLEMS (2)

- Balance Pre vs. Post market safety
- Market surveillance
- Safeguard clause
- Regulation 339/1993 control of products from 3rd countries

2. “New Approach” Proposals

FUTURE

- Clear overall policy
- New/Old Approaches
- Horizontal Decision (sui generis)
- Regulation
- Link between the two acts

2. “New Approach” Proposals

PROPOSAL FOR AN EP AND COUNCIL DECISION [COM (2007)53]

- Legislative framework
- Definitions & obligations for operators
- Notification (criteria & process & accred.)
- Conformity assessment procedures
- CE marking
- Safeguard mechanisms (& market surveillance)

2. “New Approach” Proposals

PROPOSAL FOR AN EP AND COUNCIL REGULATION [COM(2007)37]

- Definitions
- Accreditation
- Market surveillance
 - internal
 - third country products
- Financing for intercomparisons

3. Car registration communication

CAR REGISTRATION COMMUNICATION

[Official Journal C68 of 24 March 2007]

- Interpretative communication
- Overview of existing EU law
- Citizen's guide

4. Conclusion

TIMETABLE

- Adoption Commission: 14 February 2007
- Adoption Council/EP?
 - Mutual Recognition proposal: early 2008?
 - Accreditation and Market Surveillance proposal: early 2008?
 - Proposal on the horizontal framework: end 2008?
- Implementing measures
- Review of sectoral directives?