Is it a 'measure having equivalent effect'?
See ***Dassonville*** test.
Yes
Does it concern 'requirements to be met' or other MEQR?
or
Is it a 'selling arrangement'?
Keck.
Yes
Yes
Is it 'distinctly applicable'?
Does it apply equally in law?
Yes
No
No
Yes
Does it apply equally in fact? NB ***Gourmet, Mickelsson, Bonnarde, Visnapuu, Scotch Whisky Association v Lord Advocate***
No
Yes
Measure can only be justified under Article 36 – note 2nd sentence.
Can be justified if a 'mandatory requirement' and proportional ***Cassis de Dijon***; or under Article 36
National rule falls outside scope of Treaty.