

Article 30 TFEU

Article 30 TFEU: Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.

- Art. 30 provides a **negative duty** on the MS not to impose customs duties, i.e. duty NOT to do sth.
- MS need not take any action under this Art, but must not impose duties in imports and exports
- **Prohibition of customs duties and charges having equivalent effect (CEEs) – golden rule**
- Applies to customs duties and CEE
- **PROHIBITS** between MS consult customs duties & CEE
- Art.30 provides direct effect *Van Gend en Loos*

Facts	The goods in question were reclassified by the Dutch government so they became subject to a higher rate of duty. The importers attempted to use what is now Art.30 TFEU to challenge the new in the national courts.
Held	CJEU ruled that as the new duty imposed a higher rate of import duty upon the importer, it was a direct contravention of what is now Article 30 TFEU, and that this Article provided a right which could be enforced by individual EU citizens.

What is Customs duties

- Customs duties are those charges that are imposed at the point that goods cross a national boundary. Entry into the conditional upon the duty being paid. Because of this they are an obstacle to goods moving from one EU country to another and are prohibited.
- Customs duties are charges levied on goods – whether imports or exports – on the crossing of a border *Woods and Watson, Steiner & Woods EU Law*
- Purpose of the export tax is irrelevant because effect is to hinder trade *Commission v Italy (Italian Art)*

What is CEE

- CEE IS NOT custom duties; CD is charging directly
- CEE is charging sth. INDIRECTLY in the imported items
- “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 constitutes a charge having equivalent effect... 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.” *Commission v Italy (Statistical Levy) [1969] ECR 193*

Material Requirements	Irrelevant Factors
<ul style="list-style-type: none"> • any pecuniary charge • imposed unilaterally on domestic <u>or</u> foreign goods 	<ul style="list-style-type: none"> • size of the charge • its designation and mode of application

<ul style="list-style-type: none">• by reason of crossing a frontier• and which is not a customs duty in the strict sense	<ul style="list-style-type: none">• it is not imposed for the benefit of the state• it is not discriminatory or protective in effect• the product is not in competition with any domestic product
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Example of unlawful CEE:

Commission v Italy (Statistical Levy)

- Small 10 Lire fee to fund compilation of statistics
- Unlawful CEE = a pecuniary charge, no matter how small

Sociaal Fonds voor de Diamantarbeiders [1969] ECR 211

- Levy on imported diamonds to fund benefits for diamond workers
- Unlawful CEE = even if non-protectionist and product charged is not in competition with any domestic product

Short Conclusion:

BOTH CD and CEE prohibited - Art.30

CD – absolutely prohibited with NO exceptions

CEE – absolutely prohibited with exceptions if

Exceptions for CEE

- i. Internal (Dues) taxes
- ii. Payment for services rendered – EU Commission to determine whether it is reasonable
 - Requires proportionality between cost and services provided
 - a. Trader requested the services *Commission v Belgium (Customs Warehouses)*
 - **Services and charges need to be proportionate**
 - b. Trader specifically benefits from the service *Commission v Italy (Statistical Levy), Bresciani*
 - c. Charge is proportionate to the costs of the service provided *Commission v Italy (Statistical Levy)*
- iii. Charge for EU inspections *Commission v Germany (Animal Inspections)*
 - Not within Art.30 if
 - i. **Does not exceed actual cost of inspection**
 - ii. **Inspection is obligatory**
 - iii. **Required in general interest of EU**
 - iv. **Promotes the free movement of goods**
- iv. Inspections required by international treaty *Commission v Netherlands*