

考試科目	商法 412A	所別	國貿所	考試時間	2月27日(六)第/節
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第一題 (40%)

B 股份有限公司為 A 股份有限公司之股東，並 B 公司經 A 公司股東會選任為 A 公司之法人董事，並指派自然人甲代表 B 公司行使董事職權。A 公司原章程第 28 條第 1 項規定：「董事與監察人之報酬，應經股東會決議。」91 年 6 月 A 公司召開股東常會時，將前開規定修正為：「董事、監察人之報酬，由董事會議定之。」並增訂第 2 項：「本公司每年度決算有盈餘時，... 提百分之三為董事、監察人酬勞...」。但並未就董監事間如何分配該百分之三酬勞為其他規定。A 公司董事會旋即於 91 年 7 月以討論事項決議該屆董事、監察人之報酬授權由董事長處理，並已實際支付給各董事、監察人。至於給付董事、監察人之酬勞，經董事會討論該屆董事、監察人分配比例後，提交 91 年 8 月股東臨時會事後追認。請問：

- (1) 董事、監察人所得領取的「報酬」或「酬勞」，兩者有無不同？(10%)
- (2) A 公司股東常會修訂章程第 28 條第 1 項規定之決議，是否違反公司法第 196 條？(10%)
- (3) 甲以 A 公司董事會決定酬勞分配比例不均，主張應重新分配，有無理由？(10%)
- (4) 甲可否支領前開酬勞？如為參加會議的車馬費，甲可否支領？(10%)

第二題 (30%)

甲於 101 及 102 年間擔任 A 及 B 兩家股份有限公司之董事長。甲於擔任董事長期間，違反 A 公司內部印信管理辦法，私刻公司印章，以 A 公司名義簽發一只金額新台幣（以下同）5000 萬元之支票，並由甲於該支票背書後交付給乙。甲簽發此支票主要係用以擔保 B 公司向乙所為的借款，金額同樣為 5000 萬元。乙於收到甲所簽發的支票後，隨即匯款 5000 萬元至 B 公司帳戶，供 B 公司財務周轉之用。事後，乙於 103 年提示付款時（已逾期提示），卻因 A 公司支票存款帳戶金額不足而遭到退票（非因印鑑不符）。考其原因，乃因 A 公司董事長改選，由丙擔任，經丙發現甲簽發支票之行為違反公司規定，而無意支付票款。今乙向 A 公司及甲請求應連帶給付票款。請問：

- (1) 甲違反公司內部印信管理辦法，私刻印章簽發支票之行為，是否為票據之偽造？(10%)
- (2) A 公司得否主張甲以 A 公司名義簽發支票之行為違反公司法第 16 條公司不得為任何保證人之規定？(10%)

備

註

- 一、作答於試題上者，不予計分。
- 二、試題請隨卷繳交。

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- (3) A 公司得否主張乙取得系爭支票具有票據法第 13 條或第 14 條第 1 項規定之情事，而不得享有票據權利？(10%)

第三題 (30%)

A 製造公司將其所有貨物一批委託 B 海運公司以件貨方式運送，根據 A 公司與買受人 C 公司之約定，此批貨物買賣契約之貿易條件為「C.I.F.»¹，A 公司遂就此批貨物投保海上保險，並由 D 保險公司承保，A 公司為被保險人。B 公司於接受貨物後隨即簽發載貨證券 3 份，以 UNI-PACIFIC 輪第 S119 航次，自基隆港發航至廣州汕頭港。B 公司於香港將系爭貨物委由 E 貨運公司，以深航 932 輪第 0016 航次運送至汕頭港，嗣深航 932 輪於運送途中發生船舶碰撞沈沒事件，系爭貨物隨深航 932 輪一同沉沒，業已滅失，損失新台幣 600 萬元。D 保險公司賠償 A 公司前開損失金額後，向 B 海運公司起訴請求損害賠償。

今查系爭載貨證券 3 份均尚未經 A 公司轉讓予系爭貨物之買受人 C 公司，現由 D 公司持有。另 A 於託運時所收執的貨物運送之裝船通知 (Shipping Order)，其上記載：「二程指定：E 公司」²。且系爭載貨證券第 1 條記載：「本載貨證券所稱之『船舶』，包括本載貨證券所載明之船舶、任何替代船舶，及任何為履行本契約所為轉運之船舶，以及任何為履行本契約，不論是由運送人所有、傭租、營運或控制及使用，而將全部或部分，替代或將替代本載貨證券正面所載明之船舶的任何船舶、船艇、駁船或其他運輸工具」。

請問：

- (1) A 製造公司就系爭貨物於「運送過程」中所受之損害，有無保險利益？(10%)
- (2) D 保險公司主張 B 海運公司未經 A 公司同意便將貨物交由 E 公司轉船運送，B 公司應負賠償之責，有無理由？(10%)
- (3) B 海運公司依海商法第 69 條之規定，有無免責事由可以主張？(10%)

¹按 C.I.F.係指 Cost、Insurance、Freight 三字之縮寫，表示買賣雙方當事人約定之買賣價金中包含成本、保險費及運費，因此，在 C.I.F.契約下，出賣人除提供貨物外，尚須取得保險單及載貨證券，此二項單據與代表價金之發票三者，在貿易實務上稱為「運送單據」(shipping documents)，而運送單據即為履行 C.I.F.契約之憑藉，當出賣人交付完整無瑕疵之運送單據予買受人時，不論貨物是否已到達，或是否能到達，買受人均應支付價金，故 C.I.F.契約實際上係以交付運送單據方式履行之貨物買賣契約。

²所謂「二程指定」係指轉船之第二行程，於本案係指由香港至汕頭而言。「E 公司」係指第二行程之運送人 E 貨運公司。

備註	一、作答於試題上者，不予計分。 二、試題請隨卷繳交。
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考試科目	國際貿易法 4112B	所別	國際經濟貿易學系 國際經濟法組	考試時間	2月27日(元)第一節
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- 一、WTO 之爭端解決案件於 2015 年 11 月 9 日正式邁入第 500 號案件，我國亦於 2014-2015 年陸續提起三件爭端解決案件，此均顯示 WTO 之爭端解決機制於多邊貿易體系以及我國的重要性，請簡要說明 WTO 之爭端解決程序、並提出你個人對於 WTO 爭端解決機制的優缺點評析。(30%)
- 二、國民待遇原則為 WTO 下貨品貿易自由化的核心原則，請透過爭端解決案例比較於 GATT1994 與 TBT 協定下此一原則的異同處。(25%)
- 三、最惠國待遇原則為 WTO 下之重要法律原則，請比較於 GATT1994 與 GATS 下此一原則的異同處。(20%)
- 四、請問 TRIPS 協定於 WTO 含跨協定 (covered agreements) 中有何特殊之處？請以 TRIPS 協定與 WIPO 公約之關係、智慧財產權之執行、市場進入三項議題為例，說明其與貨品與服務業貿易相關協定之不同。(15%)
- 五、請試譯以下條文 (10%)
1. If the customs value of the imported goods cannot be determined under the provisions of Articles 1, 2 and 3, the customs value shall be determined under the provisions of Article 5 or, when the customs value cannot be determined under that Article, under the provisions of Article 6 except that, at the request of the importer, the order of application of Articles 5 and 6 shall be reversed.
 2. Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the investigating authorities may cumulatively assess the effects of such imports only if they determine that (a) the margin of dumping established in relation to the imports from each country is more than *de minimis* as defined in paragraph 8 of Article 5 and the volume of imports from each country is not negligible and (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product.

備

註

- 一、作答於試題上者，不予計分。
- 二、試題請隨卷繳交。

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- C. The nominal GDP decreases. The real GDP decreases.
 D. The nominal GDP does not change. The real GDP increases.
12. In the Keynesian model, the output is more sensitive to the change of money supply if
 A. investment is more elastic to changes in interest rate.
 B. the unemployment is high.
 C. the country trades more with rest of the world.
 D. the country has been operating on the production possibility frontier.
13. If the central bank purchases government bonds from the public,
 A. supply of money increases.
 B. interest rate increases.
 C. the discount rate increases.
 D. the price of bond decreases.
14. The natural rate of unemployment is the unemployment rate when the country
 A. has zero growth rate.
 B. has no inflation.
 C. has only cyclical and structural unemployment.
 D. operates on the production possibility frontier.
15. When the central bank increases the money supply, according to the short-run Philips curve, which of the following is true?
 A. Both the unemployment rate and the inflation rate will decrease.
 B. Both the unemployment rate and the inflation rate will not change.
 C. The unemployment rate will decrease but the inflation rate will increase.
 D. Both the unemployment rate and the inflation rate will increase.
16. Which of the following will decrease U.S. net capital outflow?
 A. capital flight from the United States
 B. the government budget deficit increases
 C. the U.S. imposes import quotas
 D. None of the above is correct.

備

註

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17. An economic contraction caused by a shift in aggregate demand remedies itself over time as the expected price level

- A. rises, shifting aggregate demand right.
- B. rises, shifting aggregate demand left.
- C. falls, shifting aggregate supply right.
- D. falls, shifting aggregate supply left.

18. The term *crowding-out effect* refers to

A. the reduction in aggregate supply that results when a monetary expansion causes the interest rate to decrease.

B. the reduction in aggregate demand that results when a monetary expansion causes the interest rate to decrease.

C. the reduction in aggregate demand that results when a fiscal expansion causes the interest rate to increase.

D. the reduction in aggregate demand that results when a decrease in government spending or an increase in taxes causes the interest rate to increase.

19. Given a nominal interest rate of 20 percent, in which case would you earn the highest after-tax real interest rate?

- A. Inflation is 5 percent; the tax rate on interest income is 20 percent.
- B. Inflation is 4 percent; the tax rate on interest income is 30 percent.
- C. Inflation is 3 percent; the tax rate on interest income is 40 percent.
- D. The after-tax real interest rate is the same for all of the above.

20. If output is above its natural rate, then according to sticky-wage theory

A. workers and firms will strike bargains for higher wages. This increase in wages shifts the short-run aggregate supply curve right.

B. workers and firms will strike bargains for higher wages. This increase in wages shifts the short-run aggregate supply curve left.

C. workers and firms will strike bargains for lower wages. This decrease in wages shifts the short-run aggregate supply curve right.

D. workers and firms will strike bargains for lower wages. This decrease in wages shifts the short-run aggregate supply curve left.

備

註

- 一、作答於試題上者，不予計分。
- 二、試題請隨卷繳交。

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Problems and Short-essay Questions

Please answer the following questions IN SEQUENCE. All questions may be answered in either Chinese or English.

1. Assume that sugar production in the U.S.A. was 15.6 billion pounds, and sugar consumption in the U.S.A. was 21.1 billion pounds in 1995. In the same year, price of sugar in the U.S.A. was 21.9 cents per pound, while the world price was 11.1 cents per pound.

a. (5 points) With a -0.3 price elasticity of demand, derive the demand function of the sugar in the U.S.A. in 1995. (Assume that the demand function of sugar is linear.)

b. (5 points) With a 1.5 price elasticity of supply, derive the supply function of the sugar in the U.S.A. in 1995. (Assume that the supply function of sugar is linear.)

c. (5 points) Compute the loss of consumer's surplus caused by the higher sugar price in the U.S.A.

d. (5 points) Compute the changes in producer's surplus caused by the higher sugar price in the U.S.A.

2. The processing of payroll for the workers of a major corporation can be done to varying degrees by clerks and computers. Suppose that we can represent the trade-offs between labor and capital by the following production function $Q = K^{3/4}L^{1/4}$. Q is measured in thousands of payment processed, K is measured in hours of processing time and L is measured in man-hours.

a. (5 points) Does the production function exhibit constant, increasing, or decreasing returns to scale? Please show your result with a simple demonstration or proof.

For the remainder of the question you may assume that the wage rate is NT\$160 per man-hour and the rental rate of capital is NT\$30 per hour.

b. (5 points) Given the prices of the inputs and the production function, find the compensated factor demands for labor and capital.

c. (5 points) What is the variable cost curve of the firm? If fixed costs are 100, then what is the total cost curve of the firm.

d. (5 points) Without calculating the derivative, are marginal costs constant, upward sloping, or downward sloping? Briefly explain your answer.

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3. Suppose in an economy, the autonomous consumption equals 100, the marginal propensity to consume equals 0.8, the net taxes are fixed at 100, the planned private-sector investment is fixed at 100, the government purchases are fixed at 100, and the net exports are fixed at 100. Answer the following questions.

- (10 points) What is the equilibrium output in this economy?
- (10 points) Suppose the government increases its expenditure to 200, which is financed by the fixed taxes. What is the equilibrium output in this economy?

4. In the summer of 1986 the *Economist* magazine conducted an extensive survey on the prices of Big Mac hamburgers at McDonald's restaurants throughout the world. Since then it has periodically updated its calculations. The following table reproduces the results of the *Economist's* January 2015 survey report with slight modification to make the calculation easier.

Country	Price of a Big Mac	Predicted Exchange Rate	Actual Exchange Rate
Taiwan	80 NTD	_____ NTD/USD	32 NTD/USD
Japan	360 JPY	_____ JPY/USD	120 JPY/USD
USA	4.8 USD	1 USD/USD	1 USD/USD

- (6 points) Suppose that purchasing power parity (PPP) holds. For Taiwan and Japan, compute the predicted exchange rate of local currency per U.S. dollar.
- (4 points) According to PPP, what is the predicted exchange rate between the Japanese Yen and the New Taiwan Dollar? What is the actual exchange rate?
- (4 points) Given the actual nominal exchange rate, what is the real exchange rate between Japan and Taiwan?
- (6 points) Suppose that the actual exchange rate between Japan and Taiwan will converge to the PPP predicted exchange rate over the next ten years. Which of these two countries will experience a higher rate of inflation over this period? Which country will likely have a higher nominal interest rate? Why?

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