



SCHOOL OF BUSINESS AND SOCIAL SCIENCES  
AARHUS UNIVERSITET

**Sommereksamen 2019**

**Reeksamen**

**Skriftlig prøve i: 460141E035 - International Business Law**

**Varighed: 3 timer**

**Hjælpemidler: Alle**

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## **International Business Law**

Spring 2019

Re-exam Paper – July/August 2019

### **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.

### **Note**

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- 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.

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### **Exam Paper**

Founded in 2012, *Supergardeners* is a company that was founded in Denmark to provide gardening services to commercial real estate properties throughout the Member State. Targeting large commercial operators, its commercial aim is to provide other businesses with gardening services all-year-round, ensuring their offices and other premises are kept in pristine condition. Since establishing seven years ago, *Supergardeners* has built up a 30% market share of the gardening services market that provides such services to large commercial operators in Denmark. This extremely fast-paced growth model for *Supergardeners* business has, in principle, been achieved through highly-competitive pricing, lower-waged workers, and superior qualitative offerings in comparison to its competitors in the gardening services sector.

When *Supergardeners* was founded in Skejby (north of Aarhus) in 2012, it had just five employees and mainly focused on the East Jutland region. Today, *Supergardeners* has 5,000 employees throughout Denmark and provides gardening services throughout the Member State, seeking to increase its market share. By focusing on superior qualitative offerings, *Supergardeners* is keen to ensure that its employees have the best available equipment to keep the premises of its clients in pristine condition.

Given the overwhelming success of *Supergardeners* to date, the management team of the company are considering expanding their business into new markets beyond Denmark. Having done extensive analysis, the management see the Baltic (Estonia, Latvia, Lithuania) market as a place in which they may be able to provide their services given the organic growth of large commercial operators in the region.



## Questions

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### **Section A**

#### Question 1

*Supergardeners* has pride in having the best available equipment to do its gardening work. In order to have the best available tools at competitive prices, *Supergardeners* makes use of the EU internal market by sourcing the materials that it needs to do its business in Italy.

Each year, the supply team go to the Italian region of Tuscany to meet with potential suppliers of gardening equipment that is objectively seen as 'world class'. With *Supergardeners* having such a large domestic operation for its services, and by buying in bulk in a cheaper market than Denmark, *Supergardeners* knows that it will be able to negotiate steep discounts for its purchase of gardening equipment.

Such a transaction that *Supergardeners* does every year is facilitated by EU law and the free movement of goods within the Union. Analyse, from a legal perspective, the applicable provisions of EU law that provide for the free movement of goods. In doing so, ensure you make reference to the applicable doctrines emanating from the case law of the Court of Justice of the European Union, academic literature, and how the free movement of goods within the Union has evolved over time.



## **Section B**

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### Question 2

As mentioned, *Supergardeners* is thinking about expanding into new markets beyond Denmark and is considering opening up operations in the Baltic states. As a Danish company, it can do this if it so wishes by availing of its rights under the EU treaties to establish itself in another EU Member State, or more.

Analyse the applicable legal provisions that allow companies like *Supergardeners* to make use of the freedom of establishment within EU law. In your answer, ensure reference is made to the EU treaties, applicable case law, and academic literature. Moreover, give your opinion on what additional legal considerations that *Supergardeners* should account for when entering into unfamiliar EU Member States.

### Question 3

One of the ways in which *Supergardeners* has been able to acquire a large market share in Denmark so swiftly has been its cost competitiveness. It has been able to achieve such because of the lower cost-base of its labour force within the company. *Supergardeners* has hired staff to execute its services from a range of backgrounds in Europe, regardless of nationality.

From a legal perspective, analyse the regime governing the free movement of workers in the Union. In doing so, shed some insight into the thinking that might support *Supergardeners'* insight into being able to acquire a large market share in such a short space of time by hiring workers from all over Europe. In doing so, make reference to relevant provisions of EU law and applicable case law of the Court of Justice of the European Union.



## ***Section C***

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### Question 4

As mentioned, *Supergardeners* purchases the supplies that it uses in its gardening services from another EU Member State – Italy. It does so because of their superior quality compared to anywhere else in Europe, and because *Supergardeners* is a large provider of gardening services, it is able to benefit from economies of scale in its purchasing.

Purchasing products from other EU Member States, however, can pose questions about the delivery of such products. Due to matters of distance, complexity, and logistics, there may be additional risk factors for *Supergardeners* in sourcing its gardening products from providers in other EU Member States which it is less-than familiar with.

Taking account of international sales law, analyse the applicable risk and delivery considerations that the management of *Supergardeners* must account for when engaging in international commercial transactions. In your analysis, ensure you make reference to applicable international legal instruments and academic literature.

### Question 5

Usually, when *Supergardeners* buys the products that it uses for providing its gardening services, there are no material issues. However, it is conceivable that if *Supergardeners* was to begin dealing with a new supplier in Italy or elsewhere, problems could arise due to misunderstandings on agreed terms for the purchase of products on the one hand, and the supply of products on the other hand.

Given your knowledge of international sales law, discuss the obligations of buyers and sellers to international commercial transactions, taking into account the applicable international legal provisions. Moreover, in your answer, detail what remedies may be available to buyers and sellers for arising problems. In your answer, ensure you make use of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and applicable academic literature.