



KENYATTA UNIVERSITY

UNIVERSITY EXAMINATIONS 2016/2017

SECOND SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF
LAWS

LIL 407: LAW OF INTERNATIONAL ORGANIZATIONS

DATE: Friday, 21st April 2017

TIME: 12.00P.M- 2.00P.M

INSTRUCTIONS

1. Answer question **ONE**, and any other **TWO** questions. Penalties accrue for failure to answer Question **ONE**
2. Support your answer with relevant illustrations from case la, statutory provisions and any other references
3. Your writing must be **NEAT** and **LEGIBLE**.
4. Your answer booklet must bear your assigned **REGISTRATION NUMBER**, both on the cover and every written page therein.
5. Do not scribble or draft answers on the inner or outer cover pages or your answer booklet.
6. Do not write anything except your **REGISTRATION NUMBER** on this question paper.
7. All Kenyatta university Examinations rules apply as if they were contained herein.

QUESTION 1 (Compulsory)-30 marks

The Organization of Oceanic States is a regional body comprising 36 member States geographically situated in the Oceanic continent. The Organization of Oceanic States is established by the Treaty of Oceanic. Article 3 outlines the primary objective of the Organization of Oceanic States as: to promote democracy, human rights and economic inclusion for all peoples in the Oceanic continent.

Under Article 4 of the Treaty of Oceanic, the organs of the Organization of Oceanic States are:

- a. The Summit composed of the 36 Heads of State and Government;
- b. The Secretariat;
- c. The Oceanic Court of Justice and Human Rights; and
- d. The Ocean Parliament

Article 5 of the Treaty of Oceanic provides as follows:

- (i) There is established the Summit which is the principal organ of the Organization of Oceanic States with the following powers:
 - (a) To make policy decisions of the Organization;
 - (b) To approve all budgets of the Organization;
 - (c) To consider and approve recruitment of the Secretary General; and
 - (d) To consider and approve all expert missions including election observation missions.

Article 15 of the Treaty of Oceanic:

There is established the Secretariat of the Organization of Oceanic States, which will be headed by the Secretary General and oversee the day to day execution of the policy decisions of the Summit.

Article 24 of the Treaty of Oceanic:

A Court of Justice and Human Rights of the Organization of Oceanic States is established. The Court shall have original and appellate jurisdiction over commercial disputes, criminal matters and human rights violations in the Oceanic Continent.

Article 28 of the Treaty of Oceanic:

In order to ensure the full participation of the Oceanic peoples in the democratic and economic development of the continent, the Oceanic Parliament shall be established. The modalities and operations of the Oceanic Parliament shall be defined in a Protocol relating thereto.

The Organization of Oceanic States is headquartered in the State of Akan, situated in the Northwestern part of the Oceanic Continent. This Northwestern part of the Continent has extensive oil and coal deposits making the State of Akan the economic powerhouse of Oceanic continent, with the largest military and population. The State of Akan has over the years undertaken funding of the budget of the Organization of Oceanic States to the tune of 80%. The other States are mostly agricultural countries relying on rain-fed agriculture, fishing and tourism as their source of national income. The State of Maka which borders the State of Akan to the East has some coal deposits.

The State of Maka, was scheduled to hold presidential, parliamentary and civic elections in May 2016. These elections were to be held against the background of rising political climate as the opposition groups were fronting one presidential candidate, while the incumbent President was fighting to retain power. In April 2016, the Secretary General of the Organization of Oceanic States, aware of the possibility of an outbreak of civil war in the State of Maka, unilaterally approved deployment of Organization of Oceanic States expert election observers to the State of Maka. The government of Maka unhappy with the deployment, mobilized its citizens against the expert observers resulting in physical attacks of the expert observers, seizure of their property including laptops and documents and their arrest and detention.

Upon learning of the deployment of election observers to the State of Maka, the President of the State of Akan issued a press statement condemning the deployment and suggested that it amounted to interference with the domestic affairs of the State of Maka. The President of Akan further indicated that his country would not pay for the expenses incurred by the expert observers as part of its budgetary contributions to the Organization of Oceanic States. In addition, he issued a directive instructing the Minister of Interior to forthwith withdraw all the security assigned to the headquarters of the Organization of Oceanic States, since the Organization was acting outside its powers.

In May 2016, the elections in the State of Maka were held with the incumbent President winning amidst claims of massive rigging, voter intimidation and violence in the opposition zones. The President of Akan sent congratulatory messages to the President of Maka.

In July 2016, during the 12th Ordinary Meeting of The Summit, the States of Akan and Maka sponsored a resolution for the dismissal of the Secretary General for incompetence and negligence of duty. Amidst threats of budgetary cuts to the Organization of Oceanic States from the State of Akan, the other member States passed the resolution. Subsequently, the Secretary General was dismissed. The Secretary General filed a suit against his dismissal in the Oceanic Court of Justice and Human Rights.

Using relevant case law and principles of international organizations law, analyze the issues emerging from the above scenario.

QUESTION 2 (20 Marks)

Chapter VII of the Charter of the United Nations authorizes the United Nations (UN) Security Council to address aggression, breaches of peace and threats to peace. Article 25 of the Charter of the UN requires every Member State to participate in the implementation of Chapter VII measures. Equally, Article 103 of the Charter of the UN operates to render the obligations of Member-States under the Charter, specifically the binding decisions of the UN Security Council, superior to conflicting obligations which may arise under other international agreements.

With the use of case law and Charter provisions, discuss whether the Security Council is *legibus solutus* (unbound by law).

QUESTION 3 (20 Marks)

In June 2014, the Assembly of the African Union at its 23rd Ordinary Session in Malabo, Equatorial Guinea, adopted an amendment to the Protocol on the Statute of the African Court of Justice and Human Rights. The Amendment grants immunity to African leaders and senior government officials accused of committing serious human rights violation from criminal prosecution before the proposed African Court of Justice and Human Rights.

The founding principles of the African Union, in Article 4(o) of the Constitutive Act provide that the African Union must respect the sanctity of human life and condemn and reject impunity.

Critically assess the above scenario in the context of legitimacy of international organizations, while noting to discuss how legitimacy of the African Union can be improved.

QUESTION 4 (20 Marks)

On 23 June 2016, a small majority (51.9% in a referendum with a 72% voter turnout) of the United Kingdom electorate voted in favor of leaving the European Union.

Discuss the United Kingdom's decision to leave the European Union in the context of the European Union's supranationalism.

QUESTION 5 (20 Marks)

Write detailed explanatory notes on any TWO of the following:

- i. Doctrine of *lis pendens* in relation to the organs of the UN
- ii. Ezulwini Consensus
- iii. Principle of Subsidiarity under the EU Founding Treaties