

## **EKSAMEN I JURIDISKE VALGEMNER**

**HØST 2014**

Dato: Mandag 24.november 2014

Tid: Kl. 10:00 – 14:00

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### **JUS5850 – International Trade and Investment Law (MA)**

The language of examination for this course is English: students may answer in English ONLY, answers in any other language than English will be given a F (F for fail).

Please spend more time on Part I than on Part II (approximately 3/4 on Part I and 1/4 on Part II).

#### **Part I**

Peter Hill is dean of the Faculty of Natural Sciences in Majoria University. The Faculty has for several years tried to establish a student and staff exchange program with the corresponding faculty of the Elbonia National University. During a trip to Elbonia, Peter had had meetings with staff of the Elbonian National University, who expressed their deep dissatisfaction with the way in which their university was managed. They also complained that quality of the public schools of Elbonia was very low. Schools in Elbonia are almost exclusively public.

When he came back to Majoria, Peter brought an initiative within Majoria University to establish a high school for students aged 16 to 18 and a technical university within Elbonia.

Elbonia recently became member to the WTO. During the accession negotiations, Majoria successfully requested that Elbonia undertake commitments in the education sector (see the schedule of commitments in the attachment).

The Majorian government wants to help Majoria University to succeed in its plans to establish a technical university and high school in Elbonia. Majoria University is an independent non-profit institution under Majorian law. The support provided to Majoria University consisted of the establishment of five new professor positions sponsored by the Majorian government and an interest free loan of USD 10 million over 20 years. None of these commitments from the Majorian government were formally linked to the establishment of the technical university and high school in Elbonia. Majoria University intends to establish extensive staff exchange programs that will



ensure that at any given time there will be two professors from Majoria University in the new Elbonian university and two professors from the new Elbonian university in Majoria University. In order to be employed in the new Elbonian university and high school, the professors and teachers will have to pass tests at Majoria University.

Elbonian education authorities were concerned when they heard of the plans of Majoria University. They expressed fear that the new technical university might undermine the position of the Elbonia National University, and that establishment of the high school would subsequently lead to an influx of private schools that could undermine the public schools. Elbonia passed legislation which stated that subsidies currently provided to public schools and Elbonian universities shall not be extended to education institutions owned by foreign interests, as well as a new law requiring that teaching of Elbonian students shall only be done in the Elbonian language. Elbonia also introduced taxes on all privately owned teaching facilities in Elbonia. The proceeds from the tax, which amounted to USD 200 per student, was allocated to the Education Quality Control Board which is responsible for quality control of teaching institutions. The Education Quality Control Board introduced mandatory exams that had to be passed before teachers and professors could be allowed to teach in Elbonia. The exams were in Elbonian and focused on Elbonian philosophy, culture and history.

Majoria brings the case to the WTO Council for Trade in Services, claiming that the Elbonian measures are in violation of its commitments under the GATS. Elbonia responds by submitting a statement that Majoria is violating its obligations under the WTO. You work as counsel in the legal division of the WTO Secretariat. The Chairperson of the WTO Council for Trade in Services asks you to prepare a memorandum where you discuss the legal claims that can be made and the provisions that are of relevance. He also asks you to make a preliminary assessment of whether Elbonia and Majoria have violated their GATS obligations.

## **Part II**

Provide a general overview of the rules of GATT that provide special and differential treatment to developing countries. Discuss advantages and disadvantages of such special and differential treatment.

**Annex: see next page**

**Annex**

**Elbonia**

**Schedule of Specific Commitments**

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

<b>Sector or subsector</b>	<b>Limitations on market access</b>	<b>Limitations on national treatment</b>	<b>Additional commitments</b>
<b>I. Horizontal commitments</b>			
All sectors included		3) Unbound for subsidie.	
<b>II. Sector-specific commitments</b>			
5. Privately funded education services			
A. Primary Education Services (CPC 921)	1) Unbound 2) None 3) Unbound 4) Unbound	1) Unbound 2) None 3) Unbound 4) Unbound	
B. Secondary Education Services (CPC 922)	1) None 2) None 3) None 4) Unbound	1) None 2) None 3) Unbound 4) Unbound	
C. Higher Education Services (CPC 923)	1) None 2) None 3) None 4) None	1) None 2) None 3) Professors must be nationals of Elbonia 4) Unbound	

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Sensuren faller mandag 15. desember klokken 15.00. Kontroller på StudWeb eller ta kontakt med Infosenteret på 22 85 95 00.

Kandidatene har rett til en redegjørelse for sensurvedtaket ved henvendelse til sensorene innen en uke etter sensur. Kontaktinformasjon for sensorer finnes på Fakultetets nettsider. Du kan også ta kontakt med infosenteret. Klagefristen er tre uker etter sensur.

*The result of the exams will be announced on Monday 15. December, at 15.00 hours. You can check the results in the StudWeb, or by contacting the Information Centre, phone 22 85 95 00.*

*After the exam results are announced, candidates have the right to be informed of the grounds for the result as long as a request is made within one week of the announcement. The names and contact information of the examiners can be found on the Faculty's website, or by contacting the Information Centre. The deadline for appeal is three weeks after the announcement of the results.*

Oslo, 24.11.2014