

# **LAW 335 BIODIVERSITY LAW**

## **TAKE- HOME EXAMINATION**

**Please note that your papers will not be returned to you. This is a requirement of the University. Final grades may also be scaled.**

**STUDENT NAME:**

**STUDENT ID NUMBER:**

**MARK:**

### **INSTRUCTIONS**

**1. All Take Home Examination answers must be returned to Professors Michael Jeffery and Donna Craig by e-mail addressed to <mailto:michael.jeffery@mq.edu.au> with a copy to <mailto:donna.craig@mq.edu.au> by 3:00pm (Vanuatu time) on Thursday 20<sup>th</sup> October 2005.**

**Please make sure that you have a back-up copy and keep a copy of the e-mail that you sent. This is a requirement.**

**The University allows no extensions and requires that all Take Home Exams have to be handed in on time.**

**2. Please number all questions.** For short answer questions, make sure that you precisely identify the Section and the question that you are answering.

**3. Students must clearly number each page** of the answers. Make sure that you fill in your name and ID number on the front page of the Exam Paper.

**4. This take home exam is worth 60% of the final mark for the Unit.**

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It is comprised of:

**SECTION A - One short Essay style Question.** You will have a choice of 3 topics and you must clearly identify the topic that you have chosen to answer. **Please use 1.5 line spacing and at least 12 point type.** Your answer should not exceed 1200 words (**Worth 20 marks**)

**SECTION B - 8 short answer questions (worth 5 marks each). Total for this Section will be 40 marks.**

Answers to a short answer question must be **1.5 line spacing and can be up to one and one-half A4 page in length.** Please ensure that your answer to any one question does not exceed one and a half pages in length. Single spaced answers are difficult to read and assess word limit and will not be accepted. **Papers must be in at least 12 point type. Smaller type will not be marked.**

**5. Papers that exceed the word length will be penalized.**

6. Law 335 is a broad interdisciplinary course. In most cases there will not be one clear “correct” answer. Answers will be evaluated according to your understanding and use of the Course Materials and how well you apply them in the analysis of the question.

Where laws are applicable, or can be used as an example to illustrate your argument, it is suggested that this will improve your answer.

You may undertake research outside the Course Materials but this is not an essential requirement.

**7. INQUIRIES DURING THE EXAMINATION PERIOD SHOULD BE DIRECTED TO Mr. Yoli Tom’tavala at USP USING THE FOLLOWING CONTACTS:**

- In office for face-to-face queries;
- Email at [tomtavala\\_y@vanuatuusp.acfj](mailto:tomtavala_y@vanuatuusp.acfj); or
- Telephone number 22748 or 24373 (office)

**8. YOUR EXAM PAPER MUST BE YOUR OWN ORIGINAL WORK. GROUP WORK AND CONSULTATION ABOUT THE ACTUAL QUESTIONS ARE NOT ALLOWED DURING THE EXAM PERIOD.**

**SECTION A**

**SELECT AND COMPLETE ONE QUESTION ONLY:**

**OR**

i) The Convention on Biological Diversity (CBD) raises many issues involving sovereignty, North/South relations, trade, access and benefit-sharing to mention a few. How adequately and equitably does the CBD deal with the potential conflicts between developed and developing nations in the requirements for national implementation?

**OR**

ii) Discuss the essential issues which need to be considered in the drafting and implementation of national legislation in order to achieve the three principal objectives set out in Article 1 of the Convention on Biological Diversity (CBD).

**OR**

iii) The Convention on Biological Diversity (CBD) has been criticised for not doing enough to ensure the protection of Indigenous knowledge. What is the extent of the obligations imposed on contracting parties to the Convention to ensure that the benefits derived from genetic resources will be equitably shared. How, in your view, could the Convention be strengthened to better protect and conserve biological diversity and the rights of Indigenous peoples and communities?

**SECTION B - YOU MUST ANSWER ALL OF THE FOLLOWING EIGHT QUESTIONS - THEY ARE WORTH 5 MARKS EACH**

1. Discuss what steps your Pacific Island state has taken to implement the provisions of the Convention on Biological Diversity (CBD) and to what extent it has been successful in achieving any of the objectives set out in Article 1 of the CBD.
2. Critically evaluate the adequacy of the CBD provisions relating to prior informed consent, access to genetic resources and benefit-sharing from their use.
3. Discuss the strengths and weaknesses of customary law, relating to ownership of land and natural resources, in developing future national biodiversity conservation strategies for the South Pacific region.
4. What legal and economic strategies could be developed by governments to ensure food security (biosafety), livelihoods and equitable benefit sharing from fisheries in the South Pacific region?.
5. What are the problems associated with providing Indigenous peoples and local communities intellectual property right protection offered by patents, trademarks and copyright systems now in existence?
6. Identify and discuss two international treaties, other than the CBD, that can be used to enhance the conservation of biological diversity in the South Pacific region.
7. To what extent do international trading regimes such as GATT and the WTO undermine the objectives of the CBD? What steps can be taken to reconcile the differences?
8. Discuss funding and financial mechanisms that currently exist, or may be developed in the future, that can be used to enhance the conservation of biodiversity (and related livelihoods) in the South Pacific region.

**END OF EXAM**