

UNIVERSITY OF SWAZILAND

FACULTY OF SOCIAL SCIENCES, DEPARTMENT OF LAW

FINAL EXAMINATION PAPER, MAY 2018 (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

With particular reference to the panel report in *Spain – Unroasted Coffee (1981)*, discuss the concept of likeness under GATT 1994.

(25 Marks)

QUESTION TWO

Pursuant to the successful completion of your studies, you have been employed by the law firm Mzileni, Mhlanga and Kunene Attorneys in Mbabane. You consult with a client of Russian descent who has recently come to the country, and who intends to start a shoe making business in Swaziland. He requests your firm to draft a written opinion on the laws and regulations affecting investment in Swaziland.

(25 Marks)

QUESTION THREE

Write a brief outlining why countries trade. In your brief you are required to outline at least three theories for trade.

(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

Write short notes on the following;

- (a) The consistency test under Article III:2, second sentence of the GATT, 1994 (5 marks)
- (b) A bound tariff under WTO rules (5 marks)
- (c) The Doha Declaration on the TRIPs Agreement and Public Health (5 marks)
- (d) An actionable subsidy under the SCM Agreement (5 marks)
- (e) The definition of "domestic industry" under the Anti-dumping Agreement (5 marks)

(25 Marks)