

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **WTO Law**
Semester-VII (Batch: 2015-20)

End Semester Examination: Oct-Nov. 2018

Date: 30th October, 2018

Duration: 3 hours

Max. Marks: 50

Instructions:

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write any thing on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- Bare Act is not allowed.

**Answer any five of the following:
(word limit: 550-600 words each)**

**Marks
(5x10=
50)**

- Q.1 Colombian customs regulations on the importation of textiles, apparel and footwear required importers of goods arriving from Panama to submit import declarations in advance, and accordingly to pay customs duties and taxes in advance, while importers of goods from other countries were not required to file import declarations in advance. Besides, the customs regulations established a mechanism of indicative prices for textiles, apparel and footwear, and imposed port restrictions on importation of those goods arriving from Panama to Colombia. In the light of the aforesaid facts, answer the following questions:
- (a) Whether Colombian customs regulations have granted 'advantage' for some countries vis-à-vis Panama in the light of Article I:1 of the GATT, 1994? Examine.
 - (b) When is an 'advantage' granted immediately and unconditionally within the ambit of Article I:1 of the GATT, 1994? Elucidate.
- Q.2 Korean regulatory scheme provided for 'dual retail system' confining sales of all imported beef to specialized stores. Imported beef could be sold only in small-scale foreign beef shops, or in certain large-scale stores. The small retail shops had a choice regarding the beef they could sell. They could sell only Korean beef, or only foreign beef, but not both products. The large retailers like department store or supermarket could sell both imported and domestic beef, but only if so authorized. In the light of the above-mentioned facts, answer the following questions:
- (a) Whether Korean 'dual retail system' can be considered to be consistent with Article III:4 of the GATT, 1994? Examine.
 - (b) Can the concept of 'like products' in Article III:4 be interpreted in the same manner as in Article III:2, first sentence? Evaluate.
- Q.3 The Plant Protection Enforcement Regulation, 2016 of Nevaska required exporters of various fruits and nuts to submit each variety they intended to export to Nevaska to an extensive regime in order to verify that fumigation with methyl bromide effectively killed the eggs and larvae of codling moths, the pests of quarantine significance to Nevaska. As a result, the importation of eight agricultural products (i.e., apples, cherries, peaches,

walnuts, apricots, pears, plums and quince) originating from Yokland was disallowed on the ground that they were potential hosts of codling moth. Consider both Nevaska and Yokland as members of the WTO. In the light of the foregoing facts, answer the following questions:

- (a) Whether the varietal testing requirements prescribed under Nevaska's Regulation are in accordance with the risk assessment obligation as stipulated under Article 5.1 of the SPS Agreement? Examine.
- (b) Can the above-said varietal testing requirements become more trade-restrictive than required? Assess in the light of Article 5.6 of the SPS Agreement.

Q.4 In July 2018, Roterland informed the WTO Dispute Settlement Body (DSB) that the consultations held with Glaveland failed to satisfactorily resolve the dispute arisen in respect of Glaveland's National (Minerals) Regulation, 2018 prohibiting the manufacture, import and sale of asbestos in the latter's territory. The said Regulation however allowed some exceptions to the ban providing that the prohibition, on an exceptional and temporary basis, shall not apply to certain existing materials, products or devices containing chrysotile fibre when, to perform an equivalent function, no substitute for that fibre is available which, in the present state of scientific knowledge, poses a lesser occupational health risk than chrysotile fibre to workers handling those materials, products or devices, and provides all technical guarantees of safety corresponding to the ultimate purpose of the use. Consider both Roterland and Glaveland as members of the WTO. In the light of the aforementioned facts, answer the following questions:

- (a) Can Glaveland's Regulation be held to constitute a 'technical regulation' under the TBT Agreement? Explicate.
- (b) Differentiate between a 'technical regulation' and a 'standard' in the light of the TBT Agreement.

Q.5 'Subsidies continue to be of great concern in international trade as they assumed a greater importance as a tool of government's economic policy as against tariffs, which have been reduced to an insignificant level. In order to support ailing industries, to stimulate infant industries and to promote exports, subsidies have become an important element in the world trade to the extent that, in some sectors, financial ability to subsidize exports has overridden competitive reality, thereby changing the production pattern from one country to another.' In the light of the preceding statement, answer the following questions:

- (a) Explain in brief the essential components of a subsidy. Does financial assistance given by a private body amount to a subsidy within the meaning of the SCM Agreement?
- (b) Whether export subsidies are prohibited under the SCM Agreement? What is the position under the Agreement on Agriculture?

Q.6 Write short notes on the following:

- (a) Trade Related Investment Measures
- (b) Balance of Payment Provisions under the GATT, 1994
