

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2010 (MAIN)

TITLE OF PAPER : INTERNATIONAL TRADE AND INVESTMENT LAW

COURSE CODE : L508

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS : ANSWER FOUR (4) QUESTIONS
ALL QUESTIONS CARRY EQUAL MARKS

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE INVIGILATOR.**

QUESTION ONE

You have recently been hired by the Ministry of Commerce, Industry and Trade of your country, Tristat. Your Minister, after learning that in the final year of your LLB degree, you studied International Trade and Investment Law calls you to his office to let you know that it is his intention to join the World Trade Organisation. He goes on to say that he has heard that being a member of the WTO could be beneficial to the country but requires you to write a paper outlining the advantages and disadvantages of surrendering some of the country's sovereignty and accepting a host of new international obligations, whether in your opinion WTO should have direct effect on Tristat law and whether WTO will prevail over the country's Constitution and over other international agreements to which she is a member.

(25 Marks)

QUESTION TWO

Medina is a member of the WTO. Medina is a major producer of leather and leather products. It sells some of these products, particularly apparel, locally and then exports the rest. Tristat and Vanin are also large producers of leather and leather products, mainly shoes and clothing. While Tristat is a member of the WTO, Vanin is not. Medina has a regulation in terms of which all leather products not manufactured in Medina must be labelled as imports. In addition, Medina imposes an internal tax on leather apparel but not on other leather goods. Tristat and Vanin feel that the labelling regulation and the internal tax are contrary to WTO rules, and have approached you for advice.

(25 Marks)

QUESTION THREE

Tristat is a major producer of computers. Although they sell some of these computers locally, about 60 percent of computers are exported to Vanin. Both Tristat and Vanin are members of the WTO and both are developed countries. Although Vanin also

manufactures computers, these are not as popular with the locals in Vanin who prefer the much cheaper computers from Tristat. The computer industry in Vanin is not happy with this state of affairs as they have lost substantial market share to Tristat producers, who are relatively new in the market. These producers are convinced that the price at which the computers are sold in the Vanin market are too low and that the Vanin government gives it's manufacturers of computers a certain amount based on the number of computers exported, as well significant tax rebates if they employ a specified number of unemployed workers each year. They have resolved to petition their government to launch both an anti-dumping and a subsidies investigation. You are required to write a brief addressing the concerns raised by the computer manufacturers in Vanin, advising the government on whether the measures complained of are in fact inconsistent with WTO law as well as the procedures for the imposition of anti-dumping and countervailing duties.

(25 Marks)

QUESTION FOUR

Trade and Investment are seen as crucial factors for attaining development by most countries including Swaziland. To obtain its development goals through trade and investment, the Government of Swaziland has set up institutions to aid its efforts to attract and facilitate investment in Kingdom. Critically discuss two of these institutions and their role in this regard.

(25 Marks)

QUESTION FIVE

According to Adam Smith “If a foreign country can supply us with a commodity cheaper than we ourselves can make it, better buy it off them with some part of the produce of our own industry, employed in a way in which we have some advantage”. Discuss fully Adam Smith’s theory of international trade.

(25 Marks)