









The benefits of free trade

A) THE ECONOMIC RATIONALE

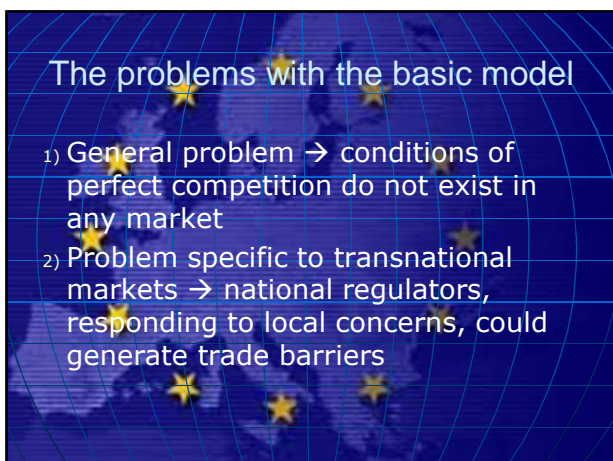


Worldwide free trade → specialization → comparative advantage → economies of scale

Ultimately free trade should lead to

(i) **maximize consumer welfare** in all the States involved (cheaper products and greater choice) and

(ii) ensure **the most efficient use of worldwide resources**



The problems with the basic model

1) General problem → conditions of perfect competition do not exist in any market

2) Problem specific to transnational markets → national regulators, responding to local concerns, could generate trade barriers

How could trade barriers be removed?
International legal cooperation
→ market integration

**INTERNATIONAL LAW AND
FREE TRADE**

What means for allowing States to cooperate each other are provided by international law?
NB: They are legally binding tools

States may:

- a) either enter into multilateral or bilateral international agreements
- b) or create an international organization → a new legal entity whose task is to pursue an objective common to the founding States → **institutional cooperation**

Examples

- i) At regional level: EU, NAFTA
- ii) At global level: WTO

Different stages/forms of market integration

they entail different levels of intensity of integration:

- 1) Free Trade Area (ex. EFTA, NAFTA)
- 2) Customs Union
- 3) Common Market
- 4) Economic and Monetary Union
- 5) Political Union





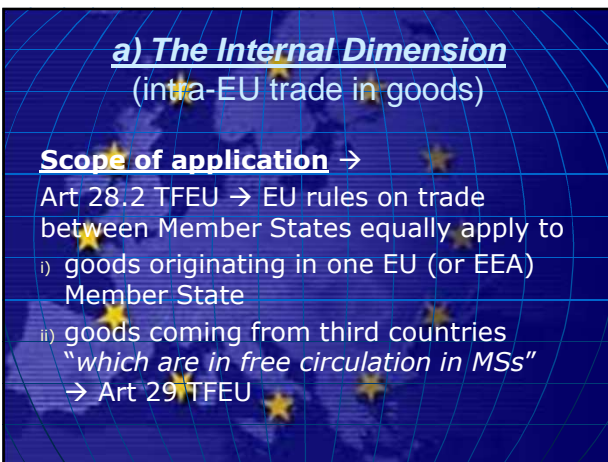




The European Union comprises a customs union (Art 28 TFEU)

EU regime of trade in goods

- a) internal (intra-EU) and
- b) external dimension

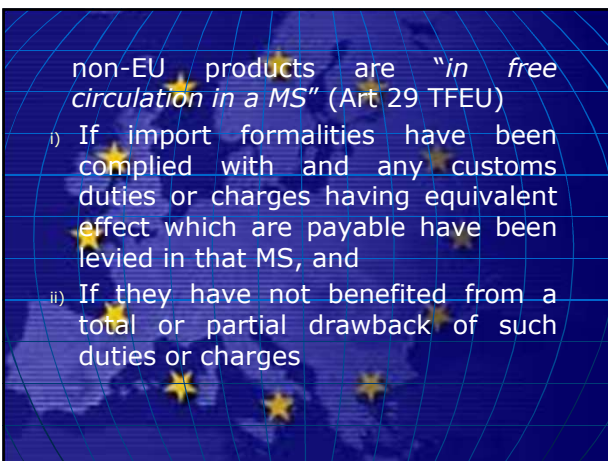


a) The Internal Dimension
(intra-EU trade in goods)

Scope of application →

Art 28.2 TFEU → EU rules on trade between Member States equally apply to

- i) goods originating in one EU (or EEA) Member State
- ii) goods coming from third countries "*which are in free circulation in MSs*" → Art 29 TFEU



non-EU products are "*in free circulation in a MS*" (Art 29 TFEU)

- i) If import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that MS, and
- ii) If they have not benefited from a total or partial drawback of such duties or charges

What regime for the intra-EU trade?

- **"fiscal" or "tariff" barriers**
→ not allowed
- **"non-fiscal" or "non-tariff" barriers**
→ prohibited, unless they may be justified by reasons of general interest

Fiscal (or tariff) measures

- **Customs duties** (and charges having equivalent effect: CEEs) on imports and exports of goods between MSs → Absolutely prohibited under Art 30 TFEU
- **"internal" taxation may not be discriminatory or protectionist** (Art 110 TFEU)

Non-fiscal measures

Quantitative restrictions (QR) or measures having equivalent effects (MEEs)

→ cannot be imposed on goods

- a) imported (Art 34 TFEU)
- b) or exported (Art 35 TFEU) between MSs

→ unless they are justified by overriding reasons

b) The External dimension
(trade in goods with third countries)

- **Common Customs Tariff** (adopted by EU institutions: Art 31 TFEU)
- **Common Commercial Policy** (Arts 206-207 TFEU)

EU may act either by means of regulations or entering into international agreements with third states

Both customs union and common commercial policy fall under **EXCLUSIVE** competence of the EU (Art 3(b) and (e) TFEU)

Exclusive competence means that «only EU may legislate and adopt legally binding acts, the MSs being able to do so themselves only if so empowered by the Union or for the implementation of Union acts» (Art 2.1 TFEU)

**CUSTOMS UNION
VS
COMMON MARKET**

Differences

Customs Union
It only allows for free movement of goods (products)

Common Market
It allows for free movement of

- > **Products** (goods and services) but also
- > **Production Factors** (workers and capital)

The "Functional Approach" to European integration

B) THE POLITICAL RATIONALE

Schuman Declaration (May 5th, 1950)

(...) **Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity (...)**

(...) **The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as a first step in the federation of Europe (...)**

Art. 1 TEU (current version)

«(...) This Treaty marks a new stage in the **process** of creating **an ever closer union** among the peoples of Europe (...)»

see also the Preamble of TEU and TFEU

Beyond a single market

a) The right to free movement associated with the **European citizenship** (Art 21 TFEU)

b) The new concept of an **Area of Freedom, Security and Justice** (Art 67 et seq. TFEU) in particular, the European Judicial Area in civil matters (Art 81 TFEU)
