

THE UNIVERSITY *of York*

Degree Examination 2007

ENVIRONMENT DEPARTMENT

MSc Environmental Economics & Environmental Management

MSc Environmental Economics

MSc Environmental Science & Management

MSc Marine Environmental Management

ENVIRONMENT, LAW AND POLICY

Time allowed: **two hours**

You must answer **ONE** questions out of **THREE**

(Your answer must present arguments for and against the topic under discussion using basic principles)

Material provided: Extracts from Laws and Conventions

(The extracts are for guidance only and do not need to be part of your answer)

Pay adequate attention to spelling, punctuation and grammar, so that your answers can be readily understood

1. Tuna and dolphins are often found together. Consequently dolphins can be a significant by-catch during fishing for tuna. In order to protect dolphins, is it reasonable that a country that has legislation preventing harm to marine mammals should ban imports of tuna from high seas fishing fleets that do not operate “dolphin-friendly” fishing methods?

2. Does a British farmer growing crops certified as organic have a good argument for preventing the planting of genetically modified crops near to his farm?

3. In April 1986 the Chernobyl nuclear power plant exploded. Millions of pounds of UK tax payer’s money have been spent compensating farmers affected by restrictions resulting from radioactive pollution from Chernobyl. Should the UK government go to court to obtain compensation for damages from the operators of the Chernobyl plant?

UNLCOS SECTION 2. CONSERVATION AND MANAGEMENT OF THE LIVING RESOURCES OF THE HIGH SEAS



Article 116

Right to fish on the high seas

All States have the right for their nationals to engage in fishing on the high seas subject to:

- (a) their treaty obligations;
- (b) the rights and duties as well as the interests of coastal States provided for, *inter alia*, in article 63, paragraph 2, and articles 64 to 67; and
- (c) the provisions of this section.



Article 117

Duty of States to adopt with respect to their nationals

measures for the conservation of the living resources of the high seas

All States have the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas.



Article 118

Cooperation of States in the conservation and management

of living resources

States shall cooperate with each other in the conservation and management of living resources in the areas of the high seas. States whose nationals exploit identical living resources, or different living resources in the same area, shall enter into negotiations with a view to taking the measures necessary for the conservation of the living resources concerned. They shall, as appropriate, cooperate to establish subregional or regional fisheries organizations to this end.



Article 119

Conservation of the living resources of the high seas

1. In determining the allowable catch and establishing other conservation measures for the living resources in the high seas, States shall:

(a) take measures which are designed, on the best scientific evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(b) take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

2. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned.

3. States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State.

Global Agreement on Tariffs and Trade as amended through 1966

Article III

National Treatment on Internal Taxation and Regulation

1. The contracting parties recognize that internal taxes and other internal charges, and laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of products, and internal quantitative regulations requiring the mixture, processing or use of products in specified amounts or proportions, should not be applied to imported or domestic products so as to afford protection to domestic production.

Article XI

General Elimination of Quantitative Restrictions

1. No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any

other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

Article XX General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

- (a) necessary to protect public morals;
- (b) necessary to protect human, animal or plant life or health;
- (c) relating to the importation or exportation of gold or silver;
- (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;
- (e) relating to the products of prison labour;
- (f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
- (h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the CONTRACTING PARTIES and not disapproved by them or which is itself so submitted and not so disapproved;
- (i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; Provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;

UK Environmental Protection Act 1990 (c. 43)

Part VI

Genetically Modified Organisms

Preliminary

Purpose of Part VI and meaning of "genetically modified organisms" and related expressions.

106.—(1) This Part has effect for the purpose of preventing or minimising any damage to the environment which may arise from the escape or release from human control of genetically modified organisms.

111.—(1) Subject to subsection (7) below, no person shall import or acquire, release or market any genetically modified organisms—

- (a) in such cases or circumstances as may be prescribed in relation to that act, or
 - (b) in any case where he has been given directions under section 108(8)(a) above,
- except in pursuance of a consent granted by the Secretary of State and in accordance with any limitations and conditions to which the consent is subject.

Maastricht Treaty 1992

ARTICLE 130r (now Article 174)

1. Community policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilization of natural resources;
- promoting measures at international level to deal with regional or worldwide environmental problems.

2. Community policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It shall be based on the precautionary principle and on the principles that preventative action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay. Environmental protection requirements must be integrated into the definition and implementation of other Community policies. In this context, harmonization measures answering these requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non-economic environmental reasons, subject to a Community inspection procedure.

3. In preparing its policy on the environment, the Community shall take account of:

- available scientific and technical data;
- environmental conditions in the various regions of the Community;
- the potential benefits and costs of action or lack of action;
- the economic and social development of the Community as a whole and the balanced development of its region.