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# Free Movement of Goods



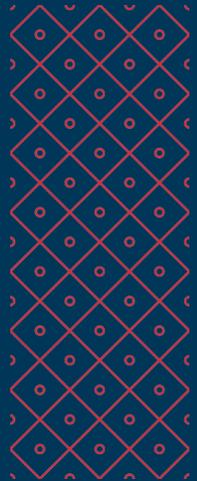
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# Content

1. Free Movement of Goods: Introduction
2. Tariff Barriers + Internal Taxation
3. Non-Tariff Barriers



## Chapter 1

# Free Movement of Goods: Introduction



# Free Movement of Goods

Internal market – area without internal frontiers

- Free movement of goods, persons, services and capital

Harmonization through legislation

- Regulations/Directives

Unharmonized area – Treaties

Common commercial policy



# Basic Conditions

Cross-border element

Applicable EU law

- Goods
  - “Products which can be valued in money, and which are capable, as such, of forming a subject of commercial transactions“ (7/68 Commission v. Italy)
    - X Res extra commercium (human body, hard drugs)
  - Products originating in MSs
  - Products coming from third countries which are in free circulation in MSs

Barriers – tariff, non-tariff



## Chapter 2

# Tariff Barriers + Internal Taxation



# Tariff Barriers

Art. 30 TFEU

Customs union, Common Customs Tariff (regulation)

Customs duties, charges having equivalent effect

- “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 that they cross a frontier and which is not a customs duty in the strict sense“ (24/68 Commission v. IT)

No justification possible



# Internal Taxation

Art. 110 TFEU

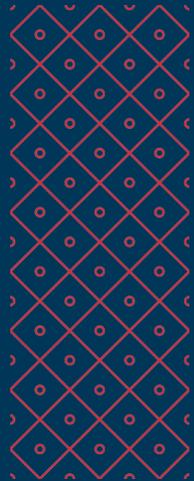
All products in the territory of MSs

Similar products

- No discrimination of foreign products

Competitive products

- Prohibition of protection of domestic products



## Chapter 3

# Non-Tariff Barriers



# Non-Tariff Barriers

Quotas, measures having equivalent effect (art. 34 and 35 TFEU)

- “All trading rules enacted by MSs which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade“ (8/74 Dassonville)
  - Discriminatory measures – discrimination of foreign goods
  - Non-discriminatory measures – applicable to domestic and foreign goods
  - Measures restricting access of foreign goods to domestic market (C-110/05 Commission v. IT)

Exception: selling arrangements (C-267/91 a C-268/91 Keck)

- All relevant traders
- No discrimination of foreign products



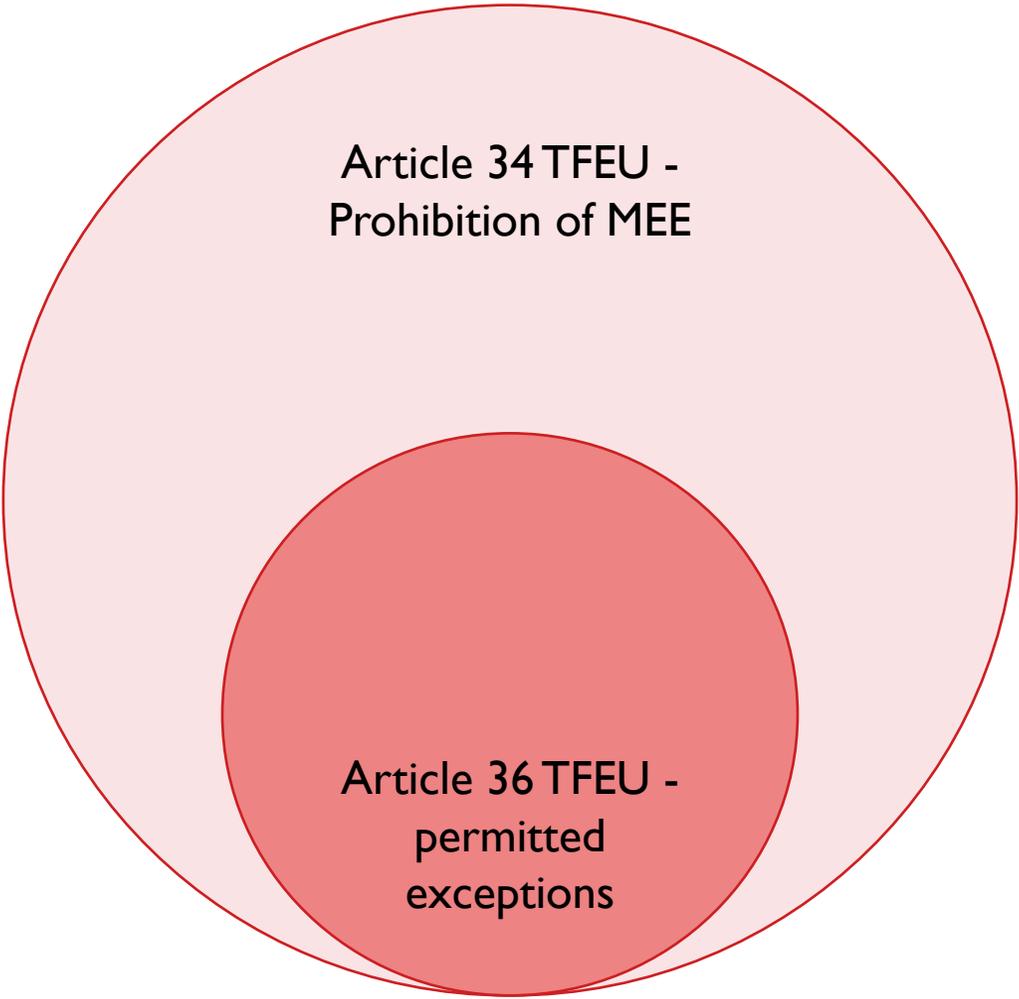
# Justification

## Legitimate aim

- Quotas and discriminatory measures – only Art. 36 TFEU
- Non-discriminatory measures and market access – Art. 36 TFEU and the rule of reason (120/78 Cassis de Dijon)

## Proportionality

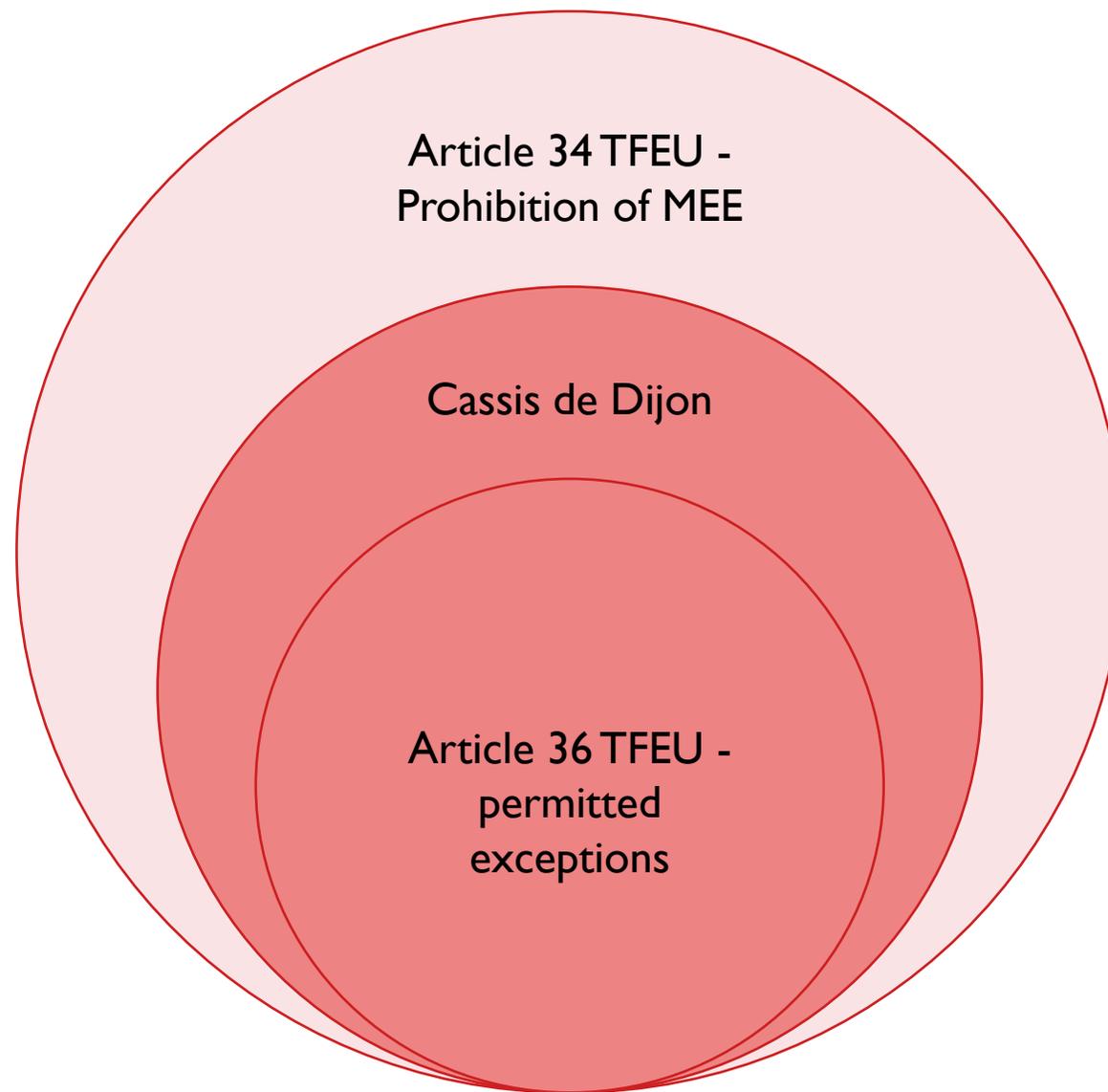
- Suitable to achieve the legitimate aim
- Does not go beyond what is necessary to achieve it



The diagram consists of two concentric circles. The outer circle is light red and contains the text 'Article 34 TFEU - Prohibition of MEE'. The inner circle is a darker red and contains the text 'Article 36 TFEU - permitted exceptions'. The inner circle is positioned at the bottom center of the outer circle.

Article 34 TFEU -  
Prohibition of MEE

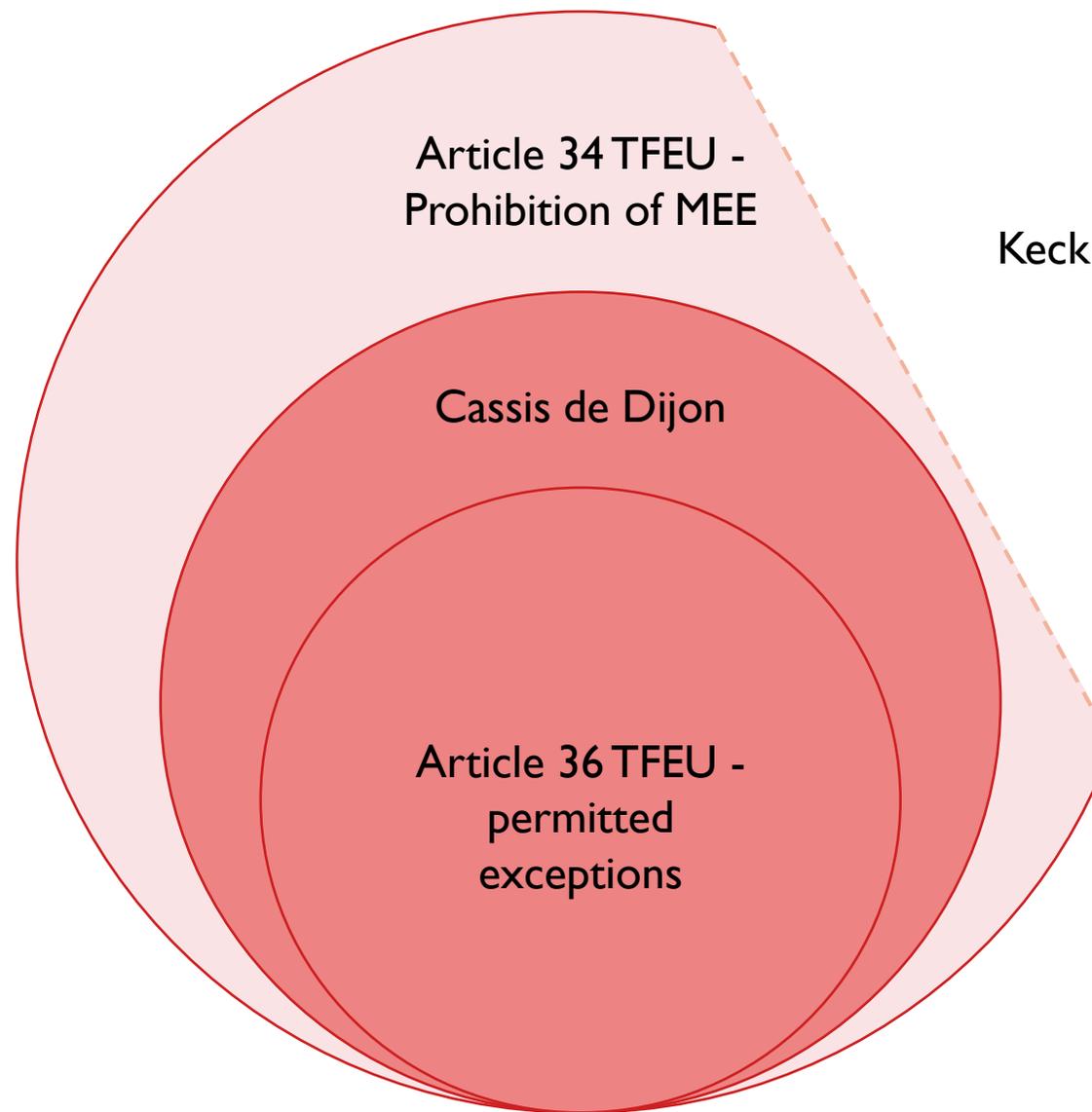
Article 36 TFEU -  
permitted  
exceptions



Article 34 TFEU -  
Prohibition of MEE

Cassis de Dijon

Article 36 TFEU -  
permitted  
exceptions



Keck



# Free Movement of Goods





# Free Movement of Goods

## Step 1: Scope

- a) general conditions:**
  - MS national
  - MS behaviour
  - C-B element
- b) specific conditions:**
  - def. of 'goods'
- c) exceptions**
  - CSA (Keck)

### b) applicable Article

tariff

non-tariff

Art 30

Art 110

Art 34

Art 35

## Step 2: Restriction

Art 30:  
any charge...

Art 110:  
only if discr. / prot.

Art 34+35:  
discriminatory measures

Art 34+35: restrictive  
measures

## Step 3: Justification

**no**  
(but 3 sit. outside)

formally **no**  
(but legitimate  
policy choice)

only by Art 36

Art 36  
+ rule of reason



# Literature

Barnard, C. (2025) – The Substantive Law of the EU: The Four Freedoms (8th ed., OUP)

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