

EXAM

JUS5911 - International Climate Change and Energy Law

Spring 2018

Date: 6 June 2018

Time: 09:00 – 13:00

This exam set contains 3 sections. All questions shall be answered. The weighting of the questions is as follows: question 1 (30%), question 2 (10%), question 3 (60%: a 25%; b 25%; c 10%).

Question 1

What is a “Nationally Determined Contribution” (NDC) in the context of the international climate change regime of the United Nations Framework Convention on Climate Change (UNFCCC)? Which role does the NDC play in the legal regime put in place by the Paris Agreement to the UNFCCC?

(Supporting document in Inspira: the Paris Agreement.)

Estimated time spent: 1 hour

Question 2

Define the concept of “carbon leakage”. Which regulatory tools has the European Union adopted in order to prevent a situation of carbon leakage within the EU?

Estimated time spent: 30 minutes

Question 3

After graduating from the University of Oslo, you start working for the Ministry of Energy and the Environment of state A. State A is a neighbouring country to state B. Both state A and state B are Member States to the European Union (EU). They have a long tradition of trust and peaceful cooperation that they would like to extend to their renewable energy policy. Both A and B have established a green certificates scheme as their main national support scheme in favour of electricity production from renewable energy sources. The prime ministers of A and B have started negotiating the possibility of establishing of a joint

green certificates market as a cost effective manner to reach their national targets under Directive 2009/28/EC on the promotion of the use of energy from renewables sources.

a) Before going ahead with the negotiations, the minister in charge in your country asks you to draft a memo describing which requirements of Directive 2009/28/EC apply for the purpose of setting up a joint green certificates market between the two countries (i.e. coordination of support schemes), and making it count for the purpose of target compliance. Draft the memo.

(Supporting document in Inspira: Directive 2009/28/EC, as amended.)

Estimated time spent: 1 hour.

b) State C is also a neighbouring country to States A and B, but the latter ones do not consider C as a trustful and stable partner on all matters. State C is also a Member State to the EU. A and B would really much like to implement a joint support scheme together, without opening up their cooperation on support schemes to State C. Several renewable energy operators in State C are getting anxious and frustrated by the lack of ambition of their government, and look enviously at the support levels granted by A and B to their competitors. GreenWing is a project developer specialized in wind parks and is located on the territory of State C, but so close to the border of State A that it is connected to the same electricity grid. GreenWing has several times lobbied the energy regulatory authority of State A to get access to its national support scheme, but has so far been denied access. Based on the relevant EU law currently in force, including Directive 2009/28/EC, the internal market legislation, and the case law of the Court of Justice of the EU, the minister in charge in state A asks you to assess whether A can legally refuse C from getting access to its national support scheme. Draft the memo.

Estimated time spent: 1 hour

c) GreenWing is so frustrated by the lack of ambition and commitment of its government in terms of climate mitigation measures that it has turned to its national wind power association. The latter envisages now to bring legal action before domestic courts against the government of State C.

Without going into the details of the argumentation, list the possible legal grounds for challenging the lack of adequate climate mitigation policy and measures in State C. State C has a monist legal system.

Estimated time spent: 30 minutes.