

LML408V

October/November 2009

SOUTH AFRICAN LAW OF INTERNATIONAL TRADE (LLB)

Duration 2 Hours

100 Marks

 EXAMINERS
 FIRST
 SECOND

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This paper comprises 3 pages

Answer ALL the questions very briefly and with reference to the relevant authority.

QUESTION 1

- (a) Name six capacities in which a person may be regarded as an "importer" of goods in terms of the Customs and Excise Act 91 of 1964 (3)
- (b) Briefly describe the concept of 'subsidized export' (3)
- (c) "Not all foreign companies are external companies" Explain (4)
- (d) Write a short note on any ONE of the following matters
- (i) The decision in, and the impact on the South African law of international trade of *Anderson & Coltman v Universal Trading Co* 1948 (1) SA 1277 (W)

OR

- (ii) (1) The effect of the decision in *Lendlease Finance (Pty) Ltd v Corporacion de Mercadeo Agricola & Others* 1976 (4) SA 464 (A) on the passing of ownership of goods sold on FOB terms. **and**
- (2) the effect of the decision in *Blackshaws (Pty) Ltd v Constantia Insurance Co Ltd* 1983 (1) SA 120 (A) on the scope of an all risks marine policy on goods, **and**
- (3) the effect of the decision in *Loomer aft Fabrics CC v Nedbank Ltd & Another* 1996 (1) SA 812 (A) on the fraud exception to the doctrine of the autonomy of letters of credit (15)

[25]

 [TURN OVER]

QUESTION 2

- (a) The question as to which law a court has to apply to resolve a dispute arising from an international contract is separate from the question as to jurisdiction of that court over such a dispute *Explain* (5)
- (b) *Describe* the differences between a tacit choice of law and an assigned choice of law (5)
- (c) *Briefly explain and distinguish* between the different types of impossibility of performance of an international contract (10)
[20]

QUESTION 3

- (a) "A contract of carriage is a type of letting and hiring" *Explain* (5)
- (b) *Discuss* the function of a bill of lading as evidence of the contract of carriage (5)
- (c) *Identify* the possible explanations in the South African *common law* for the transfer of rights and obligations under a contract of carriage from the consignor of goods carried by sea to the consignee of those goods (5)
- (d) *Explain* how the transfer of rights and obligations under a contract for the carriage of goods by sea from the consignor to the consignee is provided for in terms of South African *statutory law* (5)
[20]

QUESTION 4

- (a) What is the relevance and what are the consequences of the fact that a claim on a marine insurance contract was not previously (ie, prior to the Admiralty Jurisdiction Regulation Act 105 of 1983) within the admiralty jurisdiction of South African courts? (5)
- (b) *Write brief notes* on the legal position of a marine insurance broker and mention, in particular, such a broker's position as regards the disclosure of material facts and the payment of the premium to the insurer (5)
- (c) In terms of an international sale on C-terms the seller is obliged to insure the goods sold *Explain* what exactly this obligation entails (5)
- (d) *Distinguish* between an unvalued (open) and a valued policy of marine insurance (5)
[20]

QUESTION 5

- (a) Apart from as issuing or opening bank, banks may be involved in a letter of credit transaction in at least *five* other capacities. *Describe* the role of a bank in each of these capacities *as well as* the role of an issuing or opening bank (10)
- (b) *Describe and distinguish* between a revocable and an irrevocable letter of credit (5)
[15]

[TOTAL: 100]