The Management University of Africa

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POSTGRADUATE UNIVERSITY EXAMINATIONS

SCHOOL OF MANAGEMENT AND LEADERSHIP

DEGREE OF MASTER OF BUSINESS ADMINISTRATION

MBA 503: BUSINESS LAW AND ETHICS

DATE: 26TH MARCH 2024

DURATION: 3 HOURS

MAXIMUM MARKS: 60

INSTRUCTIONS:

1. Write your registration number on the answer booklet.
2. **DO NOT** write on this question paper.
3. This paper contains **FOUR (4)** questions.
4. Question **ONE** is compulsory.
5. Answer any other **TWO** questions.
6. Question **ONE** carries **30 MARKS** and the rest carry **15 MARKS** each.
7. **Write all your answers in the Examination answer booklet provided.**

QUESTION ONE

Read the Case Study below carefully and answer the questions that follow:

KENYA'S IMPORT POLICIES

International trade is the exchange of capital, goods and services across international borders or territories. Even though the World Trade Organization (WTO) advocates trade opening, many WTO members do not liberalize every sector of the economy and, instead, maintain certain trader barriers. Many of these trade barriers take the form of government laws, regulations, policies, or practices that are imposed by governments. A National Trade Estimate Report by the Office of the United States Trade Representative (USTR) on trade barriers in Kenya revealed the following:

i. That Kenya's average Most-Favored-Nation (MFN) applied tariff rate was 13.4 percent in 2019 (latest data available). Kenya's average MFN applied tariff rate was 20.3 percent for agricultural products and 13.4 percent for non-agricultural products in 2019 (latest data available). Kenya has bound 16.4 percent of its tariff lines in the World Trade Organization (WTO), with an average WTO bound tariff rate of 94.5 percent.

ii. That Kenya generally applies the Eastern African Community (EAC) Customs Union's Common External Tariff (CET), which includes three tariff bands: (1) zero percent duty for raw materials and inputs; (2) 10 percent duty for processed or manufactured inputs; and, (3) 25 percent duty for finished products.

iii. That for certain products and commodities deemed "sensitive," Kenya applies *ad valorem* rates above 25 percent. This includes rates of 60 percent for most milk products, 50 percent for corn and corn flour, 75 percent for rice, 60 percent for wheat flour, 100 percent for sugar, and 50 percent for textiles. For some products and commodities, tariffs vary among the five EAC member states. In July 2020, the EAC granted Kenya a oneyear stay to the rice CET, reducing the tariff to 35 percent or $200 per metric ton (whichever is higher) due to Kenya's status as a net importer.

iv. That Kenya sometimes waives tariffs when domestic agricultural prices exceed certain levels and there is a need to stabilize prices.

v. In 2017, the EAC introduced the EAC Elimination of Non-Tariff Barriers Act, which is currently under review by Kenya and other EAC partner states. In April 2020, Kenya Bureau of Standards imposed an indefinite ban on the importation of used clothing and footwear, citing risks related to the Covid 19 pandemic but later lifted the ban.

vi. That Kenya requires pre-shipment inspection of most imports under its Pre-Export Verification of Conformity (PVoC) program. This is a conformity assessment program where goods are subject to inspection and testing prior ro export to ensure compliance with applicable Kenyan standards and regulations.

vii. That Kenya's Statute Law (Miscellaneous Amendments) Act of 2018, which entered into force in January 2019, includes amendments that improve the protection and enforcement of intellectual property (IP) by updating Kenya's copyright and trademark legislation, including by enabling the recordation of trademarks with customs authorities.

viii. That Kenya's November 2019 Data Protection Act (DPA) includes unclear and potentially restrictive provisions governing the cross-border transfer of personal information. The DPA requires that data controllers provide "proof" that personal data will be secure as a condition for transferring the data outside Kenya, but that does not describe what would constitute proof. The DPA also requires consent of the data subject as a condition for the cross-border transfer of any "sensitive personal data," a broad category of information. Additionally, the Act empowers a political official to prohibit the cross-border transfer of certain categories of data, creating uncertainty for businesses operating in Kenya that depend on cross-border data flows.

Required:

a) In view of this excerpt, discuss any **six** reasons that may prompt the imposition of import trade barriers by the Government of Kenya. **(6 marks)**

b) Describe the impact of Kenya's non-tariff barriers on U.S imports. **(5 marks)**

c) Elaborate any **three** ways the World Trade Organization (WTO) ensures trade liberalization. **(9 marks)**

d) Briefly explain why tariffs are an acceptable method of protection under the General Agreement on Tariffs and Trade, 1994. **(10 marks)**

QUESTION TWO

a) National Park Bank issued a Letter of credit addressed to Milan & Brooker, beneficiary, at the request of its account by Sun Herald, covering the shipment of 1000 tons of news print paper. The Letter of Credit did not require that a testing certificate from an independent laboratory accompany the document. When Milan's documents were presented to the Bank, they described the paper as was required in the letter of credit. However, the Bank refused payment because it had no opportunity to test the tensile strength of the paper. Advice Milan & Booker. **(5 marks)**

b) In reference to CISG, discuss any **five** remedies available to parties when there is a breach of contract. **(10 marks)**

QUESTION THREE

a) 'Under the World Trade Organization agreement, countries cannot normally discriminate between trading partners' Explain **(5 marks)**

b) Describe the procedure of settling trade disputes within the World Trade Organization. **(10 marks)**

QUESTION FOUR

'The international business environment through its cultural and economic diversity, often puts international managers in great difficulty, as it generated a large variety of ethical dilemmas. If not addressed, it may lead to the collapse of a multinational'. In view of this statement:

a) Discuss any **five** ethical dilemmas faced by international managers. **(5 marks)**

b) Elaborate on any **five** consequences of unethical practices that may lead to collapse of a multinational. **(10 marks)**