

§ 3 The European unified economic area - an overview

I. The principle of an open market economy with free competition (art. 119 FEU Treaty, formerly 4 EC Treaty)

1) Legal nature and effects

- specific principle for the field of economic policy; not a fundamental value

2) Contents

- the decision in favour of an open (not social) market economy
- the decision in favour of free competition (→ elimination of obstacles to competition)

II. The customs union (art. 28 et seq. FEU Treaty, formerly 23 et seq. EC Treaty)

1) General aspects

- **Common Customs Tariff (CCT)** (Regulation 2658/87)
- **partly unitary procedural law, see Customs Codex (CC)** (Regulation 2913/92)
(in the future replaced by the **Modernised Customs Code (CC)** (Regulation 450/2008))

2) The prohibition of charges having equivalent effects to custom duties (art. 28, 30 FEU Treaty, formerly 23, 25 EC Treaty)

- wide concept of ECJ, case 2, 3/69, *Diamandarbeiders*

3) The prohibition of favouring domestic goods through internal taxation (art. 110 FEU Treaty, formerly 90 EC Treaty)

III. Common market (art. 2 EC Treaty) and internal market (art. 26 FEU Treaty, formerly 14 EC Treaty)

1) The concept of the common market

2) The concept of the internal market

- **legal definition in art. 26(2) FEU Treaty, formerly 14(2) EC Treaty:**

"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 this Treaty".

3) The relations between both concepts

- **MAJORITY OPINION: common market as preliminary stage to internal market**
- **the distinction will be eliminated by the Treaty of Lisbon**

IV. The fundamental freedoms in the internal market (art. 28 et seq., 34 et seq., 45 et seq., 49 et seq., 56 et seq., 63 et seq. FEU Treaty, formerly art. 23 et seq., 28 et seq., 39 et seq., 43 et seq., 49 et seq., 56 et seq. EC Treaty)

- **complemented by the freedom of movement and residence (art. 21 FEU Treaty, formerly 18 EC Treaty)**

V. The realization and protection of the internal market

- **approximation of laws (art. 114 et seq. FEU Treaty, formerly 94 et seq. EC Treaty)**
- **protection of competition against the power of undertakings (art. 101 et seq. FEU Treaty, formerly 81 et seq. EC Treaty)**
- **protection of competition against distortion by state aids (art. 107 et seq. FEU Treaty, formerly 87 et seq. EC Treaty)**

VI. The economic and monetary union (art. 119 et seq. FEU Treaty, formerly 98 et seq. EC Treaty)