

JUDGMENT OF THE COURT
10 JULY 1984 ¹

**Campus Oil Limited and Others
v Minister for Industry and Energy and Others**
(reference for a preliminary ruling
from the High Court of Ireland)

(Free movements of goods — Supply of petroleum products)

Case 72/83

1. *Questions for a preliminary ruling — Reference to the Court — Stage of the proceedings at which reference should be made — Appraisal by the national court*
(EEC Treaty, Art. 177)
2. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Concept*
(EEC Treaty, Art. 30)
3. *Competition — Undertakings entrusted with the operation of services of general economic interest — Subject to the Treaty rules — Protection ensured by measures restricting imports from other Member States — Not acceptable*
(EEC Treaty, Arts 30 and 90 (2))
4. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — Supplies of petroleum products — Obligation to purchase from a national refinery*
(EEC Treaty, Art. 30)
5. *Free movement of goods — Derogations — Article 36 of the Treaty — Community rules for the protection of the same interests — Effects*
(EEC Treaty, Art. 36)

¹ — Language of the Case: English.

6. *Free movement of goods — Derogations — Article 36 of the Treaty — Purpose — Scope — Unnecessary or disproportionate measures — Not acceptable*
(EEC Treaty, Art. 36)
7. *Free movement of goods — Derogations — Public security — Supplies of petroleum products — Objective covered by the concept of public security — Adoption of appropriate rules — Rules making it possible to achieve other objectives of an economic nature — Acceptable*
(EEC Treaty, Art. 36)
8. *Free movement of goods — Derogations — Public security — Supplies of petroleum products — Obligation to purchase from a national refinery — Acceptable — Conditions and limits*
(EEC Treaty, Art. 36)

1. It is for the national court, in the framework of close cooperation established by Article 177 of the Treaty between the national courts and the Court of Justice based on the assignment to each of different functions, to decide at what stage in the proceedings it is appropriate to refer a question to the Court of Justice for a preliminary ruling. It is also for the national court to appraise the facts of the case and the arguments of the parties, of which it alone has a direct knowledge, with a view to defining the legal context in which the interpretation requested should be placed.
2. Article 30 of the Treaty, in prohibiting as between the Member States all measures having equivalent effect to quantitative restrictions on imports, covers any measure which is capable of hindering, directly or indirectly, actually or potentially, intra-Community trade.
3. Article 90 (2) of the Treaty, which defines more precisely the limits within which undertakings entrusted with the operation of services of general economic interest are to be

subject to the rules contained in the Treaty, does not permit a Member State to adopt in favour of that undertaking and with a view to protecting its activity, measures that restrict imports from other Member States contrary to Article 30 of the Treaty.

4. National rules which require all importers to purchase a certain proportion of their requirements of petroleum products from a refinery situated in the national territory constitute a measure having equivalent effect to a quantitative restriction on imports.
5. Recourse to Article 36 of the Treaty is no longer justified if Community rules provide for the necessary measures to ensure protection of the interests set out in that article. National measures hindering intra-Community trade cannot therefore be justified unless protection of the interests of the Member State concerned is not sufficiently guaranteed by the measures taken for that purpose by the Community institutions.

6. The purpose of Article 36 of the Treaty is not to reserve certain matters to the exclusive jurisdiction of the Member States; it merely allows national legislation to derogate from the principle of the free movement of goods to the extent to which this is justified in order to achieve the objectives set out in the article.

Article 36, as an exception to a fundamental principle of the Treaty, must be interpreted in such a way that its scope is not extended any further than is necessary for the protection of the interests which it is intended to secure and the measures taken pursuant to that article must not create obstacles to imports which are disproportionate to those objectives.

7. Petroleum products, because of their exceptional importance as an energy source in the modern economy, are of fundamental importance for a country's existence since not only its economy but above all its institutions, its essential public services and even the survival of its inhabitants depend upon them. An interruption of supplies of petroleum products, with the resultant dangers for the country's existence, could therefore seriously affect the public security that Article 36 of the Treaty allows States to protect.

The aim of ensuring a minimum supply of petroleum products at all times transcends purely economic interests — which, as such, may not be relied upon in the context of

Article 36 — and is thus capable of constituting an objective covered by the concept of public security.

The rules adopted for that purpose must be justified by objective circumstances corresponding to the needs of public security. Once that justification has been established, the fact that the rules are of such a nature as to make it possible to achieve, in addition to the objectives covered by the concept of public security, other objectives of an economic nature which the Member State may also seek to achieve, does not exclude the application of Article 36.

8. A Member State which is totally or almost totally dependent on imports for its supplies of petroleum products may rely on grounds of public security within the meaning of Article 36 of the Treaty for the purpose of requiring importers to cover a certain proportion of their needs by purchases from a refinery situated in its territory at prices fixed by the competent minister on the basis of the costs incurred in the operation of that refinery, if the production of the refinery cannot be freely disposed of at competitive prices on the market concerned. The quantities of petroleum products covered by such a system must not exceed the minimum supply requirement without which the public security of the State concerned would be affected or the level of production necessary to keep the refinery's production capacity available in the event of a crisis and to enable it to continue to refine at all times the crude oil for the supply of which the State concerned has entered into long-term contracts.