

NATIONAL LAW UNIVERSITY, JODHPUR
End Term Examination- April- May, 2023

Semester-UG VIth
Subject: General Principles of International Trade Law

Time: Three Hours

Marks- 100

Instructions:

1. Answer any FIVE questions.
2. All questions carry equal marks.
3. Bare text of the treaty is not allowed.
4. Try to answer the questions citing the relevant provisions and case laws.

Q.1

The Dispute settlement of the World Trade Organization which is considered the "crown jewel" has served the purpose of increasing the confidence of the Members in multilateral trading system. Analyze. One of the aims of the WTO is to bring security and predictability in the world trading system. How far DSU had helped the WTO in achieving those objectives? Analyze.

Make a blue print of the WTO dispute settlement system from the consultation to the adoption stage of the settlement system.

Marks 20

Q.2

Hakistan is a predominantly Muslim country in Southern Asia that imports significant quantities of meat and meat products, including beef and lamb, from several countries, including Hindia. To protect the religious beliefs and practices of its Muslim population, Hakistan has introduced a new measure that requires all imported meat and meat products to be certified "halal" by a recognized Islamic certification body.

Hindia is a predominantly Hindu country that has banned the sale of beef in its domestic markets, due to the sacred status of cows in Hinduism. Hindia is a major exporter of lamb and other meat products, and sees the halal certification measure in Hakistan as a form of discrimination against its products.

Hindia challenges the measure under the GATT 1994, arguing that it unfairly discriminates against its products and creates unnecessary barriers to trade. It also argues that the certification process is opaque and arbitrary, and imposes unnecessary costs on exporters. Hindia highlights that the halal certification process in Hakistan lacks transparency, as it is not publicly available, and there are no clear guidelines on how to obtain certification. The certification process is also non-uniform, with different Islamic

certification bodies having different standards and procedures for certification. This lack of transparency and consistency in the certification process creates unnecessary uncertainty for exporters, as they are unable to ensure that their products meet the necessary certification requirements.

In addition, Hindia argues that Hakistan's measure violates the TBT and SPS agreements, as it creates technical barriers to trade and is not based on scientific evidence. It contends that the halal certification process is not transparent or non-discriminatory, and may not be necessary to ensure the safety and quality of meat products.

Hindia also argues that the measure is not consistent with the principles of non-discrimination and national treatment, as it creates a preference for products from Muslim-majority countries that are able to obtain halal certification, while discriminating against products from Hindu-majority countries that are unable to obtain such certification.

On the other hand, Hakistan argues that the measure is necessary to protect the religious beliefs and practices of its Muslim population, which requires that meat products be prepared and processed in accordance with Islamic law. It also argues that the halal certification process is transparent and non-discriminatory, and is necessary to ensure the authenticity of the certification.

The trade dispute between the two countries is complicated by underlying religious and territorial conflicts. Hakistan and Hindia have a long-standing territorial dispute over a border region that has led to multiple military clashes in the past. Hindia believes that the halal certification requirement is merely a retaliation action by Hakistan due to the ongoing territorial dispute. According to Hindia, the dispute has created a longstanding tension between the two countries, and the halal certification requirement is a way for Hakistan to exert its influence and gain an advantage over Hindia. Additionally, some officials in Hindia argue that the halal certification requirement is not necessary as the existing certification processes already ensure the safety and quality of imported meat products. They believe that Hakistan is using the certification requirement as a pretext to cause difficulties for Hindia and gain a favorable position in the territorial dispute.

The trade dispute between Hakistan and Hindia is also having a ripple effect on the overall South Asian region. Hakistan and Hindia are two of the largest economies in the region, and their trade relationship is crucial to the economic stability of the region. The delays and increased costs caused by the new halal certification requirements are affecting not only Hindia's exporters but also other countries in the region that rely on trade with Hakistan.

Furthermore, the trade dispute is exacerbating the existing tensions between the Muslim and Hindu communities in the region. The religious and territorial conflicts between Hakistan and Hindia are not unique, and other countries in the region have also experienced similar conflicts. The trade dispute is fuelling these tensions and increasing mistrust between the different communities.

Argue before the WTO Panel.

Marks 20

Q3

- a. What is the objective of the national treatment obligation? Is the national treatment obligation limited to products subject to tariff concessions under Article II of the GATT 1994? Does Article II apply to internal measures only? Is there any reason to have different National Treatment standards for tax and regulatory measures?
- b. A number of different elements have been proposed as the basis for identifying discrimination. Putting aside the issue of appropriate part of the provision under which they would be considered what do you think of a standard that would weigh and balance all of the relevant considerations, as follows: A non-discrimination standard would take into account : (i) the existence of, and degree of, disparate impact on imports;(ii) the various subjective intents of the government officials involved in the enactment of the measures; (iii) the objective intent of the measure based on its working (including an examination of whether the means-ends relationship of the measure and its stated goals).

Marks 10+10

Q. 4

In general terms what is the test to determine whether a measure which is otherwise inconsistent with the GATT, 1994 is justified under Article XXIV of the GATT, 1994? Under what conditions is it possible for WTO Members to derogate from the most-favoured-nation treatment obligation for the purpose of creating customs unions or free trade areas with a view to facilitating trade between the constituent territories? How are "customs unions" and "free trade areas" defined in the GATT 1994? What is the meaning of the concepts of 'substantially all trade' and 'substantially the same' in Article XXIV of GATT, 1994? How far the jurisprudence had developed in this regard at the WTO?

Marks 20

Q5

- a. A WTO Member decides to treat a non-market economy country as a market economy for purposes of its anti-dumping law and practice. Can it do so under the WTO?
- b. An export-oriented company has only minimal sales in its home market. Can such sales be used as the basis for normal value determination? Are there alternative manners in which normal value may be established? An administering authority investigating injury allegedly caused by dumped tomato imports determines that inventories are not a relevant injury factor for such a highly perishable product and therefore does not evaluate it in the definitive measure. Discuss on the legality.

Marks 10+10

Q.6

Write short comments on any two of the followings:

- a. Accession process of the WTO
- b. TBT and SPS regulation under WTO
- c. Kinds of Subsidies regulated by WTO
- d. Quantitative restrictions under WTO

Marks 10+10

