

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: WTO Law  
Semester-VII (Batch: 2012-17)



End Semester Examination: Oct-Nov. 2015

Date: 30<sup>th</sup> October, 2015

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, max.: 550-600 words)**

**Marks**  
(5x10  
=50)

Q.1 On 10<sup>th</sup> March 2015 Westania, a developed economy, launched its new GSP (Generalized System of Preferences) Scheme through a Union Regulation No. 1414/2015. One of the five different preferential tariff treatments provided by the said Regulation concerned the tariff preferences granted under the Special Arrangements as reward for some countries' efforts to combat drug production and trafficking (the Drug Arrangements). The preferences under the Drug Arrangements were accorded only to specified GSP countries selected by Westania. The effect of the said Arrangements was that 12 beneficiary countries received greater tariff reductions than that received by other countries such as Eastania under the GSP Scheme. Eastania felt that the Drug Arrangements classification has created undue difficulties for its drug exports to Westania and thereby nullified and impaired the benefits accruing under the most-favoured-nation (MFN) provision embedded in Article I:1 of the GATT, 1994. Upon the failure of consultation process between Eastania and Westania, and as per the request of Eastania, the Dispute Settlement Body set up a Panel on 20<sup>th</sup> October 2015 to settle the case. Presume that Westania and Eastania are Members of the WTO.

- (a) Whether the Drug Arrangements classification by Westania is in violation of Article I:1 of the GATT, 1994?
- (b) In the light of aforesaid situation and previous Panel/Appellate Body findings, clarify the phrase 'advantages accorded *immediately and unconditionally*' within the meaning of Article I:1 of the GATT, 1994.

Q.2 The Ramenian National Beverages Tax Law, 2015 has prescribed a system of domestic taxes applicable to all liquors, which are defined as domestically produced or imported beverages having an alcohol content of not less than one degree and which are intended for consumption in Ramenia. For this purpose, the National Beverages Tax Law, 2015 classifies the various types of alcoholic beverages into eight categories: sake, beer, rambu (a native beverage), wine, whisky/brandy, spirits, liqueurs, and miscellaneous. Tinemia, a major exporter of wine to Ramenia, has alleged before the WTO Panel that the National Beverages Tax Law, 2015 taxed rambu at a lower rate than the other beverages.

- (a) Whether rambu and other alcoholic beverages can be considered to be 'like products' as per Article III:2, first sentence, or 'directly competitive or substitutable products' within the meaning of Article III:2, second sentence, of the GATT, 1994?
- (b) Whether the concept of 'like products' in Article III:4 of the GATT, 1994 must be interpreted in the same manner as in Article III:2, first sentence?

Q.3 Australia had issued a regulation banning importation of frozen salmon in order to prevent twenty-four hour fish borne diseases from spreading into Australia's pristine environment. It was felt that many of the diseases could adversely affect trout fish, which are vital to Australia's sport fishing and tourism as well as small front aquaculture industry. The diseases could also harm the Atlantic salmon aquaculture farms. To combat the threat, Australia required heat treatment for all imports from regions where fish might become infested with the diseases. Canada, a major exporter of fresh and frozen salmon, challenged Australia's regulation.

- (a) Whether Australia had failed in conducting the risk assessment as required under Article 5.1 of the SPS Agreement? Elucidate in the light of three-pronged test laid down by the WTO Appellate Body with regard to the risk assessment.
- (b) Did Australia's measure violate Article 5.5 of the SPS Agreement by demanding different levels of SPS protection in comparable situations?

Q.4 European Communities (EC) initiated anti-dumping investigation into certain imports of cotton-type bed linen from India, and thereupon identified certain number of different 'models' or 'types' of that product. Then, the EC calculated for each of these 'models' a weighted average normal value and a weighted average export price. EC next compared the weighted average normal value with the weighted average export price for each 'model'. For some 'models' normal value was higher than export price; whereas, for some other 'models' normal value was lower than export price. By subtracting export price from normal value for these other 'models', the EC established 'negative dumping margin'.

- (a) Whether the method of zeroing employed by the EC is consistent with Article 2.4.2 of the Agreement on Anti-dumping for establishing the existence of margins of dumping?
- (b) What are the basic requirements for the 'determination of injury' under Article 3 of the Agreement on Anti-dumping?

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 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'.

- (a) What is meant by 'financial contribution'? When does a financial contribution confer a benefit?
- (b) Which subsidies are prohibited under the Agreement on Subsidies and Countervailing Measures? What is the position of subsidies under the Agreement on Agriculture?

Q.6 Write short notes on *any two* of the following:

- (a) General Elimination of Quantitative Restrictions
- (b) Trade Related Investment Measures
- (c) Import Licensing Procedures

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