

**FREE MOVEMENT OF GOODS**

**RULE/ STATE PRACTICE**

(Buy Irish, Fruits and Vegetables etc)

IS IT DISCRIMINATORY ?	→	Y	→	→	→	ART 34 APPLIES	→	IS THERE A JUSTIFICATION UNDER ART 36? +PROPORTIONALITY	N	<b>RULE INVALID</b>
↓										
N									↑	<b>RULE VALID UNDER ART 36</b>

IS IT AN INDISTINCTLY-APPLICABLE RULE?	↓	Y [BECAUSE RELATING TO PRODUCT OR OR LIMITS MARKET ACCESS]	→	ARE MANDATORY REQUIREMENTS APPLICABLE? +PROPORTIONALITY	→	N
↓						
N						

[BECAUSE RE SELLING ARRANGEMENT (Keck) <sup>1</sup> OR DOES NOT IMPEDE MARKET ACCESS]	↓		Y	→	<b>RULE VALID UNDER ART 34</b>
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**VALID EXCLUDED FROM ART 34**

IN PRACTICE THE ASSESSMENTS WITH RESPECT TO MANDATORY REQUIREMENTS AND ART 36 JUSTIFICATIONS ARE OFTEN COMBINED FOR

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<sup>1</sup>NB Keck para. 16 Art 34 does not apply to certain selling arrangements rules “so long as those provisions apply to all relevant traders operating within the national territory and so long as they affect in the same manner, in law and in fact, the marketing of domestic products and of those from other Member States.” [i.e. market access].