

22nd John H. Jackson Moot Court Competition Corrections & Answers to Clarification Questions

Note for teams

Questions are presented as received from teams. The case authors have carefully considered all the questions and divided them into three categories: (i) questions about facts for which clarifications have been provided; (ii) questions concerning legal issues and substantive arguments, which are for the teams to develop themselves and for which no clarifications have been provided; and (iii) questions that are irrelevant to the legal claims and defences raised in this case. Duplicate questions on the same/similar issues received from several teams have only been addressed once.

Teams are reminded that their arguments shall be limited to the specific legal claims and defences raised in the case and based on the facts provided therein and in the clarifications below.

Table of contents:

| | |
|---|----|
| Typo correction | 2 |
| Part I. Questions about facts for which clarifications have been provided | 3 |
| Part. II. Questions concerning legal issues and substantive arguments, which are for the teams to develop themselves and for which no clarifications have been provided | 21 |
| Part. III. Questions that are irrelevant to the legal claims and defences raised in the Case | 26 |

Typo correction

The first sentence of para. 8 of the Case should read: “Korsania is an upper-middle income country with a population of 50 million people and a GNI per capita of USD **13,100**”. Please note that this change does not affect any legal claims or arguments teams are expected to develop.

Part I. Questions about facts for which clarifications have been provided

1. Is Artania the only LDCs or SIDS in the Intermarium region, and if not, are the other LDCs and SIDS granted the exemption of carbon charge pursuant to Art. 5 of Section 10?

Artania is the only LDC in the Intermarium region. Pursuant to Article 5, any LDC or SIDS is exempted from Section 10 of the NZF Act.

2. Which criteria was employed in disregarding Artania as a SIDS or LDCs in regard to section 10, article 5 of the Net Zero Future act. How is trade encouraged to Artania's imports as an SIDS.

As stated in Article 5 of Section 10 of the NZF Act, “[t]he provisions of this section shall not apply to covered products originating in least-developed-countries (LDCs) and Small Island and Developing States (SIDS), as recognised by the United Nations, considering their special status under the Paris Agreement”.

Also note that it is widely acknowledged that LDCs/SIDS bear the least historical and current responsibility for climate change (presently accounting for only 7 per cent of global GHG emissions according to the UN Development Programme) and have the least capacity to adapt to new climate conditions, thus being the most vulnerable countries to the adverse effects of climate change. Indeed, over the past half-century, more than two-thirds of deaths worldwide caused by climate-related disasters occurred in LDCs/SIDS. Former UN Special Rapporteur on Extreme Poverty and Human Rights, Prof Philip Alston, has warned “[w]e risk a “climate apartheid” scenario where the wealthy pay to escape overheating, hunger, and conflict while the rest of the world is left to suffer”.

3. Is the carbon charge, exemption for products from LDC and SIDS, and deduction of carbon prices in the country of origin all part of the same measure as mentioned in paragraph 24 of the Case?

Yes, both provisions (Articles 4 and 5) are part of the NZF Act.

4. Has any authority in Rutenia offered any rationale as to why Burlandia, a developing country, did not receive an exemption under Article 5 of the Net Zero Future Act?

See Article 5 of Section 10 of the NZF Act, which reads: “[t]he provisions of this section shall not apply to covered products originating in least-developed-countries (LDCs) and Small Island and Developing States (SIDS), as recognised by the United Nations, *considering their special status under the Paris Agreement*”.

5. Which methodology will be applied to determine whether a country is developed/developing/LDC?
- a. By virtue of it being an OECD-member, UN designation or the principle of self-election?

For the purpose of Rutenia’s NZF Act, see Article 5 of Section 10.

6. Is there any difference in composition, quality and performance between the glass produced in Rutenia, Burlandia, Korsania and Artania?

No, there is no difference in physical composition, quality, and performance of flat glass produced in these four countries.

7. Are there any differences between the flat glasses from Rutenia, Burlandia, Korsania and Artania, based on their appearance/physical characteristics, end uses, or consumers’ preferences?

As indicated in response to Question 6, there is no difference between flat glass from these countries based on their physical properties/qualities. With regard to end-uses and consumer preferences, teams are expected to develop arguments based on the facts provided in the Case.

8. What is the price difference between flat glass produced in Artania and flat glass produced in Guta?

See para. 4 of the Case and Clarification Question 9.

9. What was the respective sale price of flat glass from Rutenia, Burlandia, Korsania, and Artania in the Rutenian market in 2021 and 2022?

Sales prices of flat glass in the Rutenian market, in USD per tonne

| Country | 2021 | 2022 |
|-----------|------|------|
| Rutenia | 600 | 620 |
| Burlandia | 530 | 500 |
| Korsania | 570 | 585 |
| Artania | 480 | 490 |

10. What are the Harmonized System (HS) Codes and Rutenia’s domestic tariff classification codes of the flat glass from Rutenia, Burlandia, Artania, and Korsania?

All four countries classify flat glass under HS Heading 7005: “Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked”.

11. Is the glass from Burlandia, Rutenia, Artania and Korsania used for the same products manufactured by DIM?

Yes. See para. 4 of the Case.

12. What exactly does footnote 3 mean? Does it bar us from using scientific evidence completely, even under GATT XX? For example, can you use other scientific evidence, such as IPCC reports for claims?

Footnote 3 clearly states: “[t]eams are required not to introduce any additional scientific evidence or facts, and can rely only on those provided in the case”. It does not bar teams from using scientific evidence completely, but from introducing additional scientific evidence or facts that are not provided in the Case (or answers to clarification questions). Insofar as scientific evidence/facts (including IPCC reports) are provided in the Case (or answers to clarification questions), teams may (and should) use them to support their claims. In fact, when relying on scientific evidence/facts to support their arguments, teams should be able to specify the relevant paragraphs of the Case (or/and answers to clarification questions).

13. Whether the percentage of local and imported glass purchased by DIM changed after the enactment of Net Zero Act, and whether the amount of glass produced by Vetro and other producers of Burlandia changed?

See Annex IV to the Case.

14. What is the actual tax rate of glass from Burlandia imported in Rutenia or what is the imported price of glass from Burlandia?

See paras. 19-20 of the Case.

15. Regarding the default values of carbon emissions, based on the 5% worst-performing installations in Rutenia, what value was established for the given year?

Default values are determined pursuant to Article 3.2 of Section 10 of the NZF Act and Annex III. Hence, these are not fixed, but will likely vary from year to year. In 2022, the average emission intensity of the 5% worst performing installations for flat glass in Rutenia was 0.68 tonne of CO₂ per tonne of flat glass. While there are no projected values for 2023 and beyond, teams may develop arguments on this point based on the facts of the Case.

16. Does Burlandia’s flat glass get the duty rate based on the independent assessor or will it be on the basis of default values as per the worst 5% performing installations?

Yes, the default values provided for in Article 3.2 of Section 10 of the NFA have been applied to Burlandian flat glass since the entry into force of the Act. As

indicated in para. 6 of the Case, at this stage of its development, “Burlandia faces technical and administrative capacity constraints to monitor and verify carbon emissions released during the production process of goods throughout the country”.

17. What are the criteria of Rutenia to determine which companies fall within the 5% of the “worst performing installations”? In accordance with Article 3.2 of the Net Zero Future Act.

This will be determined pursuant to Article 3.1 and Annex III of Section 10 of the NZF Act, which applies to all domestic manufacturers of the relevant products in Rutenia.

18. Do any of the 5% worst performing flat glass production installations within Rutenia presently belong to DIM?

No. DIM does not produce flat glass in Rutenia, it is Guta that does. See paragraph 4 of the Case.

19. With respect to “Default values shall be based on the average emission intensity of the 5% worst performing installations”. Does worst performing in this context refer to carbon efficiency?

It refers to carbon-emission intensity and default values are determined as per Article 3.2 of Section 10 of the NZF Act.

20. Pursuant to the case paragraph 18, in the event that no reliable data is available, default values shall be used. Would you mind clarifying this method of calculation?

The method for calculating default values is described in Article 3.2 of Section 10 of the NZF Act.

21. Do both Guta and the 5% of worst performing installations of flat glass production in Rutenia receive the renewable energy subsidy to decarbonize their production?

Yes, Guta has received renewable energy subsidies from the Rutenian government to decarbonise its production process.

It is not possible to answer this question for the “5% worst performing installations” for flat glass production in Rutenia, as these are not fixed but may involve different manufacturers from year to year.

22. How much is Vetro’s verified and exact total amount of carbon emission embedded in its covered products, in reference to Article 3.1(ii) of Section 10?

As clearly indicated in para. 6 of the Case, Burlandia does “not have the administrative and technical capacity to monitor and verify carbon emissions

released during the production processes of goods throughout the country”. The only available information about the carbon-intensity of Vetro’s flat glass production are the independent studies referred to in para. 7 of the Case.

23. Para. 5 says Burlandia is a lower-middle-income country, then para. 6 says “developing country status”. Which description should be used to categorise Burlandia?

“Lower-middle-income country” in paragraph 5 of the Case refers to World Bank country classification by income level 2023-24. “Developing country” in paragraph 6 of the Case refers to Burlandia’s status under the UNFCCC/Paris Agreement. Burlandia has also designated itself as a “developing country” in WTO. There is no incompatibility between these terms.

24. Is Korsania considered a developed, developing, or least developed country (LDC)?

Korsania is an “upper-middle income country” according to the World Bank country classification by income level 2023-24 (paragraph 8 of the Case). It is a non-Annex I country under the UNFCCC/Paris Agreement, and designated itself as a “developing country” in the WTO. There is no incompatibility between these terms.

25. We may assume that an upper-income country (Rutenia) is a developed country, yet Burlandia and Korsania are designated as developing countries?

Rutenia is a “high income” country according to the World Bank country classification by income level 2023-24 (paragraph 2 of the Case). It has a “developed country” status under the UNFCCC/Paris Agreement (paragraph 3 of the case). It has also designated itself as a “developed country” in the WTO. These terms are not incompatible.

26. Is there available data on the proportion of Rutenians living near the coastlines?

Around 20% of Rutenia’s population lives near the coastlines.

27. Are Korsania and Burlandia land-locked countries, or do they have a coastal line within their territories?

Korsania and Burlandia have a coastal line.

28. Are any of the protagonist countries - Rutenia, Burlandia, Korsania, and Artania - neighboring (adjacent) countries? If so, which of them?

As indicated in paragraph 9 of the Case, Artania is a “small island” and does not have a common border with any of the other countries. The same is true for Rutenia (see paragraph 2 of the Case). Korsania and Burlandia are adjacent neighbouring countries.

29. Both Artania and Rutenia were mentioned to be affected by climate change and other climate-related disasters. What are the effects of climate change on Burlandia and Korsania, if any?

See paras 12-15 of the Case and Annex I.

30. Is there available data on the number of Artanians that migrated to other countries (besides Rutenia) due to the effects of climate change?

Most of Artanian citizens (90%) who emigrated after Artania was hit by extreme climate-related weather events emigrated to Rutenia (para 10 of the Case).

31. Have climate-induced migrants ever caused armed conflicts, escalated tensions, crises or instability within or around Rutenia/Artania, or ruined bilateral relations of Rutenia with Artania or others?

See paragraph 13 of the Case. There have been some reported instances of social tensions between climate-induced Artanian migrants and Rutenians.

32. Has any official authority in Rutenia declared a state of emergency regarding the sea level rise?

See paragraphs 11-16 of the Case.

33. Have all 4 States ratified the Montreal Protocol? Has Artania taken any other environmental conservation measures?

Yes, all four countries have ratified the Montreal Protocol. Artania has not taken any other climate change mitigation measures for the reasons specified in paragraph 9 of the Case.

34. Does Note 2 (Annex II) apply to Rutenia's entire Schedule of Concessions, or does it apply only to Chapter 70 (glass and glassware)?

The excerpt from Rutenia's Schedule of Concessions provided in Annex II concerns glass and glassware (Chapter 70).

35. What is Rutenia's bound rate for "other duties and charges" for glass and glassware under its WTO Schedule of Concessions?

See Annex II of the Case.

36. Rutenia's schedules of concessions entry under "implement to/from" reads "2000". Does that indicate "2000-2000", meaning the implementation period begins and ends in the year 2000?

Column 5 in Rutenia's Schedule of Concessions should be read jointly with Note 1.

37. What implications arise from Rutenia's duty base rate being Bound and ad valorem in its WTO Schedule of Concessions? Should the taxes outlined in the Net Zero Future Act be regarded as ad valorem?

Please note that, according to para. 19 of the Case, Burlandia does not contest the legal opinion of Rutenian Parliamentary Legal Service that the application of the carbon charge does not result in Rutenia's exceeding the bound rate for "other duties and charges" for glass and glassware under its WTO Schedule of Concessions.

38. Does para. 19 entail teams should not argue whether Rutenia has exceeded its Art. II concessions, i.e., focus is solely on if the measure falls under Art. II or III GATT. not if it violates Art. II?

Yes, the parties agree that the carbon charge is not in excess of the bound rate for "other duties and charges" in Rutenia's Schedule of Concessions, if Article II of the GATT 1994 is applicable.

39. How are we to calculate the exceeds of the bound duty rate without the average price of flat glass to calculate the tax deductible from there in?

The question is unclear. However, please note that according to para. 19 of the Case, Burlandia does not contest the legal opinion of Rutenian Parliamentary Legal Service that the application of the carbon charge does not result in Rutenia's exceeding the bound rate for "other duties and charges" for glass and glassware under its WTO Schedule of Concessions.

40. Why in Rutenia Schedule of Concession is it said that the reduction will be annual, while the Net Zero Future Act is implementing an immediate increase in taxes? What is the link between the documents?

Note 1 of Rutenia's Schedule of Concessions in Annex II refers to "tariff reductions will be implemented through equal annual reduction". The NZF Act imposes a "carbon charge".

41. What is the significance of the carbon charge measure for Rutenia's efforts to address climate change and reduce carbon emissions, and mitigation goals?

Prior to the adoption of the measure, the Government of Rutenia conducted an impact assessment, according to which the introduction of the carbon charge under the NZF Act is expected to reduce the level of CO₂ emissions in the covered sectors in Rutenia by 8% by 2030. The level of CO₂ emissions in the covered sectors in the other countries of the Intermarium region is expected to drop by 3% by 2030.

42. In Annex IV, are the projections for 2023 made before or after the enactment of the Rutenia Net Zero Future Act?

These were in the impact assessment conducted by the Government of Rutenia (see Question 41) before the adoption of the Act by the Parliament of Rutenia on 1 July 2022.

43. What consultations and transparency measures have Rutenia adopted?

See para. 15 of the Case. During the high-level regional dialogue, Rutenia presented the final draft of the NZF Act and encouraged other countries in the Intermarium region to adopt similar measures. Other countries had an opportunity to ask questions about the expected operation of the NZF Act.

44. Did Rutenia undertake previous and less restrictive measures against the countries of the Intermarium region to help reduce carbon emissions before it implemented The Net Zero Future Act?

See paras 3 and 15 of the Case.

45. Since when Korsania's measures combatting climate change were introduced and what is their result, how embedded emissions level changed?

As clearly indicated in paragraph 8 of the Case, “[i]n September 2022, Korsania introduced a domestic carbon tax of USD 30 per tonne of CO₂ emitted for carbon-intensive products (aluminium, cement, chemicals, glass, fertilisers, and iron and steel), and has set up a reliable system for monitoring, reporting and verifying carbon emissions”. There is no data available yet as to the effect of this measure on the carbon-intensity of the products concerned, but it is expected to decrease gradually.

46. What is the result of the advisory opinion of the International Court of Justice regarding the duties of States in accordance with international law concerning climate change?

As clearly stated in para 16 of the Case, the advisory opinion proceedings are still pending before the ICJ.

47. Does Burlandia actually have its own explicit internal carbon charge as outlined in Article 4 of Section 10?

See para. 6 of the Case and Articles 3.1(iii) and 4 of Section 10 of the NZF Act.

48. Did the decline in flat glass sales from Burlandia to Rutenia, noted in Annex IV pre-2022, primarily result from the new provisions in the Net Zero Future Act, or there were also other causes?

There is no information available about any other factors affecting the sales of flat glass reported in Annex IV to the Case.

49. In any way is the imposition of Carbon Charge to Artania's Imported Products encouraging a regional trade amongst the two Countries if Section 10, article 5 and 4 of the Net Zero Future Act Considered?

See Annex IV to the Case for the trends in sales of flat glass in Rutenia after the introduction of the measure.

50. Did Burlandia apply for the carbon charge deduction, and if they did, what kind of information did they submit?

Please note that, pursuant to Article 3.1 of Section 10 of the NZF Act, it is "domestic manufacturers and importers" that shall comply with the reporting requirements and pay the carbon charge (see Question 51). On domestic/imported flat glass in the Rutenian market, see Annex IV to the Case.

51. Which countries submitted the required declaration on February 1, 2023, as mandated by Section 10, Article 3.1 of the Net Zero Future Act?

As per Article 3.1 of Section 10 of the NZF Act, it is "domestic manufacturers and importers" (not countries) of the covered products that must submit the declaration. On domestic/imported flat glass in the Rutenian market, see Annex IV to the Case.

52. Does footnote 7 on page 14 of Moot Case ("these monitoring methodologies and calculation method are not disputed by the parties") imply parties can agree on the method but disagree on its application?

Footnote 7 means that the parties do not dispute neither the methodologies nor their application.

53. Does Rutenia consider Art 3.1(iii) of its Act, referring to "carbon price effectively paid", and Art 4, referring to "any explicit carbon price paid", as referring to the same types of measures?

"Explicit carbon price" under Article 4 of the Net Zero Act refers to "a carbon charge (tax, levy or fee), or of emission allowances (or permits) purchased under a carbon emission trading scheme" under Article 3.1(iii) of the Act. "Effectively paid" means that such a carbon price was actually paid.

54. Is Burlandia's energy excise tax on all fossil fuels accepted by Rutenia as a sufficient carbon charge to qualify for the Carbon Charge Deduction of Article 4 of the Net Zero Future Act?

See Articles 4 and 3.1(iii) of the Section 10 of the NZF Act and paragraph 19 of the Case.

55. Has Rutenia's government provided any justification for excluding Burlandia from their list of concessions, despite Burlandia's \$15 energy excise tax on all fossil fuels utilized in manufacturing?

See Article 4 and 3.1(iii) of Section 10 of the NZF Act and Question 54.

56. Is there a deduction of Burlandia's energy excise tax equivalent to emission-weighted average of USD 15 per tonne of CO₂?

See Article 4 of Section 10 of the NZF Act and paragraphs 19-20 of the Case.

57. Has Burlandia's energy excise tax on all fossil fuels used in the manufacturing and transportation sectors entered into force?

Yes, in July 2022 (see paragraph 6 of the Case).

58. Could you clarify, whether Burlandia introduced an energy excise tax afterward the promise of the current government to refrain from introducing explicit carbon pricing instruments?

As indicated in paragraph 6 of the Case, Burlandia introduced an energy excise tax on all fossil fuels used in the manufacturing and transportation sectors in July 2022. The electoral promise of not introducing explicit carbon pricing instruments (see Article 3.1(iii) of Section 10 of the NZF Act) has thus far been upheld by the Burlandian government.

59. Did Burlandia refrain from introducing explicit carbon pricing instruments as it was promised after the election?

Correct, Burlandia has no explicit carbon pricing mechanism in place within the meaning of Articles 3.1(iii) and 4 of Section 10 of the NZF Act.

60. Does Vetro pay the \$15 charge imposed in Burlandia?

Yes, Vetro pays the energy excise tax since it was introduced in July 2022 (paragraph 6 of the Case).

61. How does Burlandia calculate their energy excise tax on fossil fuels, considering that they do not have the technical and administrative capacity to calculate CO₂ emissions for a carbon charge?

As per paragraph 6 of the Case, Burlandia's energy excise tax is levied on "all fossil fuels used in manufacturing and transportation sectors", and the rate is set per physical unit (USD/litre or kilogram) or unit of energy (USD/ gigajoule) depending on the fuel. It is not explicitly linked to the carbon emissions released

during the production of goods (unlike carbon charges or taxes). But for comparative purposes, it is possible to convert energy excise taxes into a CO₂-equivalent basis. In the case of Burlandia, the energy excise tax in the manufacturing sector was estimated “equivalent to emission-weighted average of USD 15 per tonne of CO₂” (paragraph 6 of the Case) in a recent report by the IMF.

62. Burlandia’s energy excise tax is focused on CO₂ emissions. Should the “energy excise tax” be characterized as a “carbon charge” as defined within Rutenia and Korsania?

As indicated in paragraph 6 of the Case and clarified in Question 61, Burlandia’s energy excise tax is levied on amount of fossil fuels used in manufacturing and transportation sectors, does not directly target the carbon emissions released during the production of goods (unlike for carbon charges or taxes). See also Articles 3.1 (iii) and 4 of Section 10 of the NZF Act

63. What’s “emission-weighted average”?

If this refers to the “equivalent to emission-weighted average of USD 15 per tonne of CO₂” in paragraph 6 of the Case, it is a term usually used to express energy excise taxes on a CO₂-equivalent basis.

- a. What do ultimate consumers think of glass products (GPs) from these countries? Are prices of GPs same in Rutenia?

Unclear what the generic term of “glass products” refers to here.

- b. Have other govts talked about climate emergency?

See paragraphs 12-16 of the Case.

64. What, if any, carbon emission allowances (or permits) are available to be purchased under a carbon emission trading scheme in Burlandia?

There is no carbon emission trading scheme in Burlandia. See para. 6 of the Case.

65. Does the small flat glass sector in Artania consist of more than one manufacturer?

Artania’s small flat glass manufacturing sector consists of one manufacturer.

66. Which manufacturer does the Artanian flat glass sector export to?

See paragraphs 4 and 9 of the Case.

67. If a product is from Country A, but its producer has paid carbon charge or emission allowances/permit for it in Country B, can its carbon charges be deducted under Net Zero Future Act Sec. 10 Art. 4?

Assuming that Country A is the “country of origin” within the meaning of Article 4 of Section 10 of the NZF Act, no.

68. What evidence supports statement of Ms. Rada Strong that carbon pricing “has been widely recognised as the single most effective and fairest way of reducing carbon emissions”?

Ms. Rada Strong’s statement is based on the findings of the International Monetary Fund (IMF) and other economic studies that “[c]arbon pricing is a powerful and cost-effective tool to mitigate climate change, because it discourages producers from using carbon-emitting fossil fuels and obliges them to internalise the social costs of carbon emissions”. In addition, carbon pricing is in line with the “polluter pays” principle in international environmental law.

69. On what basis was the carbon charge of USD 50 per tonne of CO₂ released into the atmosphere from the production of such goods calculated?

The rate of USD 50 per tonne of CO₂ emissions in Article 2 of the NZF Act was determined on the basis of a number of considerations, including recent reports by the Organisation for Economic Co-operation and Development (OECD) finding that: “[t]he damage from climate change resulting from a tonne of CO₂ emissions can be very conservatively estimated at EUR 30, but is likely to be higher. Further, this low-end benchmark of EUR 30 is generally considered insufficient to meet the mitigation objectives of the Paris Agreement. Carbon prices would need to be at least USD 40-80 per tonne of CO₂ emissions by 2020 and USD 50-100 per tonne of CO₂ emissions by 2030 in order for emissions to decrease in line with the temperature goals of the Paris Agreement”.

70. Could you clarify, who acts as the originator of the independent studies that estimated emissions produced by the Vetro in the amount of 0.65 tonnes of CO₂ per tonne of flat glass? Do they constitute reliable data?

The study was produced by Carbon Watch – a globally respected independent entity tracking carbon emissions. It provides reliable data.

71. Are these independent studies funded or conducted by Burlandia?

No, there were conducted by Carbon Watch.

72. Has any “verifying entity”, in terms of Annex III, verified the independent studies performed on Vetro’s Carbon emissions embedded in flat glass?

No “verifying entity”, within the meaning of Annex III of the NZF Act, has verified the independent studies referred to in paragraph 7 of the Case.

73. In which years did Burlandia experience taxation under Article 3.2 of the Net Zero Future Act due to a lack of data on production-related CO₂ emissions?

Burlandia has been subject to default values under Article 3.2 of Section 10 the NZF Act since the Act entered into force on 1 September 2022.

74. Is the Case exhaustive of the Terms of Reference from Respondent?

The respondent can invoke only the defences explicitly identified in the Case.

75. How many verifying entities, if any, in Burlandia, Korsania, or Artania have been accredited by the Rutenian national carbon emissions accreditation body?

None in Artania and Burlandia. Korsania's monitoring and verification system for carbon emissions (paragraph 8 of the Case) is considered "comparable in effectiveness" for the purpose of Annex III to the Case.

76. Which standards are used during the transition to demonstrate the effectiveness of emissions coverage and accuracy under Annex III for third-party systems verifying emissions outside of Rutenia?

As stated in Annex III, paragraph 3, the third country concerned needs to demonstrate to Rutenia that its monitoring and verification system is comparable in effectiveness to the NZF Act in terms of *coverage* and *accuracy* of emissions. Coverage refers to the scope of emissions and products/sectors covered. Accuracy refers to independent third-party verification by an accredited verifier in the country concerned. In 2023, this was considered to be the case for Korsania's monitoring and verification system.

77. Have Rutenia's domestic manufacturers of the covered products under The Net Zero Future Act, been paying the carbon charge as mentioned in article 1 of The Net Zero Future Act?

Yes, following the entry into force of the Act (para 17 of the Case) and as per the conditions established therein.

78. What is the difference in the technological advances between the furnaces used in Rutenia and Burlandia?

Relevant facts provided in paragraphs 4 and 7 of the Case.

79. For the purpose of putting carbon emissions into perspective. What is the global average of carbon emission per tonne in the flat glass manufacturing industry?

No global average is available, only country data (see paras 4 and 7-9 of the Case).

80. Do the verifying entities in Rutenia use international standards and Protocols for verifying the submitted data, and if so, which ones?

There are presently no internationally-agreed standards on sectoral monitoring, reporting and verification systems for carbon emissions.

81. Do the covered products under Article 1 of the Net Zero Act have the highest embedded carbon emissions of all the industries in Rutenia, or are there industries with higher emissions but exempt?

As per Article 1 of Section 10 of the NZF Act, the current list of covered goods was drawn on the basis of “the carbon-intensity of the products and the trade-exposure of the sectors concerned” – and will be periodically reviewed on this basis.

82. Do the exporting foreign countries have any obligation to maintain records of carbon emissions, required under Article 3 of the Net Zero Act? What could be the cost to the industry to record the same?

Article 3.1 of Section 10 of the NZF Act imposes reporting requirements on “domestic manufacturers and importers of the covered products”.

The costs of monitoring and reporting carbon emissions are likely to vary from industry to industry, and across countries, depending on financial, technical and technological capacity.

83. What carbon charge in USD per tonne does Rutenia apply to imports of flat glass from KorGlass, the small glass manufacturing company in Artania, and glass manufacturers other than Vetro in Burlandia?

See Articles 1, 4 and 5 of Section 10 of the NZF Act and paragraphs 19-20 of the case.

84. Does any of the four countries (Burlandia, Rutenia, Artania, and Korsania) implement any measure similar to a carbon charge for other greenhouse gases?

No.

85. Should the declaration specified in Article 3 of Section 10 be submitted before or upon the importation of the covered products?

As per Article 3.1 of Section 10 of the NZF Act, the declaration must be submitted by “1 February of each year” and the information provided refers to the “previous calendar year”.

86. What is the first year for which domestic manufacturers and importers of flat glass shall submit to the competent authority a declaration under Article 3 Section 10 of the Net Zero Future Act?

Since the NZF Act entered into force in on 1 September 2022 (paragraph 17 of the Case), the first year for which domestic manufacturers and importers of flat glass must submit a declaration pursuant to Article 3 is as of 1 February 2023.

87. How, when, and by whom is the carbon charge collected with respect to imported goods?

Upon importation of the covered products, the importer must declare to the customs authorities the weight and value of the products, and that the products are subject to the carbon charge under Section 10 of the NZF Act.

Pursuant to Article 3.1 of Section 10 of the NZF Act, by 1 February of each year, domestic manufacturers and importers of the covered products shall submit to the competent authority (i.e. the National Tax Administration (NTA)) a declaration with the information indicated in paras. (i)-(iii) of that provision. On the basis of this information, the NTA calculates the amount of the carbon charge that must be paid by 1 June. The tax is payable directly to the NTA via its e-payment system.

Domestic producers and importers of covered products submit their declaration pursuant to Article 3.1 directly to the NTA. In addition, an importer's file is considered complete once the NTA receives the customs declaration from the National Customs Authority for all imports of the covered products during the relevant period.

Upon payment of the carbon charge, the NTA issues an attestation of payment to the importer and notifies the National Customs Authority that the carbon charge has been duly paid. Further importation of the covered product will not be authorized until the importer has paid the carbon charge due for the preceding calendar year.

88. When does the obligation to pay the carbon charge accrue?

See Articles 2 and 3 of Section 10 of the NZF Act and Question 87.

89. Clarify verifying entities' roles for emissions checks under Net Zero Future Act. Can the organizers offer clarity on the precise roles, responsibilities, and oversight mechanisms required for the verifying entities conducting the verification?

As stated in Annex III to the Case, the key responsibility of "verifying entities" is to verify the accuracy of the embedded carbon emissions in the products covered by Section 10 of the NZF Act. Implementing Regulation 7/2023 further elaborates on Annex III as follows:

Article 1 – Subject Matter

This Regulation lays down provisions for the verification of carbon dioxide (CO₂) emissions (“carbon emissions”) declared pursuant to Article 3.1 of Section 10 of the Net Zero Future Act. Such a verification shall be undertaken by third-party entities established in Rutenia and duly accredited by the National Accreditation Body of Rutenia, except as otherwise provided in Annex III of Section 10 of the Net Zero Future Act.

Article 2 – Specific Obligations of “Verifying Entities”

The verifying entity shall carry out the verification activities required by this Regulation and issue a “verification report”.

The verifying entity shall assess all relevant supporting documentation made available to it by the producers of the goods covered by the Net Zero Future Act. This shall include an annual “emission report” that provides complete, consistent and transparent data on the monitoring and calculation of embedded carbon emissions pursuant to Annex III of Section 10 of the Net Zero Future Act.

The verifying entity shall determine whether the producer’s emission report and other supporting documentation is free of material misstatements and of material non-conformities regarding the monitoring and calculation of embedded carbon emissions in accordance with the rules set out in Annex III of Section 10 of the Net Zero Future Act.

To that end, the verifying entity shall conduct installation visits, except where not carrying out such visits is duly justified and does not put at risk a reliable estimation of the embedded carbon emissions.

Article 3 – General Verification Principles

The verifying entity shall plan and perform the verification with an attitude of professional scepticism, recognising that circumstances may exist that cause the information in the producer’s supporting documentation to contain material misstatements and/or material non-conformities.

The verifying entity must carry out verification in the public interest, and be independent of the producer and the competent authorities responsible for the Net Zero Future Act.

The total embedded carbon emissions to be declared pursuant to Article 3.1 of Section 10 of the Net Zero Future Act shall be considered as “verified” only if the verification report

concludes with reasonable assurance that the producer concerned has complied with the monitoring and calculation requirements set out in Annex III of Section 10 of the Net Zero Future Act.

Article 4 – Verification Time and Cost

The time and cost of verification will vary depending on the nature, scale and complexity of the tasks involved, which will be determined by factors such as the installation's functioning, level of activity and location.

Part. II. Questions concerning legal issues and substantive arguments, which are for the teams to develop themselves and for which no clarifications have been provided

90. Considering the poll results by RutInfo, is it possible to state that consumers in Rutenia would value products with a sustainable production method over those produced in a non-sustainable way?

This is not a factual question. It is for the teams to develop substantive arguments on this point.

91. What is the hierarchical relation between the Paris Agreement and the GATT in case of a conflict, even non direct, between the two norms?

This is a legal question. It is for teams to develop substantive arguments on this point.

92. The goal of the measure is to decrease the CO₂, but how does this affect the economic reality of Burlandia and Korsania, and how deep are the consequences for the financial states of the countries?

It is for the teams to develop substantive arguments on this point, based on facts provided in the Case (see paras 7-8 and Annex IV).

93. Would clean air be considered an exhaustible resource under Article XX(g), of the GATT 1994, or would it fall under another category?

This is a legal question. It is for teams to develop substantive arguments on this point.

94. How does the carbon charge measure impact the glass manufacturing industry in Rutenia? Are there any specific implications for companies like Guta and KorGlass? How does the carbon charge measure affect the competitiveness of Rutenia's glass manufacturing industry in the global market?

It is for the teams to develop substantive arguments on this point, based on facts provided in the Case (see Annex IV).

95. What are the potential economic and environmental benefits that Rutenia expects to achieve through the implementation of the carbon charge measure?

It is for the teams to develop substantive arguments on this point, based on facts provided in the Case (see para 11).

96. Can we consider the products mentioned in the case as like products? Did Rutenia offer any kind of benefit for imports?

This is a legal question. It is for teams to develop arguments on this point.

97. What is the assessment of the economic impact of carbon tax policies in Rutenia?
- How do these policies affect economy sectors, like industry, agriculture and energy?
 - Are there estimates of benefits?

It is for teams to develop substantive arguments on these points, based on the facts provided in the Case (see para 4 and Annex IV).

98. Which is the link between the procedure of establishing a tax on the default values described by article 3.2 of Rutenia's NFZA and the amount of CO₂ emitted by the country that is exporting to Rutenia?

Teams may develop substantive arguments on this point, based on the facts in the Case.

99. Is it right to tell this court that Rutenia never conducted a calculation of Carbon emitted on the Imported Goods as per the Net Zero Act section 10, article 3.1(1,2,3),3.2(1,2), article 4, article 5.

This question is not clear. It is for the teams to develop an appropriate understanding of the relevant provisions of the NZF Act and the facts of the Case.

100. What is the object and purpose of Net Zero Future Act?

This is a legal question. It for teams to develop arguments on this point, based on the facts provided in the Case (see Article 1 of Section 10 of the NZF Act).

101. Could we consider the energy excise tax introduced by Burlandia and the domestic carbon tax introduced by Korsania equivalently as carbon pricing instruments?

Korsania's domestic carbon tax is an explicit carbon pricing instrument within the meaning of Article 3.1(iii) of Section 10 of the NZF Act and makes Korsania's exports of flat glass to Rutenia to qualify for a carbon charge deduction under Article 4 of Section 10 of the NZF Act.

It is for teams to develop substantive arguments on whether Korsania's carbon tax and Burlandia's energy excise tax are "equivalent".

102. Does environmental-consciousness get reflected in the consumer preferences of the people in Rutenia?

It for teams to develop arguments on this point, based on the facts provided in the Case (see paragraphs 4 and 10).

103. Does Rutenia classify Carbon Dioxide as a pollutant or as a contaminant?

It is for teams to develop substantive arguments on this point.

104. Could the panel provide further specific examples of conservation efforts that Burlandia has undertaken regarding their rainforest?

Teams are to develop arguments on this point based on the facts already provided in the Case (paragraphs 5-6 of the Case).

105. In the moot proposition it is mentioned that the Burlandia is the home to a large tropical rainforest, how much area does the rainforest cover?

Teams are to develop arguments on this point based on the facts already provided in the Case (paragraphs 5-6 of the Case).

106. How is Burlandia's energy excise tax different from Rutenia's carbon charge? If any, how would its functions conflict with the carbon charge?

It is for teams to develop substantive arguments on this point, based on facts of the Case and clarifications.

107. Are the exemptions and deductions under Articles 4 and 5 of the Net Zero Future Carbon Act granted immediately and unconditionally to Artania and Korsania?

This is a legal question. Teams are expected to develop substantive arguments on this point.

108. DIM purchased 60% of flat glass from foreign suppliers including those located in Burlandia, Korsania, and Artania. What is the specific percentage of each country?

Teams are expected to base their arguments on the facts provided in Annex IV of the Case.

109. What is the bearing of the ICJ advisory jurisdiction in the current proposition?

Substantive argument that teams may develop themselves.

110. Does the flat glass produced under different energy-efficient methods substantially change the final product?

It is for teams to develop substantive arguments on this point.

111. Why does Rutenia only allow carbon emissions to be verified by third-party entities established in Rutenia after 31 December 2025?

It is for teams representing Rutenia to develop substantive arguments on this point.

112. How does Rutenian law define terms like "carbon price", "carbon charge", and "explicit carbon price"?

"Explicit carbon price" under Article 4 of Section 10 of the NZF Act refers to "a carbon charge (tax, levy or fee), or of emission allowances (or permits) purchased

under a carbon emission trading scheme” under Article 3.1(iii) of the Act. There is no further definition of “carbon charge”.

- b. Does that law distinguish between products taxed using explicit and implicit carbon prices?
- c. How?

Teams are expected to develop substantive arguments on these points (a)-(b) themselves, based on the facts provided in the Case.

113. Does Burlandia consider the independent studies referred to in Para 7 as a credible and accurate account of Vetro’s carbon emissions?

It is for teams representing Burlandia to develop arguments on this point, based on the facts in the Case and the clarifications.

114. Under Rutenia’s Schedule of Concessions could it be presumed that the phrase “glass and glassware” is inclusive of flat glass? Could you provide a list of products under the description?

It is for teams to develop an appropriate reading of the WTO’s Schedule of Concessions.

115. Does Net Zero Act’s environmental charges comply with Rutenia’s WTO tariff commitments?

Teams are expected to develop substantive arguments on this point, based on the facts of the Case.

116. Are the carbon charges imposed on the border or in the market?

It is for teams to develop substantive arguments on these points, based on the facts provided in the Case and in clarifications (Question 87).

117. Even if claim 3 is claimed, is the reference to article 3, which is about national treatment, appropriate given that the status quo is clearly that domestic items are taxed the same?

It is for teams to develop substantive arguments on this legal claim.

118. While referring to Annex 4, how has the Imports from Korsania, Artania and Burlandia posing a threat to Rutenia’s fight against climate change while it is her product that records the highest sales.

This is not a factual question. It is for the teams to develop substantive arguments on this point.

119. Please clarify the scope and reach of Rutenian’s carbon charge as it applies to imports. Does it apply equally to all states.

It is for the teams to develop arguments on this point, based on the facts provided in the Case (see Articles 1 and 2 of Section 10 of the NZF Act).

Part. III. Questions that are irrelevant to the legal claims and defences raised in the Case

120. Did Rutenia notify the WTO so as to put other Members on notice when Rutenia Net Zero Act came into force?

Irrelevant to the legal claims and defences raised in the case.

121. Concerning the measure taken by Rutenia and the purpose of fulfilling the commitments under the Paris Agreement, are there other countries applying similar regulations to accomplish CO2 reduction?

Irrelevant to the claims and defences raised in the Case.

122. Is there an FTA or customs union negotiated between any of the countries in this case?

Irrelevant to the legal claims and defences raised in the Case.

123. Has Rutenia ever suffered any sanctions or rate increases from Burlandia?

Irrelevant to the legal claims and defences raised in the Case.

124. Did Rutenia notify the WTO Members about its preferential treatment to least-developed countries and Small Island and Developing States pursuant to Paragraph 4(a) of the Enabling Clause?

Irrelevant. The Enabling Clause is not raised in the Case.

125. How does the Burlandia's energy excise tax on all fossil fuels operate (collection and payment process)?

Irrelevant to the legal claims and defences raised in the Case.

126. Have all members ratified the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights?

Irrelevant to the legal claims and defences raised in the Case.

127. What were the policies of Rutenia dealing with the climate migrants and how those policies regarding climate migrants affected the population and the state budget of Rutenia?

Irrelevant to the legal claims and defences raised in the Case.

128. In reference to Rutenia's Net Zero Act, is it Lawful to subject Korsania's Exports to the Carbon Charge without necessarily deducting the tax imposed to the products in their countries of Origin.

This question is not clear – see paragraph 20 of the Case.

129. Does Rutenia have a de minimis tax rate for flat glass? If so, what is that rate?

Unclear what is meant by “de minimis tax rate” here.

130. Which plurilateral agreements, if any, annexed to the WTO agreement are Rutenia, Burlandia, Artania, and Korsania parties to?

Irrelevant to the legal claims and defences raised in the Case.

131. Has Artania communicated its exemption from carbon charges to the WTO members and the secretariat?

Irrelevant to the legal claims and defences raised in the Case.

132. Has Korsania communicated its deduction from carbon charges to the WTO members and the secretariat?

Irrelevant to the legal claims and defences raised in the Case.

133. What is the position of ELSA on the use of international judgments from international courts on done to persuade the panel on the dispute?

ELSA does not have any formal position on this.

134. In Annex II of Rutenia’s WTO Schedule, tariff reductions were supposed to conclude by January 1, 2000. However, the projected rates for 2023 exceed this deadline. Can you explain this discrepancy?

Unclear – Annex II does not refer to “projected rates for 2023”.

135. Need Burlandia’s Energy Excise Tax details on imported flat glass products for clarity and compliance with GATT Article III:2.

Irrelevant – issue not raised in Article III:2 claim in the Case (the alleged violation is by Rutenia, not Burlandia).