

12 MAY 2023

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination- May 2023

Semester-UG VIII
(Trade and Investment Hons)

Subject: Trade Remedies

Time: Three Hours

Marks- 100

Instructions:

- a. Attempt any five questions.
- b. All questions carry equal marks
- c. Try to answer the questions citing the relevant provisions and case laws if any.

Q.1)

What is anti-dumping duty? What is the purpose of regulating anti-dumping measures in international trade? Can a WTO Member decide 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 Anti-dumping Agreement of the WTO? Does dumping mean cheap or low priced imports?

(Marks 20)

Q.2)

What does the term 'injury' in the Anti-dumping Agreement of the WTO mean? How is an anti-dumping investigation initiated? In an anti-dumping case involving five exporters, the investigating authority finds that four of them did not dump. The fifth exporter dumped some 50 per cent of its exports while the other 50 per cent was not dumped. In analysing the volume of the dumped imports, which data should the investigating authority use?

(Marks 20)

Q.3)

Country A is a Member of the WTO. In the year 2000, in order to boost the slumping domestic industry of cellulose, the government of country A issues certain measures.

These consist of:

- ❖ A programme involving stocking of domestically produced 'lumber', setting a maximum price and guaranteeing supply of raw material;
- ❖ A scheme granting credit to exporters of finished paper to be offset against the payment of customs duties on subsequent imports;
- ❖ The reimbursement mechanism for production taxes is made more efficient for exporters. For cellulose exporters, the mechanism prescribes that when a company exports more than 60 per cent of its production, the tax payable on the cellulose sold

on the domestic market is made payable at the end of the year instead of on a monthly basis;

- ❖ To 150 companies producing mainly cellulose, certain financial contributions, amounting to 0.9 per cent *ad valorem*, are made. The expressed purpose of these contributions is research and development, although it appears that some of the companies have used the financing for increased production.

Country B, an industrialized neighbouring WTO Member, has a small domestically orientated cellulose industry with insignificant exports, producing 60 per cent of the country's consumption of cellulose. Following the introduction of country A's measures, domestic producers in country B experience a loss of market-share and a decrease in price of both cellulose and finished paper. Simultaneously, the world market share of country A and country A's imports of cellulose in country B increase rapidly.

The producers in country B file a complaint before the competent authorities, and tension builds between the two countries.

1. You work for the government of country B and receive the complaint. You are made responsible for making a first evaluation of the situation. What is your position with regard to the following?
 - (a) The character of the four measures issued by country A. Do these measures fall under the definition of 'subsidies' provided by the ASCM?
 - (b) What are the possibilities to take action concerning the different measures, and can action be taken to stop the losses sustained by the finished paper industry in country B?
 - (c) If country A is a developing Country but does not figure in Annex VII of the ACSM, would your answer in (a) and (b) be different?
2. Suppose country C has an export oriented cellulose industry, originally mainly focused on neighbouring country A's market. Following the adoption of the measures in country A, country C's exports to country A registered a remarkable decrease. Can country D, neighbouring country of A and C, initiate countervailing duty action against country A alleging displacement of country C's exports of cellulose from country A to its own market?

Q.4)

(Marks 20)

An export-oriented company has only minimal sales in its home market. Can such sales be used as the basis for normal value determination for anti-dumping investigations? 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 20)

Q.5)

What can the allegedly subsidizing Member State do when accused of causing serious prejudice to the interest of another Member State under the multilateral track? Discuss the concept of serious prejudice for actionable subsidies determination.

(Marks 20)

Q.6)

Write short notes on any two of the followings:

- a. Lesser duty rule under Anti- dumping Agreement
- b. Developing country and remedies under Anti- dumping Agreement
- c. Safeguard measures under Regional Trade Agreements
- d. Public interest and review of anti- dumping duty imposition

(Marks 20)