

International Economic Law – Class B – Second Term – July 27, 2020

Question 1 - Is soft law irrelevant in International Economic Law? (5/20)

The ideal answer should at least cover the following topics:

- Define soft law and distinguish between legally-binding rules with no injunctive content (programmatic norms) and non-binding sources containing prescriptive language;
- Identify examples of soft law in the International Economic Law setting;
- Describe the main legal effects of soft law, emphasizing its role in developing new rules domestically and internationally as well as legitimizing conduct in accordance with soft law;
- Evaluate the role of soft law in International Economic Law.

Criteria: see below

Question 2 - What is IMF conditionality and what is its legal basis? (5/20)

The ideal answer should at least cover the following topics:

- Identify both Article V(3)(a) of the IMF Articles of Agreement as the appropriate legal basis for conditionality and the IMF Guidelines on Conditionality (2002 with 2006 revision);
- Characterize conditionality procedurally (distinguishing the responsibility of IMF staff – technical visit and consulting – from that of Members – formalizing the Letter of Intent) as well as substantially (scope and criteria for conditionality, consequences of failure to meet agreed targets);
- Identify the main characteristics of conditionality.

Criteria: see below

Question 3 – In response to the COVID epidemic, Tchin, a WTO member and one the world's largest respirator devices producer decided to impose an export ban of these devices for a period of six months. Trumnesia, another WTO Member, reacted to Tchin's export ban by declaring it a violation of WTO rules and applying a retaliatory tariff of 20% on imports of goods from Tchin.

What are the possible legal bases and main arguments should Tchin decide to present a complaint before the WTO Dispute Settlement Body? (8/20)

The ideal answer should at least cover the following topics:

- Identify the applicable regime on export restraints (articles XI and following of the GATT 1994);
- Evaluate whether this measure could be justified under Article XX of the GATT 1994);
- Identify the legal issues raised by Trumnesia's response: failure to comply with the Dispute Settlement Understanding [Article 23(2)(a)(b) and (c)].

Criteria: see below

Question 4 - An ICSID tribunal is best defined as:

Selecione uma opção:

- a. The permanent world court on foreign investment disputes
- b. An arbitral tribunal that rules on any foreign investment dispute
- c. An arbitral tribunal that rules on foreign investment disputes between members of the ICSID Convention
- d. An arbitral tribunal that rules on foreign investment disputes between members of the ICSID Convention and nationals of another ICSID member

Correct answer: d – “An arbitral tribunal that rules on foreign investment disputes between members of the ICSID Convention and nationals of another ICSID member” (Investor-State Dispute Settlement)

Specific criteria for questions 1, 2 and 3:

Identification of relevant legal provisions (25%):

- 0 – Does not identify any relevant legal provisions (0x25%);
- 1- Partially identifies the relevant legal provisions (0,5x25%);
- 2 – Correctly identifies all relevant legal provisions (1x25%)

Conceptual understanding and application (25%)

- 0 – Does not define relevant concepts and/or uses wrong concepts (0x25%);
- 1- Defines / uses relevant concepts in a partially correct form (0,5x25%);
- 2 - Defines / uses relevant concepts in a globally correct form (1x25%)

Arguments (25%)

- 0 – Does not state any arguments and/or uses wrong/irrelevant arguments (0x25%);
- 1 – Arguments evidence an understanding of the problem yet are not fully correct or may lead to the wrong outcome/solution (0,5x25%);
- 2 – Arguments are globally correct (1x25%)

Writing style and organization (25%)

- 0 – The answer is disorganized/chaotic/rambling (0x25%)
- 1 – The answer is legible yet presents some errors/vagueness/inaccuracies (0,5x25%)
- 2 – The answer is clear, well organized and does not present substantial errors/vagueness/inaccuracies (1x25%).