

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:-

B.A.

Laws C2: Public International Law

COURSE CODE : LAWSC002

UNIT VALUE : 1.00

DATE : 21-MAY-03

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

PUBLIC INTERNATIONAL LAW

Answer **FOUR** questions, including at least **ONE** question from **PART A** and at least **ONE** question from **PART B**.

PART A

1. “The nature of obligations has been an unremitting source of confusion about international law. Lawyers and legal philosophers have asserted that where there is a right there must be a remedy. It is a short step from that proposition to saying that an obligation is only an obligation if there is a means of enforcement. Yet that is to confuse the existence of the obligation with its being met.”

Discuss.

2. “From the beginning, the law of nations, later referred to as international law, was considered to be incorporated into the law of the United States without the need for any action by Congress or the President, and the courts, State and federal, have applied it and given it effect as the courts of England had done . . . Customary law that has developed since the United States became a state is incorporated into United States law as of the time it matures into international law.”

Contrast this relationship of international law with domestic law in the USA as described here with the relationship between international law and domestic law in other legal systems.

3. To what extent does recognition play a role in the creation of a State under international law?
4. “The test espoused by the International Court of Justice in the *Nicaragua* case concerning the degree of control necessary to attribute acts of non-State actors to a State for the purposes of establishing State responsibility should be discarded.”

Discuss.

5. “The World Trade Organisation represents the ideal model of how international law can be established, developed, and enforced.”

Discuss.

TURN OVER

PART B

6. Alfred Trog works for the Alpha Gems Corporation ('AGC'), a company incorporated under the laws of Delta. AGC mines various gems which Mr Trog sells for them on the international market in New York. Delta law fixes the price of gems to be sold overseas at a price that is equivalent to the highest price of the same type of gem sold in the preceding year. Delta law also requires for the sale of gems overseas that this fixed price must be specified in an agreement with a foreign sales agent. The effect of this is that all gems supplied by Deltan companies trade at the highest price achievable on the world market and at the same price as all other Deltan companies. Such agreements or concerted practice are illegal under the law applicable in New York.

Write a briefing note explaining the principles of international law governing the jurisdiction of Delta and the USA in relation to AGC and Mr Trog in the context of these facts.

7. Golympic plc., an English company, is in the process of buying an oil company operating in the State of Petrolea. The State of Petrolea has had a history of nationalising foreign-owned oil companies, but a recent change in government has seen a number of statements being made assuring foreign corporations that there will not be any future expropriations. It is on this basis that Golympic is proceeding with its planned purchase of the company in Petrolea, but it remains concerned of the risk of expropriation.

You work for a London law firm, and Golympic has come to you seeking advice on all of the international law issues that it will need to consider in terms of deciding to go ahead with its purchase.

Please advise.

8. Nationalia, Pacifica, and Allegia are all neighbouring States. Nationalia on 22nd March 2003 invaded and occupied Pacifica using 50,000 soldiers from its armed forces. The government of Pacifica requests military assistance from its neighbour and ally Allegia which immediately declares war on Nationalia and is mobilizing 100,000 soldiers to send into battle with Pacifica's armed forces. Allegia publicly states that once the fighting commences its military objective will be not only the liberation of the territory of Pacifica and the re-establishment of its government, but also the removal of the government of Nationalia from power.

You are the United Nations (UN) Legal Adviser, and the UN Secretary-General has come to you seeking a legal assessment of the situation so far, and what options are available to the UN Secretary-General and to the UN Security Council under the UN Charter to require Nationalia to withdraw its forces from Pacifica and thereby prevent the escalation of the situation into a large-scale conflict.

Please advise.

END OF PAPER