

Roll No: -----



UNIVERSITY OF PETROLEUM AND ENERGY STUDIES

End Semester Examination – December, 2017

Program/course: BBA LLB (Hons) (Corporate Law)

Subject: International Trade Law

Code : LLBL 554

No. of page/s: 3

Semester – IX

Max. Marks : 100

Duration : 3 Hrs

NOTE: EXCESSIVE WRITING SHALL BE PENALISED.

Section A (10 Marks)

(Word Limit: 150 Words)

(Attempt all questions, Ques 1 & 2 carry 4.5 marks each and other questions in this section carry 0.33 marks)

General Question- subject matter

- Q. No. 1** Explain the purpose of having TBT agreement in WTO.
- Q. No. 2** To which kind of measures, generally speaking, does article I (1) of GATT apply?
- Q. No. 3** Write full form of WTO.
- Q. No. 4** Write full form of GATT.
- Q. No. 5** Write full form of MFN.

Section B (20 marks)- Conceptual Question

(Word Limit: 300 Words/one side of a page)

(Attempt all questions. Each questions carry equal marks)

- Q. No. 6** Explain- the ‘three tier test’ as developed by the appellate body in EC-Asbestos case to determine whether a measure is a technical regulation under TBT agreement.
- Q. No. 7** Explain the difference between *De jure* and *De facto* discrimination. Give two examples of *De facto* discrimination from the WTO/GATT case law.

Section C (20 marks)- Analytical question

(Word Limit: 500 Words/two sides of a page)

(Attempt all questions. Each questions carry equal marks)

Q. No. 8 If there is no domestic production of any 'like' or 'directly competitive or substitutable' product, would a 100 per cent tax on imports of the products violate Article III (2)? What if the measure did not mention imports and just taxed the product itself?

Q. No. 9 What are the relevant factors in determining the 'normal price' in context of dumping? What are the situations where determination of 'normal price' in domestic market is not appropriate? Also explain if 'Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994' provides solutions to these situations.

Section D (50 marks)

**(Attempt all questions. Question 7 carries 30 marks and Question 8 carries 20 Marks)
(Word Limit- 1000 Words/not more than two pages)**

Q. No. 10 Last year, Newland came up with legislation '*Tetra Pack Act*', which requires that all non-alcoholic beverages are to be sold in tetra pack containers. Until last year, non-alcoholic beverages were often sold in glass bottles. According to Newland, recycling of tetra pack containers is more eco-friendly than the recycling of glass bottles (since no water and no detergents are used). Moreover, use of tetra pack containers, rather than glass bottles, will reduce the use of silica, which is, according to Newland, a mineral in ever-shorter supply. Newland also argues that mandatory use of tetra pack containers for non-alcoholic beverages will help consumers to differentiate between non-alcoholic beverages and alcoholic beverages. The '*Tetra Pack Act*' also prohibits the advertising for, and distribution of, non-alcoholic beverages in glass bottles. Newland argues that such prohibition is necessary to protect public morals and maintain public order.

Oldland was the main exporter of non-alcoholic beverages in glass bottles to Newland. It was, therefore, much affected by Newland's *Tetra Pack Act*. Oldland is of the opinion that Newland introduced this legislation primarily to support its emerging packaging industry. Oldland also points out that alcoholic beverages, and in particular wine, of which Newland is an important producer and exporter, can be sold in glass bottles as well as tetra pack containers. Oldland notes that Newland rejected without much ado Oldland's invitation to start bilateral negotiations on a gradual reduction of the use of glass bottles for non-alcoholic beverages. Also, the *Tetra Pack Act* prohibition on advertising and distribution – two sectors with respect to which Newland has made market access and national treatment commitments - hits Oldland badly, as its advertising and distribution companies are very active in Newland.

Oldland has requested consultations with Newland on the WTO consistency of the *Tetra Pack Act*. You are part of the team of young trade officials instructed to prepare a legal brief in support of the position of Oldland. Your task is to write the part of this brief countering the Newland's possible justifications for its *Tetra Pack Act* under article XX of GATT 1994.

Q. No. 11 There has been some debate over the role of the 'precautionary principle' in relation to SPS measures. The issue has arisen in WTO disputes relating to regulation of beef treated hormones and products that are, or that contain, genetically modified organisms. Is article 5.7 of SPS agreement a sufficient implementation of the principle, or should WTO rules allow Members more discretion to follow the precautionary principle?

PS: Students are strictly instructed to adhere to word limit. Students are expected to write concise and to the point answers focusing only on what has been asked. There will be no marks for irrelevant and unnecessary answers.

SET II

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Section A (10 Marks)

(Word Limit: 150 Words)

(Attempt all questions, Ques 1 & 2 carry 4.5 marks each and other questions in this section carry 0.33 marks)

General Question- subject matter

- Q. No. 1** Explain the purpose of having SPS agreement in WTO.
- Q. No. 2** To which kind of measures, generally speaking, does article III (1) of GATT apply?
- Q. No. 3** When was WTO come into existence?
- Q. No. 4** When was GATT come into existence?
- Q. No. 5** Where is the headquarter of WTO?

Section B (20 marks)- Conceptual Question

(Word Limit: 300 Words/one side of a page)

(Attempt all questions. Each questions carry equal marks)

- Q. No. 6** Explain- the ‘three tier test’ as developed by the appellate body in EC-Asbestos case to determine whether a measure is a technical regulation under TBT agreement.
- Q. No. 7** Explain the difference between *De jure* and *De facto* discrimination. Give two examples of *De facto* discrimination from the WTO/GATT case law.

Section C (20 marks)- Analytical question

(Word Limit: 500 Words/two sides of a page)

(Attempt all questions. Each questions carry equal marks)

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