

2 MAY 2024

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination - 2024

Semester-UG VI

Subject: General Principles of International Trade Law

Marks- 100

Time 3 Hours

Instructions:

- a. Attempt any five questions.
- b. All questions carry equal marks.
- c. Answer the question citing relevant provisions and case laws

Q.1

- a. "MFN and National Treatment are the considered to be the two main pillars of the WTO." Comment. How far these principles had strengthened the concept of multilateralism in the field of economic spheres.
- b. What is the objective of the most-favoured-nation treatment obligation? When is there a violation of the most-favoured-nation treatment obligation? Is the concept of "advantage" limited to internal taxes, laws, regulations and requirements? Is the concept of "like products" interpreted consistently in the different provisions of the GATT 1994? What are the criteria to determine whether two products are "like" within the meaning of Article I:1 of the GATT 1994? Once a WTO Member has granted an advantage to a country, can it impose conditions on other WTO Members for them to benefit from that same advantage?

(Marks 10+10)

Q.2

The dialectics of debate between developed and developing countries in the matter of Settlement of Disputes under WTO appears a contrast of opposites. Assess the developing countries major problems, which they confront in the Settlement of Disputes under the WTO Dispute Settlement System.

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

(Marks 20)

Q.3

Define Regional Trade Agreements. 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)

**Q.4**

Westland is a developed country and a major exporter of agricultural goods. It has recently begun to plant genetically. It produces two products from these GMO seeds: edible soybean oil used for cooking, and light oil used as a machine lubricant.

Graceland is a developing country that has, based on ethical grounds, for human safety, outlawed planting GMO seeds in its territory and has implemented a technical regulation outlawing the sale in its territory of any product derived from GMO seeds. The only exception to this ban is if less than one percent of the product is derived from GMOs. Graceland's technical regulation was implemented on an urgent basis without any notice to other WTO Members or to the WTO Secretariat. The measure has now been in effect for six months.

In order to improve its agriculture, Graceland has asked Westland for technical assistance in plant hybridization, and additional assistance in drafting a second technical regulation banning GMO imports in the event that its present technical regulation is struck down in a WTO dispute settlement proceeding. Westland has refused to offer any technical assistance.

Westland has challenged Graceland's ban under the TBT Agreement. Graceland has retained your services to defend itself in a WTO dispute settlement proceeding. In particular Graceland seeks answers to the following questions.

- a. Does the TBT Agreement apply and if so to what extent?
- b. If the TBT Agreement does apply, which provisions are applicable?
- c. If Graceland invokes its right to special and differential treatment, what effect will this have in its dispute with Westland?
- d. What right does Graceland have to technical assistance and what kind of assistance is Westland obligated to offer?
- e. What arguments is Graceland likely to face in a dispute involving the TBT Agreement?
- f. Does Graceland have a potential counterclaim against Westland and how should it proceed?

(Marks 20)

**Q.5**

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 Pakistan 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 Pakistan 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 Pakistan'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, Pakistan 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. Pakistan 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 Pakistan 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 Pakistan 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 Pakistan 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 Pakistan and India is also having a ripple effect on the overall South Asian region. Pakistan and India 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 India's exporters but also other countries in the region that rely on trade with Pakistan.

Furthermore, the trade dispute is exacerbating the existing tensions between the Muslim and Hindu communities in the region. The religious and territorial conflicts between Pakistan and India 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 from both sides.

(Marks 20)

Q.6

Write short notes on any two of the followings:

- (a) Trade policy formulation and WTO obligations
- (b) Treatment of investment under WTO
- (c) New forms of non-tariff barriers
- (d) MSP issue and India

(Marks 10+10)