

**The 15<sup>th</sup> Red Cross International Humanitarian Law Moot (2017)**  
**(An Inter-University Competition for Asia-Pacific Region)**

**CLARIFICATIONS REQUESTS**

<b>Question 1</b>	Do we need to address whether it is international armed conflict or non-international armed conflict?
<b>Clarification :</b>	As long as it is relevant in your lines of reasoning.
<b>Question 2</b>	Can we assume that this is international armed conflict?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 3</b>	<p>“According to paragraph 9, federal government imposed martial law and declared a state of emergency.” Does the federal government have authority to impose martial law on Northland?</p> <p><b>Explanation:</b> What we understand is that martial law imposed on a federated state of a federal country can be declared by that state, not by federal government.</p>
<b>Clarification :</b>	See paragraph 1 of the Facts on the distribution of powers between federal and state level. Power to impose martial law normally goes with the level of government that has power over the armed forces.
<b>Question 4</b>	Why did Homeland government dissolve the Northland State Assembly? For doing so, does Homeland government have legal power vested under the Homeland Constitution?
<b>Clarification :</b>	Mooters should look at the various responses to Homeland’s actions.
<b>Question 5</b>	<p>With regard to the wounded and sick at the Colmer General Hospital, whom more than 75% had died from firearm deaths and injuries caused by the use of expanding and fragmenting ammunition, how many were NF Militants? If so, how many deaths were due to the civil war and not mere criminal acts like armed robberies or gang fights?</p> <p><b>Justification:</b> <i>This is to establish whether the deaths were caused by the conflict between HAF and the Rebels or mere criminal acts not relating to the armed forces.</i></p>
<b>Clarification :</b>	The information in paragraph 25 must be analyzed in the context and the proper inferences be made. As it appears in that paragraph, the IEMA report only analyses medical information and services provided at the hospital. It does not cover the circumstances of the wounds and injuries sustained by patients, where they were coming from, their link with the parties to the conflicts, etc ...
<b>Question 6</b>	<p>Did the Council of Elders deny any affiliation with the ARC or denounce the terrorist acts committed by them?</p> <p><b>Justification:</b> <i>To establish whether there was a chain of command between the Council of Elders and the ARC.</i></p>

<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 7</b>	<p>Can the attack on the General Hospital archives be conducted separately and independently from the act of disabling the SCADA and causing the power outage?</p> <p><b>Justification:</b> <i>To establish that whether the power outage was a pre-requisite of the cyber-attack on the Hospital's archives.</i></p>
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 8</b>	<p>Who has control over the SCADA system prior to the civil war? Was it under federal control or was it state based? Also, did Homeland Ministry of Defence and Security gain control over SCADA after the civil war commenced, along with the instituting of martial law in Northland?</p> <p><b>Justification:</b> <i>This is to fully rule out the possibility of Homeland's Ministry of Defence and Security providing the codes of SCADA to Dolmar for the purposes of hacking.</i></p>
<b>Clarification :</b>	It can be assumed that the management/supervision of power utilities is at the state level (including the SCADA system).
<b>Question 9</b>	<p>Did the cyber-attacks on the SCADA/power grid have any distinctive similarities to cyberwarfare attacks previously launched by Dolmar?</p> <p><b>Justification:</b> <i>This is to ascertain the forensic basis of tying the cyber-attacks to Dolmar. For example, in 2007, Estonia was hit by a series of cyber-attacks. Cyberwarfare experts were able to point the finger at Russia because of the distinctive similarities the attacks on Estonia had with other Russian hacking operations.</i></p>
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 10</b>	<p>In Para 22, spokesperson for the Ministry of Defence spoke of the long-standing tactic of neutralizing the defences of the city before commencing military operations. Is this evidence of the Homeland Ministry of Defence and Security having prior knowledge and acquiescing to the cyberattack launched on the SCADA?</p> <p><b>Justification:</b> <i>This is to establish whether or not there were any common plans/designs between Dolmar and Homeland Ministry of Defence and Security in furtherance of the cyber-attacks on SCADA.</i></p>
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 11</b>	<p>What is the weight of "expanding bullets" as mentioned in paragraph 23?</p> <p><b>Justification:</b> <i>This information can help us to distinguish the type of weapon and projectile used.</i></p>
<b>Clarification :</b>	The term 'expanding bullets' has its everyday English meaning – here used in the same meaning as "hollow point" bullets. See paragraph 1 of the Facts. The weight of bullets of a 9mm caliber would range between 7 and 9 grams.

<b>Question 12</b>	Among Chief of Defence Staff and Minister of Defence and Security, who is more superior in ranking?  <b>Justification:</b> <i>This can help us to understand the political and military hierarchical structure in Homeland.</i>
<b>Clarification :</b>	According to paragraph 5, both sit in the Government Council, Chief of Defence staff is appointed by Prime Minister. It can be assumed that the Minister of Defence is appointed by Head of State (on a proposal of the Prime Minister).
<b>Question 13</b>	Kindly describe the “expanding bullet” in paragraph 23.  <b>Justification:</b> <i>This can help us to distinguish whether it is a hollow point bullet.</i>
<b>Clarification :</b>	Please refer to the answer for Question 11 above.
<b>Question 14</b>	Was the National Security Council mentioned in paragraph 5 affiliated in any way with personnel of Ministry of Defence and Security of Homeland?  <b>Justification:</b> <i>There was a complete lack of information within the problem pertaining to the status and operation of the National Security Council prior and during the civil war. Considering the fact that the Council was tasked to advise and to assist General Troy, the problem posed would aid in determining whether there is connection between HAF and the Ministry of Defence and Security.</i>
<b>Clarification :</b>	Homeland’s National Security Council operates in a similar manner to other such entities in other States.
<b>Question 15</b>	Based on the constitution of Homlend, who is the commander-in-chief? Is it the prime minister?
<b>Clarification :</b>	The Head of State is Commander-in-chief, but his executive powers are exercised by the Prime Minister, as Head of Government (chair of the Governing Council). See par. 5 pf the Facts.
<b>Question 16</b>	Para 2 states that Northland is quite distinct socially, economically, and culturally from the rest of the country. What are the characteristics of this distinction? Are they considered backward people by other states of Homland? Are they economically weaker than other states?
<b>Clarification :</b>	While Mooters will need to determine the answer from the available facts it should be observed that there is no evidence of ‘backward people’.
<b>Question 17</b>	Is there, in fact, a background of discrimination against the people of Northland? Do the Northlanders have equal representation in political, cultural or economic entities of the government?
<b>Clarification :</b>	Any discrimination arises from the available facts. It is a reasonable assumption that Northlanders had the same rights and privileges as citizens of other states within the federation.
<b>Question 18</b>	Does the constitution of the Homeland contain any provision concerning the secession of a state from the federal state through a plebiscite or other democratic means?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts. Again note was is said or not said in the facts by the respective parties.

<b>Question 19</b>	Did Dolmar fulfil its obligations mentioned in the addendum of the treaty in para 6 of the case?
<b>Clarification :</b>	Yes.
<b>Question 20</b>	Were there any deaths or injuries in relation to attacks of NF militants in Homeland?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 21</b>	Is the authority of the “Council of Elders” recognized under Northlands law? Does the homeland constitution recognize this council as well? How the members are selected or who selects the members? Themselves? People? Another authority?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts. Members of the “Council of Elders” are co-opted, i.e. invited by the existing members.
<b>Question 22</b>	Where is “Dolmar” located? Is it a neighboring country of Homeland or not?
<b>Clarification :</b>	No.
<b>Question 23</b>	Is it a constitutional right for the federal government to dissolve states’ assemblies, like the assembly of Northland?
<b>Clarification :</b>	Please see the answer to Question 18 above.
<b>Question 24</b>	What is the status of the “Armed Resistance Council” within the legal and political body of Northland? Is it governmental armed force or a non-governmental armed group? How its members are appointed? Who is the responsible commander of ARC?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 25</b>	What was the result of the legal advice given to General Troy according to paragraph 17? Was it to attack or not to attack? And did Troy acted in accordance to the legal advice or ignored it?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 26</b>	The paragraph 22 of the facts states : "General Troy later declared that she supported the Government’s decision to forego any criminal investigation". As regards the verb forego, it has a dual meaning and both are applicable to the present case; one meaning is "to precede or go before" and the latter is "do without". Which meaning should be taken into consideration?
<b>Clarification :</b>	The latter.
<b>Question 27</b>	Paragraph 26: "while the <b>1899 Hague Convention</b> prohibited the use of expanding bullets internationally, very few states have signed it and Homeland is not one of them." Whether it refers to <b>1899 Hague Convention</b> or <b>1899 Hague Declaration</b> ?
<b>Clarification :</b>	Homeland has not signed either of those instruments. Note that the use of expanding bullets is specifically covered by the <b>1899 Hague Declaration</b> , while the <b>1899 Hague Convention (II)</b> refers to “arms, projectiles, or material of a nature to cause superfluous injury”. The spokesperson referred nonetheless to the <b>1899 Hague Convention</b> .

<b>Question 28</b>	Paragraph 29: Whether the indictment refers to the arrest warrant? And who issued the indictment?
<b>Clarification :</b>	Arrest warrants are issued by the Court on application of the Prosecutor (art. 58, ICC Statute). The "indictment" refers to the process of: application by the Prosecutor, issuance of summons or arrest warrant, confirmation of charges, trial, etc ... until conviction.
<b>Question 29</b>	What kind of weapon was used to shoot the Elders and other people?
<b>Clarification :</b>	Please refer to Facts paragraph 17.
<b>Question 30</b>	According to paragraph 5 , General Helen Troy is the Chief of Defence Staff. Does this mean that ultimately, the Ministry of Security and Defense are under her control?
<b>Clarification :</b>	Please refer to, for example, the answer in Questions 12 above,
<b>Question 31</b>	As mentioned in paragraph 6, Homeland has entered into a treaty with Dolmar regarding aid for their military equipment. Could you please clarify the exact date that the modifications of the pistol was completed? * "Dolmar also agreed to equip Homeland's Armed Forces with a newly developed modular pistol which enabled the use of various kinds of ammunition, including "ball ammunition" (full metal jacket bullets) and "special purpose ammunition" (hollow-point bullets), within the <b>next two years.</b> " (please specify when the 'two years' period starts and end)
<b>Clarification :</b>	The two year period starts at the conclusion of the agreement (early 2010). It can be assumed that the new equipment was delivered by January 2012.
<b>Question 32</b>	Does the term "full-fledged civil war" used in paragraph 11 indicate any specific level of the conflict's intensity and what does this term mean?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 33</b>	Paragraph 15 mentions about media outlets labeling the Elders as 'terrorist'; which State's media outlet is it from?
<b>Clarification :</b>	Homeland.
<b>Question 34</b>	Is the forensic analysis mentioned in paragraph 21 conducted by Third-party organization? (the analysis which claimed that the attack on the SCADA was launched by Dolmar's Ministry of Defence Information.)
<b>Clarification :</b>	The answer is adequately explained in the moot problem.
<b>Question 35</b>	Is the International Emergency Medics Association (IEMA) in paragraph 25 a third-party association?
<b>Clarification :</b>	The IEMA is an international NGO, i.e. a non-profit organization established under domestic law (of a third State in this case) with international membership (either persons or national organizations).
<b>Question 36</b>	As stated in the hospital records provided by International Emergency Medics Association (IEMA) in paragraph 25, Did the number of 150 deaths during October 2012 include those taking part in the conflict as well?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 37</b>	Para 32 at page 11 of the Factsheet states: " <i>Furthermore, to date the Homeland Government has not launched any criminal investigation into the</i>

	<p><i>conduct which forms the basis for count 1.</i>" While the Factsheet here clearly indicates that with respect to the conduct under Count 1 no criminal investigation has been launched, it is silent on whether such an investigation has been launched for the conduct under Count 2 and 3. Can it be assumed that with respect to the conduct under Count 2 and 3 also no criminal investigation or prosecution has been launched?</p>
<b>Clarification :</b>	The Homeland Government has not launched any investigation or prosecution.
<b>Question 38</b>	<p>In paragraph 31, was "At this hearing, Trial Chamber I is going to decide" without prejudice to "the Pre-trial Chamber"?</p> <p><b>Reason for asking:</b> Need to make sure which Chamber we are at.</p>
<b>Clarification :</b>	In paragraph 31 "Trial Chamber I" should read the "Pre-trial Chamber".
<b>Question 39</b>	<p>In paragraph 3, was Northland an independent country before being colonized by Homeland?</p> <p><b>Reason for asking:</b> To get a thorough understanding of the historical and cultural background of Northland.</p>
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 40</b>	<p>In paragraph 20, with respect to the attack on the power-grid, did it include the attack on the General Hospital's Central Archive System's which resulted in corruption and destruction of the medical records?</p> <p><b>Reason for asking:</b> Need to make sure which conducts are being charged in Count 1.</p>
<b>Clarification :</b>	Take note of the words in Count 1 'which impeded the provision of services, including water and medical services...' and paragraph 20 of the Facts referring to a "simultaneous cyber operation".
<b>Question 41</b>	<p>When did the electricity power system completely re-established and fully functioned normally in paragraph 21?</p> <p><b>Reason for asking:</b> Need to examine the scope of impact upon civilians.</p>
<b>Clarification :</b>	Mooters can assume electric power system was fully operational within seven days.
<b>Question 42</b>	<p>What is the internal hierarchy between the Chief of Defence Staff and the Minister of Defence and Security as mentioned in paragraph 5?</p> <p><b>Reason for asking:</b> Would be helpful for us to examine who is responsible</p>
<b>Clarification :</b>	Please refer, for example, to the answer in Questions 12.
<b>Question 43</b>	<p>In paragraph 6, was Troy the only person who was aware of the undisclosed addendum regarding modular pistols and expanding bullets? Did the government or HAF soldiers know about the modular pistols and expanding bullets.</p>
<b>Clarification :</b>	Sentence 1 – 'undisclosed' only means "not made public". Sentence 2 – Mooters will need to determine the answer from the available facts.
<b>Question 44</b>	<p>In paragraph 20, did General Hospital had any auxiliary power generator to provide at least the basic functions of a hospital after the attack on the SCADA system on 5 October?</p> <p><b>Reason for asking:</b> To assess the scope of impact upon patients in the</p>

	General Hospital.
<b>Clarification :</b>	Yes, but the facts are silent on its capabilities and effectiveness.
<b>Question 45</b>	In paragraph 21, what was the evidence that lead to suspicion of Dolmar's Ministry of Defense Information Technology Center for the attack on Colmer?  <b>Reason for asking:</b> To help us figure out who the perpetrator was.
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 46</b>	In paragraph 15, what are some examples of 'severe punishment' which would be imposed if a person provides assistance to or supports the Elders?  <b>Reason for asking:</b> Need to assess whether there was a systematic enforcement of crime against humanity.
<b>Clarification :</b>	Imprisonment.
<b>Question 47</b>	In paragraph 19, were the HAF troops who took over Colmer stationed in Wollmere as mentioned in paragraph 14?  <b>Reason for asking:</b> Need to make sure the real cause of the successful military operation in Colmer.
<b>Clarification :</b>	Probably.
<b>Question 48</b>	What is the 'apartment block' mentioned in paragraph 17? What is its relation with the 'apartment building' where members of the Council of Elders were reported to be present?  <b>Reason for asking:</b> Need to make sure whether any other buildings has been mis-targeted.
<b>Clarification :</b>	They are the same building.
<b>Question 49</b>	In paragraph 17, how severe was the damage upon the 'apartment block' and/ or the 'apartment building'? Was it partially or completely destroyed?  <b>Reason for asking:</b> Need to assess whether effect of the weapons was indiscriminate.
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 50</b>	In paragraph 18, was the suspect of the attack against the police station also one of the anticipated targets prior to the airstrike?  <b>Reason for asking:</b> Need to assess the anticipated military advantage.
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 51</b>	PRELIMINARY MATTERS – Does the investigation referred in para.32 of Moot Problem also investigate General Troy as the person culpable for the crime?  <b>Significance:</b> To know whether Homeland has conducted a sufficient investigation with regards to Count 2 and Count 3.
<b>Clarification :</b>	A priori General Troy would not be an initial subject of investigation. Please see, for example, the answer to Question 37 above.
<b>Question 52</b>	PRELIMINARY MATTERS – Did Homeland investigate and then decided to stop the investigation for Charge 1? Or was there no attempt for investigation at all?

	<b>Significance:</b> To clarify on issues regarding complementarity principle.
<b>Clarification :</b>	Please see, for example, the answer to Questions 37 and 51 above.
<b>Question 53</b>	PRELIMINARY MATTERS – Were there any other military personnel being investigated or tried by Homeland National Court?  <b>Significance:</b> To know whether the investigation is genuine or not with regards to the issue of admissibility.
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts. These facts do not indicate anybody else was or has been investigated or charged.
<b>Question 54</b>	PRELIMINARY MATTERS – Did Gartenland give any help to Northland aside from providing a safe haven for the Elders in Heron?  <b>Significance:</b> To clarify on issues regarding the nature of conflict.
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 55</b>	PRELIMINARY MATTERS – Does Homeland Ministry of Defense work under the military (HAF) during the enactment of martial law?  <b>Significance:</b> To clarify on issues regarding admissibility and Troy’s Responsibility
<b>Clarification :</b>	Under martial law, the territory is governed by military authorities (in this case that would be Chief of the Defence Staff or someone under his authority). The Chief of the Defence Staff remains in any case under the authority of the Prime Minister.
<b>Question 56</b>	CHARGE I – In Count One, does the “attack of the power grid in the city” only refer to the Cyber Attack towards SCADA? Or does it also refer to the central archive hacking of the General Hospital?  <b>Significance:</b> To know whether the Moot Problem at page 11, Count One, instructed every team to construct an argument solely from the attacks towards SCADA or the attacks towards SCADA and the General Hospital’s Archive
<b>Clarification :</b>	Please refer to the answer to Question 40 above.
<b>Question 57</b>	CHARGE I – There are a few questions with regards to the evidence of ‘forensic analysis’ at paragraph 21, namely: a. Who conducted the ‘forensic analysis’? Was it the IIAC? b. What kind of ‘forensic analysis’ was conducted? Was it computer forensic analysis? Did the ‘forensic analysis’ use the method of tracing the IP address?  <b>Significance:</b> The answer to these questions are relevant in assessing the value of evidence of the “forensic analysis”.
<b>Clarification :</b>	The answers are adequately explained in the moot problem.
<b>Question 58</b>	CHARGE I – The Moot Problem stipulates General Troy’s Spokesperson denied “any <b>direct</b> involvement”, does this mean that the Spokesperson did not deny any <b>indirect</b> involvement?  <b>Significance:</b> Relevant in drawing inferences of whether The Ministry of Defence and Security have any involvement towards the attack on SCADA.
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.



<b>Question 59</b>	<p>CHARGE I – The Moot Problem states that “150 deaths during the month of October 2012”, whether the deaths consists of only civilian who were the patients of General Hospital?</p> <p><b>Significance:</b> In assessing the damage caused by the attacks in Colmer, it is pertinent to have a clear information in regard with the victim. The arguments for both side need to be established based on this particular fact.</p>
<b>Clarification :</b>	Please refer to, for example, the answer to Question 5 above.
<b>Question 60</b>	<p>CHARGE I – Whether the allegation that Ministry of Defence and Security provided access to General Hospital network means <b>only</b> General Hospital network is provided? Or is there any suspicion that other hospital network is also provided?</p> <p><b>Significance:</b> It is pertinent in understanding the attack and also in constructing the argument for war crime of attack against hospital.</p>
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 61</b>	CHARGE II – Did Troy give warning before attacking the apartment building in Heron, Gartenland?
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.
<b>Question 62</b>	CHARGE II – What type of missile that she used to destroy the building?
<b>Clarification :</b>	The missile was capable of destroying the apartment building.
<b>Question 63</b>	CHARGE II – What is the 'preferential conditions' in the agreement made between Dolmar and Homeland?
<b>Clarification :</b>	“Preferential conditions” only means that the price and/or payment conditions were more favorable than in other such agreements (in general).
<b>Question 64</b>	<p>CHARGE III – Can the Ministry of Defense and Security give orders towards HAF without the approval of Troy?</p> <p><b>Significance</b> - Determines whether Troy also consented in approving the use of hollow point bullets towards the HAF? If only one of the parties approval is required, then Troy shall not be liable for the determination made by the Ministry.</p>
<b>Clarification :</b>	The Minister of Defense does not have direct authority to issue orders to member of the armed forces.
<b>Question 65</b>	<p>CHARGE III – Is the spokesperson in Par. 26 also of Troy?</p> <p><b>Significance</b> - Also affects whether the statement made by the spokesperson actually reflects Troy's position in the matter.</p>
<b>Clarification :</b>	The spokesperson is from the Ministry of Defence. It can be assumed from paragraph 26 that the Ministry of Defence provided legal advice to the Armed Forces (which are under the authority of General Troy).
<b>Question 66</b>	<p>CHARGE III – Does Troy hold a position in the Ministry of Defense and Security?</p> <p><b>Significance</b> - If yes, Troy was in a position to prevent the Ministry from making said determination. Yet has either failed to prevent, or agreed with the actions of the Ministry of Defense.</p>
<b>Clarification :</b>	Mooters will need to determine the answer from the available facts.

[END]