



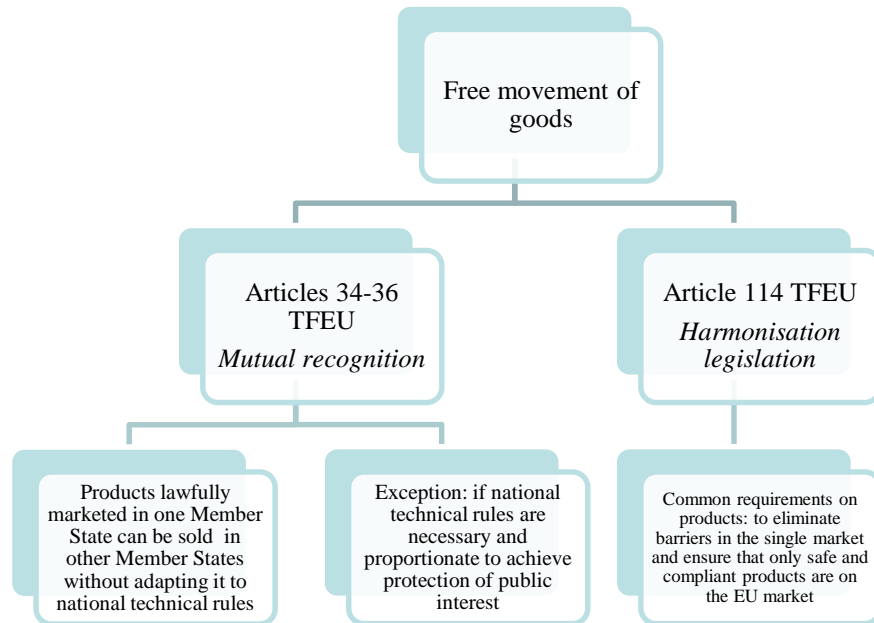
Mutual recognition in the field of goods

European Commission

GROW

B1

Mutual recognition in the field of goods



The principle of Mutual Recognition

A product **lawfully marketed** in one Member State and not subject to EU harmonisation should be allowed to be marketed in any other Member State, **even when the product does not fully comply with the technical rules of the Member State of destination.**

Exception: the Member State of destination may refuse the marketing of a product only where this is strictly necessary for the protection of, for example, **public safety, health or environment.**



The principle of Mutual Recognition

The principle of mutual recognition is based on emerged out of the Court of Justice's famous "**Cassis de Dijon**" and subsequent judgments, and was discussed in a **Commission interpretative communication** of 3 October 1980.

Regulation (EC) no 764/2008 on the procedural application

MUTUAL RECOGNITION FOR GOODS

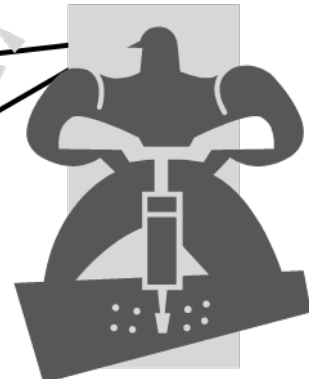
Cassis de Dijon...
Regulation 764/2008...
Equivalence of
regulatory objectives...
Article 36 TFEU...
Overriding requirements
of general public
importance...



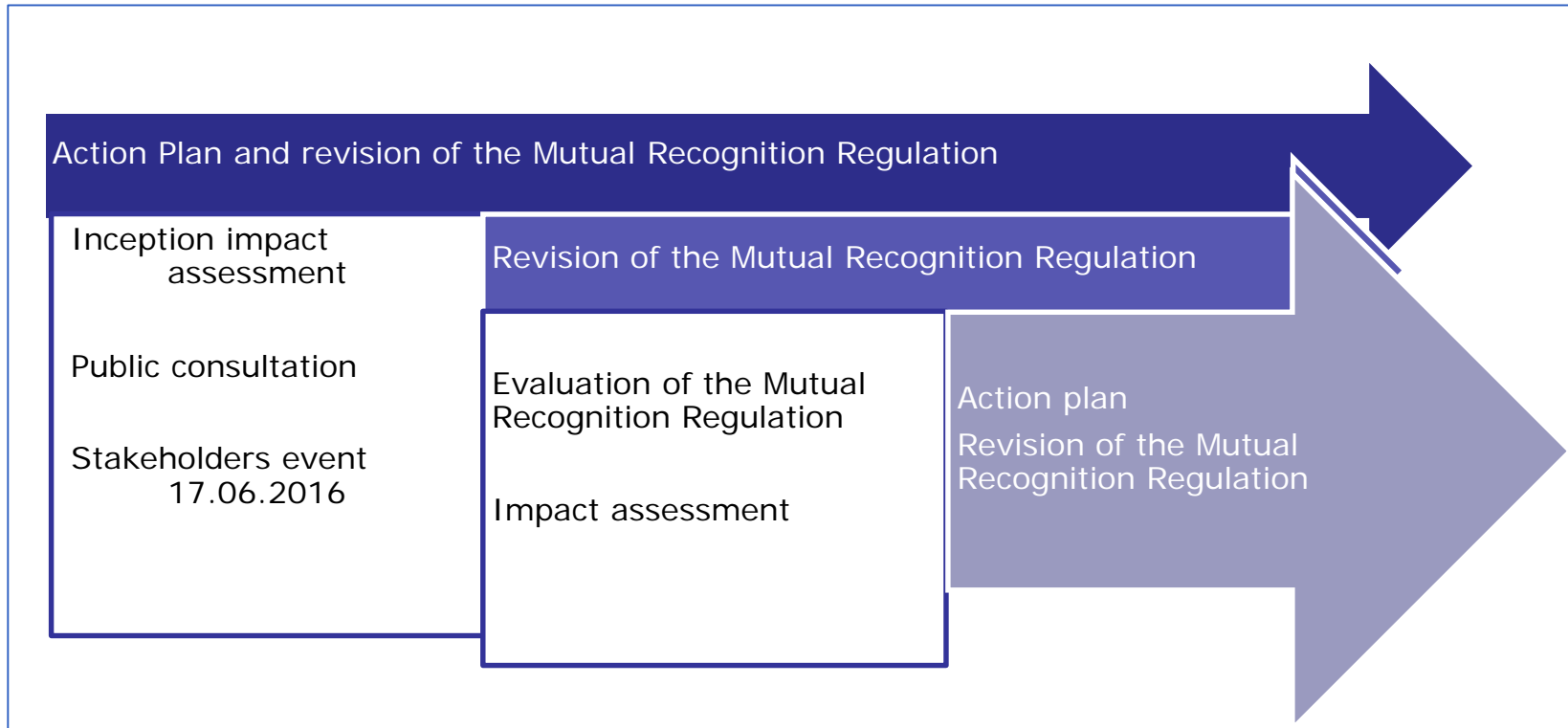
**This is NOT
working!**



Sorry for the
inconvenience we are
currently working on
fixing this problem.



Mutual recognition in the field of goods



Evaluation of mutual recognition- findings

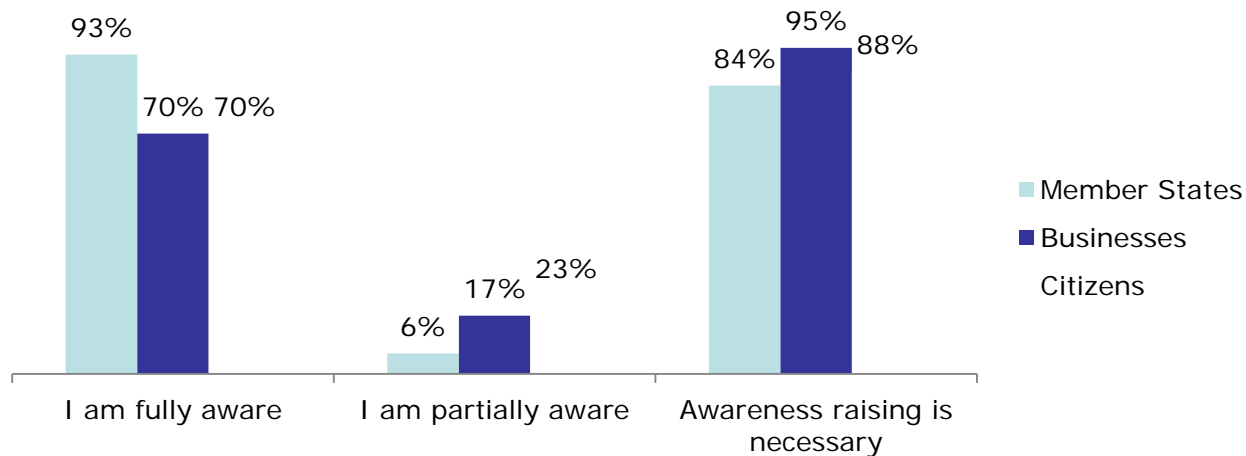
- Mutual recognition is still relevant and has the potential to bring added value in relation to free movement of goods. Despite this potential, the principle does not function well:
 - ✓ Most economic operators don't rely on mutual recognition and prefer adapting their products or give up the market
 - ✓ Those relying on the principle often face denials of market access
- The procedural guarantees put in place by Regulation 764/2008 are insufficient to ensure easy and reliable use of mutual recognition

Evaluation of mutual recognition Findings

Why mutual recognition is not functioning as it should?

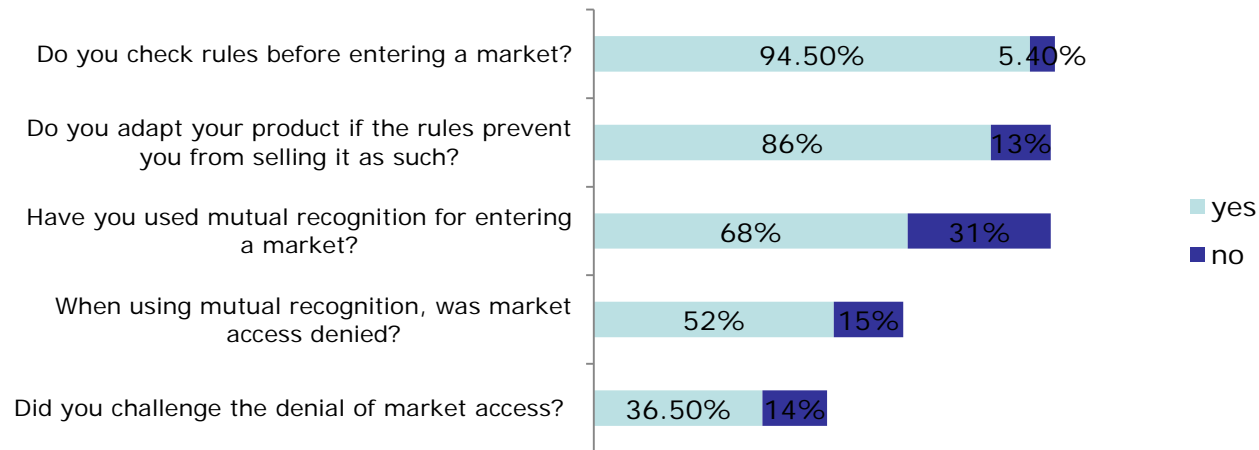
Lack of awareness

Do you know that a product lawfully marketed in one Member State must, in principle, be admitted in another Member State?



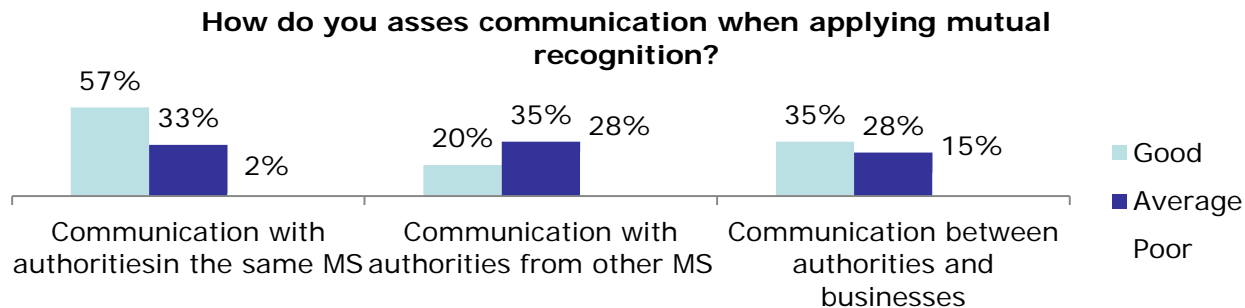
Evaluation of mutual recognition Findings

Lack of legal certainty



Evaluation of mutual recognition Findings

Lack of cooperation among national authorities



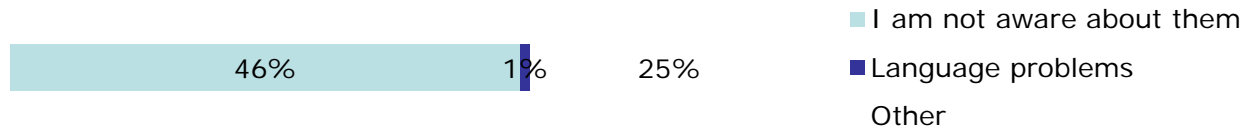
Evaluation of mutual recognition Findings

Product Contact Points

Have you ever contacted a PCP?



What was the reason for not contacting a PCP?





Action plan

Awareness raising and trainings

- To increase national authorities reliance on and trust of the mutual recognition principle via dedicated training
- Focus on national authorities (PCPs, competent authorities working on problematic areas, market surveillance authorities, SOLVIT staff) and on businesses
- "Train the trainer " package completed by a "Mutual recognition rule book "



Action plan

Exchange of officials

- To build trust and mutual understanding of different regulatory approaches and concerns
- Focus on particular problematic sectors



Action plan

Single Market Clause

"Goods lawfully marketed in another Member State of the European Union or in Turkey, or originating and lawfully marketed in an EFTA State that is a contracting party to the EEA agreement are presumed to be compatible with this measure. The application of this measure is subject to Regulation (...)"

To provide for mutual recognition in national technical rules in a more comprehensive way, by inserting a standard clear and unambiguous clause



Future Regulation on mutual recognition of goods

Mutual recognition declaration

- The evidence required to demonstrate that goods are lawfully marketed in another Member State varies significantly from Member State to Member State, causing unnecessary burdens, delays and additional costs for economic operators and preventing national authorities from obtaining the necessary information for assessing the goods
- The declaration facilitates the way economic operators provide information to competent authorities on the goods they are marketing on their territory



Future Regulation on mutual recognition of goods

Mutual recognition declaration

- The declaration is voluntary, based on a standardised template and can be made available online
- The declaration contains information on the rules the product complies with and on their marketing in the "origin" Member State



Future Regulation on mutual recognition of goods

Mutual recognition declaration

- Can be filled in by any economic operator: producer (or his representative), importer or distributor
- The economic operator(s) signing the declaration is / are responsible as regards the accuracy of what they are declaring
- The declaration needs to be updated, when necessary, to reflect any changes e.g. changes in the technical rules



Future Regulation on mutual recognition of goods

Procedure for the assessment of goods

- National authorities to carry out an individual assessment of the products to determine:
 - **Whether they are lawfully marketed in another MS**
 - **Whether the legitimate public objectives are adequately protected**
- Default scenario – goods can access the national market unless a decision restricting or denying market access has been notified to the economic operator
- Case by case assessment: proportionality, specific legitimate public objective and state of the art assessment



Future Regulation on mutual recognition of goods

The problem solving mechanism

- Aims at providing a business friendly alternative for economic operators wishing to challenge national decisions denying market access
- Economic operators have to first submit their case to SOLVIT before the problem solving mechanism can be triggered
- At the request of SOLVIT, the Commission is empowered to look into the matter and provide an assessment



Future Regulation on mutual recognition of goods

The role of Product Contact Points

- Aims at offering more reliable and specific information on applicable national technical rules
- PCPs cover both harmonised and non-harmonised products
COM(2017)795/2"Enforcement proposal"
- PCPs are the main communication channel between economic operators and competent national authorities
- Obligation to cooperate and exchange information
- Administrative, technical and logistic support to be provided by the Commission



Future Regulation on mutual recognition of goods

Informal political agreement reached on 22 November 2018

Expected entry into force mid-2019 and application mid-2020



***Thank you for your
attention***