

**NATIONAL LAW UNIVERSITY, DELHI**  
**B.A.LL.B.(HONS.), V YEAR, IX SEMESTER**  
**Special Repeat Examinations, July-2017**

**Paper 9.1: International Trade Law**

Time: 3.00 Hours

Total Marks: 70

Instructions:

1. **All questions carry EQUAL marks.**
2. Read the questions carefully and answer. No clarification shall be sought on the question paper.
3. Do not write anything on the Question Paper except your Roll No.

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- Q.1 Thailand imposed a total ban on the importation of cigarettes. But it allows local factories to produce cigarettes in accordance with the strict rules issued by the Government. In accordance with the rules, the nicotine content of cigarettes, produced inside Thailand shall not exceed  $1/3^{\text{rd}}$  of the nicotine content found generally in cigarettes; and this  $1/3^{\text{rd}}$  nicotine content is strictly defined by the rules. The U.S.A., a major exporter of the cigarettes to Thailand challenged this measure in the W.T.O. Discuss and decide the case.
- Q.2 The Chapeau of Article XX of the GATT, 1994 has been twisted beyond recognition; and this has had both positive and negative implications. Discuss these implications in the context of the Shrimp Turtle case and the Brazil-Retreated Tyre case.
- Q.3 The Dispute Settlement Understanding of the WTO represents a shift from the power oriented diplomacy to the rule based system of settlement of disputes. Critically comment upon this statement.
- Q.4 Distinguish between the concept of 'actual value' under the GATT, 1947 and 'transaction value' under the Agreement on the Implementation of Article VII of the GATT, 1994.
- Q.5 Indian and Bangladesh are members of the WTO, UNO and ILO (International Labour Organisation). The ILO Convention on Child Labour is considered as one of the core conventions which every member is expected to implement. The UN Charter obligates Members to promote human rights. The child labour is rampant in the textiles industry of Bangladesh and textiles are the major exports of Bangladesh. India prohibits the imports of textiles from Bangladesh on the ground of child labour.
- a) Prepare a brief for India supporting Indian measures; and
  - b) Prepare a brief for Bangladesh contesting Indian measures;
- Q.6 An Indian Tractor manufacturing company had been importing substantial quantities of bearings from a Japanese company over a period of time; and the Japanese company was manufacturing those bearings as per the specifications given by the Indian company. Since the Indian Company had been a regular customer of the Japanese company over number of years, the Japanese company started manufacturing the bearings without formal orders from the Indian company; and this practice also went on for quite a few years. In 2010, the Indian company found a local manufacturer who could supply the bearings at half the price of the Japanese company; and the Indian company switched over to the local supplier. By that time, the Japanese company came to know about it, it had already produced the bearings. Since these bearings could not be disposed of otherwise, the Japanese company sold them to the Indian company at 70% discount. When these bearings reached Indian ports, the Customs Authorities insisted on the ad valorem duty on the original value (i.e., without 70% discount). The Indian company appealed to the High Court. Decide the cases.
- Q.7 Discuss the concept of cross retaliation under Article 22.3 of the Dispute Settlement Understanding.
- Q.8 Amul is a co-operative marketing society engaged in doing business in Gujarat. It is supported by the Government through liberal loans for infrastructural development such as refrigeration etc. Further, in accordance with a law passed by Gujarat state, it enjoyed monopoly position in the dairy market of Gujarat. Amul has been buying milk from Gujarati dairy owners always at reasonable prices including a profit margin to the dairy owners. But at times, this price could be less than the milk price in neighbouring states such as Rajasthan. Amul started exporting milk to the European Community and Nestle, a European dairy company, found it hard to compete with Amul. It started alleging that Amul could sell the milk in Europe because of its monopoly position in Gujarat, made possible by a law passed by the State of Gujarat. The European Community filed a complaint against the Government of India under Article XVII of the GATT, 1994. Decide the case by reference to the following issues:
- a) Is the Amul a 'State Trading Enterprise' under Article XVII of the GATT?
  - b) Is the monopoly position of Amul in violation of the provision concerning 'commercial consideration' under Article XVII: 1(b) of the GATT?
  - c) Did Amul discriminate against Nestle under Article XVII of the GATT?
- Q.9 Distinguish a non-violation complaint from a violation complaint highlighting the injury requirement in these cases.
- Q.10 Critically analyse the jurisprudential nature of the authorization to retaliate under the DSU. Does it amount to a sanction under International Law?