



## **The Susan J. Ferrell Intercultural Human Rights Moot Court Competition**

### **Clarifications to the 2013 Problem**

**Question 1:** What is the exact wording of Rowan’s reservation made by Rowan to the ICJ jurisdiction exempting issues of domestic economy?

**Answer:** The exact wording is: **“Rowan does not accept the jurisdiction of the International Court of Justice in relation to matters regarding its domestic economy.”**

**Question 2:** Is Rowan conceding Akopia’s allegation in 27e?

**Answer:** **No. Rowan does not consider the deprivation of Khuta’s traditional lands, if any, without their consent and compensation, a violation of international law.**

**Question 3:** What was the content of the solemn treaty between Khuta and Rowan government in paragraph 18?

**Answer:** **It declared large parts of the West Bank of the Yago River in the northwestern corner of Rowan, as designated in the map (Annex 2) as “Khuta territory.”**

**Question 4:** In reference to paragraph 18, did the Rowan-Khuta treaty provide any specific obligations before Rowan could use Khuta land?

**Answer:** **According to the treaty, the land belonged to the Khuta; no obligations of the kind mentioned were laid out in the treaty.**

**Question 5:** In reference to paragraph 14, were there any children arrested among the families of the twenty Rowanian trainees?

**Answer: Yes.**

**Question 6:** Have Rowan and Akopia signed any extradition treaties with each other?

**Answer: No.**

**Question 7:** Has Rowan signed any extradition treaties with any other states?

**Answer: No.**

**Question 8:** Has Akopia signed any extradition treaties with any other states?

**Answer: No.**

**Question 9:** What does “subject to paragraph 5” in the BIT Article 37(1) refer to?

**Answer: BIT Article 37(1) paragraph 5 specifies that a Party’s submission of a dispute to the International Court of Justice has to conform to the procedures laid out in Chapter III of the Statute of the International Court of Justice.**

**Question 10:** Please clarify whether or not Rowan has made any claims that Akopia has unlawfully detained its own citizens of Rowanian descent.

**Answer: Rowan also claims that Akopia has unlawfully detained its own citizens of Rowanian descent.**

**Question 11:** Is Agromist Corporation, a state-owned entity of Akopia?

**Answer: Yes.**

**Question 12:** Is Akopia claiming compensatory damages on behalf of the Khuta, pursuant to paragraph 27e?

**Answer: No.**

**Question 13:** How long after entering into the ARC agreement, did Agromist begin to build the pipeline?

**Answer:** Relying on Agromist’s guarantee of issuing the required licenses and permits, Agromist began construction of the pipeline within 12 months of signing the agreement.

**Question 14:** How long did Rowan delay in initiating the studies, and in its application for the permits to build pipelines after signing the ARC?

**Answer:** In its opinion, Rowan did not delay issuing the required permits; it simply took longer than expected to complete the necessary studies.

**Question 15:** How long would it normally take to conduct the necessary studies for the pipelines?

**Answer:** The duration of the necessary studies depends on the scope, scale and complexity of the issues involved.

**Question 16:** Did Rowan provide any police protection for Agromist from RAM?

**Answer:** Rowan provided Agromist the same regular police protection it provided other residents; it did not provide additional security.

**Question 17:** Was there mention of sovereignty in the treaty between the Khuta and Rowan, which gave the Khuta sovereign control over their lands?

**Answer:** The term “sovereignty” was not specifically used in the treaty.

**Question 18:** Did the drought affect/reduce the flow of water in the Yago River?

**Answer:** These facts are not known.

**Question 19:** How much water did the pipeline remove from the Yago? Would it have stopped the lack of water for Rowan if the Plant stopped removing water?

**Answer:** The exact amount of the Yago River’s water diverted by the pipeline is

**unknown. As stated in the problem, the funneling of a substantial part of the Yago River's water to Agromist's fields exacerbated the problem.**

**Question 20:** When did both states ratify the ICCPR and VCLT?

**Answer: They ratified both treaties before they signed the BIT.**

**Question 21:** When did Rowan begin to enter into BIT's?

**Answer: Rowan entered into its first BIT in 1990.**

**Question 22:** When did Rowan make the initial claim for the need of an impact study for the pipeline? Was it during the signing of the ARC or much later? When was the domestic legislation, which required an Environmental Impact Study, enacted?

**Answer: The domestic legislation, requiring, inter alia, an environmental impact study before the issuing of the permits required for Agromist's operations in Rowan, was enacted well before Rowan and Agromist entered into the ARC. It is not known when exactly Rowan raised the issue of the need for an environmental impact study.**

**Question 23:** When exactly did the pipeline begin to be built? Did Agromist wait for the permit at all or just start building the pipeline immediately?

**Answer: See Answer to Question 13.**

**Question 24:** When was President Rumulan's election platform, which claimed the plan for building a Dam to create hydroelectricity, first announced? Did Agromist have awareness of Rumulan's platform such that Agromist should have had reasonable awareness, during the signing of the ARC, that the Dam would be built?

**Answer: President Rumulan's election platform was originally published in 2008. Agromist was not aware of the contents of this document.**

**Question 25:** Exactly when did Rumulan write the letter in para 7?

**Answer: February 20, 2012.**

**Question 26:** Was an impact statement performed for the Dam? Was the Dam given the permits and licenses necessary under domestic law?

**Answer: These facts are not known.**

**Question 27:** Was the letter sent to Rumulan from King (para 10) sent before the Dam construction began?

**Answer: Yes.**

**Question 28:** When was the RAM video filmed?

**Answer: The exact date is unknown.**

**Question 29:** When did the RAM video go viral?

**Answer: Immediately after being viewed.**

**Question 30:** Was the Global boycott before April 2012 or after April 2012?

**Answer: It began in April 2012.**

**Question 31:** Did Agromist form the investigative team before or after Arquimides begins to take action (para 20)?

**Answer: It was formed before President Arquimides took action.**

**Question 32:** What was the legal basis for the inadmissibility of the Agromist Investigative team?

**Answer: No such basis was articulated.**

**Question 33:** What was first, the notice given to the UN or the detention of the Rowanians?

**Answer: The detention came first.**

**Question 34:** How much did the Dam cost and what was its relation to the devaluation of the Rowanian currency. Was the Dam cost a substantial reason for the devaluation?

**Answer:** The exact price of the dam is unknown. The dam's construction was one factor among many that led to the devaluation of the Rowanian currency.

**Question 35:** What is the transaction history between Rowan and Agromist, in relation to the sugar purchase agreement?

**Answer:** Rowan followed the terms of the ARC until the unrest began.

**Question 36:** Did the Rowan government ever purchase sugar from Agromist?

**Answer:** Yes, in accordance with the ARC.

**Question 37:** Had Agromist produced any sugar from their plant before the RAM attack?

**Answer:** Yes.

**Question 38:** What is the nature of the solemn treaty between the Khuta and Rowan?

**Answer:** It is a legally binding agreement declaring the specified land as belonging to the Khuta.

**Question 39:** Have RAM protests been going on before the ARC was signed?

**Answer:** No.

**Question 40:** Have local food producers been affected by the Dam construction?

**Answer:** These facts are not known.

**Question 41:** Has Rowan started the necessary studies for the environmental impact studies? What is the average amount of time the studies take?

**Answer:** (1) Yes; (2) See Answer to Question 15.

**Question 42:** How many employees did Agromist have on the fields before the laying off?

**Answer: 2,000.**

**Question 43:** Were the 100 Agromist employees, who got fired, citizens of Akopia?

**Answer: Yes.**

**Question 44:** How many Akopian citizens were working for Agromist in Rowan?

**Answer: 1,000.**

**Question 45:** Did the Khuta have representatives in the Rowan government?

**Answer: No.**

**Question 46:** Was the ARC the only international investment ventured into by Agromist? Did Agromist have any other international investments?

**Answer: (1) Yes; (2) No.**

**Question 47:** Need clarification on question 27 and 28 matchup: It seems like 27(d) should match with 28(e); if that is the case, what is the response to 27(e) [Rowan's response in question 28 has no mention of the Khuta Claim]

**Answer: See Answer to Question 2.**

**Question 48:** How long has Rowan been experiencing droughts and what are they usually triggered by?

**Answer: The region has experienced droughts throughout its history.**

**Question 49:** Should Agromist reasonably have known of the drought risks in Rowan?

**Answer: This question does not address an issue of fact.**

**Question 50:** How long do the Rowan droughts usually last?

**Answer:** It varies. The last drought began seven years ago and lasted three years.

**Question 51:** Is the Yago River the only/ primary source of water for Rowan?

**Answer:** It is the primary source of surface water in Rowan.

**Question 52:** Is the Dam being built on the only available spot?

**Answer:** No.

**Question 53:** Could the Dam have been built on a spot that would not have resulted in the flooding of the Khuta territory?

**Answer:** Yes.

**Question 54:** Was the Dam always planned to be built on the spot it is presently?

**Answer:** This fact is not known.

**Question 55:** Could the Dam have been built south of the Agromist plant?

**Answer:** Yes.

**Question 56:** Had Rowan purchased the 15% of sugar, could it have potentially covered the overhead/production costs for the sugar produced in Rowan?

**Answer:** No.

**Question 57:** Was there any police presence during the RAM protests outside the plant?

**Answer:** See answer to Question 16.

**Question 58:** Does Rowan have an established/effective police force?

**Answer: Yes.**

**Question 59:** Are the domestic courts available to the Khuta?

**Answer: Yes.**

**Question 60:** Was RAM a legal protest group?? **OR** Autonomy and authenticity of RAM??

**Answer: RAM is an unincorporated protest group within Rowan.**

**Question 61:** Does the BIT agreement come under the umbrella of Vienna Convention on the Law of Treaties?

**Answer: This question address an issue of law, not of fact.**

**Question 62:** Were Khuta people Rowanian citizens irrespective of them being considered to be Indigenous People?

**Answer: Yes.**

**Question 63:** What would have been the effect of breach of ARC? Where has it been mentioned as a clause in ARC? (Need information on that.)

**Answer: This is an issue of law, not of fact.**

**Question 64:** Was Agromist a public or private corporation in Akopia?

**Answer: Agromist is a state-owned entity.**

**Question 65:** On whom does the power behest at the time of EMERGENCY in Rowan?

**Answer: The Rowan President holds the power to act in times of emergency.**

**Question 66:** Is Agromist a Government company?

**Answer: See Answer to Question 64.**

**Question 67:** Is the construction of the dam imperative? Is there no other position along the Yago River between the Nanih Waiya and the canal, that the dam can be constructed?

**Answer: (1) This is a matter of individual judgment. (2) Presumably, there are other locations.**

**Question 68:** What is the authenticity of the videos released by Gabriel, the RAM chief and the one by Robert Hassan, the second in command at RAM?

**Answer: The first video, which went viral, is authentic in that it documents events at the RAM camps. The second video is authentic as it shows Gabriel making statements to Rowanian trainees in Tamara.**

**Question 69:** Have these conventions been signed and ratified by both or either of the parties to the dispute?

■ Vienna Convention on the Law of Treaties

**Answer: Yes**

■ ICCPR

**Answer: Yes**

■ ICESCR

**Answer: No**

■ CERD

**Answer: No**

■ UDHR

**Answer: Not applicable (Declaration is UN General Assembly Resolution; cannot be signed or ratified)**

■ ILO Convention No. 169

**Answer: No.**

■ UN Declaration on the Rights of Indigenous Peoples, 2007

**Answer: Not applicable (Declaration is UN General Assembly Resolution; cannot be signed or ratified)**

**Question 70:** The last sentence in Paragraph 10 says “not contemplated in the ARC.” We do not have a copy of the ARC, but it is discussed in the first sentence of Paragraph 5. Does the first sentence in Paragraph 5 mean that Rowan guaranteed Agromist full access to the necessary water resources and the issuing of all required licenses and permits notwithstanding its own domestic law? Or did all they say was that the process was expedited?

**Answer: Rowan, through the ARC, guaranteed access to necessary resources as well as the required permits. How the permits were to be issued was not specified.**

**Question 71:** Paragraph 13 implicates the ICCPR. Article 4 of the ICCPR permits parties to treaties to derogate from it in certain conditions of emergency. Which provisions are derogatable? And was notice properly given?

**Answer: This is an issue of law, not of fact.**

**Question 72:** Does the ARC require Rowan pay in local currency or foreign exchange?

**Answer: The ARC does not specify the currency, it only mandates the price.**

**THE END**