

Free Movement of Goods

Team A

Do the following legal provisions constitute a measure having equivalent effect to quantitative restrictions?

2. Confectionery

Austrian law prohibits the sale of non-packaged confectionery from vending machines.

- Discrimination: The restriction is not discriminating other member states
- Hindering, directly or indirectly, actually or potentially, trade within the EU : The restriction is indirectly hindering, because the production becomes more complicated and new packaging has to be developed in order to be compatible with the machine.
- Justifiable with mandatory requirements of the public interest: public health
- Is the restriction adequate / appropriate to achieve the public interest: Packaging is a way of improving hygiene.
- Is the restriction necessary to achieve the public interest: A less invasive way to achieve public health would be better machine maintenance.

1. Motorcycles

Italian law allows the import of trailers which are specially designed to be towed by motorcycles but prohibits trailers to be towed by motorcycles.

3. Optic lenses

Hungarian law prohibits the sale of optic lenses over the internet due to the lack of qualified advice.

- Discrimination: The restriction is not discriminating other member states
- Hindering, directly or indirectly, actually or potentially, trade within the EU : The restriction directly and actually hinders the free movement of goods, because selling the product over the internet is prohibited and the company is cut off from a large group of potential customers.
- Justifiable with mandatory requirements of the public interest: public health
- Is the restriction adequate / appropriate to achieve the public interest: It is not appropriate to achieve public health, because using the wrong lenses does not cause damage. People who feel the need of qualified advice would go to the optician.
- Is the restriction necessary to achieve the public interest: Even if the restriction is deemed adequate, it still wouldn't be necessary: the seller could simply exonerate himself by demanding that the customer insure they have had their checkup.

4. Tobacco

Spanish law prohibits retailers from importing tobacco products but forces them to procure their supplies from authorised wholesalers.