

Mock Exam JUS5520 International Environmental Law

Please spend approximately one hour on Part 1 and three hours on part 2

PART 1

Analyse and discuss the “ultimate objective” of the United Nations Framework Convention on Climate Change (Article 2).

PART 2

The Lamedives is a country comprising approximately 1000 islands in the South-Indian Ocean. On average, the Lamedives reaches an altitude of 1.3 meters above sea level. In the last decade, rising sea levels, increasing sea temperatures, more frequent typhoons, and ocean acidification has had significant negative impact on the islands and their marine ecosystems. Erosion has become a major challenge for most of the islands, coral reefs are increasingly dying, and fisheries are reduced by 50 %. Some islands have become uninhabitable and their populations have resettled on other islands at a significant cost to the country. The World Bank used to rank the Lamedives as an “upper middle income” economy a decade ago. Lamedives currently ranks as a “lower middle income” economy.

The Lamedives government considers a claim to seek compensation for damages to its territory. As a first step, the Lamedives shall claim compensation from Dacana, which is a developed country that has emitted approximately 10 % of all human greenhouse gas emissions. Dacana has a significant energy sector that exports significant amounts of coal, oil and natural gas. In recent years, Dacana has developed its tar sands reservoirs for oil production. This is a major reason why Dacana’s current emissions of greenhouse gases was 30 % higher in 2016 than its emissions in 1990.

The Lamedives and Dacana have ratified the UNFCCC, the Kyoto Protocol and the Paris Agreement. Dacana is an Annex I party to the Kyoto Protocol under which it had undertaken an emission reduction commitment of 6 % (base year 1990). Despite its increasing greenhouse gas emissions, Dacana complied with its commitments in the Kyoto Protocol by resorting to its flexibility mechanisms, in particular the Clean Development Mechanism (Article 12). The Lamedives is not listed in Annex I or II of the UNFCCC.

You are a legal advisor to the government of the Lamedives and have the task of writing a memorandum on the feasibility of bringing a claim for compensation against Dacana. The memorandum shall discuss the legal basis for such a claim under the climate change regime and customary international law and provide an assessment of the chances that the claim will be successful. For the purpose of your memorandum, your superior informs you that others will be asked to consider whether it will be possible to bring the claim before an international court.