

Important Note: All of the following questions must be answered in English. Answers otherwise will not be graded.

(所有題目請以英文作答，中文作答不予計分) 請於試卷內之「非選擇題作答區」標明題號依序作答。

Question 1:

On July 26, 2024, the European Union (“EU”) requested consultations with Taiwan regarding Taiwan’s measures related to local content requirements in investments in off-shore wind installations.

As the background, Taiwan started to develop offshore wind generation capabilities in 2013 through rounds of capacity allocations. In each round of auction, developers bid to develop offshore windfarms up to the allocated generation capacity. In the Phase 3.2 auction, Taiwan allegedly adopted the following measures, including:

- requiring bidders to commit, in their bids, to a minimum degree of local content to be eligible to participate in the auction;
- using the local content commitment committed by bidders as a tiebreaker in the award procedure;
- contractually binding successful bidders to achieving the committed local content degree during the implementation and operation of their windfarm projects, and subjecting them to contractual penalties if the committed degree is not achieved.

The EU raised the concern that Taiwan’s above measures were inconsistent with Taiwan’s WTO obligations, specifically Article III:4 of the General Agreement on Tariffs and Trade 1994 (“GATT”), in that the above alleged measures require and incentivize bidders to commit to using a significant level of Taiwan’s domestic products in their windfarm projects, thereby according less favourable treatment to imported products than to like domestic products.

On November 8, 2024, the EU and Taiwan reached understandings on the above dispute.

Assuming you represented Taiwan in this dispute. Please analyze the potential defenses that Taiwan may consider for defending the GATT-consistency of the measures at issue, including defenses related to GATT Art. III:4 and GATT Art. XX. In your analyses, please also analyze the expected limits of these defenses. (50%)

Question 2:

Taiwania, Berlandia, and Alto are countries located in East Africa, and all are members of the World Trade Organization. Taiwania and Alto are developed countries with well-established medical systems, whereas Berlandia is a least-developed economy. Taiwania boasts the world's largest mask industry due to a rare raw material called “Tai,” which is essential for producing a special mask known as “M-59.”

In 2024, a new virus, “IPA-24,” was first discovered in Berlandia, leading to a soaring number of deaths. Due to its contagious nature, “IPA-24” quickly spread worldwide, becoming a global public health emergency. A few months later, a definitive scientific study revealed that wearing “M-59” masks could significantly reduce the risk of being infected by “IPA-24.” Suddenly, the demand for “M-59” skyrocketed, and the masks became scarce in the market.

In response to this global health crisis, Taiwania implemented two measures regarding “Tai” and “M-59”:

- A. A 50% export tax on “Tai” was introduced, along with stringent export registration requirements that significantly delayed the exportation of “Tai.”
- B. The exportation of “M-59” was generally prohibited, except for exports to Berlandia due to humanitarian considerations.

Alto strongly contested these measures, arguing that they violate Taiwania’s legal obligations under the WTO. In contrast, Taiwania refuted all accusations from Alto, maintaining that both measures comply with WTO laws.

Please analyze the following questions in light of the WTO laws.

- (1) Do the imposition of export tax and export registration on “Tai” constitute an “quantitative restriction” under GATT Article

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XI? (15%)

(2) Does the export ban on M-59 violate any of the WTO laws? (15%)

(3) Assuming that the measures at issue violate WTO laws, can Taiwan justify the measures under GATT Article XX or XXI? (20%)

試題隨卷繳回