

International Trade Law Mock Exam

Please try to do this mock exam within four hours.

Question 1

Recommended time: three hours

Majoria and Elbonia are both members of the World Trade Organization (WTO). Majoria is a large, developed country, while Elbonia is a small developing country. Both countries produce catfish. Almost all Majorian catfish comes from fish farms (90% of production), while a small portion of Majorian catfish are wild and caught in rivers. Elbonian catfish, however, are almost entirely wild and caught in rivers and lakes (90% of production and 80% of exports), though Elbonia is in the process of developing its catfish farming industry. There are three Elbonian companies that export catfish, and the government has ownership interests in all three.

All catfish belong to the order *Siluriformes*, to which belong more than twenty different families of catfish around the world. The family of catfish found in Majorian is *Ictaluridae*, whereas the family of catfish found in Elbonia is *Sisoridae*.

In the past ten years, Elbonia's catfish exports to Majoria have increased steadily. Consumer demand for catfish in Majoria has doubled in the past five years. Yet despite the favourable market conditions for expansion, the Majorian industry has shrunk, in part due to Majorian environmental regulations adopted in 2013 that make it more expensive to farm catfish, and in part because a parasite has infested a substantial number of Majorian catfish farms since 2015. Since 2013, 15% of Majorian catfish farmers have gone bankrupt, and more are laying off workers and losing money.

The Majorian government has taken a number of measures that affect Elbonian catfish exports to Majoria. Elbonia has challenged each of these measures under the Dispute Settlement Understanding (DSU). You are an attorney representing the Elbonian government in this dispute. Your assignment is to formulate the legal arguments you would make on behalf of the Elbonian government before the panel. The following are the measures taken:

1. During the Uruguay Round of tariff negotiations, Majoria set its tariff rate on all catfish at 10% per kilo. In late 2013, Majoria introduced two changes to its customs rules. First, it changed the basis of its tariff classification from the general order (*Siluriformes*) to the specific families of catfish involved. Second, Majoria reduced the tariff on some families of catfish, but retained the tariff on others at the prior level. In particular, the tariff on *Ictaluridae* catfish was reduced to 0, while the tariff on *Sisoridae* catfish remains at 10%.
2. In early 2014, Majoria passed a new law regulating the use of fish names. The law limits the use of the word "catfish" to fish belonging to the *Ictaluridae* family. However, *Sisoridae* family can no longer be called "catfish" when offered for sale in Majoria, but must be called "river mud shark" instead. "Catfish" is the name used historically by Majorian consumers to designate fish belonging to the *Siluriformes* order. The name "river mud shark" is unfamiliar to Majorian consumers, but has been common among scientists and market actors in Elbonia.

3. In March 2016, Majoria imposed countervailing duties on all catfish imports from Elbonia, on the basis of findings by Majoria's International Trade Commission (ITC) that the Elbonian government had subsidized its catfish industry. In particular, the ITC found that the following Elbonian measure represented actionable subsidies:
- a. The Elbonian government provides free inland transportation for catfish caught in the rivers of its northern provinces, which are far from the ports from which export shipments are made,
 - b. The Elbonian Fishers' Organization receives support from a major World Bank project to establish a web of storage facilities to ensure that the catfish to be exported is of a high quality, and
 - c. Due to a high unemployment rate in southern regions of Elbonia, the government has offered grants and low-interest loans for the farming of catfish.

Question 2

Recommended time: one hour

Discuss the importance of statements in the preamble of the WTO Agreement when interpreting provisions of GATT.