

Doing Business In the EU - Thursday

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

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.

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

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

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

2. Austrian law case

1

a) No discrimination

because it's not a measure which treats products coming from other Member States.

b) Hindering

this measure restricts the trade between the Member States. It's a product related measure and it is forbidden.

Result: It is a measure having an equivalent effect.

2. Justifiable

- the consumer could not see the ingredient, expiration date
- Unhygienic, public health

3. Is the restriction adequate?

- yes it is adequate but...

4. Is the restriction necessary?

- no, because the government could find less strict measures e.g. labeling outside of the machine

Result: It is a forbidden measure.

3. Optic lense case

1

a) No discrimination,
see above

b) Hindering

- yes, this measure restricts the trade between the Member States.

Result: It is a measure having an equivalent effect.

2. Justifiable

- because of the lack of qualified advice the government's purpose is to protect the people.

3. Is the restriction adequate?

- yes, because if the Hungarian could not offer qualified advice it could be a problem for the health of the people who use optical lenses. Basically you should go regularly to an optician to check the lenses.