

# NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY

## Faculty of Commerce Department Of Finance Bachelor of Commerce Honours Degree in Fiscal Customs Law (CFS 2201)

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**Time Allocated**

**3 Hours**

**Date: October 2009**

### Instructions

1. Answer **all** questions in Section A and any 2 in Section B.
2. Section A carries 70 marks and Section B carries 30 marks. Each question in Section B carries 15 marks.
3. Please note the meaning of the following abbreviations:  
CCC – Customs Cooperation Council  
GATT – General Agreement on Tariff and Trade  
WCO – World Customs Organization  
WTO – World Trade Organization  
UNCTAD – United Nations Conference on Trade and Development
4. This paper consists of 7 printed pages

### Section A

#### Question 1 [33 marks]

Please indicate whether the following statements are True or False. Use the answer separate sheets provided.

- 1.1 The Kyoto Convention is irrelevant to a modern Customs Administration.

- 1.2 The Revised Kyoto Convention is a WTO instrument, meant to facilitate trade.
- 1.3 Adam Smith's canon of taxation of EFFICIENCY states that an efficient Customs Administration will ensure there is fairness in the collection of import duties and similar goods are levied the same amount of revenue. Collection of unequal amount of duty for similar goods is a sign of inefficiency.
- 1.4 Court decisions can never be a source of CUSTOMS LAWS since courts exists to interpret legislation.
- 1.5 All WCO instruments are mandatory to member Customs Administrations.
- 1.6 The WCO is divided into geographical regions. Swaziland belongs to the ESA Region of the WCO.
- 1.7 Trade facilitation issues are the preserve of the WCO only.
- 1.8 A Customs Administration can be a member of the WCO only if it has acceded to the Kyoto Convention.
- 1.9 Since Customs Laws involve the movement of goods across borders, such laws are always the same for all countries.
- 1.10 According to the United Nations, it is mandatory that every Customs Administration accedes to the Revised Kyoto Convention.
- 1.11 A free trade area is the same as a free trade zone
- 1.12 A free trade is the next state in regional integration, and it takes place after the implementation of preferential trade area regime.
- 1.13 SAFE Framework of standards is made up of 4 pillars
- 1.14 Computerizing of Customs processes results in quicker processing of imports and is not trade facilitation.
- 1.15 Trade Facilitation is the same as trade liberalization
- 1.16 The Revised Kyoto Convention is an example of bilateral treaty.

- 1.17 An agreement between two organizations like the UNCTAD and WTO is an example of a multilateral convention.
- 1.18 A memorandum of understanding outlines a legal basis for the exchange of information and the provision of administrative assistance. It is an agreement between the contracting parties for the proper application of customs laws.
- 1.19 The Revised Kyoto Convention is made up of two parts only i.e. the Body and the General Annex
- 1.20 Countervailing duties are raised when goods are exported into another country marked at a value below their cost of production.
- 1.21 One of the functions of the WCO is to recommend rates of duties to Customs Administrations.
- 1.22 Regional Economic Communities cannot influence changes to the Customs Laws of a State
- 1.23 Increasing demand for more effective trade facilitation measures can influence changes to Customs Laws.
- 1.24 Stringent Customs Laws are not a barrier to trade.
- 1.25 A Customs Union is part of a free trade area.
- 1.26 It is possible for a country to belong to two different free trade areas
- 1.27 It is possible for a country to belong to two Customs Unions with two different common external tariffs.
- 1.28 The WTO has provisions for tariff bindings on certain products
- 1.29 By being a member of international organisations such as SADC or COMESA, Zimbabwe loses some sovereignty rights on certain issues pertaining to Customs
- 1.30 Dumping does not affect international trade
- 1.31 Domestic subsidy is paid to an industry only on products that are exported
- 1.32 Modern Customs standards will not provide illegal traders the right of appeal because that is tantamount to encouraging the smuggling of contraband.

**Question 2** [13 marks]

The following are multiple choice questions. Choose the best correct statement.

2.1 The role of modern Customs Administration is to

- A** collect revenue
- B** facilitate trade
- C** control imports and exports
- D** contribute to national security objectives
- E** all of the above

2.2 A Free Trade Area (FTA) must exhibit the following characteristics

1. Qualifying goods can move customs duty free within the FTA
2. Qualifying goods can move VAT free within the FTA
3. Common rules of origin
4. Common hours of operation at all border posts within the FTA (eg if Plumtree operates from 06h00 to 18h00 then Kasumbalesa border post between DRC and Zambia must operate the same hours).

- A** Only statement 1 is correct
- B** Only statement 3 is correct
- C** All statements are correct
- D** Statements 2 and 4 are wrong
- E** Statements 1, 2 and 3 are correct.

2.3 Which of the following statements best describes the Kyoto Convention?

- A** It has MFN tariff rates of duty
- B** It is a set of compulsory regulations to all Customs Administrations belonging to the WCO
- C** It is a WTO instrument to facilitate trade
- D** It was established following the Johannesburg Convention
- E** A WCO instrument with recommended best practices for a Modern Customs Administration

2.4 Which of the following is out of line with the rest?

- A** Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which is a UNESCO convention.
- B** The Convention on Temporary Admission (i.e. Istanbul Convention).
- C** Memorandum of Understanding between the Zimbabwe Revenue Authority and Air Zimbabwe.
- D** The Revised Kyoto Convention.

**E** Convention on the Means of Prohibiting and Preventing the Illicit import, export and Transfer of Ownership of Cultural Property – a UNESCO Convention.

2.5 Which of the following statements is wrong?

- A** The Johannesburg Convention replaced the Nairobi Convention
- B** The Brussels Definition of value is now replaced by the WTO Valuation Code.
- C** The original Kyoto Convention of 1974 was revised
- D** The World Customs Organisation replaced GATT
- E** Some of Zimbabwe's Tariffs are bound by GATT/WTO

2.6 GATT Article X deals with

- A** Facilitation of goods in transit
- B** The changing of fees at reasonable rates
- C** The need to acquaint the trading community with laws retaining to imports and exports
- D** Non of the above
- E** A,B and C are all correct

2.7 GATT/WTO negotiations, rounds and agreements would be expected to deal with

- A** Trade facilitation issues
- B** Reduction of Customs duties
- C** Rules of origin
- D** Only A and B
- E** A, B and C

2.8 A combination of stringent Customs Legislation, thorough processes together with low facilitation results in the following:

- A** Laissez faire approach
- B** Balanced Approach
- C** Crisis Management
- D** Red Tape Approach

2.9 The purpose of the GATT Article VIII dealing with "Fees and Formalities connected with Importation and Exportation" is

- A** to ensure that any fees must be at a cost recovery mechanism rather than an additional taxation.
- B** to ensure that the fee includes elements of domestic protection of domestic production.
- C** to ensure that the fees are calculated at the lowest possible amount reflecting the approximate actual cost of the services rendered.

- D** A and C are the correct answers.
- E** only B is correct.

2.10 Which of the following statement is wrong?

- A** The Johannesburg Convention replaced the Nairobi Convention
- B** The Brussels Definition of value is now superceded by the WTO Valuation Code.
- C** The original Kyoto Convention of 1974 was revised.
- D** The World Customs Organisation replaced GATT.
- E** Some of Zimbabwe's Tariffs are bound by GATT/WTO

2.11 What standards would you not expect to find in the Kyoto Conventio?

- A** governing the release of goods
- B** syllabi for a BComm (Fiscal studies) degree
- C** governing the clearance of goods for export
- D** governing appeals
- E** requirement that Customs Administration must fix the maximum duration of storage in a customs warehouse

2.12 GATT/WTO negotiations, rounds and agreements are an example of

- A** Bilateral Agreement
- B** Multilateral Agreement
- C** Memorandum of Understanding
- D** Mutual Administrative Assistance
- E** Double Taxation Agreement

2.13 The following can be sources of Customs Laws

- A** Economic policies of a nation
- B** International Organizations such as UNCTAD
- C** WCO conventions
- D** Culture of a People
- E** All of the above.

**Question 3** [24 Marks]

- 3.1 What is the difference between Tariff Barriers (TBs) and non Tariff Barriers (NTBs). Illustrate your answer by giving examples. [3 marks]
- 3.2 Briefly explain the 3 things or elements which are necessary in order for dumping to be actionable. [6 marks]
- 3.3 Give any 3 benefits that a Customs Administration will derive from entering

into a Mutual Administrative Assistance Agreement under the Johannesburg Convention (International Convention on Mutual Administrative Assistance, 2003).

[3 marks]

3.4 What is trade facilitation? [3 marks]

State and explain any 3 examples of trade facilitation measures which Zimbabwe Revenue Authority has adopted and is implementing. [6 marks]

3.5 What is the difference between a multilateral and a plurilateral convention?

[3 marks]

## **Section B**

Answer any 2 of the following questions, each question carries 15 marks

### **Question 4**

(a) Give and explain any

(i) 2 characteristics of an outdated Customs Legislation

[2 marks]

(ii) 4 characteristics or provisions which must be found in a modern framework of Customs-related legislation [8 marks]

(b) Adam Smith came up with four “Canons of Taxation”. Explain the meaning of CERTAINTY and CONVENIENCE and show the relevance of each these two canons of to Customs Law.

[5marks]

### **Question 5**

(a) State and explain any 4 of the objectives of the World Customs Organisation (WCO) (formerly Customs Cooperation Council). [4 marks]

(b) Show and discuss 2 examples in which the WCO has or can influenced Customs Legislation or Procedures in Zimbabwe. [4 marks]

(c) Give and explain any 2 of the specific objectives of GATT/WTO [4 marks]

(d) Give and explain any 3 examples which show complementarities between the WCO and WTO [3 marks]

**Question 6**

- (a) Briefly explain what the WCO SAFE Framework of Standards aims to achieve? [2 marks]
- (b) Give and explain
- (i) the pillars of the Framework of Standards and [3 marks]
  - (ii) the 4 core elements of these pillars. [8 marks]
  - (iii) the pillars have standards. Choose any one pillar and give any 2 of its standards [2 marks]