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FREE MOVEMENT OF GOODS

The free movement of goods was bolstered by eliminating customs duties as well as other non-tariff barriers. Principles like mutual recognition and standardisation further advanced the internal market. The 2008 New Legislative Framework enhanced the movement of goods, EU market surveillance, and the CE (European Conformity) mark. Yet, challenges on internal market harmonisation remain, as the COVID-19 pandemic and other factors can still hinder the full free movement of goods.

LEGAL BASIS

Article 26 and Articles 28-37 of the [Treaty on the Functioning of the European Union](#) (TFEU).

OBJECTIVES

The right to the free movement of goods originating in Member States, and of goods from third countries which are in free circulation in the Member States, is one of the fundamental principles of the Treaty (Article 28 of the TFEU). Originally, the free movement of goods was seen as part of a customs union between the Member States, involving the abolition of customs duties, quantitative restrictions on trade and equivalent measures, and the establishment of a common external tariff for the Union. Later on, the emphasis was placed on eliminating all remaining obstacles to the free movement of goods, with a view to creating the internal market.

ACHIEVEMENTS

The elimination of customs duties and quantitative restrictions (quotas) between Member States was accomplished by 1 July 1968. This deadline was not met in the case of the supplementary objectives – the prohibition of measures having an equivalent effect, and the harmonisation of relevant national laws. These objectives became central in the ongoing effort to achieve free movement of goods.

A. Prohibition of charges having an effect equivalent to that of customs duties: Article 28(1) and Article 30 of the TFEU

Since there is no definition of the aforementioned concept in the Treaty, case law has had to provide one. The Court of Justice of the European Union (CJEU) considers that any charge ‘which, if imposed upon a product imported from a Member State to the exclusion of a similar domestic product has, by altering its price, the same effect upon the free movement of products as a customs duty’, may be regarded as a charge having



equivalent effect, regardless of its nature or form ([Joined Cases 2/62 and 3/62](#), and [Case 232/78](#)).

B. Prohibition of measures having an effect equivalent to quantitative restrictions: Article 34 and Article 35 of the TFEU

In its *Dassonville* judgment, the CJEU took the view that all trading rules enacted by Member States which are capable of hindering intra-Community trade (whether directly or indirectly, actually or potentially) were to be considered as measures having an effect equivalent to quantitative restrictions (see [Case 8/74 *Dassonville*](#) of 11 July 1974 and paragraphs 63 to 67 of [Case C-320/03](#) of 15 November 2005). The Court's reasoning was developed further in the [Cassis de Dijon](#) judgment, which laid down the principle that any product legally manufactured and marketed in a Member State in accordance with its fair and traditional rules, and with the manufacturing processes of that country, must be allowed onto the market of any other Member State. This was the basic reasoning underlying the debate on defining the principle of mutual recognition, operating in the absence of harmonisation. Therefore, even in the absence of EU harmonisation measures (secondary EU legislation), Member States are obliged to allow goods that are legally produced and marketed in other Member States to circulate and to be placed on their markets.

Importantly, the field of application of Article 34 of the TFEU is limited by the [Keck](#) judgment, which states that certain selling arrangements fall outside the scope of that article, provided that they are non-discriminatory (i.e. they apply to all relevant traders operating within the national territory, and affect in the same manner, in law and in fact, the marketing of domestic products and products from other Member States).

C. Exceptions to the prohibition of measures having an effect equivalent to that of quantitative restrictions

Article 36 of the TFEU allows Member States to impose restrictions equivalent to quantitative limits for non-economic reasons such as public morality, policy, or security. These exceptions should be narrowly interpreted and cannot lead to arbitrary discrimination or hidden trade barriers between Member States. They must directly serve the public interest and be proportionate to the intended level of protection.

The Court of Justice, in the *Cassis de Dijon* case, acknowledged that Member States can exempt certain national measures from EU trade restrictions if they meet mandatory requirements, such as effective fiscal supervision, protection of public health, commercial fairness, and consumer defence. Member States are required to inform the Commission about these exemptions. Information exchange procedures and a monitoring system were established for oversight of such measures, as outlined in Articles 114 and 117 of the TFEU and [Council Regulation \(EC\) No 2679/98](#). These procedures were updated and formalised in [Regulation \(EU\) 2019/515](#) on mutual recognition, which was passed in 2019, replacing the previous regulation.

D. Harmonisation of national legislation

The adoption of harmonisation laws has made it possible to remove obstacles (for example by making national provisions inapplicable) and to establish common rules aimed at guaranteeing the free circulation of goods and products, and respect for other



EU Treaty objectives, such as protection of the environment and of consumers, or competition.

The harmonisation process in the EU was streamlined by adopting the qualified majority voting for directives related to the single market, as outlined in Article 95 of the Treaty establishing the European Community, as amended by the Maastricht Treaty. The [Commission's 1985 White Paper](#) introduced a 'new approach' to avoid detailed harmonisation, focusing on mutual recognition of national regulations. Under this approach, affirmed by Council [resolutions](#) and [decisions](#), harmonisation is limited to essential requirements and occurs when national rules are not equivalent and hinder trade. This method aims to ensure free movement of goods by technically harmonising entire sectors and maintaining a high level of public interest protection, affecting areas such as toys, construction materials, machinery, gas appliances, and telecommunications equipment.

E. Completion of the internal market

The creation of the single market necessitated the elimination of all remaining obstacles to the free movement of goods. [The Commission's White Paper \(1985\)](#) set out the physical and technical obstacles to be removed and the measures to be taken by the Community to this end. Most of these measures have now been adopted. However, the single market still requires substantial reforms if it is to meet the challenges of technological progress, and some non-tariff barriers still persist.

ROLE OF THE EUROPEAN PARLIAMENT

Parliament has been a strong advocate for completing the internal market, particularly emphasising the 'new approach' to facilitate the free movement of goods. It played a significant role in shaping the harmonisation directives and was deeply engaged in the New Legislative Framework adopted in 2008. Parliament's priorities were to ensure that all market operators are responsible for product compliance and safety and to enhance the visibility and understanding of the CE mark among consumers. It remains active in these efforts, working on the Alignment Package, which includes nine directives that regulate a variety of products such as lifts, pyrotechnic articles, and explosives.

In its [resolution of 8 March 2011](#), Parliament called for the creation of a unified market surveillance system for all products, which led to the 2013 '[Product Safety and Market Surveillance Package](#)'. By April 2019, Parliament had adopted [Regulation \(EU\) 2019/1020](#) to enhance market surveillance and ensure product compliance. In 2021, the Commission [proposed](#) a new regulation to further ensure the safety of non-food consumer products. The updated rules for product safety, aiming to guarantee high safety standards for all products sold in the EU, both online and offline, were formally endorsed by the Parliament in March 2023, leading to the publication of the [General Product Safety Regulation](#) on 10 May 2023.

Standardisation plays a central role in the proper functioning of the internal market. Harmonised EU standards help to ensure free movement of goods within the internal market, allow businesses in the EU to become more competitive, and protect the health and safety of consumers and the environment. Aiming to enhance the content of the standardisation reform, Parliament adopted a [resolution](#) on 21 October 2010.



On 2 February 2022, the Commission introduced a [standardisation strategy](#) to foster a resilient, green and digital single market, proposing changes to the 2012 Standardisation Regulation. Subsequently, [Regulation \(EU\) 2022/2480](#) was passed on 14 December 2022, updating the EU's legal framework for establishing standards. Subsequently, the Internal Market and Consumer Protection Committee (IMCO) held a [hearing](#) on 23 January 2023 to discuss historical and future directions in standardisation policy, with contributions from the Commission and various stakeholders.

Building on the new standardisation strategy, the Commission published a [proposal](#) for the harmonisation of the marketing of construction products on 30 March 2022, in which it specifically focused on the standardisation of the green internal market. The IMCO Committee, together with the Committee on the Environment, Public Health and Food Safety (ENVI), held a public hearing and then adopted its report on the revision of the Construction Products Regulation on 23 May 2023, which includes nearly 300 amendments. The regulation is now anticipating its [third](#) round of interinstitutional negotiations on 13 December 2023.

The eighth legislature concentrated efforts on regulations for cableway installations, appliances burning gaseous fuels, medical devices and personal protective equipment (PPE), as well as on the [eCall Regulation](#) concerning type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 emergency number service. As part of the Circular Economy Package, Parliament adopted legislation on making CE-marked fertilising products available on the single market ([Regulation \(EU\) 2019/1009](#)).

[Research](#) from 2019 estimates that the benefits arising from the principle of free movement of goods and related legislation come to EUR 386 billion annually^[1]. However, barriers to realising the full freedom of movement of goods remain. The existence of these barriers is evidenced by a [study](#)^[2] published in November 2020, which reviewed national rules that restrict the free movement of goods and services and the right to establishment across the EU market. One conclusion was that while the EU single market is the world's largest and most successful example of economic integration, it is not yet free from disproportionate obstacles to the free movement of goods.

During the COVID-19 pandemic, in its [resolution of 17 April 2020](#), Parliament emphasised the critical need to maintain open EU internal borders for goods, underlining the single market's role in the EU's collective prosperity and as a pivotal response to the crisis. The Commission's [communication](#) from 15 May 2020 proposed a coordinated strategy for restoring freedom of movement and lifting internal border controls. This collaborative approach was key to allowing essential goods, including medical supplies and equipment, to move across the EU, mitigating the impact of state-imposed border restrictions.

[1]Poutvaara, P., Contribution to Growth: Free Movement of Goods – Delivering Economic Benefits for Citizens and Businesses, Publication for the Committee on the Internal Market and Consumer Protection, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg, 2019.

[2]Dahlberg, E. et al., Legal obstacles in Member States to Single Market rules, Publication for the Committee on the Internal Market and Consumer Protection, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg, 2020.



In its [resolution of 19 June 2020](#), Parliament recalled that the Schengen area is a cherished achievement at the very heart of the EU project, and called on the Member States to reduce restrictions on free movement and to step up their efforts to achieve the completion of Schengen area integration.

A [webinar](#)^[3] by the Policy Department for Economic, Scientific and Quality of Life Policies in November 2020 for the Committee on the Internal Market and Consumer Protection reviewed the impact of the pandemic on the EU's free movement of goods, services, and people. It discussed the challenges to the flow of healthcare-related goods such as personal protective equipment and emphasised the need for better EU coordination in public procurement and goods movement for future crises. A follow-up [study](#)^[4] presented in February 2021 further examined the pandemic's effect on the internal market and consumer protection, suggesting additional measures to enhance the EU internal market's resilience against future crises.

Parliament has been instrumental in customs harmonisation, culminating in the establishment of the EU Single Window Environment for Customs through [Regulation \(EU\) 2022/2399](#). This regulation, which will unfold over the next decade, initiates with the EU Customs Single Window Certificates Exchange System (EU CSW-CERTEX) already at the pilot stage since 2017. The initial phase up to 2025 aims to enhance intergovernmental exchanges at EU borders, particularly for non-customs procedures. A subsequent phase, starting in 2031, will introduce a business-to-government system to streamline the clearance process for businesses involved in importing or exporting goods, aiming to significantly reduce current trade impediments.

On [interoperability](#) solutions for EU public administrations, businesses and consumers for seamless cross-border provision, a newer Interoperable Europe Act is [undergoing negotiations](#), with Council and Parliament currently debating the final technicalities of the regulation.

In a [study](#)^[5] by the Policy Department for Economic, Scientific and Quality of Life Policies requested by the IMCO Committee, an analysis was published on 9 December 2022 on the Member States' diverging customs authorisation procedures for products entering the EU. As these diverging procedures leading to trade barriers and distortions in the internal market, one of the proposed solutions was the creation of a European customs agency.

Further to this, 17 May 2023 saw a Commission proposal ([COM\(2023\)0257](#)) representing a comprehensive effort to modernise the EU's customs framework. A significant feature of the proposal is the establishment of an EU Customs Data Hub, managed by a newly introduced EU Customs Authority. This hub will serve as a large data repository to detect fraud and non-compliance, and will enable data exchange

[3]Milieu Consulting SRL, The impact of COVID-19 on the Internal Market and Consumer Protection – IMCO Webinar Proceedings, Publication for the Committee on the Internal Market and Consumer Protection, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg, 2020.

[4]Marcus, J. S. et al., The impact of COVID-19 on the Internal Market, Publication for the Committee on the Internal Market and Consumer Protection, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg, 2021.

[5]Hausemer, P. et al., A Comparative Analysis of Member States' Customs Authorisation Procedures for the Entry of Products into the European Union, publication for the Committee on the Internal Market and Consumer Protection, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg, 2022.



between the EU and third countries, and foster cooperation between EU Member States' customs authorities.

For more information on this topic, please see the website of the [Committee on Internal Market and Consumer Protection](#).

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11/2023

