

INTERNATIONAL COURT OF JUSTICE

COMPROMIS

**BETWEEN THE REPUBLIC OF APROPHE (APPLICANT)
AND THE FEDERAL REPUBLIC OF RANTANIA (RESPONDENT)
TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE
THE DIFFERENCES BETWEEN THE STATES
CONCERNING THE MAI-TOCAO TEMPLE**

jointly notified to the Court on 12 September 2011

COUR INTERNATIONALE DE JUSTICE

COMPROMIS

**ENTRE LA REPUBLIQUE D'APROPHE (DEMANDEUR)
ET LA REPUBLIQUE FÉDÉRALE DE RANTANIA (DÉFENDEUR)
VISANT À SOUMETTRE À
LA COUR INTERNATIONALE DE JUSTICE
LES DIFFÉRENDS QUI OPPOSENT LES DEUX ÉTATS
EN CE QUI CONCERNE LE TEMPLE DE MAI-TOCAO**

notifié conjointement à la Cour le 12 septembre 2011

**JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT:**

The Hague, 12 September 2011

On behalf of the Republic of Aprophe (“the Applicant”) and the Federal Republic of Rantania (“the Respondent”), in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honor to transmit to you an original of the Compromis for submission to the International Court of Justice of the Differences between the Applicant and the Respondent concerning the Mai-Tocao Temple, signed in The Hague, The Netherlands, on the twelfth day of September in the year two thousand eleven.

General Page Andler
Interim President of
The Republic of Aprophe

Olivier Phillippe
Ambassador of the Federal Republic of Rantania
to the Kingdom of The Netherlands

COMPROMIS

SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY THE REPUBLIC OF APROPHE AND THE FEDERAL REPUBLIC OF RANTANIA ON THE DIFFERENCES BETWEEN THEM CONCERNING THE MAI-TOCAO TEMPLE

The Republic of Aprophe and the Federal Republic of Rantania,

Considering that differences have arisen between them concerning the Mai-Tocao Temple and other matters;

Recognizing that the Parties concerned have been unable to settle these differences by negotiation;

Desiring further to define the issues to be submitted to the International Court of Justice (hereinafter referred to as “the Court”) for settling this dispute;

In furtherance thereof the Parties have concluded the following Compromis:

Article 1

The Parties submit the questions contained in the Compromis (together with Corrections and Clarifications to follow) to the Court pursuant to Article 40(1) of the Statute of the Court.

Article 2

- (a) It is agreed by the Parties that the Republic of Aprophe shall act as Applicant and the Federal Republic of Rantania as Respondent, but such agreement is without prejudice to any question of the burden of proof.
- (b) The Parties stipulate that any reference to “Aprophe” in this Compromis is without prejudice to Respondent’s contention that the interim and/or de facto government is not the lawful government of Aprophe.

Article 3

- (a) The Court is requested to decide the Case on the basis of the rules and principles of international law, including any applicable treaties.
- (b) The Court is also requested to determine the legal consequences, including the rights and obligations of the Parties, arising from its Judgment on the questions presented in the Case.

Article 4

- (a) Procedures shall be regulated in accordance with the applicable provisions of the Official Rules of the 2012 Philip C. Jessup International Law Moot Court Competition.
- (b) The Parties request the Court to order that the written proceedings should consist of Memorials presented by each of the Parties not later than the date set forth in the Official Schedule of the 2012 Philip C. Jessup International Law Moot Court Competition.

Article 5

- (a) The Parties shall accept any Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.
- (b) Immediately after the transmission of any Judgment, the Parties shall enter into negotiations on the modalities for its execution.

In witness whereof, the undersigned, being duly authorized, have signed the present Compromis and have affixed thereto their respective seals of office.

Done in The Hague, The Netherlands, this twelfth day of September in the year two thousand eleven, in triplicate in the English language.

General Page Andler
Interim President of
The Republic of Arophe

Olivier Phillippe
Ambassador of the Federal Republic of Rantania
to the Kingdom of The Netherlands

The 2012 Philip C. Jessup International Law Moot Court Competition

****Compromis****

The Republic of Aprophe v. the Federal Republic of Rantania

The Case Concerning the Temple of Mai-Tocao

1. Aprophe, a developing state with a population of about 50 million people, was founded in 1698 at the Council of Marcelux (its present-day capital).
2. Rantania, a federal state with a developing industrial economy and a population of almost 90 million people, is located to the immediate east of Aprophe. Rantania's economy has blossomed in recent years, in large part due to its close diplomatic and trade relations with three neighboring countries: Lamarinia, Verland, and Pellegrinia.
3. The Mai-Tocao temple complex, one of the most famous religious and archaeological sites in the world, is located near the modern Rantanian-Aprophian border. Archaeologists have found evidence of permanent human habitation on the site as early as 2500 BCE and massive stone structures, apparently religious in nature, dating to at least 2000 BCE. Both Herodotus and Sima Qian mentioned Mai-Tocao in their writings, and although neither historian appears to have visited the site, each remarked upon its tremendous significance to a variety of cultures. Tradition holds that Mai-Tocao was the birthplace of Isah Lereh, the principal deity of the ancient religion in the region. Today, Mai-Tocao consists of a complex of six small stone buildings and one central temple. Over 500,000 tourists visit the site each year, including tens of thousands of Aprophian and Rantanian nationals, who regard the site as central to their cultural heritage.

4. The indigenous peoples who initially settled the territory surrounding Mai-Tocao were nomadic, and there was no settled boundary between Aprophe and Rantania at the time of Aprophe's founding. As a result, sovereignty over Mai-Tocao and the surrounding territory was a significant point of contention between Aprophe and Rantania for over 300 years. Disputes ranged from small-scale fighting among ethnic and tribal groups to full-scale wars between the two states.

5. The most recent hostilities ("the Mai-Tocao War") began in August 1962, at which time the location of the border near the Mai-Tocao site was still disputed. After local villagers of unknown nationality attacked several Aprophian soldiers in Aprophian territory, an elite unit of the Aprophian army pursued the villagers into Rantanian territory near the Mai-Tocao site. The incident escalated, and skirmishes occurred throughout the region sporadically for two years, resulting in hundreds of civilian casualties and the destruction of several towns and villages. The United Nations Security Council declared itself seized of the matter, but took no steps to enforce a ceasefire because of the opposition of a permanent member.

6. From 1962 to 1964, the Aprophian army secured and pacified the Mai-Tocao site and occupied undisputed Rantanian territory, disarming and rounding up Rantanian villagers who lived nearby. More than 500 Rantanian peasants were forced to labor to provide goods and services to the army in shifts of 12 hours a day. The so-called "military internees" were not paid, although the Aprophian army provided them with three meals a day and lodged them in barracks near the labor sites.

7. By July 1965, the conflict reached a stalemate. In an effort to quell further violence, the two states resorted to the good offices of the UN Secretary-General and

engaged in peace negotiations. By the end of the year, they concluded a Peace Agreement (“the 1965 Treaty,” attached at Annex I) intended to “create the basis for a stable and lasting peace.”

8. The 1965 Treaty committed the boundary delimitation question to an arbitral tribunal. The parties agreed that once the boundary arbitration was concluded, any affected villagers could elect to resettle in the state of their choice.

9. The arbitral tribunal reached a decision in 1968, awarding the entirety of the disputed territory and a small portion of previously undisputed Rantanian territory to Aprophe, and establishing a border placing the Mai-Tocao site 10 kilometers within Aprophe. Over the next six months, hundreds of villagers – including the “military internees” – relocated to the Rantanian side of the border set by the tribunal. The border has remained peaceful and undisputed to the present day.

10. In 1980, Rantania, Lamarthia, Verland and Pellegrinia negotiated and ratified the Eastern Nations Charter of Human Rights (“the Eastern Nations Charter”, attached at Annex II). The Eastern Nations Charter established a human rights court (“the Eastern Nations Court”). In its early years, the Eastern Nations Court received only two or three petitions per year, although since 2000 it has heard more than 40 cases annually. States Parties have in all cases complied with the final judgments of the Eastern Nations Court.

11. Aprophe and Rantania are both parties to the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage (“the World Heritage Convention”). In 1986, Rantania was elected to the World Heritage Committee for a three-year term. Also in 1986, Aprophe proposed that the Mai-Tocao site be inscribed on the World Heritage List, “to recognize its outstanding historical and

archeological value.” During the deliberations of the World Heritage Committee, Rantania’s representative vigorously supported the application, stating, “Although Mai-Tocao is located within Aprophe, the site is of tremendous importance to Rantania and Rantanians. We will accordingly regard its inscription as a cause for national pride for Rantanians as well as Apropheans.”

12. Mai-Tocao was inscribed in the World Heritage List in 1988. At a joint press conference of Aprophean and Rantanian government leaders, the Rantanian President declared, “More unites our nations than separates us, and the newly-inscribed Mai-Tocao World Heritage Site is one example of our region’s proudly shared history and culture.”

13. In 1990, Rantania, Lamarthia, Verland, and Pellegrinia created the Eastern Nations International Organization (“the ENI”), a regional organization devoted to strengthening economic cooperation and political ties among its members. The Treaty Establishing the ENI (attached at Annex III) guarantees free movement across borders for citizens of ENI Member States, and also contains a mutual defense pact among them. The Treaty incorporates the Eastern Nations Charter by reference.

14. In November 2000, Aprophean Senator Mig Green was elected President by the largest margin of the popular vote in Aprophe’s history. His campaign platform proposed applying for membership in the ENI. In January 2001, representatives of Green’s government met with the ENI Council which, after several months of study, prepared a list of preconditions for Aprophe’s application for membership.

15. Over the next five years, Green’s government instituted a series of measures designed to meet these requirements. The measures included restrictions on the rights of Aprophe’s historically strong labor unions and financial and tax incentives for businesses

from ENI Member States investing in Aprophe. To meet another precondition, Aprophe acceded to the Eastern Nations Charter in 2005, having negotiated an exemption according to which it would be subject to the compulsory jurisdiction of the Eastern Nations Court only once it achieved full membership in the ENI. In addition, although not required by the ENI Council, Green also instituted an “open borders policy” whereby citizens of ENI Member States would be free to enter and reside and work in Aprophe. Several thousand citizens of ENI Member States, chiefly from Rantania, moved to major cities in Aprophe after the policy was implemented. By 2002, labor unions, opposition political parties, and nationalist groups within Aprophe were routinely organizing strikes and demonstrations to protest these measures.

16. In August 2001, “Our Forgotten Workers”, an award-winning documentary by the filmmaker Fro Ginyo, brought to public attention the story of the Rantanian military internees. The documentary presented interviews with some of the surviving internees who recounted their labor during the war. It was extensively discussed in the media, attracting the attention of the International League for Solidarity and Access (ILSA), a Rantanian advocacy group whose mission includes initiating litigation on behalf of victims of alleged human rights abuses.

17. In November 2001, ILSA instituted proceedings against Aprophe in a local Aprophean court on behalf of 60 former Rantanian military internees, including one Mr. Richard Turbando. The complaint alleged that the plaintiffs had been forced to engage in uncompensated labor for the Aprophean military, and sought damages reflecting the monetary value of their labor with interest to the present day as well as moral damages commensurate with the magnitude of their alleged suffering. The trial court granted a

motion to dismiss in light of the six-year Aprophian statute of limitations, and the plaintiffs appealed. On June 13, 2002, the Aprophian Supreme Court, Aprophe's highest court, affirmed the decision of the local court.

18. After the dismissal of the Aprophian case, ILSA instituted similar proceedings in Rantania against Aprophe on behalf of the internees. Rantania has no statute of limitations for civil and criminal proceedings alleging certain enumerated violations of human rights, including forced labor. Aprophe moved to dismiss the case, *Turbando, et al., v. The Republic of Aprophe*, on two grounds: Article XV of the 1965 Treaty, and the doctrine of foreign sovereign immunity. The trial court granted the motion, concluding that:

The application of foreign sovereign immunity to these facts presents a very difficult question, placing our own tradition of broad immunity in direct conflict with the growing international trend to hold all states responsible for gross violations of human rights. However, in this case, we need not resolve this question. Article XV of the 1965 Treaty constitutes a complete waiver of claims like the ones currently before the court, regardless of whether the defendant is entitled to assert the defense of sovereign immunity.

The Rantanian Supreme Court, Rantania's highest court, affirmed the decision of the trial court in all of its particulars.

19. ILSA then filed a petition against Rantania on behalf of the Rantanian plaintiffs before the Eastern Nations Court. The petition contended that the judgment of the Rantanian courts deprived the plaintiffs of rights protected by the Eastern Nations Charter. The Eastern Nations Court delivered a judgment in January 2009, which in relevant part read:

To the extent that the 1965 Treaty purports to deny the petitioners' right to reparations, this Court cannot permit Respondent to rely on it. To accept

Aprophe's argument would allow Rantania to use a treaty relationship with a third party to deprive its own citizens of inalienable rights protected by the Eastern Nations Charter and customary international law. Accordingly, the invocation by the Rantanian courts of Article XV of the 1965 Treaty to bar plaintiffs' suit amounted to a denial of justice and was inconsistent with fundamental human rights law as incorporated in the Charter. The Supreme Court of Rantania is directed to proceed in a manner consistent with this opinion.

20. Following the Eastern Nations Court's decision, the Supreme Court of Rantania remanded the cases for trial, consistent with Rantanian appellate procedure. Aprophe declined to participate, but submitted a letter to the Rantanian Ministry of Foreign Affairs, asserting that the Rantanian court was obliged to dismiss the claim on sovereign immunity grounds. On December 12, 2009, the trial court considered the foreign sovereign immunity question and issued an opinion that read, in relevant part:

In its earlier decision this court was not required to resolve the close question of whether Aprophe is entitled to sovereign immunity in this case; today we must. Modern developments in this area have indicated that immunity does not extend to violations of peremptory norms of international law, particularly where a state stands accused of having breached a fundamental duty to respect human rights. The forced labor alleged in the complaint before this Court would, if proved, constitute an egregious violation of the law of nations. This Court therefore must, consistent with its obligations under the Eastern Nations Charter, proceed to exercise its jurisdiction in this matter.

The court found that forced labor had occurred, took evidence on the measure of damages, and awarded the individual plaintiffs damages ranging from the equivalent of US\$75,000 to US\$225,000 apiece, depending upon the facts established in each plaintiff's case. Aprophe did not participate in these proceedings and did not appeal the decision or the awards.

21. The Minister of Foreign Affairs of Aprophe, Ken A. Barrow, denounced the decision of the Rantanian court as "an unacceptable violation of Aprophe's immunity

from the jurisdiction of foreign courts,” and also as “a flagrant violation of the 1965 Treaty, whereby all claims in this regard had been waived.” He also stressed that Aprophe was “not subject to any judgment the Eastern Nations Court might deliver.” Rantania’s Attorney General, Odelle Gateau, responded, “Once the Eastern Nations Court clarified our obligations under the Eastern Nations Charter, to which both Rantania and Aprophe are parties, the courts of Rantania were bound to give expression to them.”

22. After the successful plaintiffs applied for leave to enforce their judgments against Aprophian property located in Rantania, the Rantanian Foreign Ministry sought a stay of enforcement “in light of the potentially serious implications of the matter upon Rantanian foreign policy.” The trial court granted an indefinite stay, to be reviewed upon the petition of either party in the future.

23. The outcome of the lawsuit strengthened nationalist and anti-Rantanian sentiments within Aprophe, and opposition to President Green’s pro-ENI program. Dissident factions in Aprophe staged several nationwide strikes throughout 2010, calling for Green’s resignation. Despite the social unrest, a poll conducted by the Aprophian Office for National Statistics in November 2010 indicated that 55% of Aprophians considered the policies of Mig Green’s government to be “very good” or “good” and that 60% approved of the government’s efforts to join the ENI.

24. President Green declared his candidacy to stand for a third term in the elections to be held in March 2011. In the wake of the strikes, however, on January 10, 2011, Green invoked the emergency powers granted to the President under the Aprophian Constitution, announcing that he was postponing the election for one year “in the expectation that order can be restored during that time.” Relying on the same

constitutional provision, on January 13, President Green ordered the Aprophian military to begin armed patrols in major urban areas “to prevent and quell civil unrest.”

25. On January 15, 2011, all of the major newspapers in Aprophe published an “Open Letter” to President Green, from General Paige Andler, chief of staff of the Aprophian armed forces. Gen. Andler described the suspension of the March elections as “a clear attempt to subvert the will of the people,” and called upon President Green to restore the elections. Her letter concluded:

Mr. President, when you took your oath of office, you swore to uphold the democratic principles of this great nation. I took that same oath over 40 years ago, when I enlisted to serve my country in ending the Mai-Tocao War. All Aprophian soldiers are trained to understand that, in a democracy, we who proudly wear our uniforms are required to implement the decisions of elected political officials without question. But, President Green, although we respect you as our Commander-in-Chief, we will not carry out your order of January 13. We will not take up arms against our fellow Aprophians.

26. President Green immediately fired Gen. Andler, withdrew her military commission, and ordered her arrest on charges of insubordination and sedition. On the morning of January 16, 2011, senior officers of the national police arrived at Andler’s apartment in Marcelux, and were turned away by armed soldiers loyal to her.

27. That evening, army units loyal to Andler forcibly entered the Presidential Palace and other government installations. President Green and his ministers fled during the night to Rantania. The following morning, Andler proclaimed herself “interim president” of Aprophe, and declared that she would stay in power

for as long as necessary to reestablish democratic institutions and the rule of law in the country. Restoring order to our streets and cities requires that we stop the headlong rush toward irreversible change until we are sure that this reflects the will of the people. It is not clear that the Aprophian people

are committed to ENI membership, at least until some basic questions are answered. So long as I am interim president, Aprophian concerns come first.

She immediately suspended the open borders policy, the tax and other incentives extended by President Green to nationals of ENI Member States, and other pro-ENI measures instituted by Green.

28. In the face of widespread and growing opposition to the interim government, Andler declared a state of emergency and, pursuant to emergency powers granted by law, dissolved parliament. In a press conference held on January 18, 2011, Andler stated that the dissolution had been necessary to “ensure stability and maintain public order.” She also assured the citizens of Aprophe that “new elections [would] be called soon” and that, in any event, “all civil rights and liberties [would] be respected.”

29. Several parliamentarians belonging to Green’s party also fled to Rantania. Forty Aprophian Ambassadors, including the Permanent Representatives to the United Nations and to the Kingdom of the Netherlands, renounced Andler and declared their allegiance to Green. Andler’s government successfully established order in over 90% of Aprophian territory (comprising approximately 80% of the population), and the armed forces in and around Marcelux were loyal to Andler. However, approximately 800 members of the army’s National Homeland Brigade, based in outlying regions, remained loyal to Green and established bases in two villages in the north of Aprophe. The Brigade is a lightly-armed force ordinarily tasked with patrolling Aprophe’s borders. Several hundred civilian supporters of Green migrated to those villages, under the protection of the pro-Green forces.

30. Andler ordered more than 2,000 members of the army elite Quick Reactionary Forces (QRF) to the two villages to confront the National Homeland Brigade. The heavily-armed QRF troops demanded that the pro-Green forces surrender and threatened to arrest any soldier who refused to lay down his or her arms. No troops loyal to Green surrendered and no arrests were carried out. Small-scale fighting between the QRF and pro-Green forces began early in the morning on January 20, 2011, and continued for the next three weeks.

31. Andler's assault upon the pro-Green units were condemned by several nations. On January 20, 2011, Green announced that he and his ministers had formed what he called a "government in exile" in Rantania. Over the next two days, Green held talks with the Rantanian government, in which he urged Rantania to intervene to end the fighting and to restore his government in Aprophe. On January 22, Rantania introduced a resolution before the ENI Council – then chaired by a representative of Lamarthia – which began, "Given that the tragedy in Aprophe derives in some measure from that nation's desire to join the ENI, it is appropriate that any response be undertaken by the ENI rather than by any individual Member State." The Council unanimously passed the resolution, which recognized Green as the "lawful President of Aprophe," condemned "the military *coup d'état*," and urged "a prompt cessation of military activities and restoration of democracy." In the following days, each ENI Member State and 27 other nations formally announced that they would conduct diplomatic relations only with the Green regime. As of the date of submission of this Compromis, 14 nations recognize Andler's government.

32. On January 23, 2011, Andler delivered a public statement denouncing the ENI Council resolution. She declared, “This resolution is an unjustified interference in the internal affairs of Aprophe. Despite former President Green’s continuing efforts to subordinate our nation and its future to the ENI, in my government, Aprophean concerns come first.” On the same day, the Minister of Foreign Affairs of the interim government informed the Secretary-General of the United Nations that Aprophe was denouncing the Eastern Nations Charter.

33. Upon the request of Rantania and with the support of the other ENI Members, on January 29, 2011, the United Nations General Assembly adopted Resolution A/RES/65/598, by a vote of 109 votes in favor and 16 against, with the remaining Member States abstaining. The resolution condemned “the *coup d’état* against the democratically elected government of Aprophe” and called upon “the Security Council to consider immediate action under Chapter VII of the Charter of the United Nations to preserve peace and restore the constitutional order of Aprophe.”

34. Neither the pro-Green nor pro-Andler forces had made any progress in the conflict in the north. On February 10, 2011, the QRF launched artillery strikes against the two villages still loyal to Green. Sixty soldiers and 80 civilians were killed and hundreds more were wounded during shelling in the region over the next three days, and QRF ground-force commanders indicated their immediate intention to enter the villages. Green and his representatives urged the ENI Council to take immediate steps to “prevent an imminent humanitarian crisis.”

35. On February 15, 2011, Rantania proposed and the ENI Council unanimously approved “Activation Orders” for air strikes against “military and strategic assets in

Aprophe that at once threaten civilian lives and perpetuate the illegal exercise of power by the current regime.” At Rantania’s suggestion, the Council appointed Major-General Otaz Brewscha, a Rantanian national, to head the campaign as Force Commander.

36. On the same day, Rantanian President Sue Perego informed ILSA that the Rantanian government had no objection to ending the stay of enforcement proceedings in *Turbando, et al., v. The Republic of Aprophe*. ILSA moved to lift the stay, and the court granted its motion. Bailiffs promptly identified and seized the equivalent of US\$10,000,000 in non-diplomatic property of the government of Aprophe located in Rantania. The court’s order and the bailiffs’ seizure were fully consistent with Rantanian law on the subject.

37. According to the terms of the Activation Orders, the Eastern Nations Organization launched “Operation Uniting for Democracy” before dawn on February 18, 2011. The operation consisted of around-the-clock air strikes against verified military installations in and around Marcelux. Operation Uniting for Democracy was conducted almost entirely by the Rantanian Air Force, as Rantania is the only ENI Member State with airborne military capability of any significant size. Pursuant to the Activation Orders, all operational decisions were to be taken by Major-General Brewscha, under the direction of the ENI Defense Committee.

38. Within days, Operation Uniting for Democracy resulted in the destruction of 12 of the 15 military installations near Marcelux and the deaths of 50 Aprophian soldiers. There were no civilian casualties and only incidental damage to non-military buildings. The Sterfel Institute, an independent military think-tank with long experience in the region and experts on the ground in Marcelux, reported on February 25, 2011, “The

Aprophian military has effectively been destroyed. It cannot fight back and it cannot defend itself.” On the same day, the United Nations Security Council met in emergency session to discuss what it called “the escalating cycle of violence in Aprophe.”

39. On February 27, 2011, Andler and her staff fled from the capital to the grounds of the Mai-Tocao National Park. During one of his daily media briefings on February 28, 2011, Major-General Brewscha announced that, rather than risk damage to the Mai-Tocao site by striking Andler’s headquarters there, ENI ground forces would be mobilized “within days, if not hours” to enter Aprophe and capture Andler.

40. On February 28, 2011, Andler made the following announcement from the Great Antechamber of the Mai-Tocao Temple, which was distributed to the media by satellite uplink:

This is a sad day for Aprophe. Those we have come to regard as friends and neighbors now threaten our independence, and the very lives of our people. They have rained death from the sky every day and every night and I regret to announce that our brothers and sisters in uniform no longer have the means to stop them. I will not order a last-ditch military defense that would inevitably cost the lives of more of our dear soldiers, and that would do no more than postpone the inevitable.

As we speak, foreign soldiers are massing at the border, coming here to hunt down and kill what remains of our fragile democracy. Let us be clear. This massacre of our people is being committed with no legal or moral authority. No policy differences can justify this attack.

These are unprecedented circumstances, and they call for an unprecedented response. If even a single foreign soldier sets foot on the territory of our homeland – and if the bombing campaign does not cease immediately – we must be prepared to sacrifice our beloved Mai-Tocao Temple. We will destroy one building every other day as long as the unlawful military operation continues. This grieves me deeply, but I can see no other way to end the killing, to restore law and order and sanity, and to safeguard the future for our children.

41. On March 1, 2011, the United Nations Security Council unanimously adopted a resolution condemning Operation Uniting for Democracy. Although an early draft of the resolution would have supported stronger Council action and invoked Chapter VII of the UN Charter, the resolution simply noted that neither ENI nor any of its Member States had provided advance notice to the Council as required by the United Nations Charter, called upon the ENI Member States to end the Operation, and indicated that the Security Council would remain seized of the matter.

42. The aerial bombardment of the military installations near Marcelux continued unabated for the next two days. Shortly before midnight on March 3, 2011, Andler ordered the controlled detonation of explosives in one of the smaller buildings in the Mai-Tocao complex, usually described as the residence of Isah Lereh's mortal lover, Lair-Ner. Almost half of the structure was destroyed, although no one was injured.

43. On the morning of March 5, 2011, Rantanian President Perego issued a declaration condemning the detonation at the Mai-Tocao Temple as a violation of international law, in particular the 1965 Treaty and the World Heritage Convention. She nonetheless ordered an immediate grounding of the Rantanian air force. That evening, the ENI Council formally suspended Operation Uniting for Democracy.

44. In the following weeks, Andler and her government returned to Marcelux. On May 12, 2011, Aprophe filed an application with the Registry of the International Court of Justice, instituting proceedings against Rantania. Andler signed the Application herself, in the capacity of "Interim President of Aprophe." The Application asserted that the ENI attacks were contrary to international law, and that Rantania was internationally

responsible for those attacks. It cited as the basis of this Court's jurisdiction the compromissory clause of the 1965 Treaty.

45. Upon receiving the Application, Rantanian Attorney General Gateau issued a statement declaring that Rantania would not consent to the jurisdiction of the Court. She explained:

In accordance with our treaty obligations, Rantania would willingly accede to a request to have the International Court of Justice resolve a dispute between ourselves and Aprophe were it presented by the proper authorities. But this request does not come from the government of Aprophe: it comes from a gang of military officers, elected by no one and coming to power by force, masquerading as the government. Only the legitimate government, now in exile, may claim to represent Aprophe before the Court or any other international body. Moreover, it is evident that the Court cannot give a ruling on a dispute concerning the action taken by ENI, an international organization possessing a legal personality distinct from that of its members. Only States may be parties to disputes before the Court, according to the terms of its Statute.

46. Facing increasing public pressure, Ms. Gateau announced on July 1, 2011, that Rantania would engage Aprophe before the International Court of Justice, on the condition that Aprophe withdraw its Application and instead agree jointly to submit to the Court all claims that the parties might have against one another. She specified that any such joint submission would be "without prejudice to our position regarding whether Andler may act on Aprophe's behalf, which we intend to litigate fully in the case." Aprophe withdrew its application on July 20, 2011, and over the course of the next several months, the parties met, negotiated and ultimately agreed to this Compromis.

47. Aprophe and Rantania have been parties to the Vienna Conventions on Diplomatic and Consular Relations since 1966; to the Vienna Convention on the Law of Treaties since 1970; and to the World Heritage Convention since 1983. In addition,

Aprophe and Rantania have been parties to the Geneva Conventions of 1949 since 1968 and 1976, respectively, to both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights since 1971 and 1976, respectively. Both states were admitted to the United Nations in 1966. Aprophe has signed but not ratified the 2004 United Nations Convention on Jurisdictional Immunities of States and Their Property, not yet in force; Rantania has neither signed nor ratified that Convention. Aprophe and Rantania are not parties to any other relevant bilateral or multilateral treaty.

48. Aprophe requests the Court to adjudge and declare that:

- (a) the Court may exercise jurisdiction over all claims in this case, since the Andler government is the rightful government the Republic of Aprophe;
- (b) Rantania is responsible for the illegal use of force against Aprophe in the context of Operation Uniting for Democracy;
- (c) since the exercise of jurisdiction by Rantanian courts in the case of *Turbando, et al., v. The Republic of Aprophe* violated international law, Rantania may not permit its officials to execute the judgment in that case; and
- (d) Aprophe's destruction of a building of the Mai-Tocao Temple did not violate international law.

49. Rantania requests the Court to adjudge and declare that:

- (a) the Court is without jurisdiction over the Applicant's claims, since the Andler regime and its representatives cannot appear before this court in the name of the Republic of Aprophe;
- (b) the use of force against Aprophe in the context of Operation Uniting for Democracy is not attributable to Rantania, and in any event, that use of force was not illegal;
- (c) since the exercise of jurisdiction by Rantanian courts in the case of *Turbando, et al., v. The Republic of Aprophe* was consistent with international law, Rantanian officials may execute the judgment in that case; and
- (d) Aprophe violated international law by destroying a building of the Temple of Mai-Tocao.

ANNEX I
The Peace Agreement of 1965

Aprophe and Rantania, in the interest of ending decades of conflict between them and between their respective citizens, and in order to create the basis for a stable and lasting peace between them and their populations, hereby agree as follows:

Article I

The cessation of any and all hostilities between the parties starts on the day of signature of this Treaty.

...

Article X

(1) The question of territorial boundaries shall be determined by an arbitral tribunal established by the parties, and presided over by an individual to be designated by the Secretary-General of the Permanent Court of Arbitration. The parties agree to abide to the decision of the tribunal, which shall be final.

(2) For a period of six (6) months after the decision of the tribunal, both parties shall permit any individual who may find himself or herself in the territory of a state other than the one to which he or she professes loyalty or affiliation to relocate and, for this purpose, to cross the territorial boundary.

...

Article XV

Each party hereby waives on its own behalf and on behalf of its citizens all claims against the other or the other's citizens arising out of the conflict which began in August 1962. This waiver shall be deemed to include all debts and claims, financial or otherwise, for loss or damage occurring during the conflict. In order to ensure that this commitment will be enforceable, each State represents to the other that it has the authority under its own constitution and laws to waive such claims on behalf of its citizens.

...

Article XXV

The Parties shall submit to the judgment of the International Court of Justice any dispute which may arise between them concerning the interpretation or application of this Treaty.

...

Done in Geneva, Switzerland, on July 25th, 1965.

ANNEX II
EASTERN NATIONS CHARTER OF HUMAN RIGHTS (1980)

Preamble

Lamarthia, Pellegrinia, Rantania and Verland,

Reaffirming their intention to consolidate in the region, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of all people;

Have agreed upon the following:

PART I - RIGHTS PROTECTED

Article 1. Obligation to Respect Rights

The States Parties to this Charter undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

Article 2. Domestic Legal Effects

Where the exercise of any of the rights and freedoms referred to in Article 1 is not already assured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights and freedoms.

...

Article 10. Freedom from Slavery

1. No one shall be subject to slavery or involuntary servitude, which are prohibited in all their forms.

2. No one shall be required to perform forced or compulsory labor. This provision shall not be interpreted to mean that, in those countries in which the penalty established for certain crimes is deprivation of liberty at forced labor, the carrying out of such a sentence imposed by a competent court is prohibited. Such exceptionally permissible forced labor shall not adversely affect the dignity or the physical or intellectual capacity of the prisoner.

Article 11. Right to a Fair Trial

Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other kind.

...

Article 13. Right to Remedy

1. Everyone whose rights and freedoms as set forth in this Convention are violated shall have a right to an effective remedy before a national authority.

2. Everyone has the right to simple and prompt recourse to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned, by this Convention or by customary international law, even though such violation may have been committed by persons acting in the course of their official duties.

...

Article 31. The Eastern Nations Court of Human Rights

1. To ensure the observance of the engagements undertaken in the Charter, there shall be established an Eastern Nations Court of Human Rights, hereinafter referred to as "the Court." It shall function on a permanent basis.

2. The Court shall have jurisdiction to hear all cases brought before it by individuals concerning the application of the provisions of this Charter. The jurisdiction is compulsory as to all States Parties to this Charter, for any violation alleged to have happened after the entry into force of this instrument for the State Party.

3. The States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties.

...

Article 44. Ratification and Adherence

Ratification of or adherence to this Convention shall be made by the deposit of an instrument of ratification or adherence with the Secretary-General of the United Nations.

Article 45. Denunciation

1. Any State Party may denounce this Convention by means of notice given three months in advance. Notice of the denunciation shall be addressed to the Secretary-General of the United Nations, who shall inform the other States Parties.

2. Such a denunciation shall not have the effect of releasing the State Party concerned from the obligations contained in this Convention with respect to any act that may constitute a violation of those obligations taken by that state prior to the effective date of denunciation.

...

ANNEX III

The Treaty Establishing the Eastern Nations International Organization (1990)

Lamarthia, Pellegrinia, Rantania and Verland,

United by their close historical and cultural ties,

Inspired by the pursuit of the democratic rule of law and respect for human rights,

Devoted to the principles and objectives of the United Nations, in particular regional peace and mutual security,

Have agreed to the following:

Section I. Objectives and Principles

Article 1: Establishment of the ENI

The Eastern Nations International Organization (ENI) is hereby established. It shall work for the accomplishment of the objectives outlined below.

Article 2: Objectives

The Member States commit themselves to take all practical measures:

1. To foster democratic governance and the protection of human rights across the region;
2. To accelerate political and socio-economic integration;
3. To defend the sovereignty, territorial integrity and independence of each Member State; and
4. To maintain and develop their individual and collective capacity to resist armed attack.

Article 3: Principles

The ENI shall function based on the following principles:

1. Sovereign equality and independence;
2. Respect for the rule of law and democracy;
3. Respect for human rights and fundamental freedoms;
4. Peaceful dispute settlement;
5. Non-interference in the internal affairs of a Member State; and
6. Establishment of a common defense policy.

Section II. Organizational Structure

Article 4: Principal Organs

1. There are established, as the principal organs of the Eastern Nations International Organization: a Council, a Secretariat, and a Committee on Economic Policy.
2. Such subsidiary organs as may be found necessary shall be established in accordance with procedures set out in the present Treaty.

Article 5: The ENI Council

1. The ENI Council is the principal decision-making body for the pursuance of the objectives outlined in this Treaty. The ENI Council is composed of the Ministers of Foreign Relations of the Member States, or their accredited representatives. The Council shall make decisions in all matters by simple majority vote of the Member States, each Member State having one vote.
2. The Chair of the Council shall be held by Member States on the basis of rotation for terms of two (2) years each.

...

Section IV. Human Rights and Democratic Governance

Article 10: Eastern Nations Charter of Human Rights

1. The Eastern Nations Charter of Human Rights is hereby incorporated into this Treaty and the Member States reaffirm their commitments to that Charter. Any State seeking membership in the ENI must ratify the Eastern Nations Charter of Human Rights prior to applying for membership.
2. The Eastern Nations Court of Human Rights, established under the Eastern Nations Charter, shall be considered for all purposes a principal organ of the Eastern Nations International Organization.

...

Section VI. Mutual Defense and Security

Article 50: Peaceful Settlement of Disputes

The Member States undertake to attempt to settle all international disputes by peaceful means, as listed in Article 33 of the United Nations Charter.

Article 61. Mutual Defense

1. An armed attack against one Member State shall be considered an attack against all of them. Consequently, the Member States agree that, if such an armed attack occurs, each will, in exercise of the right of collective self-defense recognized by Article 51 of the Charter of the United Nations, assist the Member State so attacked by forthwith taking, individually and collectively, such action as is necessary, including the use of armed force, to restore and maintain the security of the region.

2. Any Member State facing a situation of internal disruption may request the ENI Council to take collective action, including the use of armed force, to restore and maintain public order, democracy, and the rule of law on its territory.

Article 62. Defense Committee

A Defense Committee, composed of the Ministers of Defense of each of the Member States, is hereby established. The Committee shall implement any action involving armed force that the ENI Council may authorize.

...

Section X. Miscellaneous Provisions

Article 83. Relationship to the United Nations Charter

In the event of a conflict between the obligations of ENI Member States and those contained in the United Nations Charter, the latter shall prevail.

Article 84. Privileges and Immunities

The Organization, as well as its representatives, shall enjoy the following privileges and immunities in the territories of the Member States:

1. The Organization and its property and assets shall be immune from every form of legal process except insofar as in any particular case it has expressly waived its immunity.
2. The headquarters and any missions of the Organization shall be inviolable.
3. The Organization's archives, and in general all documents belonging to or held by it, shall be inviolable.
4. Organization officials, as identified in this Treaty or as may subsequently be designated by the ENI Council, shall:
 - a. Be immune from legal process in respect of words spoken or written and acts performed by them in their official capacity;
 - b. Be exempt from taxation on the salaries and emoluments paid to them by the Organization; and

- c. Be accorded the same privileges as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned.

...