



**KISII UNIVERSITY**  
**UNIVERSITY EXAMINATIONS**

**FOURTH YEAR EXAMINATION FOR THE AWARD OF**  
**THE DEGREE OF BACHELOR OF LAWS**  
**FIRST SEMESTER, 2023/2024**  
**(AUGUST-DECEMBER, 2023)**

**LLBK 417: INTERNATIONAL TRADE LAW**

**STREAM: Y4 S1**

**TIME: 2 HOURS**

**DAY: WEDNESDAY, 9:00 – 11:00 AM**

**DATE: 22/11/2023**

**INSTRUCTIONS**

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE (COMPULSORY) and any other TWO questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

**QUESTION ONE**

South Africa wants to combat the trade in live primates and primate meat (bush meat). South Africa is concerned about the welfare of primates, their dwindling numbers, and the risks handling and consuming bush meat poses to public health. South Africa therefore enacts a ban on the import into and/or sale within South Africa of all primates and primate meat, but allows for the import and sale, for the purpose of medical research only, of vervet monkeys where they have been bred in captivity within the borders of South Africa or where they have been bred in captivity in their 'native' countries of origin (which include a number of African countries). China has historically successfully bred and exported macaque monkeys to South Africa for use in medical research. Macaque monkeys are not native to China, but are native to a number of East Asian countries. China submits a request for consultations with South Africa. The consultations fail to yield an amicable resolution to the dispute, with the result that China asks the Dispute Settlement Understanding to authorise the formation of a panel.

1. Draft China's arguments to the panel, in which you explain which provisions of the GATT South Africa has arguably violated, and in which you provide a brief anticipatory rebuttal of any potential defences that South Africa is likely to raise in its reply. **(20 marks)**

2. Outline steps involved in the dispute resolution mechanisms until the implementation of retaliatory measures. **(10 marks)**

### **QUESTION TWO**

- a) The World Trade Organization (WTO) was officially set up 1<sup>st</sup> January 1995. Trace the historical developments that lead to the formation of the WTO. **(10 marks)**
- b) Discuss the remedies provided by the Dispute Settlement Understanding (DSU) for the breach of WTO Law. **(10 marks)**

### **QUESTION THREE**

The United States of America and the United Kingdom are the architects of the multilateral trading system, which is exemplified by a commitment to trade-liberalisation and a rules-based system. However, current policies within the USA and UK as reflected in Donald Trump's protectionism and in Brexit, have been criticised for signalling a shift away from trade-liberalisation. What are the advantages and disadvantages of free trade? Consider in light of the arguments that have been made for, and against, trade liberalisation. **(20 marks)**

### **QUESTION FOUR**

An ongoing debate amongst economists and political analysts is whether multilateralism and regionalism are 'friends or rivals'. Explain why it is that some commentators consider regional trade agreements to be 'building blocks' to multilateralism, while others condemn regional trade agreements as a 'pox on the world trading system'. In your explanation, consider the legal requirements that must be satisfied for a regional trade agreement to be WTO-consistent.

**(20 Marks)**

### **QUESTION FIVE**

Write brief notes on any **TWO** of the following topics;

- a) Concept of 'like product' under Article I: 1 and Article III of the GATT 1994. **(10 marks)**
- b) Compare and contrast the dispute settlement procedures under GATT (Old GATT) and the WTO (New GATT). **(10 marks)**
- c) Preferential Tariff Treatment for Developing Countries under the Enabling Clause. **(10 marks)**
- d) The *chapeau* of Article XX of GATT 1994. **(10 marks)**
- e) The difference in the likeness Analysis between Article I and Article III of GATT 1994. **(10 marks)**