

- the need to meet different technical regulations or standards in different Member States;
- the duplication and certification procedures in different Member States;
- the reluctance of the public authorities in certain Member States to open public procurement to nationals of other Member States.

Two methods to remove technical barriers are being followed; the *Cassis de Dijon* or "mutual recognition" approach and the harmonization approach.

In the *Cassis de Dijon* case, the European Court of Justice ruled that where a product is lawfully manufactured and marketed in one Member State, it should be able to be sold without restriction throughout the Community. In other words, if a product meets the legislative requirements in one Member State it is presumed to be of such a standard that it can be resold in all other Member States even if it does not precisely meet the requirements of the other states. This important judgment established the principle of **mutual recognition** of standards. The importation and sale of a product from another Member State can only be refused if, in the particular circumstances of the case, it is necessary to satisfy a limited range of public interests, e.g., health, safety and consumer and environmental protection.

In the *Cassis de Dijon* case, cassis (a liqueur) was marketed in France. German law required such liqueurs to contain a specific minimum amount of alcohol, which was higher than that contained in cassis. The European Court of Justice held that cassis could not be banned from sale in Germany because it did not contain the quantity of alcohol required by German authorities. A minimum alcohol requirement was not a **necessary** provision for the protection of public health.

The mutual recognition principle may not, however, always be sufficient. It does not deal with all cases where differing national regulations address similar public interest issues such as the protection of consumers in different ways, or whether Member States adopt incompatible technical standards (as in the case of television or telecommunications). In such cases Community rules are needed to replace the varying legislative provisions of the Member States. This process, known as **harmonization**, has been extensively used and relied upon by the Community for the past twenty-five years. The difficulty has been that the adoption of each harmonization measure has normally required unanimity in the Council of Ministers. This has often either been impossible to achieve or taken up to fifteen years to agree.