

Name:	 UPES UNIVERSITY WITH A PURPOSE
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, December 2018

Program: LL.M.	Semester – I
Subject (Course): International Trade Law	Max. Marks : 100
Course Code : CLCC 7008	Duration : 3 Hrs

Instructions: Separate instructions are given for all the sections in the Question Paper. Please attempt accordingly

SECTION A (10 Marks)

S. No.		Marks	CO
1	Write a note on Nirav Modi Banking Fraud Case and role of SWIFT	2	1
2	What do you understand by ‘ <i>Electronic Data Interchange</i> ’?	2	1
3	Differentiate between ‘SPS’ and ‘TBT’.	2	3
4	Match the Following: A. Ease of Doing Business Report (i) <i>World Economic Forum</i> B. Global Competitiveness Report (ii) <i>World Bank</i> C. How International Trade can help meet the SDG’s (iii) <i>IMF</i> D. Balance of Payment Report (iv) <i>ADBI Institute</i>	2	1
5	Explain David Ricardo’s model of ‘comparative advantage’. OR Online Dispute Resolution	2	1

SECTION B (20 Marks)

6	What do you understand by the term SDR? Which international organization deals with this term? What is the relevance of SDR in International Trade Law context? <u>OR</u>	10	4
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	Write short notes on (a) UNCITRAL (b) UNCTAD		
7	What do you understand by INCOTERMS? What is the relevance of these in international Trade? Explain with at least two examples. <u>OR</u> What is a Letter of Credit (LOC) used in international commerce? Discuss the advantages and disadvantages of using the Letter of Credit in International Trade.	10	1 2
SECTION-C (20 Marks)			
8	Recently, the Indian Ocean island nation of the Maldives was engulfed in a political crisis, after the President defied a Supreme Court ruling to reinstall opposition MPs and release political prisoners. Ramesh & Co. has significantly invested in Maldives two years back and due to the recent crisis wants to withdraw the investment. Which member of the World Bank Group may be helpful in this situation? Enumerate the members of World Bank group and their functions.	10	4
9	Explain the purpose and functions of a Bill of Lading in International Commerce? Enumerate the liabilities of a carrier under the Bill of Lading.	10	1,2
SECTION-D (50 Marks)			
10	The following contract is entered into between M/s TATIN in Bangladesh and M/s Somu in India. “1000 tons of “grade A” dried almonds, INR 1,500,000, CIF Calcutta INCOTERMS 1990, as per sample submitted. Payment to be by irrevocable letter of credit confirmed by DnB Calcutta opened by October 3rd 1991 for a period of 2 weeks, and to be made against documents evidencing the fulfilment of his CIF obligations, and a certificate of inspection stating the almonds to be of grade A quality.” The letter of credit facility is duly opened and the relevant documents being specified to DnB bank and TATIN proceeds to perform his obligations under the contract. Somu in India hears rumours that the consignment shipped will not be grade A but grade C, and that the certificate of inspection presented will be a forgery, and instructs both banks not to pay against it. TATIN presents DnB with the following documents: a received for shipment bill of lading for 1000 tons of grade A dried almonds in apparent good order and condition; an invoice for the same goods; an insurance policy taken on Institute Cargo Clause C terms; and a certificate of	15	5

	<p>inspection. DnB bank pays particular attention to the certificate of inspection but is unable to find anything wrong with it as it appears to be in order and as described in their mandate (instructions for opening the credit). DnB pays TATIN.</p> <p>During the voyage the ship is in a collision and part of her cargo is wet, whilst another portion is deliberately thrown overboard by the crew in order to reduce her weight. When the consignment arrives it is found to be 200 tons short (i.e. there are only 800 tons) and 100 tons of the consignment are damaged by water, and the consignment is found not to be up to sample and not of grade A quality.</p> <p>(a) What are the requirements of formation of contract under the United Nations Convention on the International Sale of Goods 1980 (CISG)?</p> <p>(b) What is: a condition, a warranty, and an innominate term, in English law? What is the meaning of "fundamental breach" under the United Nations Convention on the International Sale of Goods 1980 (CISG)?</p> <p>(c) What is an insurable interest? What is the duty of disclosure in relation to contracts of insurance?</p>		
<p>11</p>	<p>Loss of revenue caused by customs-related corruption is estimated to cost World Customs Organization (WCO) members at least USD 2 billion in customs revenue each year, with India losing USD 334 million and Russia USD 223 million. Moreover, unnecessary trade barriers created by nontransparent, burdensome rules and procedures can constitute vulnerabilities that may create important incentives to engage in corrupt behavior. Trade facilitation measures have the potential to benefit all countries. It is estimated that a complete implementation of trade facilitation measures arising from the WTO Trade Facilitation Agreement could reduce trade cost by 16.5% for low income countries, by 17.4% for lower middle income countries, by 14.6% for upper middle income countries, and by 11.8% for OECD countries.</p> <p>Comment on the aforesaid paragraph elucidating the efforts taken by international organisations to tackle corruption in international trade.</p>	<p>10</p>	<p>4</p>
<p>12</p>	<p>“The nexus between trade and development is not new. Traditionally, trade policy specialists have focused on the income channel, i.e., that openness to international flow of goods and services can increase national income, which in turn enables moving forward on resource intensive development issues. This argument has been received with a certain skepticism; however, there are various other channels through which trade can contribute to achieving the SDGs. For example, many countries use tariff and nontariff measures on pharmaceuticals and other medical products. These policies hinder poor people’s access to those goods, and undercut the goal of promoting healthy lives in developing countries. Free trade in health-related goods and services could potentially improve developing countries’ health care access, with corresponding positive impacts on people’s lives. Trade in health services is subject to even bigger barriers that heavily impede access to health care by millions of patients worldwide.</p>	<p>10</p>	<p>5</p>

	<p>What is your opinion about international trade contributing to promotion of SDGs? Discuss with the help of any two SDGs.</p>		
<p>13</p>	<p>Sunil & Co. from India enters into a contract to supply prawns fished in the southern coast with Bill Wafers & Co. in London. Prawns from the southern coast are unique in taste and M/s Sunil & Co. has already applied for a Geographical Indication for the same to the authorities which is yet to be granted. The contract provides for the following dispute resolution clause: <i>“All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.”</i></p> <p>One of the consignments by Sunil & Co. was stopped by the custom authorities in London stating breach of its SPS norms.</p> <ul style="list-style-type: none"> (i) Discuss the mode of dispute resolution chosen by the parties in this case. What were the other options available to them, which they could have explored? (ii) Provide your arguments to convince the parties in the aforesaid case to choose ‘mediation’ as an option to settle their potential disputes. (iii) Whether the WTO Dispute Settlement process gets attracted in this case? 	<p>15</p>	<p>5</p>

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SECTION A (10 Marks)

S. No.		Marks	CO
1	What do you understand by “terms of trade”?	2	1
2	Explain NIEO	2	2
3	Write a note on UCP 600	2	2
4	Enumerate any four parameters of “Ease of Doing Business” ranking, which collated by	2	3
5	What to you understand by INCOTERMS	2	2

SECTION B (20 Marks)

6	Trace development and evolution of International Trade Law in Pre and Post World War periods. <u>OR</u> Write short notes on (c) IBRD (d) MIGA	10	3 4
7	What is: a condition, a warranty, and an innominate term, in English law? What is the meaning of "fundamental breach" under the United Nations Convention on the International Sale of Goods 1980 (CISG)?	10	1,2

	<p><u>OR</u></p> <p>Enumerate the types of Letter of Credit (LOC) used in international commerce? How this is different than Bank Guarantee. What do you understand by LOU?</p>		
SECTION-C (20 Marks)			
8	WTO's director-general, Pascal Lamy, described the WTO as a "healthy and democratic common institution" in which decision-making is "burdensome and cumbersome" yet "remains the best way to take decisions that impact directly the lives of billions of people." Discuss, elaborating the objectives, scope, functions and structure of WTO.	10	5
9	Elaborate the law relating to carriage of goods by sea. How is the marine insurance important in this context? What is an insurable interest? What is the duty of disclosure in relation to contracts of insurance?	10	5
SECTION-D (50 Marks)			
10	<p>“Exporters must contemplate the possibility of a dispute arising out of an international commercial transaction. When entering into an international contract, the exporter should ensure that it contains an unambiguous jurisdiction clause which provides for the courts of the chosen country to adjudicate in the event of any disputes between the parties. Should an Indian exporter wish disputes to be settled by the Indian courts, he should endeavor to press during negotiations for a jurisdiction clause which so provides. A choice of law clause is equally desirable.” Complications often occur if the parties’</p> <p>International traders as a rule do not want to argue with their contract partners; they simply want to "do" business with them. Given this rather straightforward objective, it often perplexes businessmen why the terms of that agreement hammered out in a Frankfurt hotel room or Tokyo steak house are so difficult to reduce to writing once the lawyers are brought in. In that magic moment when at last the deal is struck, the notion that one of the parties may later choose not to keep his promise is usually not given a second thought. Indeed, businessmen and their attorneys will often be able to anticipate most potential problems and to avoid many altogether. But inevitably, and for any number of reasons, some deals go sour. When this happens, the client is suddenly confronted with new and unfamiliar problems, and the decisions made by his attorney during this emergency situation will be of crucial importance.</p> <p>In light of the aforesaid two paragraphs answer the following questions:</p> <p>(i) What are the three important questions the parties to an international commercial agreement look into before concluding the agreement?</p> <p>(ii) How important it is to choose the dispute resolution clause.</p>	15	5

	(iii) Explain the utility of ADR in resolving international commercial disputes.		
11	<p>“International trade is the motor of the global economy and despite a recent slowdown, it still represents increasingly large volumes of exchanged goods, services, and financial flows. That is why lack of integrity in the global supply chain, which represents an important non-tariff barrier to trade, significantly hampers economic activity and entails enormous costs for global society as a whole. Thus, targeted anti-corruption measures aimed at protecting the global supply chain do not only produce economic advantages for the private sector, but also for governments and citizens. The objectives of promoting integrity in the global supply chain and of facilitating trade are mutually-reinforcing, as both of them will stimulate international exchanges of goods and services and ensure a more effective distribution of the benefits arising from international trade, thus contributing to sustainable, fair and inclusive economic growth.”</p> <p>Discuss the role of international organisations in combatting bribery of foreign public officials in international business transactions.</p>	10	5
12	<p>“The international development community, as well as policy makers in both developed and developing countries, are currently developing road maps on how to best achieve the SDGs. At the same time, there has been a backlash against globalization, mostly in developed economies. The benefits of trade opening are being increasingly called into question. It is therefore crucial to fully understand how trade interacts with the various goals enshrined in the SDGs. Trade integration holds many opportunities for development, but, at the same time, can have risks that need to be managed.”</p> <p>What is your opinion on the aforesaid dichotomy of ideas to promote SDGs vis-à-vis having free trade, especially in light of differences in approach taken by developed and developing countries?</p>	10	5
13	<p>“The direction of global trade is set to change as mega agreements like the Trans-Pacific Partnership (TPP) and Trans-Atlantic Trade and Investment Partnership (TTIP) come into force. The TPP includes 12 of the Pacific Rim countries including US and Australia whereas TTIP is between the US and the European Union. Respectively, they represent around 39 percent and 60 per cent of the world GDP. They have the potential to adversely affect excluded countries such as India by diverting trade and investment away from them and weakening their positions in global value chains.</p> <p>In a scoping study, CUTS found an increasing number of products in India’s export basket being threatened by either TPP or TTIP. According to another study by Sao Paulo-based Center on Global Trade and Investment, as a result of TPP and TTIP, India’s nominal GDP (gross domestic product) is expected to be reduced by more than one per cent and resultant negative multiplier effects on revenue and employment generation will be substantial.” (Source: https://www.eldis.org/document/A71209)</p>	15	5

In light of the aforesaid statement examine the role of WTO as a binding force for governments and impact of increasing bilateral and regional agreements.