REPORT No. 71/12
PETITION P-1073-05
INHABITANTS OF THE "BARÃO DE MAUÁ" RESIDENTIAL COMPLEX
ADMISSIBILITY
BRAZIL
July 17, 2012

I. SUMMARY

1. On September 19, 2005, the Inter-American Commission on Human Rights (hereinafter the "Inter-American Commission" or the "IACHR") received a petition against the Federative Republic of Brazil (the "State" or "Brazil"), alleging its international responsibility for the violation of Articles 1.1, 4, 5, 8 and 25 of the American Convention on Human Rights ("the American Convention"). The petition asserts that Brazil is internationally responsible for the environmental degradation and the risk to human life, personal integrity and health stemming from soil contamination and related environmental damage, to the detriment of the inhabitants of the "Barão de Mauá" Residential Complex (hereinafter "Barão de Mauá" or "CHBM" – *Conjunto Habitacional Barão de Mauá*), the former workers who prepared the foundation and helped build the CHBM, the former residents of the CHBM, as well as everyone who works or has worked at the CHBM ("the alleged victims").[1] The petition was presented by attorney Aurélio Alexandre Steimber Pereira Okada, in representation of all alleged victims ("the petitioner").

2. The State maintains that the petition is inadmissible because domestic remedies have not been exhausted as required by Article 46.1.a of the American Convention. In that regard, the State asserts that there is a pending collective action (*Ação Civil Pública* No. 1157/2001) before the 3rd Judicial Branch of Mauá, São Paulo state, which was presented by the Office of the Public Prosecutor on August 31, 2001, against the Municipality of Mauá and four private companies. According to the State, a first instance merits decision in favor of the alleged victims was issued on September 26, 2006, and the process is following its due course before the respective court of second instance. The State thus argues that the petition was presented prematurely, in accordance with the requirement contained in Article 46.1.a of the American Convention and Article 31 of the IACHR's Rules of Procedure. Moreover, the State argues that supervening information or evidence presented to the Commission reveals that this petition is inadmissible, in accordance with Article 34.c of the IACHR's Rules of Procedure.

3. Without prejudging the merits of the matter, and in accordance with the provisions of Articles 46 and 47 of the American Convention, the Inter-American Commission decides to declare this petition admissible with respect to the alleged violation of Articles 4, 5.1, 8, 13, 21 and 25 of the American Convention, in conjunction with the general obligations established by Article 1.1 of the same instrument, as detailed *infra*. The IACHR also decides to notify the parties, publish this report and include it in its Annual Report to the General Assembly of the Organization of American States.

II. PROCEEDINGS BEFORE THE IACHR[2]

4. The petition was received on September 19, 2005. At the request of the IACHR, the petitioner sent additional information on July 10, 2006. The relevant parts of these communications were forwarded to the State on August 7, 2006. The State replied by means of notes received on December 11 and 12, 2006. The IACHR duly submitted these communications to the petitioner. The petitioner submitted additional information on the following dates: January 29, 2007; March 22, 2007; and October

[1] With regard to the alleged victims, the petitioner duly individualized 440 "plaintiffs" in his original petition, and later added 91 more individuals (in his communication received on March 22, 2007), totaling 531 named alleged victims. However, the petitioner has emphasized that the alleged victims are: the current inhabitants of Barão de Mauá, the former workers who prepared the foundation and helped build the CHBM, the former residents of the CHBM, as well as everyone who works or has worked at the CHBM.

[2] On September 19, 2005, the petitioner also requested precautionary measures in relation to the facts alleged in this petition, pursuant to Article 25 of the IACHR's Rules of Procedure. After requesting additional information from both parties several times, the Inter-American Commission decided to reject the request for precautionary measures on August 1, 2006.

8, 2007. These communications were duly submitted to the State. The State presented additional information on the following dates: June 27, 2007; June 25, 2008; and August 4, 2008. These communications were duly submitted to the petitioner.

III. POSITION OF THE PARTIES

A. Position of the petitioner

5. The petitioner asserts that the land on which the CHBM was built had been used as an illicit toxic dumping site since at least 1973. Indeed, according to the petitioner, both the owner of said land – *Companhia Fabricadora de Peças* (hereinafter "COFAP") – a private company, as well as the State environmental agency in charge of controlling, licensing, supervising and monitoring potentially polluting activities to the environment – *Companhia de Tecnologia de Saneamento Ambiental* (hereinafter "CETESB") were fully aware of the illicit toxic dumping in the area since 1973. In this regard, the petitioner points out that, between 1973 and 1992, before the construction of the CHBM was authorized by State authorities, CETESB had issued at least 17 infraction or inspection orders against COFAP due to environmental degradation caused by toxic dumping, either imposing fines on the company or declaring that toxic dumping had caused degradation to the environment, particularly the soil and air.

6. Despite the foregoing, the petitioner argues that when COFAP and other private companies requested an authorization from the pertinent State authorities to level the ground for urban planning and building the CHBM in the beginning of the 1990s, the relevant certificates and authorizations were issued by State authorities, in violation of existing domestic law.[3] In this regard, the petitioner informs that on November 29, 1993, COFAP paid the application fee requesting from the Mauá Municipality Mayor's Office an authorization to construct the residential complex. Moreover, the petitioner indicates that on August 1, 1994, COFAP requested from the relevant São Paulo state agency – *Grupo de Análise e Aprovação de Projetos Habitacionais* (hereinafter "GRAPOHAB") the issuance of a certificate of approval for the construction of the CHBM. At around this time, another private company allegedly joined the private enterprise – *Administradora e Construtora Soma Ltda.* (hereinafter "SOMA"). According to the petitioner, on June 6, 1995, GRAPOHAB issued the respective certificate of approval, after CETESB examined the site on August 23, 1994 and issued an expert opinion (*Parecer Técnico* 0177/85/PTP) ignoring all previous infraction or inspection orders, and stating that the land was fit for urban planning and housing. Moreover, the petitioner indicates that the Mayor's Office also issued the respective authorization to construct the CHBM, on July 11, 1995.

7. According to the petitioner, due to the acquiescence of all State authorities involved and despite the aforementioned irregularities, the construction of the CHBM began in 1996. The petitioner informs that the construction of the CHBM was eventually undertaken by yet another private company – *SQG Empreendimentos e Construções Ltda.* (hereinafter "SQG"), while the commercialization of the residential units was to be carried out by another private company – PAULICOOP. The petitioner argues that, on April 20, 2000, when there were already people living in the residential complex, the soil contamination produced the explosion of an underground water tank at the CHBM, which caused the death of one construction worker – Geraldo Julio Riviello – and severe bodily harm to another – Marcus Vinicius Lazari Ferreira (he allegedly suffered burns to 25% of his body). After this incident, according to the petition, the environmental degradation in the area where the CHBM was being built was publicly revealed.

8. The petitioner stresses that following the explosion, on August 15, 2001, the São Paulo State Secretariat for the Environment (*Secretaria de Meio Ambiente do Estado de São Paulo*) issued an alert notice which indicated that: i) fifty buildings of the projected total of 72 had already been built at the CHBM; ii) it was estimated that 5000 people were living in the CHBM; and iii) environmental studies

[3] The petitioner specifically refers to Article 3, III of Law 6.766/79, which states: "No urban construction shall be allowed: on ground that was leveled with material that is harmful to public health, unless previously sanitized" (Free translation from the Portuguese original: *Não será permitido o parcelamento do solo: em terrenos que tenham sido aterrados com material nocivo à saúde pública, sem que sejam previamente saneados*).

indicated that the soil on which the CHBM was built was contaminated by over 40 volatile organic compounds ("VOCs"), including benzene, chlorobenzene, trimethylbenzene and decane, among others, all of which were harmful to the environment and to human health. According to the petitioner, these VOCs might have long-term harmful effects on human health and can even cause cancer.

9. The petitioner adds that, on December 20, 2001, CETESB issued a press release in which it "reasserted the seriousness of the contamination at the CHBM", as well as indicated that the area occupied by approximately 50 buildings in which almost 5000 people resided was built on land that was seriously contaminated by various chemical substances, and this soil contamination would keep generating gases that put the area and its inhabitants at risk. Moreover, the petitioners asserts that the Mauá Municipality Mayor's Office then also acknowledged that the land on which the CHBM was built had been used as an illicit toxic dumping site, and that, despite the foregoing, the Mayor's Office – under a previous administration – and the São Paulo State Government (through GRAPOHAB) had authorized the housing enterprise. Nevertheless, the petitioner stresses that, prior to those official public statements, State authorities withheld crucial information from the inhabitants of the CHBM regarding the environmental degradation in the area and the risks to which they were exposed. As an example, the petitioner presented a letter from SQG to CETESB, dated September 25, 2000, consisting of a preliminary environmental analysis report attesting the risks to the residents of the CHBM. This information, however, was allegedly not made public until after the water tank explosion and the public announcement from the São Paulo State Secretariat for the Environment.

10. With regard to the requirement of exhaustion of domestic remedies, the petitioner argues that there has been unwarranted delay in rendering a final judgment with relation to the denounced facts, in accordance with Article 46.2.c of the American Convention. In this regard, on one hand the petitioner states that the criminal investigation instituted about the facts of this petition has not produced any indictment by the Office of the Public Prosecutor to this date, more than ten years since the explosion of April 20, 2000 and the public acknowledgement made by the São Paulo State Secretariat for the Environment on August 15, 2001. Indeed, the petitioner indicates that a police investigation (*Inquérito Policial* – IPL 100/2001) was initiated on August 17, 2001 by the Civil Police District of Santo André.[4] The petitioner indicates that this police inquiry aimed at investigating "crimes against the environment, crimes against consumers, crimes against public safety, crimes against life and health, crimes against property and against public good faith,"[5] by virtue of a *notitia criminis* indicating that the soil of an area of approximately 160 thousand square feet, which was used to build the CHBM (56 buildings out of an estimated 72 finished and occupied by over 5000 inhabitants), was contaminated with 44 toxic substances that release gases, may cause cancer and are highly flammable. According to the petitioner, this police inquiry was concluded by the Police Chief in charge on April 14, 2004, and subsequently submitted to the Office of the Public Prosecutor. Nevertheless, the petitioner stresses that the Office of the Public Prosecutor has never presented an indictment regarding the facts of this petition, thus those responsible for the environmental degradation of the CHBM and the related risk to human life and health have never been prosecuted and remain in absolute impunity.

11. On the other hand, as regards civil remedies, the petitioner also refers to the unwarranted delay in the processing of a collective action (*Ação Civil Pública* – "ACP" 1157/2001) presented by the Office of the Public Prosecutor against COFAP, SOMA, SQG, PAULICOOP and the Municipality of Mauá, on August 31, 2001.[6] This ACP allegedly claimed the responsibility of those four private companies for the illicit toxic dumping in the CHBM area and the subsequent development of a housing enterprise on a known contaminated site; as well as the liability of the Municipality of Mauá for authorizing the housing project to be implemented without previously and diligently verifying the safety of the area. The petitioner acknowledges that the judicial authority issued a first instance decision in favor of the alleged victims on

[4] According to the petitioner, this police inquiry was later successively renumbered and transferred as follows: numbered IPL 067/01 and transferred to the Civil Police District of São Bernardo do Campo in charge of crimes against the environment, on August 24, 2001; and then numbered IPL 021/02 and transferred to the Civil Police Distric of Mauá, on Ocotber 17, 2002.

[5] The petitioner observes that these crimes are established in the following laws: Laws 6938/81, 7802/89, 9605/98, 8078/90, and Decree-Law 2848/40, respectively.

[6] The petitioner also makes reference to another collective action – ACP 1087/2001 – which was related to the main ACP indicated *supra* and had a precautionary nature.

September 26, 2006, but observes that there has been no final judgment in the context of this collective action, which allegedly remains on appeal before the second instance court. In the course of this proceeding, according to the petitioner, he repeatedly requested precautionary measures based on the principle of prevention (or precaution) related to environmental harm, as recognized by Principle 15 of the 1992 Rio Declaration, to no avail. The petitioner also stresses that the execution of the first instance judgment has been suspended until the decision on the appeals presented, so the alleged victims have not been compensated nor has the environmental damage affecting their lives and health been sufficiently mitigated. According to the petitioner, the residents of the CHBM continue to live in these conditions.

12. In view of the above, the petitioner argues that, with regard to both criminal and civil remedies, there has been unwarranted delay in rendering a final judgment, so this petition is admissible in accordance with Article 46.2.c of the American Convention. Based on the foregoing, the petitioner claims that the State violated Articles 1.1, 4, 5, 8 and 25 of the American Convention.

B. Position of the State

13. The State argues that the petition is inadmissible because domestic remedies have not been exhausted, as required by Article 46.1.a of the American Convention. In this regard, the State asserts that there is a pending collective action (ACP 1157/2001) before the 3rd Judicial Branch of Mauá, São Paulo state, which was presented by the Office of the Public Prosecutor on August 31, 2001, against the Municipality of Mauá and four private companies: COFAP, SOMA, SQG and PAULICOOP. According to the State, a first instance merits decision in favor of the alleged victims was issued on September 26, 2006, and the process is following its due course before the respective court of second instance. The State argues that the first instance decision established that all the defendants were obliged to return the environment to its *status quo ante*, by means of the demolition of the irregularly built CHBM, and complete removal of the toxic waste followed by treatment of the soil, and the compensation of those affected.

14. According to the State, following the first instance decision a series of appeals for clarification of obscure points in the first instance judgment (*Embargos de Declaração*) were presented by the parties. Additionally, the State observes that the defendants and the plaintiff in the collective action – the Office of the Public Prosecutor – requested that the process be suspended due to the possibility of a friendly agreement between the parties, by means of a "plan of environmental recuperation of the area" which would last approximately four years. Brazil notes that these *embargos de declaração* were decided by means of a judicial decision issued on December 21, 2006. However, a series of *embargos de declaração* were again presented with regard to alleged obscurities in this latter decision, and these were rejected by means of a judicial decision issued on May 16, 2008. The State notes that additional appeals on the merits (*Apelação*) as well as interlocutory appeals (*Agravo de Instrumento*) were presented before the second instance court, which suspended the execution of the first instance judgment until the decision on the appeals. The State thus argues that the petition was presented prematurely, and does not meet the requirement contained in Article 46.1.a of the American Convention and Article 31 of the IACHR's Rules of Procedure.

15. Moreover, the State argues that supervening information or evidence presented to the Commission reveals that this petition is also inadmissible in accordance with Article 34.c of the IACHR's Rules of Procedure. In this regard, the State informs that CETESB fined the private companies responsible for the housing enterprise in the amount of 1,500 UFESPs (Fiscal Units of the State of São Paulo), on April 18, 2008. In addition to that, the State notes that CETESB has been adopting all necessary mitigating measures, including the supervision of the flammability levels and the levels of VOCs at the CHBM, among others.

16. Consequently, Brazil argues that effective domestic remedies are ongoing, thus this petition is inadmissible, in accordance with the requirements contained in Article 46.1.a of the American Convention, and Articles 31 and 34.c of the IACHR's Rules of Procedure.

IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

A. Competence

17. The petitioner has standing to file petitions with the Inter-American Commission pursuant to Article 44 of the American Convention. The alleged victims who have been indentified by the petitioner are 531 persons regarding whom the Brazilian State agreed to respect and ensure the rights enshrined in the American Convention. This list of alleged victims is established for purposes of the admissibility of the petition; given the nature of the claims, the Inter-American Commission will further consider the identification of victims within the same alleged circumstances at the merits stage.[7] As regards the State, Brazil ratified the American Convention on September 25, 1992, thus the Inter-American Commission has competence *ratione personae* and *ratione materiae* to examine the petition.

18. The potential violations described in this petition allegedly took place under the jurisdiction of Brazil, a State Party to the American Convention; therefore, the IACHR has competence *ratione loci*. Finally, the Inter-American Commission has competence *ratione temporis,* since the petition describes potential violations of rights protected by the American Convention, which allegedly occurred after that international treaty was already in force for Brazil.

B. Exhaustion of domestic remedies

19. Under Article 46.1 of the American Convention, for a petition to be admitted by the IACHR, the remedies offered by the domestic jurisdiction must have been exhausted in accordance with generally recognized principles of international law. The second paragraph of Article 46 indicates that those provisions shall not apply when domestic legislation does not afford due process of law for the protection of the right in question; when the alleged victim has been denied access to the remedies offered by domestic law; or when there has been an unwarranted delay in rendering a final judgment under those remedies.

20. Preliminarily, the Inter-American Commission observes that it is undisputed that to this date there is no final decision regarding the criminal (IPL 100/2001)[8] and civil (ACP 1157/2001) remedies (*supra* paras. 10, 11 and 14). The petitioner has indicated that the Office of the Public Prosecutor has not yet presented an indictment, since this police inquiry was concluded on April 14, 2004, and the State has made no reference to this criminal investigation. On the other hand, both parties have observed that the collective civil action is being examined by the respective second instance court due to the presentation of appeals regarding the first instance decision issued on September 26, 2006.

21. According to the information presented by the parties, the Police Chief in charge of the criminal investigation concluded the police inquiry on April 14, 2004,[9] but no indictment has been presented by the Office of the Public Prosecutor to date. Likewise, the information presented indicates that ACP 1157/2001 has been pending to this date due to appeals presented before the São Paulo Court of Justice.[10] Consequently, the IACHR observes that the domestic remedies related to this situation have been pending a final judgment since August of 2001, that is to say, almost eleven years later. Under the

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[7] See *mutatis mutandi*, IACHR, Admissibility Report No. 36/07, Petition 1113-06. Persons Deprived of Liberty in the cells at the 76th Police Precinct (76th PD) of Niterói, Rio Janeiro (Brazil), July 17, 2007, para. 87.

[8] This police inquiry was later successively renumbered and transferred as follows: numbered IPL 067/01 and transferred to the Civil Police District of São Bernardo do Campo in charge of crimes against the environment, on August 24, 2001; and then numbered IPL 021/02 and transferred to the Civil Police Distric of Mauá, on Ocotber 17, 2002.

[9] *See* Report (*Relatório*) of Police Chief Américo dos Santos Neto – Pages 17-20 of the petitioner's communication of March 22, 2007.

[10] According to public information released by CETESB, the São Paulo Government's environmental agency, after the first instance decision in favor of the alleged victims, "the defendants presented an appeal that is being examined by the São Paulo Court of Justice." (Free translation from the Portuguese original: *A ação foi julgada procedente em 1º grau, tendo as rés apresentado Recurso que se encontra em análise no Tribunal de Justiça de São Paulo – See* http://www.cetesb.sp.gov.br/areas-contaminadas/rela%C3%A7%C3%B5es-de-%C3%A1reas-contaminadas/18-condominio-residencial-barao-de-maua, viewed on June 11, 2012).

circumstances of this petition, the Inter-American Commission finds that this period of time exceeds what might be considered reasonable for the purposes of admissibility.[11]

22. The IACHR also notes in this regard that the Inter-American Court of Human Rights has held that the prior exhaustion rule must never "lead to a halt or delay that would render international action in support of the defenseless victim ineffective."[12] In the case at hand, the prior exhaustion requirement cannot be interpreted in a way that would cause a prolonged or unjustified hindrance of access to the inter-American system. Therefore, the IACHR rules that there has been an unwarranted delay in rendering a final judgment, and that the exception provided for in Article 46.2.c of the American Convention is applicable in this matter.

23. Finally, it must be pointed out that the unwarranted delay exception is closely related to the possible violation of certain rights protected by the American Convention, specifically under Articles 8 and 25 therein. Nevertheless, Article 46.2 of that international instrument is, by its very nature and purpose, a provision with autonomous content *vis-à-vis* its substantive precepts. Consequently, whether or not the American Convention's exceptions to the rule requiring the prior exhaustion of domestic remedies are applicable in the case at hand must be decided prior to, and separately from, the analysis of the merits of the case. This is so because the analysis of admissibility depends on a standard of appreciation that is different from the one used to determine whether or not Articles 8 and 25 of the American Convention have been violated; the latter will be examined, as appropriate, in the report on the merits of the matter.

C. Timeliness of the petition

24. Article 46.1.b of the American Convention requires that petitions be lodged within a period of six months following notification of the final judgment. On the other hand, Article 32.2 of the IACHR's Rules of Procedure provides that:

> In those cases in which the exceptions to the requirement of prior exhaustion of domestic remedies are applicable, the petition shall be presented within a reasonable period of time, as determined by the [Inter-American] Commission. For this purpose, the [Inter-American] Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.

25. Having ruled above that an exception to the rule requiring the exhaustion of domestic remedies is applicable, the Inter-American Commission must now determine whether the petition was lodged within a reasonable time. The petition was filed on September 19, 2005, when the relevant domestic remedies, including IPL 100/2001 and ACP 1157/2001 had been pending for just over 4 years and, according to available information, remain pending as of the preparation of the present report. In the specific circumstances of this petition, the IACHR concludes that the petition was lodged within a reasonable period of time. Accordingly, the requirement set by Article 32.2 of the IACHR's Rules of Procedure has been met.

D. Duplication and international *res judicata*

26. Nothing in the present file indicates that the subject of this petition is pending in any other international proceeding for settlement, or that it is substantially the same as another petition previously studied by the Inter-American Commission or by any other international organization. Hence, the requirements set forth in Articles 46.1.c and 47.d of the American Convention have been met.

E. Colorable claim

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[11] *See*, *mutatis mutandi*, IACHR. Report No. 11/12, Petition 6-07, Admissibility, *Jurandir Ferreira de Lima et al.* (Brazil), March 20, 2012, para. 20. *See also* IACHR. Report No. 9/00, Case 11.598, Admissibility and Merits, *Alonso Eugênio da Silva* (Brazil), February 24, 2000, para. 25; and Report No. 10/00, Case 11.599, Admissibility and Merits, *Marcos Aurélio de Oliveira* (Brazil), February 24, 2000, para. 23.

[12] I/A Court H. R., *Velásquez Rodríguez Case*. Preliminary Objections, Judgment of June 26, 1987, Series C No. 1, para. 93.

27. For purposes of admissibility, the Inter-American Commission must determine whether the facts denounced in the petition tend to establish a violation of the rights guaranteed by the American Convention, as required by Article 47.b thereof, or whether the petition should be rejected as "manifestly groundless" or "obviously out of order." At this stage in the proceedings it falls to the IACHR to carry out a *prima facie* evaluation, not to establish alleged violations of the American Convention or other applicable treaties, but to examine whether the petition describes facts that could tend to establish violations of rights protected by the inter-American instruments. This examination in no way constitutes a prejudgment or preliminary opinion on the merits of the case.[13]

28. Neither the American Convention nor the IACHR's Rules of Procedure require a petitioner to identify the specific rights allegedly violated by the State in the matter brought before the Inter-American Commission, although petitioners may do so. It is for the Inter-American Commission, based on the system's jurisprudence, to determine in its admissibility report which provisions of the relevant Inter-American instruments are applicable and could be found to have been violated if the alleged facts are proven by sufficient elements.

29. In this case, the Inter-American Commission considers that the claims under Article 4 of the American Convention are admissible with respect to the alleged victim who died as a result of injuries during the explosion of April 20, 2000. Further, the IACHR will study the possible application of Article 4 in the merits stage in relation to the allegations that the presumed contamination constitutes a direct threat to the lives of the residents and others who have spent time at the CHBM. At the merits stage, the Inter-American Commission will additionally examine the extent to which the presumed contamination might have affected the use and enjoyment of the alleged victims' property so as to amount to a violation of Article 21 of the American Convention. The IACHR also concludes that, if proven true, the allegations of the petitioner could tend to establish violations of Articles 5.1, 8 and 25 of the American Convention, in conjunction with Article 1.1 of the same treaty, to the detriment of the alleged victims who were exposed to the environmental degradation in the CHBM. Finally, the Inter-American Commission finds that the alleged lack and/or manipulation of information on the environmental degradation of the area where the CHBM was built, and on its effects on the health and life of the alleged victims could tend to establish a violation of Article 13 of the American Convention.[14]

30. In conclusion, the IACHR declares that the petitioner has met *prima facie* the requirements set by Article 47.b. of the American Convention as regards potential violations of Articles 4, 5.1, 8, 13, 21 and 25 thereof, in conjunction with Article 1.1 of the same instrument, as detailed above.

V. CONCLUSIONS

31. The Inter-American Commission concludes that it is competent to examine the merits of this case, and decides that the petition is admissible under Articles 46 and 47 of the American Convention. Based on the foregoing considerations of fact and law, and without prejudging the merits of the case,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

[13] IACHR, Report No. 61/09, Petition 373-03, Admissibility, *Josenildo João de Freitas Jr. et al.* (Brazil), July 22, 2009, para. 36.

[14] See, *mutatis mutandi*, IACHR, Report No. 76/09, Petition 1473-06, Admissibility, Community of La Oroya (Peru), August 5, 2009, para. 75.

1. To rule this petition admissible as regards the alleged violation of the rights protected in Articles 4, 5.1, 8, 13, 21 and 25 of the American Convention, in conjunction with Article 1.1 of the same instrument;

2. To notify both parties about this decision;

3. To continue with its analysis of the merits of this case;

4. To publish this decision and to include it in its Annual Report to the General Assembly of the Organization of American States.

Done and signed in the city of Washington, D.C., on the 17th day of the month of July, 2012. (Signed): Tracy Robinson, First Vice-President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz, and Rose-Marie Antoine, Commissioners.