

EKSAMEN I JURIDISKE VALGEMNER

VÅR 2016

Dato: Wednesday, May 25 2016

Tid: Kl. 10:00 – 14:00

JUS5911 International Climate Change and Energy Law

The language of examination for this course is English: students may answer in English ONLY, answers in any other language than English will be given a F (F for fail).

Please answer both questions.

1.

Analyse and discuss the ultimate objective of the United Framework Convention on Climate Change in light of the Paris Agreement.

UNFCCC, ARTICLE 2 (ULTIMATE OBJECTIVE)

“The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.”

PARIS AGREEMENT, ARTICLE 2

“1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

- (a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;
- (b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;



- (c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”

2.

The Lamedives are a state comprising of 1200 islands in the South-Indian Ocean. On average, the islands are lying about 1.3 m above sea level. In the last five years, rising sea levels and increasing sea surface temperatures are having an impact on the islands and their surrounding marine ecosystem. Erosion is a big problem on many of the islands and most of their coral reefs are badly bleached. Some islands have become inhabitable causing whole communities to resettle to other islands. The Lamedives rank number 181 on the list of 190 countries' Gross Domestic Product - GDP (nr. 1 having the highest GDP). The Government of the Lamedives is contemplating a claim to seek compensation for the incurred damages to its territory.

As a first step, compensation shall be claimed from Dacana. Dacana is an industrialized state and one of the highest emitters of greenhouse gases (GHG), responsible for about 10% of global annual emissions. Dacana has a thriving oil and gas sector. In the recent years, Dacana has developed its large tar sand reservoirs for oil production, causing its GHG emissions to increase by 30% since 1990.

Both, the Lamedives and Dacana are Parties to the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol. Dacana is an Annex I Party with an emission limitation and reduction commitment of 6 % (base year 1990). The Lamedives are not listed in Annex I or II of the UNFCCC.

You are a legal advisor to the Government of the Lamedives and are asked to assess the feasibility of such claim. Please analyze the requirements for this claim and provide arguments for and against the success of a compensation claim. (For the purpose of this case, we assume that there is an international court with the jurisdiction to hear this case.)

The result of the exams will be announced wednesday 15th June, at 15.00 hours. You can check the results in the StudWeb, or by contacting the Information Centre, phone 22 85 95 00. After the exam results are announced, candidates have the right to be informed of the grounds for the result as long as a request is made within one week of the announcement. The names and contact information of the examiners can be found on the Faculty's website, or by contacting the Information Centre. The deadline for appeal is three weeks after the announcement of the results.

Oslo, 25.05.2016