

UNIVERSITY OF ESWATINI

FACULTY OF SOCIAL SCIENCES, DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, JULY 2019 (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

The WTO Agreements almost invariably contain flexibilities for developing and least developed countries. In your opinion, should these special rights for developing and least developed countries be retained?

(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 to measures, but also the obligations of the Government of Swaziland as a member of the WTO in this regard.

(25 Marks)

QUESTION THREE

- (a) From a WTO perspective, what is the problem with regional trade agreements?
(5 marks)
- (b) What is the test to determine whether a measure which is otherwise inconsistent with the GATT 1994 is justified under Article XXIV?
(10 marks)
- (c) Discuss the rationale behind the economic emergency exception provided for in Article XIX of the GATT 1994 and the Agreement on Safeguards.
(10 marks)

(25 Marks)

QUESTION FOUR

Newland has, as a campaign strategy, created a policy according to which manufacturers of electronic equipment do not pay fuel tax and electricity tax. All other companies, including individuals pay fuel tax at 7% and electricity tax at 9%. Some officials within the trade Department are apprehensive that this may be in violation of the country's WTO obligations, specifically under the Agreement on Subsidies.

You are required to write a brief stating whether such exemptions could be found contrary to WTO law.

(25 Marks)

QUESTION FIVE

Write short notes on the following:

- (a) The mercantilist theory of international trade; (7 marks)
 - (b) The role of the Multi national corporation as a foreign investor in developing countries; (8 Marks)
 - (c) Investor protection under the Southern African Development Community Finance and Investment Protocol (SADC FIP). (10 Marks)
- (25 Marks)