

PROBLEM TYPE QUESTION VI

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Article 28 TFEU prohibits the imposition between member states of customs duties on imports and exports and of all charges having equivalent effect.

On December 1 2021, Greece adopts a new law that imposes an import levy on all smoking products. According to this legislation, that import levy purports to give effect to the constitutional public health requirements by making it more expensive for consumers to purchase the harmful smoking products.

Smoking Imports constitutes a company that imports smoking products from Italy. It considers that the national legislation violates Article 28 TFEU and wishes to protect its legal interests in every possible way.

1. What are the possible courses of action that Smoking Imports may resort to in order to protect its legal interests?
2. Greece contends that its legislation takes precedence over Article 28 TFEU because: a) it has been adopted more recently than this provision and b) it serves the constitutional requirements. Smoking Imports asks for your advice on the correctness of the above statements.
3. If the court seized of the case is uncertain whether the said import levy constitutes a customs duty, how can it possibly react?