

Free Movement of Goods

- ◆ Various types of markets
- ◆ Economic integration schemes
- ◆ The EU customs union

Various types of markets

- ◆ Free trade area
- ◆ Customs union
- ◆ Common market
- ◆ European Economic Area (EEA)
- ◆ Economic union
- ◆ Political union

Economic integration schemes

Scheme	Free intra-scheme trade	Common commercial policy	Free factor mobility	Common monetary policy	One government
<i>Free trade area</i>	Yes	No	No	No	No
<i>Customs Union</i>	Yes	Yes	No	No	No
<i>Common market</i>	Yes	Yes	Yes	No	No
<i>Economic union</i>	Yes	Yes	Yes	Yes	No
<i>Political union</i>	Yes	Yes	Yes	Yes	Yes

Removal of Customs Duties

- ◆ Arts 23-27 EC Treaty (Arts 28-33 FEU)
- ◆ Creation of Customs Union

Article 23(1) (Art 28(1) FEU)

“The Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties in imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.”

Art 23(1) cont'd

2 distinct parts

- ◆ Elimination of customs duties and charges having equivalent effect
- ◆ Adoption of a common customs tariff (CCT)

The External Aspects of the SEM

- ◆ The CCT
- ◆ The Common Commercial Policy (CCP)

The CCT

- ◆ Nomenclature for the classification of goods
- ◆ Rules for the valuation of goods
- ◆ Rules for determining origin

Elimination of Customs Duties

◆ Article 25 EC Treaty (Art 30 FEU)

“ Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to custom duties of a fiscal nature.”

The case-law

- ◆ *Van Gend en Loos*, Case 26/62 [1963]
- ◆ *Carbonati Apuani* C-72/03 [2004]
- ◆ *Commission v Italy* Case 7/68 [1968]
- ◆ *Jorgenskiold v Gustafsson* C-97/98 [1999]

Goods in “free circulation”

- ◆ Article 23(2) EC Treaty (Art 28(2) FEU)
“The.... Shall also apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.”

Meaning cont'd

Article 24 EC Treaty (Art 29 FEU)

“ products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any custom duties or charges having equivalent effect which are payable have been levied in that Member State and if they have not benefited from total or partial drawback of such duties or charges.”

Charges Having Equivalent Effect

- ◆ No definition in EC Treaty
- ◆ *Commission v Luxembourg & Belgium* (gingerbread) Joined Cases 2 & 3/62 [1962]
- ◆ *Sociaal Fonds voor de Doamantarbeiders v Brachfield* (diamond workers) Joined Cases 7 & 3/69 [1969]

Cont'd

◆ *Commission v Italy* Case 24/68 [1969]

" any pecuniary charge, however small and whatever its designation and mode of application, which is imposed unilaterally on domestic or foreign goods by reason of the fact they cross a frontier.....even if it is not imposed for the benefit of the State, is not discriminatory or protective in effect and if the product on which the charge is imposed is not in competition with any domestic product." (para. 9)

Further case-law

- ◆ *Carbonati* C-72/03 [2004]
- ◆ *Legros* C-63/90 [1992]

Charge imposed for service

- ◆ *Commission v Italy* Case 24/68
- ◆ *Commission v Belgium* Case 132/82 [1983]
- ◆ *Commission v Italy* Case 340/87 [1989]
- ◆ *Cadsky* Case 63/74 [1975]
- ◆ *Bresciani* Case 87/75 [1976]

Inspections charges

◆ *Commission v Germany* Case 18/87 [1988]

- Not exceed cost of inspection
- Inspection obligatory
- Prescribed by Community law
- Promote free movement

Internal taxation

- ◆ Art 90 EC Treaty (Art 110 FEU)
- ◆ VAT Directives

Next Seminar

Quantitative restrictions and measures
having equivalent effect