

teria specified in these nt, however, that these plied; or (2) the ability rds or qualification of hhibition of market ac- market access barriers d if so to what extent, regard to the relevant i.e. its Services Sched- t, it binds the level of cle XVI:1) and agrees t access to the market

1 of trade in services, on further market ac- to negotiations on the h. It is accepted that limited market access s, limitations and con- set out in the second ervices Schedule, and l part thereof, and are goods, market access wn. To do so, the pro- d.

can also be impeded er of these other bar- or specific rules. The f general application blish *enquiry points* rade in services. Fur- measures of general ich specific commit- e and impartial man- ded or restricted by stitute market access the rules concerning tion, the GATS cur- e to internal regula- e most important of cation requirements,

and technical standards. These requirements and standards must: (1) be based on objective and transparent criteria such as competence and the ability to supply the service; (2) not be more burdensome than necessary to ensure the quality of the service; and (3) in the case of licensing procedures, not be, in themselves, a restriction on the supply of the service. Finally, note that the GATS encourages and facilitates the recognition of diplomas and professional certificates of foreign service suppliers.

Exercise 7: Shoe Ease

Shoe Comfort Inc. is a footwear manufacturer from Small Rapids, Newland. Shoe Comfort produces a very successful model of men's shoes under the name of Shoe Ease. In recent years, these cheap but well-made and trendy shoes have become very popular among young people in the European Union. The European Union, and (within the EU) Italy, Spain and Portugal in particular, have a long tradition in shoe-making and were once the world's biggest shoe producers. Now, the EU's shoe industry is struggling and employment in this industry is falling dramatically.

Fearing the further demise of its once great shoe industry, the European Union decides to limit the importation of men's shoes to 100 million pairs per year. This quota is divided among China (60 million pairs), Vietnam (20 million pairs) and others (20 million pairs). Last year, Newland exported as many shoes to the European Union as did Vietnam. While the quota of 100 million pairs per year was published in the EU's *Official Journal*, the allocation of this quota was made public on the website of the Directorate General for Trade of the European Commission, and this was done so three working days before the quota took effect. Foreign footwear manufacturers, such as Shoe Comfort, must apply for an import licence. Import licences are granted by the newly established EU Shoe Import Board, on which also the representatives of the EU shoe industry sit. Importers can appeal decisions by the EU Shoe Import Board, but such appeals can only be brought to the EU Trade Commissioner. The European Union not only imposes a quota on shoes, it also requires that all shoes be imported through the port of Valletta, Malta. No reason was given for this requirement.

Several EU Member States have regulations in place requiring government departments and the armed forces to buy European shoes only. Also, all shoe-repair work must be done by European companies.

Undeterred by the import quota and the other measures referred to above (which, it is confident, will soon be withdrawn), Shoe Comfort wants to set up its own chain of Shoe Ease shops in Europe. However, it is informed by the Spanish Ministerio de Economía y Competitividad that under the '*Ley de Protección de Pequeños Comerciantes*' (the '*Small Shopkeepers Protection Act*') of 1976, the number of shoe retail shops in a specific area is limited on the basis of an economic needs test. Moreover, under the '*Ley de Identidad Cultural*' (the

'*Cultural Identity Act*') of 1998, all retail shopkeepers in Spain must have Spanish nationality and speak Spanish.

A subsidiary company of Shoe Comfort, BuyltNow, has acquired significant expertise in advertising Shoe Ease shoes and intends to offer advertising services to European shoe retailers, either via the Internet or by sending its experts to Europe. The French authorities, however, inform BuyltNow that only persons holding European professional qualifications, or qualifications recognised as equivalent, can supply advertising services in France. While the Government of Newland has tried to get the diplomas and professional certificates awarded in Newland recognised by the European Union, such efforts have been to no avail to date.

You are Shoe Comfort's young (but brilliant) in-house international trade lawyer working at the corporate headquarters in Small Rapids, Newland. You have been asked to prepare a legal brief on the WTO consistency of the trade barriers referred to above.



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