

Sommereksamen 2019

Ordinær eksamen

Skriftlig prøve i: 460141E035 - International Business Law

Varighed: 3 timer

Hjælpemidler: Alle

Type

- 3-hour exam.
- WOAI: On-site written exam with upload of the exam paper in WISEflow, use of the internet allowed during the exam, own PC required.
- Please read full university policy on the 'WOAI' examination format.

Page 1/5

Note

- All students should read the exam guidelines and instructions carefully, and read the entire exam paper before writing their answers.
- Students must cite their sources throughout their answer paper appropriately and accurately.
- Students should include a full bibliography of academic literature, case law (where relevant), and all sources used as a reference in their answer paper.
- As far as practicable, students must be able to cite English-language literature in EU law. Only exceptionally should literature in other languages be referred to.
- Students may use a footnote/reference manager (eg. EndNote, Mendeley, Zotero, etc.) to assist them in keeping track of their references.
- Students may use any citation method they use, as long as it is used consistently, and it is clear and unambiguous.
- Students should make sure that they are answering their chosen questions as articulately as they can.

Format

- There will be five questions in total on the examination paper.
- Of those five questions posed, students must answer a total of **three questions**. They must select their questions in the following way:
 - o Students must answer the single question from **Section A**.
 - o Students must answer one question from **Section B**.
 - o Students must answer one question from **Section C**.
- In their answer paper, students should make clear which questions they are answering.

Technicalities

- The answer paper should have page numbers.
- The answer paper should be completed with the main text in the Times New Roman font, size 12, spaced 1.15, and justified.
- The same applies for the footnotes, except for the font size, which should be 10.

Exam Paper

Founded in 1960, the *Salling Group* (then known as *Jysk Supermarked*, and later *Dansk Supermarked*), owns a number of different retail brands, including *Føtex*, *Bilka*, *Netto*, and its flagship department store, *Salling*. The group collectively has approximately one-third of the market share with respect to grocery shopping that residents in Denmark do on a weekly basis. In recent years, has increased the number of its stores throughout Denmark, and the *Salling Group* collectively has over 50,000 employees working for it, and are spread with headquarters operations, and throughout its store network.

One of its brands in particular, *Netto*, has a distinct international presence. In the early 1990s, the *Salling Group* opened up stores in Germany, and in the early 2000s, *Netto* was launched in Sweden. *Netto* is now also operating in Poland, and thus, the *Salling Group* has a number of stores in different EU Member States. In recent years, the *Salling Group* has gone from strength-to-strength, and is now considering new business opportunities, and is beginning to be considered one of northern Europe's strongest and best-performing retailers.

Questions

Section A

Question 1

The *Salling Group* is heavily reliant upon the fresh produce and other food consumable goods in its stores (*Føtex*, *Bilka*, *Netto*, etc.) being able to be easily purchased from suppliers from across Europe, and be easily able to transport them into Denmark, Germany, Poland, and Sweden, for sale to its customers.

Based on your knowledge of 1) the EU customs union and the applicable legal provisions, as well as 2) the existence of the regime governing the free movement of goods, discuss the legal provisions, their applicability, and the case law of the Court of Justice of the European Union that elaborate on how the regimes function.

In your answer paper, analyse how the *Salling Group* benefits from the existence of the EU customs union and the free movement of goods, and in your opinion, detail how you believe the rules around goods being freely moved in Europe could be improved through law in light of global trading conditions.

Section B

Question 2

The *Salling Group* employs thousands of employees throughout its network in different EU Member States. Due to its extensive cross-border operations, it employs people from all over Europe, regardless of their EU nationality.

Discuss and analyse the regime governing the free movement of workers in the European Union. With that, also analyse the concept of Union citizenship, which may also provide a basis for family members of employees of the *Salling Group* to live and work in all EU Member States. In your answer paper, ensure you make reference to relevant provision(s) of the EU treaties, any complementary areas of Union law, the case law of the Court of Justice of the European Union, and relevant academic literature.

Question 3

The *Salling Group* is thinking about expanding the *Netto* franchise into new markets, particularly in the Baltic region – in Estonia, Latvia, and Lithuania.

Detail the legal regime governing the freedom of establishment in the Union. In your answer paper, ensure you make reference to relevant international legal instruments, and case law of the Court of Justice of the European Union, where relevant. Moreover, apply other considerations that you believe the *Salling Group* should take into account, from a legal perspective, with respect to opening up new stores in Member States with whom they are not overtly familiar with.

Section C

Question 4

The *Salling Group* has complex legal contracts with many suppliers of goods in different EU Member States, from Sweden to the Czech Republic, and from Ireland to Portugal. In most of these contracts, the Salling Group is usually the buyer, and the companies in other EU Member States are usually the sellers.

From a legal perspective, outline the main obligations of parties to an international commercial contract. Within your answer paper discuss a) the obligations of the parties, and b) the available remedies where there are contractual problems. In your answer paper, be sure to include and make reference to the relevant provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG), as well as academic literature to support your analysis.

Question 5

Delivery and distribution of goods are a challenge for any company that engages in cross-border trade and commerce. This is due to the reality that there are additional risk factors that have to be taken account of when buying goods from other commercial enterprises from distant markets.

Taking into account the legal regimes governing international sales law, detail the risk and delivery considerations that are applicable for businesses like the *Salling Group*. In your answer paper, be sure to reference relevant international legal instruments, and other relevant items that may be considered when engaging in international contracts.