

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL.B. SUPPLEMENTARY EXAMINATIONS
L583- LEGAL ASPECTS OF ECONOMIC DEVELOPMENT

AUGUST 2023

100 MARKS

3 HOURS

Instructions:

1. This paper contains six questions. Answer any **FOUR** (4) questions.
 2. All answers must be numbered and must begin on a new page.
 3. Use the appropriate format depending on whether the question is an essay or a problem type question.
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QUESTION 1

Define the following concepts and explain what they measure:

- a. Gross Domestic Product (GDP) **5 Marks**
- b. Gross National Product (GNP) **5 Marks**
- c. Gross Domestic Product per capita **5 Marks**
- d. Gini Coefficient **5 Marks**
- e. Productivity **5 Marks**

[25 MARKS]

QUESTION 2

In January 2024, the government of Lesotho implements a Horticulture Policy whereby growers of horticultural products receive seeds, fertiliser, and pesticides from the Ministry of Agriculture. Naleli, a beneficiary of the programme, manages to produce a significant quantity of plums in December of that same year, which she intends to export. She receives an order from Khanya, a jam manufacturer in Gaborone.

The shipment of plums leaves Mahobong at 5:00am on December 11 and crosses the South African border at Ficksburg Bridge. The truck arrives at the South Africa – Botswana border at 5:00pm. There are few border officials on the ground and each department requires a number of forms to be filled in, stamped, and signed. Port Health services, in particular, requests a phytosanitary certificate. The trucker does not have one and needs to contact the Ministry of Agriculture in Lesotho to get it. He is unable to get a certificate emailed to him because the ministry is closed. At 12:00am the border closes and it only reopens at 6:00am the following morning. The truck driver receives the certificate at 9:00am and submits it to Port Health, which clears him to cross.

Identify and discuss any THREE (3) impediments to free trade that arise from the above facts. You must refer to the barriers by their technical name and justify your answer.

[25 Marks]

QUESTION 3

Below is an excerpt from Lesotho's GATS schedule:

Sector or sub-sector	Limitations on Market Access	Limitations on National Treatment
F.	(1) Unbound	(1) Unbound
a. Passenger transportation CPC 7121+7122	(2) None	(2) None
b. Freight transportation CPC 7123	(3) None	(3) None
	(4) Unbound save for as indicated in the horizontal commitments	(4) Unbound save for as indicated in the horizontal commitments

Uber, an American transportation company, wishes to expand into Lesotho. It conducted a market analysis and concluded that there is a potential profitable market. It has registered a company but the Department of Transport refuses to issue it a licence to operate, claiming that Lesotho laws do not permit foreign providers of transport services.

- a. Explain the mode of service trade being pursued by Uber. **5 Marks**
- b. Explain whether Lesotho's prohibition is a market access restriction or a national treatment limitation. **5 Marks**

- c. With reference to the above schedule, explain whether Lesotho is entitled to maintain its restriction against Uber. Thoroughly motivate your answer.

15 Marks

[25 MARKS]

QUESTION 4

The Contracting Parties to the GATT engaged in various rounds of negotiations to develop international trading rules and to curtail the use of tariff and non-tariff barriers in international trade. The Uruguay Round of negotiations has been extolled as the one that led to the creation of the most agreements in the multilateral trading framework.

Explain the purpose of the agreements below:

- | | |
|----------------------------|----------------|
| a. Marrakesh Agreement | 5 Marks |
| b. TRIPS | 5 Marks |
| c. DSU | 5 Marks |
| d. TPRM | 5 Marks |
| e. Plurilateral Agreements | 5 Marks |

[25 MARKS]

QUESTION 5

There are various strategies that governments can pursue to attract foreign direct investment (FDI). Critically analyse any ONE 9(1) strategy, clearly outlining how it operates and its challenges and benefits.

[25 MARKS]

QUESTION 6

The Southern African Development Community (SADC) is an example of a free trade area.

- i. What is a Free Trade Area? **5 Marks**
- ii. In Malawi, imported tobacco products can only be sold in licensed retail outlets (i.e., stores which have a license to sell tobacco products). However, domestically produced tobacco products can be sold in any store. Zimbabwe complains about the law because its tobacco products are sold in Malawi and are affected by the measure.

Identify the measure employed by Malawi and explain whether it infringes SADC law.

10 Marks

- iii. Carling Black label, a product of the South African corporation SAB, is flooding the Namibian market, thus threatening the domestic Windhoek lager. 330ml of Windhoek lager retails in Namibia at NAD 6.49 while the same quantity of Black label retails at NAD 5.99. In the South African market, 330ml of Carling Black label retails at the equivalent of NAD6.00.

Namibia wants temporary relief from South African Carling Black Label imports while its domestic producers adjust to the sudden competitiveness of the imported product.

Identify the measure that Namibia can adopt to temporarily protect its domestic producers of Windhoek lager.

10 Marks

[25 MARKS]