

# JUS5850 International Trade Law

## Autumn 2011

(Please note that you should spend more time on question 2 than on question 1)

Elbonia and Majoria are neighbouring countries, and both are members of the WTO. In the spring of 2010 there was a historic football match in which Elbonia defeated Majoria 3-2. The match was played in a third country. Elbonian football supporters initiated violence prior to the match and shouted racist slogans during the match. After the match, the main Majorian opposition party demanded that action be taken in response to the unacceptable attitude of Elbonian football fans.

Elbonia is a poor country where salaries and working conditions are low compared to those of Majoria. Elbonia has become a main producer of footballs, and was supplying 85 % of the footballs sold in the Majorian market in 2009. All but one Majorian football producer, "ballXtra", had given up production in Majoria and moved their factories to Elbonia by the end of 2009. ballXtra has invested heavily in advanced production facilities and can easily adjust colors, size and other qualities of the products. The tariffs on footballs are bound to zero in the tariff schedules of both Majoria and Elbonia. During the weeks after the football match, ballXtra claimed that Elbonian football producers were dumping footballs on the Majorian market and demanded that anti-dumping duties be imposed on imports of footballs from the four main Elbonian football producers.

Question 1: You are hired as lawyer by ballXtra to prepare the case concerning anti-dumping duties so that it can be brought before the Majoria International Trade Commission. You are asked to identify possible claims, legal bases for the claims, and facts that must be presented to justify the claims. Majoria's law on anti-dumping is a direct implementation of the WTO Anti-Dumping Agreement.

Majoria's trade association decided that all its members, which include almost all the shops selling sports equipment in Majoria, shall label footballs produced in Elbonia as follows: "Product of ELBONIA". Moreover, the Majorian football association, which is appointed and partly funded by the Ministry of Sports and Recreation, adopted new rules regarding the size of footballs to be used by all teams with players below 16 years. They argued that smaller footballs would increase the joy of playing football among the youngest members and that the new rules would reduce accidents. Revision of the standards concerning size of footballs for junior football players had been on the agenda of the World Football Association for many years, but there was still no consensus to change the standards. One year after the football match, ballXtra had captured 35% of the Majorian market, and had also started to export footballs to Elbonia where it had 10% of the Elbonian market in the first quarter of 2011.

Question 2: You work as professor at the Faculty of Law at the National University of Elbonia. The Minister of Foreign Affairs asks you whether the two Majorian measures are unlawful under the WTO Agreement. She also asks you whether it would be lawful under the WTO Agreement to impose taxes on the import of footballs from Elbonia. You are asked to prepare a thorough legal analysis of these questions.