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**REPORT No. 55/14**  
**PETITION 818-06**  
REPORT ON ADMISSIBILITY

FELIPE MATÍAS CALMO, FAUSTINO MEJÍA BAUTISTA ET. AL.  
GUATEMALA

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**REPORT No. 55/14**  
**PETITION 818-06**  
ADMISSIBILITY  
FELIPE MATÍAS CALMO, FAUSTINO MEJÍA BAUTISTA *ET. AL.*  
(RESIDENTS OF THE COMMUNITY OF TRES CRUCES)  
GUATEMALA  
JULY 21, 2014

**I. SUMMARY**

1. On July 3, 2006, the Inter-American Commission on Human Rights (hereinafter, the "Commission," "Inter-American Commission," or "IACHR") received a petition filed by Mr. Felipe Matías Calmo, a community representative, and Mr. Faustino Mejía Bautista, President of the *Comité Pro-Miniriego de la Comunidad* [Community Pro-Mini Irrigation Committee] (hereinafter the "petitioners"), on both their own behalf and on behalf of the residents –ethnic Mam indigenous *campesinos*– of the community of Tres Cruces, village of Chicoy, municipality of Todos los Santos Cuchumatán, department of Huehuetenango (hereinafter, the "alleged victims"). The petition was brought against the State of Guatemala (hereinafter, "the State," "the Guatemalan state," or "Guatemala") for the alleged violation of the rights to a fair trial, judicial protection, and other rights as a result of purported negligence and inaction on the part of the competent authorities in prosecuting and reaching a verdict in the criminal case brought against individuals who had illegally deprived the alleged victims of access to the water they used for farming during the summer.

2. The petitioners hold that the State of Guatemala is responsible for the violation of the rights enshrined in Articles 1(1) (obligation to respect rights), 8 (right to a fair trial), and 25 (judicial protection) of the American Convention on Human Rights (hereinafter, the "American Convention" or "Convention"), in connection to other articles thereof, with respect to the residents of Tres Cruces, who, in 1998, reported to the competent authorities that a group of individuals from a neighboring community, also ethnic Mams, without any consent whatsoever, had allegedly diverted to their homes the waters from a spring located within the territory belonging to the members of the community of Tres Cruces. This allegedly denied [the residents of Tres Cruces] their main mean of subsistence, seriously undermining their living conditions. The petitioners claim that judicial authorities, primarily the prosecutors, acted negligently during the criminal investigation that had been opened based on the facts alleged and that this had reportedly led to the case being dismissed to the detriment of their rights.

3. The State, for its part, essentially argues that this is a dispute between private citizens in which no state agents were involved; that domestic remedies have not been exhausted since the petitioners reportedly did not pursue a regular civil case to seek damages, which should, in any event, have preceded a criminal case; and that the petitioners allegedly failed to properly pursue the criminal case that arose out of the grievance they had filed, and thus, the termination of the case would be ascribable to them due to their procedural inaction.

4. Without prejudging the merits of the matter, after having analyzed the parties' positions and in compliance with the requirements set forth under Articles 46 and 47 of the American Convention on Human Rights (hereinafter, the "Convention" or the "American Convention"), the Commission decides that the petition is admissible for purposes of examining the alleged violation of the rights enshrined in Articles 8 and 25 of the American Convention, in connection with Article 21, in accordance with Article 1(1) of the thereof, with respect to the residents of the community of Tres Cruces who were harmed by the acts alleged in this petition.

**II. PROCEEDINGS BEFORE THE COMMISSION**

5. On July 3, 2006, the Commission received the petition and assigned it number 818-06. On December 15, 2006, the Commission requested additional information from the petitioners who submitted their response via communications received on January 12 and 29 and September 25, 2007. On July 2, 2008,

the IACHR forwarded the relevant portions of the petition to the State of Guatemala, giving it two months to submit its response, pursuant to the provisions of Article 30 of the IACHR Rules of Procedure in effect at that time. Following a two-month extension granted on August 19, 2008, the State's response was received on October 1, 2008. Such response was duly forwarded to the petitioners.

6. The IACHR received further information from the petitioners on December 31, 2008, March 23, 2009, May 8, 2009, February 22, 2010, April 8, 2011, August 19, 2011, December 5, 2011, January 25, 2012, April 4, 2012, July 24, 2012, and August 20, 2012. Such communications were duly forwarded to the State. Subsequently, via communications dated November 20, 2012, February 13, 2013, June 19, 2013, and October 22, 2013, the petitioners asked the IACHR to proceed with the petition, without providing any further information.

7. The IACHR likewise received information from the State on December 11, 2008, December 18, 2009, February 10, 2011, August 2, 2011, January 20, 2012, March 16, 2012, July 10, 2012, November 23, 2012, and August 29, 2013. Such communications were duly forwarded to the petitioners.

### **III. POSITION OF THE PARTIES**

#### **A. The petitioners**

8. The petitioners allege that they are the owners of land that contains a spring that fed a mini-irrigation system they used when planting during the summer season and that the waters of the spring were usurped in early 1998 by a group of people residing in a nearby community, "residents of the village of Chicoy" (also ethnic Mam), who, without any consent whatsoever, are said to have destroyed the water collection tank and original pipes, thereby diverting the stream toward their own homes via a system of ditches. A criminal complaint regarding these acts was filed with the competent authorities in order to secure restitution for the damage caused. After more than a decade of litigation, however, the petitioners have reportedly not seen their rights restored nor received reparations for the damage. As a result of this situation, they have allegedly been unable to continue farming traditional products from their culture (potatoes, broccoli, corn, and beans), leaving them in a situation of extreme poverty that also affects their enjoyment of their right to health and education, among others, for which they are requesting compensation for the losses suffered.

9. Essentially, the petitioners assert that the State violated their human rights of access to justice, to property, to health, to education, etc., by not thoroughly and effectively pursuing the criminal case that stemmed from the complaint they filed in 1998 regarding the illegal intrusion onto their land and the diversion of the waters from the spring they used for their crops during the summer months. Specifically, they complain that, after an indictment was issued (1999), the Public Ministry did not move forward with the case, nor did it take any relevant action.

10. The petitioners underscore that they hold the property rights to the land where the spring is located and that their title has been certified by the mayor of the municipality of Todos los Santos de Cuchumatán, which, in Guatemala would constitute a customary rule and would have legal value as evidence. Such interpretation would be consistent with their customs as indigenous peoples, according to which property ownership, and ownership of all the property contains, including a water source or spring, is respected. They likewise hold that this spring benefitted the entire Tres Cruces community, and thus was not a good for individual use.

11. The following were the main actions taken during the criminal proceeding:

(a) On April 21, 1998, the petitioners filed a complaint for "theft of water, aggravated damage, and special fraud [*caso especial de estafa*]" with the Public Ministry's Office of the District

Prosecutor for the city of Huehuetenango (case file No. 2024-98).<sup>1</sup> They further indicate that the documents proving their ownership of the land were provided at the very outset and included in the initial complaint and that if the prosecutor in this case failed to include the extended versions of the statements made by certain defendants in the case file, it was due to his own negligence.

- (b) On August 14, 1998, the Public Ministry asked the Second Bench of the department of Huehuetenango's Criminal, Drug-related Activities, and Environmental Crimes Trial Court to issue arrest warrants for the defendants (given that they had failed to appear earlier when so ordered); the warrants were issued on September 2, 1998. On September 30, the defendants were granted pre-trial conditional release.
- (c) On September 30, 1998, May 27, 1999, and June 1 and 21, 1999, indictments were issued against the defendants. The defendants appealed the indictments but the charges were upheld by the Seventh Court of the Quetzaltenango Court of Appeals by means of a ruling handed down on May 19, 2000. Thus began trial No. 563-98 before the aforementioned court for the crimes of theft and usurpation of water.
- (d) On July 3, 2002, the presiding judge recused himself [from the case] because the petitioners had accused him of being responsible for alleged delays in the criminal prosecution. Given this situation, the Seventh Court of the Quetzaltenango Court of Appeals, via a ruling made on July 22, 2002, ordered that the case proceed at the Second Criminal Trial Court of the municipality of Santa Eulalia in the department of Huehuetenango.
- (e) On October 10, 2002, pursuant to Article 325 of the Code of Criminal Procedure, the Public Ministry (prosecutor) asked the presiding judge to provisionally close the case because it believed there were insufficient grounds for ordering the opening of a trial since additions to three statements and receipt of the documentation establishing the ownership or legal title the petitioners allegedly had over the respective springs and aqueducts remained pending.
- (f) During a hearing held on November 28, 2002, which the petitioners did not take part in because, they allege, they were not notified thereof, the judge in the case decided to provisionally close the case until the evidence he considered missing was provided. The aim would have been to postpone the trial until the necessary evidence to order the opening of the trial or to dismiss the case was provided.<sup>2</sup>
- (g) By means of a communication dated September 25, 2007, the petitioners claimed that the case file had been, in their opinion, "frozen" in the archives of the Public Ministry's Office of the Municipal Prosecutor and in the Court of Santa Eulalia.
- (h) Subsequently, on January 28, 2009, the Public Ministry's Huehuetenango District Prosecutor asked that the case be dismissed<sup>3</sup> and scheduled a hearing for April 14, 2009, during which the case was officially closed in favor of the defendants.

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<sup>1</sup> Criminal complaint No. 2024 of 1998, filed with the Public Ministry's District Prosecutor for the city of Huehuetenango and referred to in this report, also mentions messrs. Hilario Cruz, Hilario Cruz Ortiz, Santiago Ahilón Cruz, and Tereso Cruz Medina as injured parties.

<sup>2</sup> Article 331 of the Code of Criminal Procedure (**provisional closure**) provides that: "If dismissal is not in order and the evidence is not sufficient to order a case to trial, closure of the proceedings shall be mandated, by court order, which must specify the pieces of evidence expected to be able to be incorporated. [...] When new evidence makes it feasible to resume the criminal proceedings in order to determine whether the case should be sent to trial or dismissed, the court, at the request of the Public Ministry or one of the parties, shall allow the investigation to recommence."

<sup>3</sup> Article 328 of the Code of Criminal Procedure (**dismissal**) provides that: "Dismissal in favor of a defendant shall be in order: [...] (2) When, despite the lack of certainty, the potential to incorporate new evidence does not reasonably exist and it is impossible to order the case to trial based on good grounds [...]"

12. In this context, the petitioners state that they filed several complaints regarding the lack of activity in the case before the office of the General Attorney and the Supreme Court, all of whom allegedly failed to take any action in order to move forward the proceedings. In this regard, the petitioners allege “malicious delay that brought poverty and marginalization to the community.”

13. The petitioners note that, despite all their complaints regarding the lack of action taken by the Public Ministry, only Assistant Prosecutor Orozco was allegedly sanctioned with two weeks without pay, and even so, he was apparently left in charge of the case in the city of Huehuetenango. Beyond that measure, none of the petitioners’ complaints were allegedly pursued. The petitioners likewise indicate that on December 18, 2003, a hearing was held on a grievance they had filed against the criminal trial court judges for unwarranted delay; however, the Judicial Disciplinary Board, via a resolution dated December 18, 2003 (case file No. 365-2003), ruled that the statute of limitations for disciplinary action had lapsed.

14. The petitioners note that in May 2009, they found out unofficially that the criminal case had been dismissed without their having been notified by the Santa Eulalia court of either the imminent dismissal of the case or of the hearing in which such dismissal was decided.

15. Regarding the State’s allegation that the petitioners should have first pursued a civil case, the petitioners note that the Public Ministry never requested a first ruling in the case, nor did it ever indicate to them that they must first go to the civil courts to settle the dispute.

## **B. The State**

16. The State alleges that the petition has to do with a dispute between individuals, namely, the petitioners and their neighbors, and that diversion of the spring was not caused by any official agent. Hence, the facts being alleged in the petition are not ascribable to the State of Guatemala.

17. That State indicates that from the time the petitioners first appeared at the offices of the investigating agency to file their complaint, they were assisted with due diligence and attention, and that that agency moved forward with the corresponding investigation, collecting relevant, timely, and sufficient evidence to initially request that the perpetrators of the acts being alleged be apprehended.

18. Regarding the termination of the case, the State notes that in their original complaint, the petitioners failed to provide, as required, an address for receiving notifications, and hence, were to have been notified of the decision to provisionally close the case by the Second Bench of the municipality of Santa Eulalia’s –and department of Huehuetenango’s– Criminal, Drug-related Activities, and Environmental Crimes Trial Court. In addition, this judicial authority reportedly ordered, via a resolution dated September 23, 2003, that the third-party prosecutor be notified of the pending decisions regarding the case, and thus, the office of the Justice of the Peace on duty in the municipality of Huehuetenango was allegedly made available. With this, the duty to notify the petitioners was, therefore, purportedly fulfilled.

19. The State argues that at no time did the petitioners appeal the decision to provisionally close the case, a decision that allegedly stood due to their lack of procedural action. Later, in 2009, after five years, the case was dismissed, a procedural action that the petitioners also failed to challenge.

20. The State further claims that domestic remedies have not been exhausted since the petitioners never claimed damages in a civil court, which would have been the most suitable path. Likewise, the Santa Eulalia District Prosecutor, in his October 22, 2009 report, pointed out that the case was supposed to have been brought first in the civil courts so that a determination could have been made regarding who held the rights to the spring.

21. The State notes that water is a basic and essential resource for life, one that is for collective rather than individual use, pursuant to Articles 121 and 128 of Guatemala’s Constitution. The State further argues that the spring alluded to by the petitioners would not have been for communal or “social” uses as

they claim, rather that it would have only served the interests of individuals; otherwise, the State contends, the petitioners would not have filed a criminal complaint against other members of their community, since all would stand to benefit from the resource. The State also indicates that throughout the criminal proceedings, the petitioners allegedly failed to duly demonstrate their property rights to the land where the spring is located.

22. The State concludes that the fact that the case filed by the petitioners was unsuccessful does not mean that their rights were violated, rather that the complaint had been investigated and a determination made that there was no evidence to punish the defendants charged with the alleged crimes.

#### **IV. ANALYSIS OF ADMISSIBILITY**

##### **A. Competence of the Commission *ratione personæ, ratione loci, ratione temporis, and ratione materiæ***

23. The petitioners are entitled, under Article 44 of the American Convention, to file complaints with the Commission. The petition names as alleged individual victims on whose behalf the State of Guatemala undertook to respect and ensure the rights enshrined in the American Convention. Regarding the State, the Commission notes that Guatemala has been party to the American Convention since May 25, 1978, when it deposited the respective instrument of ratification. The Commission, therefore, has *ratione personæ* to examine the petition. The Commission likewise has *ratione loci* to examine the petition inasmuch as it alleges violations of rights protected under the American Convention that are said to have taken place within the territory of Guatemala, a state party to said treaty.

24. The Commission is competent *ratione temporis* because the obligation to respect and ensure the rights protected in the American Convention was already in force for the State when the facts alleged in the petition are said to have occurred. Lastly, the Commission is competent *ratione materiae* because the petition alleges possible violations of human rights protected by the American Convention.

##### **B. Other Admissibility Requirements**

###### **1. Exhaustion of domestic remedies**

25. Article 46(1)(a) of the American Convention provides that for a petition filed with the Inter-American Commission pursuant to Article 44 of the Convention to be admitted, the remedies under domestic law are required to have been pursued and exhausted in accordance with generally recognized principles of international law. The objective of this requirement is to allow national authorities to be made aware of the alleged violation of a protected right, and, where appropriate, to have the opportunity to resolve the matter before the case is brought before an international body.

26. For their part, Article 46(2) of the Convention and Article 31(2) of the Commission's Rules of Procedure provide that the rule of prior exhaustion of domestic remedies does not apply when: (a) The domestic legislation of the state concerned does not afford due process of law for the protection of the right or group of rights that have allegedly been violated; (b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; and (c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

27. In this regard, the petitioners indicate that domestic remedies were exhausted upon the definitive dismissal of the criminal case in January 2009, which they found out about unofficially in May 2009. For its part, the State asserts that domestic remedies were not exhausted because the petitioners did not appeal the decision to provisionally close the case, and with that, the case was dismissed definitively in 2009, an action also not challenged by the petitioners. The State further maintains that the petitioners did not pursue an ordinary case for damages in the civil courts.

28. In the present case, the Commission observes that the claims that gave rise to this petition stem from a dispute between individuals, but that the matter before the Commission has to do with the State's response via the Office of the Prosecutor and the Judiciary. Based on an analysis of the information furnished by both parties, the Commission finds that the alleged victims pursued the criminal justice route – after allegedly having gotten nowhere with the municipal authorities– in order to get the State involved in investigating and punishing the perpetrators of potentially criminal conduct. Furthermore, the complaint filed by the petitioners in 1998 shows that they requested civil damages in the context of the criminal proceedings, pursuant to Article 124 of the Code of Criminal Procedure.<sup>4</sup> In this regard, the Commission reiterates that it is not necessary to exhaust all domestic remedies available, rather, only those suitable for providing effective reparations for the alleged damages. Hence, in terms of assessing whether the requirement of exhaustion of domestic remedies has been met, the Commission must determine what the appropriate remedy is based on the circumstances, which is understood to be that which can resolve the legal situation infringed.

29. In this regard, the Commission observes that the actions reported by the petitioners are regarded as crimes under criminal law in Guatemala,<sup>5</sup> and that at no time did the judicial authorities of the criminal courts claim to lack jurisdiction, or question the suitability of the criminal courts, or inform the petitioners that they were to first pursue a case in the civil courts. On the contrary, they began their investigations and continued to move forward with the case in the criminal jurisdiction.

30. Regarding the exhaustion of remedies available in the criminal jurisdiction, the IACHR observes that on April 14, 2009, the Second Bench of the Santa Eulalia Criminal Trial Court definitively dismissed the case initiated in 1998. The State argues that the petitioners did not challenge that decision, which, pursuant to Articles 404(8), 406, and 407 of the Code of Criminal Procedure, could be appealed within three days following notification thereof. The petitioners, for their part, claim that they were not notified of such decision, as prescribed by law, and that they only reportedly found out about it unofficially, which would not have enabled them to challenge it in timely and due form.

31. In this respect, the State asserts that the petitioners were reportedly notified of the definitive ruling in the case through the courts given that they had allegedly failed to include an address where they could be reached in their original complaint. The Commission nevertheless observes from reading criminal complaint No. 2024 of 1998, filed with the Public Ministry's District Prosecutor in the city of Huehuetenango, that the petitioners had in fact provided an address where they could receive notifications.<sup>6</sup> Moreover, the petitioners maintain that they were not even notified by the court in Santa Eulalia. As to these allegations, the State has not made reference to any additional facts. As a result, the Commission considers that the fact that the trial court judge's ruling to definitively dismiss the case was not challenged by the petitioners, could not, in principle, be imputed to them since they were apparently prevented from challenging the ruling in question due to an alleged lack of notification.

32. Hence, in consideration of the foregoing, the Inter-American Commission concludes that in the present case, the exception to the requirement for exhausting domestic remedies provided for under Article 46(2)(b) of the American Convention applies.

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<sup>4</sup> See, among others: IACHR, Report No. 108/13, Petition 4636-02, Inadmissibility, Juan Echeverría Manzo and Mauricio Espinoza González, Chile, November 5, 2013, paragraph 49. Inter-American Court of Human Rights: *Case of Velásquez-Rodríguez v. Honduras*. Judgment of June 26, 1987. Series C, No. 1, paragraph 64; *Case of Fairén Garbí and Solís Corrales v. Honduras*. Judgment of June 26, 1987. Series C, No. 2, paragraph 88; and *Case of Godínez Cruz v. Honduras*. Judgment of June 26, 1987. Series C, No. 3, paragraph 88.

<sup>5</sup> In the context of these proceedings, a trial was begun for the crimes of *theft and usurpation of water*, which are included, respectively, in Articles 249 and 260 of Guatemala's Criminal Code.

<sup>6</sup> Criminal complaint No. 2024 of 1998, filed with the Public Ministry's District Prosecutor for the city of Huehuetenango and referred to in this report, notes that: "we [the complainants] designate for receipt of notifications on the fifth street six dash ninety-nine of zone one of this city the assistant attorney in whom we are entrusting the management and pursuit of this matter and before the Prosecutor [...]".

## 2. Timeliness of the petition submitted to the Commission

33. Article 46(b) of the American Convention provides that for petitions to be deemed admissible by the Commission, they must be filed within a period of six months following notification of the final judgment that exhausts domestic remedies to the alleged victim.

34. In the case at hand, the petition was received on July 6, 2006, while the criminal proceedings to investigate the facts reported by the petitioners were still underway; such proceedings finished in 2009. In this regard, the Commission concludes that the domestic remedies have been exhausted since April 2009 when the criminal case was definitively dismissed. The petition was submitted in July 2006, and thus, the timely submission requirement has been met.

## 3. International duplication of proceedings and *res judicata*

35. The case file does not indicate that the substance of the petition is pending in any other international settlement proceeding or that it is substantially the same as another petition already examined by this Commission or any other international body. Hence, the requirements set forth in Articles 46(1)(c) and 47(d) of the American Convention have been met.

## 4. Characterization of the alleged facts

36. The Commission considers that this is not the stage in the process for deciding whether or not the alleged violations occurred against the alleged victims. For purposes of admissibility, the IACHR must only determine right now if facts have been put forth that, if proven, would characterize violations of the American Convention, as stipulated by Article 47(b) thereof, and whether the petition is "manifestly groundless" or "obviously out of order," pursuant to Article 47(c).

37. The criterion for appreciating these extremes is different from the one required to rule on the merits of a petition. The IACHR must conduct a *prima facie* evaluation and determine whether the petition provides the grounds to establish the apparent or potential violation of a right guaranteed under the American Convention, but not to establish the existence of such violation.<sup>7</sup> At this stage it is necessary to conduct a summary analysis that does not entail prejudging or offering an opinion on the merits. The Inter-American Commission's own Rules of Procedure, by providing for an admissibility and a merits stage, reflects this distinction between the assessment the Inter-American Commission must make in order to declare a petition admissible and the one required to establish whether a violation attributable to the State has been committed.<sup>8</sup>

38. In addition, neither the American Convention nor the IACHR's Rules of Procedure require the petitioner(s) to identify the specific rights they allege the State violated in the matter submitted to the Commission, although they may do so. It falls to the Commission, based on the system's jurisprudence, to determine in its admissibility reports which provision of the relevant inter-American instruments applies and might constitute a violation if the facts being alleged are proven sufficiently.

39. Pursuant to the information and documents furnished by the parties, the IACHR considers that the facts being alleged regarding the State's purported lack of diligence in pursuing the measures necessary during the investigation stage –particularly suspending the criminal proceedings to incorporate evidence that, according to the allegations, had already reportedly been submitted or that the authorities

<sup>7</sup> See IACHR, Report No. 128/01, Case 12.367, *Mauricio Herrera Ulloa and Fernán Vargas Rohrmoser of "La Nación" Newspaper* (Costa Rica), December 3, 2001, paragraph 50; Report No. 4/04, Petition 12.324, *Rubén Luis Godoy* (Argentina), February 24, 2004, paragraph 43; Report No. 32/07, Petition 429-05, *Juan Patricio Marileo Saravia Et. Al.* (Chile), April 23, 2007, paragraph 54.

<sup>8</sup> See IACHR, Report No. 31/03, Case 12.195, *Mario Alberto Jara Oñate Et. Al.* (Chile), March 7, 2003, paragraph 41; Report No. 4/04, Petition 12.324, *Rubén Luis Godoy* (Argentina), February 24, 2004, paragraph 43; Petition 429-05, *Juan Patricio Marileo Saravia Et. Al.* (Chile), April 23, 2007, paragraph 54; Petition 581-05, *Victor Manuel Ancalaf LLaupe* (Chile), May 2, 2007, paragraph 46.



could have included using their legal powers– and with respect to the fact that, over a 10-year period the case was, first provisionally, and then definitively dismissed, supposedly due to the lack of due diligence on the part of the competent authorities, could constitute a violation of the rights enshrined in Articles 8 and 25 of the American Convention, in connection with Article 21 thereof, which establishes the right to the “use and enjoyment” of property, all pursuant to Article 1(1) of the Convention.

40. In this regard, the IACHR considers that the facts alleged might constitute a potential violation of the rights provided for under Articles 8, 21, and 25 of the American Convention, pursuant to Article 1(1) thereof, with respect to the residents –both those named in this petition and those who may be singled out during the merits stage– of the community of Tres Cruces harmed by the acts alleged in the petition. In addition, during the merits phase, the Commission will analyze, where relevant, the possible application of Article 26 of the American Convention.

## **V. CONCLUSIONS**

41. The Commission concludes that it is competent to examine the claims put forward by the petitioners regarding the alleged violation of Articles 8, 21, and 25, pursuant to Article 1(1) of the American Convention, and that such claims are admissible under Articles 46 and 47 of the American Convention.

42. Based on the foregoing arguments of fact and law.

### **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,**

#### **DECIDES:**

1. To rule this petition admissible as regards to the possible violation of Articles 8, 21, and 25, pursuant to Article 1(1) of the American Convention, with respect to the residents of the community of Tres Cruces.
2. To notify the Guatemalan state and the petitioners of this decision.
3. To continue its analysis of the merits of the case.
4. To publish this decision and include it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 21<sup>st</sup> day of the month of July, 2014. (Signed): Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice President; Felipe González, Second Vice President; José de Jesús Orozco Henríquez, Rosa María Ortiz, Paulo Vannuchi and James L. Cavallaro, Commissioners.