UNIVERSITY OF COLOMBO, SRI LANKA

FACULTY OF LAW

MASTER OF LAWS EXAMINATION – 2017

INTERNATIONAL TRADE LAW

(Three Hours)

Total number of questions: 04

Answer THREE questions, including Question 1.

(Candidates will be penalized for illegible handwriting.)

1. The law of international trade has been dramatically transformed with the creation of the World Trade Organisation (WTO). Though international trade continues to be conducted essentially by private parties, no attempt at harmonisation has neared the success of the WTO. Critique the role of the WTO in regulating international trade, focusing on the following aspects:

   The early efforts at harmonisation of standards relating to the subject matter of international trade.

   The relevance of the covered agreements of the WTO in the effort at harmonisation.

   The dispute settlement mechanism of the WTO.

   (40 marks)

2. The Lanka Boot Manufacturing Company manufactured Boots in their factory situated in the Biyagama Free Trade Zone. They contracted to sell several consignments of the manufactured boots to the Pakistan Traders, trading by that name in the Port City of Karachi, in Pakistan. The parties entered into a binding Contract in writing. The price for the goods was declared in United States Dollars. The goods were insured by a U.S. Insurance Company. The Marine Insurance Contract for the carriage of goods by sea was also issued by an American Insurance Company. Upon the arrival of the Goods in Karachi, they were found to be of a size that fits the feet of children of size "3" and not of sizes "9" and "10" as ordered for adult use, under the contract.

In the resulting claims for the breach of contract, the parties have submitted to the jurisdiction of the District Court of Colombo.

The preliminary question before that Court was what is the "Proper Law" applicable to this contract, to which the dispute here in issue ought to be submitted for a decision. Write an opinion analyzing both the law and facts arising out of this fact situation explaining which law in your view is the "proper law" applicable to this contract. The three competing laws are US, Pakistani and Sri Lankan.

(30 marks)

3. Kenten Ltd. Of Singapore imported a production plant from Arrbug GmbH of Germany. On delivery of the plant in October 2016 Kenten Ltd found that the goods were in a rusted condition. The defect was informed by a letter dated 30 October 2016 to the seller who was offered the opportunity of assembling the plant. There was no positive response from the seller and therefore the buyer assembled the plant in their factory. The erectors discovered that the plant was not in operating condition. On 15 November 2016 the buyer wrote to the seller asking them to take back the plant and replace another at their cost. On receiving no reply the buyer seeks your advice.

   (i) Imagine yourself as a Head of a Legal Consultancy Bureau in Sri Lanka. Your advice should be a critical evaluation of the applicable articles of the United Nations Convention on Contracts for the International Sale of Goods 1980 (CISG) and the advantages in seeking a remedy under the CISG.

   (ii) Would your advise be different if the seller has replied only to the letter of 30 October 2016 and alleged that the contract between them was evidenced by a bill of lading and the goods were sent under a contract for the carriage of goods by sea with a carrier named by the buyer and passed the responsibility. Give a critical assessment of the appropriate articles of the Hague-Visby Rules.

(30 marks)

4. In an International Trading Contract one principal element is the payment of the purchase price. The issue that may arise, there, is that the seller may not be willing to dispatch the goods to the buyer's foreign domain before he is paid. And the buyer may not want to pay until the goods have arrived and he had an opportunity to examine them and ascertain that the goods satisfied the terms and conditions agreed in the Contract. Write an opinion detailing how the International Trading Community together with the banking has attempted solved this difficult conundrum.

(30 marks)

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