

考試科目	國際經濟法	系所別 國際經濟學研究所 國際經濟法組	考試時間	2月5日(五)第二節
<p>一、為因應新冠肺炎，各國以及各藥廠均加緊疫苗的研發，為了確保疫苗可以為更多人所取得，印度等 WTO 會員於 TRIPS 理事會中提案，建議總理事會應就會員為了 COVID-19 的預防、控制、或治療，於一定的期間內豁免履行 TRIPS 協定下的某些義務，包括專利保護的義務；此外，也有會員打算就 COVID-19 相關技術（例如疫苗、藥物、診斷等）實施強制授權。請問：(一) WTO 下有關豁免的規定為何？(5%) (二) TRIPS 協定針對強制授權的規定為何？(20%)</p> <p>二、於 2020 年上半年，許多 WTO 會員為了因應新冠肺炎，針對各類醫療與個人防護用品紛紛採取出口管制措施，包括出口關稅、出口限制或出口配額。請問此類措施於 WTO 下的適法性？(20%)</p> <p>三、WTO 規則中允許會員就其認為重要的公共政策訂定相關規範，但此類規範需具有必要性，請比較「必要性」以及相似的概念 (not more trade-restrictive than necessary, not more trade-restrictive than required) 於 GATT、TBT 協定、以及 SPS 協定下的異同。(20%)</p> <p>四、WTO 上訴機構的最後一位成員任期於 2020 年 11 月 30 日到期，請問此一狀況對 WTO 的爭端解決機制帶來哪些影響？(10%) WTO 會員試圖採取哪些方式來面對 WTO 無上訴機構成員的困境？試舉出兩類因應方式(15%)。</p>				
備註	<p>一、作答於試題上者，不予計分。 二、試題請隨卷繳交。</p>			

考試科目	國際公法	系所別	國際經濟與貿易學系 國際經濟法組	考試時間	2月5日(五)第二節
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五、請試譯以下條文 (10%)

1. In examining the matter referred to in paragraph 5:

- (i) in its assessment of the facts of the matter, the panel shall determine whether the authorities' establishment of the facts was proper and whether their evaluation of those facts was unbiased and objective. If the establishment of the facts was proper and the evaluation was unbiased and objective, even though the panel might have reached a different conclusion, the evaluation shall not be overturned;
- (ii) the panel shall interpret the relevant provisions of the Agreement in accordance with customary rules of interpretation of public international law. Where the panel finds that a relevant provision of the Agreement admits of more than one permissible interpretation, the panel shall find the authorities' measure to be in conformity with the Agreement if it rests upon one of those permissible interpretations. (5%)

2. The function of panels is to assist the DSB in discharging its responsibilities under this Understanding and the covered agreements. Accordingly, a panel should make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the relevant covered agreements, and make such other findings as will assist the DSB in making the recommendations or in giving the rulings provided for in the covered agreements. Panels should consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution. (5%)

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註

- 一、作答於試題上者，不予計分。
二、試題請隨卷繳交。