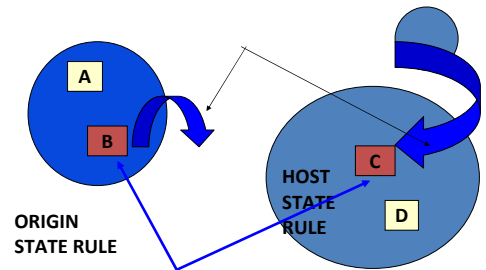


Avrio Presentation 24 July 2009  
 Sheraton Four Points, Brussels

## The Regulatory Framework for Tax in the EU

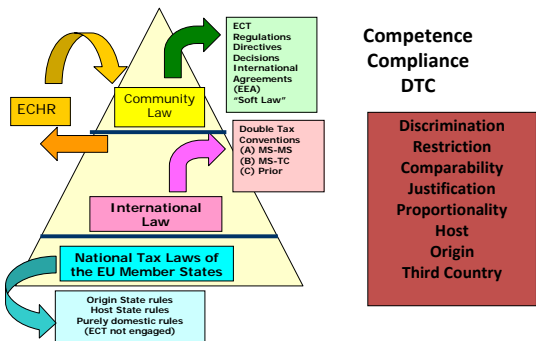
Dr. Tom O'Shea  
 Centre for Commercial Law Studies  
 Queen Mary, University of London  
 t.o'shea@qmul.ac.uk

## Host v Origin Rules

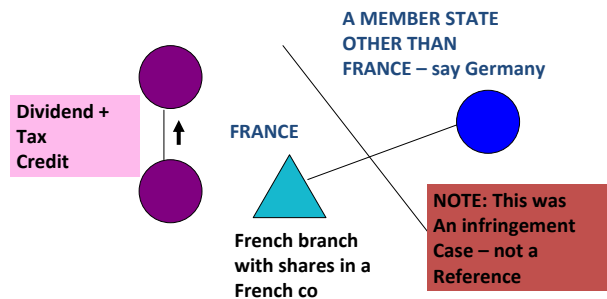


Exercising a fundamental freedom => entitled to  
 "NOT LESS FAVOURABLE TREATMENT" if comparable

## The EU Regulatory Framework for Tax



## Commission v France ("Avoir Fiscal") 270/83



## Schumacker

- “Discrimination could arise only through the application of different rules to comparable situations or the application of the same rule to different situations.
- **This is the EC’s definition of “discrimination”**

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## Gebhard “Formula”

- [1] Court examines the “purpose” of the national rule
- [2] The national rule must exist to meet a specified general interest of that Member State
- [3] and [4] – The national rule must meet a proportionality test which comprises two limbs – it must achieve the aim of the legislation and not go beyond what is necessary to achieve that purpose

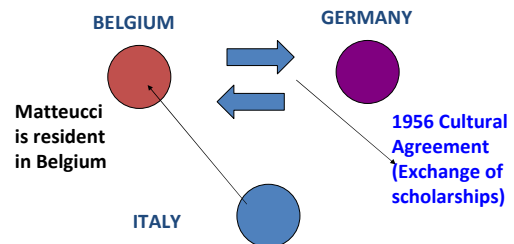
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## Dassonville Case 8/74

- **The concept of “restriction”**
- **ECJ:** “All trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade are to be considered as measures having an effect equivalent to quantitative restrictions.” (para 5)

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## Matteucci Case 235/87



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