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EXAMINATION CASE STUDY - REASSESSMENT, 2014

Module code:	BL6003
Module title:	International Trade Law
Module leader:	Ronke Shoderu

Date:	July/August 2014
Duration:	2 HOURS
Exam type:	Unseen, Prepared
Materials supplied:	Case study issued in advance <u>*Case study to be submitted with exam booklet</u>
Materials Permitted	Case study (which may be annotated see instructions) issued in advance of exam
Warning:	Candidates are warned that possession of unauthorised materials in an examination is serious assessment offence.

Instructions to candidates:

Read the attached case study carefully. It is issued to you prior to the examination to enable you to identify potential legal issues and research those areas. You are permitted to write sections from relevant statutes within the box provided. You are also permitted to write the case names only, in ink within the boundaries of the box outlined on the other side of this sheet. These are an aid to your memory only.

You may highlight or underline parts of the case study but you should not write on the case study (other than in the space provided) either before or during the examination. If an invigilator finds a student with a case study infringing these regulations s/he will remove the case study, issue a replacement case study and note the incident on the student's examination booklet.

Candidates should answer **ALL THREE QUESTIONS** (All questions carry equal marks). You should refer to relevant case law and legislation.

Assessment Criteria

1. Ability to explain the legal issues clearly
2. Ability to analyse the information in the case study
3. Presentation of a structured and analytical discussion of the legal issues
4. An ability to identify and analyse the relevant legal rules and apply them to the given facts
5. Evidence of critical thought and solutions proposed

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You may write the relevant statutory provisions and the names of cases (names only) – in the box provided for use in the examination. You **MUST** submit this sheet with your examination paper.

Kompania Inc

Kompania Inc (Kompania) is a leading import/export company with offices in Chile and London. The company specialises in commodities trading and manufactured goods and has built up a good reputation worldwide. However, the company has been involved in a number of problematic contracts, which the board is hoping to resolve without resorting to more formal forms of dispute resolution. At the present time, the directors of the company have asked for your advice on the following issues.

In January 2014, Shelly Inc sold a consignment of 1,000 remote controlled cars to Kompania, CIF New York. Under the terms of the agreement it was agreed that the consignment would be shipped in March 2014 and that each of the cars would be packaged in individual cardboard boxes. The price for the cars was agreed at £80,000. English law to govern the contract.

The goods were delivered by Shelly and loaded on board “The Brabham” by the stevedores who were employed by the carrier (Transporter Ltd). Once on board the cargo was left on deck before loading in the hold and during this process some of the boxes were soaked during a rain storm.

The bill of lading issued stated the following “*1,000 boxes said to contain radio controlled cars. 60 boxes wet and damaged*” A further statement in the bill of lading stated that the carrier was not liable for the negligence or default of the stevedores employed by them and the stevedores will be exempt from any liability in the performance of their duties.

During the course of the voyage, “The Brabham” hit a rock as the First Officer had set the wrong course. The ship was holed causing damage to a further 80 boxes and was forced to undergo emergency repairs at the nearest port.

Soon after departing from the port, “The Brabham” ran into a heavy storm. The cargo in the hold was severely damaged because a crew member had failed to properly secure the hatch. An additional number of boxes were damaged during the storm. Had they been

more carefully stowed this damage possibly could have been avoided. The ship eventually arrived at the port of destination 2 weeks late.

When Kompania took delivery of the consignment only 900 boxes were delivered and at least 200 are wet and the contents unuseable. A further 150 contain broken cars.

Logan Stark, Senior Trader at Kompania sold a consignment of 12 tons of maize, F.O.B. June, Portsmouth to Nuriya Soro. On 8th June Nuriya informed Logan that she had nominated the Kronos to take delivery of the goods, readiness to load 15th June. Logan is anxious that the notice to load is very short and makes this known to Nuriya. The following day Logan purchases the maize at 7% above the normal market price. The goods were then sent to Portsmouth for shipment 15th June.

The Kronos was not ready to load and Nuriya nominated the Delta to take the consignment on 18th June. Loading of the goods was completed on the following day. Nuriya has subsequently rejected the goods claiming that the maize had deteriorated due to rain seeping into the packaging.

Given the complexity of the problems raised in the above contracts, it seems likely that Kompania will be involved in some form of dispute resolution. The nature of the various agreements suggests that commercial arbitration may provide a viable solution to the issue, however the managing director has asked for a full report on the issues regarding the conflict of laws in relation to jurisdiction and whether the court process would be preferable to the use of arbitration. Kompania is clear that it will pursue an action for damages against the carriers but is unclear whether the action will be through commercial arbitration or litigation.

The directors at Kompania have asked for your advice on the above issues. This will be in the form of **THREE COMPULSORY (Two essay questions and one question consisting of multiple choice questions)**. You are required to refer to relevant case law and legislation where relevant.

END