

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE, DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, JULY 2017 (SUPPLEMENTARY)

TITLE OF PAPER: INTERNATIONAL TRADE AND INVESTMENT LAW

COURSE CODE: L508

TIME ALLOWED: THREE (3) HOURS

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

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

QUESTION ONE

As the past eighteen years of WTO dispute settlement have shown, many provisions of the covered agreements are a masterpiece of 'constructive ambiguity'. There is much need for clarification in particular dispute settlement proceedings. However, the scope and mandate of this clarification of the WTO dispute settlement system is circumscribed.

Referring to case law, discuss the above in full.

(25 Marks)

QUESTION TWO

Following the completion of your studies you have been engaged by the Ministry of Trade and a Consultant. Your first brief is to advise the Director for Trade on the advantages of the use of customs duties as a trade policy tool, over the use of quantitative restrictions. You are required to submit a comprehensive brief which will clarify not only the nature and purpose of these measures, but also the obligations of the Government of Swaziland as a member of the WTO in this regard.

(25 Marks)

QUESTION THREE

Non-discrimination is one of the fundamental principles of the multilateral trading system. Non-discrimination has two pillars in accordance with the GATT 1994. One of these two pillars is the national treatment obligation and it is provided for under Article III of the GATT. Referring to case law, critically discuss the nature of the national treatment obligation of Article III.

(25 Marks)

QUESTION FOUR

The WTO Decision making process has been criticized for being undemocratic, no-transparent and accountable to no one. You are required to write an opinion on the WTO decision making process for the Director of Trade of the country of which you are a national.

(25 Marks)

QUESTION FIVE

Following her participation on the WTO Ministerial Conference in Geneva, your country's Minister of Trade calls you to her office and relates to you that during the meeting she was amazed how some members of the WTO violate their WTO obligations and are actually allowed to so violate said obligations because of Article XX of the GATT 1994. She tells you that she has an idea to increase government revenue by imposing an import duty higher than that ordinarily levied on the so called 'Dubai cars'. She lets you know that she would like you to draft a justification for such dissimilar treatment of these cars that she can present to her colleagues at the next Cabinet meeting.

(25 Marks)