INTERNATIONAL LAW CERTIFICATION EXAM SAMPLE QUESTIONS

Disclaimer: The following questions are provided to the public as examples of the types of questions that appear on International Law certification exams, as well as the subject areas that are tested. All questions have been pulled from previous exams and were correct and factual at the time of administration; however, the International Law Certification Committee acknowledges that some questions and/or answers may no longer be accurate due to the passage of time since administration. None of these questions will appear on future exams.

1. Disadvantages of using an "S" corporation for a foreign owned inbound investment structure include:

   a. only that there are restrictions against nonresident shareholders.
   b. only that there is U.S. estate tax exposure.
   c. both that there are restrictions against nonresident shareholders and that there is US estate tax exposure
   d. not having “C” corporation tax liability.

   Answer: C

2. As provided by U.S. Customs and Border Protection regulations, to prevent the importation of gray market merchandise, recordation of a trademark with U.S. Customs and Border Protection can only be accomplished by which holder of the intellectual property right?

   a. The foreign holder.
   b. The U.S. holder.
   c. The foreign holder together with the U.S. holder.
   d. It is not necessary to record a trademark with U.S. Customs and Border Protection to prevent importation of gray market merchandise.

   Answer: B
3. In Florida, a foreign decree is entitled to comity provided:

a. the parties have been given notice and an opportunity to be heard, the foreign court had original jurisdiction, and the foreign decree does not offend the public policy of the state of Florida.

b. the foreign court ensures reciprocity by proving that it has previously enforced one or more Florida judgments.

c. enforcement of the foreign decree, even if violative of the public policy of the State of Florida, is consistent with the state’s economic interest.

d. the foreign decree is consistent with Florida law, even if the parties had not been given notice or the opportunity to be heard in the foreign jurisdiction.

Answer: A

4. With regard to ‘Letters of Request’ pursuant to The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, some signatory countries have entered Declarations and Reservations. Such Declarations and Reservations do NOT include which of the following?

a. A requirement that the Letter of Request be submitted in the country’s official language or submitted with a translation into the country’s official language.

b. A limitation of the Letter of Request if it is being used for the purpose of obtaining pre-trial discovery of documents.

c. A limitation of the Letter of Request that it be used solely for obtaining pre-trial discovery of documents.

d. A requirement that evidence pursuant to a Letter of Request be taken only in an Embassy or Consulate.

Answer: C
5. The L-1 visa does NOT require:

a. common ownership of the foreign business entity and the United States business entity or the same business entity abroad and in the United States.

b. executive, manager or employee with specialized knowledge.

c. employment of the beneficiary alien by the foreign entity for two (2) years during the five (5) year period preceding the transfer of the beneficiary alien to the U.S.

d. employment of the beneficiary alien by the foreign entity for one (1) year during the three (3) year period preceding the transfer of the beneficiary alien to the U.S.

Answer: C

6. Which of the following contractual provisions is NOT regulated through the use of an Incoterm® in an international sales contract?

a. Allocation of responsibility for procuring insurance covering the goods shipped.

b. Allocation of costs to be paid for shipping the goods.

c. Determining when risk of loss passes from Seller to Buyer.

d. Determining when title to the goods passes from Seller to Buyer.

Answer: D
7. Company A, with its seat in Germany and no offices in the U.S., and Company B, with its seat in Australia and no offices in the U.S., are competitors who manufacture a product which is sold through sales representatives worldwide. Representatives of Company A and Company B meet at a conference in Germany and agree to fix the price at which the product will be sold worldwide, and that price is followed by their respective sales representatives around the world. Which of the following statements is correct?

a. Neither Company A nor Company B can be charged with price-fixing in the United States because the conduct which led to the price fixing occurred outside the U.S.

b. Neither Company A nor Company B can be charged with price-fixing in the United States because neither company has an office in the U.S.

c. Both Company A and Company B can be charged with price-fixing in the United States because their conduct foreseeably affects competition in the United States.

d. Whether Company A or Company B can be charged with price-fixing in the United States will depend on whether the price-fixing is legal in the country in which it took place.

*Answer: C*

8. In a transfer to which Internal Revenue Code Section 351 applies, U.S. corporate transferors of intangible property to a foreign corporation:

a. can treat the transaction for U.S. tax purposes as a sale in exchange for payments contingent on use of that property.

b. can defer U.S. tax on attributable foreign revenue.

c. can contribute such property free of U.S. tax.

d. must treat the transaction as a taxable sale for market value because section 351 does not apply to transactions outside the U.S.

*Answer: A*
9. Products of the United States, when returned after having been exported, are entitled to entry free of duty if:

a. the articles have not been advanced in value while abroad.

b. the articles have been improved in any condition by any process of manufacture or other means while abroad.

c. duty drawback is claimed on the entry.

d. the articles were manufactured in a foreign trade zone.

Answer: B

10. Which of the following duties is NOT imposed on the issuer of a documentary credit under the UCP 600 (the Uniform Customs and Practice for Documentary Credits)?

a. The issuer must state in the credit whether the credit is available by sight payment, deferred payment, acceptance, or negotiation.

b. The issuer is irrevocably bound to honor the credit as of the time it issues the credit.

c. The issuer must assume responsibility for delay or loss in transit resulting from errors or delay in transmitting messages or documents, if the requirements for sending the message or document were contained in the credit.

d. The issuer must examine the documents delivered under a presentation within 5 days of the presentation.

Answer: C
Example Essay: Outbound Transactions

Statement of Facts

Mr. Bob Sanders (Bob, Sr.) is a native Floridian who with his son (Bob, Jr.) owns a 50% corporate shareholding in a substantial rock deposit and mining corporation, Sanders Rock Inc., in North Central Florida. The remaining 50% is owned by the public (shares traded NYSE). Bob, Sr., its Chair, President and CEO owns 25%. He is 65 years of age and a U.S. citizen. His son, Bob, Jr. owns 25%. Bob, Jr. attended a Florida university where he met his now wife, Rosita Gonzales de Sanders, a fellow student and a citizen of Hondrodor. After marriage, Bob, Jr. moved with his wife to that Andean Latin American country where he has lived for the past 10 years and became a legal permanent resident. Rosita’s family is very prominent, in Hondrodor business political and social circles. Bob, Jr. has been integrated into the overall situation where he has acculturated almost completely. He and Rosita now have two bi-national children. Bob, Jr. is considering expatriating from the United States and becoming a Hondrodor citizen. (Hondrodor does not allow foreigners to become citizens unless they expatriate from their former nationality.) Rosita’s sister, one of six siblings, is married to the son of the current President of Hondrodor providing direct contact with the country’s entire current ruling political establishment. Its government could be called a “managed democracy.” There are no bilateral treaties between Hondrodor and the United States – no tax treaties, no treaties of trade and commerce and no investment treaties.

Bob, Sr. and his wife have visited Hondrodor on a number of occasions during the past decade. On a recent occasion he spent more time than usual and was taken by a big rancher, a friend of Rosita’s family and of the current President, to view some large limestone deposits on his ranch located about 10 miles from the Atlantic coast. In the course of some previous fishing, Bob, Sr. had noticed that there was an excellent deep water harbor directly north of the ranch although the docking facilities were miniscule. In passing, the rancher advised that a geological survey team from a U.K. oil company had surveyed the region and one of the geologists had told him that there was a good possibility that there could be petroleum deposits under his property in view of certain fault lines observed in the region. During this same trip Bob, Sr. attended a dove shoot on the ranch at a site which was adjacent to some thatch huts near the limestone deposits. Although the boys from the huts volunteered to pick up birds for pesos, some of the older people came out to argue with one of the ranch foremen. Bob, Sr. inquired about the situation and the rancher told him that this squatter was saying that they were hunting on the squatter’s land, which was completely ridiculous since his family had owned the land for more than 200 years and these people had just set up a kind of a camp in this rocky limestone area a few years ago, and that he had been trying to get the government to move them out, but that he had more important things to do and had neglected pushing the situation, and besides people like this had been known to burn crops or perform other acts of sabotage if pushed too hard.
Later that afternoon during cocktails after the dove shoot Bob, Sr. met the Deputy Minister of Public Works of Hondrodor who told him that pursuant to a World Bank approved financing that a massive road construction project was being authorized to construct dual bypasses around the four major cities in Hondrodor which were transected by the Pan American Highway. He said that huge volumes of crushed stone would be needed for the road bed, that stone of the quality observed on the ranch would be the type needed for the project, and that no company existed in Hondrodor that had the capacity to process and supply the volume of stone needed for the project.

He also advised that because of petroleum and hard rock mineral deposits that had been found and developed in other areas of the country that the Hondrodor economy was projected for a long term expansion and that this would mean that the road transportation system throughout the entire country would be very substantially upgraded during the next two decades, thus requiring huge additional volumes of crushed stone. He said that in talking with several congressional leaders and related ministries, that they thought that it would be advisable to grant tax and import concessions to a foreign entity to induce it to invest in a rock mining and processing facility, so as to furnish adequate high quality road base stone. He indicated that his daughter’s husband was a prominent lawyer in the Capitol who would be an excellent person to contact to represent a foreign entity in such a venture and that he might recommend a joint-venture partner. He said that since the prospects for high profit were great, that no doubt there would be considerable competition from other prospective foreign investors in the projected public bidding process for long-term supply contracts and that he could be helpful as he was Chair of the bid review committee.

Bob, Sr. has been told by Bob, Jr. that he can help with any standard administrative approvals or permits because he knows how much to pay to cause such paperwork to move along. While the tax rate in Hondrodor is graduated, with a twenty percent (20%) maximum, Bob, Jr. has heard that a company can further reduce taxes by establishing a “shingle company” in Haven Isles, a tax haven with zero taxes for non-resident corporations, to buy product from Hondrodor and re-sell at a profit to a Sanders Rock subsidiary for United States sales and to unrelated customers or distributors overseas.

Bob, Sr. believes that it would be great to accumulate profits in Hondrodor and even better to accumulate profits in Haven Isles. Bob, Sr. could use those accumulated funds to collateralize loans to their U. S. and Hondrodor operations from banks in Haven Isles to keep the money “usable” by the company.
During his trip back to the States, Bob, Sr.’s inherent aggressive business instincts took hold. He thought of all of the great possibilities for the project, and, of course, the thought of doing this in a foreign land and involving his son in the process was appealing. Having built up a very sizeable and profitable company, he started thinking of various long-term tax and financial positive that could be achieved by such investment, particularly in view of his son’s thoughts of expatriation. He arrived in Florida on Sunday night and called your office early Monday morning to schedule an appointment for Tuesday, early afternoon. By the time that he arrived in your office, he was highly excited about the project and was already thinking of the amount of money and equipment that would need to be transferred, the types of equipment that would be needed for the mining and processing phase, and the types of trucks and heavy equipment that would be needed for mining and domestic transportation. He had identified two of his trusted, mid-level Florida managers that would need to be transferred down to run the operations (Mary White and Billy Cook). He was also considering the possibility of enhancing the port facilities to allow for barge export of excess crushed stone to third countries, and even back to South Florida, since the quality of the stone was excellent and environmentalists were making rock mining and hauling in the Florida market extremely expensive and difficult. On talking to you, he advises that Hondrodor reminds him of the Florida of his youth where a man could make a decent profit without so many levels of government interference, but instead, cooperation.

You are an experienced international lawyer. He describes very fully the above factual situation to you and you ask him questions. At the conclusion of the meeting you tell him that you will write to him an advisory letter commenting on the many legal factors that must be explored, and that in doing this you would point out to him a number of related economic, social and political matters that would need to be taken into consideration that would differ substantially from his experiences in the State of Florida.

Please proceed to write an initial comprehensive advisory letter to Bob, Sr.
OUTBOUND ESSAY ANSWER

Some Points that should be recognized:

A. Possible ownership restrictions on foreign investment
B. Cognizance of civil law re sub-surface rights
C. The Foreign Corrupt Practices Act
D. U.S. taxation considerations – subpart F/personal/corporate
E. U.S. taxation re expatriation – consequences
F. “Squatters rights” – Latin America
G. Bid process considerations
H. Choice of investment entity/structure
I. Labor rights
J. Labor pension/unemployment/retention
K. Foreign Corrupt Practices Act
  (1) Public companies
  (2) General
L. Title to real estate
M. Expropriation
N. Work permits for U.S. workers
O. Maritime or restricted zone
P. Repatriation rights for capital
Q. Repatriation rights for profit
R. Tax obligations to Honduras
S. Controlled Foreign Corporations
T. Subpart F/income
U. Foreign Personal Holding Company
V. Passive Foreign Investment Company
W. §367 Internal Revenue Code