

考 試 科 目	國際經貿時事分析	系 所 別	國際經營與貿易學系/國際經貿法組	考 試 時 間	2 月 3 日(五) 第 2 節
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本試題共四題，第一題及第二題為申論題，第三提及第四題為評論題，每題 25 分（各子題 12.5 分）。請依考生所學專業知識與分析方法作答。

一、世界貿易組織（WTO）會員間之優惠性貿易協定，雖然違反最惠國待遇（MFN）原則，但依「關稅暨貿易總協定（GATT）」第 24 條或「服務貿易總協定（GATS）」第 5 條規定，於符合法律要件下，皆肯定其合法性。自杜哈回合談判陷入僵局，WTO 規則制訂功能受阻後，WTO 會員轉而簽署雙邊或區域自由貿易協定，除大幅減讓成員國間貨品關稅、開放服務市場外，更進而處理成員國境內之非關稅貿易障礙問題，納入更高標準的管理法規調和或合作之規定，如投資保障、競爭議題等，而稱為巨型或深度區域貿易協定，如我國申請加入的「跨太平洋全面進步夥伴協定（CPTPP）」即屬之。然美國 2017 年退出 CPTPP 前身之 TPP 協定後，於 2021 年提出「印太經濟架構（IPEF）」，並於 2022 年中啟動「臺美 21 世紀貿易倡議」，旨在因應地緣政治升溫，為加強與印太地區國家的經貿關係所提出的新型態貿易協定。試問：

（一）印太經濟架構與臺美 21 世紀貿易倡議的談判目標與主要內容為何？其與傳統自由貿易協定有何不同？對印太地區國家而言，是否加入此等經濟架構或貿易倡議之考量因素為何？

（二）印太經濟架構與臺美 21 世紀貿易倡議，是否或如何符合 WTO 有關自由貿易協定或經濟整合之規定？如為否定，美國擬納入之法規調和或合作等規定是否因此違反 MFN 原則？

二、歐盟於 2022 年底對中國所採限制立陶宛之貿易措施正式請求 WTO 成立爭端解決小組。本案緣起於 2021 年末，原產地為立陶宛或從立陶宛過境之貨品開始遇到進入中國海關之通關限制，此等限制措施包括：（1）中國海關中通關資訊系統出現錯誤訊息（無法顯示立陶宛）、（2）貨櫃持續卡在中國港口等待通關、（3）中國海關未適時處理或不理會通關之請求。除進口限制外，從中國出口到立陶宛的貨品亦面臨同樣在出口通關程序上的限制。此外，立陶宛企業陸續面臨無法取得中國金融機構之金融服務的困難。最後，立陶宛當局簽發的防疫檢疫證書所涵蓋的產品遭中國海關拒絕通關。例如：中國海關公布《符合評估審查要求的國家或地區輸華肉類產品名單》，增列從立陶宛啟運之牛肉，自 2022 年 2 月 9 日起暫停受理進口申報。試問：

（一）針對中國前開貿易限制措施，歐盟可以主張違反哪些 WTO 涵蓋協定下之貿易規範？

（二）歐盟在控訴程序上可能面臨的困難或挑戰為何？中國可能就歐盟控訴提出反駁的理由為何？

三、Trade and health: WTO response to the COVID-19 pandemic: Since the pandemic outbreak, WTO members have been working on a holistic approach in formulating a multilateral response to COVID-19 which takes into account the exceptional character of the current crisis — in terms of the loss of human lives and the economic and social challenges — and addresses current and future pandemics. To this end, members negotiated a framework which would guide the WTO's work and help to render the multilateral trading system more resilient and better prepared for futures crises. Drawing from three proposals from various delegations and a factual contribution from the Secretariat, members worked on the basis of one single document. The result was a Ministerial Declaration on the WTO response to the current and future pandemics, which members adopted as part of the outcomes of the 12th Ministerial Conference (MC12). The

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Declaration calls on relevant WTO bodies to continue or initiate work on lessons learned and challenges experienced during the COVID-19 pandemic. Areas of focus will include export restrictions, food security, intellectual property, regulatory cooperation, services, tariff classification, technology transfer, trade facilitation, and transparency. A yearly stocktaking exercise will take place in the General Council up to the end of 2024. In parallel, the Ministerial Decision on the TRIPS Agreement, also adopted by members at MC12, provides a platform for members to work together to diversify vaccine production capacity. Members will have greater scope to take direct action over the next five years to override the exclusive effect of patents through a targeted waiver that addresses specific problems identified during the pandemic, especially facilitating and streamlining vaccine exports. Members also have greater clarity regarding related options open to them for pandemic response, including an array of emergency use measures. While all developing country members can benefit from the decision, developing country members with existing COVID-19 vaccine manufacturing capacity are encouraged to opt out. The TRIPS Council publishes a record of such binding commitments by members pledging not to avail themselves of this decision. Members also agreed that, no later than December 2022, they will decide on whether to extend the waiver to cover the production and supply of COVID-19 diagnostics and therapeutics. DG Okonjo-Iweala said these decisions “will make access to medical supplies and components more predictable in this pandemic, and in the next one.” The TRIPS waiver compromise “will contribute to ongoing efforts to deconcentrate and diversify vaccine manufacturing capacity, so that a crisis in one region does not leave others cut off,” she added. Recognizing the need to address the COVID-19 crisis through timely, accurate information, the WTO created a dedicated page on its website. It provides up-to-the minute trade-related information including relevant notifications by WTO members, the impact the virus has had on exports and imports and how WTO activities have been affected by the pandemic. The WTO has also been monitoring COVID-19 related trade-restricting and facilitating measures imposed by the Group of 20 leading economies (G20) as well as the WTO membership as a whole through its biannual trade monitoring reports.

[https://www.wto.org/english/thewto_e/minist_e/mc12_e/briefing_notes_e/bftrade_and_health_e.htm] 試問：

- (一) WTO 如何因應處理 COVID-19 疫情有關之貿易問題？
- (二) WTO 如何協助開發中會員取得 COVID-19 疫苗？

四、Joint Initiative on Services Domestic Regulation: On 2 December 2021, a group of WTO members adopted a Declaration concluding the negotiations on services domestic regulation, which were aimed at slashing administrative costs and creating a more transparent operating environment for service providers hoping to do business in foreign markets. The Declaration contains a set of negotiated disciplines that seek to ensure that measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards with which services businesses need to comply to operate in other markets are clear, predictable, and transparent and do not unnecessarily restrict international trade. These disciplines are

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contained in a Reference Paper on Services Domestic Regulation. The reduction in trade costs from implementing the new disciplines could amount to USD 150 billion annually globally, with particularly important gains for financial, business, communications and transport services. The disciplines focus mainly on the transparency, predictability and effectiveness of procedures that businesses have to comply with to obtain authorization to supply their services. They apply to all sectors where participants have undertaken commitments in their schedules for trade in services, as well as to any other sectors that individual participants have designated. The Declaration also welcomes the schedules of specific commitments that participants have submitted. The objective is to incorporate the new disciplines as “additional commitments” in the schedules of specific commitments that members have, as WTO members, in the area of services. Services suppliers from all WTO members will be able to rely on these new commitments, which will apply on a “most-favoured nation” basis, meaning that they will benefit the entire WTO membership. Participants aim to submit their draft schedules for certification by December 2022, subject to the completion of any required domestic procedure. The participants intend to meet again regularly to discuss, among other things, the necessary steps related to the certification procedures. Participation in the meetings of the initiative is open to all WTO members and observer governments. The 70 governments currently participating in the outcome on services domestic regulation account for over 92.5 per cent per cent of world services trade. Timor-Leste – a WTO acceding country – is the first least-developed country to take part in the initiative. For the first time, a WTO negotiated text contains a provision on non-discrimination between men and women. The objective of this provision is to support women's economic empowerment and boost their participation in services trade. Participants further agreed to a maximum transitional period of seven years for developing countries that need more time to implement individual disciplines for specific services sectors. WTO members are free to regulate their services sectors to pursue their domestic policy objectives. The General Agreement on Trade in Services (GATS) recognizes that such regulations may adversely affect trade in services. The Reference Paper seeks to ensure that the process to obtain authorization to supply a service follows good regulatory practices and, thereby, does not constitute an unnecessary impediment to the business activity. The disciplines will provide a reference point for countries aiming to undertake regulatory reforms to improve the domestic business environment. The full implementation of the disciplines is expected to generate greater economic performance and substantial trade costs savings for all economies, while particularly benefitting small and medium-sized enterprises for which navigating regulatory procedures for services authorizations can be costly and complex.

[https://www.wto.org/english/thewto_e/minist_e/mc12_e/briefing_notes_e/bfservicesdr_e.htm] 試問：

- (一) 服務業國內規章共同倡議之主要規範內容為何？有何特色？
- (二) 參與共同倡議之會員如何落實談判結果之內容？有何效益？

備

註

- 一、作答於試題上者，不予計分。
- 二、試題請隨卷繳交。