

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: **WTO Law**

Semester-VII (Batch: 2016-21)

End Semester Examination: October-2019

Date: 24th October, 2019

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 anything 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 for each answer)**

Marks
(5x10=
50)

Q.1 Graneda through its Regulation No. 24 of 2018 provided customs duty and luxury tax exemptions for the importation of inputs and components to be used in the manufacture of domestic cars (vehicles) in its territory. For availing these tariff exemptions, the Regulation No. 24 prescribed that the automobile manufacturers must source the raw materials of the value of around 40 per cent for their vehicles from local producers, and they must fetch 10 times of the value of their imported products, by supplying their vehicles to foreign markets, within a period of three years of the imports. While Akronican automobiles having their presence in Graneda availed the import tariff benefits, Onada and Revada, two exporters of vehicles to Graneda, could not avail the tariff benefits. Onada and Revada challenged the Graneda's domestic measure providing the tariff exemptions. Presume that Graneda, Akronica, Onada and Revada are members of the WTO.

- (a) Whether the Regulation No. 24 can be held to be inconsistent with Article I.1 of the GATT, 1994? Elucidate.
- (b) Does Article I.1 of the GATT, 1994 include prohibition on *de facto* discrimination? Analyse the above-said situation in the light of decided cases.

Q.2 Part V.1 of the Canadian Excise Tax Act, 1995 imposed, 'in respect of each *imported* split-run edition of a periodical, a tax equal to 80 per cent of the value of all the advertisements contained in the split-run edition', while the said tax was not levied on the non-split-run domestic periodicals. Besides, the Canadian postal rate scheme applied different postal rates to domestic and foreign periodicals, which was alleged to have resulted in reduced postal rates to Canadian-owned and controlled periodicals.

- (a) Whether the split-run and the non-split-run periodicals were considered to be 'like products'? Elucidate in the light of Article III.2 of the GATT, 1994.
- (b) How is the concept of 'like products' under Article III.2, *first sentence*, different from the concept of 'directly competitive or substitutable products' embedded in Article III.2, *second sentence*, of the GATT, 1994? Evaluate.

- Q.3 The EC Regulation (EEC 2136/89) established common marketing standards for preserved sardines, specifying that only products prepared from 'Sardina pilchardus walbaum' (found mainly in the Eastern North Atlantic, in the Mediterranean Sea and the Black Sea) could be marketed/labelled as preserved sardines. Peru being an exporter of products prepared from another species of sardines called 'Sardinops sagax sagax' (found mainly in the Eastern Pacific along the coasts of Peru and Chile) to the EC claimed that the said Regulation prevented its exports from continuing to use the trade description 'sardines' for those products. It further claimed that as the *Codex Alimentarius* standards listed 'Sardinops sagax sagax' among those species which could be traded as 'sardines', the said Regulation constituted an unjustifiable barrier to trade, and was in violation of the provisions of the TBT Agreement.
- Does the EC Regulation constitute a 'technical regulation' in accordance with the TBT Agreement? Examine.
 - How does a 'standard' differ from a 'technical regulation'? Evaluate in the light of the TBT Agreement.
- Q.4 On 9th September 2019, based on a complaint concerning huge imports of sugar raised (in the month of July 2018) by National Association of Sugar Producers of Arbeka (NASPA), Arbeka's National Trade Commission (ANTC) after investigation determined that 'increased quantities' of sugar imported from two countries of the Asia Pacific, Verbon and Krebon, were a cause of threat of serious injury to its domestic sugar industry. The safeguard investigation found that taking, on average, the three financial years' (preceding the previous financial year) sugar imports into consideration, during the previous financial year, and in the current financial year till August 2019, there has been a huge surge in its imports into Arbeka, amounting to as higher as 60 per cent, relative to domestic sugar production. On 10th September 2019, Arbeka notified this determination to the WTO Committee on Safeguards, and also intimated its initiation of safeguard measures in the form of tariff increases, proportionate to the established threat of serious injury, against next twelve months' sugar imports, effective from 1st October 2019. Aggrieved by the application of safeguard measures, and upon the consultations having failed due to refusal by Arbeka, both Verbon and Krebon have at present decided to move the DSB to challenge the determination of the ANTC, as it was not made in accordance with Articles 2, 3, 4, 5, 11 and 12 of the Agreement on Safeguards and Article XIX of the GATT, 1994. Presume that Arbeka, Verbon and Krebon are members of the WTO.
- If you are an investigating official of the ANTC, what criteria would you have relied on in determining the 'increased quantities' of sugar imports entered into Arbeka? Elucidate in the light of the relevant provisions of the Agreement on Safeguards and the GATT, 1994.
 - What does the 'causation requirement' under Article 4.2(b) of the Agreement on Safeguards entail? Evaluate in the light of the afore-stated facts.
- Q.5 In the month of August 2018, the Department of Commerce (DOC) of Venasta initiated anti-dumping investigation on the imports of Hot-Rolled Carbon Steel Flat (Hot-Rolled Steel) products from Nevasta, based on the complaints lodged by the domestic producers of like products. The DOC identified a number of different 'models' or 'types' of Hot-Rolled Steel, called 'connums'. The DOC calculated, for each of these models, a weighted average normal value and a weighted average export price. Then, the DOC compared the weighted average normal value with the weighted average export price for each model. By subtracting export price from normal value for these models, the DOC found that for some models normal value was higher than export

price, and for some others export price was higher than normal value. The DOC, on the basis of thus found dumping margin, imposed anti-dumping duties on the imports of Hot-Rolled Steel products. Presume that Venasta and Nevasta are members of the WTO.

- (a) In the light of abovementioned situation, examine whether the method of establishment of dumping margin resorted to by the DOC of Venasta is in accordance with Article 2.4 of the Agreement on Anti-dumping.
- (b) Elaborate on the basic criteria to be taken into account in the determination of 'material injury' under Article 3 of the Agreement on Anti-dumping.

Q.6 Write short notes on the following:

- (a) Categories of Subsidies under the SCM Agreement
- (b) General Elimination of Quantitative Restrictions
