

UNIVERSITY OF SWAZILAND

DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, 2013 (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

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INVIGILATOR.**

QUESTION ONE

Vanin and Tristat are WTO Members. Recently, Vanin promulgated a regulation which imposes a ban on cars with fuel efficiency below 12.5 miles per gallon (mpg). Tristat exports cars to Vanin, its major importer. Most of the cars Tristat produces are with fuel efficiency below 12.5 mpg. Vanin does not produce cars with fuel efficiency below 12 mpg. Tristat considers that Vanin's regulation is inconsistent with Article XI of the GATT 1994 (General Elimination of Quantitative Restrictions). Vanin argues that its measure is aimed at protecting human, life and health as well as reducing air pollution.

You are a legal expert on WTO Law, what defences or WTO exception(s) may Vanin invoke and what arguments could this country make under such exception(s)?

(25 marks)

QUESTION TWO

Vanin and Tristat are WTO Members. Recently, Vanin promulgated a regulation which imposes a sales tax of 20 per cent on cars with fuel efficiency below 12.5 miles per gallon (mpg) and a sales tax of two per cent on cars with fuel efficiency equal or above that amount.

GOODS	SALES TAX
Cars with fuel efficiency < 12.5 miles per gallon (mpg)	20%
Cars with fuel efficiency = or > 12.5 mpg	2%

Cars with fuel efficiency below 12.5 mpg are also subject to a ban on advertising, which does not apply to cars with fuel efficiency equal or above 12.5 mpg. Tristat is a main car exporter to Vanin. All cars manufactured in Tristat are with fuel efficiency below 12.5 mpg. Vanin only produces cars with fuel efficiency above 12.5 mpg. Tristat believes that Vanin's regulation violates the national treatment principle under the WTO.

Advise Tristat on the best way to argue its case before a WTO Panel.

(25 marks)

QUESTION THREE

Vanin and Richland are trading partners and they mainly trade in goods. Both Richland and Vanin are members of the WTO. Richland imports widgets from Vanin and the Government has recently received a complaint from the domestic producers of widgets, alledging that the widget producers in Vanin receive a financial contribution from their government and that such contribution is received on the condition that the widgets produced will be exported. In addition, the Richland producers allege that the widgets are sold in the Richland market at a value lower than that at which they are sold in Newland, a non-WTO member.

Discuss fully the legal problem(s) that arise in this matrix.

(25 marks)

QUESTION FOUR

In the factual matrix outlined in Question three above, following your advice on the legal issues arising therefrom, Richland resolves to institute proceedings at the WTO against Vanin.

- (a) Outline the Panel procedure that it will have to follow from the time the dispute is reported, to the time a report is issued.

(15 marks)

- (b) Assuming that the matter is decided against Richland, discuss any further options that are available, multilaterally, to Richland outlining the processes involved.

(10 marks)

QUESTION FIVE

Compare and contrast any two theories of trade.

(25 marks)