

Mutual recognition of goods

One of the main rules enabling the frictionless trade in goods in the EU, in the absence of specific EU rules, is the principle of mutual recognition, under which goods lawfully marketed in one Member State may be sold in another Member State. To address a number of shortcomings in the application of this principle, the Commission proposed to revise the current rules, which date back to 2008. In November 2018, the European Parliament and Council reached agreement in trilogue negotiations on the proposal, which is now scheduled to be voted by Parliament at first reading during the February plenary session.

European Commission proposal

In February 2016, the Commission adopted a [proposal](#) to revise the 2008 regulation. This would introduce a new problem-solving procedure relying on the [SOLVIT network](#) coordinated by the Commission. The Commission would play a greater role, in case of disagreement between the economic operator and the national authorities. It also proposed a new voluntary 'mutual recognition declaration' by economic operators, which would be simple and available online. Furthermore, the role of [Product Contact Points](#) in the Member States, and cooperation between them, would be enhanced.

European Parliament position

On 3 September 2018, Parliament's Committee on Internal Market and Consumer Protection (IMCO) adopted a [report](#) on the proposal. After interinstitutional (trilogue) negotiations, the European Parliament and Council reached a provisional agreement in November 2018, which was then approved by the IMCO committee on the 6 December 2018.

The new rules would oblige the Member States to clearly justify instances when they are limiting access to their markets. Any such restrictions would need to be in line with the provisions of the Treaty on the Functioning of the European Union (TFEU) and the case law of the Court of Justice of the EU. The agreed text also provides for quicker and more effective assessment of goods by the competent national authorities, while ensuring that arbitrary discrimination or disguised restrictions are avoided. Parliament successfully introduced provisions for simplified procedures for both enterprises and national authorities, and more efficient cooperation between the latter and the national Product Contact Points, based on, among other things, the use of IT tools. Furthermore, it successfully advocated deploying SOLVIT-based procedures to improve problem-solving efforts. This should lead to quicker resolution of disputes between enterprises and national authorities.

The agreed text also contains provisions which would enhance training and collaboration among national authorities, and envisages the possibility of EU financial assistance for mechanisms established by the regulation. Parliament also asked the Commission to develop non-binding guidance on how to apply the principle of mutual recognition, and on reviewing the case law on the concept of over-riding reasons of public interest (which may be used to keep goods from entering the domestic market). The Commission should also develop an indicative and non-exhaustive list of goods covered by the regulation.

After formal approval of the text, by both the Parliament and Council, the new rules will be applied 12 months after the entry into force of the regulation.

First-reading report: [2017/0354\(COD\)](#); Committee responsible: IMCO; Rapporteur: Ivan Štefanec (EPP, Slovakia). For further information see our 'EU Legislation in progress' [briefing](#).

