

**ORDER OF THE PRESIDENT
OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS
OF MARCH 30, 2007**

CASE OF THE SARAKA COMMUNITY V. SURINAME

HAVING SEEN:

1. The application submitted by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court", "the Court" or "the Tribunal") on June 23, 2006, in which five witnesses and three expert witnesses were proposed.

2. The brief containing pleadings, motions and evidence (hereinafter "the representatives' brief") presented by the representatives of the alleged victims and their next of kin (hereinafter "the representatives") on November 3, 2006, by which the representatives proposed six witnesses and five expert witnesses.

3. The answer to the application and to the representatives' brief received on January 19, 2007, in which the State of Suriname (hereinafter "the State" or "Suriname") submitted preliminary objections and proposed five witnesses.

4. The communication of January 29, 2007, by which the Secretariat of the Court (hereinafter "the Secretariat") asked the State to submit to the Court the full names of the five "witnesses" proposed by the State in its brief, the object of their testimony, and specify which of them were being proposed as witnesses and which as expert witnesses. For those whom the State was proposing as expert witnesses, the Secretariat requested the State to submit to the Court their *curricula vitarum*.

5. The communication of January 30, 2007, whereby the State requested "permission to include Ms. J. van Dijk-Silos on the list of witnesses on behalf of the State".

6. The communication of February 1, 2007, in which the Secretariat reiterated the request made in its January 29, 2007 communication (*supra* Having Seen 4), that the State submit to the Court the full names of the persons proposed as witnesses or expert witnesses, the specific object of their testimony, and clarify which of them the State proposed as witnesses and which as expert witnesses. The Secretariat requested that the State submit the *curriculum vitae* of those whom it proposed as expert witnesses.

7. The communications of February 9, 13, and 15, 2007, by which Suriname provided the full names of three of four of its proposed witnesses, clarified that the State proposed Mr. Salomon Emanuels as an expert witness, and submitted his *curriculum vitae*, as well as the object of their testimonies. The State also noted that it would submit information regarding the witness referred to as "[a] Representative of the [I]llustrious [S]tate of Nicaragua".

8. The communication of February 13, 2007, by which the State requested "a special hearing [on preliminary objections] pursuant to Article 37(5) of the Rules of Procedure of the Court".

9. The communication of February 16, 2007, in which the State requested permission to submit an additional written pleading, pursuant to Article 39 of the Court's Rules of Procedure. The Court's President, pursuant to Article 39 of the Court's Rules of Procedure, allowed the State to present, no later than March 26, 2007, an additional written pleading in the instant case. Additionally, the Inter-American Commission and the representatives were given a period of two weeks, counted from the date on which they each received the State's submission, to present their respective observations.

10. The communications of February 28 and March 1, 2007, in which the Inter-American Commission and the representatives, respectively, *supra* Having Seen 3). submitted briefs containing written observations on the State's preliminary objections (*supra* Having Seen 3).

11. The communication of February 26, 2007, in which the Secretariat, upon instructions of the Court's President, requested the Inter-American Commission, the representatives and the State to submit, no later than March 9, 2007, their definitive lists of witnesses and expert witnesses. Additionally, for reasons of procedural economy, the Secretariat requested that the parties indicate which of the witnesses and expert witnesses could render their declaration by affidavit, pursuant to Article 47(3) of the Court's Rules of Procedure.

12. The communication submitted on March 7, 2007, in which the representatives submitted their definitive list of witnesses and expert witnesses in the present case. The representatives withdrew the proposed testimony of one witness and offered the testimony by affidavit of two expert witnesses, originally proposed to provide oral testimony.

13. The communication of March 9, 2007, in which the Inter-American Commission submitted its definitive list of witnesses and expert witnesses. The Commission confirmed that three witnesses and two expert witnesses would render testimony during the public hearing. In addition, in accordance with Article 47(3) of the Court's Rules of Procedure, the Commission determined that two witnesses and one expert witness could submit their testimonies by affidavit.

14. The communication submitted on March 9, 2007, in which the State submitted its definitive list of witnesses and expert witnesses. The State confirmed that, of the four witnesses and one expert witness originally proposed in the State's answer to the application (*supra* Having Seen 3 and 7), three witnesses and one expert witness could testify during the public hearing. However, the State did not provide the name and position of the proposed witness from the State of Nicaragua. In accordance with Article 47(3) of the Court's Rules of Procedure, the State proposed that one witness originally proposed in its answer to the application (*supra* Having Seen 3), and one witness proposed in a subsequent communication (*supra* Having Seen 5), could submit their testimonies by affidavit. Also, the State requested the inclusion of three "additional" testimonies: two witnesses, one to testify at the public hearing and the other by affidavit, and one expert witness to provide her expert opinion at the public hearing. The State further submitted the *curriculum vitae* of proposed expert witness Dr. Magda Hoefer-Venoaks.

15. The communication of March 12, 2007, in which the Secretariat, upon the instructions of the Court's President, informed the Inter-American Commission, the representatives and the State that each party would have until March 19, 2007 to submit any observations they may have regarding the parties' definitive lists of witnesses and expert witnesses and that a public hearing in the present case had been tentatively planned for the LXXV Ordinary Period of Sessions to be held at the seat of the Court in San José, Costa Rica, from Monday, May 7 through Saturday, May 12, 2007. The parties were informed that the object, scope, specific date and time for said public hearing would be determined by the President and notified to the parties in due time.

16. The communication of March 19, 2007, whereby the representatives submitted observations regarding the other parties' definitive lists of witnesses and expert witnesses and opposed the inclusion of additional testimonial and expert evidence proposed by the State.

17. The communication of March 19, 2007, in which the State presented observations in relation to the other parties' definitive lists of witnesses and expert witnesses and raised objections about some of them.

18. The communication of March 15, 2007, whereby the Commission submitted observations in relation to the other parties' definitive lists of witnesses and expert witnesses.

19. The communication of March 19, 2007, in which the State requested permission to address the Court in Dutch during the public hearing, arguing that Suriname "is the only State [member of the Organization of American States] that is not allowed to address organs and institutions of this regional organization in its official language". Furthermore, the State requested that this Court "offer its facilities and resources to accommodate the State with regard to this request".

20. The communication of March 23, 2007, in which the State submitted further observations on the other parties' definitive lists of witnesses and expert witnesses.

21. The communication of March 26, 2007, whereby the State submitted an additional pleading pursuant to Article 39 of the Court's Rules of Procedure.

22. The communication of March 27, 2007, in which the Secretariat, upon the instructions of the Court's President, informed the Inter-American Commission and the representatives that each party would have a period of two weeks, counted from the date on which they each receive the aforementioned State's submission and its annexes (*supra* Having Seen 21) to present their respective observations.

CONSIDERING:

1. That the State requested a special hearing on preliminary objections pursuant to Article 37(5) of the Rules of Procedure (*supra* Having Seen 8). The Commission and the representatives objected to the State's request and instead asked that the hearing in the present case should address preliminary objections, merits, reparations and costs, together.

2. That for reasons of pertinence and procedural economy, and having previously consulted with the members of the Court, this Presidency considers it convenient to summon the parties to a public hearing on preliminary objections and possible merits, reparations and costs, in accordance with the terms stated in the operative paragraphs of this Order.

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3. That regarding the admission of evidence, Article 44 of the Rules of Procedure provides:

1. Items of evidence tendered by the parties shall be admissible only if previous notification thereof is contained in the application and in the reply thereto and, when appropriate, in the document setting out the preliminary objections and in the answer thereto.

[...]

3. Should any of the parties allege *force majeure*, serious impediment or the emergence of supervening events as grounds for producing an item of evidence, the Court may, in that particular instance, admit such evidence at a time other than those indicated above, provided that the opposing parties are guaranteed the right of defense.

4. In the case of the alleged victim, his next of kin or his duly accredited representatives, the admission of evidence shall also be governed by the provisions of Articles 23, 36 and 37(5) of the Rules of Procedure.

4. That with respect to the admission of evidence presented by the representatives of the alleged victims, Article 23(1) of the Rules of Procedure states that

[w]hen the application has been admitted, the alleged victims, their next of kin or their duly accredited representatives may submit their pleadings, motions and evidence, autonomously, throughout the proceedings.

5. That the Inter-American Commission, the representatives and the State were given the right of defense with regard to the evidentiary proposals made by each of the parties at the different procedural junctures (*supra* Having Seen 4, 6, 9, 11 and 15).

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6. That the Inter-American Commission and the representatives proposed their respective testimonial and expert witness evidence during the appropriate stage of the proceedings (*supra* Having Seen 1 and 2).

7. That with regard to the witnesses and expert witnesses proposed by the Commission, the representatives, and the State at the appropriate procedural opportunity, and whose testimony or appearance have not been objected to by the parties, this Presidency considers it convenient to receive said evidence, in order that the Tribunal can assess its evidentiary value within the context of the body of evidence in the case, and according to the rules of sound criticism. Said witnesses and expert witnesses proposed by both the Commission and the representatives, are the following: Head Captain Wazen Eduards, Captain Ceasar Adjako, Ms. Silvi Adjako, Head Captain Eddie Fonkel, Prof. Richard Price and Dr. Peter Poole. Although the State objected to the content of the declarations of Prof. Richard Price and Dr. Peter Poole, the State did not object to their qualifications as expert witnesses. Therefore, this Presidency will receive said evidence, in order that the Tribunal can assess its evidentiary value within the context of the body of evidence in the case and according to the rules of sound criticism. Additionally, the witnesses and expert witnesses offered by the State at the appropriate procedural opportunity and not objected to by the other parties, are the following: Mr. Rudy Strijk, Mr. Albert Aboikoni, Mr. Rene Ali Somopawiro and Dr. Salomon Emanuels. This Presidency will determine *infra* the object of the declarations of the aforementioned witnesses and expert witnesses, as well as the manner in which said evidence will be received by the Court.

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8. That the State proposed five "witnesses" in its answer to the application (*supra* Having Seen 3), and in three subsequent communications proposed three additional "witnesses", one additional "expert witness", and clarified that one of the original five "witnesses" was being proposed as an "expert witness" (*supra* Having Seen 5, 7 and 14). Furthermore, the State did not specify the witnesses and expert witnesses' full names and object of their testimony in its answer to the application, as required by articles 38 and

33(1) of the Rules of Procedure. Instead, in separate and subsequent communications (*supra* Having Seen 7 and 14), the State presented the full names of most of its proposed witnesses, as well as the object of their testimony. To this date, the State has not yet informed the Court of the full name of one of its proposed "witnesses".

9. That the State extemporaneously proposed Dr. Jennifer Victorine van Dijk–Silos as a witness in a communication submitted several days after presenting the answer to the application (*supra* Having Seen 3, 5, and 7). The Commission and the representatives expressed that they "nevertheless [had] no objection to the inclusion of this witness or to her providing testimony to the Court". Furthermore, this Presidency finds the proposed object of her testimony to be relevant for the purpose of adjudicating the present case. Therefore, this Presidency considers it convenient to receive Dr. Jennifer Victorine van Dijk–Silos' testimony, in the manner stated in this Order's operative paragraphs, in order for the Tribunal to assess its evidentiary value within the context of the body of evidence in the case, and according to the rules of sound criticism.

10. That the Commission and the representatives objected to the State's extemporaneous offering of two "additional" witnesses, namely Mr. Gazon Mathodja and Mr. Michel Filisie, and one "additional" expert witness, namely Dr. Magda Hoever–Venoaks, in its definitive list of witnesses and expert witnesses. The Commission and the representatives argued that the State provided "no explanation or justification for the inclusion of the three proposed additional witnesses at this stage of the proceedings nor does it refer to any rule that permits it to continually propose additional witnesses or experts without justification or cause", and that the State did not demonstrate "that the additional witnesses offered fall under one of the exceptions set forth in Article 44(3) of the Court's Rules of Procedure".

11. That the Court has maintained that the exception established in Article 44 of the Rules of Procedure is applicable only when the proponent alleges *force majeure*, grave impediment or supervening events¹. Although the State did not make any statement about the reasons for the time-barred presentation of these items of evidence and, therefore, did not explain the exceptional circumstances that would justify their admission by the Court, this Presidency will decide its admissibility, taking into consideration the object of their testimonies and the usefulness of the information they made provide to the Court regarding the facts² and specific points of domestic law.

12. That Article 45(1) of the Rules of Procedure states that the Court may, at any stage of the proceedings, obtain, "on its own motion, any evidence it considers helpful. In particular, it may hear as a witness, expert witness, or in any other capacity, any person whose evidence, statement or opinion it deems to be relevant". In this case, this Presidency deems it pertinent to admit the testimonies of Mr. Gazon Mathodja, Mr. Michel Filisie, and Dr. Magda Hoever–Venoaks, in application of the provisions of Article 45(1) of the Rules of Procedure, as it considers that they are useful for the evaluation of controversial facts³ and points of internal law. This Presidency will determine *infra* the object of the declarations of the aforementioned witnesses and expert witnesses, as well as the manner in which said evidence will be received by the Court.

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¹ Cf. *Case of Ivcher-Bronstein*. Judgment of February 6, 2001. Series C No. 74, par. 71, and *Cesti Hurtado case*. Judgment of September 29, 1999. Series C No. 56, para. 47.

² Cf. *Case of Ivcher-Bronstein*. Judgment of February 6, 2001. Series C No. 74, par. 71; *Case of Bámaca-Velásquez*. Judgment of November 25, 2000. Series C No. 70, par. 112, and *Case of Cesti Hurtado*. Judgment of September 29, 1999. Series C No. 56, paras. 48 and 53.

³ Cf. *Case of Servellón García et al. Judgment of September 21, 2006. Series C No. 152, par. 41; Case of Ivcher-Bronstein*. Judgment of February 6, 2001. Series C No. 74, par. 71, and *Case of Cesti Hurtado*. Judgment of September 29, 1999. Series C No. 56, par. 53.

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13. That the State offered in its answer to the application the testimony of a person referred to by the State as “[a] Representative of the [I]llustrious [S]tate of Nicaragua” (*supra* Having Seen 3, 7, and 14). In its communications of February 9 and 15, 2007, the State explained that “[j]ust recently general elections were held in the Illustrious State of Nicaragua”, and thus “the Illustrious State of Nicaragua has not yet submitted the name [of said witness] to the Government of Suriname” (*supra* Having Seen 7). The Court has not yet received the name of said witness (*supra* Considering 8).

14. That the Commission objected to the inclusion of said witness, stating that the “identity and expertise [of the proposed “representative of the Illustrious State of Nicaragua”] have not been provided and therefore it consider[ed] that the inclusion of such a witness would affect the equality of arms and the right to defense of the other parties in this proceeding” (*supra* Having Seen 18).

15. That this Presidency deems it necessary that all persons offered as witnesses are fully identified so the parties can duly exercise their right of defense, and in order that this Presidency can assess the pertinence of producing such evidence⁴. Considering that the State has offered said witness in due procedural time and has also provided the parties with the object of his/her testimony, this Presidency considers it essential to require the State to determine, in the period indicated in this Order (*infra* Operative Paragraph 7), the name and position of the person whose testimony the State offers as “a representative of the Illustrious State of Nicaragua”. Once such information is received, it will be transmitted to the Commission and to the representatives for them to submit the observations they deem pertinent. Subsequently, this Presidency will decide upon the pertinence of ordering the appearance or affidavit of the person offered by the State. Nevertheless, should said person be summoned to present his or her declaration, said witness would not be able to declare as a “representative” of a State, that is, on behalf of and following orders from said State. He or she would render testimony as an individual witness, that is, someone who has personal knowledge of facts or situations related to these proceedings and that can present to the Court the information he or she possesses.

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16. That the State objected to the offered testimony of Mr. Hugo Jabini (*supra* Having Seen 3 and 17), witness proposed by both the Commission and the representatives, stating that “[t]he object on which [he] will testify, particularly those involving the original petition to the Inter-American Commission, can best be addressed by Captain Wazen as one of the petitioners and the chair and spokesperson of the Association.” Furthermore, the State argued that “the secretary of the Association of Saramaka Authorities Wanhati is not the appropriate witness to provide this specific information”. In this regard, this Presidency notes that the mere assertion that two testimonies can overlap in object and scope does not, in and of itself, bar the Court from hearing both testimonies. Additionally, the State has not argued that Mr. Hugo Jabini is not qualified to provide testimony before the Court, but merely that other witnesses may be better suited to provide testimony on the same subject matter. Accordingly, this Presidency considers it convenient to receive said evidence, in order that the Tribunal can assess its evidentiary value within the context of the body of evidence in the case, according to the rules of sound criticism, and taking into account the objections raised by the State. This Presidency will determine *infra* the object of

⁴ Cf. *Case of the Ituango Massacres*. Order of the President of the Inter-American Court of Human Rights of July 28, 2005, Considering twentieth.

the declaration of Mr. Hugo Jabini, as well as the manner in which said evidence will be received by the Court.

17. That the State objected to the offered declaration of Ms. Mariska Muskiet as an expert witness, indicating that her qualifications have “no particular emphasis on property law in Suriname, or land rights of indigenous and maroons in Suriname”, and that she has not authored any “publications in the field of land rights” (*supra* Having Seen 3 and 17). Further, the State argued that her testimony before the Commission “was not an analysis of an expert in the field of land rights in Suriname, but a more general overview of facts, assumptions and non scientific statements made on behalf of the original petitioners”. Therefore, the State asked the Court to hear her testimony “for purposes of information” only, in accordance with article 49(2) of the Court’s Rules of Procedure. However, the representatives aver that Ms. Muskiet is a Professor at the Anton de Kom University of Suriname and also lectures on property law at the University of Suriname. The representatives argue that the fact that a university “accepts that she has sufficient expertise to teach property law to Suriname’s law students” is alone sufficient to qualify Ms. Muskiet as an expert witness with respect to the nature and substance of Suriname’s property laws. In addition, the fact that the testimony of an expert witness may provide support for the arguments presented by one of the parties, does not *per se* disqualify the expert⁵. Thus, this Presidency considers that Ms. Muskiet’s professional credentials allow for the reception of said evidence, the evidentiary value of which will be assessed by the Tribunal within the context of the body of evidence in the case, according to the rules of sound criticism, and taking into account the objections raised by the State. This Presidency will determine *infra* the object of the expert opinion of Ms. Mariska Muskiet, as well as the manner in which said evidence will be received by the Court.

18. That the State objected to the testimony of witnesses and expert witnesses offered solely by the representatives, stating that it “contests the legitimacy of other entities or persons [than the Inter-American Commission] to submit individuals as witnesses or expert witnesses in the proceedings before this Court”. Therefore, the State objected to the offering of Mr. George Leidsman, and of Dr. Robert Goodland and Prof. Martin Scheinin as a witness and expert witnesses, respectively. In this regard, this Presidency recalls that access of the individual to the Inter-American system of protection of human rights boasts special importance for clarifying the facts that are in controversy. After the Commission or a State Party has invoked the Court’s jurisdiction in accordance with Article 61 of the American Convention, the alleged victims and their representatives are allowed to submit their pleadings, motions and evidence, autonomously, throughout the proceedings. Thus, Articles 23 and 36 of the Court’s Rules of Procedure vest in the alleged victims or their representatives the possibility of submitting evidence on their own in support of their pleadings and motions. Thus, this Presidency considers it convenient to receive the testimonies of Mr. George Leidsman, Dr. Robert Goodland and Prof. Martin Scheinin, in order that the Tribunal can assess their evidentiary value within the context of the body of evidence in the case, according to the rules of sound criticism, and taking into account the objections raised by the State. This Presidency will determine *infra* the object of the declaration of these witness and expert witnesses, as well as the manner in which said evidence will be received by the Court.

19. That in this Court, the aim of which is the protection of human rights, the proceedings boast their own particular characteristics, which differ from domestic legal proceedings. That this Tribunal is less formal and more flexible than domestic tribunals does

⁵ Cf. *Case of Escué Zapata*. Order of the Inter-American Court of Human Rights of December 20, 2006, Considering twenty-first.

not imply that this Court fails to ensure the parties' legal security and procedural balance⁶. Nevertheless, this Tribunal, or its President, has broad ability to receive evidence deemed necessary in the exercise of the Court's contentious jurisdiction.

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20. That regarding the convocation of witnesses and expert witnesses, Article 47(3) of the Rules of Procedure provides that

[t]he Court may require, for reasons of procedural economy, that particular witnesses and expert witnesses offered by the parties give their testimony through sworn declarations or affidavits. Once the sworn declaration or affidavit is received, it shall be transmitted to the other parties in order for them to present their observations.

21. That it is essential to assure the effective management of cases under the Court's consideration, whose number has grown considerably and in a constant fashion, as well as assure the determination of the truth and the most complete presentation of facts and arguments from the parties, guaranteeing them the right of defense. In view of the above, and in accordance with the principle of procedural economy, it is necessary to receive the greatest possible number of testimonies by affidavit and to summon to public hearings only those witnesses and expert witnesses whose oral declaration is truly indispensable, taking into account the circumstances of the case and the object of the testimony in question.

22. That, taking into account the statements and observations submitted by the Commission, the representatives and the State (*supra* Having Seen 16-18), and on the basis of the aforementioned considerations, this Presidency deems it convenient to receive by affidavit the witness testimonies of Ms. Silvi Adjako, offered by both the Commission and the representatives, Head Captain Eddie Fonkel, offered by the Commission, Mr. George Leidsman, proposed by the representatives, and Dr. Jennifer Victorine van Dijk-Silos and Mr. Gazon Mathodja, offered by the State, as well as the expert opinions of Dr. Peter Poole, proposed by both the Commission and the representatives, and Dr. Robert Goodland and Prof. Martin Scheinin, offered by the representatives. This Presidency will determine *infra* the object of their testimonies.

23. That the parties have offered the presentation of witnesses and expert witnesses different and additional to those mentioned in the preceding paragraph, to be heard before the Court during the public hearing in this case. Nevertheless, this Presidency has weighed the parties' offerings of other witnesses and expert witnesses, the work schedule of the period of sessions in which the public hearing will take place, as well as the general workload the Tribunal will have during its next Regular Period of Sessions, and has decided that it is pertinent that the Court receive by affidavit, rather than in person, the witness testimonies of Mr. Hugo Jabini, offered by both the Commission and the representatives, and Mr. Michel Filisie, offered by the State, as well as the expert opinions of Ms. Mariska Muskiet, proposed by both the Commission and the representatives, and Dr. Magda Hoever-Venoaks, offered by the State. This Presidency will determine *infra* the object of their testimonies.

24. That in accordance with the right of defense and the adversarial principle, said testimonies should be transmitted to the other parties so they may submit the observations

⁶ Cf. *Case of Chaparro Álvarez and Lapo Iñiguez*. Order of the Inter-American Court of Human Rights of March 15, 2007, Considering sixth; *Case of Cornejo et al.* Order of the President of the Inter-American Court of Human Rights of March 15, 2007, Considering fifth, and *Case of Zambrano Vélez et al.* Order of the President of the Inter-American Court of Human Rights of March 15, 2007, Considering fifth.

they deem pertinent in the period of time specified in the present Order (*infra* Operative Paragraph 2).

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25. That Article 47 of the Rules of Procedure stipulates that

1. The Court shall determine when the parties are to call their witnesses and expert witnesses whom the Court considers it necessary to hear. Furthermore, the summons shall indicate the name of the witness or expert witness as well as the object of the testimony.

2. The party proposing testimonial or expert evidence shall bear the costs of the appearance of its witness or witnesses before the Tribunal.

[...]

26. That the State requested permission to submit an additional written pleading, pursuant to Article 39 of the Court's Rules of Procedure, and this Presidency, pursuant to Article 39 of the Court's Rules of Procedure, allowed the State to submit said additional pleading (*supra* Having Seen 9, 21, and 22). Additionally, the Inter-American Commission and the representatives were given a period of two weeks, counted from the date on which they each received the State's submission, to submit their respective observations (*supra* Having Seen 9 and 22). As of this date, the Commission and the representatives have not yet submitted the above-mentioned observations. Nevertheless, in order to allow the parties sufficient time to prepare their oral submissions and to make the arrangements necessary to comply with the present Order, this Presidency considers it pertinent to call for a public hearing on preliminary objections, as well as on possible merits, reparations and costs, and to receive the testimonies that shall not be submitted by affidavit (*infra* Considering 28), as well as the final oral arguments of the Commission, the representatives and the State. In the event that new evidentiary issues are raised in the respective observations submitted by the Commission and the representatives (*supra* Having Seen 9 and 22), this Presidency reserves the right to revise the terms stated in the present Order and notify the parties thereof.

27. That in light of the witnesses and expert witnesses' proposals submitted by the Commission (*supra* Having Seen 1 and 13 and Considering 7, 16, and 17), the representatives (*supra* Having Seen 2 and 12 and Considering 7, and 16 through 18) and the State (*supra* Having Seen 3, 5, 7, and 14 and Considering 7 through 15), the object of each of the testimonies proposed, the alleged facts of the instant case, and in accordance with the principle of procedural economy, this Presidency deems it convenient to receive in a public hearing the witness testimonies of Head Captain Wazen Eduards and Captain Ceasar Adjako, proposed by both the Commission and the representatives, and Mr. Rudy Strijk, Mr. Albert Aboikoni and Mr. Rene Ali Somopawiro, offered by the State, as well as the expert opinion of Prof. Richard Price, offered by both the Commission and the representatives, and Dr. Salomon Emanuels, proposed by the State.

28. That the appearance of the above-mentioned witnesses and expert witnesses in an oral proceeding will contribute to the Court's elucidation of the facts in the present case; thus, it is appropriate to receive these testimonies in a public hearing, in accordance with Article 47(1) and (2) of the Rules of Procedure.

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29. That some of the witnesses called to testify before this Tribunal do not speak English or Spanish, and therefore will have to testify in their own language. In this regard, the representatives stated in their brief containing pleadings, motions and evidence, as well as in their definitive list of witnesses and expert witnesses, that they have "identified a translator and will fund translation services for these witnesses. The translator will be Mr. Adiante Franzoon, a Saramaka person from the Upper Suriname River, who has lived in the United States for over twenty years. He is fluent in English and Saramaka and [is] able to translate simultaneously". The Commission and the State did not object to the representatives' proposal. Thus, this Presidency, considering the implicit agreement made by these parties, hereby calls upon Mr. Adiante Franzoon to attend the public hearing in the present case. Mr. Franzoon will provide translation services for the witnesses who do not speak English or Spanish. In accordance with the representatives' submission, the representatives will cover the costs of said translation services.

30. That the State requested permission to address the Court in Dutch during the public hearing, arguing that Suriname "is the only State [member of the Organization of American States] that is not allowed to address organs and institutions of this regional organization in its official language". Furthermore, the State requested that this Court "offer its facilities and resources to accommodate the State with regard to this request" (*supra* Having Seen 19). In this regard, this Presidency considers it pertinent to allow the State to address the Court in Dutch during the public hearing in the present case. Nevertheless, the Court is not in a position to offer translation services in order to accommodate the State's request. Thus, should the State wish to address the Court in Dutch during the public hearing, the State must provide its own translation services into English, which is the official language of the proceedings of this case.

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31. That the Inter-American Commission, the representatives, and the State may present before the Tribunal their final oral arguments on preliminary objections, as well as on possible merits, reparations and costs in the present case, once the witnesses and expert witnesses have concluded testifying.

32. That in accordance with the Court's practice, the Inter-American Commission, the representatives, and the State may submit their final written arguments on preliminary objections, as well as on possible merits, reparations and costs in this case, after the conclusion of the public hearing convoked by the present Order.

NOW THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in accordance with Articles 24(1) and 25(2) of the Court's Statute and Articles 4, 14(1), 24, 29(2), 40, 42, 43(3), 44, 45, 46, 47, 49, 51 and 52 of its Rules of Procedure, and having consulted the other Judges of the Tribunal,

DECIDES:

1. To require, for the reasons stated in the present Order (*supra* Considering 22) in accordance with the principle of procedural economy and in exercise of the authority

granted by Article 47(3) of the Rules of Procedure, that the following persons, proposed by the Commission, the representatives and the State, render their testimonies by affidavit:

A) Witnesses

Proposed by the Inter-American Commission on Human Rights and the representatives

1. *Silvi Adjako*, who will specifically testify about:

- (i) the personal and communal impact of the logging operations, and
- (ii) the efforts to obtain redress for the alleged destruction of subsistence resources.

2. *Hugo Jabini*, who will specifically testify about:

- (i) the Saramaka people's efforts to seek protection for their rights to lands and resources;
- (ii) attempts to settle the case with the State;
- (iii) logging activities in Saramaka territories and their impact, and
- (iv) the measures employed by the Saramaka people to document their traditional use of their territories.

Proposed by the Inter-American Commission on Human Rights

3. *Eddie Fonkel*, who will specifically testify about:

- (i) Saramaka customary law as it pertains to land and resource ownership;
- (ii) Saramaka treaty rights, and
- (iii) the alleged contemporary occupation of Saramaka lands and resources.

Proposed by the representatives

4. *George Leidsman*, who will specifically testify about:

- (i) the alleged forcible displacement of the Saramaka in the 1960s and its consequences and effects.

Proposed by the State

5. *Jennifer Victorine van Dijk-Silos*, who will specifically testify about:

- (i) the purpose and achievements of the Presidential Land Rights Commission;
- (ii) how the goals, developments and achievements of said Commission relate to the land rights of the Saramaka people and other maroons living in Suriname, and

(iii) future steps and actions of said Commission regarding land rights in Suriname, in particular with relation to the Saramaka people.

6. *Michel Filisie*, who will specifically testify about:

(i) the efforts undertaken by the Ministry of Regional Development in relation to land rights of the Saramaka people in Suriname.

7. *Gazon Methodja*, who will specifically testify about:

(i) the role of the Gaa'man when he was elected to that position, and

(ii) current developments within his community in relation to how the younger generations of maroons currently view the Gaa'man.

B) Expert Witnesses

Proposed by the Inter-American Commission on Human Rights and the representatives

8. *Peter Poole*, whose expert opinion will specifically refer to:

(i) the elaboration of maps of the Saramaka territory;

(ii) conclusions that can be drawn from the maps and aerial photos of logging activity on Saramaka lands, and

(iii) the evidentiary probity of aerial photographs, in particular in relation to logging operations and settlement patterns in Saramaka territory.

9. *Mariska Muskiet*, whose expert opinion will specifically refer to:

(i) Surinamese property law, and

(ii) domestic remedies in Surinamese law.

Proposed by the representatives

10. *Robert Goodland*, whose expert opinion will specifically refer to:

(i) the alleged impact of logging operations on the Saramaka people;

(ii) the alleged ongoing impacts of the Afobaka dam on the Saramaka people, and

(iii) Suriname's plans to increase the storage capacity of the Afobaka dam in relation to the current situation of the Saramaka people.

11. *Martin Scheinin*, whose expert opinion will specifically refer to:

(i) the relationship between Article 1, specially subparagraph (2), of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and Articles 21 (Right to Property) and 3 (Right to Juridical Personality) of the American Convention on Human Rights.

Proposed by the State

12. *Magda Hoever-Venoaks*, whose expert opinion will specifically refer to:

- (i) the legal status of the provisions affording remedies to interested parties in Suriname's Mining Act;
- (ii) the legal status of the provisions affording remedies to interested parties in Suriname's Forestry Management Act, and
- (iii) the legal status of other remedies provided for in administrative and/or constitutional law in Suriname.

2. To require the Commission, the representatives and the State to take all of the necessary measures so that the witnesses and expert witness abovementioned may render their testimonies and expert opinions, respectively, by affidavit, and send them to the Inter-American Court by April 23, 2007. This deadline may not be extended.

3. To request the Court's Secretariat, in accordance with the right of defense and the adversarial principle, to transmit the affidavits to the parties, so that they may submit the observations which they deem to be pertinent, within a period of seven days from the time the affidavit is received. This deadline may not be extended.

4. To convoke the Inter-American Commission, the representatives and the State to a public hearing that will take place at the seat of the Inter-American Court of Human Rights, on May 9, 2007, starting at 3:00 p.m., and on May 10, 2007, starting at 9:00 a.m., in order to receive their oral arguments on preliminary objections and on possible merits, reparations and costs in the present case, as well as testimony from the following witnesses and expert witness:

A. Witnesses

Proposed by the Inter-American Commission on Human Rights and the representatives

1. *Wazen Eduards*, who will specifically testify about:

- (i) the work of the Association of Saramaka Authorities to counter the alleged incursion of logging companies in Saramaka territory, the alleged impact of these companies' operations and the alleged lack of prior consultation and consent in relation to those operations;
- (ii) Saramaka efforts to protect their rights domestically, including the steps taken by the Saramaka to reach consensus internally, and
- (iii) Saramaka customary laws concerning their ownership rights and the importance of the land and security of tenure for the maintenance of Saramaka cultural integrity, identity and spirituality.

2. *Cesar Adjako*, who will specifically testify about:

- (i) the alleged arrival of the logging companies on the lands of the Matjau clan, destruction of the forest and Saramaka subsistence farms and resources, and the alleged violation of Saramaka sacred sites;

(ii) the alleged involvement of the Surinamese army in protecting the loggers, and

(iii) the alleged lack of consultation or consent for the logging operations in Saramaka territory and the impact of these operations in cultural, physical, and emotional terms for his clan and the Saramaka people as a whole.

Proposed by the State

3. *Rudy Strijk*, who will specifically testify about:

(i) the role of the office of the District Commissioner of Sipaliwini regarding applications for concessions in said district and actions taken by said office towards Saramaka local authorities in this respect.

4. *Albert Aboikoni*, who will specifically testify about:

(i) the alleged disagreement within the Saramaka people leading to the establishment of separate entities, distinct from that of the Gaa'man, that represent the Saramaka people;

(ii) the actions undertaken by these entities towards the Gaa'mans who succeeded Gaa'man Mr. Songo Aboikoni;

(iii) his actions as acting Gaa'man towards the Saramaka people and the entities after Mr. Songo Aboikoni passed away, and

(iv) the current role and status of the Gaa'man of the Saramaka people in practice in the State of Suriname.

5. *Rene Ali Somowapiro*, who will specifically testify about:

(i) the role of the Foundation for Forest Management and Production Control (SBB) regarding applications for concessions in the Upper Suriname River area;

(ii) the role of the Foundation for Forest Management and Production Control (SBB) pertaining to supervisions of concessions issued to individuals and entities;

(iii) the role of the Foundation for Forest Management and Production Control (SBB) in relation to the issuance of "Community Forest" to indigenous and maroons living in Suriname;

(iv) the role of the Foundation for Forest Management and Production Control (SBB) with respect to the issuance of timber logging permits ("HKV's") on behalf of indigenous and maroon villages, and

(v) the role of the Foundation for Forest Management and Production Control (SBB) with regard to the special arrangements of timber logging permits ("HKV's") and "Community Forest" between local authorities of the indigenous and maroons and third parties.

B. Expert Witnesses

Proposed by the Inter-American Commission on Human Rights and the representatives

6. *Richard Price*, whose expert opinion will specifically refer to:

- (i) Saramaka people's social structure, traditional land tenure systems and customary law;
- (ii) Saramaka's economy, hunting, gathering, fishing and farming;
- (iii) Saramaka's spiritual relationships to land, territory and resources;
- (iv) the alleged impact of the Afobaka dam on the Saramaka people;
- (v) Saramaka's rights and relations with the Surinamese State, and
- (vi) reparations.

Proposed by the State

7. *Salomon Emanuels*, whose expert opinion will specifically refer to:

- (i) the position and role of the Gaa'man of the Saramaka maroons in Suriname;
- (ii) the position and role of the lös (clans) of the Saramaka maroons in Suriname;
- (iii) the procedure within the Saramaka people regarding decisions on land rights involving the Saramaka people as a whole, and
- (iv) the interrelations between the local authorities of each Saramaka clan.

5. To call upon Mr. Adiante Franzoon, a translator offered by the representatives, to provide translation services during the public hearing for the witnesses who do not speak English or Spanish, and require the representatives to cover all costs related to said translation service.

6. To call upon a qualified translator of the State's choice, should the State desire such translation, in order to provide translation services for the State from Dutch into English during the public hearing, and require the State to cover all costs related to said translation services.

7. To require the State to submit to the Inter-American Court of Human Rights, no later than April 3, 2007, the name of the witness referred to as a "representative of the Illustrious State of Nicaragua" proposed by the State in this case. This deadline may not be extended.

8. To require the Secretariat of the Inter-American Court of Human Rights, once it has received the information required in the preceding operative paragraph, to transmit said information to the Inter-American Commission on Human Rights and to the representatives of the alleged victims and their next of kin so that they may submit the respective observations they may deem pertinent within five days of receiving said communication. This deadline may not be extended.

9. To require the State of Suriname to facilitate the departure and return of the witnesses and expert witnesses who reside therein and have been summoned by the present Order to testify in the public hearing on preliminary objections, as well as on possible merits, reparations and costs in this case, in accordance with Article 24(1) of the Rules of Procedure.

10. To require the Inter-American Commission, the representatives and the State to notify the present Order to each witness and expert witness it has proposed and to advise each one that he or she has been summoned to testify, in accordance with Article 47(2) of the Rules of Procedure.

11. To inform the Inter-American Commission, the representatives and the State that it must cover the costs incurred in the production of the evidence that it has requested, in accordance with Article 46 of the Rules of Procedure.

12. To require the Inter-American Commission, the representatives and the State to inform the witnesses and expert witnesses summoned by the Inter-American Court of Human Rights that, in accordance with Article 52 of the Rules of Procedure, the Inter-American Court of Human Rights will inform States whenever those called upon to testify before this Tribunal do not appear before it or refuse to testify without a legitimate motive or of those that, in the Court's opinion, have violated the oath or solemn declaration, for whatever purpose foreseen in the corresponding national legislation.

13. To inform the Inter-American Commission, the representatives and the State that they may present before the Court their final oral arguments on preliminary objections, as well as on possible merits, reparations and costs in the present case, once the witnesses and expert witnesses have concluded testifying.

14. To require the Secretariat of the Court, in accordance with Article 43(3) of the Rules of Procedure, to send to the Inter-American Commission, the representatives and the State a copy of the audio recording of the public hearing in the present case.

15. To inform the Inter-American Commission, the representatives and the State that they must submit their final written arguments on preliminary objections, as well as on possible merits, reparations and costs in the present case no later than June 6, 2007. This deadline may not be extended and is independent of the issuing of the public hearing's audio recording.

16. To require the Secretariat of the Court to notify the present Order to the Inter-American Commission, the representatives of the alleged victims and their next of kin and the State.



Sergio García Ramírez



President

Pablo Saavedra Alessandri
Registrar