

NATIONAL LAW UNIVERSITY, JODHPUR

END TERM EXAMINATION (August-December 2025)

Subject: GATT (Trade and Investment Law Honors)

Semester: UG VII Semester (Trade and Investment Honors)

Duration: 3 Hours:

Max Marks: 100

Instructions:

1. No use of electronic device is permitted to answer the questions
2. Answer any five out of the six questions.
3. No use of external reading material is allowed

Q.1) With the help of US-Poultry explain the import of like product analysis under the MFN principle. Describe the importance of origin neutrality principle enshrined under Article I of GATT. (Marks 20)

Q.2) Explain the scope of non-discrimination principle enshrined under Article III of GATT. Discuss the differential standards of comparison adopted with regard to fiscal measures under the National Treatment provision. (Marks 20)

Q.3) Country A introduced indicative prices as a subcategory of reference prices on 30 December 2004. On 29 June 2005 and subsequently, on 26 June 2007, Country A enacted a number of resolutions mandating the use of indicative prices with respect to certain textile, apparel and footwear imports originating in all countries, except those with which Colombia had signed free trade agreements. The legislation defines an indicative price as a reference price established by administrative act for use as a control mechanism on the declared f.o.b. value of imported goods. Indicative prices are applied according to the type of goods and are calculated based on the average production costs of the imported goods, when available, or otherwise, on the lowest price actually negotiated or offered for importation of the good into Colombia. Indicative prices may be imposed (i) upon petition by domestic producers or importers of like products that are affected by unfair competition; (ii) when customs authorities identify unfair competition practices; or (iii) when the DIAN or the Directorate for Customs determines that indicative prices are necessary, based on sectoral studies, risk profiles or in pursuance of a particular policy. Indicative prices are used at the time of presentation of the customs declaration. Pursuant to the customs law, foreign goods imported into the country must remain in customs custody, and thus will not be released, until an importer presents an import declaration and pays customs duties, sales tax and penalties. Under the tax law, sales tax on imported goods is calculated based on the same value used to determine customs duties. Sales tax for domestic goods is based on the transaction value. Upon presentation of the import declaration for goods subject to indicative prices, if the declared f.o.b. value is lower than the indicative price, release of the goods will not be authorized unless the importer corrects the value on the

declaration on the basis of the indicative price and pays customs duties and sales tax on this basis. An importer is allotted a maximum of five days to correct the declared value and pay customs duties and sales tax, and is not given any opportunity at this time to submit evidence to demonstrate that the declared value represents the actual transaction value of the goods. If the importer does not correct the declared value or pay customs duties and sales tax based on the indicative price, the importer will need to reshipe the goods in question within a period of one month or the goods will be considered "legally abandoned". Whenever an importer opts to correct the import declaration and pays customs duties and sales tax based on indicative prices, the goods will be released and the relevant documents are submitted to the concerned authority. This initiates the "control posterior" process. The declared purpose of the "control posterior" process is to verify, after the release of the goods, the customs value declared by the importer, in order to determine the correct dutiable base. Upon receipt of the declaration and documentation, the ministry will conduct the evaluation in order to assess the declared customs value of the imported goods. According to the legislation, this assessment is based on the value at the time of physical inspection or presentation of the import declaration and is conducted in accordance with the principles set forth in Articles 1 to 8 of the Customs Valuation Agreement. The conclusions of the evaluation are presented in a report which includes, inter alia, the "definitive" customs value resulting from that assessment and an explanation of the methods applied in determining such customs value. The "control posterior" process allows for two possible outcomes. If the ministry determines through the evaluation process that the final customs value corresponds to the value originally declared by the importer, the importer will be entitled to a refund of the payment in excess made at the time of the release. The importer must file a request for reimbursement. No timeline is provided for provision of the refund, although in three specific cases presented in this dispute, importers did not receive refunds for more than two years since the initiation of the control posterior. Alternatively, if the concerned ministry determines that the final customs value is higher than the value originally declared by the importer, it will issue a report. At this time, the importer may dispute the proposed liquidation and provide further evidence supporting the value originally declared. If the importer successfully disputes the proposed liquidation, the importer is entitled to a refund of the sums paid in excess during the initial presentation of the import declaration. However, if the importer does not respond to the concerned report, or the response is considered to be unsatisfactory, the Customs Administration will issue a conclusive report, which contains the final determination of the customs value. To the extent that the importer is not satisfied with the Customs Administration's determination as published in the conclusive report, the importer may challenge this administrative act before the administrative authorities.

Validity of the concerned measure is challenged by Country B. It is alleged that the measure is in contravention with Article III of GATT. Decide. (Marks 20)

Q.4) Describe the legislative framework of GATT to regulate the formation of a Custom Union. Explain the same with the help of relevant case laws. (Marks 20)

- Q.5) Explain the nature and scope of Quantitative Restrictions under the legislation framework of GATT? (Marks 20)
- Q.6) Explain the contours of non-discrimination principle enshrined under the General Exception provision of GATT? (Marks 20)