

JUS5850 International Trade Law

Autumn 2012

(Please note that you should spend an equal amount of time on questions 1 and 2)

Elbonia and Majoria have traditionally been heavily dependent on import of coal and oil for energy purposes. Both countries are members of the WTO and parties to the United Nation Framework Convention on Climate Change (UNFCCC). None of the countries have commitments under the Kyoto Protocol. During the 1990s, Elbonia introduced restrictions and taxes on coal and oil in order to stimulate the establishment of renewable energy industries. In the same period, Majoria promoted offshore exploration of petroleum resources. The result was that both Elbonia and Majoria reduced their dependence on imports of coal and oil, and both countries also reduced their emission of greenhouse gases.

There was a major accident at one of Majoria's offshore petroleum installations in February 2010 which resulted in loss of human life and major pollution problems. The public support for offshore petroleum activities disappeared, and the government decided that the time had come to provide incentives to the establishment of renewable energy industries.

Question 1: You work as legal adviser to the Ministry of Trade and Industry in Majoria. You are asked to prepare a report on the compatibility with Majoria's obligations under the WTO Agreement of the following measures:

- a. A tax rebate to consumers buying solar panels produced in Majoria;
- b. A tax on oil used for heating, where the proceeds from the tax are used to set up a research program at Majoria's main university for research on energy efficient household appliances (such as refrigerators and dishwashers) – Majoria has two major producers and exporters of household appliances;
- c. A law prohibiting the use of coal for heating purposes in the ten largest cities of Majoria – such a prohibition was estimated to reduce the coal consumed in Majoria by 30 %.

After a heated budget debate, Majoria adopted a number of measures in budget decisions for 2011 and 2012 encouraging the establishment of local production of solar panels and wind turbines. As a consequence, Elbonian producers, which had become main exporters of solar panels and wind turbines, were no longer able to compete in the Majorian market by the end of 2012. In addition, Majorian producers had gained 25 % of the Elbonian market for such products.

Question 2: You work as legal advisor to the Elbonian Association for Renewable Energy Industries. Your employer asks you to write a memo setting out suggestions to be presented to Elbonian authorities on measures that Elbonia can take in order to protect Elbonian producers of wind turbines and solar power equipment against competition from Majorian producers.