
EU SUBSTANTIVE LAW

SEMINAR 1 INTRODUCTION TO THE SINGLE EUROPEAN MARKET

Reading

(Any introductory book is sufficient)

- Barnard's *The Substantive Law of the EU* (4th ed. OUP, 2013) Ch1
- Craig "The Evolution of the Single Market" in The Law of the Single European Market: Unpacking the Premises (ed by Barnard & Scott) Ch 1

I Introduction

- What is the single European market all about?
- What is the *acquis communautaire*?
- The EEC Treaty 1957 ... originally 3 Communities
- Integration: free trade area to a full-blown federation
- NB: EEA; EFTA; NAFTA; MERCOSUL

II The Common Market

- **Article 3 TEU** – creation of a common market – factors of production (goods, people, services & capital)
Article 26 TFEU specifies the free movement of goods as an essential element of the internal market. Article 26(2) states that *the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.*
- MS no longer free to determine tariffs in respect of goods originating from outside
- Common policies & the principle of non-discrimination on nationality grounds
- Articles 34-36; 45; 49; 56 & 57; 63 TFEU; and 56 (capital) – negative integration
Principle of non-discrimination – Articles 18 & 19 TFEU

How is the EU Market to be Achieved?

- abolition of customs duties, quantitative restrictions (QRs) and measures having equivalent effect (MHEEs)
- establishment of a Common Commercial Policy (CCP)
- abolition of obstacles to free movement of persons, services and capital
- adoption of common policies
- approximation of laws required for proper functioning of the common market

Historical Review

- end of 1960s Common Customs Tariff (CCT) in place
- early 70s oil crisis
- late 70s and early 80s stagnation
- 1985 White Paper enumerating all the measures necessary to complete the internal market – eurosclerosis!
- adoption of the Single European Act 1987; The Treaty on European Union (the EU Treaty) ; The Treaty of Amsterdam; The Treaty of Nice

- The EU Treaty (only the first few articles that outline the objectives and values of the EU are relevant to this course) and the Treaty on the Functioning of the European Union (The Treaty of Lisbon, 2007 and into force on 1st December 2009)

III The 1985 White Paper and 1992

- Cecchini Report - costs to MSs of non-Europe – huge savings – need 300 measures
- Barriers to intra-Community trade
 - Fiscal
 - Physical
 - Technical
 - Other

IV The Single European Act 1987

- Decision-making process faster and more democratic
- Introduction of legal bases for Community action – Article 95 EC Treaty

Article 26(2)

“ an area without frontiers in which the free movement of goods, persons, services and capital are ensured”

NB Prohibitions on Member States rather than on private undertakings

Chalmers D, “The Single Market: From Prima Donna to Journeyman” in Shaw J and More G *New Legal Dynamics of European Union* (Oxford: Clarendon Press, 1995) 55

V The European Economic Area (EEA)

Editorial, “EEA and the EC: Homogeneity of Legal Orders?” - (1999) 36 CLMRev 697.
“Acquis Communautaire”

- free movement of goods, persons, services and capital
- PLUS transport and competition
- PLUS relevant areas to the FOUR freedoms such as company law, research and development, consumer, environment, social policy and education

VI The Treaty on European Union (Maastricht Treaty)

- Timetable for economic and monetary union (EMU)
- Concept of Union citizenship
- Power of co-decision for EP in internal market matters
- The 3-pillar structure
- Monetary Union

VII The Treaties of Amsterdam, Nice and the Reform Treaty (The Lisbon Treaty)

Models: decentralisation (non-discrimination & market access); competitive federation; and centralised (harmonisation)