



Master's Program 2004/2005

Technical and Fiscal Barriers to Trade

Compendium

Peter Gjørtler

Table of Contents

Introduction

Session no. 1

16-18, Monday 15 August 2005, Lecture

The internal market and the economic mechanisms for achieving an ever closer union

The introduction will cover the economic background for the internal market, as well as the relation between the individual rights of free movement, and the links to other parts of EU law.

Reading

Craig & de Búrca p. 3-10, 580-583, 936-938, 1170-1203

Technical Barriers for Goods

Session no. 2

18-20, Monday 15 August 2005, Lecture

Hindrance and discrimination

The lecture on hindrance and discrimination will cover the different prohibitions on restrictions in relation to the free movement of goods. The rule of reason and its relation to the treaty exemptions will be explained, together with the principles of subsidiarity and proportionality.

Reading

Craig & de Búrca p. 613-677

Session no. 3

16-18, Thursday 18 August 2005, Lecture

Intellectual property rights

The lecture will examine the conflict of interests between the realisation of the internal market and the national character of many intellectual property rights, as well as the

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balance that the ECJ has tries to establish between the conflicting interests.

Reading

Craig & de Búrca p. 1088-1122

Session no. 4

18-20, Thursday 18 August 2005, Seminar

Mandatory requirements

The seminar will illustrate the development and application of the Cassis de Dijon principle.

Cases

Case 178/84, Judgment of the Court of 12 March 1987, Germany, ECR p. 1227	p. 010
Case C-189/95, Judgment of the Court of 23 October 1997, Franzén, ECR p. i-5909	p. 025
Case C-383/01, Judgment of the Court of 17 June 2003, Denmark, ECR p. i-6065	p. 039

Session no. 5

16-18, Monday 22 August 2005, Seminar

Market access

The seminar will illustrate the market access approach to barriers to free movement.

Cases

Case 155/80, Judgment of the Court of 14 July 1981, Oebel, ECR p. 1993	p. 047
Case C-67/97, Judgment of the Court (Fifth Chamber) of 3 December 1998, Bluhme, ECR p. i-8033	p. 054
Case C-513/99, Judgment of the Court of 17 September 2002, Concordia Bus, ECR p. i-7213	p. 063

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Session no. 6

18-20, Monday 22 August 2005, Seminar

Advertising and consumer protection

The seminar will explore the development of and limits to the Keck principle, with special emphasis on the issue of advertising.

Cases

- Case C-362/88, Judgment of the Court (Sixth Chamber)
of 7 March 1990, Gb-Inno-Bm, ECR p. i-667p. 079
- Case C-368/95, Judgment of the Court of 26 June 1997,
Familiapress, ECR p. i-3689p. 086
- Case C-405/98, Judgment of the Court (Sixth Chamber)
of 8 March 2001, Gourmet, ECR p. i-1795 p. 095

Fiscal Barriers for Goods

Session no. 7

16-18, Thursday 1 September 2005, Lecture

Customs and taxes

The lecture will introduce the EU limitations on national customs and internal taxes, as well as the possibilities of applying exemptions.

Reading

Craig & de Búrca p. 583-612

Session no. 8

18-20, Thursday 1 September 2005, Seminar

Environment and tax

The seminar will look at the application of the rules against fiscal barriers in the field on protection of the environment.

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Cases

Case C-129/96, Judgment of the Court of 18 December 1997, Inter-Environnement Wallonie, ECR p. i-7411	p. 103
Case C-389/00, Judgment of the Court (Fifth Chamber) of 27 February 2003, Germany, ECR not yet published	p. 113
Case C-213/96, Judgment of the Court of 2 April 1998, Outokumpu Oy, ECR p. i-1777	p. 122

Session no. 9

16-18, Monday 5 September 2005, Seminar

Establishment and tax

The seminar will explore the links between limitation on national tax policies and the right of establishments.

Cases

Case 81/87, Judgment of the Court of 27 September 1988, Daily Mail, ECR p. 5483	p. 132
Case C-212/97, Judgment of the Court of 9 March 1999, Centros, ECR p. i-1459	p. 140
Case 63/86, Judgment of the Court of 14 January 1988, Italy, ECR p. 29	p. 152

Handing out of moot court case

Monday 5 September 2005,

Barriers for other factors of production

Session no. 10

18-20, Monday 5 September 2005, Lecture

Free movement of workers

The lecture will introduce the right of free movement for persons in the capacity as

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workers and the associated rights accorded to workers under EU law.

Reading

Craig & de Búrca p. 701-763

Session no. 11

16-18, Thursday 8 September 2005, Lecture

Free movement of establishment and services

The lecture will present the special issues related to the free movement of services and the right of establishment as contrasted against the right of free movement for goods.

The gradual development of common standards will be exemplified by case law.

Reading

Craig & de Búrca p. 765-825

Session no. 12

18-20, Thursday 8 September 2005, Lecture

Free movement of capital

The lecture will introduce the development of the right of free movement of capital as a separate right, contrasting it with the right of free movement of other factors of production. The lecture will also conclude the presentation of free movement by focusing on the limitations to national policies.

Reading

Craig & de Búrca p. 680-699, 825-841

Session no. 13

16-18, Monday 12 September 2005, Seminar

Right of free movement

The seminar will draw on the lectures on free movement for other factors of

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production in discussing the practical consequences as illustrated by case law for each of the factors.

Cases

Case C-85/96, Judgment of the Court of 12 May 1998, Martínez, ECR p. i-2691	p. 159
Joined cases C-369/96 and C-376/96, Judgment of the Court of 23 November 1999, Arblade, ECR p. i-8453	p. 171
Case C-188/95, Judgment of the Court of 2 December 1997, Fantask, ECR p. i-6783	p. 189

Follow-up seminars

Session no. 14

18-20, Monday 12 September 2005, Seminar

Patent, trademarks and copyright

The seminar will examine the case law relating to the protection of various intellectual property rights, as well as the balance that the ECJ has tries to establish between the conflicting interest of free movement on the internal market.

Cases

Case C-316/95, Judgment of the Court of 9 July 1997, Generics, ECR p. i-3929	p. 203
Case C-349/95, Judgment of the Court of 11 November 1997, Loendersloot, ECR p. i-6227	p. 213
Case C-61/97, Judgment of the Court of 22 September 1998, Videogramdistributører, ECR p. i-5171	p. 225

Session no. 15

16-18, Thursday 15 September 2005, Seminar

Television services

The seminar will concentrate on the free movement of television services as the

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example of a service that in itself is capable of free movement.

Cases

Case C-148/91, Judgment of the Court of 3 February 1993, Veronica, ECR p. i-487	p. 233
Case C-56/96, Judgment of the Court (Sixth Chamber) of 5 June 1997, VT4, ECR p. i-3143	p. 240
Case C-17/00, Judgment of the Court (Fifth Chamber) of 29 November 2001, Coster, ECR p. i-9445	p. 247

Session no. 16

18-20, Thursday 15 September 2005, Seminar

Harmonisation

The seminar will examine the case law on the extent of the EU legislative powers in relation to harmonisation within the field of free movement of the factors of production.

Cases

Case C-376/98, Judgment of the Court of 5 October 2000, Germany, ECR p. i-8419	p. 254
Case C-346/97, Judgment of the Court (Fifth Chamber) of 10 June 1999, Braathens Sverige, ECR p. i-3419	p. 274
Case C-319/97, Judgment of the Court of 1 June 1999, Kortas, ECR p. i-3143	p. 282

Exam

Session no. 17

20-21, Thursday 15 September 2005

Final questions and answers

Deadline for submission of written pleadings

Thursday 15 September 2004

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Session no. 18-21

16-21 Monday 19 September 2005

Oral hearing in the moot court

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