

# IN SEARCH OF THE LIMITS OF ARTICLE 30 OF THE EEC TREATY REVISITED

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Legal Briefings - By **Eric White, Consultant**

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Eric White, an EU and Trade Law specialist in our Brussels office, has recently published an update to his seminal article *'In Search of the Limits of Article 30 of the EEC Treaty'*, published in the *Common Market Law Review* in 1986, that introduced the trading arrangements and market access concepts into EU law relating to the free movement of goods.

The case-law on what is now Article 34 TFEU has expanded enormously since then and this brief review concludes that although there are a number of conflicting strands, it has at least been clarified that Article 34 TFEU is not a general limitation of economic regulation by the Member States by that requires all such measures to have a justification recognised as valid in EU law. Attempts to challenge non-protectionist measures that do not create an obstacle to the realisation of an internal market – such as restrictions on Sunday trading – will fail. A measure comes within the scope of Article 34 TFEU when it has the effect of limiting market access.

Another issue that was discussed in the original article but has received less attention in the case-law or the literature is the manner in which Article 34 TFEU applies to third-country goods. The article argues that third-country goods must not only be legally imported into the EU but also legally placed on the market of a Member State before they can benefit from the principles established for goods legally produced and marketed in a Member State. Only then does the market integration logic of the Treaty apply to require their assimilation to goods produced and marketed in the Member States for the purposes of Article 34 TFEU.

However, as Judge Rosas put it *'[t]hose who have hoped that the ECJ has already said everything that can be said on [Article 34 TFEU] will be disappointed'*.

Eric's updated article '*In Search of the Limits of Article 30 of the EEC Treaty Revisited*' has been published in [The Internal Market 2.0 \(Edited by Sacha Garben and Inge Govaere\)](#). This edited volume brings together leading authors and actors in EU internal market law and policy, revisiting the classic themes in a contemporary context and considering (re-)directions for the future.

[Download a copy of Eric's Article](#)

## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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