

BEFORE THE TRIAL CHAMBER

**INTERNATIONAL CRIMINAL COURT,
AT THE HAGUE**

THE PROSECUTOR v. JIM CLIPMAN

ICC-01/14-01/22

MOOT PROBLEM

IN THE CASE OF

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Statement of Agreed Facts

1. Ixania, officially the Republic of Ixania is a country to the south of continent Nasia. It is the eighth-largest country by area, the fourth-most populous country in the world. Bounded by the Ixanian Ocean on the south, it shares land borders with Rakista to the west; Dhupan to south west, Chegal to North, and Muona to the east.
2. Ixania has been a quasi-federal republic since 1950, governed in a democratic parliamentary system. The constitution of Ixania, which came into force in 1954 describes Ixania as secular, democratic republic. It is a pluralistic, multilingual and multi-ethnic society. Ixania's population was 1.1 billion in 2022. Its population constitute of a variety of ethnicities and religions. While 84% of the world's Ixandus live in Ixania, there also are substantial populations of Dhupis, Chaegalies, and adherents of folk religions.

3. From being a comparatively destitute country in 1951, Ixania has become a fast-growing major economy and a hub for information technology services, with an expanding middle class. The IT industry accounted for 18% of the Ixania's GDP in 2020.
4. Ixania's land is megadiverse. Its forest cover comprises 33.7% of its area. Ixania's wildlife, which has traditionally been viewed with tolerance in Ixania's culture, is supported among these forests, and elsewhere, in protected habitats. Ixania is a habitat for 10% of all mammal species, 16% of bird species, 8% of reptile species, 6% of amphibian species, 13% of fish species, and 6% of all flowering plant species. Fully a third of Ixanian plant species are endemic. Ixania also contains six of the world's 34 biodiversity hotspots, regions that display significant habitat loss in the presence of high endemism. Ixania hosts more than six hundred wildlife sanctuaries and twenty biosphere reserves, six of which are part of the World Network of Biosphere Reserves; thirty-five wetlands are registered under the Ramsar Convention.
5. After initially cordial relations with neighboring Rakista, Ixania has disturbed relations with Rakista due to differences in religious and political ideologies. Ixania also has tense relations with neighbouring Muona; the two nations have gone to war two times: in 1966, and 1999. Both these wars were fought over the disputed territory of Masenia province, which is

located at the south east corner of Ixania. Muona is additionally involved in maritime dispute with Ixania over the maritime zone of Masenia province.

6. The Republic of Muona is a “socialist state governed by a people's democratic dictatorship that is led by the working class”. Muona is a one party state led by Muonese communist party (MCP). Although the Muonese Communist Party describes Muona as a "socialist consultative democracy", the country is commonly described as an authoritarian one-party surveillance state and a dictatorship. More than half of the population of Muona is atheist, 32% are followers of muonese folk religion, and rest 15% are followers of Ixandus, Dhupis and Chaegalies religion. Muona’s economy has been the largest in the world since 2016. The Muonese Liberation Army (MLA) is one of the most powerful militaries in the world. It consists of the Ground Force, the Navy, the Air Force, and the Strategic Support Force (SSF). The SSF was established in 2015 with the aim to improve MLA’s ability to fight “informationized conflict” and enhance MLA’s power projection capabilities in space, cyberspace and electronic warfare.
7. Muona and Ixania are two of the major regional powers in Nasia, and are among the fastest growing major economies in the world. In early 2013, Mr. Jim Clipman was elected as the President of Muona and was subsequently re-elected in 2019. Since 2013, border disputes have reemerged to take centre stage in the two countries' mutual relations. In 2017, the two armies got engaged in a standoff at the disputed Ixania-Muona border. Since then,

armed standoffs and skirmishes at multiple locations along the entire Ixanian- Muona border escalated. In summer 2019, the Muonese Liberation army (MLA) infiltrated 129 km inside the disputed Masenia Province. In the serious clash that followed the intrusion, the Muonese Army was completely pushed back by the end of 2020, resulting in the death of 370 Ixanian soldiers and 422 Muonies soldiers, and many thousands injured from both sides.

8. Ixanian media outlets have repeatedly reported Muonies military incursions into Ixanian territory. Muona, however, claims that Masenia Province is ‘inherent part of its territory’ since ancient times. The people in the Province are followers of Muonese Folk religion. It also lays its claim based on the ‘cultural similarity and historical ties’ between Masenia Province and Muona. Ixania, rejects these claims and argue that Masenia Province has always been a part of independent Ixania and is internationally recognized as its territory.
9. Both countries have steadily established military infrastructure along border areas including amidst the 2019 Muona–Ixania war. Additionally, Ixania remains wary about Muona's strong strategic bilateral relations with Rakista, and Muona's funding to the separatist groups in Northeast Ixania. Muona is actively involved in propaganda campaign against Ixania and supplies ideological financial and other assistance to dissident groups, especially to tribes in northeastern Ixania.

10. In January 2020, Nesiapost, an international news agency reported that a high-profile secretive meeting was called by the President of Muona, to discuss the strategy to counter Ixania. The details of the meetings and discussions were however not known. In February 2020, a huge cyber-attack was carried out against Ixania, which knocked out more than 7,000 websites, including websites of Ixanian parliament, ministries, defense and high tech companies, public service portals and allowed hackers to obtain confidential data. In March 2020, The attack on part of Ixania's electricity grid left 7,40,000 people in the Caniga, the capital city of Ixania without power for 60-72 hours. In April 2020, the Ixanian high speed trains and caniga airport, as well as well as Ixania's central bank, were disrupted after ransomware encrypted hard drives. Flight were suspended and no banking transaction could take place for 48 hours.
11. Education system was highly affected by the attack. Databases were leaked from the education institutions primarily containing personally identifiable information of students and their families, including name, date of birth, email address, website user records and credentials and examination results. Health care sector was also affected by the cyber operations, that disrupted hospital computers and life-saving treatments amidst the peak of the pandemic covid-20. The attacks forced the staff to postpone urgent surgical interventions, reroute new acute patients, and reduce some of their other

activities. The maximum covid deaths in Ixania was reported to be more than 1 lakhs in the months of February, March and April.

12.The Ixanian Cyber Security Centre (ICSC) found out that majority of the attacks were initiated from the territory of Muona and that Muona was “almost certainly” behind the attacks. In a press release held on 16th May 2020, the Prime Minister of Ixania, Mr. Anthony Frankman, condemned the attack particularly on “on civilian digital infrastructure, hospitals and education systems” and termed it as “attempt to undermine Ixania’s sovereignty” and asked Muona “to respects international law”. Various reputed news agencies also reported involvement of Muonese hackers in these cyber-attacks. Muona however, denied these accusations of cyberwarfare and called them as an attempt to defame the country.

13.As tensions aggravated between the two countries, In September 2020, Ixania deployed its armed forced contingent and advanced long range artillery systems in Masenia Province. In response, the President of Muona, Mr. Clipman ordered the deployment of soldiers along the border and also ordered positioning of ‘ferrous dome’ an air defence system designed to intercept and destroy short-range rockets and artillery shells, along the border. Muona also positioned, an indigenously developed autonomous unmmanned surface vehicle (USV) ‘Ocean hunter’ within its maritime zone. Its functions include reconnaissance, survellience and intelligence, surface warfare, electronic warfare, data collection, force protection, armed escort

etc. Operationally, the computers drive and control the ship, with human only observing and taking charge if necessary. The system can patrol without human guidance, using optical guidance and radar to avoid hitting obstacles or other watercraft. However, firing decisions remain with human on the loop. Captain Vin Padro was assigned the full responsibility of monitoring and operating Ocean hunter.

14. On 11th October 2020, at around 8pm an oil tanker MV Sitra was hit by a missile launched by 'ocean hunter'. The tanker was only 12km off the coast from Ixania, and was about to complete its 11,000 km journey from Gubain to Arcacia port in the southern coast of Ixania, when it was hit and exploded. At the time of sinking, she was owned by the Ixanian Shipping Company and flying the flag of Ixania. The missile attack and explosion claimed the lives of 18 crew members. The firefighters from the Ixanian Coast Guard were immediately sent to the scene to control the fire and contain the spreading of oil spill. However, a week after the collision, Sitra Express was still burning, and finally on 20th October, it sank having spilled 2,60,000 metric tonnes of crude oil into the Ixanian sea. The oil spread quickly through the Ixanian coastline over an area of 175 km.

15. The oil cleanup crew worked 6 days a week on the affected coast line for 8 months. The explosion and oil spill had a huge environmental impact on Ixania. The spill area hosts around 9,300 species, including more than 1,500 species of fish, 700 species of polychaetes, 300 species of birds, 1,500

species of mollusks, 1600 crustaceans, 6 sea turtles and 34 marine mammals. Thousands of aquatic animals were visibly covered in oil. The environmental impact assessment reported extensive damage to beaches, marshlands and fragile marine ecosystems, marine, wildlife habitats, fishing and tourism industries. Despite massive clean-up efforts following the oil spills large amount of oil got trapped in the sand on the shore line. It was reported that dolphins and other marine life continued to die in record numbers with infant dolphin dying at six times the normal rate. The report stated that “large scale persistent ecological effects may include damage to coastal wetlands, and reduced dolphin, sea turtle, and seabird populations. Oil contamination may persist in the marine environment for many years after an oil spill and, in exceptional cases such as salt marshes and mangrove swamps, the effects may be measurable for decades after the event.”

16. One study released in April 2020 and published in reputed international journal of science, found that cardiotoxicity is widespread in animal life exposed to spill, and the microbes used to consume the oil can reduce marine oxygen level. In May 2020, DDC an international news agency reported that the Ixanian ecosystem was “in crisis”, citing a decline in the food catches, as well as deformities and lesion found in fish. In August 2020, a survey on the health effects of the spill on cleanup workers reported “chronic adverse health effects, including cancers, liver and kidney disease, mental health disorders, birth defects and neurological disorders”.

17. The spill had a strong economic impact on the Ixanian coast's economy sectors such as offshore drilling, fishing and tourism. The fishing industry was estimated to have lost \$180million as a result of post spill fisheries closure. Tourism loss was projected to cost 20 billion through 2020. In addition, with a potential loss of 38,000 jobs in 2020.
18. Many countries condemned the unprovoked attack on the MV Sitra, and termed it both "illegal and unacceptable." War Analysis, a reputed international think tank reported that Muona had deployed 'ocean hunter' without sufficient testing and trials. Muona, however, refuted these allegations. Muona also stated that it has a "right to protect its territorial integrity" and has accordingly acted in self- defense. It further stated that attack on oil tanker MV Sitra was not intentional but was caused due to 'software error'.
19. After considerable lobbying by Ixania, the United Nations General Assembly passed a resolution in August 2021, condemning the unprovoked attack on MV Sitra and the environmental damage caused to Ixania. The resolution also proclaimed that "War should not become a testing ground for new weapons".
20. Meanwhile the border skirmish continued in the Masenian Province. Bombardments, artillery shelling and casualties were reported from both

sides. On 6th September 2021, Prime Minister Frankman, referred the situation to the International Criminal Court (ICC).

21. On 20th October 2021, the ICC Prosecutor informed both Prime Minister Frankman and President Clipman that they found there to be sufficient evidence to open an investigation. In Response, President Clipman ordered his troops to retreat from the Masenia border and halt the operation of 'ocean hunter'.

22. On 14th March 2021, the ICC issued an arrest warrant against President Clipman. Later that day, President Clipman was arrested at an airport in Dhupan while in transit to Rakista, where he had a meeting to negotiate a defence deal. He was produced before the Dhupan's Court which subsequently transferred him to the ICC for trial.

Charges

The office of the prosecutor presents the following charges against the defendant, President Jim Clipman:

Count 1

With respect to the intrusion in the Masenia Province in the Ixanian Territory:

The crime of aggression of invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof in Article 8 bis (2) (a) of the Rome Statute.

Count 2

With respect to killing of the 18 crew members of MV Sitra:

The war crime of Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities in Article 8 (2) (b) (i) of the Rome Statute.

Count 3

With respect to the attack on Oil Tanker MV Sitra:

The war crime of Intentionally directing attacks against civilian objects, that is, objects which are not military objectives in Article 8 (2) (b) (ii) of the Rome Statute.

Count 4

With respect to the attack on Oil Tanker MV Sitra and causing oil pollution and damage to natural environment:

The war crime of Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated in Article 8(2)(b)(iv) of the Rome Statute.

Count 5

With respect to the cyber-attack on civilian objects, hospitals and schools:

The War crime of Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives in Article 8(2)(e)(iv) of the Rome Statute.

ANNEX I: APPLICABLE AGREEMENTS

The Republic of Ixania and Republic of Muona are parties to the following agreements:

1. Rome Statute of the International Criminal Court 1998.
2. The Charter of the United Nations 1945.
3. Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12th August, 1949.
4. Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Geneva, 12th August, 1949.
5. Geneva Convention (IV) relative to the Protection of Civilian Persons in Times of War (1949).
6. Protocol Additional to the Geneva Conventions of 12th August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8th June, 1977.
7. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8th June, 1977.
8. International Covenant on Civil and Political Rights 1966.

ANNEX II: REGIONAL MAP

