

RESEARCHERS' TEST

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INSTRUCTIONS FOR PARTICIPANTS:

- The **duration** of this test is **90 minutes**. There are 30 questions, so you have 3 minutes per question.
- There is **only 1 correct answer** to each question.
- Each question carries **1 mark**. There is **no negative marking**.
- This is a closed book test. Researchers are not allowed to access any printed or electronic material during the test.
- Read the questions carefully. No questions or clarifications can be sought during the test period.
- Mark answers in the answer sheet provided.
- In case of a **tie**, the **score of section A** shall be used to break the tie.

Section A

Q.1. The preamble to the Agreement on Agriculture recalls the “long-term objective” of WTO Members with respect to trade in agricultural products, which was agreed at the Mid-Term Review of the Uruguay Round. This “long-term objective” is the establishment of an agricultural trading system that is:

- a) “stable and productive”.
- b) “open and sustainable”.
- c) “fair and market-oriented”.
- d) “efficient and expanding”.

Q.2. The Mid-Term Review of the Uruguay Round, at which this “long-term objective” was formulated, was supposed to be concluded at a Ministerial Meeting held in Montreal in December 1988, but the ministers could not reach agreement on objectives of the agricultural negotiations (among other subjects), so the Mid-Term Review was only concluded during negotiations in Geneva in April 1989. Apart from the meeting in Montreal, there were several other ministerial meetings in connection with the Uruguay Round (1986-1994). However, none of those meetings took place in:

- a) Punta del Este, Uruguay.
- b) Brussels, Belgium.
- c) Marrakesh, Morocco.
- d) Seattle, United States of America.

Q.3. In the preamble to the Agreement on Agriculture, WTO Members express their commitment to impose legal disciplines with respect to market access, domestic support, export competition, as well as sanitary and phytosanitary measures. Which of these subjects is not covered by the Agreement on Agriculture?

- a) Market access.
- b) Domestic support.
- c) Export competition.
- d) Sanitary and phytosanitary measures.

Q.4. The preamble to the Agreement on Agriculture notes that, in undertaking commitments under the reform program launched by the Agreement on Agriculture, WTO Members should have regard to non-trade concerns. Two of these concerns are explicitly mentioned in the preamble, namely:

- a) “poverty reduction and the need to combat malnutrition”.
- b) “food security and the need to protect the environment”.
- c) “multifunctionality of agriculture and the need to safeguard rural livelihoods”.
- d) “rural development and the need to support subsistence farmers”.

Q.5. The negotiators participating in the Uruguay Round recognized that the reform program launched by the Agreement on Agriculture could have negative effects on certain groups of countries. The members of one of these groups are identified in a document that is regularly updated by the Committee on Agriculture (most recently in G/AG/5/Rev.10 of 23 March 2012). Which is the group at issue?

- a) Least-Developed Countries.
- b) Small Vulnerable Economies.
- c) Net Food-Importing Developing Countries.
- d) Landlocked Developing Countries.

Q.6. A WTO Member is a “developing country” for purposes of WTO law if it:

- a) self-identifies as a developing country.
- b) is recognized as a developing country by other WTO Members.
- c) is classified as a lower-middle income country or a low-income country by the World Bank.
- d) is identified as a developing country by the Economic and Social Council of the United Nations.

Q.7. Pursuant to Article II:2 of the Marrakesh Agreement Establishing the World Trade Organization (“WTO Agreement”), the Agreement on Agriculture is ...

- a) ... an international treaty that is open for acceptance by any state or separate customs territory possessing full autonomy in the conduct of its external commercial relations, independently of whether such state or separate customs territory is a party to the WTO Agreement.
- b) ... a part of the WTO Agreement for those WTO Members that have accepted the Agreement on Agriculture and hence binding on those Members.
- c) ... a part of the GATT 1994 and hence binding on all contracting parties to the GATT 1994.
- d) ... an integral part of the WTO Agreement and hence binding on all WTO Members.

Q.8. In order to make agricultural policies more responsive to international market signals, the participants in the Uruguay Round agreed to convert certain border measures, such as quantitative import restrictions, variable import levies and minimum import prices, into ordinary customs duties. Calculating the tariff equivalents of these measures proved to be difficult, and some participants exploited these difficulties to increase the level of protection afforded to their domestic production, a phenomenon that is commonly referred to as:

- a) sneaky dutification.
- b) dirty tariffication.
- c) false conversion.
- d) tariff inflation.

Q.9. A type of border measure that WTO Members are no longer allowed to maintain are variable import levies. In *Chile – Price Band System*, the Appellate Body distinguished variable import levies from ordinary customs duties on the basis that:

- a) ordinary customs duties are not subject to change.
- b) variable import levies are liable to exceed the bindings specified in a Member's schedule.
- c) variable import levies are inherently, automatically, and continuously variable.
- d) a variable import levy is not a duty assessed upon importation.

Q.10. In *Chile – Price Band System*, the Appellate Body noted that variable import levies have several features that undermine the object and purpose of Article 4 of the Agreement on Agriculture. Which of the following did the Appellate Body not identify as a feature of variable import levies?

- a) Variable import levies lack predictability.
- b) Variable import levies lack transparency.
- c) Variable import levies impede the transmission of international prices to the domestic market.
- d) Variable import levies will tend to result in higher charges on imports than ordinary customs duties.

Q.11. Prior to the Uruguay Round, trade negotiators had tried for decades to develop effective disciplines on domestic support for agricultural products. One of the difficulties they encountered was posed by the variety of mechanisms that states employed to support their agricultural producers. The concept of an “Aggregate Measurement of Support” (AMS) included in the Agreement on Agriculture attempts to overcome this difficulty by:

- a) expressing in monetary terms the annual level of support provided to producers through a variety of mechanism, such as market price support, direct payments, and input subsidies.
- b) expressing in monetary terms the annual level of additional expenditure born by consumers, compared to a hypothetical baseline scenario in which no support is provided.
- c) measuring the annual level of budgetary outlays expended by governments to support producers of agricultural products.
- d) measuring the differential between domestic and international prices and multiplying this amount by the volume of production.

Q.12. The concept of an AMS was inspired by a measure originally developed by Timothy Josling for the Food and Agriculture Organization (FAO) in the 1970s and taken up in the Trade Mandate Study of the Organization for Economic Cooperation and Development (OECD) in the 1980s. The original concept developed by Josling (from which the AMS differs substantially) was called:

- a) Producer Subsidy Equivalent (PSE).
- b) Absolute Distortion Measure (ADM).
- c) Overall Trade-Distorting Support (OTDS).
- d) Effective Protection Measure (EPM).

Q.13. The Agreement on Agriculture categorizes domestic support into what are commonly referred to as “boxes”. Which of the following boxes is not represented in the Agreement on Agriculture?

- a) Green box
- b) Blue box
- c) Amber box
- d) Red box

Q.14. In order to be exempt from reduction commitments, domestic support provided by WTO Members must meet three basic criteria, as well as a number of policy-specific criteria and conditions. Which of the following is not one of the three “basic” or “fundamental” criteria?

- a) The support in question shall be provided through a publicly-funded government program not involving transfers from consumers.
- b) The support in question shall have no, or at least minimal, trade-distorting effects or effects on production.
- c) The support in question shall not take the form of direct payments to producers.
- d) The support in question shall not have the effect of providing price support to producers.

Q.15. Where a WTO Member uses an administered price to support agricultural producers, the total market price support is calculated in accordance with the formula $x = ((4-5)*6)-7$, whereby 4, 5, 6 and 7 stand for, respectively:

- a) 4: external reference price; 5: applied administered price; 6: eligible production; 7: associated fees/levies
- b) 4: applied administered price; 5: external reference price; 6: eligible production; 7: associated fees/levies
- c) 4: applied administered price; 5: associated fees/levies; 6: eligible production; 7: external reference price
- d) 4: external reference price; 5: associated fees/levies; 6: eligible production; 7: applied administered price

Q.16. In the case *Khindira – Measures Taken Pursuant to the Agricultural Livelihoods and Food Security Act*, Khindira's total AMS allowance, i.e., the commitment level specified in Section I of Part IV of Khindira's schedule, is "nil". This is because:

- a) at the time of the conclusion of the Uruguay Round, Khindira was not planning to provide market price support to the agricultural products in question.
- b) during the reference period (1986-1988), Khindira did not have an applied administered price for the agricultural products in question.
- c) during the reference period (1986-1988), the external reference price exceeded Khindira's applied administered price in every marketing year for the agricultural products in question.
- d) during the reference period (1986-1988), the applied administered price exceeded Khindira's external reference price in every marketing year by no more than a *de minimis* amount for the agricultural products in question.

Q.17. Article 18.4 of the Agreement on Agriculture instructs WTO Members to give due consideration to the following factor when reviewing compliance with domestic support commitments:

- a) abnormal rates of inflation.
- b) excessive rates of inflation.
- c) fluctuations in exchange rates.
- d) fluctuations in international commodity prices.

Section B

Q.18. Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures (SCM) prohibits the provision of subsidies that are contingent, in law or in fact, on export performance. Export subsidies on agricultural products are exempted from this prohibition. This exemption is made operative through several provisions of the covered agreements. Which of the following provisions speak to the relationship between the SCM Agreement and the Agreement on Agriculture?

- a) Article 3.1 of the SCM Agreement and Article 21.1 of the Agreement on Agriculture.
- b) General Interpretative Note to Annex 1A to the WTO Agreement.
- c) Article XVI:3 of the WTO Agreement.
- d) Article 1.2 of the DSU.

Q.19. At the Ministerial Conference in Bali in December 2013, WTO Members adopted a Ministerial Decision on Public Stockholding for Food Security Purposes (the Bali Decision). Under the Bali Decision, WTO Members shall refrain from challenging public stockholding programs in WTO dispute settlement for a certain period. Which of the following criteria does a public stockholding program not have to fulfil to benefit from the Bali Decision?

- a) The public stockholding program must concern traditional staple food crops, i.e., predominant staples in the traditional diet of a developing country.
- b) The public stockholding program must have been in existence at the date of the Bali Decision.
- c) The public stockholding program must have been implemented for food security purposes.
- d) The public stockholding program must have been approved by the WTO Committee on Agriculture within a year of the adoption of the Bali Decision.

Q.20. In *Peru – Agricultural Products*, the Appellate Body reviewed its jurisprudence on the circumstances in which a WTO Member can be found to have waived its right to initiate dispute settlement proceedings under the DSU. Which of the following findings did the Appellate Body not make in this respect?

- a) A waiver of rights granted by the DSU cannot be lightly assumed.
- b) The language used must clearly reveal that the WTO Member in question intended to relinquish its rights granted by the DSU.
- c) A waiver of rights granted by the DSU can only be embodied in a mutually agreed solution to a dispute within the meaning of Articles 3.5 and 3.7 of the DSU.
- d) On the facts of *Peru – Agricultural Products*, Guatemala had not clearly stipulated that it intended to relinquish its right to have recourse to WTO dispute settlement.

Q.21. At the Ministerial Conference in Nairobi in December 2015, WTO Members adopted a Ministerial Decision on Export Competition (the Nairobi Decision). Under the Nairobi Decision, developed WTO Members committed to eliminate their remaining export subsidy entitlements immediately, whereas developing countries commit to eliminate their entitlements by the end of 2018, except for products that fall under an exception, in which case the export subsidies have to be eliminated by the end of 2022. Under which circumstances can developing countries use their export subsidy entitlements for a particular product or group of products until the end of 2022?

- a) The developing country has provided its three most recent export subsidy notifications on time.
- b) The developing country has notified export subsidies for the product(s) in question in one of its last three export subsidy notifications examined by the Committee on Agriculture before the date of the Nairobi Decision.
- c) The developing country has notified export subsidies for the product(s) in question in all of its last three export subsidy notifications examined by the Committee on Agriculture before the date of the Nairobi Decision.
- d) The developing country does not provide export subsidies on more than 10 per cent of its exports of the product(s) in question.

Q.22. Under the WTO Agreement, WTO Members can modify their rights and obligations through several types of decisions. Which of the following decisions cannot be used to modify the rights and obligations of WTO Members?

- a) authoritative interpretations under Article IX:2.
- b) waivers under Article IX:3.
- c) amendments under Article X.
- d) decisions on the terms of accession of new Members under Article XII.

Q.23. The case *Khindira – Measures Taken Pursuant to the Agricultural Livelihoods and Food Security Act* raises the question whether WTO Members can modify their rights and obligations by taking decisions under Article IX of the WTO Agreement. Do such decisions constitute “applicable law” for the purposes of WTO dispute settlement? The provisions of the Dispute Settlement Understanding (DSU) will play a central role in answering this question. Specifically, Article 11 of the DSU provides that “a panel should make an objective assessment of the facts of the matter before it, including an objective assessment of the facts of the case and”:

- a) “the applicability of and conformity with relevant rules of international law”.
- b) “the applicability of and conformity with the relevant primary and secondary rules of WTO law”.
- c) “the applicability of and conformity with the relevant covered agreements”.
- d) “the applicability of and conformity with the relevant covered agreements and any decisions, waivers, and amendments adopted by WTO Members in accordance with the relevant provisions of the WTO Agreement”.

Q.24. According to Article 31 of the *Vienna Convention on the Law of Treaties*, subsequent agreements between the parties and subsequent practice engaged in by the parties play a role in the interpretation of a treaty. Specifically, these elements shall be:

- a) treated as authoritative interpretations of the parties’ obligations under the treaty.
- b) used to confirm the meaning derived from an interpretation of the treaty’s provisions in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its objects and purpose.
- c) taken into account in the interpretation of the terms of the treaty, together with the context.
- d) used to determine the meaning of a treaty provision where an analysis of ordinary meaning, context and object and purpose leads to a result which is manifestly absurd or unreasonable.

Q.25. In the aftermath of the adoption of the Nairobi Decision on Export Competition, there has been some debate in the Committee on Agriculture on whether the Decision needs to be implemented through modifications of schedules. Several WTO Members with scheduled export subsidy commitments have announced their intention to modify their schedules. Which was the first WTO Member to circulate its modified schedule in May 2017?

- a) The European Union.
- b) Canada.
- c) New Zealand.
- d) Australia.

Q.26. In March 2016, an official of a WTO Member with scheduled export subsidy commitments told a trade publication that the WTO Member would not eliminate its export subsidy entitlements from its schedule to implement the Nairobi Decision on Export Competition. In the official's view, the WTO Member did not have to take that step, because it had previously stopped providing any export subsidies. Which is the WTO Member in question?

- a) The European Union.
- b) New Zealand.
- c) India.
- d) The United States of America.

Q.27. The procedures that currently govern the modification of schedules are set out in the following document (note: some of these documents may not actually exist):

- a) The Decision of 19 November 1968 on "Procedures for Modification and Rectification of Schedules", GATT Document L/3131.
- b) The Decision of 26 March 1980 on "Procedures for Modification and Rectification of Schedules of Tariff Concessions", GATT Document L/4962.
- c) The Decision of 15 December 1993 on "Procedures for Modification and Rectification of Schedules Attached to the Multilateral Trade Agreements", GATT Document L/7360.
- d) The Decision of 15 April 1994 on "Rectifications and Modifications of Harmonized System Loose-Leaf Schedules", GATT Document L/7450.

Q.28. According to the procedures mentioned in the previous question, a WTO Member that intends to modify the commitments recorded in its schedule must send a draft of its modified schedule to the Director-General, which the Director-General will in turn forward to all WTO Members. The draft will be certified and hence become the new schedule of the WTO Member in question if:

- a) the principal suppliers of the products affected by changes in the draft schedule notify the Director-General that they agree with the changes set out in the draft schedule.
- b) a two-thirds majority of WTO Members votes to accept the changes set out in the draft schedule.
- c) no WTO Member objects to the changes set out in the draft schedule within three months.
- d) the WTO Director-General determines that the changes set out in the draft schedule accurately reflect the outcomes of negotiations preceding the circulation of the draft schedule.

Q.29. The WTO Secretariat submitted its most recent review of WTO Members' compliance with their notification obligations under the Agreement on Agriculture to the Committee on Agriculture on October 6, 2017. The review noted that, for the period 1995-2015, there were 1,722 outstanding regular notifications. The highest number of outstanding notification was in the area of domestic support, where 765 notifications, or 35 per cent of required notifications, have not been submitted. At the same time, the Secretariat noted that there is a large variation in compliance rates among WTO Members. How many members have submitted all their notifications, and how many have submitted none of them?

- a) 100 per cent compliance: 30 Members; 0 per cent compliance: 31 Members.
- b) 100 per cent compliance: 14 Members; 0 per cent compliance: 37 Members.
- c) 100 per cent compliance: 9 Members; 0 per cent compliance: 52 Members.
- d) 100 per cent compliance: 43 Members; 0 per cent compliance: 18 Members.

Q.30. In October 2017, the United States (US) submitted a draft of a Ministerial Decision entitled “Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements” to the WTO Secretariat, for circulation to the WTO Membership. The draft decision highlighted the “chronic low level of compliance with existing notification requirements” and expressed the desire to “improve the operation and effectiveness of notification requirements”. To this end, the draft decision proposed several remedies. Which of the following proposals was not included in the US draft decision?

- a) A Member that fails to provide a required notification by the relevant deadline shall submit an explanation for the delay, the anticipated time-frame for its notification, and any elements of a partial notification that the Member can produce.
- b) A Member that fails to provide a required notification within one year of the relevant deadline shall cooperate with the Secretariat, so that the Secretariat can research the matter and provide a notification on the Member’s behalf.
- c) A Member that fails to provide a required notification within two years of the relevant deadline will not be allowed to take the floor in the General Council.
- d) WTO Members are encouraged to provide counter notifications on behalf of a delinquent Member.