

EXAM NO. \_\_\_\_\_

GEORGIA STATE UNIVERSITY COLLEGE OF LAW  
FINAL EXAMINATION

INTERNATIONAL CRIMINAL LAW  
PROFESSOR ELLEN S. PODGOR

SPRING SEMESTER 2002  
TIME LIMIT: 3 HOURS

1. This examination is a three (3) hour examination. It is a closed book examination, with the exception that you may use any self-prepared outline (interpreted to include class notes and the problem sheets handed out in class). There are **four (4) pages** to this examination. Please make certain that you have all of the pages.
2. There are **two (2) parts** to this examination. **Please answer Parts One and Two in separate bluebooks.** You may use as many bluebooks as you would like. Each part states the approximate weight assigned in deriving the grade for the whole examination. **Please make certain that you answer ALL of the questions following each essay.** Although sufficient time has been provided to properly complete this examination, should you find that you have insufficient time to finish the examination, it is recommended that you list or outline all issues that you would have expounded upon if time had permitted.
3. Please make certain that your anonymous number (Exam Number) appears on every blue book and on this examination. **Turn in blue books and the examination. Failure to follow this instruction may result in a loss of points to you on the examination.** Please do not identify yourself on this examination, other than by using your anonymous number (Exam Number).

IN TAKING THIS EXAMINATION, YOU ARE REQUIRED TO COMPLY WITH THE  
COLLEGE OF LAW RULES AND PROCEDURES FOR FINAL EXAMINATIONS

**PART ONE: THIRTY-FIVE (35 %) PERCENT OF TOTAL GRADE  
(ESTIMATED TIME ONE (1) HOUR)**

Abraham Poodell (a/k/a Abe), is a citizen of Erehwon, a newly established country in Europe. Erehwon has a similar computer crimes statute to that of the United States. Abe is firmly opposed to the existing government in Erehwon and uses his computer to send a worm (similar to a computer virus) to all government computers in Erehwon. His purpose was to shut down the government of Erehwon by incapacitating all of the government computers. Abe succeeded in having all government computers in Erehwon crash and remain inoperable for two (2) days. The worm also entered United States computers, resulting in many businesses in the United States suffering serious monetary damage when their computer systems crashed.

Immediately after this incident, Abe decided to take a trip to the United States. Erehwon and the United States have an extradition treaty that includes extraditing from the United States, Erehwonian citizens who committed crimes in Erehwon, but then left the country. Erehwon wishes to prosecute Abe and requests that the United States extradite him back to Erehwon. The United States government, however, is receiving significant pressure from United States businesses to prosecute Abe in the United States. **Which country do you think should prosecute Abraham Poodell (United States or Erehwon) and why? (Irrespective of your decision, be certain to include in your discussion whether you think the United States should extradite Abe to Erehwon.)**

Note -- Assume that all parties in this question are human beings.

(If your answer is contingent upon information not provided, explain what that information is and how it would affect your answer.)

**PART TWO: SIXTY-FIVE (65 %) PERCENT OF TOTAL GRADE  
(ESTIMATED TIME TWO (2) HOURS)**

Solomon Poodell, a citizen of the United States, is an employee of HighTech, Inc. HighTech, Inc. is a publicly traded United States company that manufactures computers. Solomon Poodell's manager at HighTech, Inc. sent Solomon Poodell to Newland, a newly established country in Europe, for the purpose of having him obtain a contract to manufacture and sell computers to the government of Newland. Solomon Poodell's manager at HighTech, Inc. offered Solomon Poodell a substantial commission if he was able to secure a contract to sell computers to the Newland government.

Solomon Poodell immediately departed for Newland, taking Fifty Thousand (\$50,000) Dollars in cash with him. He did not report to United States authorities that he was carrying this cash and completed a United States custom form falsely saying that he was not carrying in excess of Ten Thousand (\$10,000) Dollars on his trip from the United States to Newland. The source of these funds was from the sale of a legitimate business.

Upon arrival in the country of Newland, Solomon Poodell began work on procuring a computer contract for HighTech, Inc. with the government of Newland. Companies located in France, Germany, and Italy also wished to secure Newland's computer business. Because of the importance of computerization to Newland, the President of this new country, Maddy Madison Radford, was personally handling the award of the computer contract. Solomon Poodell immediately contacted President Maddy Madison Radford and arranged to take her to dinner. At dinner, Solomon Poodell gave Maddy Madison Radford cash in the sum of Three Hundred (\$300.00) dollars in order to be first in line in submitting papers to be considered for this computer contract. Newland has a rule that if two companies bid the same amount, the company with the first bid will receive the contract. Solomon Poodell believed that he would have an advantage in getting the contract if his bid was considered first, before the bids of others. Solomon Poodell gave this money to President Maddy Madison Radford, despite the fact that Newland did not require any fees in order to submit a bid. Maddy Madison Radford willingly accepted this money and assured Solomon Poodell that HighTech's bid would be considered before any other offers for this computer contract. Unlike the United States, Newland does not have a Foreign Corrupt Practices Act and does not have a statute similar to these United States laws.

HighTech, Inc. was awarded the computer contract with the government of Newland, even though its bid was the same as another company. This other company, also a United States company, believed that HighTech Inc. may have engaged in unlawful activities and contacted the United States FBI (Federal Bureau of Investigation) and asked them to investigate. The FBI decided to investigate the award of this contract, believing that Solomon Poodell may have violated United States law, specifically the Foreign Corrupt Practices Act. The FBI secured the cooperation of police in Newland, and the FBI in conjunction with the Newland police searched and seized, in a clearly unreasonable manner, evidence obtained from the home that Solomon Poodell was renting in Newland and also the home of Maddy Madison Radford, the President of Newland. As a direct

result of this unreasonable search, critical evidence was obtained that the U.S. government used in the criminal trials of Maddy Madison Radford and Solomon Poodell.

Pursuant to a treaty with Newland, Maddy Madison Radford was extradited to the United States for the crime of wire fraud (18 U.S.C. § 1343). Upon arrival in the United States the prosecutor dismissed this wire fraud charge and filed a charge of Conspiracy to Violate the Foreign Corrupt Practices Act (18 U.S.C. § 371). Solomon Poodell returned voluntarily to the United States.

**A. Maddy Madison Radford** was convicted in a United States Federal District Court of Conspiracy to Violate the Foreign Corrupt Practices Act (18 U.S.C. § 371) for accepting a Three Hundred (\$300.00) Dollar cash bribe from Solomon Poodell. **Discuss in detail all arguments that can be made by Maddy Madison Radford in her appeal of her conviction, including arguments related to whether the United States had appropriate jurisdiction to proceed on this prosecution, whether the evidence was properly admitted at trial, and whether her extradition to the United States was proper? Also include in your discussion whether these arguments will be successful? (It is not necessary to discuss basic criminal law issues related to the elements of a conspiracy. It is only necessary to discuss issues pertaining to International Criminal Law).**

**B. Solomon Poodell** was convicted of the following crimes in the United States: (1) Violating the Foreign Corrupt Practices Act, for his bribing Maddy Madison Radford; (2) Failing to Report that he was transporting monetary instruments of more than \$10,000 (31 U.S.C. § 5316(a)(1)(A)). In addition the trial court ordered Solomon Poodell to forfeit all of the money that he took from the United States when leaving for Newland, but failed to report on his customs form. Solomon Poodell pled guilty to Court II, the failing to report charge, but contested the court's order that he forfeit all of the money that he had on him when leaving the United States. **Discuss in detail the arguments Solomon could make in his appeal of his conviction on Count I, including arguments related to whether the United States had appropriate jurisdiction to proceed on this prosecution, whether the evidence was properly admitted at trial, and whether the forfeiture of all of the money was proper. Also include in your discussion whether these arguments will be successful.**

**C. Discuss whether Solomon Poodell could be charged with any of these offenses under the Rome Statute for an International Criminal Court.**

Note -- Assume that all parties in this question are human beings.

(If your answer is contingent upon information not provided, explain what that information is and how it would affect your answer.)