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*Plenary sitting*

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**A8-0274/2018**

5.9.2018

**\*\*\*I**  
**REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on the mutual recognition of goods lawfully marketed in another Member State  
(COM(2017)0796 – C8-0005/2018 – 2017/0354(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Ivan Štefanec

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on the mutual recognition of goods lawfully marketed in another Member State (COM(2017)0796 – C8-0005/2018 – 2017/0354(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0796),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0005/2018),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of 23 May 2018<sup>1</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection (A8-0274/2018),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

### **Proposal for a regulation** **Recital 1**

*Text proposed by the Commission*

(1) The internal market comprises an area without internal frontiers in which the free movement of goods is ensured in accordance with the provisions of the Treaties. Quantitative restrictions on imports and all measures having equivalent effect are prohibited between Member

*Amendment*

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<sup>1</sup> OJ C ...

States. That prohibition covers any national measure which is capable of hindering, directly or indirectly, actually or potentially, intra-Union trade in goods. Free movement of goods is ensured in the internal market by harmonisation of rules at Union level setting common requirements for the marketing of certain goods or, for goods or aspects of goods not covered by Union harmonisation rules, by the application of the principle of mutual recognition.

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## Amendment 2

### Proposal for a regulation

#### Recital 2

*Text proposed by the Commission*

(2) Obstacles to the free movement of goods between Member States may be unlawfully created if, in the absence of Union harmonisation rules covering goods or a certain aspect of goods, a Member State's competent authority applies national rules to goods of that type lawfully marketed in another Member State, requiring the goods to meet certain technical requirements, for example requirements relating to designation, form, size, weight, composition, presentation, labelling or packaging. The application of such rules to goods lawfully marketed in another Member State could be contrary to Articles 34 and 36 of the Treaty even if the rules apply without distinction to all goods.

*Amendment*

(2) Obstacles to the free movement of goods between Member States may be unlawfully created if, in the absence of Union harmonisation rules covering goods or a certain aspect of goods, a Member State's competent authority applies national rules to goods of that type lawfully marketed in another Member State, requiring the goods to meet certain technical requirements, for example requirements relating to designation, form, size, weight, composition, presentation, labelling or packaging, ***request for additional testing and/or duplication of tests.*** The application of such rules to goods lawfully marketed in another Member State could be contrary to Articles 34 and 36 of the Treaty even if the rules apply without distinction to all goods.

## Amendment 3

### Proposal for a regulation

#### Recital 3

(3) The principle of mutual recognition derives from the case-law of the Court of Justice of the European Union. According to this principle, Member States may not prohibit the sale on their territory of goods which are lawfully marketed in another Member State, even where the goods have been produced or manufactured in accordance with different technical rules. But the principle is not absolute. Member States can oppose the marketing of goods lawfully marketed elsewhere, when such restrictions are justified on the grounds set out in Article 36 of the Treaty or on the basis of other overriding reasons of public interest, and which in either case are proportionate to the aim pursued.

(3) The principle of mutual recognition derives from the case-law of the Court of Justice of the European Union. According to this principle, Member States may not prohibit the sale on their territory of goods which are lawfully marketed in another Member State, even where the goods have been produced or manufactured in accordance with different technical rules. But the principle is not absolute. Member States can oppose the marketing of goods lawfully marketed elsewhere, when such restrictions are justified on the grounds set out in Article 36 of the Treaty or on the basis of other overriding reasons of public interest, ***recognised by the ECJ jurisprudence in relation to the free movement of goods***, and which in either case are proportionate to the aim pursued. ***This regulation imposes the obligation to clearly justify why market access is refused.***

Amendment 4

#### **Proposal for a regulation** **Recital 4**

(4) The concept of overriding reasons of public interest is an evolving concept developed by the Court of Justice in its case-law in relation to Articles 34 and 36 of the Treaty. ***This concept covers, inter alia, the effectiveness of fiscal supervision, the fairness of commercial transactions, protection of consumers, protection of the environment, the maintenance of press diversity and the risk of seriously undermining the financial balance of the social security system. Such overriding reasons***, where legitimate differences exist from one Member State to another, may justify the application of national rules by the competent authorities. However, ***such*** decisions need to be duly justified, ***and*** the

(4) The concept of overriding reasons of public interest is an evolving concept developed by the Court of Justice in its case-law in relation to Articles 34 and 36 of the Treaty. Where legitimate differences exist from one Member State to another, ***they*** may justify the application of national rules by the competent authorities. However, ***administrative*** decisions need to be ***always*** duly justified, ***legitimate, appropriate and in respect with*** the principle of proportionality ***and*** the competent authority has ***to make*** the least restrictive decision possible. ***With the aim of reducing internal market barriers and improve the functioning of the internal market for goods, the Commission and the Member States are encouraged to initiate***

principle of proportionality *must always be respected, regard being had to whether* the competent authority has *in fact made* the least restrictive decision possible.

Furthermore, administrative decisions restricting or denying market access in respect of goods lawfully marketed in another Member State must not be based on the mere fact that the goods under assessment fulfil the legitimate public objective pursued by the Member State in a different way from the way that *domestic* goods in that Member State fulfil that objective.

*an assessment process as to whether all the national rules are still fit for purpose and are not creating disproportionate non-tariff barriers.* Furthermore, administrative decisions restricting or denying market access in respect of goods lawfully marketed in another Member State must not be based on the mere fact that the goods under assessment fulfil the legitimate public objective pursued by the Member State in a different way from the way that goods in that Member State fulfil that objective. *In order to assist Member States in their task of justifying restrictions to the principle of mutual recognition, the Commission should provide non-binding guidance reviewing the case law on the concept of overriding reasons of public interest and on how to apply the principle of mutual recognition. Competent authorities should have the ability and opportunity to provide contributions and deliver feedback on the guidance.*

## Amendment 5

### Proposal for a regulation

#### Recital 7

##### *Text proposed by the Commission*

(7) Regulation (EC) No 764/2008 has several shortcomings, and should therefore be revised and strengthened. For the sake of clarity, Regulation (EC) No 764/2008 should be replaced by this Regulation. This Regulation should establish clear procedures to ensure the free movement to goods lawfully marketed in another Member State and to ensure that free movement can be restricted only where Member States have legitimate public interest grounds for doing so and the restriction is proportionate. It ensures that existing rights and obligations deriving from the mutual recognition principle are observed, by both economic operators and

##### *Amendment*

(7) Regulation (EC) No 764/2008 has several shortcomings, and should therefore be revised and strengthened. For the sake of clarity, Regulation (EC) No 764/2008 should be replaced by this Regulation. This Regulation should establish clear procedures to ensure the free movement to goods lawfully marketed in another Member State and to ensure that free movement can be restricted only where Member States have *duly justified* legitimate public interest grounds for doing so and the restriction is proportionate. It ensures that existing rights and obligations deriving from the mutual recognition principle are observed, by both economic

national authorities.

operators and national authorities.

## Amendment 6

### Proposal for a regulation

#### Recital 11

##### *Text proposed by the Commission*

(11) It is important to clarify that the types of goods covered by this Regulation include agricultural products. The term 'agricultural products' includes products of fisheries, as provided for in Article 38(1) of the Treaty.

##### *Amendment*

(11) It is important to clarify that the types of goods covered by this Regulation include agricultural products. The term 'agricultural products' includes products of fisheries, as provided for in Article 38(1) of the Treaty. ***The Commission should keep and, when feasible, further develop an indicative and non-exhaustive list up to date online to help identify which types of goods are subject to this Regulation.***

## Amendment 7

### Proposal for a regulation

#### Recital 14

##### *Text proposed by the Commission*

(14) To benefit from the principle of mutual recognition, goods must be lawfully marketed in another Member State. It should be clarified that, for goods to be considered as lawfully marketed in another Member State, the goods need to comply with the relevant rules applicable in that Member State, and to be ***being*** made available to end users in that Member State.

##### *Amendment*

(14) To benefit from the principle of mutual recognition, goods must be lawfully marketed in another Member State. It should be clarified that, for goods to be considered as lawfully marketed in another Member State, the goods need to comply with the relevant rules applicable in that Member State, and to be made available to end users in that Member State.

## Amendment 8

### Proposal for a regulation

#### Recital 14 a (new)

***(14 a) To raise awareness on the part of national authorities and economic operators of the principle of mutual recognition, Member States are encouraged to provide for clear and unambiguous 'single market clauses' in their national technical rules which ensure that goods lawfully marketed in one Member State are presumed to be compatible with the national technical rules of another Member State.***

## **Amendment 9**

### **Proposal for a regulation**

#### **Recital 15**

*Text proposed by the Commission*

*Amendment*

(15) The evidence required to demonstrate that goods are lawfully marketed in another Member State varies significantly from Member State to Member State. This causes unnecessary burdens delays and additional costs for economic operators, while preventing national authorities from obtaining the information necessary for assessing the goods in a timely manner. This may inhibit application of the mutual recognition principle. It is therefore essential to make it easier for economic operators to demonstrate that their goods are lawfully marketed in another Member State. Economic operators should ***be able to*** benefit from a process of self-declaration, which should provide competent authorities with ***all necessary*** information on the goods and on their compliance with the rules applicable in that other Member State. The use of the declaration does not prevent national authorities from taking a decision restricting market access, on the condition that such a decision is proportionate and respects the mutual

(15) The evidence required to demonstrate that goods are lawfully marketed in another Member State varies significantly from Member State to Member State. This causes unnecessary burdens delays and additional costs for economic operators, while preventing national authorities from obtaining the information necessary for assessing the goods in a timely manner. This may inhibit application of the mutual recognition principle. It is therefore essential to make it easier for economic operators to demonstrate that their goods are lawfully marketed in another Member State. Economic operators should benefit from a process of self-declaration, which should provide competent authorities with information on the goods and on their compliance with the rules applicable in that other Member State. The use of the ***voluntary*** declaration does not prevent national authorities from taking a decision restricting market access, on the condition that such a decision is proportionate, ***justified*** and respects the mutual

recognition principle and this Regulation.

recognition principle and this Regulation.

## Amendment 10

### Proposal for a regulation

#### Recital 16

##### *Text proposed by the Commission*

(16) The producer, or the producer's representative, should be responsible for filling in the information in the mutual recognition declaration as the producer knows the goods best. However, the information that the goods are being made available to end users in the relevant Member State may be in the possession of an importer or a distributor, rather than the actual producer. It should therefore be permissible for another economic operator to fill in this information in place of the producer.

##### *Amendment*

(16) The producer, or the producer's ***authorised*** representative, should be responsible for filling in the information in the mutual recognition declaration as the producer knows the goods best. However, the information that the goods are being made available to end users in the relevant Member State may be in the possession of an importer or a distributor, rather than the actual producer. It should therefore be permissible for another economic operator to fill in this information in place of the producer, ***provided that the economic operator takes the responsibility for the information filled into the mutual recognition declaration.***

## Amendment 11

### Proposal for a regulation

#### Recital 18

##### *Text proposed by the Commission*

(18) In order to ensure that the information provided in a mutual recognition declaration is comprehensive, a harmonised structure for such declarations should be laid down for use by economic operators wishing to make such declarations.

##### *Amendment*

(18) In order to ensure that the information provided in a mutual recognition declaration is comprehensive ***and truthful***, a harmonised structure for such declarations should be laid down for use by economic operators wishing to make such declarations.

## Amendment 12

### Proposal for a regulation

#### Recital 20

*Text proposed by the Commission*

(20) In order to enhance the efficiency and competitiveness of businesses operating in the non-harmonised area, it should be possible to benefit from new information technologies for the purposes of facilitating the provision of the mutual recognition declaration. Therefore, economic operators should be able to make their declaration available online.

Amendment 13

**Proposal for a regulation**  
**Recital 20 a (new)**

*Text proposed by the Commission*

**Amendment 14**

**Proposal for a regulation**  
**Recital 20 b (new)**

*Text proposed by the Commission*

*Amendment*

(20) In order to enhance the efficiency and competitiveness of businesses operating in the non-harmonised area, it should be possible to benefit from new information technologies for the purposes of facilitating the provision of the mutual recognition declaration. Therefore, economic operators should be able **and encouraged** to make their declaration available online **and in a secure way**.

*Amendment*

***(20 a) The Commission should ensure that a template for the mutual recognition declaration and relevant guidelines to complete the declaration are made available on the Single Digital Gateway in all of the official languages of the Union.***

*Amendment*

***(20b) A well-functioning principle of mutual recognition is an essential complement to harmonisation at EU level, especially when taking into consideration that many products have both harmonised and non-harmonised aspects following that a considerable number of products with non-harmonised aspects exist in the internal market.***

## Amendment 15

### Proposal for a regulation Recital 22

*Text proposed by the Commission*

(22) Where **producers** decide not to make use of the mutual recognition declaration mechanism, it should be for the Member State to request the information that it considers necessary for the assessment of the goods, **taking due account** of the principle of proportionality.

*Amendment*

(22) Where **economic operators** decide not to make use of the mutual recognition declaration mechanism, it should be for the Member State to request the **specific and clearly defined** information that it considers necessary for the assessment of the goods **in respect** of the principle of proportionality. **The use of the declaration does not prevent national authorities from taking a decision restricting the access to market in accordance with this Regulation.**

## Amendment 16

### Proposal for a regulation Recital 22 a (new)

*Text proposed by the Commission*

*Amendment*

**(22 a) The economic operator should be given appropriate time within which to submit documents or any other information requested by the competent authority of the Member State of destination, or to present any comments or arguments in relation to the assessment of the goods in question.**

## Amendment 17

### Proposal for a regulation Recital 25

*Text proposed by the Commission*

*Amendment*

(25) While a competent authority is assessing goods before deciding whether or not it should deny or restrict market access, it should not be able to take decisions suspending market access, except where

(25) While a competent authority is assessing goods before deciding whether or not it should deny or restrict market access, it should not be able to take decisions suspending market access, except where

rapid intervention is required to prevent harm to safety *and* health of users or to prevent the goods being made available where the making available of such goods is generally prohibited on grounds of public morality or public security, including for example the prevention of crime.

rapid intervention is required to prevent harm to safety *or* health of users, *persons or to the environment*, or to prevent the goods being made available where the making available of such goods is generally prohibited on grounds of public morality or public security, including for example the prevention of crime.

## Amendment 18

### Proposal for a regulation

#### Recital 26

##### *Text proposed by the Commission*

(26) Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>23</sup> establishes a system of accreditation which ensures the mutual acceptance of the level of competence of conformity assessment bodies. The competent authorities of Member States should therefore not refuse test reports and certificates issued by an accredited conformity assessment body on grounds related to the competence of that body. Furthermore, in order to avoid as far as possible the duplication of tests and procedures which have been already carried out in another Member State, Member States should *also accept* test reports and certificates issued by other conformity assessment bodies in accordance with Union law. Competent authorities should be required to take due account of the content of the test reports or certificates presented.

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<sup>23</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

##### *Amendment*

(26) Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>23</sup> establishes a system of accreditation which ensures the mutual acceptance of the level of competence of conformity assessment bodies. The competent authorities of Member States should therefore not refuse test reports and certificates issued by an accredited conformity assessment body on grounds related to the competence of that body. Furthermore, in order to avoid as far as possible the duplication of tests and procedures which have been already carried out in another Member State, Member States should *take due account of* test reports and certificates issued by other conformity assessment bodies in accordance with Union law. Competent authorities should be required to take due account of the content of the test reports or certificates presented.

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<sup>23</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

## Amendment 19

### Proposal for a regulation Recital 30

*Text proposed by the Commission*

(30) Any administrative decision taken by competent authorities of Member States pursuant to this Regulation should specify the remedies available so that an economic operator can bring proceedings before the competent national court or tribunal. The decision should also refer to the problem-solving procedure provided for in *this* Regulation.

*Amendment*

(30) Any administrative decision taken by competent authorities of Member States pursuant to this Regulation should specify the remedies available so that an economic operator can ***appeal the decision or*** bring proceedings before the competent national court or tribunal. The ***administrative*** decision should also refer ***to the possibility of economic operators to use the SOLVIT network and to have access*** to the problem-solving procedure provided for in Regulation.

## Amendment 20

### Proposal for a regulation Recital 32

*Text proposed by the Commission*

(32) The Internal Market Problem Solving Network (SOLVIT) is a service provided by the national administration in each Member State aiming to find solutions for citizens and businesses when their rights are breached by public authorities in another Member State. The principles governing the functioning of SOLVIT are set out in the Commission Recommendation 2013/461/EU<sup>27</sup>.

*Amendment*

(32) The Internal Market Problem Solving Network (SOLVIT) is a service provided by the national administration in each Member State aiming to find solutions for citizens and businesses when their rights are breached by public authorities in another Member State. The principles governing the functioning of SOLVIT are set out in the Commission Recommendation 2013/461/EU<sup>27</sup>. ***Each Member State and the Commission must ensure that a national SOLVIT centre is established and that adequate human and financial resources are available to guarantee that the SOLVIT centre takes part in the European SOLVIT network on the basis of the principles set out in the Recommendation 2013/461/EU. The Commission should increase awareness***

*about the existence and benefits of SOLVIT, especially amongst businesses.*

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<sup>27</sup> Commission Recommendation 2013/461/EU of 17 September 2013 on the principles governing SOLVIT (OJ L 249, 19.9.2013, p. 10).

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<sup>27</sup> Commission Recommendation 2013/461/EU of 17 September 2013 on the principles governing SOLVIT (OJ L 249, 19.9.2013, p. 10).

## **Amendment 21**

### **Proposal for a regulation**

#### **Recital 33**

*Text proposed by the Commission*

(33) The SOLVIT system has *proved* to be an effective non-judicial, problem-solving mechanism that is provided free of charge. It works under short deadlines and provides practical solutions to citizens and businesses when they are experiencing difficulties with their Union rights being recognised by public authorities. Therefore, economic operators should have to rely on SOLVIT first before the problem-solving mechanism under this Regulation can be triggered. Where the economic operator, the relevant SOLVIT centre and the involved Member States in question all agree on the appropriate outcome, no further action should be required.

*Amendment*

(33) The SOLVIT system has *the potential* to be an effective non-judicial, problem-solving mechanism that is provided free of charge. It works under short deadlines and provides practical solutions to citizens and businesses when they are experiencing difficulties with their Union rights being recognised by public authorities. Therefore, economic operators should have to rely on SOLVIT first before the problem-solving mechanism under this Regulation can be triggered. Where the economic operator, the relevant SOLVIT centre and the involved Member States in question all agree on the appropriate outcome, no further action should be required.

## **Amendment 22**

### **Proposal for a regulation**

#### **Recital 34**

*Text proposed by the Commission*

(34) However, where the SOLVIT's informal approach fails, and *serious* doubts remain regarding the compatibility of the administrative decision with the mutual recognition principle the Commission should be empowered to look into the

*Amendment*

(34) However, where the SOLVIT's informal approach fails, and doubts remain regarding the compatibility of the administrative decision with the mutual recognition principle the Commission should be empowered to look into the

matter and provide an assessment to be taken into account by the competent national authorities at the request of *the* SOLVIT centre. The Commission's intervention should be subject to a *reasonable* time-limit, *in compliance with the European Code of Good Administrative Behaviour*.

matter and provide an assessment to be taken into account by the competent national authorities at the request of *any of the SOLVIT centres*. *For the purposes of collecting additional information or documents necessary for completing its assessment, the Commission should inform the relevant SOLVIT centres about its communications with the economic operator or competent authority concerned. When completing an assessment, the Commission should issue an opinion to be communicated through the relevant SOLVIT centre to the economic operator concerned and to the competent authorities and to be considered during the SOLVIT procedure.* The Commission's intervention should be subject to a *two-months*´ time-limit. *The two months period does not include the time necessary for receiving the additional information and documents that might be deemed necessary. If the case is solved during this two months period, the Commission should be able to decide not to issue an opinion.*

## Amendment 23

### Proposal for a regulation Recital 34 a (new)

*Text proposed by the Commission*

*Amendment*

*(34a) Where the Commission assesses an administrative decision, it is important for economic operators to be able to use such assessment if they bring proceedings before a national court or tribunal. Therefore, in the particular case of administrative decisions subject to this Regulation, bringing proceedings before a national court or tribunal should not prevent the economic operator from using SOLVIT.*

## Amendment 24

### Proposal for a regulation Recital 37

*Text proposed by the Commission*

(37) In order to facilitate the free movement of goods, Product Contact Points should be required to provide information, free of charge, on their national technical rules and the application of the principle of mutual recognition. Product Contact Points should be adequately equipped and resourced. In accordance with Regulation [Single Digital Gateway – COM(2017)256] they should provide information through a website and be subject to the quality criteria required by that Regulation, and be subject to the quality criteria set out in that Regulation.

## Amendment 25

### Proposal for a regulation Recital 38

*Text proposed by the Commission*

(38) Cooperation between competent authorities is *essential* for the smooth functioning of the mutual recognition principle and for creating a mutual recognition culture. Product Contact Points and national competent authorities should therefore be required to cooperate and exchange information and expertise in order to ensure a correct and consistent application of the principle and of this Regulation.

## Amendment 26

### Proposal for a regulation

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*Amendment*

(37) In order to facilitate the free movement of goods, Product Contact Points should be required to provide, *up to a reasonable level*, information, free of charge, on their national technical rules and the application of the principle of mutual recognition. Product Contact Points should be adequately equipped and resourced. In accordance with Regulation [Single Digital Gateway – COM(2017)256] they should provide information through a website and be subject to the quality criteria required by that Regulation, and be subject to the quality criteria set out in that Regulation.

*Amendment*

(38) Cooperation between competent authorities is essential for the smooth functioning of the mutual recognition principle and for creating a mutual recognition culture. Product Contact Points and national competent authorities should therefore be required to cooperate and exchange information and expertise in order to ensure a correct and consistent application of the principle and of this Regulation. *The Union should finance activities aiming at enhancing this cooperation between competent authorities such as trainings and exchanges of good practices.*

## Recital 43

*Text proposed by the Commission*

(43) For the purposes of raising awareness about the mutual recognition principle and ensuring that this Regulation is applied correctly and consistently, the Union should finance awareness-raising campaigns and other related activities aiming at enhancing trust and cooperation between competent authorities and economic operators.

*Amendment*

(43) For the purposes of raising awareness about the mutual recognition principle and ensuring that this Regulation is applied correctly and consistently, the Union should finance awareness-raising campaigns and other related activities aiming at enhancing trust and cooperation between competent authorities, **trade associations** and economic operators.

## Amendment 27

### Proposal for a regulation

#### Article 1 – paragraph -1 (new)

*Text proposed by the Commission*

*Amendment*

**-1. The aim of this Regulation is to strengthen the functioning of the internal market by improving the application of the mutual recognition principle and by removing unjustified barriers to trade.**

## Amendment 28

### Proposal for a regulation

#### Article 2 – paragraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

1. This Regulation applies to goods of any type, including agricultural products, and to administrative decisions taken or to be taken by a competent authority of a Member State ('the Member State of destination') in relation to any such goods lawfully marketed in another Member State, where the decision meets the following criteria:

1. This Regulation applies to goods of any type, including agricultural products, and to administrative decisions taken or to be taken by a competent authority of a Member State ('the Member State of destination') in relation to any such goods lawfully marketed in another Member State, where the decision meets **both of** the following criteria:

## Amendment 29

### Proposal for a regulation

#### Article 2 – paragraph 3 – point b

*Text proposed by the Commission*

(b) the provision either prohibits the making available of goods, or a type of goods, on the *domestic* market in that Member State or else it makes compliance with the provision compulsory, de facto or de jure, whenever goods, or goods of a given type, are being made available on that market;

*Amendment*

(b) the provision either prohibits the making available of goods, or a type of goods, on the market in that Member State or else it makes compliance with the provision compulsory, de facto or de jure, whenever goods, or goods of a given type, are being made available on that market;

## Amendment 30

### Proposal for a regulation

#### Article 2 – paragraph 3 – point c – point ii

*Text proposed by the Commission*

(ii) it imposes on those goods, or goods of that type, other requirements that are imposed for the purposes of protecting consumers or the environment and that affect the life-cycle of the goods after they have been made available on the *domestic* market in that Member State, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence either the composition or nature of the goods, or type of goods, or the making available of them on the *domestic* market in that Member State.

*Amendment*

(ii) it imposes on those goods, or goods of that type, other requirements that are imposed for the purposes of protecting consumers or the environment and that affect the life-cycle of the goods after they have been made available on the market in that Member State, such as conditions of use, recycling, reuse or disposal, where such conditions can significantly influence either the composition or nature of the goods, or type of goods, or the making available of them on the market in that Member State.

Amendment 31

### Proposal for a regulation

#### Article 2 – paragraph 4 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***This Regulation is without prejudice to the Directive (EU) 2015/1535 and the obligation to notify draft national technical regulations to the Commission***

*and the Member States prior to their adoption.*

## **Amendment 32**

### **Proposal for a regulation**

#### **Article 2 – paragraph 7 – point a**

*Text proposed by the Commission*

(a) Article 8(1)(d) to (f) *or* Article 8(3) of Directive 2001/95/EC;

*Amendment*

(a) Article 8(1)(d) to (f) **and** Article 8(3) of Directive 2001/95/EC;

## **Amendment 33**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point 2**

*Text proposed by the Commission*

(2) 'making available on the **domestic** market in a Member State' means any supply of the goods for distribution, consumption or use on the market within the territory of that Member State in the course of a commercial activity, whether in return for payment or free of charge;

*Amendment*

(2) 'making available on the market in a Member State' means any supply of the goods for distribution, consumption or use on the market within the territory of that Member State in the course of a commercial activity, whether in return for payment or free of charge;

## **Amendment 34**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point 3**

*Text proposed by the Commission*

(3) 'restricting market access' means imposing conditions to be fulfilled before the goods can be made available on the **domestic** market in the relevant Member State, or conditions for keeping the goods on that market, which in either case require the modification of one or more of the characteristics of those goods, as described in Article 2(3)(c)(i), or the performance of additional testing;

*Amendment*

(3) 'restricting market access' means imposing conditions to be fulfilled before the goods can be made available on the market in the relevant Member State, or conditions for keeping the goods on that market, which in either case require the modification of one or more of the characteristics of those goods, as described in Article 2(3)(c)(i), or the performance of additional testing;

## Amendment 35

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 4 – point a

*Text proposed by the Commission*

(a) prohibiting the goods from being made available on the *domestic* market in the relevant Member State or from being kept on that market;

*Amendment*

(a) prohibiting the goods from being made available on the market in the relevant Member State or from being kept on that market;

## Amendment 36

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 5

*Text proposed by the Commission*

(5) 'prior authorisation' means an administrative procedure under the law of a Member State whereby the competent authority of that Member State is required, on the basis of an application by an economic operator, to give its formal approval before goods may be made available on the *domestic* market in that Member State;

*Amendment*

(5) 'prior authorisation' means an administrative procedure under the law of a Member State whereby the competent authority of that Member State is required, on the basis of an application by an economic operator, to give its formal approval before goods may be made available on the market in that Member State;

## Amendment 37

### Proposal for a regulation

#### Article 3 – paragraph 1 – point 6

*Text proposed by the Commission*

(6) 'producer' means any natural or legal person who manufactures the goods or has the goods designed or manufactured, and markets them under his name or trademark, or any other natural or legal person who, by putting his name, trademark or other distinguishing feature on the goods presents himself as its producer;

*Amendment*

(6) 'producer' means any natural or legal person who manufactures the goods or has the goods designed or manufactured, and markets them under his name or trademark, ***any natural or legal person who modifies goods already lawfully marketed in a Member State in such a way that compliance with the relevant rules applicable in that Member State***

*might be affected*, or any other natural or legal person who, by putting his name, trademark or other distinguishing feature on the goods, *including agricultural products, which were not obtained by a manufacturing process*, presents himself as its producer;

## **Amendment 38**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point 7**

##### *Text proposed by the Commission*

(7) 'authorised representative' means any natural or legal person established within the Union who has received a written mandate from the producer to act on the producer's behalf with regard to the making available of the goods on the *domestic* market in question;

##### *Amendment*

(7) 'authorised representative' means any natural or legal person established within the Union who has received a written mandate from the producer to act on the producer's behalf with regard to the making available of the goods on the market in question;

## **Amendment 39**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point 9**

##### *Text proposed by the Commission*

(9) 'distributor' means any natural or legal person in the supply chain established in the Union, other than the producer or the importer, who makes the goods available on the *domestic* market in the relevant Member State;

##### *Amendment*

(9) 'distributor' means any natural or legal person in the supply chain established in the Union, other than the producer or the importer, who makes the goods available on the market in the relevant Member State;

## **Amendment 40**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 – point 12 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

*(12a) 'conformity assessment body' means conformity assessment body as*

*defined in point 13 of Article 2 of Regulation (EC) 765/2008.*

Amendment 41

**Proposal for a regulation**  
**Article 3 – paragraph 1 – point 12 b (new)**

*Text proposed by the Commission*

*Amendment*

**(12b) ‘serious risk’ means any serious risk, including those the effects of which are not immediate, requiring rapid intervention by the public authorities.**

**Amendment 42**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

The producer of goods, or goods of a given type, that are being or are to be made available on the *domestic* market in a Member State ('the Member State of destination') may draw up a declaration (*a* 'mutual recognition declaration') in order to demonstrate to the competent authorities of the Member State of destination that the goods, or goods of that type, are lawfully marketed in another Member State.

The producer of goods, or goods of a given type, that are being or are to be made available on the market in a Member State ('the Member State of destination') may draw up a *voluntary* declaration *of lawful marketing for the purposes of mutual recognition (hereinafter referred to as* 'mutual recognition declaration') in order to demonstrate to the competent authorities of the Member State of destination *during the assessment of goods pursuant to Article 5,* that the goods, or goods of that type, are lawfully marketed in another Member State.

**Amendment 43**

**Proposal for a regulation**  
**Article 4 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Alternatively,* the producer may mandate his authorised representative to draw up the declaration on his behalf.

The producer may mandate his authorised representative to draw up the declaration on his behalf *provided that the mandate*

*explicitly mentions it.*

## Amendment 44

### Proposal for a regulation

#### Article 4 – paragraph 1 – subparagraph 3

*Text proposed by the Commission*

Within the mutual recognition declaration, the specific information related to the marketing of the goods or type of goods may, however, be filled in by any economic operator.

*Amendment*

*Alternatively*, within the mutual recognition declaration, *or* the specific information *of that declaration* related to the marketing of the goods or type of goods may, however, be filled in by any economic operator, *provided that the relevant signatory can supply the evidence supporting the information of that declaration.*

## Amendment 45

### Proposal for a regulation

#### Article 4 – paragraph 2 – subparagraph 2

*Text proposed by the Commission*

The declaration shall be completed in one of the official languages of the Union and, where that language is not the language required by the Member State of destination, it shall be translated by the economic operators into the language *or languages* required by the Member State of destination.

*Amendment*

The declaration shall be completed in one of the official languages of the Union and, where that language is not the language required by the Member State of destination, it shall be translated by the economic operators into the language required by the Member State of destination.

Amendment 46

### Proposal for a regulation

#### Article 4 – paragraph 3

*Text proposed by the Commission*

3. Economic operators shall be responsible for the content and accuracy of the information that they themselves provide in the mutual recognition declaration.

*Amendment*

3. Economic operators *who complete the declaration* shall be responsible for the content and accuracy of the information, *including translated information*, that they themselves provide in the mutual recognition declaration. *With this regard,*

*economic operators shall be liable in accordance with national laws for providing declarations containing false or misleading information.*

#### **Amendment 47**

##### **Proposal for a regulation Article 4 – paragraph 5**

*Text proposed by the Commission*

5. The mutual recognition declaration may be supplied to the competent authority of the Member State of destination for the purposes of an assessment to be carried out under Article 5. It may be supplied either in paper form or by electronic means.

*Amendment*

5. The mutual recognition declaration may be supplied to the competent authority of the Member State of destination for the purposes of an assessment to be carried out under Article 5. It may be supplied either in paper form or by electronic means ***or be made available online.***

#### **Amendment 48**

##### **Proposal for a regulation Article 4 – paragraph 6 – introductory part**

*Text proposed by the Commission*

6. Economic operators *may* make the declaration available ***on a website, provided that*** the following conditions ***are*** satisfied:

*Amendment*

6. ***Where*** economic operators make the declaration available ***online***, the following conditions ***shall be*** satisfied:

#### **Amendment 49**

##### **Proposal for a regulation Article 4 – paragraph 7 – point a**

*Text proposed by the Commission*

(a) the declaration, together with ***any*** evidence ***reasonably required*** by the competent authority to verify the information contained in it, shall be accepted by the competent authority as sufficient to demonstrate that the goods are lawfully marketed in another Member

*Amendment*

(a) the declaration together with ***supporting*** evidence ***in response to a reasoned request*** by the competent authority to verify the information contained in it, shall be accepted by the competent authority as sufficient to demonstrate that the goods are lawfully

State; and

marketed in another Member State; and

## Amendment 50

### Proposal for a regulation

#### Article 4 – paragraph 8 – introductory part

##### *Text proposed by the Commission*

8. If a mutual recognition declaration is not supplied to a competent authority of the Member State of destination in accordance with the requirements of this Article, the competent authority may request **any of the economic operators** to provide the following documentation and information in order to demonstrate for the purposes of an assessment under Article 5 that the goods are lawfully marketed in another Member State:

##### *Amendment*

8. If a mutual recognition declaration is not supplied to a competent authority of the Member State of destination in accordance with the requirements of this Article, the competent authority may request the **relevant economic operator** to provide the following documentation and information in order to demonstrate for the purposes of an assessment under Article 5 that the goods are lawfully marketed in another Member State:

## Amendment 51

### Proposal for a regulation

#### Article 4 – paragraph 8 – point a

##### *Text proposed by the Commission*

(a) **any** relevant information concerning the characteristics of the goods or type of goods in question;

##### *Amendment*

(a) relevant information concerning the characteristics of the goods or type of goods in question **that is necessary for the assessment**;

## Amendment 52

### Proposal for a regulation

#### Article 4 – paragraph 8 – point b

##### *Text proposed by the Commission*

(b) **any** relevant information on the lawful marketing of the goods in another Member State;

##### *Amendment*

(b) relevant information on the lawful marketing of the goods in another Member State **that is necessary for the assessment**;

## Amendment 53

### Proposal for a regulation

#### Article 4 – paragraph 8 – point c

*Text proposed by the Commission*

(c) **any** other information the competent authority considers **useful** for the purposes of its assessment.

*Amendment*

(c) other **relevant** information the competent authority considers **necessary** for the purposes of its assessment, **provided that such requests are duly justified**.

## Amendment 54

### Proposal for a regulation

#### Article 4 – paragraph 9

*Text proposed by the Commission*

9. Where the goods for which the mutual recognition declaration is being supplied are also subject to a Union act requiring an EU declaration of conformity, the mutual recognition declaration may be **included as part of that** EU declaration of conformity.

*Amendment*

9. Where the goods for which the mutual recognition declaration is being supplied are also subject to a Union act requiring an EU declaration of conformity, the mutual recognition declaration may be **attached to the** EU declaration of conformity.

## Amendment 55

### Proposal for a regulation

#### Article 5 – paragraph 1

*Text proposed by the Commission*

1. Where a competent authority of a Member State **has** doubts as **regards** goods **which the economic operator claims** are lawfully marketed in another Member State, the competent authority shall contact the relevant economic operator without delay and shall carry out an assessment the goods.

*Amendment*

1. Where a competent authority of a **the** Member State **of destination has reasonable** doubts as **to whether** goods **that are made available or are going to be made available on its market** are lawfully marketed in another Member State, the competent authority shall contact the **competent authority of that other Member State and the** relevant economic operator without delay and shall carry out an assessment **of** the goods.

## Amendment 56

### Proposal for a regulation

#### Article 5 – paragraph 1 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***The purpose of the assessment is to establish whether the goods or that type of goods are lawfully marketed in another Member State and, if so, whether the legitimate public interests covered by the applicable national technical rule of the Member State of destination are adequately protected having regard to the characteristics of the goods in question.***

## Amendment 57

### Proposal for a regulation

#### Article 5 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. Where, on completion of an assessment under paragraph 1, the competent authority of a Member State takes an administrative decision with respect to the goods, it shall communicate its decision within **20** working days to the relevant economic operator referred to in paragraph 1, to the Commission and to the other Member States. Notification to the Commission and to the other Member States shall be done by means of the system referred to in Article 11.

3. Where, on completion of an assessment under paragraph 1, the competent authority of a Member State takes an administrative decision with respect to the goods, it shall communicate its decision ***without delay and no later than*** within **15** working days to the relevant economic operator referred to in paragraph 1, to the Commission and to the other Member States. Notification to the Commission and to the other Member States shall be done by means of the system referred to in Article 11.

Amendment 58

### Proposal for a regulation

#### Article 5 – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. The administrative decision referred to in paragraph 3 shall set out the reasons for the decision in a manner that is sufficiently detailed and reasoned to ***enable***

4. The administrative decision referred to in paragraph 3 shall set out the reasons for the decision in a manner that is sufficiently detailed and reasoned to

an assessment to be made of its compatibility with the mutual recognition principle and with the requirements of this Regulation.

*facilitate* an assessment to be made of its compatibility with the mutual recognition principle and with the requirements of this Regulation.

## **Amendment 59**

### **Proposal for a regulation Article 5 – paragraph 5 – point a**

*Text proposed by the Commission*

(a) the national technical rule on which the decision is based;

*Amendment*

(a) the national technical rule on which the decision is based, ***including the date and the number of the notification of the draft of that technical rule pursuant to Directive (EU) 2015/1535;***

## **Amendment 60**

### **Proposal for a regulation Article 5 – paragraph 5 – point b**

*Text proposed by the Commission*

(b) the legitimate public interest ground on which the decision is ***justified***;

*Amendment*

(b) the legitimate public interest ground ***justifying the application of the national technical rule*** on which the ***administrative*** decision is ***based***;

## **Amendment 61**

### **Proposal for a regulation Article 5 – paragraph 5 – point e**

*Text proposed by the Commission*

(e) the evidence demonstrating that the decision is appropriate for the purpose of achieving the objective pursued and that it does not go beyond what is necessary in order to attain that objective.

*Amendment*

(e) the evidence demonstrating that the ***administrative*** decision is appropriate for the purpose of achieving the objective pursued and that it does not go beyond what is necessary in order to attain that objective.

## Amendment 62

### Proposal for a regulation

#### Article 5 – paragraph 6

*Text proposed by the Commission*

6. The administrative decision referred to in paragraph 3 shall specify the remedies available under the law in force in the Member State concerned and the time limits applicable to those remedies, and it shall also include a reference to the procedure under Article 8.

*Amendment*

6. The administrative decision referred to in paragraph 3 shall **clearly** specify the remedies available under the law in force in the Member State concerned and the time limits applicable to those remedies, and it shall also include a reference to the procedure under Article 8.

## Amendment 63

### Proposal for a regulation

#### Article 6 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. While the competent authority of a Member State is carrying out an assessment of goods pursuant to Article 5, it **shall not** temporarily suspend the making available of those goods on the **domestic** market in that Member State, **except** in one or the other of the following situations:

*Amendment*

1. While the competent authority of a Member State is carrying out an assessment of goods pursuant to Article 5, it **may** temporarily suspend the making available of those goods on the market in that Member State, **only** in one or the other of the following situations:

## Amendment 64

### Proposal for a regulation

#### Article 6 – paragraph 1 – point a

*Text proposed by the Commission*

(a) under normal or reasonably foreseeable conditions of use, the goods pose a serious risk, including one where the effects are not immediate, which requires rapid intervention by the competent authority;

*Amendment*

(a) under normal or reasonably foreseeable conditions of use, the goods pose a serious risk **to safety or health of users, persons or to the environment**, including one where the effects are not immediate, which requires rapid intervention by the competent authority;

## Amendment 65

### Proposal for a regulation

#### Article 6 – paragraph 1 – point b

*Text proposed by the Commission*

(b) the making available of the goods, or goods of that type, on the **domestic** market in that Member State is generally prohibited in that Member State on grounds of public morality or public security.

Amendment 66

*Amendment*

(b) the making available of the goods, or goods of that type, on the market in that Member State is generally prohibited in that Member State on grounds of public morality or public security.

### Proposal for a regulation

#### Article 6 – paragraph 2

*Text proposed by the Commission*

2. The competent authority of the Member State shall immediately notify the relevant economic operator, the Commission and the other Member States of any suspension pursuant to paragraph 1. The notification to the Commission and other Member States shall be made by means of the system referred to in Article 11. In cases falling within point (a) of paragraph 1 of this Article, the notification shall be accompanied by a technical or scientific justification demonstrating **why the case is considered to fall within that point**.

*Amendment*

2. The competent authority of the Member State shall immediately notify the relevant economic operator, the Commission and the other Member States of any suspension pursuant to paragraph 1. The notification to the Commission and other Member States shall be made by means of the system referred to in Article 11. In cases falling within point (a) of paragraph 1 of this Article, the notification shall be accompanied by a **detailed** technical or scientific justification demonstrating **that the goods pose a serious risk**.

## Amendment 67

### Proposal for a regulation

#### Article 7 – paragraph 1 – introductory part

*Text proposed by the Commission*

1. If the administrative decision referred to in Article 5 or the temporary suspension referred to in Article 6 is also a measure which is required to be notified through RAPEX as referred to in the General Product Safety Directive

*Amendment*

1. If the administrative decision referred to in Article 5 or the temporary suspension referred to in Article 6 is also a measure which is required to be notified through RAPEX as referred to in the General Product Safety Directive

2001/95/EC, a separate notification to the Commission under this Regulation is not required, provided that the following conditions are met:

2001/95/EC, a separate notification to the Commission **and to the other Member States** under this Regulation is not required, provided that the following conditions are met:

## Amendment 68

### Proposal for a regulation Article 8 – paragraph 1

#### *Text proposed by the Commission*

1. This Article applies if an economic operator affected by an administrative decision has submitted the decision to the Internal Market Problem Solving Network (SOLVIT) and, during the SOLVIT procedure, the Home Centre asks the Commission to give an opinion to assist in solving the case.

#### *Amendment*

1. This Article applies if an economic operator affected by an administrative decision has submitted the decision to the Internal Market Problem Solving Network (SOLVIT) and, during the SOLVIT procedure, the Home Centre **or the Lead Centre** asks the Commission to give an opinion to assist in solving the case. **SOLVIT home and lead centres as well as the economic operator shall provide the Commission with all relevant documents relative to the decision at stake. The Commission may also give an opinion on its own initiative.**

## Amendment 69

### Proposal for a regulation Article 8 – paragraph 2

#### *Text proposed by the Commission*

2. The Commission shall, within **three months of receipt of the request referred to in paragraph 1, enter into communication with the relevant economic operator or operators and the competent authorities who took the administrative decision** in order to assess the compatibility of the administrative decision with the principle of mutual recognition and this Regulation.

#### *Amendment*

2. The Commission shall, **without undue delay, consider the documents and information provided** within **the SOLVIT procedure** in order to assess the compatibility of the administrative decision with the principle of mutual recognition and this Regulation. **Where additional information is needed for the purposes of the assessment referred to above, the Commission shall, without undue delay, request the relevant SOLVIT Centre to enter into communication with the**

*relevant economic operator or operators  
and the competent authorities.*

## Amendment 70

### Proposal for a regulation Article 8 – paragraph 3

*Text proposed by the Commission*

3. *Following completion of its assessment*, the Commission *may* issue an opinion identifying concerns that should, in its view, be addressed in the SOLVIT case and, where appropriate, making recommendations to assist in solving the case.

*Amendment*

3. *Within two months of receipt of the request referred to in paragraph 1* the Commission *shall complete its assessment and* issue an opinion identifying concerns that should, in its view, be addressed in the SOLVIT case and, where appropriate, making recommendations to assist in solving the case. *The two months period does not include the time necessary for receiving the additional information and documents as provided for in paragraph 2.*

## Amendment 71

### Proposal for a regulation Article 8 – paragraph 3 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*Where, during the assessment referred to in paragraph 2, the Commission is informed that the case is solved, it may decide not to issue an opinion.*

## Amendment 72

### Proposal for a regulation Article 8 – paragraph 4

*Text proposed by the Commission*

4. The Commission's opinion shall be *considered* during the SOLVIT procedure referred to in paragraph 1.

*Amendment*

4. The Commission's opinion shall be *communicated to all parties involved in the case as well as to the Member State's competent authorities responsible for*

*market control activities by means of the system referred to in Article 11. The opinion shall be taken into account during the SOLVIT procedure referred to in paragraph 1.*

## Amendment 73

### Proposal for a regulation

#### Article 8 – paragraph 4 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*Recourse to national remedies by economic operators shall neither affect their possibility to use SOLVIT nor the Home Centre's possibility to seek an opinion as referred to in paragraph 1.*

## Amendment 74

### Proposal for a regulation

#### Article 9 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. Where necessary to complement the information provided online under paragraph 2, Product Contact Points shall provide, at the request of an economic operator or a competent authority of another Member State, any useful information, such as an electronic copy of or an electronic link to the national technical rules applicable to specific goods or a specific type of goods in the territory in which the Product Contact Point is established and information as whether that the goods or goods of that type are subject to a requirement for prior authorisation under national law.

3. Where necessary to complement the information provided online under paragraph 2, Product Contact Points shall provide, at the request of an economic operator or a competent authority of another Member State, any useful information, such as an electronic copy of or an electronic link to the national technical rules ***and national administrative procedures*** applicable to specific goods or a specific type of goods in the territory in which the Product Contact Point is established and information as whether that the goods or goods of that type are subject to a requirement for prior authorisation under national law.

## Amendment 75

### Proposal for a regulation Article 10 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. For the purpose of paragraph 1, the Commission shall establish a Coordination Group (the ‘Group’). The Group shall be composed of representatives from the competent authorities and the Product Contact Points of the Member States.**

**The tasks of the Group shall include:**

**(a) facilitate the exchange of information, best practices and other relevant aspects of control activities in Member States;**

**(b) support the functioning of the Product Contact Points and enhance their cross-border cooperation;**

**(c) provide Commission contributions and feedback to any guidance on the concept of overriding reasons of public interest and recommendations, as well as best practices in order to encourage consistent application of this Regulation;**

**(d) facilitate and coordinate exchange of officials among Member States, especially with regard to particularly problematic sectors;**

**(e) facilitate and coordinate the organisation of common training programmes for authorities and businesses.**

## Amendment 76

### Proposal for a regulation Article 10 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. Member States shall ensure that their competent authorities and Product

**3. Each Member State shall inform the Commission of the identity of the**

Contact Points participate in the activities referred to in paragraph 1.

***representatives appointed from that Member State to the Group.*** Member States shall ensure that their competent authorities and Product Contact Points participate in the activities referred to in paragraph 1 ***and paragraph 2a.***

Amendment 77

**Proposal for a regulation**  
**Article 12 – paragraph 1 – introductory part**

*Text proposed by the Commission*

1. The Union ***may*** finance the following activities in support of this Regulation:

Amendment 78

**Proposal for a regulation**  
**Article 12 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) ***the functioning of cooperation amongst Product Contact Points and the technical and logistic support for this cooperation;***

**Amendment 79**

**Proposal for a regulation**  
**Article 14 – paragraph 1**

*Text proposed by the Commission*

1. By (...), and every ***five*** years thereafter, the Commission shall carry out an evaluation of this Regulation against the objectives it pursues and shall submit a report thereon to the European Parliament, to the Council and to the European Economic and Social Committee.

Amendment 80

**Proposal for a regulation**  
**Annex I – paragraph 1 – point 1 a (new)**

*Amendment*

1. The Union ***shall*** finance the following activities in support of this Regulation:

*Amendment*

(d) ***exchange of good practices;***

*Amendment*

1. By (...), and every ***two*** years thereafter, the Commission shall carry out an evaluation of this Regulation against the objectives it pursues and shall submit a report thereon to the European Parliament, to the Council and to the European Economic and Social Committee.

*Text proposed by the Commission*

*Amendment*

***1 a. Name and address of the economic operator drawing up the mutual recognition declaration***

## **Amendment 81**

### **Proposal for a regulation**

#### **Annex I – paragraph 1 – point 4 – point 4.1**

*Text proposed by the Commission*

*Amendment*

4.1. The goods or type of goods described above comply with the relevant rules applicable in the Member State identified below: The title, in each case, of the relevant rules applicable in that Member State:

4.1. The goods or type of goods described above, ***including their characteristics***, comply with the relevant rules applicable in the Member State identified below: The title, in each case, of the relevant rules applicable in that Member State:

## EXPLANATORY STATEMENT

The single market for goods is one of the greatest achievements of the European Union. Achieving a deeper and fairer single market is one of the key political priorities of the European Union together with the implementation of the Single Market Strategy. The free movement of goods is the most developed fundamental freedom generating 25 % of EU GDP and 75 % of intra-EU trade. However, the single market for goods is still not completed. If there are no common rules on the single market such as for products that do not fall under harmonised EU product safety rules or only fall partially under such rules, the principle of mutual recognition should apply. However, the current framework has not proven sufficient to ensure consistent and effective application of the mutual recognition principle.

Therefore, the European Commission announced in its 2017 Commission Work Programme a proposal for the 'Goods Package' that will comprehensively revamp and facilitate the use of mutual recognition in the Single market, hence addressing these weaknesses for a better functioning of the single market for goods.

The principle of mutual recognition requires that goods lawfully marketed in one Member State should not be prohibited in another Member State, unless the latter has justified reasons for banning or restricting the sale. Mutual recognition applies to products not subject to Union harmonisation legislation or only partly covered by it, such as a wide range of consumer products (textile, footwear, childcare articles, jewellery, tableware or furniture).

The new mutual recognition regulation should clarify and simplify the procedures to be followed by businesses and national authorities and improve the functioning of mutual recognition.

Market access based on mutual recognition should only be denied if there is a legitimate and proportionate public interest at stake. Moreover, it is necessary to clarify the scope of mutual recognition and clearly define when it is applicable to increase legal certainty for businesses and national authorities as to when the mutual recognition principle can be used.

The voluntary 'mutual recognition declaration' to be completed by economic operators should help businesses demonstrate that their product already meets the requirements of another Member State, reassure the authorities and facilitate cross-border cooperation. The introduction of a self-declaration to facilitate the demonstration of a product being already lawfully marketed will increase legal certainty about the application of mutual recognition and facilitate its application by businesses.

Setting up administrative cooperation will enhance communication and trust among national authorities, and thus facilitate the functioning of mutual recognition. Those involved in mutual recognition do not communicate sufficiently well with each other. This is often because powers and responsibilities for specific regulations are scattered, which complicates navigation around these — often very technical — matters. Therefore, the Product Contact Points should be reinforced as the communication channel for mutual recognition.

The Rapporteur proposes to enhance the cross-border cooperation by establishing a Coordination Group composed of the representatives from the competent authorities and the Product Contact Points of the Member States.

The new mutual recognition proposal also introduces a problem solving procedure to provide effective remedies and re-establish trust in mutual recognition. The existing SOLVIT

mechanism should be used as the main problem solving procedure. SOLVIT is a service provided by the national administration in each EU Member State. It helps business when their rights are breached by national authorities in another EU Member State, by aiming at finding a solution. Thus, SOLVIT may be used, as an alternative to court proceedings, by businesses when facing a national decision denying or restricting market access on the basis of the mutual recognition principle.

The proposal should strengthen the European level and the role of the European Commission in the mutual recognition by giving the European Commission obligation to issue opinion on the cases presented to SOLVIT network. Moreover, the European Commission should work more closely with specific countries and sectors to make mutual recognition work. The Commission should also further assess the possible benefits for businesses and national authorities by further developing the existing product list for mutual recognition and provide a guidance on how to apply the principle of mutual recognition. Finally, Member States should continue to explicitly provide for mutual recognition in their national technical rules, but they should do so in a comprehensible manner. Therefore, the Rapporteur encourages Member States to insert a clear and unambiguous 'single market clause' in national technical regulations, and develop specific guidance for its use.

The Rapporteur welcomes the proposal and believes that the improvement of the system for the mutual recognition of goods will simplify the procedures for businesses and national authorities and decrease the administrative burdens for businesses allowing them to benefit from the free movement of goods on the Single Market of the European Union.

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Mutual recognition of goods lawfully marketed in another Member State			
<b>References</b>	COM(2017)0796 – C8-0005/2018 – 2017/0354(COD)			
<b>Date submitted to Parliament</b>	20.12.2017			
<b>Committee responsible</b> Date announced in plenary	IMCO 5.2.2018			
<b>Committees asked for opinions</b> Date announced in plenary	ITRE 5.2.2018	JURI 5.2.2018		
<b>Not delivering opinions</b> Date of decision	ITRE 23.1.2018	JURI 24.1.2018		
<b>Rapporteurs</b> Date appointed	Ivan Štefanec 23.1.2018			
<b>Discussed in committee</b>	22.1.2018	16.5.2018	18.6.2018	11.7.2018
<b>Date adopted</b>	3.9.2018			
<b>Result of final vote</b>	+: –: 0:	31 1 1		
<b>Members present for the final vote</b>	John Stuart Agnew, Pascal Arimont, Daniel Dalton, Nicola Danti, Pascal Durand, Maria Grapini, Liisa Jaakonsaari, Philippe Juvin, Antonio López-Istúriz White, Morten Løkkegaard, Eva Maydell, Nosheena Mobarik, Marcus Pretzell, Virginie Rozière, Christel Schaldemose, Andreas Schwab, Olga Sehnalová, Jasenko Selimovic, Igor Šoltes, Ivan Štefanec, Catherine Stihler, Róza Gräfin von Thun und Hohenstein, Mylène Troszczynski, Anneleen Van Bossuyt, Marco Zullo			
<b>Substitutes present for the final vote</b>	Birgit Collin-Langen, Roberta Metsola, Adam Szejnfeld, Sabine Verheyen, Kerstin Westphal			
<b>Substitutes under Rule 200(2) present for the final vote</b>	Isabella De Monte, Michael Detjen, Michaela Šojdrová			
<b>Date tabled</b>	6.9.2018			

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

<b>31</b>	<b>+</b>
ALDE	Morten Løkkegaard, Jasenko Selimovic
ECR	Daniel Dalton, Nosheena Mobarik, Anneleen Van Bossuyt
EFDD	Marco Zullo
ENF	Mylène Troszczynski
PPE	Pascal Arimont, Birgit Collin-Langen, Philippe Juvin, Antonio López-Istúriz White, Eva Maydell, Roberta Metsola, Andreas Schwab, Michaela Šojdrová, Ivan Štefanec, Adam Szejnfeld, Róza Gräfin von Thun und Hohenstein, Sabine Verheyen
S&D	Nicola Danti, Isabella De Monte, Michael Detjen, Maria Grapini, Liisa Jaakonsaari, Virginie Rozière, Christel Schaldemose, Olga Sehnalová, Catherine Stihler, Kerstin Westphal
VERTS/ALE	Pascal Durand, Igor Šoltés

<b>1</b>	<b>-</b>
EFDD	John Stuart Agnew

<b>1</b>	<b>0</b>
ENF	Marcus Pretzell

Key to symbols:

+ : in favour

- : against

0 : abstention