

考試科目	國際經濟法	系所別	國際經濟學貿易學 國際經濟法組	考試時間	2月10日(四)第二節
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- 一、歐盟於今年七月公布「碳邊境調整措施」之規則草案，國內許多媒體將此稱之為「碳關稅」，此一說法誤解了「邊境調整措施」實際上為要求進口產品符合與本國同類產品相同的內國措施之本質。請問在 GATT1994 的規範下，針對關稅措施、內國措施、以及邊境調整措施的基本法律原則為何？（15%）此外，歐盟一再強調其「碳邊境調整措施」將以符合 WTO 規範的方式實施，假設歐盟此一措施無法通過 GATT1994 之下有關邊境調整措施的相關規定，歐盟可以援引哪一些例外規定來正當化其措施？（10%）
- 二、中國於去（2021 年）月 2 月與 9 月分別宣布暫停我國鳳梨、釋迦與蓮霧的進口，理由為於該些產品進行抽驗發現介殼蟲，我國則於 11 月在 SPS 委員會對中國此舉提起特定貿易關切。請問中國此一措施可能涉及哪些 WTO 之法律規定？（15%）假設透過特定貿易關切無法解決此一爭議，我國欲透過 WTO 的爭端解決機制來處理，請問爭端解決機制之主要程序與步驟為何？（15%）
- 三、WTO 第 12 屆部長會議於今年再度確定延期，但 67 個 WTO 會員成功的完成「服務之國內規章聯合倡議」之談判、並於 12 月 2 日通過一宣言納入此一談判成果，此一談判成果將透過參與聯合倡議之 WTO 會員，以修改其服務業特定承諾表方式納入。請問於服務貿易協定中，與特定承諾表以及國內規章相關的法律規定有哪些？（20%）
- 四、於去（2021）年 10 月的防衛協定委員會中，許多 WTO 會員就半年間已有超過 30 件啟動防衛措施調查通知的狀況表示憂心。請問相較於反傾銷稅以及平衡稅，實施防衛措施的法律要件有何特性？（15%）

考試科目	國際貿易法	系所別	國際經濟貿易學 國際經濟法學	考試時間	2月10日(四)第二節
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五、請試譯以下條文 (10%)

1. A Member may apply a safeguard measure only following an investigation by the competent authorities of that Member pursuant to procedures previously established and made public in consonance with Article X of GATT 1994. This investigation shall include reasonable public notice to all interested parties and public hearings or other appropriate means in which importers, exporters and other interested parties could present evidence and their views, including the opportunity to respond to the presentations of other parties and to submit their views, inter alia, as to whether or not the application of a safeguard measure would be in the public interest. The competent authorities shall publish a report setting forth their findings and reasoned conclusions reached on all pertinent issues of fact and law.
2. Members shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies available shall also include the seizure, forfeiture and destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence. Members may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular where they are committed wilfully and on a commercial scale.

備註

- 一、作答於試題上者，不予計分。
- 二、試題請隨卷繳交。