

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCE, DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, MAY 2016 (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

The agreement establishing the World Trade Organisation (WTO) in its preamble recognizes, *inter alia*, the objective that the relations of the parties to that agreement in the field and economic endeavour should be conducted with a view;

- a) to raising standards of living,
- b) ensuring full employment and a large and steadily growing of real income and effective demand, and
- c) expanding the production of and trade in goods and services,
- d) while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development,
- e) seeking both to protect and preserve the environment and to enhance the means for doing so
- f) in a manner consistent with their respective needs and concerns at different levels of economic development.

This is a very lofty ambition and to those who are not for globalization, not quite achievable. Write a brief expressing your views on this and the reasons for such views.

[25 Marks]

QUESTION TWO

The principal purpose of the MFN treatment obligation of Article I:1 is to ensure all WTO members' equality of opportunity to import from, or export to, other WTO Members.

Discuss in full. Include in your answer a discussion of the four (4) questions that must be answered to determine whether or not a measure affecting trade in goods is consistent with the MFN treatment obligation of Article I:1.

[25 Marks]

QUESTION THREE

In international trade, there are two main categories of barriers to market access: tariff barriers and non-tariff barriers. WTO law has a stated preference of one type of market access restriction over the other.

Discuss fully.

[25 Marks]

QUESTION FOUR

Trade liberalization, market access and non-discrimination may conflict with other important societal values and interests. WTO law provides for rules to reconcile trade liberalization, market access and non-discrimination rules, on the one hand, with these other important societal values and interests, on the other hand.

Discuss fully.

[25 Marks]

QUESTION FIVE

Newland is a developed country, and a member of the WTO. The parliament of Newland, in a drive to revitalize its widget industry has decided to create a policy through which it hopes to breathe new life into this industry. In terms of this policy, widget producers are given a loan facility by the biggest local bank at an annual interest rate of 1%. The prevailing borrowing rate in Newland is 7% per annum.

In addition, the government of Newland has undertaken to grant to local manufacturers of widgets destined for export markets, a tax rebate of 15% on all taxable company income.

Richland also has a widget industry and the widget producers in Richland have complained to their government that the initiatives in Newland to revitalize their widget industry are WTO inconsistent. You are required to write a brief for the Director of Trade in Richland advising him whether this allegations by the local widget producers have any legal basis.

[25 Marks]