NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

ITEL CONTAINERS INTERNATIONAL CORP. *v.* HUDDLESTON, COMMISSIONER OF REVENUE OF TENNESSEE

CERTIORARI TO THE SUPREME COURT OF TENNESSEE

No. 91–321. Argued October 14, 1992—Decided February 23, 1993

Petitioner Itel Containers is a domestic company that leases cargo containers for use exclusively in international shipping. After paying under protest a Tennessee sales tax on its proceeds from the lease of containers delivered in the State, Itel filed a refund action, challenging the tax's constitutionality under the Commerce, Import-Export, and Supremacy Clauses. The last challenge was based on an alleged conflict with federal regulations and with two international Container Conventions signed by the United States: the 1956 Convention prohibiting the imposition of a tax ``chargeable by reason of importation,'' and the 1972 Convention prohibiting taxes ``collected on, or in connexion with, the importation of goods.'' The State Chancery Court reduced the assessment on state-law grounds but rejected the constitutional claims, and the State Supreme Court affirmed.

Held: Tennessee's sales tax, as applied to Itel's leases, does not violate the Commerce, Import-Export, or Supremacy Clause. Pp. 3–17.

(a) The sales tax is not pre-empted by the 1972 or 1956 Container Convention. The Conventions' text makes clear that only those taxes imposed based on the act of importation itself are disallowed, not, as Itel contends, all taxes on international cargo containers. The fact that other signatory nations may place only an indirect value added tax (VAT) on container leases does not demonstrate that Tennessee's direct tax on container leases is prohibited, because the Conventions do not distinguish between direct and indirect taxes. While the VAT system is not equivalent to Tennessee's sales tax for the purposes of calculation and assessment, it is equivalent for purposes of the Conventions: neither imposes a tax based on importation. The Federal Government agrees with this Court's interpretation of the Container Conventions, advocating a position that does not conflict with the one it took in *Japan Line, Ltd.* v. *County of Los Angeles,* 441 U. S. 434. Pp. 3–8.

(b) The tax, which applies to domestic and foreign goods without differentiation, does not impede the federal objectives expressed in the Conventions and related federal statutes and regulations. The federal regulatory scheme for containers used in foreign commerce discloses no congressional intent to exempt those containers from all or most domestic taxation, in contrast to the regulatory scheme for customs bonded warehouses, which pre-empts most state taxes on warehoused goods, see, *e.g., McGoldrick* v. *Gulf Oil Corp.,* 309 U. S. 414. Nor is the scheme so pervasive that it demonstrates a federal purpose to occupy the field of container regulation and taxation. The precise federal policy regarding promotion of container use is satisfied by a limited proscription against taxes that are imposed upon or discriminate against the containers' importation. Pp. 8–10.

(c) The tax does not violate the foreign commerce clause under *Japan Line*'s three-part test. First, as concluded by the State Supreme Court and accepted by Itel, the tax satisfies the domestic commerce clause test of *Complete Auto Transit, Inc.* v. *Brady,* 430 U. S. 274, 279. This conclusion confirms both the State's legitimate interest in taxing the transaction and the absence of an attempt to interfere with the free flow of commerce. Second, the tax does not create a substantial risk of multiple taxation implicating foreign commerce concerns because Tennessee is simply taxing a discrete transaction occurring within the State. Tennessee need not refrain from taxing a transaction merely because it is also potentially subject to taxation by a foreign sovereign. Moreover, Tennessee reduces, if not eliminates, the risk of multiple taxation by crediting against its own tax any tax paid in another jurisdiction on the same transaction. Third, the tax does not prevent the Federal Government from speaking with one voice when regulating commercial relations with foreign governments. The tax creates no substantial risk of multiple taxation, is consistent with federal conventions, statutes and regulations, and does not conflict with international custom. Pp. 10–15.

(d) The tax does not violate the Import-Export Clause under the test announced in *Michelin Tire Corp.* v. *Wages,* 423 U. S. 276, 285–286. Because *Michelin*'s first component mirrors the *Japan Line* one voice requirement, and its third component mirrors the *Complete Auto* requirements, these components are satisfied for the same reasons the tax survives Commerce Clause scrutiny. *Michelin*'s second component —ensuring that import revenues are not being diverted from the Federal Government—is also met because Tennessee's tax is neither a tax on importation or imported goods nor a direct tax on imports and exports in transit within the meaning of *Richfield Oil Corp.* v. *State Bd. of Equalization,* 329 U. S. 69, 78–79, 84. Pp. 15–17.

814 S. W. 2d 29, affirmed.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and WHITE, STEVENS, O'CONNOR, SOUTER, and THOMAS, JJ., joined, and in all but Parts IV and V of which SCALIA, J., joined. SCALIA, J., filed an opinion concurring in part and concurring in the judgment. BLACKMUN, J., filed a dissenting opinion.