

INTERNATIONAL COURT OF JUSTICE
COMPROMIS
BETWEEN THE REPUBLIC OF ANGHORE (APPLICANT)
AND THE REPUBLIC OF RATANKA (RESPONDENT)
TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE
THE DIFFERENCES BETWEEN THE STATES
CONCERNING THE TATT TREATY AND OTHER RELATED MATTERS

jointly notified to the Court on February 11, 2007

JOINT NOTIFICATION
ADDRESSED TO THE REGISTRAR OF THE COURT:

The Hague, February 11, 2007

On behalf of the Republic of Anghore ("the Applicant") and the Republic of Ratanka ("the Respondent"), in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honour 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 Respondents Concerning the TATT Treaty and Other Related Matters.

Ambassador of the Republic of Anghore
to the Kingdom of The Netherlands

Ambassador of the Republic of Ratanka
to the Kingdom of The Netherlands

COMPROMIS SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE

Anghore and Ratanka,

Considering that differences have arisen between them concerning the TATT Treaty and Other Related Matters;

Desiring further to submit their differences to the International Court of Justice;

Article 1

The Parties submit the questions contained in the Compromis (together with Clarifications to follow, if any) to the International Court of Justice pursuant to Article 40(1) of the Statute of the Court.

Article 2

(a) The Court is requested to decide the Case on the basis of the rules and principles of general international law, as well as 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.

Article 3

(a) All questions of procedure and rules shall be regulated in accordance with the provisions of the D. M. Harish Memorial 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 of the said Competition

Article 4

(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 to do so, have signed the present Compromis and have affixed thereto their respective seals of office.

Ambassador of the Republic of Anghore
to the Kingdom of The Netherlands

Ambassador of the Republic of Ratanka
to the Kingdom of The Netherlands

COMPROMIS

1. Ratanka is a fairly developed country that gained its independence 45 years ago after a long, hard and violent, struggle for independence. The country's historic natural resources were more or less plundered and the new nation inherited severe environmental difficulties due to the unhindered exploitation of its natural resources by the erstwhile colonial rulers. Mrs. Cameron, the leader of the freedom struggle, took over as the nation's first Prime Minister and ruled for 15 straight years as her political party (the Ratanka Congress) won a number of straight elections. Her government is widely acclaimed to have put in place a program of universal education and health – that truly impacted the lives of the Ratankans and helped them build a robust socialist economy with strong links to the international community.

2. Ratanka along with its 5 neighbouring countries formed the TORMAY Union (the word TORMAY being coined based on the names of the six countries) in 1990. The TORMAY Union had five stated goals / principles:

- a) To establish complete economic integration between the 6 countries (the timeline was not defined);
- b) To move towards complete political integration between the 6 countries within 25 years by merging the six nations (once again no timelines were established);
- c) To ensure that the basic human freedoms and rights of every human being would be protected without exception or compromise; and
- d) To establish friendly relationships with peace loving nations of the world.
- e) Creation of the TORMAY International Court to resolve disputes between the different member nations.

3. In 2000, as a concrete step, toward political integration, the member nations of TORMAY transferred treaty making power and the conduct of foreign relations to the TORMAY Union. The President of the TORMAY Union announced that this plan was consistent with international comity, international law on succession of rights and obligations and the principles that TORMAY believed and subscribed to. Soon thereafter, representatives of TORMAY, entered into discussions with Anghore, a country to the east of the TORMAY Union to consolidate trade and tax treaties that three of the member nations of TORMAY (Ratanka was not one of them) had with Anghore and to extend the benefit of such consolidated treaty to all member nations of TORMAY.

4. Anghore, a small developing nation, obtained its independence in 1950 from the same colonial power that had ruled Ratanka. Over the years, the nation put in place a capitalistic system with a commitment to the principles of entrepreneurship and private enterprise and was looking for aid to build a strong social welfare net for its citizens. The first Finance Minister of Anghore believed that this was the only way for the people of the country to come out of poverty. The economic relations between Ratanka and Anghore were extremely strong – particularly since a number of Anghorians worked in Ratanka corporations and had even risen to

high executive positions. A number of Ratankans had also started to set up businesses in Anghore.

5. After extensive negotiations, the TORMAY Anghore Trade and Tax (TATT) Treaty was finalized and the key provisions were as follows:

- a) Both parties would give “persons” of the other party full and complete access to their respective economies.
- b) MFN and national treatments rights were accorded to each other.
- c) Double taxation relief provisions were included in the treaty.
- d) The provision of economic aid to Anghore to help overcome key education and health constraints for its people.
- e) A commitment to human rights and environmental protection that would allow for Anghore or any member nation of TORMAY to suspend all their obligations or part of their obligations under the treaty if there were “clear departure from accepted norms of international human rights law” by the other party (i.e. a member nation of TORMAY or Anghore as the case may be).

Anghore believed that the free movement of persons and capital was critical for its economy while TORMAY allowed all member nations to build strong economic relations with Anghore and to build businesses that served the large Anghore population.

6. Over the years, the numbers of Anghorians (and post the formation of TORMAY, people from the member nations of TORMAY) had started to migrate to Ratanka – due to the economic opportunities available in Ratanka. Foreign corporations were motivated to set up operations in Ratanka due to the specialized talent pool of people available in Ratanka – due to the educational policies that had been put in place by Mrs. Cameron. However, the creation of the TORMAY Union and the impact of the TATT Treaty had resulted in disquiet among certain sections of the populations who believed in “economic nationalism” (i.e. the people and resources of Ratanka for the benefit of the people of Ratanka alone). In 2004, the local economy of Ratanka started to go through some difficulties primarily due to rising inflation. A few leading economists felt that the economic integration into TORMAY was largely the cause of the inflationary trend.

7. Mr. Tequila, a Member of Parliament in Ratanka, announced the establishment of a new political party (the Ratanka League) that would focus on economic and immigration issues – particularly the prevention of “foreigners” from deriving benefits of the nation’s economy. The support for the Ratanka League grew by leaps and bounds and astute political observers pointed out that this was largely due to the difficult times the economy was going through. As a political strategy, the Ratanka League targeted retail outlets of Anghore corporations (and corporations from other member nations of TORMAY). Groups of Ratanka League supporters would surround a retail outlet and prevent any customers from entering the retail outlet. Odd instances of violence were also reported. This strategy created a lot of turmoil in the business community

but paid off politically. A number of Ratanka nationals started to boycott goods of “foreign corporations”. In addition, in the 2005 general election, the Ratanka Congress (which was the opposition party at the time of the election) came close to obtaining a parliamentary majority on its own – and was able to form a government only by forming a coalition with the Ratanka League.

8. Mr. Tequila became Prime Minister under the terms of the agreement between the Ratanka League and the Ratanka Congress. One of the first acts of the new Prime Minister was to challenge the TATT Treaty before the TORMAY International Court on the grounds that while treaty making power had been conferred on the TORMAY Union, it was still imperative for the representatives of the TORMAY Union to obtain consents of member nations before any international economic obligations were accepted. Ratanka argued before the Court that economic integration had not taken place and the treaty making power could not be used in a way to enforce consistent economic principles across the member nations without their consent.

9. Coincidentally, Anghore was going through a political transition of sorts at the same time. Over the years, the country had seen a new liberal philosophy spread through the nation. Tapping into this evolving liberal philosophy, the Anghore Mithati Party came to power in late 2005 with a thumping majority and within 100 days passed a number of constitutional amendments based on promises they made during the election campaign. These amendments included:

- a) Declaration of Anghore as a secular nation and prohibitions on the state from funding or involving itself with any religious activity;
- b) Recognition of abortion rights
- c) Articulating the “right to die” as a natural corollary of the “right to life”;
- d) Introduction of a chapter articulating the economic, social and cultural rights of Anghorians – though the said rights could be enforced only when they were individually notified by the Government.

Social activists were excited with these changes particularly the inclusion of the chapter articulating the chapter on economic, social and cultural rights though there was some disappointment that they could not be enforced immediately. They felt that the inclusion of this chapter recognized that Anghore human rights efforts had been marginal and ineffective. An independent study, for example, showed that over 50% of children were victims of sexual crimes and over 20% were involved in child labour. Crimes against women were a regular affair and the police were largely ineffective.

10. In the 6 months after these constitutional amendments were passed, social commentators were of the view that at least a 300 women from Ratanka had flown into Anghore to have abortions and at least 60 people had flown into Anghore with the sole purpose of dying – since they were suffering from rather painful diseases and preferred to die rather than live. Some of these individuals made statements saying that as the laws of Ratanka were somewhat archaic on

issues of abortion and euthanasia, they had flown to Anghore due to its progressive and liberal laws. All of this received widespread publicity in Ratanka – and informal polls conducted by research agencies indicated that a majority of people in Ratanka were concerned about the movement of people to Anghore to conduct abortions or to die. In response to public pressure, the Ratankan Government announced that they were considering whether women who had abortions in Anghore could be prosecuted in Ratanka on their return – as Ratankan criminal law had extra-territorial application when it came to actions of the citizens of Ratanka. Rumours abounded that the Government was also considering prosecuting those who had knowingly helped individuals fly to Anghore to “die” for criminal conspiracy. Two Ratankan women who had an abortion in Anghore and were about to return when the Ratankan Government announcement was made, called a press conference and requested the Anghore Government to allow them to stay on in Anghore as they feared they would be prosecuted on their return to Ratanka. – a prosecution for an act which was their human right.

11. Mr. Tequila immediately announced that he hoped that the TORMAY International Court would hold in Ratanka’s favour with respect to the powers of the TORMAY Union. In any event, he said that the amendments made to the Anghore Constitution violated basic human rights and freedoms and that Ratanka, could not, in good conscience and international morality, continue to maintain economic relations with Anghore. He also said that international law required Anghore to guarantee the economic rights of its people and while Ratanka aid was to further this objective, the fact that millions of Anghorians were did not have a social welfare net, raised questions about Anghore’s commitment to the economic rights of its people. Mr. Tequila pointed to the poor enforcement and the inability to enforce economic, social and cultural rights to justify Ratanka’s position. He went further to say that as obligations under the TATT Treaty were no longer in force vis-à-vis Ratanka, he would be introducing legislation called the Suspension of Obligations under the “TATT Treaty” Act in the Ratankan Parliament which would:

- a) Suspend international aid to Anghore till such time as Anghore put in place an effective public private participation framework for the creation of a social welfare net for its citizens
- b) Prohibit any fresh Anghore corporations from starting any new business in Ratanka till such time as Anghore did not accept that life started at conception and ended with natural death.
- c) Introduce what came to be known as the “life and death tax”, whereby corporations that were already conducting business with Anghore corporations were charged an special tax – which was an additional 5% of the corporation tax paid by corporations in general.
- d) Place visa restrictions on Anghorians seeking to work in Ratanka.
- e) These measures would be in force till such time as Anghore did not recognize that life began at conception and ended with natural death.

12. Many political commentators saw this as a shrewd political move by Mr. Tequila. The legislation was passed with near unanimity by the Ratankan Parliament. Anghore immediately

protested this move as a violation of the TATT Treaty and raised a strong protest with the President of the TORMAY Union. Anghore also said that the suspension of aid from Ratanka was violative of Ratanka's obligations under the TATT Treaty and under customary law, and would seriously compromise its efforts to create a social net for its citizens. He pointed out that the aid was an important rationale for Anghore to accept the terms of the TATT Treaty – and that the response of Ratanka was against the terms of the TATT Treaty and customary law and was excessive. The President of the TORMAY Union issued a cautious statement that said that the terms of the TATT Treaty permitted individual member nations of the TORMAY Union to suspend obligations under the Treaty. He did not express any view when it came to the issues of abortion and suicide maintaining that these were complex issues best left to individual nations. In the meantime, Anghore announced that they were granting refugee status to the two women who had had abortions in Anghore – as they would be prosecuted on their return to Ratanka and therefore had a well founded fear of persecution. Ratanka protested this move and demanded that they be returned.

13. Back-channel communications and an open threat by Anghore to suspend treaty obligations against all members of the TORMAY Union resulted in the parties submitting this dispute to the International Court of Justice. After the dispute was referred to the Court, the TORMAY International Court held against Ratanka on its claim with respect to the powers of the TORMAY Union to enter into the TATT Treaty. Mr. Tequila issued a press release that the decision was unfortunate but would not change the merits of the case before the International Court of Justice. Both countries are members of the United Nations and have duly ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and the Vienna Convention on the Law of Treaties. Both countries have raised a number of claims before the International Court of Justice.