

2004

考试科目: 国际法 2004  
招生专业: 国际法学

Read the following carefully and answer in CHINESE.

PART One: International Law

1. Translate into Chinese and explain in one sentence the following terms: (10 marks, 2 marks each)

- (1) the Right of Self Preservation
- (2) Justiciable Disputes
- (3) the Right of Archipelagic Sea Lane Passage
- (4) the Mandate System
- (5) International Penal Judicial Association

2. Give your brief comments on the following opinions: (15 marks, 3 marks each)

- (1) The international humanitarian law is one part of the international human rights law.
- (2) The Warsaw system belongs to the international private law.
- (3) The international criminal law equals the international law plus the internal criminal law.

3. Answer the following questions: (25 marks)

- (1) There are 4 kinds of immunity rights in the modern international law. What are they and how do you understand them? (15 marks)



(2) Why do we say that the Iraq War launched by the US violates the international law?  
(10 marks)

### PART Two: Private International Law

Please answer the following questions:

1. On the basis of the provisions of China's Civil Procedure Law, how to define jurisdiction over foreign – related divorce cases? According to such provisions, is it possible to violate the general principle of res judicata? (15 marks)
2. Please analyze the disadvantages of concentrating the jurisdiction over foreign – related civil and commercial cases in China. (15 marks)
3. Briefly expound the significance and function of the General Parts in codes of private international laws. (20 marks)

### PART three International Economic Law

I. Translate into Chinese and explain briefly the following terms: (15 marks, 3 marks each)

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|-----------------|------------------------|------------------|
| 1. INCOTERMS    | 2. countervailing duty | 3. amicus curiae |
| 4. base company | 5. syndicated loan     |                  |

II. Answer the following questions. (21 marks, 7 marks each)

1. Briefly describe the parties in an L/C circulation.
2. Briefly describe the determination of dumping under the Anti – Dumping Agreement of WTO.
3. Briefly describe the requirement of jurisdiction of ICSID.

III. Analyze the following case. (14 marks)

On May 15, 2003 Company B in country M sent a fax to Company S in country X, offering to buy from Company B 10,000 units of goods at the FOB price of US \$ 150 per unit. Company B asked Company S to reply no later than May 22. Company S sent a reply via fax on May 18, agreeing to sell 10,000 units of goods at the FOB price of US \$ 150 per unit, but provided that any dispute should be resolved through litigation, which was not mentioned in Company B's fax. Company S set the reply date to May 22. Company B sent a fax on May 23, accepting all the terms. By that time, the price of the goods in the international market had gone down and Company S immediately sent a fax to Company B concluding the deal. It was Friday afternoon and Mr. Smith, the person in Company B receiving the fax, did not give the fax to the salesperson. Then Mr. Smith was sick for several days and the fax was sent to the salesperson on May 30. The salesperson notified Company S that Company B was not going to buy from Company S at the FOB price of US \$ 150 per unit. Unless Company S agreed to lower the price to US \$ 145 per unit, Company B would not buy any goods from Company S. Company S



insisted that there was a contract and it was ready to ship the goods. The two companies contacted via telephone and fax but no result was achieved. Since Company B refused to conclude the deal, Company S sold the goods to another company one month later. By that time the price of the goods went from US \$ 143 to US \$ 138 per unit. Company S sued in court asking Company B to pay US \$ 120,000 as damages.

Both Countries M and X are members of the UN Convention on Contracts for International Sales of Goods.

If you were the judge, how would you decide the case? Please give brief reasons for your decision.