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IN ASSOCIATION WITH:

D.M.HARISH FOUNDATION



INTERNATIONAL COURT OF JUSTICE

COMPROMIS

**BETWEEN THE FEDERAL DEMOCRATIC REPUBLIC OF CORNUCOPIA
(APPLICANT)**

AND THE REPUBLIC OF IRONMAIDEA (RESPONDENT)

TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE

THE DIFFERENCES BETWEEN THE PARTIES

CONCERNING MILITARY ACTIVITIES IN BAYSEA

Jointly notified to the Court on 23 September 2013

JOINT NOTIFICATION

ADDRESSED TO THE REGISTRAR OF THE COURT:

The Hague, 23 September 2013

On behalf of the Federal Democratic Republic of Cornucopia (the “**Applicant**”) and the Republic of Ironmaidea (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 Respondent concerning military activities in Baysea, signed in The Hague, The Netherlands, on the twenty third day of September in the year two thousand thirteen.

**Ambassador of the Federal Democratic
Republic of Cornucopia to the Kingdom of
The Netherlands**

**Ambassador of the Republic of
Ironmaidea to the Kingdom of The
Netherlands**

COMPROMIS
SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE BY
Applicant
AND Respondent
ON THE DIFFERENCES BETWEEN THEM CONCERNING
MILITARY ACTIVITIES IN BAYSEA

The Federal Democratic Republic of Cornucopia and the Republic of Ironmaidea,

Considering that differences have arisen between them concerning military activities in Baysea;

Recognising 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

It is agreed by the Parties that The Federal Democratic Republic of Cornucopia shall act as Applicant and the Republic of Ironmaidea as Respondent, but such agreement is without prejudice to any question of the burden of proof.

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 15th D.M. Harish Memorial Government Law College International Law Moot Court Competition, 2014.

(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 15th D.M. Harish Memorial Government Law College International Law Moot Court Competition, 2014.

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 authorised, have signed the present Compromis and have affixed thereto their respective seals of office.

Done in The Hague, The Netherlands, This twenty third day of September in the year two thousand thirteen, in triplicate in the English language.

**Ambassador of the Federal Democratic
Republic of Cornucopia to the Kingdom of
The Netherlands**

**Ambassador of the Republic of
Ironmaidea to the Kingdom of The
Netherlands**

COMPROMIS

1. The Federal Democratic Republic of Cornucopia is a country with a population of approximately 300 million, with a wide diversity of languages, races and religions. The country was originally a Portuguese colony, having obtained its independence in the 18th century.
2. Cornucopia was founded on principles of democracy and equal rights for all citizens. It was amongst the first nations in the world to introduce universal adult suffrage and was a leading proponent of women's rights in the early 20th century.
3. Cornucopia remained neutral during the first and second world wars and, other than a major civil war in the mid-19th century, has remained a largely peaceful nation. It has a standing army of around 300,000 soldiers and is considered by many defence experts as one of the most poorly armed of the world's developed nations.
4. Other than a short Indian Ocean coastline of approximately 200 kilometres in the south, Cornucopia is a landlocked country. To the north and the east, it is separated from its neighbouring countries by snow-capped mountain ranges. Its western neighbour, Foofistan, is also a nation with a colonial heritage. Other than a long-standing insurgency movement that was eventually quelled in the 1980s, Foofistan has had a peaceful history. The two countries have enjoyed over 150 years of peace and have flourishing trade relations. Subject to certain restrictions in respect of convicted criminals, citizens of Foofistan and Cornucopia enjoy rights of residence, travel and work in the other country.
5. Cornucopia is comprised of six provinces. The Cornucopian system of government is a federal one where the democratically elected provincial governments enjoy significant levels of financial and political autonomy. Cornucopia's entire coastline resides within its southern-most province, Baysea, which has a population of approximately 50 million. Baysea is, geographically, the smallest Cornucopian province.
6. Cornucopia's eastern neighbour is the Republic of Ironmaidea, a developing nation with a population of over 1 billion. Other than air freight and air travel, there are only two significant means by which goods and people are transported between

Cornucopia and Ironmaidea. First, a highway that was completed in 1963 following the construction of a 3 kilometre long tunnel through the mountains that separate Cornucopia and Ironmaidea, and secondly, the fast-flowing River Grohl which cuts through the mountain range and which is approximately 150 metres across at its widest. The River Grohl flows downstream from Cornucopia to Ironmaidea. Ironmaidea is a landlocked country, and does not share a common border with either Baysea or Foofistan.

7. Between the 16th century and the early 20th century, the land mass that currently comprises Ironmaidea was an agglomeration of between 25 to 320 separate kingdoms, fiefdoms or tribal lands governed by different monarchs or chiefs. In 1920, following a bloody five year war between the 40 kingdoms that then comprised the Ironmaidea land mass, the Republic of Ironmaidea came into existence as an independent state. This war came to be known as the Liberation War.
8. The constitution of Ironmaidea propounds a democratic state with a strong central government where provincial governments have relatively limited functions such as administering health, primary education and sanitation. Ironmaidea's government is headed by the President of Ironmaidea, who appoints a set of 12 ministers to advise him. Ministers are not formally allocated specific responsibilities or portfolios, but are often informally seen to be in charge of certain affairs of state. A large and strong civil service assists the government.
9. The first president and commander-in-chief of Ironmaidea was Kerry Hanneman, the prime minister to one of Ironmaidea's 40 monarchs engaged in the Liberation War. Hanneman came to power by assassinating the queen of his kingdom following victory in the Liberation War. President Hanneman worked towards ensuring that Ironmaidea had a powerful army and air force. His successors continued to follow this principle and as of 2012, Ironmaidea had a standing army of approximately 2 million soldiers and is one of the largest importers of defence equipment and arms in the world.
10. The President of Ironmaidea is the *de jure* head of the armed forces. Although Ironmaidea has a strict divide between individuals holding office in government and those who are officers in the army or air force, most leading politicians and public figures have a military background. 10 of Ironmaidea's 15 Presidents after Kerry

Hanneman held the post of Army Chief or Air Force Chief prior to being elected President. The other five Presidents were also senior officers in the armed forces prior to their election.

11. The Ironmaidea government is reported to hold a significant amount of control over the armed forces including in respect of the management of specific military exercises and operations. General Maynard Carey was appointed chief of Ironmaidea's armed forces in October 2011. On 1 May 2012, General Carey resigned his position as an officer and was appointed a minister in Ironmaidea's government. Newspaper reports at the time of his appointment as a minister indicate that he was to be the direct and sole liaison between the government and the armed forces, and that he was expected to take on the role of "Super General" with ultimate oversight over key strategic decisions.
12. Kerry Hanneman was a member of a little known sect known as the Metalmasons. The Metalmasons had their roots in ancient tribal rituals on the Ironmaidea land mass, and their followers practiced a common way of life where certain forms of music play a pivotal role. After assuming power in 1920, President Hanneman used his position to encourage the spread of the Metalmason way of life.
13. It is now a well-documented fact that Metalmasons were provided with special privileges and positions of power and wealth by President Hanneman and the Ironmaidea state during the 1920s. After his death in 1930, Hanneman began to be worshipped as a god amongst the Metalmasons, who now called themselves Metalists and proclaimed Metalism to be a new religion.
14. As the hold of the Metalists on political power in Ironmaidea grew, the number of Metalists in Ironmaidea proceeded to steadily increase. In the census conducted in 1935, only 2% of Ironmaidea's population declared that they were followers of Metalism. This figure rose to 5% in 1950, 35% in 1965, 55% in 1984, 60% in 1999 and 71% in 2012. Metalism was officially recognised as a religion by Ironmaidea in 1955, but it is not recognised as a religion in any other country in the world.
15. The province of Baysea in Cornucopia is said to be home to the second largest population of Metalists after Ironmaidea. The head of the Cornucopian Metalists is elected by way of a complex system by an electorate comprising over 1000 senior

Metalist Priests. The current High Priest of the Cornucopian Metalists is Darrel Mustaine, who was elected in 2002.

16. As part of long standing campaign to gain recognition as a religion, in December 2008, the National Church of Cornucopian Metalists conducted a survey and released a report which claimed that over 65% of Baysea's adult population were Metalists. The government of Cornucopia released a statement in response to the report which, *inter alia*, stated “...as Metalism has no official recognition in Cornucopia, [this report] is irresponsible and misleading. Metalism has no official status in Cornucopia. Citizens of Cornucopia should be aware that Cornucopian courts will not recognise as law the rules prescribed by Metalists to govern their marriage and succession”.
17. In 1956, a movement demanding independence for Baysea began to gain traction. Leading this movement were several prominent Metalists, and their vision of an independent Baysea was one where Metalism would be the official religion. The movement began as an entirely non-violent one. In the first three years, numerous debates were held and a number of reports and surveys were commissioned by the Baysea government to assess the viability of independence.
18. The rest of Cornucopia and the central government strongly resisted the movement. In statements made to a leading newspaper in 1958 that he later said were meant to be off the record, the head of the Cornucopian naval forces said, “*To give these head bashers their independence would be a disaster. They simply cannot run a country. The Metalists have no history of military training and I wouldn't put it past some of our hawkish neighbours, who I don't need to name, to invade them and gain access to the ocean. Needless to say, to lose Baysea and its coastline would put me and over 25,000 Cornucopian officers and sailors out of a job.*”
19. As their demands were resisted and then ignored by the Cornucopian government, the independence movement became more and more violent. In 1960, the Cornucopian Special Forces were dispatched to Baysea and over 200 leading independence activists were arrested in less than a week. In 1962, four of the movement's leading figures were executed after being convicted of treason. By 1964, the movement had ceased to have any real political significance. Regional political parties continued to propound a grand plan for Baysea's independence, but little was

done in practice to progress these demands. It was also widely reported that one of the reasons for the failure of the movement was that financial contributions from Ironmaidea's Metalists towards the movement had dried up.

20. Between 1962 and 1965, Ironmaidea and Cornucopia extensively negotiated the building of a major dam and hydro-electric power project that Ironmaidea proposed on the River Grohl. Following a number of concessions made by both sides and an obligation on Ironmaidea to provide Cornucopia with heavily subsidised power generated by the project until January 2009, the 5000 megawatt Ancient Mariner Power Project and Dam ("**AMPPAD**") was commissioned in June 1966 and went live on 1 January 1969. The AMPPAD dam lies five kilometres downstream from the Cornucopia-Ironmaidea international border.
21. Amongst the concessions provided by Cornucopia as part of the negotiations was the right for state-owned Ironmaidea enterprises to invest and own up to 49% of companies and factories in Cornucopia that were involved in the production of dioxin, a hazardous chemical used in the production of propanol. Any such enterprises would also be permitted to export all of their production of dioxin to Ironmaidea. Due to internal political indecisiveness in the 1970s, the first such investment by Ironmaidea was only made in 1978 in a dioxin-producing company called the Chemicals Organisation and Manufacturing Agency ("**COMA**"). Through its state-owned National Chemical Production Factory ("**NCPF**"), the government of Ironmaidea held 49% of COMA. COMA entered into an agreement with the NCPF to export no less than 90% of all dioxin produced by COMA's factories to Ironmaidea.
22. In January 1979, the Cornucopian government enacted a series of path breaking environmental laws, including the Environmental Due Diligence on Schemes Act, 1979 (commonly referred to as "**EDDOSA**"). When it was passed, the Cornucopian government described EDDOSA as "*a law that prescribed some of the highest standards then prevailing amongst developed nations in respect of the levels of environmental due diligence required*" prior to the commissioning of certain types of projects.
23. COMA was amongst the first applicants seeking approval under the EDDOSA for a new dioxin factory. In light of the fact that all the dioxin to be produced in the factory was to be exported to Ironmaidea for the foreseeable future, the proposed site of the

factory was a two hectare plot on the banks of the River Grohl, only three kilometres upstream from the border with Ironmaidea. The site lies on the outskirts of Riverside, a small Cornucopian town largely reliant on tourism for employment. The application also envisaged that a captive coal-fired power plant would be built within 15 years of the factory commencing operations.

24. The EDDOSA process in respect of the Riverside factory lasted approximately seven months. As part of the process, the Cornucopian ministry for environment invited responses from environmental groups, civil society and political parties in respect of the proposed factory. Following the consultation period, in its first official response to COMA's application in July 1979, the ministry suggested that COMA consider making a number of changes to the proposed operating procedures and the construction plans to enhance levels of safety at the factory. In particular, the ministry recommended the movement of the main factory building from a site lying 100 metres from the river to a plot approximately 500 metres from the river.
25. The ministry also arranged for six town hall meetings to be held with Riverside residents. Newspapers widely reported that the residents of Riverside were strongly opposed to the establishment of the COMA factory on grounds of safety and water contamination.
26. In February 1980, COMA was granted a license to establish the Riverside factory. The factory began operations in January 1981. The factory was built on the original proposed site 100 metres from the River Grohl. In March 1995, the captive coal-fired power plant was built on a site between the factory and the river.
27. There is little by way of public record in relation to the EDDOSA process following the first official response from the Cornucopian ministry. In its annual report published in December 1980, Transparency National, a Cornucopian anti-corruption think-tank and lobby group, highlighted the COMA Riverside factory EDDOSA process as one where it felt appropriate standards and safeguards against corruption were not followed. Reports in newspapers at the time pointed towards significant contributions having been made by the NCPF and a number of state-owned Ironmaidea pharmaceutical companies to the Cornucopian ruling party's election fund. The reports also suggested that the dioxin to be produced by the COMA

Riverside factory were critical to the business operations of these pharmaceutical companies.

28. A well-regarded independent investigative Cornucopian magazine reported in June 1979 that one of its undercover journalists had witnessed over US\$ 2 million in cash being delivered by a senior Ironmaidea civil servant in charge of trade and commerce to an influential leader in Cornucopia's ruling political party. The magazine claimed that the pay-off was to ensure that no adverse findings would be made by the Cornucopian ministry against the COMA Riverside factory proposal. Despite the magazine submitting the evidence it had gathered and filing a formal complaint with the Cornucopian police, no arrests were made nor were any prosecutions pursued. The Cornucopian government issued a statement on the complaint, stating that the undercover journalist in question "*...has a penchant for inventing controversy where there is none. Cornucopia is a corruption free country. Our officials follow the highest standards of practice in the civilised world. It is disingenuous to suggest that these officials would risk their reputations to engineer the approval of a factory that has little strategic or economic significance to Cornucopia.*" The magazine published its last edition in January 1982 after struggling to raise funds in 1980 and 1981.
29. In June 1993, following unusually heavy rains, the River Grohl burst its banks and the COMA Riverside factory and power plant were both flooded. A chemical storage tank containing the inert chemical metadioxin burst, but the leak was quickly contained thanks to the actions of the personnel who followed the prescribed emergency procedures. After conducting a speedy survey following the incident, COMA distributed over US\$ 5 million in compensation to approximately 100 Riverside residents who had been affected by the flooding and the leak. The factory and power plant were back in operation within 10 days of the flood waters receding. In January 1995, the NCPF sold its 49% holding in COMA to a state-owned Cornucopian company. News reports suggested that the reason for the sale was that the NCPF and the 51% Cornucopian shareholder disagreed on the amount of the compensation paid to Riverside residents following the June 1993 leak and the safety standards and procedures in force at the factory.
30. Following the establishment of the COMA factory and the success of the AMPPAD project, Cornucopia began to aggressively pursue trade relations with Ironmaidea and

enacted a number of laws and regulations to attract cross-border investment. During the 1980s, a number of memoranda of understanding were entered into between Foofistan, Ironmaidea and Cornucopia and their state-owned corporations. In 1993, Ironmaidea also entered into an extradition treaty with Foofistan.

31. Trade relations and co-operation in other spheres between the three countries were at an all-time high. Consequently, cross-border investments began to rise significantly. In 2001, Ironmaidea and Cornucopia began negotiating a bilateral investment treaty and the negotiations continued for a number of years. When the talks were finally called off in May 2012 following the commencement of hostilities, the two parties were very close to final agreement on the treaty and the most recent draft of the treaty was substantially similar to the 2004 United States model bilateral investment treaty.
32. As the telecom revolution began in the late 1980s, a number of Cornucopian companies were granted licences to provide cellular services to customers in Cornucopia, Ironmaidea and Foofistan. It soon became apparent that at this stage only Cornucopian companies were in possession of the relevant technology required to provide these services. By 1998, due to the high entry costs and initial losses incurred, only three such telecom providers remained. One of the three providers was Trooper Mobile, a Cornucopian company with a subscriber base of 1 million users across the three countries in 1998.
33. In Cornucopia, each of the telecom providers used the services of Icarus Telecommunications, a company that initially had an effective monopoly on the constructions and provision of cellular towers providing networking that the telecom providers used to provide cellular phone services. In return, Icarus received regular and substantial license fees. As of December 2010, Icarus controlled over 50% of the cellular tower market in Cornucopia and approximately 80% of the market in Baysea.
34. Leading economic and political commentators at the time suggested that the governments of Foofistan and Ironmaidea were deeply worried by the monopoly of Cornucopian telecom companies in the region. In violation of accords entered into with Cornucopia in respect of the telecom industry, the governments of Foofistan and Ironmaidea had also begun aggressively pursuing non-Cornucopian telecom providers to establish subsidiaries in their respective countries and provide competing

services. However, by 2002, Foofistan and Ironmaidea had failed to successfully do so.

35. In April 2003, the governments of Foofistan and Ironmaidea announced in a joint statement that they had agreed to the purchase of Trooper Mobile from its promoters. The statement set out that Foofistan would hold 55% and Ironmaidea would hold 45% of Trooper Mobile's shares. The purchase price was undisclosed but was rumoured to be approximately US\$ 1 billion, a figure described by a leading business journalist as "*silly money*". Following the takeover, Trooper Mobile's headquarters were moved to the capital of Foofistan.
36. By the mid-1980s, Baysea had become Cornucopia's most prosperous province. Explorations commissioned by the Baysea government had yielded a discovery of vast quantities of onshore crude oil in the 1970s and were now providing large amounts of revenue in taxes and licensing rights. The provincial government had also established an international financial centre in Baysea which had become a hub of legal and financial services and was widely considered to be the regional equivalent of Wall Street.
37. As the province became more prosperous, the movement for Baysea's independence started gaining momentum again. During the 1980s, the issue of Baysean independence was a fixture in all major Cornucopian elections and political debates. Political figures in Baysea who did not support independence were often sidelined by political parties who favoured pro-independence thinkers. A number of the leading independence activists were Metalists.
38. By 1990, the independence movement had garnered sufficient support and momentum for the Cornucopian government to begin a series of talks and negotiations with leaders of the independence movement. Some of these leaders were members of the Baysea provincial government, while others were Baysean representatives in the central Cornucopian government. An editorial in a leading Baysean daily in May 1990 was indicative of the fever pitch mood in Baysea. It stated, "*There is precious little left in Cornucopia's repeated argument that Baysea should not have its independence. We are an independent people with a distinct culture. We have the ability and the right to govern ourselves. Our hard work and our government's vision have led us to where we are. Why should we continue to*

subsidise the rest of Cornucopia who have failed to match Baysea's progress with their inefficiency and lack of foresight?"

39. The first Conference on the Viability of an Independent Baysea ("COVIB") was held in January 1991. The participants included representatives of the central Cornucopian government, the provincial Baysea government and the Cornucopian Metalist Church. In addition, the participants invited the United Nations to send an observer. The first COVIB ended with parties making little progress towards a mutually satisfactory agreement on the issues at hand.
40. The second COVIB was held in June 1991, where the Cornucopian government offered Baysea greater financial autonomy and a reduced contribution towards the central exchequer from revenue generated within the province. Newspapers reported that a number of pro-independence leaders were in favour of accepting the offer but were ultimately overruled by others who wanted to press for independence. Unverified reports suggest that the key issue over which talks broke down was the fact that Cornucopia had ruled out the recognition of Metalism as a religion.
41. In July 1991, the Baysea Independence Party, the then ruling party in the Baysea provincial government issued the following brief statement: *"It is now clear to us that the two COVIBs were nothing more than an exercise in attempted appeasement by Cornucopia. No real effort was made by Cornucopia to address the concerns and aspirations of Bayseans. Unless Cornucopia is able to seriously consider our demands, we shall have to pursue other means of obtaining our independence."*
42. The third and final COVIB was convened and held in February 1992. The Cornucopian delegation put forth a proposal to the pro-independence representatives that included the following:
 - (a) a referendum on Baysea's independence to be held across Cornucopia; and
 - (b) a reorganisation of the provincial territorial boundaries to provide Baysea with control over certain oil fields that were currently in other provinces.
43. Having failed to make any real progress in the previous COVIB's, the pro-independence leaders were reported to be under tremendous pressure from the more radical factions of the movement to accept the offer of a referendum. In a press statement made on the penultimate day of the third COVIB, a pro-independence representative said, *"While this is a significant step in the right direction, a*

referendum is of no use where the overwhelming majority of the eligible voters are not Bayseans and are not engaged with the issues at hand. Furthermore, the Cornucopian proposal spells out the question to be put forth in the referendum. It is over 10 sentences long and is completely unintelligible to anyone other than a keen legal mind. It is not an offer that we should accept and I urge fellow Bayseans to be patient". On the final day of the third COVIB, the Cornucopian proposals were accepted in their entirety. The developments were hailed in Baysea as the start of a new era.

44. The reorganisation of the provincial territorial boundaries was quickly put into force by Cornucopia. Ten distinct new territories were included as part of Baysea. None of these territories border the other and none of them are contiguous with the rest of Baysea. In April 1992, the Baysean independence referendum was held. Baysea was denied its independence as 75% of the voters answered the referendum question in the negative. Some radical elements of the Baysea Independence Party were arrested on grounds of vote rigging and booth capturing.
45. Following the failure of the referendum, the Baysea Independence Party lost the next provincial election by a landslide. The new ruling political party, the Progress for Baysea Party, was elected on a manifesto promising economic growth and a rethinking of the manner in which independence was to be attained. Leaked confidential internal security reports of the Cornucopian home affairs ministry highlight that the Cornucopian government had significant concerns that the Progress for Baysea Party was a political front for a violent independence movement that was gathering support. At the forefront of this violent movement was a group known as the Baysea Freedom Group ("BFG"). It was widely known that the BFG was being funded by contributions from Metalists in Baysea and Ironmaidea.
46. By 1998, a low level insurgency movement led by the BFG had begun. At first, police stations and military installations in Baysea and other parts of Cornucopia were targeted and looted. Injuries to policemen and members of the Cornucopian armed forces were largely minor. As the movement gained support and obtained greater sources of funding, it began to use crude bombs and other homemade explosive devices to attack its targets, which were still largely restricted to police and military buildings and offices. The Cornucopian government estimated that between 2000 and 2003 the BFG had carried out over 200 acts of violence, killing 10 police

officers. The BFG's usual *modus operandi* was to take credit for any attacks it conducted.

47. Between 1994 and 1996, the Baysea government and the Cornucopian government jointly entered into a number of agreements with other countries and their state-owned oil enterprises for the export of Baysea's crude oil reserves. One of these countries, a permanent member of the United Nations Security Council, soon came to be heavily reliant on Baysea's oil exports. In 2000, this country became the first nation to recognise Baysea as an independent state. At the same time, the BFG declared itself to be Baysea's national army, and entrusted itself with the duty of "*defending the Baysea realm*".
48. By 2005, ten further countries had recognised Baysea as an independent country. All of these countries were also large importers of Baysean crude oil. In 2008, Baysea was granted the status of non-member permanent observer entity at the United Nations. A vote on a resolution before the General Conference of UNESCO proposing the inclusion of Baysea as a UNESCO member is expected to take place in October 2014. The Baysean government has also stated that it will be moving a similar resolution before the United Nations General Assembly in September 2014 with the support of "*a number of countries who recognise the true nature of our state*".
49. In February 2004, the Cornucopian Special Forces executed a brief, well-planned and brutal crackdown on a number of BFG safehouses in Baysea. Official Baysea government figures estimate that over 750 Bayseans, including a number of juveniles, were killed during the operation. The Cornucopian government disputed these figures, stating that it had made 2,500 arrests and that "*less than 250 terrorists who violently resisted arrest were unfortunately killed*".
50. Following the crackdown, the BFG began to carry out more violent attacks. The attacks were now largely conducted outside Baysea and were increasingly indiscriminate. Banks, factories of Cornucopian state-owned enterprises and government offices came to be their favoured targets. As the intensity of the attacks increased, so did the public anger in Cornucopia. However, the Special Forces seemed unable to contain or reduce the attacks. In a televised interview, a leading defence analyst stated that there were "*...two reasons why [the Special Forces] are*

powerless. First, the extent of the funding and provision of arms and explosives from Metalists in Ironmaidea is unimaginable. They are quite simply bankrolling a small war. Secondly, the BFG and associated elements have no real command structure. Short of arresting every single person drinking tea on the roadside in a suspicious manner, it is impossible to police this sort of insurgency where an attack is completely arbitrary, both in respect of the target and the perpetrator. I fear this is a fight that Cornucopia will lose. They must seek a political settlement.”

51. By 2007, attacks by the BFG were carried out on an almost daily basis. The borders between Baysean territory and Cornucopia had started to become heavily militarised and the indiscriminate firing of rockets into Cornucopia was commonplace. Attempts by the Cornucopian Special Forces to regain control of the oil fields ceded to Baysea in 1992 ended in failure. In December 2007, Amnesty International released a report on the Cornucopia-Baysea situation. The report estimated that over 25,000 lives had been lost since the beginning of the insurgency and predicted that tally would triple in the ensuing 12 to 18 months if a political settlement was not reached.
52. In December 2008, unsuccessful peace talks were held between the Cornucopian government and the BFG to attempt to reach a mutual acceptable political settlement. Each side blamed the other for being unwilling to compromise. Following the conclusion of the talks, a Cornucopian government spokesperson said, *“The precondition to any settlement and any consideration of Baysea’s claim to independence, which I should mention was roundly rejected by the entire country in the 1992 referendum, is that the attacks must stop. We cannot negotiate peace on the one hand as our sons and daughters are being killed by the BFG’s bombs on the other. We offered the BFG an amnesty scheme whereby we would allow the BFG and any individuals with a similar propaganda to voluntarily disarm without criminal sanction. In return we offered to open talks and concertededly examine and consider the aspirations of every Baysean, including whether Metalism should be formally recognised as a religion. The BFG have flatly refused our offer. To any government with less concern for its citizens, this would be the equivalent of a death knell being sounded. However, Bayseans are fellow Cornucopians and in the interests of the country as a whole, our offer remains open until 1 April 2009 following which we shall have no option but to pursue every single terrorist behind the attacks.”*

53. Top secret diplomatic cables that were released by the whistle-blowing website Tikileaks now confirm that during the course of 2008 the government of Cornucopia and the government of Foofistan had entered into secret talks on the Baysea situation. In November 2008, Foofistan had agreed to provide Cornucopia with significant military equipment, training and personnel to assist in the anti-BFG operations.
54. As soon as the 1 April 2009 deadline passed, the Cornucopia army commenced high intensity operations in Baysea. Observers and commentators were both shocked and surprised by the use of tanks, heavy artillery and air power to bomb civilian areas. Metalist churches and other known places of gathering and worship were repeatedly targeted until few were standing. After suffering heavy losses in the first three months of the Cornucopian offensive, the BFG regrouped with significant military and humanitarian aid from Ironmaidea and began robustly resisting the Cornucopian army. However, newspaper reports suggested that the losses incurred by the BFG were too great and that there was little chance of the BFG realistically sustaining their campaign.
55. On 2 April 2009, Cornucopia's parliament passed the Strategic Cooperation and Riposte to Emergencies Act (the "**SCARE Act**"). The Act was drafted with the purpose of providing Cornucopian corporations with an incentive to provide assistance in the anti-BFG operations. The SCARE Act allowed corporations that provided "*strategic and militarily sensitive services and products*" to Cornucopia to rely on certain new tax benefits and preferential treatment during the tendering process for government projects.
56. In May 2009, in an effort to cripple the BFG's ability to communicate through wireless equipment, the Cornucopian army began successfully using radio frequency jammers in Baysea. The BFG were forced to resort to the use of cellular phones and, to a lesser extent, satellite phones. As the cellular phones were both interceptable and traceable, the Cornucopian government released a list of 250,000 phone numbers on a public website. It claimed these phone numbers were being used by the BFG, and it encouraged all Cornucopian citizens to report any communication received from any of these numbers. The vast majority of these numbers belonged to Trooper Mobile customers.

57. In September 2009, Icarus Telecommunications took steps to ensure that its cellular towers blocked any communications made by these numbers. In a statement it said, *“We do not support terrorism. The Cornucopian government has clearly indicated that the users of these phone numbers are considered terrorists. As a responsible corporation, we have taken steps to ensure that our facilities are not used for the promotion of terrorist activities”*.
58. In October 2009, the Cornucopian corporate affairs department announced that Icarus was eligible for the benefits provided for by the SCARE Act. A number of anonymous industry insiders interviewed by a leading Cornucopian financial daily confirmed that although the SCARE Act was not originally meant to cover providers of cellular phone services and other telecommunication services, the strategic benefits of using Icarus were considered significant by the Cornucopian army. Therefore, they believed the government had leant on Icarus to take these measures in exchange for recognising them to be SCARE Act eligible.
59. Trooper Mobile revealed that the sudden loss of these customers and the inability to provide them with services had severely affected its revenue from Baysea. It estimated that Icarus’ actions had resulted in losses of approximately US\$ 25 million in the months of September 2009 to December 2009. A claim for damages made by Trooper Mobile against Icarus in respect of these losses is currently subject to ongoing arbitration proceedings. By December 2009, the BFG had reportedly resolved a method by which Icarus’ block could be circumvented.
60. In a report released in December 2009, the International Committee for the Red Cross described the Baysea situation as *“a humanitarian disaster in the making”* and *“a military clash one step shy of a full-blown civil war”*. The report also stated that approximately 500,000 Baysean refugees, primarily Metalists, had fled to Foofistan where enormous refugee camps had been set up under the auspices of the United Nations. The report also stated that approximately 100,000 Bayseans, again mostly Metalists, had sought asylum in Ironmaidea.
61. By May 2010, the BFG was reeling from the Cornucopian army’s offensive. Unverified figures released by the Progress for Baysea Party claimed that over 200,000 Bayseans, mostly Metalists, had been killed since April 2009. It also claimed that the manner in which the offensive had been carried out and the civilian areas that

had been targeted made clear that Cornucopia was systematically eliminating each and every Baysean Metalist. In an interview with an international news organisation, Atal Semhi, a leading Baysea lawyer stated that, *“What you are seeing here is nothing short of genocide. 200,000 dead and rising by the day and over a million displaced refugees. If I ever had any faith in Cornucopia’s feeble attempts at peace, I fear they have been brutally shattered by these atrocities.”*

62. A report released by Human Rights Watch in December 2010 reported that the Foofistan refugee camp now held over 1 million Baysean refugees, and that Ironmaidea had received over 500,000 Baysean refugees since the start of the April 2009 offensive. The report stated that, *“most ordinary Bayseans are left with little option but to abandon their homes and seek safety elsewhere due to the ongoing civil war in Baysea”*.
63. During the course of 2010, the Baysea government had begun pursuing diplomatic options to resolve the crisis. As the Cornucopian army had not targeted the Baysea oil fields, Baysea had reportedly begun exporting oil to friendly countries, including Ironmaidea, at heavily subsidised rates. In January 2011, shortly prior to commencing its tenure as President of the United Nations Security Council, Ironmaidea recognised Baysea as an independent state. Shortly afterwards, a resolution was passed by the Security Council under Chapter VI of the UN Charter. The resolution took cognisance of the worsening humanitarian situation and *“invited the Federal Democratic Republic of Cornucopia and members of the opposition to explore avenues for a peaceful settlement to the crisis in the interests of regional peace and security”*.
64. By June 2011, the BFG’s open resistance to the Cornucopian army had all but broken down. There was a huge shortage of food and medical supplies, and the supply of arms and ammunition from Ironmaidea was drying up. A United Nations appointed envoy proposed an accord for the cessation of hostilities between the BFG and the Cornucopian army. The proposal was rejected by both sides. Following the expiry of the cease fire during which the proposal was discussed, the Cornucopian army began yet another offensive, this time blatantly targeting heavily populated civilian areas on grounds that BFG fighters were taking safe harbour in these areas. The office and residence of High Priest Mustaine of the Cornucopian Metalists was repeatedly

targeted. Journalists reported that one night-time artillery strike had resulted in a wall collapsing on him and that he had suffered severe spinal injuries.

65. By December 2011, the refugee situation had severely worsened. The Foofistan refugee camp held over 1.5 million Baysean refugees, and Ironmaidea had received over 750,000 Baysean refugees since the April 2009 offensive. Both countries began complaining of the burden that the refugees were placing on them. In December 2011, in its last month as a member of the Security Council, Ironmaidea made attempts to garner support for a resolution under Chapter VII of the UN Charter authorising member states to militarily intervene in Baysea. News reports suggest that there was widespread support for such a resolution, but that one permanent member had threatened to veto the motion. A resolution was not tabled and no formal vote took place.
66. In January 2012, the Baysean government proposed another accord for the cessation of hostilities between the BFG and the Cornucopian army. The proposal included the terms of BFG's surrender and made a number of concessions in respect of ceding territory to Cornucopia, including the oil fields ceded to Baysea in 1992. The proposal was rejected by Cornucopia.
67. In February 2012, amid worsening humanitarian conditions and continued long-range heavy artillery bombardment by the Cornucopian army, the Baysea government made a formal plea for military intervention in Baysea. The government made these pleas in two separate statements, one directed at and delivered to Ironmaidea's Ambassador to Baysea and another to the United Nations Security Council.
68. By May 2012, with no respite for Baysea from the Cornucopian army's use of heavy artillery, there was widespread worldwide diplomatic support for a military intervention. Between 5 May 2012 and 8 May 2012, Ironmaidea minister Maynard Carey, together with the minister widely regarded as being in charge of Ironmaidea's diplomatic relations, conducted talks with Cornucopia's minister for foreign affairs in an attempt to broker a cease fire. The talks were unsuccessful. With strong support from Ironmaidea and several other influential nations, a resolution authorising military intervention in Baysea was tabled at the Security Council on 10 May 2012. Ambassadors making speeches in favour of the resolution made repeated references to "*the need to protect basic humanity*" and "*an obligation to protect civilians*

against Cornucopian atrocities”. Satellite images of flattened towns and cities in Baysea were displayed prior to the vote. Evidence that had been gathered of Cornucopia’s targeting of civilian areas was also made available to members of the Security Council. 14 members of the Security Council voted in favour of the resolution and military action, and one permanent member voted against it.

69. On 14 May 2012, Ironmaidea minister Maynard Carey issued the following ultimatum: *“The world community may have failed in its duty, but we cannot simply stand by and watch this massacre of innocents. A letter delivered a short while ago by me to Cornucopia’s Ambassador on behalf of Ironmaidea gives Cornucopia 24 hours to announce the cessation of all military operations in Baysea. Failing such an announcement, I shall instruct our armed forces to take appropriate action in Baysea”*. In response, the Cornucopian foreign affairs minister said, *“Minister Carey’s letter and statement are threats of force. It is a blatant violation of international law and any action would constitute aggression. There is no question of Ironmaidea dictating Cornucopian policy in relation to its own citizens. There is to be no cessation of Cornucopia’s internal military actions that are underway to safeguard our survival and security”*.
70. On 15 May 2012, Ironmaidea’s air force began air strikes on the Cornucopian military bases in Baysea. Cornucopia’s naval force, principally located off the Baysea coast, suffered severe losses. After 30 further days of a sustained campaign of air strikes on high-value Cornucopian military targets, ground troops were dispatched by Ironmaidea to the Baysea-Cornucopia border and the Baysea coastline. After securing key strategic locations, Ironmaidea’s ground troops began advancing towards the oil fields ceded to Baysea in 1992, facing significant military opposition on the way. On 15 August 2012, Minister Carey announced the successful capture of the oil fields.
71. The Ironmaidea army had also deployed three battalions of approximately 1,000 soldiers each in Baysea’s three largest cities. News reports and numerous eyewitness accounts, which were refuted by Minister Carey, indicate that the sole purpose of these battalions was to locate and kill non-Metalists in these cities. News agencies also reported that these cities were subject to the widespread rape of non-Metalist women and the indiscriminate killing of non-Metalist men and children by the

Ironmaidea soldiers. An Oxfam report estimated that the three battalions had killed approximately 50,000 non-Metalists in less than a month.

72. With the Ironmaidea intervention active, the BFG had started to regroup and had once again begun carrying out bombings in Cornucopia. Icarus Telecommunication began using specially engineered state-of-the-art mobile frequency jammers to block a large proportion of its Baysea cellular towers from being used by cellular phone users. Icarus explained this to be an attempt to curtail the BFG's ability to recruit volunteers.
73. An independent defence analyst cast doubts on the effectiveness of these measures. In a popular online blog, he said, "*It is quite clear to me that Icarus has been ordered to take these measures by the Cornucopian government. We have been here before and I fail to see any justification for the time and expense it would have spent on these new jammers, other than for Icarus to take advantage of a few tax sops under the SCARE Act. Given their past history, I expect the BFG to rapidly circumvent this problem. In the meanwhile they will simply fall back to the satellite phones that Ironmaidea has kindly provided them with. It is, in my opinion, a wholly unnecessary action and of little practical use in the grand scheme of the war.*" In an open letter to the Cornucopian government published in a leading international financial daily, Trooper Mobile complained of mounting losses caused by the deployment of the jammers and suggested that these measures and the jamming measures taken in September 2009 were tantamount to expropriation and were a violation of its rights. A separate letter to the government also provided independent studies that Trooper Mobile had commissioned which indicated that the jammers had only very briefly curtailed the levels of communication amongst the BFG.
74. On 13 September 2012, three crude bombs exploded at the COMA Riverside factory. Two large chemical storage tanks were ruptured and several hundred gallons of metadioxin were washed into the River Grohl. In addition, a warehouse located on the banks of the River Grohl was badly damaged and several tonnes of high-grade coal stored in the warehouse for use in the captive power plant emptied into the river and began to flow downstream. Much of the coal quickly reached the AMPPAD dam and began jamming the sluice gates, which were then open to release excess water from the reservoir. With water building up behind the reservoir, the dam was eventually breached and the sudden release of water resulted in heavy flooding. Over

100 hectares of crops were destroyed, four towns with an aggregate population of 50,000 experienced severe flooding and seven people, including three children, were killed in the floods. Although experts have since stated that there would have been no plausible way to avoid the dam breach, personnel at the AMPPAD dam revealed to the media that they had no procedures prescribing what action to take in such circumstances.

75. On 30 September 2012, a United Nations brokered cease fire between Ironmaidea and Cornucopia came into effect and a road map for a peaceful resolution of the Baysea issue was drawn up. By 15 October 2012, all of Ironmaidea's forces had been withdrawn from Baysea and Cornucopia, and both Cornucopia's military and the BFG had ceased all operations. On 20 October 2012, a local court in Cornucopia's capital issued an arrest warrant for Minister Maynard Carey, charging him with the crime of aggression. The warrant relied on well-established Cornucopian laws exercising jurisdiction over actions recognised as crimes in international law. The warrant was subsequently circulated on Interpol. An official from the office of Ironmaidea's President dismissed the warrant as "*...nothing more than an attempt to bully Ironmaidea, and a poor one at that. I wonder if there will be similar retribution for those who orchestrated the genocide in Baysea*". Separately, the Cornucopian government also demanded that Ironmaidea's courts try Minister Carey, failing which Cornucopia demanded his extradition to stand trial in Cornucopia. These demands were all ignored by Ironmaidea.
76. By May 2013, although significant progress had been made in relation to the issues concerning Baysea's status, Ironmaidea and Cornucopia had a number of disputed issues on which no agreement was being reached. The two countries agreed to refer the points of dispute to the International Court of Justice based on the facts set out above.
77. The Applicant, the Federal Democratic Republic of Cornucopia, submits that:
- (a) The Respondent, by its military intervention in Cornucopia, has breached international law.
 - (b) Minister Maynard Carey is guilty of the international crime of aggression. Further, the Respondent should either prosecute Maynard Carey of crimes

committed against the Applicant's citizens during the military intervention or extradite him to Cornucopia to face trial for such crimes.

The Respondent, the Republic of Ironmaidea, opposes all the above claims and submits that the warrant issued by the Cornucopian local court against Maynard Carey should be annulled. Further, the Respondent submits that:

- (c) The jamming of cellular towers in Baysea and the Applicant's subsequent failure to compensate Trooper Mobile has resulted in the Applicant breaching international investment law.
- (d) By failing to conduct adequate environmental due diligence in respect of the COMA Riverside factory, the Applicant has breached its international obligations. In any event, the Applicant is liable to make reparations for the damage caused in the Respondent's jurisdiction by the COMA Riverside factory incident.

The Applicant opposes all the above claims and submits that, in respect of the claim set out in (c) above, the Respondent has no standing to bring such claim. The Applicant further submits that in respect of the claim set out in (d) above, the Respondent is, by its conduct, foreclosed from bringing the claim before the Court.

78. Cornucopia, Ironmaidea and Foofistan are all members of the United Nations and the World Trade Organisation, and are parties to the Vienna Convention on the Law of Treaties. Cornucopia is a party to the Rome Statute of the International Criminal Court; Ironmaidea is neither a party nor a signatory to the Rome Statute. Ironmaidea is a party to the Montevideo Convention on the Rights and Duties of States.