

**Ollscoil na hÉireann, Gallimh**  
**National University of Ireland, Galway**

**Semester II Examinations, 2002/2003**

<b>Exam Code(s)</b>	1DB1, 2CL1, 2CW1, 3BA1, 3BA6, 3BC1, 4BA4, 4BA8, 4BC2, 4BC3, 4BC4.
<b>Exams(s)</b>	H.Dip (Business Studies) 3 <sup>rd</sup> & 4 <sup>th</sup> Bachelor of Arts (Legal Science) 3 <sup>rd</sup> & 4 <sup>th</sup> Bachelor of Arts (Public & Social Policy) 2 <sup>nd</sup> Bachelor of Corporate Law 2 <sup>nd</sup> Bachelor of Civil Law 3 <sup>rd</sup> & 4 <sup>th</sup> Bachelor of Commerce
<b>Module Codes(s)</b>	LW223
<b>Module(s)</b>	European Community Law II
<b>Paper No.</b>	1
<b>Repeat Paper __ Special Paper __</b>	
<b>External Examiner(s)</b>	Professor Dermot Walsh
<b>Internal Examiner(s)</b>	Dr. Sara Drake Ms. Anna-Lousie Hinds Mr. Cian Carroll
<b><u>Instructions</u></b>	Students must answer any <b>THREE</b> questions. All questions carry equal marks. Students are requested to <b>indicate</b> which questions they have answered on the front of their answer book.
<b>Duration</b>	<b>TWO hours.</b> Erasmus students have <b>TWO hours and THIRTY MINUTES.</b>
<b>No. of AnswerBooks</b>	
<b><u>Requirements:</u></b>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
<b>Other Material</b>	Students are allowed to refer to the Treaty Establishing the European Community (consolidated version including the Treaty of Amsterdam) and the Treaty of Nice 2001 or to photocopies or downloaded versions thereof or to copies of Foster, N., Blackstone's EC Legislation (any edition) in the examination room. Students may also refer to secondary EC legislation in downloaded or photocopied version. Erasmus students are allowed to use dictionaries.
<b>No. of Pages</b>	3
<b>Department(s)</b>	Law

1. *"The prohibition on customs duties and charges with equivalent effect is absolute and unconditional under the EC Treaty. There can be no exceptions to this prohibition as it seeks to achieve one of the fundamental aims of the Community and hence the European Courts have taken a very restrictive approach in interpreting Article 25 EC."*

Discuss, with reference to the relevant case law of the European Court of Justice.

2. Critically assess the manner in which the European Court of Justice has sought to distinguish between Article 90 (1) and 90 (2) of the EC Treaty in its case law.
3. The Irish government has decided to introduce a rule restraining traders from providing 24-hour shop services. Michael Fegan owns a '24-hour' garage in the outskirts of Galway city. Michael's business is going to be adversely affected by this rule and he wishes to challenge it under the free movement of goods legislation.

Advise Michael with reference to any relevant Treaty provisions, secondary EC legislation and case law of the European Courts.

4. **Answer (a) OR (b):**

- (a) Anja is a German national, who has come to Ireland to work as a German teaching assistant in an Irish secondary school. Anja is out one night and is accidentally caught up in a brawl on leaving a night club. The Garda Síochána (the Irish police force) arrive on the scene and despite her cries of innocence, Anja is nonetheless arrested for drunken and disorderly behaviour. The Irish authorities subsequently discover that Anja has neither declared her presence in the Irish state nor has she obtained her residence permit even though she has been in Ireland for over 4 months at this stage. The Irish authorities seek to deport Anja for not complying with the relevant administrative requirements and moreover because they discover that she has a previous conviction for assault and feel she has become a threat to public order and security.

Advise Anja as to her rights under Article 39 EC.

**OR**

- (b) Discuss the free movement of students in the European Community with reference to relevant Treaty provisions, secondary legislation and case law of the European Courts.

**P.T.O.**

5. *"The differences between the freedom of establishment and the freedom of services are minimal."*

Discuss how the EC Treaty deals with both and discuss the efforts of the European Courts to ensure that the objectives of the Treaty provisions in relation to the freedom of establishment and freedom of services have been met.

6. Discuss how each of the following situations be dealt with under EC Competition Law.

- (a) An agreement between a major supplier of bread in the Republic of Ireland, *Arán Álainn (AA)*, with one of its competitors based in Derry, the *Daily Bread (DB)*, to fix the price for their products on the Irish market.

**AND**

- (b) *Truck Tyres (TT) Ltd.* produces tyres for trucks and has an 80% market share for this product in the European Union. It refuses to supply its tyres to *Fortt Ltd*, a company which manufactures trucks, on the grounds that it wants to start manufacturing trucks itself.

**END**