

SUGGESTED ANSWERS

PROFESSIONAL PROGRAMME

INTERNATIONAL BUSINESS - LAWS AND PRACTICE (PP-IBL&P/2014) ELECTIVE PAPER 9(5)



**THE INSTITUTE OF
Company Secretaries of India**

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

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INTERNATIONAL BUSINESS - LAWS AND PRACTICE



PP - IBL&P/2014

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PROFESSIONAL PROGRAMME
INTERNATIONAL BUSINESS - LAWS AND PRACTICE
PRACTICE TEST PAPER

Time allowed : 3 hours

Maximum Marks : 100

NOTE : Answer All Questions

Question No. 1

Read the following case and answer the questions given at the end of the case:

***Anti-Dumping Investigation Concerning Imports of Vitamin C
from USA and Canada***

The Designated Authority (herein after referred to as Authority), under the Rules, received written application from M/s. A Chemicals, a unit of M/s. B Enterprises, India Ltd. for and on behalf of domestic industry, alleging dumping of Vitamin-C originating in or exported from USA and Canada.

The Authority issued a public notice initiating anti dumping investigations dated 14 August, 2002 and notice of Preliminary Findings dated 1st November 2002 was published in the Gazette of India, Extraordinary, recommending imposition of Anti Dumping Duty on Vitamin-C originating in or exported from USA and Canada classified under heading 2936.27.00 of the Custom Tariff Act. The Authority provided an opportunity to all interested parties to present their views orally on 15th January 2003. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by all interested parties and the comments received on the same was duly considered in Final Findings.

Petitioner's views

- (a) *Dumping from Japan, China, European Union and Russia: The domestic industry was earlier suffering injury from severe dumping by the exporters from Japan, China, European Union and Russia. After imposition of anti-dumping duty against these countries/territories, exporters from USA & Canada started resorting to dumping of subject goods in the Indian market. In view of the above, it was submitted that while examining injury to the domestic industry in the present case, existence of dumping from China, Japan, European Union and Russia causing injury to the domestic industry is required to be considered, particularly in terms of economic parameters affecting domestic industry and impacts of dumped imports on the prices in the market.*

- (b) *Cumulative assessment of injury: The parameters laid down under the Rules for cumulative assessment of injury are well met in this case, as*
- *quantum of imports and dumping margin from each of the subject countries is more than de-minimus;*
 - *cumulative assessment of the effect of imports is appropriate in light of the conditions of competition between the imported article and the like domestic articles.*
- (c) *Petitioner submitted that the following parameter summarizes injury to the domestic industry.*
- *Imports of subject goods from the subject countries have increased significantly in absolute terms.*
 - *The share of imports from the subject countries in relation to imports of subject goods in India has increased significantly.*
 - *The share of imports from subject countries in relation to demand in India has increased significantly.*
- (d) *Various Economic Parameters affecting domestic industry*
- *Production, capacity utilization of the domestic industry which had been increasing till 2000-01 declined during period under investigation.*
 - *The sales volume of the industry has also declined inspite of reduction in selling price.*
 - *The imports forced the domestic industry to sell the product below its fair value, since the domestic industry was forced to match the prices. Thus, the imports forced the domestic industry to undersell the product.*
 - *The landed value of imported material was significantly below the selling price of the domestic industry causing price undercutting in the Indian market.*
 - *The domestic industry continues to incur significant financial losses as a result of continued dumping in the Indian Market.*
 - *The dumping margin are not only more than de-minimus, but also very significant.*
- (e) *Duty in US \$*
- Though the Designated Authority has already recommended antidumping duty in terms of US \$, it is submitted that the final duties may also be recommended in terms of US \$ only, so that erosion in the quantum of protection does not take place on account of changes in the exchange rate. However, the duties may please be recommended in terms of reference price.*
- (f) *On Product under Consideration*
- The product involved in the present investigation is Vitamin-C in all its form and derivatives. It is also known as ascorbic acid. It is classified under customs subheading no. 2936.27 under the Customs Tariff Act 1975.*

(g) *On Like Article*

There is no significant difference between the product imported from subject countries and produced by the Indian industry in terms of physical & technical characteristics (or product specifications), manufacturing process, plant & equipment, technology, function and uses, marketing, pricing, tariff classification and customer perception. The goods produced by the petitioners and the product under consideration are substitutable with each other.

(h) *On Domestic Industry*

The petition was filed by M/s. B Enterprises India Limited. There are two other producers of Vitamin-C in India. M/s. XYZ Limited is the other producer of the product. M/s. ABC Limited had also created capacity for production of subject goods. However the company has suspended production long back. Two producers namely M/s New Search Ltd & M/s Bio Chemicals Ltd. have commenced their production after period of investigation, albeit in small volumes. There are other units, namely M/s Cardo Drugs Ltd. & M/s Ton Pharma which are producing Vitamin-C for export purposes, after the investigation period. The petitioner accounts for major proportion of Indian production and thus satisfies the standing under anti dumping duty rules.

Views of Exporters

M/s. Albert Mumbai, representing the producer M/s Albert, have indicated that neither the exporter nor its affiliated have received communication regarding the petition and primary investigation for anti dumping duty on Vitamin 'C' of USA origin. They requested the Authority to give at least one month extended period for contesting the case to respond to the initiation notice. However, no response was received by the Authority, from the exporter.

Views of Importers/ Users

- *Domestic Industry is importing the final stage intermediate 2 -- Ketogluonic Acid from China and their cost of production is substantially lower than the producer in exporting countries.*
- *There is difference between the technologies adopted by the petitioner and by produced by the subject countries.*

AUTHORITY'S POSITION

As regards to claims of nil export from subject country Canada, it is noted that substantial imports have been reported by Directorate General of Commercial Intelligence and Statistics (DGCI & S), Kolkata. Further, DGCI&S, Kolkata, furnished transaction wise details of imports for the period of investigation from Canada. Chennai Customs, also reported that a quantum of 57.95Mt has been imported during the period of investigation, which constituted around 9.5% of total imports, well above the de minimus limit.

Like Articles : *The Authority noted that the Vitamin-C produced and sold by domestic industry and those imported from the subject countries have similar characteristics and should be treated as like articles, petitioners have also claimed that there is no*

significant different in the technology adopted by petitioner and by the producers in these countries. Though, every manufacturer fine-tunes production process according to available facilities and necessities.

Domestic Industry: The petition has been filed by M/s. B Enterprises India Limited having its Registered Office at Baroda-390007. There are two producers of Vitamin C in India. M/s. XYZ Limited is the other producer of the product. Earlier, M/s. ABC Limited had also created capacity from production of Vitamin-C, however, the company is closed. Authority held that the petitioner accounts for major proportion of the Indian production and thus satisfies the standing, under the Rules.

Dumping: To determine the dumping the Authority sent questionnaires to all the known exporters and producers of Vitamin C in Subject Countries. However, none of the exporters except M/s Albert from subject countries responded to the Authority and have not furnished any information in the form and manner prescribed by the Authority. In the circumstances Normal Value has been based on the price information viz price list of one of the producer of subject goods in USA, provided by the domestic industry in accordance with Rule 6(8). The Normal Value for USA and Canada has been determined at US \$ *** per Kg.

Export Price: The average export price has been adjusted for commissions, inland freight, overseas freight, packing & handling charges on the basis of best available information and in accordance with Rule 6(8). The export price has been determined at US\$ *** per Kg in respect of USA and at US \$ *** per Kg in respect of Canada respectively.

Dumping Margin: The authority carried out weighted average ex-factory normal value comparison with the weighted average ex-factory export price in period of investigation, for evaluation of the dumping margin for all the exporter/ producers of the subject country wherever appropriate. The dumping margin for exporter/ producer comes as under:

COUNTRY	Normal Value	Export Price	Dumping Margin	D M as a % of Export price
USA	***	***	***	97.80
CANADA	***	***	***	112.26

Injury

— In the instant case, the imports of Vitamin-C from the subject countries have increased significantly in absolute terms, as may be seen from the table below:

Particulars	Unit	1998-99	1999-00	2000-01	2001-02
<i>Imports</i>					
Imports-China*	MT	405.54	227.73	290.67	130.97
Imports-Japan*	MT	312.70	239.70	49.50	1.70
Imports EU and Russia*	MT	267.20	631.60	43.54	16.84

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<i>Imports from -Countries attracting duty*</i>	MT	985.45	1099.03	383.70	149.51
USA	MT	63.11	134.76	51.33	230.51
Canada	MT	0.00	7.00	27.40	152.08
USA, Canada	MT	63.11	141.76	78.72	382.58
<i>Imports Other than above</i>	MT	9.36	41.78	18.00	76.31
<i>Total Imports</i>	MT	1057.91	1282.57	480.43	608.41
<i>* Countries already attracting Anti Dumping Duty.</i>					
<i>Total Domestic Production</i>	MT	269.28	237.25	544.88	456.30
<i>Demand in the Country</i>	MT	1327.20	1519.82	1025.31	1064.71
<i>Market share in Imports Countries attracting duty</i>	%	93.15	85.69	79.87	24.57
USA	%	5.97	10.51	10.68	37.89
Canada	%	0	0.55	5.7	25.00
USA, Canada (Total Imports)	%	5.97	11.06	16.38	62.89
<i>Imports from Other countries</i>	%	0.88	3.26	3.75	12.54
<i>Total</i>	%	100.00	100.0	100.00	100.00

— *The exporters from the subject countries have reduced the prices significantly, as may be seen from the following table:*

<i>Rs. Per KG</i>	<i>1998-99</i>	<i>1999-00</i>	<i>2000-01</i>	<i>2001-02</i>
USA	280.64	271.80	263.60	244.77
CANADA	-	261.97	268.01	219.06

— *The productions of the domestic industry have increased over years till 2000-01, declined in the period of investigation. Authority noted that the sales volume of the industry have declined over the period, the industry has been forced to reduce its prices significantly at the cost of its profitability in view of the dumped imports.*

- *It is evident from the table below that the selling price of the domestic industry have declined over the years. Selling price have increased marginally in 2000-01 over, 1999-2000, however, the same declined again in the investigation period.*

Year	Sales realization Rs. Per Kg.
1998-99	100
1999-2000	91.11
2000-2001	98.44
2001-2002	86.89

- *The Authority noted that the dumped imports have forced the domestic industry to reduce its prices in spite of increase in the cost of production.*
- *The domestic industry has been forced to reduce number of employees.*
- *Inventories with the domestic industry have declined.*
- *On the lines of profitability, the domestic industry is suffering continuous cash losses (except 2000-01) from sale of the product due to continued dumping of the product in the market. Further, cash losses which were showing decline till 2000-01 and the domestic industry made cash profit in 2000-01, again turned into cash losses in the investigation period.*
- *On the lines of changes in production, productivity of the domestic industry increased upto 2000-01. The same has, however, declined again in the investigation period as compared to previous year.*
- *On the lines of production and sales, growth of the domestic industry was positive upto 2000-01 (even though the same was negative in 1999-2000), the same became negative in the investigation period.*
- *The domestic industry is finding it difficult to plan fresh investments given that the performance has materially deteriorated.*

Causal Link : *The Authority held that the material injury to the domestic industry has been caused by imports from the subject countries that are major exporters of Vitamin C to India.*

Indian Industry's Interest and other issues : *It is recognised that the imposition of anti dumping duties might affect the price levels of the products manufactured using the subject goods and consequently might have some influence on relative competitiveness of these products. However, fair competition on the Indian market will not be reduced by the anti dumping measures, particularly if the levy of the anti dumping duty is restricted to an amount necessary to redress the injury to the petitioner companies. Imposition of anti dumping measures would remove the unfair advantages gained by dumping practices, would prevent the decline of the petitioner company(ies) and help maintain availability of wider choice to the consumers of Vitamin-C. Imposition of anti dumping measures would not restrict imports from the subject countries in any way, and therefore, would not affect the availability of the product to the consumers.*

Conclusions : *The Authority, after considering the foregoing, concluded that*

- (a) *Vitamin-C (Ascorbic Acid) originating in or exported from USA, Canada and has been exported to India below normal value, resulting in dumping;*
- (b) *The Indian industry has suffered material injury*
- (c) *The injury has been caused cumulatively by the imports from the subject countries.*
- (d) *It is considered necessary to impose definitive anti-dumping duty, on all imports of Vitamin-C originating in or exported from USA and Canada.*

Accordingly, the Authority has therefore, decided to recommend definitive Anti-dumping Duty to be imposed, on all imports of Vitamin-C and most commonly used synonyms of Vitamin C like Ascorbic Acid, L-Xyloascorbic Acid falling under Custom Heading 2936 originating in or exported from USA and Canada. An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act.

In view of the facts and circumstances given in the case above, answer the following questions:

- (a) *Determination of dumping is based on two major parameters. Explain these parameters with the help of facts given in the above case.*
- (b) *“Sufficient evidence must be provided to support the contention of material injury.” Elaborate keeping in view the above case.*
- (c) *On the facts and circumstances of the case, whether the Designated Authority has followed proper procedure in determining the anti dumping duty to be imposed on the importers. Discuss.*
- (d) *Do you think the anti dumping duties should be imposed on importers? Is it unfair competition or valid defense of the domestic industry? Discuss citing the above case.*
- (e) *What role can WTO play in the antidumping cases? Elaborate on the anti dumping policies of WTO.* (10 marks each)

Answer to Question No. 1(a)

Dumping is, in general, a situation of international price discrimination, where the price of a product when sold in the importing country is less than the price of that product in the market of the exporting country. Thus, in the simplest of cases, one identifies dumping simply by comparing prices in two markets. While determination of dumping, two major parameters which are to be considered are as follows:

- Normal value
- Export price

Normal value : Normal value refers to the determination of appropriate price in the market of the exporting country. The normal value is generally the price of the product at issue, in the ordinary course of trade, when destined for consumption in the exporting country market.

Export price : Export price refers to the appropriate price in the market of the importing country. The export price will normally be based on the transaction price at which the foreign producer sells the product to an importer in the importing country.

As per the given case for determining the dumping the Authority sent questionnaires to all the known exporters and producers of Vitamin C in Subject Countries. However, none of the exporters except M/s Albert from subject countries responded to the Authority and have not furnished any information in the form and manner prescribed by the Authority. In the circumstances "Normal Value" has been based on the price information viz price list of one of the producer of subject goods in USA, provided by the domestic industry in accordance with Rule 6(8). The Normal Value for USA and Canada has been determined at US \$ *** per Kg.

The average export price has been adjusted for commissions, inland freight, overseas freight, packing & handling charges on the basis of best available information and in accordance with Rule 6(8). The export price has been determined at US\$ *** per Kg in respect of USA and at US \$ *** per Kg in respect of Canada respectively.

Answer to Question No. 1(b)

The Agreement provides that, in order to impose anti-dumping measures, the investigating authorities of the importing Member must make a determination of injury. The Agreement defines the term "injury" to mean either (i) material injury to a domestic industry, (ii) threat of material injury to a domestic industry, or (iii) material retardation of the establishment of a domestic industry, but is silent on the evaluation of material retardation of the establishment of a domestic industry.

The Anti dumping Agreement does not define the notion of "material". However, it does require that a determination of injury must be based on positive evidence and involve an objective examination of the volume of dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and the consequent impact of the dumped imports on domestic producers of the like product.

The agreement also provides that a 'causal link' must exist between the material injury being suffered by the Indian industry and the dumped imports. In addition, other injury causes have to be investigated so that they are not attributed to dumping.

The material injury or threat cannot be based merely on mere allegation, statement or conjecture. Sufficient evidence must be provided to support the contention of material injury. Injury analysis can be broadly divided in two major areas:

- The volume effect
- The price effect

Let us now examine these two effects as per the case given above:

The volume effect

The Authority examines the volume of the dumped imports, including the extent to which there has been or is likely to be a significant increase in the volume of dumped imports, either in absolute terms or in relation to production or consumption in India, and its affect on the domestic industry.

As per the given case study the imports of Vitamin-C from the subject countries have increased significantly in absolute terms.

The price effect : The exporters from the subject countries have reduced the prices significantly, as may be seen from the following table:

<i>Rs. per kg</i>	<i>1998-99</i>	<i>1999-00</i>	<i>2000-01</i>	<i>2001-02</i>
USA	280.64	271.80	263.60	244.77
CANADA	---	261.97	268.01	219.06

The productions of the domestic industry have increased over years till 2000-01, declined in the period of investigation. Authority noted that the sales volume of the industry have declined over the period, the industry has been forced to reduce its prices significantly at the cost of its profitability in view of the dumped imports.

It is evident from the table below that the selling price of the domestic industry have declined over the years. Selling price have increased marginally in 2000-01 over, 1999-2000, however, the same declined again in the investigation period.

<i>Year</i>	<i>Sales realization Rs. Per Kg.</i>
1998-99	100
1999-00	91.11
2000-01	98.44
2001-02	86.89

The Authority noted that the dumped imports have forced the domestic industry to reduce its prices in spite of increase in the cost of production. The domestic industry has been forced to reduce number of employees. Inventories with the domestic industry have declined. On the lines of profitability, the domestic industry is suffering continuous cash losses (except 2000-01) from sale of the product due to continued dumping of the product in the market. Further, cash losses which were showing decline till 2000-01 and the domestic industry made cash profit in 2000-01, again turned into cash losses in the investigation period. On the lines of changes in production, productivity of the domestic industry increased upto 2000-01. The same has, however, declined again in the investigation period as compared to previous year. On the lines of production and sales, growth of the domestic industry was positive upto 2000-01 (even though the same was negative in 1999-2000), the same became negative in the investigation period. The domestic industry is finding it difficult to plan fresh investments given that the performance has materially deteriorated. Therefore, it is sufficiently evident from above that the domestic industry has suffered material injury.

Answer to Question No. 1(c)

As per Anti dumping agreement applications can be made by or on behalf of the concerned domestic industry to the Designated Authority in the Ministry of Commerce for an investigation of any alleged dumping. The designated Authority may initiate an

investigation when there is sufficient evidence that dumped imports are causing or are threatening to cause material injury to the Indian industry producing like articles or are materially retarding the establishment of an industry.

An application received by the Designated Authority is dealt with as follows:

1. The application is scrutinized to ensure that it adequately documented and provides sufficient evidence for initiation.
2. When the Designated Authority is satisfied that there is sufficient evidence in the application public Notice is issued initiating an investigation to determine the existence and effect of the alleged dumping.
3. The Designated Authority make a preliminary finding containing the detailed information on the main reasons behind the determination.
4. A provisional duty not exceeding the margin of dumping may be imposed by the Central Government
5. Interested parties who participate in the investigations can request the Designated Authority for an opportunity to present the relevant information orally.
6. Final determination
7. The Designated Authority will inform all interested parties of the essential facts which form the basis for its decision before the final finding is made.
8. The normal time allowed by the statute for conclusion of investigation and submission of final findings is one year from the date of initiation of the investigation.

As per the given case The Authority, after considering the foregoing, concluded that

- (a) Vitamin-C (Ascorbic Acid) originating in or exported from USA, Canada and has been exported to India below normal value, resulting in dumping:
- (b) The Indian industry has suffered material injury
- (c) The injury has been caused cumulatively by the imports from the subject countries.
- (d) It is considered necessary to impose definitive anti-dumping duty, on all imports of Vitamin-C originating in or exported from USA and Canada. Accordingly, the Authority has therefore, decided to recommend definitive Anti-dumping Duty to be imposed, on all imports of Vitamin-C and most commonly used synonyms of Vitamin C like Ascorbic Acid, L-Xyloascorbic Acid falling under Custom Heading 2936 originating in or exported from USA and Canada. An appeal against this order shall lie to the Customs, Excise and Gold (Control) Appellate Tribunal in accordance with the Act. The Designated Authority under the Rules, received written application from M/s. A Chemicals, a unit of M/s. B Enterprises, India Ltd. for and on behalf of domestic industry, alleging dumping of Vitamin-C exported from USA and Canada. The Authority issued a public notice initiating anti dumping investigations dated 14 August, 2002 and notice of Preliminary Findings dated 1st November 2002 was published in the Gazette of India, Extraordinary, recommending imposition of Anti Dumping Duty on Vitamin-C originating in or exported from USA and Canada classified under heading 2936.27.00 of the

Custom Tariff Act. The Authority provided an opportunity to all interested parties to present their views orally on 15th January 2003. The Authority made available non-confidential version of the evidence presented by various interested parties in the form of a public file kept open for inspection by all interested parties and the comments received on the same was duly considered in Final Findings.

So we can conclude from the above given procedure to be followed by the designated authority that the Designated Authority has followed proper procedure in determining the anti dumping duty to be imposed on the importers.

Answer to Question No. 1(d)

In free trade, firms are allowed to charge different rates in different markets. The result would be that firms would charge lower prices in foreign markets and higher prices in domestic markets, leading to material injury to the domestic producers. Had price discrimination taken place by a monopoly firm within one economy, the government would have intervened to stop consumer exploitation by enforcing an Act similar to the MRTP Act, in India. Hence, in the international context, it is the antidumping duty that protects the domestic producers initially and consumers in the long run. The duty is justified because in case of many industries the start up period is long and start-up costs are also high. Once these firms are forced out of the market as a result of dumping by exporters, it is very difficult for them to restart when the same exporters raise prices. Usually, the intention of charging such low prices to foreign consumers is to be able to wipe out the domestic industries and eventually acquiring monopoly power in the foreign market (i.e. using predatory pricing). Thus it is on this ground that the anti dumping duties have been justified. The main intention is to protect the domestic industries.

It is well known that while temporary gains may accrue to consumers, dumping can harm the domestic industry by reducing its sales volume, market shares and revenues. This in turn can result in decline in profitability, job losses and, in the worst case, the domestic industry going out of business. It is said to occur when the goods are exported by a country to another country at a price lower than its normal value. Evidently, there is a need for effective trade defence measure to counter such threats to domestic industry. Hence, Anti-dumping measures are required for protection of domestic industry though imposing anti dumping duty is unfair competition.

To use the anti-dumping instruments, there must be (i) dumped imports originating from a third country that cause an (ii) injury to the domestic production of a similar product, i.e. there must be a (iii) causal link, and it must not be against the (iv) public interest to impose the measures.

In the given case, it is claimed that Vitamin C originating from USA, Canada has been exported below normal value; the Indian industry has suffered material injury. It is an obvious case of dumping and the injury that is claimed is caused by the alleged "dumping". Accordingly, it would be in the domestic industry's interest to impose the anti-dumping measures.

Answer to Question No. 1(e)

WTO (World Trade Organization) plays a vital role in anti dumping cases as it contains the important provisions regarding anti dumping. The WTO agreement does not pass

judgement. Its focus is on how governments can or cannot react to dumping. It disciplines anti-dumping actions. If a company exports a product at a price lower than the price it normally charges on its own home market, it is said to be “dumping” the product. Many governments treat this as unfair competition and take action against dumping in order to defend their domestic industries.

GATT (Article 6) allows countries to take action against dumping. The Article 6 and the anti dumping agreement operate together. They allow countries to act in a way that would normally break the GATT principles of not discriminating between trading partners. Anti-dumping action means charging extra import duty on the particular product from the particular exporting country in order to bring its price closer to the “normal value” or to remove the injury to domestic industry in the importing country. The governments can take actions against dumping where there is genuine injury to the competing domestic industry. In order to do that the government has to show that dumping is taking place, calculate the extent of dumping, and show that the dumping is causing injury or threatening to do so.

The GATT 1994 sets forth a number of basic principles applicable in trade between Members of the WTO, including the “most favored nation” principle. It also requires that imported products not be subject to internal taxes or other changes in excess of those imposed on domestic goods, and that imported goods in other respects be accorded treatment no less favourable than domestic goods under domestic laws and regulations, and establishes rules regarding quantitative restrictions, fees and formalities related to importation, and customs valuation. Members of the WTO also agreed to the establishment of schedules of bound tariff rates. Article VI of GATT 1994, on the other hand, explicitly authorizes the imposition of a specific anti-dumping duty on imports from a particular source, in excess of bound rates, in cases where dumping causes or threatens injury to a domestic industry, or materially retards the establishment of a domestic industry. The original GATT agreement encouraged lower tariff rates for promotion of trade among countries which over time led to imposition of increasing anti dumping duties. The Article VI of the GATT to govern the imposition of anti dumping duties became more apparent. The Article VI contains various provisions for its regulation but was not exhaustive.

The Agreement on Implementation of Article VI of GATT 1994 is commonly known as the Anti-Dumping Agreement (or the AD Agreement). It provides detailed rules in relation to the method of determining that a product is dumped, the criteria to be taken into account in a determination that dumped imports cause injury to a domestic industry, the procedures to be followed in initiating and conducting anti-dumping investigations, and the implementation and duration of anti-dumping measures. In addition, the new agreement clarifies the role of dispute settlement panels in disputes relating to anti-dumping actions taken by domestic authorities.

Question No. 2

Answer all of the following questions.

- (a) *You are a company secretary of Hindustan Exports Ltd. Explain how will you despatch the leather jackets manufactured by the company to Dubai without paying duty from India. (15 marks)*
- (b) *The principle problem in analysing different forms of export financing is the*

distribution of risks between exporter and the importer. Analyse the following export financing instruments in this respect:

- (i) *Letter of credit*
- (ii) *Cash in advance*
- (iii) *Draft*
- (iv) *Consignment*
- (v) *Open Account*

(15 marks)

Answer to Question No. 2(a)

The procedure for export of leather jackets which are excisable goods to Dubai without payment of duty from India should be approved by the Commissioner of Central Excise and is governed by the provisions of Rule 19 of the Central Excise (No. 2) Rules, 2002. The conditions, limitations and safeguards are separately contained in Notification No. 42/ 2001-CE(NT) dated 26th June, 2002.

Conditions:

- (i) that the exporter shall furnish a General Bond (Surety/Security) to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the factory, warehouse or such approved premises, as the case may be, or the Maritime Commissioner or such other officer as authorised by the Board on this behalf, in a sum equal at least to the duty chargeable on the goods, with such surety or sufficient security, as such officers may approve for the due arrival thereof at the place of export and their export therefrom under Customs or as the case may be postal supervision. The manufacturer-exporter may furnish a letter of undertaking in the Form specified in lieu of a bond;
- (ii) that goods shall be exported within six months from the date on which these were cleared for export from the factory of the production or the manufacture or warehouse or other approved premises within such extended period as the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise or Maritime Commissioner may in any particular case allow;
- (iii) that when the export is from a place other than registered factory or warehouse, the excisable goods are in original packed condition and identifiable as to their origin.

Procedure for removal without payment of duty

- (a) After furnishing bond, a merchant-exporter shall obtain certificates in Form CT-1 issued by the Superintendent of Central Excise having jurisdiction over the factory or warehouse or approved premises or Maritime Commissioner or such other officer as may be authorised by the Board on this behalf and on the basis of such certificate he may procure excisable goods without payment of duty for export by indicating the quantity, value and duty involved therein;
- (b) the exporter who has furnished bond shall ensure that the debit in bond account does not exceed the credit available therein at any point of time;
- (c) the manufacturer-exporter may remove the goods without payment of duty after furnishing the letter of undertaking as specified under condition (1);

- (d) such General bond or letter of undertaking shall not be discharged unless the goods are duly exported, to the satisfaction of the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise or Maritime Commissioner or such other officer as may be authorised by the Board on this behalf within the time allowed for such export or are otherwise accounted for to the satisfaction of such officer, or until the full duty due upon any deficiency of goods, not accounted so and interest, if any, has been paid.

Sealing of goods and examination at place of dispatch

- (a) For the sealing of goods intended for export at the place of dispatch, the exporter shall present the goods along with four copies of application in the Form A.R.E.- I to the Superintendent or Inspector of Central Excise who will verify the identity of goods mentioned in the application and the particulars of the duty paid or payable, and if found in order, he shall seal each package or the container in the manner as may be specified by the Commissioner of Central Excise and endorse each copy of the application in token of having such examination done;
- (b) the said Superintendent or Inspector of Central Excise shall return the original and duplicate copies of application to the exporter may retain the quadruplicate copy;
- (c) the triplicate copy of application shall be sent to the officer to whom bond or letter of undertaking has been furnished, either by post or by handing over to the exporter in a tamper proof sealed cover after posting the particulars in official records;
- (d) the exporter may prepare quintuplicate copy of application for claiming any other export incentive. This copy shall be dealt in the same manner as the original copy of application;
- (e) in case of export by parcel post after the goods intended for export has been sealed, the exporter shall affix to the duplicate application sufficient postage stamps to cover postal charges and shall present the documents, together with the package to which it refers, to the postmaster at the office of booking.

Dispatch of goods by self-sealing and self-certification

- (a) where the exporter desires self-sealing and self-certification for removal of goods from the factory, warehouse or any approved premises, the exporter or a person duly authorised, shall certify on all the copies of the application that the goods have been sealed in his presence, and shall send the original and duplicate copies of the application along with the goods at the place of export, and shall send the triplicate and quadruplicate copies of the application to the Superintendent or Inspector of Central Excise having jurisdiction over the factory, warehouse, any such approved premises within twenty four hours of removal of the goods;
- (b) the Superintendent or Inspector of Central Excise shall, after verifying the particulars of the bond or letter of undertaking and endorsing the correctness or otherwise, of the particulars on the application, send to the officer to whom the bond or letter of undertaking has been furnished either by post or by handing

over to the exporter in a tamper proof sealed cover after recording the particulars in the official records;

- (c) The exporter may prepare quintuplicate copy of application for claiming any other export incentive. This copy shall be dealt in the same manner as the original copy of application;

Examination of goods at the place of export

- (a) On arrival at the place of export, the goods shall be presented together with original, duplicate and quintuplicate (optional) copies of the application to the Commissioner of Customs or other duly appointed officer;
- (b) The Commissioner of Customs or other duly appointed officer shall examine the goods with the particulars as specified in the application and if he finds that the same are correct and exportable in accordance with the laws for the time being in force, shall allow export thereof and certify on the copies of the application that the goods have been duly exported citing the shipping bills.

Answer to Question No. 2(b)

The various modes of payment in international business carry associated risks and offer a different level of protection to importers and exporters. The principle problem in analysing different forms of export financing is the distribution of risks. For example, a payment method that is considered risk-free for the exporter is considered very risky for the importer. When an exporter sells on open account or consignment basis, the exporter bears the entire credit risk. On the other hand, in cases when the importer makes advance payment at the time of placing the order, he bears the credit risk.

The determination of payment terms would also depend upon the nature of the relationship between the exporter and importer.

- If the foreign importer is unaffiliated unknown party with whom no business has been done before, it is best for exporter to choose advance payment.
- If the foreign importer is unaffiliated but known party with whom business has been done before, the exporter can choose between letter of credit or documentary collections depending upon the terms and relationship between the parties.
- If the foreign importer is a subsidiary business unit of the exporting firm, open account method can also be suitable from exporter's point of view.

Thus the selection of term of payment should be done keeping in mind all the relevant factors to avoid risk of loss in international trade.

(i) Letter of credit:

- Letters of credit (LCs) are among the most secure instruments available to international traders.
- An LC is a commitment by a bank on behalf of the buyer that payment will be made to the beneficiary (exporter) provided that the terms and conditions have been met, as verified through the presentation of all required documents.

- The buyer pays its bank to render this service. An LC is useful when reliable credit information about a foreign buyer is difficult to obtain, but you are satisfied with the creditworthiness of your buyer's foreign bank.
- This method also protects the buyer, since no payment obligation arises until the documents proving that the goods have been shipped or delivered as promised are presented.

(ii) *Cash in Advance*

Cash in advance, or advance payment, refers to a situation in which the seller requests payment from the buyer before he will ship the goods. The seller only ships out the goods to the buyer after receiving the payment. The settlement method used is likely to be SWIFT payment, telegraphic transfer or bank draft.

Thus it is best for exporter while worst for importer. Importer suffers a risk of non delivery on behalf of seller. Distribution of risk among buyer and seller can be done by using some best practices as such;

- Give the buyer clear payment instructions, including mode of payment (for example, by SWIFT).
- Avoid accepting bank drafts (cheques) or company cheques.
- If you are asked to issue an advance payment guarantee, instruct your bank to make the guarantee "inoperative" until you receive the payment.
- Avoid this arrangement. Try offering a letter of credit instead.
- Insist on an advance payment guarantee. This will allow you to recover the payment if the seller fails to fulfil his part of the contract.

(iii) *Draft*

Documentary collection/draft offers some protection to the seller. It is more secure than shipping on an open account basis but less secure than using a letter of credit or an advance payment. A documentary collection/ draft (D/C) is a transaction whereby the exporter entrusts the collection of payment to the remitting bank (exporter's bank), which sends documents to a collecting bank (importer's bank), along with instructions for payment. Funds are received from the importer and remitted to the exporter through the banks involved in the collection in exchange for those documents. D/Cs involve the use of a draft that requires the importer to pay the face amount either on sight (document against payment—D/P) or on a specified date in the future (document against acceptance—D/A). The draft lists instructions that specify the documents required for the transfer of title to the goods. Although banks do act as facilitators for their clients under collections, documentary collections offer no verification process and limited recourse in the event of non-payment. The exporter has little recourse against the importer in case of nonpayment. Thus, the Documentary collection/draft mechanism should only be used under the following conditions:

- The exporter and importer have a well-established relationship.
- The exporter is confident that the importing country is stable politically and economically.

- An open account sale is considered too risky, but an LC is also too expensive for the importer.

iv) *Consignment*

Consignment in international trade is a variation of the open account method of payment in which payment is sent to the exporter only after the goods have been sold by the foreign distributor to the end customer. An international consignment transaction is based on a contractual arrangement in which the foreign distributor receives, manages, and sells the goods for the exporter who retains title to the goods until they are sold. Payment to the exporter is required only for those items sold. One of the common uses of consignment in exporting is the sale of heavy machinery and equipment because the foreign distributor generally needs floor models and inventory for sale. Goods not sold after an agreed upon time period may be returned to the exporter at cost. Exporting on consignment is very risky as the exporter is not guaranteed any payment and someone outside the exporter's control has actual possession of its inventory. However, selling on consignment can provide the exporter some great advantages which may not be obvious at first glance. For example, consignment can help exporters compete on the basis of better availability and faster delivery of goods when they are stored near the end customer. It can also help exporters reduce the direct costs of storing and managing inventory, thereby making it possible to keep selling prices in the local market competitive. However, though consignment can definitely enhance export competitiveness, exporters should keep in mind that the key to success in exporting on consignment and in getting paid is to partner with a reputable and trustworthy foreign distributor or a third-party logistics provider.

v) *Open account*

In an open account transaction, the seller ships the goods together with the necessary documents to the buyer before the payment is made and without any form of guarantee. When the goods have been dispatched, the seller also sends the buyer an invoice asking for payment within the agreed credit terms, for example, 60 days from the invoice date. In this case bearing of risk is more on seller/exporter as he has to despatch the goods before the payment and on the other hand buyer/importer faces the risk of quality of goods.

Question No. 3

India is a huge country with a vast domestic consumer market. Then why Indian firms are targeting international markets? Do you think Indian firms should go global? Critically analyse. (5 marks)

Answer to Question No. 3

Globalisation is a more advanced form of internationalisation of business that implies a degree of functional integration between internationally dispersed economic activities. It denotes the increased freedom and capacity of individuals and firms to undertake economic transactions with residents of other countries. Though India has vast domestic consumer market, it should go global to gain following benefits of globalisation-

1. *Increase in Competitive Strength* : Globalization will expose Indian domestic

industry to foreign competition. They will be under pressure to improve efficiency and quality and reduce costs. Under a protective regime industry lose the urge to improve efficiency and quality. Globalization will help to improve the competitive strength and economic growth of developing nations.

2. *Access to Advanced Technology* : For a developing country like India, globalization provides access to new technology; Indian companies can acquire sophisticated technology through outright purchase or through joint ventures and other arrangements.
3. *Reduction in Cost of Production* : In a globalised environment, companies can secure cheaper sources of raw materials and labour to minimize cost of production.
4. *Growth and Expansion* : The Indian companies should globalise to expand and grow by entering foreign markets when the domestic market is not large enough to absorb the entire production.
5. *Other benefits* : Globalization also offers some spin off benefits. It helps in the professionalization of management. Globalization brings people of different races and ethnic backgrounds closer. It helps to promote mutual cooperation and world peace.

However, there are some disadvantages of globalization which Indian firms may face. They are

1. *Threat to Domestic Industry* : Globalization leads to increasing role of foreign companies in the domestic economy of a country. This is likely to hamper the growth of domestic companies. Small and medium firms in a developing country like India are not in a position to compete with giant firms of developed nations.
2. *Unemployment* : Globalization brings about rapid technological changes. Advanced technology might create unemployment problems in developing countries like India.
3. *Threat to Democracy* : Globalization requires very fast movement of capital and labour across national frontiers. These increase the pressure for conceptual and structural readjustments to the breaking point. The social and human costs of globalization may put the social fabric of a democracy in danger.
4. *Economic Instability* : Globalization leads to a tremendous redistribution of economic power. Such redistribution will translate into a redistribution of political power. The change is likely to have a destabilizing effect.
5. *Disregard of National Interest* : Indian economy might become excessively dependent on global corporations. This may not be in the national interest.

Question No. 4

Using the comparative advantage trade theory, outline the case for free trade.

(5 marks)

Answer to Question No. 4**Theory of comparative advantage by David Ricardo- The case of free trade**

The classical economists writing in the first quarter of the nineteenth century reinforced the case for free trade. The theory of comparative advantage emerged during this period and strengthened the understanding of the nature of trade and its benefits. David Ricardo has received most of the credit for developing this important theory. The theory of comparative advantage suggests that a country should export goods in the country in which its relative cost advantage, and not the absolute cost advantage, is greatest in comparison to other countries.

The theory of comparative advantage suggests that a country should export goods in the country in which its relative cost advantage, and not the absolute cost advantage, is greatest in comparison to other countries. According to Smith, if one country has an absolute advantage over the other country in one line of production and the other country has an absolute advantage over the first country in a second line of production; both countries can gain by trading. Ricardo claimed that if country I can produce all goods with less labor cost than country II then also it will benefit the countries to trade so long as long as country II is not equally less productive in all lines of production. Ricardo used England and Portugal as examples in his demonstration, the two goods they produced being wine and cloth. Ricardo assumed that Portugal was more efficient in making both cloth and wine.

Cost comparisons**Labour cost of production (in hours)**

	<i>1 unit of wine</i>	<i>1 unit of cloth</i>
Portugal	80	90
England	120	100

According to this model, Portugal has an absolute advantage in the production of wine as well as in the production of cloth, because the labor cost of production for each unit of the two commodities is less in Portugal than in England. To demonstrate that trade between England and Portugal will, even in this case, lead to gains for both countries, it is useful to introduce the concept of opportunity cost. The opportunity cost for a good X is the amount of other goods which have to be given up in order to produce one (additional) unit of X. Following Table gives the opportunity costs for producing wine and cloth in Portugal and England.

Opportunity costs**Opportunity costs for**

	<i>WINE</i>	<i>CLOTH</i>
Portugal	$80/90 = 8/9$	$90/80 = 9/8$
England	$120/100 = 12/10$	$100/120 = 10/12$

A country has a comparative advantage in producing a good if the opportunity cost for producing the good is lower at home than in the other country. The above table shows that Portugal has the lower opportunity cost of the two countries in producing wine, while England has the lower opportunity cost in producing cloth. Thus Portugal has a comparative advantage in the production of wine and England has a comparative advantage in the production of cloth. We should now further clarify the meaning of the term 'comparative advantage'. In comparative advantage there must be at least two countries and two goods. We compare the opportunity costs of production of each good in both countries. As long as the two countries' opportunity costs for one good differ, one country has a comparative advantage in the production of one of the two goods, while the other country has a comparative advantage to the production of the other good. As long as this is the case, both countries will gain from trade, regardless of the fact that one of the countries might have an absolute disadvantage in both lines of production. The comparative advantage proposition states that a less developed country that lacks an absolute advantage in any goods can still engage in mutually beneficial trade, and that an advanced country whose domestic industries are more efficient than those in any other country can still benefit from trade even as some of its industries face intense import competition.

Question No. 5

Some fundamental principles are the foundation of multilateral trading system. Elaborate. (5 marks)

Answer to Question No. 5

The WTO agreements are lengthy and complex because they are legal texts covering a wide range of activities. They deal with: agriculture, textiles and clothing, banking, telecommunications, government purchases, industrial standards and product safety, food sanitation regulations, intellectual property, and much more. But some fundamental principles run throughout all of these documents. These principles are the foundation of the multilateral trading system.

Principles of trading system :**1. Trade without discrimination**

- *Most favoured nation(MFN)*

"Treating other people equally". Under the WTO agreements, countries cannot normally discriminate between their trading partners. "If you grant someone a special favour (such as a lower customs duty rate for one of their products), you have to do the same for all other WTO members." This principle is known as most-favoured-nation (MFN) treatment.

- *National treatment*

"Treating foreigners and locals equally". The principle of national treatment states that imported and locally-produced goods should be treated equally, at least after the foreign goods has entered the market. The same should apply to foreign and domestic services, and to foreign and local trademarks, copyrights and patents.

2. Freer trade: gradually through negotiation

Lowering trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include customs duties (or tariffs) and measures such as import bans or quotas that restrict quantities selectively.

3. Predictability: Through Binding and Transparency

Sometimes, promising not to raise a trade barrier can be as important as lowering one, because the promise gives businesses a clearer view of their future opportunities. With stability and predictability, investment is encouraged, jobs are created and consumers can fully enjoy the benefits of competition choice and lower prices. The multilateral trading system is an attempt by governments to make the business environment stable and predictable.

4. Promoting fair competition

The WTO is sometimes described as a “free trade” institution, but that is not entirely accurate. The system does allow tariffs and, in limited circumstances, other forms of protection. More accurately, it is a system of rules dedicated to open, fair and undistorted competition. The rules on non-discrimination MFN, national treatment dumping and subsidies etc. are designed to secure fair conditions of trade. The rules try to establish what is fair or unfair, and how governments can respond, in particular by charging additional import duties calculated to compensate for damage caused by unfair trade.

5. Encouraging development and economic reforms

The WTO system contributes to development. The agreements themselves inherit the provisions of GATT that allow for special assistance and trade concessions for developing countries. Over three quarters of WTO members are developing countries and countries in transition to market economies. During the seven and a half years of the Uruguay Round, over 60 of these countries implemented trade liberalization programmes autonomously. At the same time, developing countries and transition economies were much more active and influential in the Uruguay Round negotiations than in any previous round, and they are even more so in the current Doha Development Agenda.

Question No. 6

Logistics management tries to have the “right product”, in the “right quantity”, at the “right place”, at the “right time” with the “right cost”. Explain the flow of resources in the process of logistics management. (5 marks)

Answer to Question No. 6

It is rightly said that Logistics management tries to have the “right product”, in the “right quantity”, at the “right place”, at the “right time”, with the “right cost”. Logistics is the management of the flow of resources between the point of origin and the point of consumption in order to meet some requirements. The logistics of physical items usually involves the integration of information flow, material handling, production, packaging, inventory, transportation, warehousing, and often security. The complexity of logistics can be modelled, analyzed, visualized, and optimized by dedicated simulation software. The minimization of the use of resources is a common motivation.

The flow of resources/stages in the process of logistics management is explained below:

1. *Network Design* : First of all, it is necessary to decide the number and location of facilities needed for logistics operations. Proper design of network and infrastructure improves efficiency of logistics. The facilities in this network are manufacturing plants, materials handling system, distribution system, order processing system, after sale service, etc.
2. *Information* : In logistics, information is needed to forecast sales and to process customer orders. Sales forecasting helps in inventory management. Correct information is necessary to avoid errors and delays in order possessing.
3. *Transportation* : A cost effective and speedy transportation system improves efficiency of logistics. Roadways, railways, airways and waterways are the different modes of transport. Road transport is suitable for carrying goods of medium bulk and weight over short distances and for point to point service. Rail transport is suitable for carrying heavy goods over long distance. Air transport is suitable for carrying light and valuable goods at a fast speed. Water transport is appropriate for carrying bulky goods of low value.
4. *Warehousing* : Proper storage of goods is necessary to serve customers efficiently, Warehousing decisions are as follows:
 - How many warehouses?
 - What type of warehouses?
 - Where to locate warehouses?
 - What size of warehouses?
5. *Procurement* : Acquiring raw materials, semi finished items and a finished product is an important part of logistics. It consists of several activities, e.g., requirement planning, sourcing suppliers, negotiation, order placement, receipt and inspection, quality assurance, handling etc. It provides support to manufacturing and resale operations.
6. *Packaging and Labelling* : 'Packaging' involves designing and producing appropriate packages for various products. Effective packaging protects the product, makes product handling convenient and serves as a silent salesman. 'Labelling' refers to putting identification marks on packages. A label provides information about the brand, grade, price, manufacturing date, expiry date, etc. It may be a part of the package or may be attached to the product.
7. *Inventory Management* : A business firm maintains inventory to fulfill orders of customers. The amount of inventory will depend upon anticipated demand and time involved in replenishment of inventory. Inventory control involves maintaining inventory at the optimum level so that the costs of carrying inventory and ordering costs are minimized without loss of sales. The nature and quantity of various items to be kept I stock are decided so as to minimize investment in inventory and at the same time avoid interruptions in production process and selling.

8. *Order Processing* : The steps involved in executing customer orders are known as order cycle. It begins when customers place an order and ends with dispatch of product to the customer. The order processing system affects customer service significantly. When there are errors and delays in processing of orders, the firm loses customers to its rivals. Therefore, Logistics manager must design and operate a quick accurate and efficient order processing system to retain customers and ensure repeat orders.
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