

Case Study No 4

Question 2:

Imperia has for a long period of time been particularly engaged in the protection of a species of small bears that are endemic to (i.e. only living within) the small island state of Micronia. Micronia's population has until recently suffered from severe poverty. However, recently there were discoveries of valuable minerals on the island, and a number of international mining companies have started to explore the mineral resources. This has significantly improved the living conditions of the population. Due to the activities of the mining companies and the increasing development of infrastructure and the local tourist industry, the habitat of the small bears has been significantly reduced and the species has been reported to be close to extinction.

The development in Micronia has received significant attention in Imperia, and its population has demanded that its authorities take action to prevent Micronia from taking acts that would threaten the survival of the species. Micronian authorities have warned Imperia that any action it may take would be regarded as an unlawful intervention in its internal affairs and that Micronia would take any measure available to prevent Imperia from implementing acts conceived as being contrary to Micronian interests. Many Imperian corporations have invested in Micronia, including in the mining and tourist industry. There is also a significant export of mineral resources from Micronia to Imperia. Both countries are parties to the World Trade Organization.

As advisor to the Imperian Ministry of Foreign Affairs, you are asked to give your assessment of the following questions:

- a) Provided that trade sanctions against Micronian minerals are in violation of Article XI of GATT, could such sanctions be justified under Article XX of the GATT?
- b) Could a public statement warning the population of Imperia against travelling to Micronia because it would contribute to extinction of the small bears be regarded as a violation of international law?
- c) Could a law punishing Imperian corporations investing in Micronia be regarded as a violation of international law?
- d) Could a law punishing any corporation, i.e. regardless of its nationality, investing in Micronia be regarded as a violation of international law?