

UNIVERSITY OF ESWATINI

FACULTY OF SOCIAL SCIENCES, DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, MAY/JUNE 2019 (MAIN)

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

Critically discuss the following trade theories:

- (a) The theory of comparative costs;
- (b) The theory of international division of labour.

(25 Marks)

QUESTION TWO

Pursuant to the successful completion of your studies, you have been employed by the law firm Dlamini, Dlamini and Masuku Attorneys in Mbabane. The firm is approached by the Eswatini Chamber of Commerce which requires an opinion on the following:

- (a) The objectives and functions of the World Trade Organisation (WTO) (15 Marks)
- (b) The function of the following WTO bodies:
 - (i) The General Council (5 Marks)
 - (ii) The Ministerial Conference (5 Marks)

(25 Marks)

QUESTION THREE

Non-discrimination is a fundamental principle of the multilateral trading system and is recognized in the Preamble of the WTO Agreement as a key instrument to achieve the objectives of the WTO. In the Preamble, WTO members express their desire to eliminate discriminatory treatment in international trade relations. Non-discrimination in the WTO is embodied in two principles, the most favoured nation (MFN) treatment obligation and the national treatment obligation.

Discuss, making reference to decided cases, the key elements of either one of the non-discrimination principles.

(25 Marks)

QUESTION FOUR

The world trading system has two main pillars, namely, non-discrimination and market access. There are however some circumstances under which members of the WTO are allowed to adopt and maintain legislation and measures that promote and protect other important societal values and interests, even though this legislation or these measures are inconsistent with substantive disciplines imposed by the GATT 1994.

Article XX of the GATT is an example of a provision that allows members, under specific conditions, to give priority to certain societal values and interests over trade liberalization, market access and/or non-discrimination rules.

Making reference to decided cases, discuss the two-tier test set out in Article XX of the GATT for determining whether a measure, otherwise inconsistent with GATT obligations can be justified.

(25 Marks)

QUESTION FIVE

Sizeze Manufacturing is a producer of widgets in Country A. Due to varied economic factors, Sizeze finds it difficult to sell its widgets and is facing the possibility of making huge losses. Sizeze decides to sell its widgets in Country B at 300 US dollars per tonne. These same widgets are sold at 450 US dollars per tonne in Country A.

Because of this, producers of Widgets in Country B have petitioned their government to assist them by levying anti-dumping duties on widgets from Country A. The government has approached you for advice on how this can be achieved without violating their obligations under WTO law.

(25 Marks)