

# Tutorial letter 101/3/2016

## International Law LCP4801

Semesters 1 & 2

Department of Public, Constitutional and  
International Law

**IMPORTANT INFORMATION:**

This tutorial letter contains important information  
about your module.

BAR CODE

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# 1 INTRODUCTION AND WELCOME

Dear Student

Welcome to international law. Although this is a compulsory module and you therefore don't have any choice but to pass it - we also hope that you will find it interesting and rewarding. We will help where we can, but the first key to success in this module is to start studying today. Plan your assignments and do them thoroughly and with a bit of creative thought.

This tutorial letter contains important information about the module. Read it carefully (now!) and refer to it while working through the study material, completing the assignment(s), preparing for the examination and asking us questions (which you must feel free to do at any stage – before the exam!).

In this tutorial letter, you will find the assignment(s) for both semesters and instructions on writing and submitting them.

You will also find all you need to know about the prescribed study material and how to obtain it. Absorb this information and get hold of the prescribed material as soon as possible.

We have also included certain general and administrative information about the module. Please study this section of the tutorial letter carefully.

Although this may seem obvious to some, **you must read all the tutorial letters** you receive during the semester **immediately and carefully**. They always contain important and, sometimes, urgent information – why else would we write them?

We hope that you will enjoy this module and wish you all the best!

## 1.1 Tutorial matter

When you register, you will receive an inventory letter containing information about your tutorial matter. See also the brochure entitled *My Studies @ Unisa* (which you received with your tutorial matter). Check the study material you have received against the inventory letter. You should have received all the items specified in the inventory, unless there is a statement like “out of stock” or “not available”. If any item is missing, follow the instructions on the back of the inventory letter without delay.

The study material for this module consists of the following:

- One study guide for the module
- tutorial letters (which you will receive during the semester)
- prescribed textbook (which you must buy for yourself)
- compulsory prescribed reading material

**The Department of Despatch should supply you with the following study matter for this module:**

- study guide
- tutorial letters

Students who have access to the Internet can view the study guides and tutorial letters for the modules for which they are registered on the University's online campus, myUnisa, at <http://my.unisa.ac.za>. It is advisable to check this site regularly as the material is made available there some time before it reaches you in hard copy. Remember that you can also use myUnisa to take part in activities and discussions of relevance to your module topics, assignments, marks and examinations.

Please see heading 4 for information on the prescribed textbook and compulsory prescribed reading material.

## **2 PURPOSE OF AND OUTCOMES FOR THE MODULE**

### **2.1 Purpose**

Although many people think that international law and international politics are the same thing, in fact they are not. There are certain basic legal rules which make up international law, and one of our aims this year is to give you a working knowledge of these rules. How you apply the rules once you have mastered them will be coloured, of course, by your general attitude, and this is indeed your right, provided you can lay a firm legal basis for your opinions. International law is a stimulating and potentially very exciting field. It can, however, also be a dead bore. How you experience it will depend largely on the attitude with which you approach the subject.

In the past, practitioners at times questioned the usefulness of studying international law on LLB-level. However, with the adoption of the Constitution of the Republic of South Africa, 1996 the necessity of a sound working knowledge of international law has been firmly established in our law.

Although we aim at providing you with a general understanding of how international law works, we at the same time emphasise the South African position and approach, and those aspects which are of particular relevance to the South African lawyer; in other words we try to make the course relevant for present-day South African lawyers.

### **2.2 Outcomes**

UNISA's tuition rationale is directed at facilitating mature, responsible learning with a view to the acquisition of sound knowledge and the ability to apply and develop knowledge and competencies in the workplace and other contexts.

As a student at a distance learning institution, it is important for you to interact with your lecturers and fellow students. You can, therefore, expect us to make contact with you in study guides and tutorial letters, which will provide you with the information you require for your studies. You can also expect us to give you guidance with regard to the study material and feedback on your performance (e.g. in the assignments). From your side, you must take responsibility for your studies, which includes obtaining the necessary study material, reading your tutorial letters, studying the prescribed study material, and completing and submitting your assignments before or on the due dates.

The outcomes-based learning model proceeds from the premise that students should acquire certain competencies during their studies. Those competencies refer to knowledge, skills, abilities and other personal attributes. They should help students to achieve the learning outcomes envisaged for the module. Once you have achieved the learning outcomes through the completion of this module, you will also be able to apply those competencies in your work environment and other contexts in which the study topics are relevant.

In law, there are a number of outcomes that a lawyer should achieve. One can say a student is competent if he or she achieves these outcomes successfully. The outcomes for International Law are set out under the next subheading.

As you are adult students who have already advanced some way in your studies, more will be expected of you than when you first enrolled for your LLB degree. A range of tasks will be set for you in the study guide, tutorial letters, assignments and examination. In performing those tasks you will be expected to show that you meet the following outcomes:

### **Outcome 1**

**You must be able to identify and understand the role of international law in current South African law and everyday life.**

In this regard you have to:

- Identify legal problems and issues relating to international law in real or simulated fact scenarios.
- Interpret and analyse daily occurrences regarding international law.

### **Outcome 2**

**You must be able to demonstrate an understanding of the history and theoretical framework of, and the most pressing and prevalent issues regarding international law.**

You will be required to use a variety of legal documents (case law, scholarly writings, legislation, treaties and other international documents, which you will have to select from the prescribed material) relating to international law. Where feasible and necessary, you will be required to conduct library and internet searches.

In this regard you will be required to:

- Explain and integrate the historical roots and development of international law with regard to the existing legal position.
- Identify problems and issues relating to international law in real or simulated fact scenarios.
- Present substantiated legal arguments, opinions and solutions, based on research.
- Analyse and critically evaluate the relevance and applicability of various legal sources and authorities in respect of identified problems relating to international law.
- Discuss and evaluate different points of view in respect of international law.
- Recognise areas in need of legal development or reform.
- Use language in a manner that is consistent with the conventions in the discipline of law

### **Outcome 3**

**You must be able to apply the principles regarding international law in practical situations and solve multi-dimensional legal problems associated with international law.**

In this regard you will be required to:

- Solve practical problems from case law and everyday examples using appropriate research methods and applying the principles and rules relating to international law.
- Give responsible and expert advice on an appropriate course of action in respect of issues relating to international law.
- Analyse and critically evaluate the relevance and applicability of various legal sources and authorities in terms of identified problems relating to international law.
- Select the most appropriate and authoritative legal materials to solve identified problems relating to international law.
- Provide substantiated responses, based on an acquired knowledge of the law.
- Provide responsible and expert legal advice on an appropriate course of action.

### **Outcome 4**

**You must be able to conduct research.**

You will be required to use a variety of legal documents (case law, scholarly writings, legislation, treaties, conventions and other international documents, which you will have to select from the prescribed material) relating to the international law. Where feasible and necessary, you will be required to conduct library and internet searches.

In this regard you will be required to:

- Demonstrate basic literature research skills.
- Find source material to suit the needs of the particular area of research.
- Use authorities appropriately to substantiate arguments and support solutions for problems relating to international law.
- Use legal sources critically and analytically within a contextual framework.
- Act responsibly and ethically as researchers and scholars, e.g. refer appropriately, acknowledge sources and avoid plagiarism.

We are confident that during your studies you will use or develop one or more of the following broad skills in your learning experiences (i.e. as you study your prescribed study material, search for information, complete the learning activities, answer the assignments and examination questions, and/or talk to interested parties about your studies):

- Learning skills: obtaining and exploring knowledge by using various learning methods
- Self-responsibility skills: demonstrating self-management by obtaining and exploring information to complete and submit tasks on time
- Research: obtaining, analyzing, organizing, evaluating and reporting information
- Problem-solving skills: considering information, selecting correct data or alternatives to solve set problems, and developing creative and critical thinking
- Communication skills: using various forms of communication
- Technological literacy: utilizing science and technology effectively and critically
- Developing a broader picture: developing a macro vision, recognizing that various aspects relate to one another and that problems do not exist in isolation
- Cultural and aesthetic understanding: being sensitive to differences in and between groups

These skills relate to the specific learning outcomes of each study unit in which it is expected of you to demonstrate knowledge, apply this knowledge, to have a positive study attitude, and be able to evaluate the value of the study content and your learning experience.

### 3 LECTURER AND CONTACT DETAILS

#### 3.1 Lecturers

The lecturers responsible for this module are:

Prof CA Waschefort  
012 429 8856  
[waschca@unisa.ac.za](mailto:waschca@unisa.ac.za)

Ms Mirelle Ehrenbeck  
012 429 8329  
[ehrenm@unisa.ac.za](mailto:ehrenm@unisa.ac.za)

#### 3.2 Department

The department can be reached by telephone 012 429 8339 or fax 012 429 8587. Please be advised that all study material can be downloaded on myUnisa.

#### 3.3 University

If you need to contact the University about matters not related to the content of this module, please consult the publication *My Studies @ Unisa* which you received with your study material. This booklet contains information on how to contact the University (e.g. to whom you may write, important telephone and fax numbers, addresses and details of the times certain facilities are open).

Please remember to refer to your student number when you contact Unisa.

### 4 MODULE RELATED RESOURCES

#### 4.1 Prescribed books

Your prescribed textbook for this module for this year is: John Dugard *International law: A South African perspective* (4 ed 2011) Juta ISBN 978 0 7021 86462.

Please note that the guide is based on the 3<sup>rd</sup> edition of Dugard's work. A fourth edition of this work has since appeared and this is the edition prescribed for the course and which you must use. Immediately below is a list of corresponding pages in Dugard's 4<sup>th</sup> edition.

Topic	Reference to Dugard, 3 <sup>rd</sup> ed	Corresponding reference to Dugard, 4 <sup>th</sup> ed
Section A: Topic 1	Chapter 1: pp 1-11	Chapter 1: pp 1 - 14
Section A: Topic 2	Chapter 3: pp 27 - 46 Chapter 19: pp 406 - 425	Chapter 3: pp 24 - 41 Chapter 20: pp 414 - 431
Section A: Topic 3	Chapter 5: pp 81-110 Chapter 22: pp 480-500	Chapter 5: pp 81 - 111 Chapter 23: pp 474 - 494
Section A: Topic 4	Chapter 9: pp 148 - 173	Chapter 9: pp 146 - 169
Section A: Topic 5	Chapter 22: pp 480-500 Chapter 23: pp 501 – 525 Chapter 21: pp 455-477 Chapter 10: pp 174 - 196	Chapter 23: pp 474 - 494 Chapter 24: pp 495 - 518 Chapter 22: pp 451 - 473 Chapter 10: 170 - 200
Section A: Topic 6	Chapter 4: pp 47 - 80 Chapter 19: pp 406 - 425 Chapter 25: pp 556 – 568	Chapter 4: pp 42 - 80 Chapter 20: pp 414 - 431 Chapter 26: pp 552 - 564
Section B: Topic 1	Chapter 8: pp 126 - 147	Chapter 8: pp 125 - 145
Section B: Topic 2	Chapter 12: pp 238 - 265	Chapter 12: pp 240 - 268
Section B: Topic 3	Chapter 24: pp 526 - 545	Chapter 25: pp 519 - 539
Section B: Topic 4	Chapter 13: pp 269 - 307	Chapter 13: pp 269 - 310

Please consult the list of official booksellers and their addresses listed in *My Studies @ Unisa*.

Prescribed books can be obtained from the University's official booksellers. If you have difficulty locating your book(s) at these booksellers, please contact the Prescribed Books Section at 012 429 4152 or email vospresc@unisa.ac.za.

## 4.2 Recommended books

There are no recommended books for this module.

## 4.3 Electronic Reserves (e-Reserves)

Below you will find the electronic reserves, available on the Unisa library website, and additional reading material for the module, divided into the relevant topics.

### NB: Prescribed cases

International law (ICJ) cases are not the easiest things on earth to read - each one is generally the length of a substantial textbook! Consequently, while we expect intelligent reference to case law (including the issues covered by the case and how they are relevant to the course) to support your arguments, we do not expect you to study the ICJ cases in detail **unless we expressly tell you to do so**. You will find sufficient detail in the guide read with your prescribed textbook.

The ICJ cases, which you are required to study, are listed below.

### NB: Legislation

The Constitution of the Republic of South Africa, 1996.



**The following materials are prescribed and must be studied over and above the sections in your textbook prescribed for each topic and *in conjunction with your study guide*.**

## **Section A**

### **Topic 1**

- Article 38(1)(d) of the Statute of the International Court of Justice (re-printed on page 16 of your study guide)

### **Topic 2**

- Article 38 of the Statute of the International Court of Justice (re-printed on page 16 of your study guide)
- Vienna Convention on the Law of Treaties, 1969
- ICJ's Advisory Opinion in *Reservations to the Convention on the Prevention of the Crime of Genocide* 1951 ICJ Rep

### **Topic 3**

- Charter of the UN, 1945

### **Topic 4**

- None

### **Topic 5**

- Charter of the UN, 1945

### **Topic 6**

- Constitution of the Republic of South Africa Act, ss 39, 231, 232, 233
- Botha N & Olivier M 'Ten years of international law in the South African courts: Reviewing the past and assessing the future' (2004) 29 *South African Yearbook of International Law* 42-77

## Section B

**Please note: The prescribed materials listed below must be obtained only for the specific topic you have chosen to study**

### Topic 1

- Anyangwe C 'African border disputes and their settlement by international adjudication' (2003) 28 SAYIL 29
- *Van Deventer v Hancke & Mossop* 1903 TS 401
- *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* 2004 ICJ Rep 136
- Additional recommended reading: Human Sciences Research Council (2009) "Occupation, Colonialism, Apartheid: A re-assessment of Israel's Practices in the Occupied Palestinian Territories under International Law" Executive summary of the study by the Middle East Project of the Human Sciences Research Council of South Africa, available at [www.hsrc.ac.za/DG.phtml](http://www.hsrc.ac.za/DG.phtml).

### Topic 2

- *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v Belgium)* 2002 ICJ Rep 3
  - (a) Judgment
  - (b) Dissenting opinion of Judge *ad hoc* Van den Wyngaert
- *Liebowitz v Schwartz* 1974 2 SA 661 (T)
- SA Foreign States Immunities Act 87 of 1981
- SA Diplomatic Immunities and Privileges Act 37 of 2001

### Topic 3

- The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 1949
- The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention), 1949
- The Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention), 1949
- The Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 1949
- Protocol Additional to the Geneva Conventions of 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 1977
- Protocol Additional to the Geneva Conventions of 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1977
- *Legality of the Threat of Use of Nuclear Weapons* 1996 ICJ Reports 257
- *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* 2004 ICJ Rep 136
- *Prosecutor v Tadić (Jurisdiction)*, case number IT-94-1-AR 72 (1996) 35 ILM 32

## Topic 4

- The International Law Commission's 'Draft Articles on Responsibility of States for Internationally Wrongful Acts', 2001
- Crawford J 'The ILC's Draft Articles on Diplomatic Protection (2006) 31 *South African Yearbook of International Law* 19-51
- *Kaunda v President of the Republic of South Africa* 2004 10 BCLR 1009 (CC)
- *Nduli v Minister of Justice* 1978 1 SA 893 (A)
- *S v Ebrahim* 1991 2 SA 553 (A).
- *Van Zyl v Government of RSA* 2007 SCA 109 (RSA)
- *Von Abo v Government of the Republic of South Africa and Others* 2009 (2) SA 526 (T)
- *Von Abo v President of the Republic of South Africa* [2009] ZACC 15
- *Von Abo v Government of RSA* 2010 (3) SA 269 (GNP)

## 5 STUDENT SUPPORT SERVICES FOR THE MODULE

Important information appears in your *My studies @ Unisa* brochure.

## 6 MODULE SPECIFIC STUDY PLAN

Use your *My studies @ Unisa* brochure for general time management and planning skills.

### Brief note on the importance of international law

LCP4801 is an introductory course to the study of the legal framework within which states interact with one another. However, the legal rules created by states are often translated into provisions of municipal law, which affect us as individuals. Our every-day lives are shaped by legal rules which (initially) originated as rules of international law: extradition of alleged criminals, the question of which state has jurisdiction to prosecute, the extent of immunity enjoyed by diplomatic officers, or head of state, the question of whether one may sue a state in a domestic court over a contractual dispute (to name a few) are all issues that you will probably have to face at some stage during your career. It is therefore essential that you have knowledge of the most important principles of international law, as well as a thorough understanding of how international law 'fits in' with our own, South African law. In addition, you cannot ignore the reality of globalization, as well as the newly established status of South Africa within the international community. All these are some of the factors which render LCP4801 a course of fundamental importance.

### Structure of this course

This course is divided into two sections. **Section A** consists of the following:

- Development and nature of international law
- The sources of international law
- International legal personality
- Jurisdiction
- Enforcement
- International law in SA municipal law

The abovementioned topics are **compulsory** and 75 out of the 100 examination marks will be based on them.

**Section B** consists of four sections. In the examination one question (counting 25 marks) will be set for each section. **Out of these four questions, you must answer one.** The topics covered in this section are:

- Territory
- Immunity
- Humanitarian law
- State liability and diplomatic protection.

More detailed information on the course content is available in your study guide.

**VERY IMPORTANT: Please note that no scoping or demarcation is permitted for the exams. Please note that the note of warning on page 76 of the guide can be disregarded as it provides scoping for the exam. All the work has to be studied and we can ask questions from any part of the guide and are not obliged to ask questions from any specific part of the guide.**

### **Approaching your study material**

As we have already mentioned, the study material for this course consists of a study guide, a textbook and tutorial letters. Please note that all of these components are prescribed – **you must study all of them in conjunction with one another.**

The **study guide** serves as a ‘wrap-around’ the prescribed **textbook**. It was written to ease your interaction with the textbook and **not to replace it.**

True to its name, it guides you through the various topics and it should serve as your starting point. The study guide explains – simply and accessibly – the gist of the prescribed chapter(s) from the textbook. However, **the information in the study guide must be studied in conjunction with the corresponding textbook chapter(s).** Each study unit will specify which pages, or chapters, of Dugard you must study. **However, under some topics you may be given specific instructions to study sources over and above the prescribed textbook.**

These additional sources (such as cases, articles, legislation, treaties, *etc*) are clearly indicated as being compulsory. They will be made available for you and you will be able to obtain them from the UNISA library site.

### **The importance of the activities contained in the study guide**

This is a final-year course. Emphasis is therefore placed on your ability to think critically and to solve problem-type questions, similar to the kind of questions which would one day be posed to you by your clients. It is therefore imperative that you do these activities: not just for the sake of passing the examination, but also because you need to prepare yourself for a successful professional life.

The study guide therefore contains a number of activities, most of which are problem-type questions. You must complete them after you have worked through the information in the textbook, study guide and tutorial letters. It is crucial that you do these exercises, because they help you assess whether you have remembered and understood the information you have studied and whether you are sufficiently conversant with the subject matter so that you are able to apply the law to a practical problem and solve it.

Guidance on the activities will be sent to you in subsequent tutorial letters. It is, however, of the utmost importance that you attempt to answer them yourselves before reading our feedback. You must compare your own answers with those provided in our feedback, and if there are discrepancies, or if you are for any reason uncertain about any of the study material – contact us immediately. The activities in the study guide are similar to the *type of* questions we will ask you in the exam, so if you have acquired the skills and knowledge necessary to complete them, you should be able to cope with the exam.

### **Additional tutorial letters**

We have already mentioned a number of times that you will receive additional tutorial letters throughout the semester. They will contain feedback on the activities in the study guide, on the assignments you submitted, as well as comments on past exam questions. We will also include more information relevant to the upcoming examination. The tutorial letters could, if necessary, contain new information, which would keep you up-to-date with current developments.

All tutorial letters form part of your prescribed (compulsory) study material and must be approached as such.

## **7 MODULE PRACTICAL WORK AND WORK INTEGRATED LEARNING**

There are no practicals for this module.

## **8 ASSESSMENT**

### **8.1 Assessment plan**

We will be assessing the assignment taking the following aspects into account: language usage, reasoning, and technical aspects (such as use of footnotes and bibliography).

### **Very important: Plagiarism**

Plagiarism is theft which occurs when you use the

- WORDS
- IDEAS or
- THOUGHTS

of another and create the impression that they are your own. If, therefore your answer to an assignment is copied directly (or mostly) from the guide, a tutorial letter, Dugard, or another student, you will be guilty of plagiarism and will (at the very least) receive a round 0% for the assignment. Please also note that just as you can't be a "little dead", so too you can't indulge in a "little plagiarism"! We want to know how YOU think, and how YOU express your thoughts – We know what Dugard thinks and (usually) what we think too, so don't put yourself or us in this awkward position.

You all receive the *Disciplinary Code for Students* (2014) on registration. Study the Code Please also read the University's *Policy on Copyright Infringement and Plagiarism*.

In addition, although students may work together when preparing assignments, each student must submit his or her own individual assignment. In other words, each student must submit his or her own work. It is unacceptable for students to submit identical assignments on the basis that they worked together. That will amount to plagiarism and none of these assignments will be marked. Furthermore, these students may be penalised or subjected to disciplinary proceedings of the University

In accordance with University policies, there are two compulsory assignments per semester for this module. The FIRST ASSIGNMENT determines admission to the exam and makes up one half of your year mark. It will be corrected and returned to you with commentary.

The second assignment makes up the other half of your year mark.

The combined mark you receive for the first and the second assignment is your year mark for the course and counts 20% towards your final mark.

Please note that the actual assignment questions appear in the Annexure at the end of this tutorial letter.

**There is NO automatic admission to the examination.** You **must** submit the first compulsory assignment by 7 **March 2016** for the first semester and 8 **August 2016** for the second semester, to be admitted to the exam. The mark you receive for the first assignment counts one-half (50%) of your year mark. The mark you achieve for the second assignment counts one half (50%) of your year mark. The two marks together represent your year mark for this course and this counts 20% of your final mark.

The examination consists of one two-hour paper which counts 100 marks. The exam mark counts 80% of the final mark for the module and the assignment 20 %.

The commentaries on the compulsory assignments **will be sent to all students registered for this module** in a follow-up tutorial letter, and not only to those students who submitted the assignments.

As soon as you have received the commentaries, please check your answers. The assignments and the commentaries on these assignments constitute an important part of your study material for the examination.

## **8.2 General assignment numbers**

Assignments are numbered consecutively per module, starting from 01.

### **8.2.1 Unique assignment numbers**

Please see 8.4 for the unique numbers.

### **8.2.2 Due dates of assignments**

#### **First semester:**

ASSIGNMENT 01: 7 MARCH 2016

ASSIGNMENT 02: 22 MARCH 2016

**Second semester:**

ASSIGNMENT 01: 8 AUGUST 2016

ASSIGNMENT 02: 22 AUGUST 2016

**8.3 Submission of assignments**

Students may submit written assignments and assignments done on mark-reading sheets either by post or electronically via *myUnisa*. Assignments may **not** be submitted by fax or e-mail. For detailed information and requirements as far as assignments are concerned, see the brochure *My Studies @ Unisa* which you received with your study material.

To submit an assignment **via myUnisa**:

- Go to *myUnisa*.
- Log in with your student number and password.
- Select the module.
- Click on “Assignments” in the left-hand menu.
- Click on the assignment number you want to submit.
- Follow the instructions on the screen.

Very Important: Please load your written assignments as pdf documents.

Please note that if you submit your assignment online, it will not be posted back to you but will be sent to your Unisa mylife email account.

**8.4 Assignments****ASSIGNMENTS FOR 2016 SEMESTER ONE****Assignment 01****Unique number: 775925****Due date: 7 March 2016****Compulsory assignment for admission to the examination.**

**The result obtained will make up half of your year mark and will therefore count 10% towards your final mark.**

**This assignment must be submitted on a mark-reading sheet or electronically on myUnisa. If you do not submit this assignment, you will not be allowed to write the examination.**

**These assignment questions are based on the whole of Section A.**

Indicate whether the following statements are true or false:

1. A bilateral treaty concluded as a result of a fraudulent action of the other negotiating state results in a voidable treaty, which is valid and operative, but the defrauded state is given the option to terminate it.  
(1) true  
(2) false
2. Soft law is never binding on states.  
(1) true  
(2) false
3. When a person violates the rights of a foreigner, the foreigner's state of nationality may claim jurisdiction to prosecute the perpetrator on the basis of nationality.  
(1) true  
(2) false
4. The Security Council may take decisions binding on member states under Chapter VI of the UN Charter.  
(1) true  
(2) false
5. In terms of section 39(1)(b) of the South African Constitution, only binding international law must be considered when a court, tribunal or forum interprets a provision in the Bill of Rights.  
(1) true  
(2) false
6. *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa)*(1970) 1971 ICJ Rep, the court followed a textual approach to treaty interpretation.  
(1) true  
(2) false
7. The principle that a state may exercise jurisdiction in its own territory over acts which have occurred on the territory of another state was laid down by the Permanent Court of International Justice in the *Lotus case* 1927 PCIJ Rep Ser A no 10.  
(1) true  
(2) false
8. No state may deviate from a rule of *ius cogens*, unless it is a state which has objected persistently to the formation of such a rule.  
(1) true  
(2) false
9. In South African law, the term "international agreement", as used in section 231 of the South African Constitution of 1996, is synonymous with the term "treaty", as defined in article 2(1) of the Vienna Convention on the Law of Treaties, and includes informal agreements.  
(1) true  
(2) false



10. The Vienna Convention on Succession of States in Respect of Treaties of 1978 espouses the "clean-slate" theory of state succession.
  - (1) true
  - (2) false
11. In *S v Banda* 1989 4 SA 519 (Bop), the court discussed the constitutive and declaratory theories of recognition and concluded that the declaratory theory was preferable because it was the more objective of the two theories.
  - (1) true
  - (2) false
12. A state may exercise universal jurisdiction, provided it can show that its own safety has been endangered.
  - (1) true
  - (2) false
13. The Rome Statute of the International Criminal Court of 1998 has jurisdiction over genocide, crimes against humanity, international treaty crimes and war crimes.
  - (1) true
  - (2) false
14. Soft law features as a source of international law in article 38 of the Statute of the International Court of Justice.
  - (1) true
  - (2) false
15. "Hot pursuit" is always illegal in international law.
  - (1) True
  - (2) false

## **Assignment 02**

**Unique number:** 873113

**Due date:** 22 March 2016

**The result obtained will make up half of your year mark and will therefore count 10% towards your final mark.**

**Assignment length: Maximum 1500 words, excluding cover page, table of contents and bibliography.**

**Always acknowledge your sources and provide a brief bibliography. Do not plagiarise. If you choose to submit the assignment on myUnisa, please do so in PDF format.**

On page 489 Dugard states: "The powers of the Security Council under Chapter VII are far-reaching." Discuss the veracity of the statement with reference to the United Nations Charter and recent developments in international law. **25 marks**

## ASSIGNMENTS FOR 2016 SEMESTER TWO

### Assignment 01

Unique number: 805224

Due date: 8 August 2016

Compulsory assignment for admission to the examination.

The result obtained will make up half of your year mark and will therefore count 10% towards your final mark.

This assignment must be submitted on a mark-reading sheet or electronically on myUnisa. If you do not submit this assignment, you will not be allowed to write the examination.

### These assignment questions are based on the whole of Section A.

Indicate whether the following statements are true or false:

1. The United Nations has legislative powers over its member states.  
(1) true  
(2) false
2. Judicial decisions and the teachings of the most highly qualified publicists do not create rules of public international law.  
(1) true  
(2) false
3. In terms of the requirements set out in the Montevideo Convention of 1933, an entity with a nomadic population does not qualify as a state.  
(1) true  
(2) false
4. The primary function of the UN Security Council is to maintain international peace and security.  
(1) true  
(2) false
5. In terms of the South African Constitution of 1996, an international agreement of an administrative nature becomes part of the law of the Republic, without approval by the National Assembly and the National Council of Provinces.  
(1) true  
(2) false
6. *Rebus sic stantibus* is always a valid ground on which a treaty can be terminated.  
(1) true  
(2) false

7. International law allows for the existence of a local custom.
  - (1) true
  - (2) false
8. Before a state may use force in self-defense in terms of article 51 of the UN Charter, it is obliged to obtain authorisation from the Security Council.
  - (1) true
  - (2) false
9. When a private multinational company registered in state A enters into a written agreement with state B, this agreement will be considered to be a treaty in terms of article 2(1) of the Vienna Convention on the Law of Treaties of 1969.
  - (1) true
  - (2) false
10. If a rule of customary international law is codified in a treaty, the custom ceases to exist.
  - (1) true
  - (2) false
11. In the *Arrest Warrant Case (DRC v Belgium)*, the majority found that, in terms of customary international law, an incumbent minister of foreign affairs did not enjoy immunity from prosecution, because the negative state practice of not instituting criminal proceedings against foreign ministers was not accompanied by the necessary *opinio iuris*, that is, a feeling of a legal duty not to prosecute on the part of states.
  - (1) true
  - (2) false
12. In terms of the decision in the *Lotus case (France v Turkey 1927 PCIJ Rep Ser A no 10)*, a state has jurisdiction in the territory of another state, unless there is an international law rule prohibiting the exercise of such jurisdiction.
  - (1) true
  - (2) false
13. The Permanent Court of Arbitration was the predecessor of the International Court of Justice.
  - (1) true
  - (2) false
14. In terms of section 231 of the South African Constitution, self-executing agreements need only be tabled before Parliament in order to bind South Africa internationally.
  - (1) true
  - (2) false
15. A state which has a disputed border would still qualify as a state in terms of the Montevideo Convention of 1933.
  - (1) true
  - (2) false

## Assignment 02

Unique number: 765441

Due date: 22 August 2016

The result obtained will make up half of your year mark and will therefore count 10% towards your final mark. Assignment length: Maximum 1500 words, excluding cover page, table of contents and bibliography. Always acknowledge your sources and provide a brief bibliography. Do not plagiarise.

If you choose to submit the assignment on myUnisa, please do so in PDF format.

Write an essay in which you discuss the General Assembly of the United Nations. In particular, compare the nature and functions of the General Assembly with those of the Security Council, focussing specifically on the democratic dimension that the General Assembly brings to the United Nations

**25 Marks**

## 9 OTHER ASSESSMENT METHODS

There are no other assessment methods for this module

## 10 EXAMINATION

Use your *My studies @ Unisa* brochure for general examination guidelines and examination preparation guidelines.

At the end of the semester for which you are registered you will write **one two-hour examination** in LCP4801. The paper counts 100 marks.

As we pointed out above, it has been decided by the university authorities that there **must** be **TWO compulsory** assignments per semester in each module. One of the reasons for this step is that all students are required to prove that they have “studied actively” before writing the (final) examination. The assignments together will count **20%** towards your final mark in the examination, PROVIDED that you achieve a mark of at least 40% in the examination.

This module is a semester module. This means that if you are registered for the first semester you will write the examination in May/June 2016 and the supplementary examination will be written in October/November 2016.

If you are registered for the second semester you will write the examination in October/November 2016 and the supplementary examination will be written in May/June 2017.

During the course of the semester, the Examination Section will provide you with information regarding the examination in general, examination venues, examination dates and examination times.

Previous examination papers are available on myUNISA.

## **11 FREQUENTLY ASKED QUESTIONS**

The *My studies @ Unisa* brochure contains an A-Z guide of the most relevant study information.

## **12 CONCLUSION**

Good luck with your studies and do not hesitate to contact us.

Prof CA Waschefort and Ms Mirelle Ehrenbeck