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WTO MOOT COURT COMPETITION 2005

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**CLARIFICATIONS TO COMPETITION PROBLEM**

*-issued January 21, 2005, pursuant to Official Rule 5.0-*

1. A team has asked what the phrase “not explicitly” means in paragraph 16 of the Competition Problem, where it is stated that “Arland had not explicitly mentioned Law No. 658-04 in its request for consultations.” This phrase means that Arland did not identify Law No. 658-04 in its request for consultations either by name or by any reference that is not stated in the Competition Problem.
2. A team has asked whether, if a matter is not raised in (i) the request for consultations, (ii) the consultations themselves, or (iii) the request for the establishment of a panel, the team should thus not address the measure or claim in its written submissions. Specifically, the team asked whether the statement in paragraph 16 of the Competition Problem that “Arland officials concluded ... that Arland did not have sufficient grounds ... to bring a claim against Law No. 658-04 under the Agreement on Subsidies and Countervailing Measures” means that this issue should not be addressed in its written submissions. This is correct. Teams should neither raise nor address claims under the *Agreement on Subsidies and Countervailing Measures*.
3. A team has asked whether the tax benefits provided to “Qualifying Employers” pursuant to Law No. 658-04 are benefits relating to the income taxes of companies or individuals. The tax benefits are provided to corporations with respect to corporate income taxes. The specific method of calculating the amount of taxable corporate income is not relevant to the Competition Problem.
4. A team has asked for the specific wording of Article 6 of Law No. 658-04. The specific wording is not necessary for the Competition Problem. The substantive point, stated in paragraph 5, is that, under Article 6, corporations may receive benefits in the form of certain tax credits and deferrals.
5. A team has asked for clarification regarding the “discretion” afforded to the General Tax Directorate to accept or reject recommendations from the Brucian Ministry of Labor regarding the assessment as to whether a “qualifying employer” should receive tax benefits pursuant to Law No. 658-04. Under the law, the General Tax Directorate has the power either to accept or reject the Ministry of Labor’s recommendations. The law does not mandate either outcome. The specific criteria that form the basis for review of the Ministry of Labor’s recommendations by the General Tax Directorate are not relevant to the Competition Problem.

6. A team has asked for clarification regarding the definition of a “tax credit” as provided in paragraph 5 of the Competition Problem pursuant to Law No. 658-04. A “tax credit” is “an amount subtracted directly from one’s total tax liability, dollar for dollar, as opposed to a reduction from gross income.” BLACK’S LAW DICTIONARY 1473 (7<sup>th</sup> ed. 1999). The amount of the credit is not relevant to the Competition Problem.

7. A team has asked for clarification regarding the definition of “tax deferral” as provided in paragraph 5 of the Competition Problem pursuant to Law No. 658-04. A “tax deferral” constitutes “the postponement of paying a tax from one year to another,” BLACK’S LAW DICTIONARY 432 (7<sup>th</sup> ed. 1999), or, similarly, the postponement of paying a tax from some required time of payment to some other later time of payment. The length of the deferral is not relevant to the Competition Problem.

8. A team has asked whether the entire manufacturing process for TotalADPro Personal Digital Assistants (PDAs) occurs in Arland, and whether any parts or components of these devices are imported from Brucia. All elements of the manufacturing process occur in Arland. Neither parts nor components are imported into Arland from Brucia or from any other country.

9. A team has asked whether Advanced Electronics, Inc. maintains any branch or subsidiary in Brucia, other than OmegaDay, a company incorporated in Brucia in which Advanced Electronics, Inc. maintains a 51% stake. Advanced Electronics, Inc. does not maintain any other branch or subsidiary in Brucia.

10. A team has asked whether the statement in paragraph 14 of the Competition Problem that “Brucia decided not to defend the measures on the basis of like product distinctions” encompasses not only “like product” distinctions under GATT but also “like services or service suppliers” distinctions under Article XVII of GATS. Brucia’s decision to avoid “like product distinctions” relates only to claims under the GATT 1994. Brucia’s decision in no way limits the claims, arguments or defenses available under Article XVII of GATS.

11. In paragraphs 7, 14, and 16 of the Competition Problem, the phrase “Section V of Law No. 661-04” should be replaced by the phrase “Section V of Law No. 413-02, as amended by Law No. 661-04.”