University of Tulsa

College of Law

Dublin, Ireland, Summer 2013

European Union Law II

Instructor: Dr Mary Catherine Lucey, Barrister-at-Law

I. Aims, Objectives, Outcomes

Aims:

The course aims to expose students to the substantive Law of the European Union. This course aims also to provide students with the tools necessary to recognise and apply EU Law to hypothetical problem situations.

Objectives:

1) To explore the substantive laws of the EU, particularly those relating to the 'four freedoms', i.e. free movement of goods, services and people.

2) To provide a good working knowledge of how EU law is applied in and impacts upon European national law.

Outcomes:

By the end of this course students should, amongst other things, be able to:

Critically analyze the main features of EU Substantive law, in particular the most significant of the 'Fundamental Freedoms'.

Apply EU law in a hypothetical fact situation involving the administrative/constitutional law of the EU and provide advice as to the likely outcome.

Apply EU law in a hypothetical fact situation that implicates issues in one or more of the following areas a) Free movement of workers, b) freedom of establishment c) freedom to provide and receive services.

II. Texts and Materials

Required Texts

The textbook for the course will be Foster on EU Law (3rd ed., OUP, July 2011). You may wish to buy a copy of the consolidated EU Treaties.

III. Syllabus

Introduction to the substantive law of the EU

(specific reading assignments and a more detailed breakdown of issues will be provided in class; we will cover the material in the order listed below)

TOPIC ONE

The free movement of goods- Foster, Chapter 8:

TOPIC TWO

The free movement of economically active persons Foster, Chapter 9:

TOPIC THREE

The free movement of persons: Wider issues and EU citizenship Foster, Chapter 10:

TOPIC FOUR

Anti-discrimination/Equality law Foster, Chapter 11:

Assessment will be by way of a 1 and ½ hour examination comprising a choice of problem questions, short answers and essays.

TOPIC ONE- The free movement of goods detailed syllabus

Please read Foster, Chapter 8:

Supplemental Reading and Questions to Ponder:

Introduction and General Issues:

A. **Skim Lord Cockfield's Report – Can you spot any existing barriers to free trade identified in the report?**
B. **Skim the European Commission Report on the Free Movement of Goods. What is the Mutual Recognition Principle?**
C. **What is the difference between negative and positive approaches to achieving the free movement of goods? Which is preferable? Why?**

Custom Duties and CEEs

A. **Locate and review at least one case concerning 'exceptions' to the prohibitions on Customs Duties?**

Discriminatory Internal Taxation

A. **How would you distinguish the cases 112/84, *Humblot* and 132/88, *Commission v. Greece*?**

QRs and 'distinctly applicable' MEQRs

A. **Is a ban a quantitative restriction?**
B. **What is a MEQR under *Dassonville*?**
C. **What is a "measure"? Read and consider *Commission v. Germany* and *Commission v. Ireland*.**
D. **For a good overview, read the "Road to Keck" article.**

Defences under Art. 36 TFEU

A. **What is the court's holding in 34/79, *Henn & Darby***
B. **Is the court's holding in 121/185, *Conegate* consistent with Henn & Darby.**

Indistinctly Applicable Measures & Defences

A. **Read 267 & 268/92, Keck. Does this judgment provide guidance in all situations as to whether an indistinctly applicable measure that hinders intra-community trade violates Community law? Give an example where it might not provide sufficient guidance.**