Ministry of Justice and Police

Commission Legal Experts in Human Rights

[redacted]

To: The Inter-American Court of Human Rights
Mr. Pablo Saavedra Alessandri
Registrar
Apdo 6906-1000, San Jose
Costa Rica

0000636

[redacted], March 26, 2007

No. CJDM / 645 / 07

Observations of the State of Suriname to the document: "Pleadings, Motions and Evidence of the Victim's Representatives in the Case of 12 Saramaka Clans (case 12.338) against the Republic of Suriname"

INTRODUCTION

1 It is noted that the Republic of Suriname will be referred to in the text of this document as ***"the State"*** or the ***"State of Suriname"***, the American Convention on Human Rights will be referred to as ***"the Convention"***, the American Declaration of the Rights and Duties of Man as ***"the Declaration"***, the Inter-American Commission on Human Rights as ***"the Commission"*** or the ***"petitioner"***, the Inter-American Court of Human Rights as ***"the Court"***,

and the individuals who submitted above mentioned communication through their representative as ***"original petitioners"*** or the ***"representative"***. 0000687

2. The State hereby requests to consider this response, its official response in case no. 12 338, Twelve Saramaka Clans, submitted to this Honorable Court on January 12, 2007, all its previous and future communications regarding this petition, as one integral part of the States' position with regard to the subject matter. The State denies and contests all which has not been recognized by it literally and explicitly.

3. The State will analyze the submission of the original petitioners, dated 3 November 2006, as this was submitted to the Court and sent to the State for its observations. As requested in its letter of February 16, 2007 no. CJDM / 563 /07 this Court granted the State of Suriname the possibility to respond till Monday 26 March 2007.
The basis for the State's observations is said submission of the original petitioners.

4. With reference to the introduction of said submission of the original petitioners, the State refuses to use the term ***"victims"*** when referring to the original petitioners, because based on the evidence provided in this case, before the Commission and now before this Court, the original petitioners can not be seen as victims of human rights violations as codified in the Convention, allegedly committed by the State

APPLICABLE ARTICLES OF THE CONVENTION

5. The State points out that the petitioner alleged violations of the articles 21 and 25, in conjunction with articles 1 and 2 of the Convention, while the original petitioners allege violations of articles 1, 2, 3, 21 and 25 of the Convention. There is obviously a discrepancy with regards to the position of the petitioner, charged by the Convention to appear in all cases before the Court, and the observations submitted by the original petitioners in this document to this Honorable Court. The view of the latter is also in

contradiction with the Report adopted by the Commission based on Article 50 of the Convention. The State has addressed the status of said Article 50 report in its official response and will address this and other discrepancies in detail in this document. In para 171 on page 42 of the submission, the representative argues that ***"the victims' right to juridical personality, interpreted with respect to Suriname's other international commitments, includes the right to be recognized before the law as a distinct people"*** and claims that Suriname violates Article 3 of the Convention.

The State argues that violation of Article 3 of the Convention was not allege to be violated by the Commission in its petition to the Court and was this was also not included in the Article 50 Report issued by the Commission. The State argues that the representative of the original petitioners do not have standing to separately and independently allege before the Court that Suriname violated Article 3 of the Convention

Moreover the State argues that the representative includes a twist in his argument, because the Conventions guarantees that every person has the right to be recognized as a person before the law and not as a "distinct people" as argued by the representative.

6 The State reiterates its position that this case presented to an international tribunal, was conducted in total disregard of the culture, customs, practices and legal norms applicable on the domestic and international plane. The State reiterates that the issue at hand is in fact not land rights of a community living in the interior of Suriname, but more an avenue/vehicle to get hold of resources in the State of Suriname.

The State of Suriname reiterates that it has not violated the rights of its citizens in general nor that of the Saramaka tribe in particular, as this is alleged by the petitioner and in this submission by the representative, pursuant to the Declaration and the Convention.

7. The State of Suriname has not violated in concreto Articles 21 (right to property) and 25 (right to judicial protection) of the Convention of the

Saramaka tribe in Suriname. The State of Suriname does comply with its obligations under Articles 1 and 2 of the Convention. 0000689
The State did not violate Article 3 (right to juridical personality) of the Convention. The right of every individual in the State of Suriname to be recognized as a person before the law, is guaranteed in the Constitution of the State.

8 In addition, the State notes that it is consistent with the jurisprudence of the Commission, which clearly indicates that only individuals are entitled to rights as they are codified in the Convention. Pursuant to the human rights instruments applicable in the Inter- American system, entities can not invoke the human rights as they are safeguarded in the Convention. The Association of Saramaka Authorities and the Saramaka lös have no standing to file a petition to the Inter-American Commission on behalf on the Saramaka tribe. Individuals can not be given standing before the Honorable court and this is a violation of the principle concept of the Convention; Individuals can not be given equal standing before the Honorable Court as the State.

JURISDICTION OF THE COURT

9 Suriname acceded to the Convention on 12 November 1987 and accepted the jurisdiction of this Court on the same date. This Court therefore has jurisdiction to hear cases concerning the application and interpretation of the Convention with regard to alleged violations of the Convention on its territory that took place starting 12 November 1987.

10. The State contests the legitimacy of the jurisdiction of any international tribunal before a state party accepted the jurisdiction of that tribunal as of such. The State of Suriname contests that this Court has jurisdiction over acts that took place before the State of Suriname was established under the accepted rules and principles of international law, referring to alleged acts that took place in 1963 – 1964 during the time that the Dutch colonial power ruled over this territory.

11. The concept of continuous violations, if applicable, can not be applied to the situation at hand since the State of Suriname as a subject of international law, as a subject of rights and duties under international law, was only established on 25 November 1975. This subject of international law subsequently acceded to Conventions and other international instruments, thereby accepting international responsibilities for the State from each respective date.

0000630

With reference to the above the State contests the statements made in this submission that this Court has competence to hear the alleged violations prior to 12 November 1987.

REPRESENTATION

12. The State of Suriname respectfully points out that the representatives of the original petitioners in Case No. 12.338, Twelve Saramaka Clans, namely the Association of Saramaka Village Leaders as a group[1] and the respective village leaders in their individual capacity, lack separate legal standing before this Honorable Court. The American Convention on Human Rights (the Convention) gives States and the Inter-American Commission on Human Rights (the Commission)[2] the authority[3] to bring cases before the Inter American Court of Human Rights (the Court).

13. The State of Suriname is of the opinion, based on the leading instrument within the Inter-American human rights system that only the State and the Commission are on equal footing before this Honorable Court. The State therefore contests the separate position of the Representatives of the original petitioners in these proceedings before this Court. The State

---

[1] In report no. 39/99 Petition MEVOPAL, S.A.Argentina, March 11, 1999: It was the view of the Commission that it did not have the competence , inasmuch as juridical persons are not protected by the Convention, in accordance with article 1(2)

[2] Article 57 of the Conventions clearly states: *"The Commission shall appear in all cases before the Court"*, See Basic Documents pertaining to Human Rights in the Inter-American System, page 48

[3] Article 61 of the Conventions reads: *"1. Only the States Parties and the Commission shall have the right to submit a case to the Court.*
2. In order for the Court to hear a case, it is necessary that the procedures set forth in Articles 48 and 50 shall have been completed.", id., page 48 -49.

respectfully refers to additional statements and information provided in its official response submitted to this Court on 12 January 2007. 0000691

14. The State of Suriname contests the participation of Mr. David Padilla former Assistant Executive Secretary of the Commission, on behalf of the original petitioners, in the proceedings before this Court. Mr. Padilla was the Assistant Executive Secretary of the Commission when the petition was submitted to the Commission. The State believes that this representation is against all accepted ethical and moral principles in international human rights law. In addition, the State believes that giving the position Mr. Padilla had when the petition was submitted, letting him participate as legal counsel for the original petitioner, clearly violates the "equality or arms" principle in international human rights law.

15. The State argues that by allowing Mr. Mac Kay and Mr. Padilla to represent these petitioners before the Court, the violation of the equality of arms as discussed before the Commission, continues thereby placing the State in a disadvantageous position. In addition, the State argues that the Commission, by allowing its former Assistant Executive Secretary to participate as legal counsel in this case, has maneuvered itself in a position to the detriment of the State. The State argues that in no way the Commission – being the organ charged by the Convention to petition this Honorable Court - be allowed ***to gain fruits of the poisoned tree***.

16. The State argues that the Commission can not be allowed to proceed in this manner. The Commission must be declared inadmissible to petition the Court in this particular case no. 12 338 Twelve Saramaka Clans.
Since the Commission did not act properly when the petition was in process before it, this Court must remedy the situation and declare the Commission without jurisdiction to submit this particular case to the Court.

17. In consequence, the State argues that since the Commission is the Conventional organ that has the authority to bring cases to the Court, and the submission of the Commission is inadmissible or the Commission has no

jurisdiction to present this particular petition to the Court, the original petitioners does not have any standing to continue proceedings in this case against the State. The position of the representatives depends on the status of the Commission. If the Commission is declared without jurisdiction to submit this petition/case to the Court because of the applicability of the ***fruits of a poisoned tree principle***, the original petitioners lack standing to proceed in this case.

18. In Para 5 of the submission[4] it is stated that Mr. MacKay and Mr. Padilla are authorized to represent the original petitioners before the Court and in "...any dealings with the State in relation to this case". The State notes that the original petitioners do not have legal standing before the Court and that they therefore deal independently with the State in this matter before your Honorable Court. Article 61(1) of the Convention states that ***"Only the States Parties and the Commission shall have the right to submit a case to the Court"***. The only party in this case before the Court, is the Commission. Therefore the authorized representatives do not have the right to deal with the State in relation to this case.

19. In para 3 of the submission reference is made to the ICCPR and the ICESCR. The State respectfully points out that the original petitioners have already petitioned the supervisory organs within the United Nations Human rights system with regard to the ICCPR and the CERD.[5] The State argues that this subject matter has already been submitted to the qualified international body to be decided upon. Since, this is a clear example of duplication of procedure; the State argues that the petition should have been declared inadmissible by the Commission, now that the provisions of Article 46 (c) are not met.

In addition, the State argues that this Court does not have jurisdiction to determine if the State has acted in conformity with the ICCPR, the ICESCR and CERD.

---

[4] See page 2 para. 5 of Pleadings, Motions and Evidence of the victim's Representatives in case of 12 Saramaka Clans (Case 12.338) against the Republic of Suriname.

[5] See para 166 Of the Official Submission of the State, page 64

20. In their submission the representatives request the Court to determine that Suriname violated articles 3, 21, 25, 1 and 2 of the Convention. The State points out that the Commission issued an Article 50 report concluding that the State allegedly violated the following provisions of the Convention. articles 21, 25, 1 and 2. No reference is made to article 3 of the Convention.

21. In their petition to the Court the Commission requests the Court to conclude that the State violated the following articles of the Convention: article 1, 2, 21 and 25 of the Convention. This is obviously a discrepancy between the application of the Commission and this submission of the representatives. Since, the Commission is the organ charged by the Convention to file application to this Court, the application of the Commission is the primacy the State must legally base its response on.

22. The State points out that the representatives make reference to "universal human rights instruments in force in Suriname"[6] without providing details as to which instruments they specifically refer to. The State explicitly points out that the leading human rights instrument applicable in the Western hemisphere, the Convention, does not mandate that States must legally recognize rights of the tribal people in their respective Constitutions. The Republic of Suriname developed a particular system based on the diversity (cultural, religious and ethnic) of its population. In several national laws, the issue of land rights is dealt with, for the people living in the interior of Suriname. Based on these national laws, the people living in the interior have the right to maintain the use of the land of their ancestors in a sustainable manner[7]

23. The State is well ware of the concept what the land means to these minority groups living in the interior especially in this regard the maroons, but

---

[6] See para 3 page 1 of the submission.
[7] The State points out that the several domestic laws are discussed before the Commission and also submitted to the Commission during the 121st Hearing of the Commission in October 2004

it is also important to understand the fact that this is not a problem only of the state but it involves more stakeholders

In the meantime, due to the complexity of the matter at hand, the State has taken adequate steps to organize or regulate this issue properly[8]. The State would like to point out that there has been a committee established solely to take an integral plan of action on the issue of land rights in order to bring clarification and solutions for the current land rights issues. The issue on the discussion land rights in Suriname is extremely difficult, because of the fact that it involves minority groups living in the interior on land which is not theirs, but belongs to the State and some of these lands are given to them for their own agricultural and economic development

24 The State points out that third parties, in this case both representatives of the original petitioners, Mr Mac Kay and Mr. Padilla, have wrongly informed sections of the population living in the interior of the State that they are in fact a State within a State. Informing them that they have the power, the authority to lease land in the interior to third parties, to engage in contracts regarding mining and forestry in the interior with local and foreign companies. These representatives have informed sections of the people living in the interior, e g sections of the Saramaka tribe, that the land (without giving an affirmative description) and all minerals belong to the tribe, which give them the authority to deal with foreign companies[9].

25. With reference to the arguments mentioned in abovementioned paragraphs, the State reiterates that the original petitioners lack the authority to separate standing before this Court and in addition, they also lack the authority to submit separate communications, in an independent capacity, to the Court, regarding the case of Twelve Saramaka Clans. The State opines that this Court has no other choice then to declare the Commission without jurisdiction to submit this case to the Court and as a consequence ignore all

[8] The State respectfully refers to the formation of the Special National Commission on Land rights by the President of the Republic and the report of this Commission on its activities.

[9] Reference is made to the agreements between maroons and individuals and companies, submitted in the annexes of its Original Response

secondary submission, briefs or documents in support of the Commission's petition to the Court

26 In its Official Response the State has already argued that this Commission lacks the authority to submit this case to the Court based on the fact that the prescribed period mentioned in Article 51(1) of the Convention has elapsed without the Commission petitioning the Court. This provision of the Convention must be enforced strictly, since the Convention has clearly made the Commission the "dominus litus", meaning the only conventionally charged organ within the Organization of American States, which has the authority to petition this Court. The fact that the Commission choose not to submit the case within the prescribed period of three months, as mandated by Article 51(1) of the Convention, the next stage steps in, namely the adoption of an Article 51 Report, setting forth its opinion and **"....conclusions concerning the question submitted for consideration".**

27 The State has constantly protested against the procedure the Commission used in dealing with this petition. The State has also vigorously protested against the way the Commission submitted this petition, despite the several arguments brought forward by the State during the proceedings. In no way can it be argued that the State accepted the Commission's position with regard to the legality of submitting this petition to the Court. Since the Court is authorized to hear cases against the State of Suriname, it must be argued that the Court must declare that the Commission waived its right to bring this particular case No. 12 338, Twelve Saramaka Clans to the Court. The petition submitted by the Commission must be declared inadmissible.

28 The State points out that in the communication submitted on behalf of the original petitioners, reference is made to jurisprudence of the Commission and the Court that is only available in Spanish and not in English, the language chosen by the Court for case no. 12 338. The State requests the Court to ignore the references made to the jurisprudence and other material that is only in Spanish. The State points out that in the communication submitted on behalf of the original petitioners, reference is made to

jurisprudence of the Commission and the Court that is only available in Spanish and not in English, the language chosen by the Court for case no. 12 338. The State requests the Court to ignore the references made to the jurisprudence and other material that is only in Spanish.

29 The State respectfully points out that the representatives frequently refer to the agreements of 1762 and 1835, between the Dutch Colonial Power and the runaway slaves, trying to indicate that these agreements have some sort of validity with regard to boundary issues regarding the case at hand. However, this Honorable Court has explicitly ruled that these agreements – not treaties [10]– are null and void, since they violate established ius cogens norms in international law, in this international human rights law.
For your information, it must be stated that the colonial power abolished slavery on 1 July 1863. It is obvious that these agreements were concluded in the height of slavery in Suriname, and were in fact simple mechanism to maintain the slavery in Suriname. It is public knowledge that during the period of slavery the Dutch Colonial Power used Suriname as its main provider of raw material, agricultural products and services to build their European State. The agreements referred to by the representatives were simple vehicles to maintain the status quo.

30 The State asserts that no reference can be made to these agreements or parts of these agreements, since they are null and void under the general accepted rules and principles of international law.
This Court argued among others:
"The Court does not deem it necessary to investigate whether or not that agreement is an international treaty. Suffice it to say that even if that were the case, the treaty would today be null and void because it contradicts the norms of jus cogens superveniens. In point of fact, under the treaty the Saramakas undertake among other things, capture any slaves that have deserted, take them prisoner and return them to the Governor of Suriname, who will pay from 10 to 50 florins per slave

[10] This Court referred to this agreement as ***"so-called international treaty"***, See para. 84 of the Aloeboetoe et al. Judgment of September 10, 1993, Inter-Am. Ct.H.R. (Ser.C) no. 15 (1994).

depending on the distance of the place where they were apprehended. Another article empowers the Saramakas to sell to the Dutch any other prisoner they might take, as slaves. No treaty of that nature may be invoked before an international human rights tribunal"[11].

31 This Court is undeniably clear regarding the status of this agreement and its subsequent modification under the current norms and regulations in international law. These agreements can not be invoked before this Court. The State will elaborate on these agreements in the next paragraph of in this communication, since the representative provided several unacceptable arguments under the heading ***"Continuing validity of the 1762 Treaty"[12]***. The State will refute these arguments in detail
The State believes that the provisions of the 1762-agreement are not separable, thus the whole treaty is null and void and as a consequence terminates.

32. The state points out that the representative refers to the Vienna Convention of the Law of treaties, as if the agreements of 1762 and 1835 are international agreements pursuant to article 1 of said Convention. The State contests that these agreements concluded with the Dutch colonial power are within the jurisdiction of the Vienna Convention on the Law of Treaties. The State refers to Article 44 of the Vienna Convention on the Law of Treaties[13] " ***... to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty..."***
Article 53 declares the treaty null and void if at the time of its conclusion it conflicts with a peremptory norm of general international law.
It may be true that at the time of conclusion of the 1762 agreement slavery was not a peremptory norm in international law, but now it is, pursuant to Article 64 of the Vienna Convention. It is unbelievable that Mr. Mackay wants the Court to believe that the Colonial Powers were thinking of the rights of the people instead of finding a way to keep the slaves in line.

---

[11] See para 57 of the Aloeboetoe et al Judgment of September 10, 1993, Inter-Am. Ct H R. (Ser C) no 15 (1994).
[12] See para 196 – 208 of the submission of the representative of the original petitioners.
[13] Adopted on May, 23, 1969 Entered into force on January 27, 1980

33 The purpose and object of the 1762-agreement was to continue with slavery while keeping the runaway slaves quiet and above all pay them for the continuation of slavery. It was not at all a manner to conferring rights to the runaway slaves. The arguments made by the representative that the Vienna Convention on the Law of Treaties allows the separation of the slavery-related articles, is not acceptable, since the purpose of the treaty was to maintain the status quo regarding slavery.

34. In addition, the State points out that the modification of the 1762 agreement in 1835 underlines the object and purpose of the 1762 agreement, namely maintain slavery in the colony of Suriname. The State respectfully points out that in the beginning of the 19th century (1807) the transnational trade in slaves was abolished by the British, followed by the France at finally the Dutch.

35. The modification of 1835 fits in the concept of the colonial power. Because since the slave trade was abolished and new material (=slaves) were no longer available for the plantations, the Dutch government had to make arrangements to make certain that the "material" working on the plantations are not taken away by the runaway slaves. This would jeopardize the existence of the plantations. This was the reason why the same practices used to capture human beings living in Africa, were used to safeguard the slavery system in the colony of Suriname: namely payment to the runaway for each captured slave or other individual captured by these runaway slaves.

36. The State argues that even if the Vienna Convention is applicable (quod non), as to these agreements, the separation of the slavery-related provisions, just to give effect to other provisions of these agreements, would absolutely be in violation of an accepted ius cogens principle in international law, since legal recognition would have been conferred upon a document that has a sole purpose of to maintain slavery, which is an existing ius cogens norms. The State denies the statement that specific land rights are given to the runaway slaves in these agreements, and point out that the purpose of the

Dutch colonial power was to keep the "terrorists" away from the plantations, far from the slaves working on these plantations

37. In the Aloeboetoe case this Court has explicitly stated that this agreement can not be invoked before an international human rights tribunal. The State argues that invoking this treaty with the object and purpose to maintain slavery before an international tribunal, as suggested by the representative, would be in total disregard for the positive developments that are made in the promotion of human dignity and human value in the world.

38. The State disagrees with the position taken by the representative that ***".....severance of the slavery-related clauses from the Saramaka Treaty would not defeat the purpose of the Treaty, these provisions were central to the consent of the parties - both parties' consent was based primarily on ending hostilities ...."***
As stated previously by the State, the main purpose of the agreement (not treaty) was to not to confer rights upon the runaway slaves. Based on these arguments the states notes that the requirements mentioned by the representative in para 204 of his submission are no longer valid

39. The State concludes that the position of this Court in the Aloeboetoe case with regard to the agreements of 1762 and 1835, is in conformity with the general accepted treaties, rules, regulations, practices, customs in international law. No document/agreement that is in violation of ius cogens norms, can be invoked before any international tribunal

40 The State has already proven by the case-law of your Honorable Court that the 1762 agreement between the Colonial Power and the Runaway slaves was null and void[14] and the consequences are stated by articles 69 and 71 of the Vienna Convention on the law of treaties
Article 69 (1) reads:

[14] Aloeboetoe-case

1. ***A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force***

0000700

Article 71 reads:

1. In the case of a treaty which is void under article 53 the parties shall:

(a) eliminate as far as possible the consequences of any act performed in reliance on any provisions which conflicts with the peremptory norm of general international law; and

(b) bring their mutual relations into conformity with peremptory norm of general international law.

2. In the case of a treaty which becomes void and terminates under article 64, the termination of the treaty:

(a) releases the parties from any obligation further to perform the treaty;

(b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

The State respectfully points out that the object and purpose of the agreements of 1762 and 1835 between the colonial power and the runaway slaves, was not to confer specific rights upon the runaway slaves. The main and only purpose of these agreements was to make sure that runaway slaves do not continue with their efforts to destabilize the plantation economy of the colony. In that context certain privileges were given to these runaway slaves In 1762, the height of the slavery, the Kingdom of the Netherlands was eager to make sure that the colony maintains its position of provider of agricultural products (thee, sugar, coffee, etc), services of slaves, etc. In this light, the State argues that the object and purpose of the second agreement did not change

In conclusion the State agrees with your Honorable Court in determining the 1762-agreements and 1835 agreements are null and void in whole

41. The State points out that the representative refers to several non binding legal instruments as well as reports and statements of other entities then the Commission and the Court. The State is not bound by these instruments (UN Declaration on the Rights of Indigenous Peoples, the Proposed American Declaration on the Rights of Indigenous Peoples, etc.), nor by the Resolutions mentioned by the representative in its communication

42. In para 10 of their submission, the representatives argue that this Court has previously concluded that ***"....maroon peoples in Suriname, such as the Saramaka, are tribal peoples and that they....."***. As discussed in the Official Response of the State[15], this Court has stated in said Aloeboetoe et al case that it was not established by the Commission that the Saramaka tribe was a distinct entity in Suriname. The State hereby refers to the arguments made by the Court in its Aloeboetoe et al ruling stating.
" The Court believes that the racial motive put forward by the Commission has not been duly proved and finds the argument of the unique structure of the Saramaka tribe to be without merit"[16].
It is therefore not true to assume that this Court has reached such a conclusion as presented by the representatives in this submission.

43 The State respectfully points out that the information provided in para 11 of the submission is partly true. The fact that the Saramaka tribe consists of several lö's, in which matrilineal clans are established through the female line, is true. However, there is a discussion as to the number of the lö's, particularly with regard to the Paramount Chief as being a lö on its own. It is not true that the lös are the primary land owning entities within the Saramaka tribe. The lös in no way **own land**, absolutely not. The lös are in charge of the distribution of plots of land among the (individual families) within their respective lö. However, this distribution takes place under the supervision of the Gaa'man of the Saramaka tribe. It is therefore completely false to suggest

[15] See para's 52 – 56 of the Official Response, pages 20 – 22.
[16] See para 84 of the Aloeboetoe et al decision, supra note 8

that the Gaa'man has nothing to do with land rights issues of his people. As discussed in the Official response of the State, the Gaa'man has the final word with regard to several issues regarding the well being of his tribe certainly with regard to issues that involve the Saramaka community as a whole[17]. The Saramaka los and their authorities such as the captains have not the right and the obligation to take actions independently without the consent of the State. In para 13 the representatives of the petitioners states that it is the lö that own land and therefore has the authority over matter pertaining to lands and resource. This statement is not correct; the lös do not own land. The lö's are responsible for the distribution of pieces of land among the families that live within their respective lo as stated before. This happens under the supervision of the Gaa'man.

44 The State contests the marginalization of the Gaa'man of the maroons by these foreign representatives. The State has submitted evidence that these actions in a multi ethnic, multi cultural and multi religious country as Suriname, create tensions between the groups and/or classes of citizens of the State. The State is convinced that the object and purpose of human rights instruments can never be to create in stabilization, unrest or a total destruction of the established cultural norms and principles in a State. If for whatever reasons the status of the local authorities, which are chosen based on the customs and traditions of the tribes, must be modified, the State is of the opinion that this will have to take place within these communities themselves and it can not be forced from outside. These communities will adopt measures, policies within their social, cultural and religious believes in order to bring changes. It is highly destructive to allege that the Gaa'man has nothing to do with the issue of land rights for his people, because this is said to be something that is solely in the scope of the subsidiary authorities, the *ede capten* (head captains) as part of the Lo's. While these *ede capten* are indeed the first authorities dealing with the distribution of communal lands

[17] The State offers the expert testimony of the cultural anthropologist Mr. Salomon Emanuels with regard to the status of the Gaa'man, his subsidiary authorities, their inter relations and their respective authority regarding the Saramaka tribe as a whole.

between the individual families of a respective lo, these activities of the *ede capten* take place under supervision of the Gaa'man. If there is a disagreement with regard to the distribution of plots within a lo, this will be brought to the attention of the Gaa'man, who will chair a Krutu in which a decision will be taken after hearing all the authorities and wise men and women in the village[18].

45. The State would like to point out that the representatives have undermined and ignored the role of authority of the Gaa'man of the Saramaka people[19]. This violates the customs and traditions of the Saramaka people. While ignoring the Gaa'man and without his consent, the original petitioners petitioned the Inter-American Commission on human rights by seeking their help. It is very wrong to say that the Gaa'man has nothing to do with the Land. As explained by our expert witness, Mr. Emanuelson who is an anthropologist of maroon descendent, it is the Gaa'man who has the final word regarding the land distribution and related matter involving the Saramaka community as a whole.

46. The State refers to an analysis submitted by the representative that dates back to 1975.[20] In the 32 years after the analysis has been made, certain developments took place in the maroon societies of Suriname. However, the State argues that in 1975 and now 32 years later, the authority of the Gaa'man regarding issues involving land for members of his tribe (the respective lo's), is not disputed. Maybe the authority of the Gaa'man is under review due to emerging concepts of democracy, transparency, etc.[21] The State is of the opinion that several concepts evolve after a process has taken place. Due to the applicable norms of tradition and customs, the State is

---

[18] The State offers the expert opinion of the cultural anthropologist, Salomon Emanuels

[19] The State of Suriname offers the testimony by affidavit of the nestor of the Gaa'man inSuriname, Gaa'man Gazon Mathodja, who is the longest surviving and reigning Paramount Chief, of the Aucaner tribe In Suriname
The State offers the expert opinion of the cultural anthropologist, Salomon Emanuels

[20] See footnote 8 of the Submission page 3

[21] The State refers to annex 62 of its official response of January 12, 2007. The clash between several customs and cultural norms of the Saramaka tribe and norms regarding representations is present in several communities. An example is the election of village leaders through cultural succession or through open and general elections in their respective village.

cautious in assisting its citizens in monitoring this process. Once again reference is made to the unique composition of the population of Suriname The State contests several aspects of said analysis dealing with the means of existence of the maroons e g. the Saramaka people in Suriname. The developments in the field of mining and forestry are not taken into account.

47. Based on the official numbers available to the authorities regarding the members of the several Saramaka Communities in the Upper Suriname river area. However, these numbers changed significantly due to the urbanization of the Saramaka people Several Saramaka people live in Paramaribo, work in and around Paramaribo, attend school, etc in Paramaribo, but are partly registered in the district of Sipaliwini Based on the results of the last general census and approximately 50% of the maroons live in the coastal area, and an estimate number of 23 343 maroons (including the Saramakans) are living in Paramaribo [22] The numbers suggested by the representatives are incorrect The State respectfully points out that the fact that almost 50% of the maroons are living outside "their" villages, this increases the complexity of the matter at hand.

48. The State contests that the Saramaka people have their own internal judicial and administrative systems that operate with the exclusion of the judicial and administrative system of the State. The State respectfully refers to the annexes 24 – 33 and 52 of its Official Response, clearly contesting the assumptions of the representatives. In addition, the State will offer additional documentations regarding cases which were decided under the general system of law (judicial and administrative system) that is applicable to all citizens and entities living on the territory of the Republic of Suriname.

49. It is very surprising that the representatives at one hand refer to oral history, customs and traditions of the maroons[23], while on the other hand denying the application of the same history, customs and traditions when it

---

[22] Statistics result of the districts of the General Bureau for Statistics, 7th General census in Suriname-August 2005

[23] See para 17 of the submission, page 4.

comes to the status of the paramount chief of the Saramaka people The State believes that the foreign councels are trying to misuse the structure of the maroon communities in Suriname in relation to the authorities of the Gaa'man and the *ede captens*. The interpretation used by these foreign counsels is more a pick and choose model, in order to establish before this Court that the Gaa'man has nothing to do with land rights and that this is completely within the scope of the *ede captens*. These counsels even assert that these *ede capten* own the land, which is completely untrue. If land is owned by anyone, it will certainly not be owned by an ede capten , but probably by the tribe as a whole.

50. The State concludes that the representatives made contradictory statements in their submission. Contradictions are given as to the issue of collective right versus individual right for the maroons in Suriname[24]. The State has trouble understanding the assumption that:

- the *ede captens* own land
- the *ede captens* individually decide on the distribution among the members of the lö's
- lands and resources are collectively vested in the Twelve Lo's
- these lands and resources collectively vested in the twelve lo's, entitles the individual members and extended family units (bee) to subsidiary rights of use and occupancy

The State questions these arguments as to how they substantiate the claim of collective right to land for the maroons in Suriname. This is very confusing, but in fact shows the nature of the arguments used by these foreign counsels and increase the complexity of the matter at hand. The State respectfully refers to the opinion of several maroons that they prefer individual rights[25] and not collective right[26] to land

---

[24] Id.

[25] An analysis of Land rights of the Indigenous Peoples and Maroons in Suriname by Nancy del Prado in which she states on page 23:Most village communities were therefore cancelled after which the members obtained the land in a land lease. The individual members could enter into a loan with their real title and use the money for their own good.

[26] See Annex 57 of the Official Response of the State and id at pages 21-23

51. In addition, the State respectfully refers to the request made by several individual members of villages in the interior in the Western part of the State to grant individual title on the land in their village[27] 0000706
This is one of the main reasons for the State to cautiously investigate the matter at hand and to adopt a well balanced mechanism that will benefit all citizens in the State.

52. The State also refers to para 18 of the submission, citing Richard Price regarding rights of the individual members of a lö compared with the concept of communal land. With regard to this particular issue, the State respectfully offers expert testimony of Mr. Salomon Emanuels who is also of maroon descent.
The State points out that the representative quoted Richard Price on several occasions, but that some of the publications date back to longer than 32 years[28]. Several statements must be placed in the current context, for which the State offers separate testimony. In para 18 Richard Price describes the Saramaka people as a Saramaka nation. The State strongly disagrees with this statement, because this indicates a separate State, as a nation is part of a State and how can the "Saramaka nation" be within the State of Suriname? This position instigates the destruction of the State as subject of International law. The State disagrees with the statement made in para 107 of the submission of the representative: ***"....of violating the right of peoples to freely dispose of their natural wealth and resources and to be secure in their means of subsistence",*** because this substantiate the concept of the destruction of the State. This view does not coincide with the position taken by this Court in the Awas Tingi case.

53. The State would like to point out that in our official response of January 12, 2007, it has been clearly explained that hunting and fishing are no longer their major sources of income; it is not part of their basic needs anymore

[27] Individual members of the village Apura, Washabo and Camp 52 requested a title (e.g. land lease) of the State. In a few cases the request was granted.
[28] See para. 19 page 5 of the submission. Now, in 2007, it is admitted by the maroons, e.g. by members of the Saramaka tribe, that hunting, fishing, gathering and swidden agriculture no longer serve as the main subsistence of the Saramaka tribe in Suriname.

Most of the maroons, work in the capital and work for their daily living in the coastal area and the one who are still in the interior work for the mining companies or have small businesses in mining, timber within their respective areas.

54. The State points out that representation before a human rights court, is often very different from the representation before a criminal tribunal or civil tribunal. Giving interpretations to certain customs, traditions, or ignoring certain traditions, customs and rules of history, just to safeguard a certain decision and thereby ignoring the destruction of established rules of law, customs traditions and creating massive problems for individuals, communities and finally the State, are facts that must be taken into account by a human rights tribunal and maybe not necessarily by another (criminal or civil) tribunal
The State requests this Honorable Court to take the arguments made by it in to account and make the necessary comparative assessments

55. Under para 2 it is stated that ***"under Saramaka law ownership of all resources, including waters, within.....are vested in the Saramaka people"***. All land is State owned land. All the property belongs to the State. There is no Saramaka law pertaining to own state property and there is no separate law, under the constitution it is only one law and that is the law of the State of Suriname, minority groups or indigenous people living in Suriname have no separate law or legislation, because all falls within the Suriname's legislation

56. The double standard applied by these foreign counsels is the more astonishing now that both the Gaa,man and the other local leaders (*ede captens, captens and basja's)* are all elected based on the history, tradition and culture of the maroons in Suriname. The authority of *ede captens* is accepted and even extended by the representatives, while the status of the Gaa'man, who is also chosen by his people based on the same customs and traditions applicable for the *ede captens*, is completely marginalized.

THE AFOBAKA DAM AND RESERVOIR

57. As stated above, the State of Suriname is of the opinion that this Court does not have jurisdiction with regard to acts that took place in the 1960's. The State of Suriname was not even yet established as of such and cannot be assumed to be a subject of international law, with rights and duties under international law.

58. The Republic of Suriname was established on 25 November 1975, when it gained its independence from the Kingdom of the Netherlands. Prior to this date no responsibility under international law can be conferred upon this entity, since it was not a subject of international law. If violations occurred in the 1960's (1962-1963) which this representative concludes namely, violation of human rights of individuals on the territory of Suriname, the responsible government – the Kingdom of the Netherlands - should have been included in the proceedings. The State notes that this argument is obviously not acceptable, because in 1962 the Convention was not even adopted by the States of this hemisphere. Moreover, the highly debated concept of continuous violations is a concept that emerged very recently.

59. The State points out that based on the general principles of international law and the sources of international law as these are stated in article 38 of the Statute of the International Court of Justice, every state has the right to determine how it will use the natural resources on behalf of the well being of its population.
In para 23 – 37 the representative of the original petitioners discusses the construction of the Afobaka dam in the Suriname River to provide for electricity. Based on information the people living in the area were consulted through their respective village leaders, with regard to the plans of the colonial government to establish the Afobaka Dam

60. Testimony received from people working at the Department of Internal Affairs (the Interior was at that time under the jurisdiction of this department

and not the department of Regional Development), Grand Krutu's were held with the village leaders regarding this plan of the government. It is therefore not true to argue that the people living in the area were simply informed of the plan and that they were forced, in the sense that the government did not give them any choice and suddenly flooded their living area with water. The State admits that not all individuals were enthusiastic to leave the area, which is understandable since all changes face obstruction, simply because they are new. But for the well being and the development of the whole population certain steps must be taken.
Most likely, the establishment of the Afobaka dam was such a step.
It is indeed a pity and regrettable that after the dam was established several of the villages were not able to gain the fruits of the electricity generated by the dam.

0000709

61. The State notes that statements made by the representative that ***"...only a few persons receive compensation....."*** and that the amount was ***".....roughly equivalent to US $ 3..."***[29] is not true. Compensation was awarded to several citizens of the area as they were registered by the village leaders in conjunction with the district commissioner. The State provides evidence of compensation awarded to people that have been living in among others the villages Pitskan, Koffiekampoe, Nieuw Koffiekamp, Sarakreek, etc. The State notes that the compensation of US $ 3 mentioned by the representative is beside the truth and highly suggestive since there is no indication for what US $ 3 has been awarded. The amounts of compensation that was given to individuals who were relocated were very high. The State has information, gained from the files at the Department of Internal Affairs, that huge amounts of compensations were paid. For example, to the people from Pitskan and Koffiekampoe who were relocated, Sf. 34 862 (Thirty four thousand eight hundred and sixty two Surinamese guilders) were paid in compensation[30]. This amount is currently the equivalent of € 34 862 or US $ 45.320,60. Several other high amounts were paid in compensation. The State finds it necessary to express the amounts of compensation, since the

[29] See para 24 page 6 of the submission
[30] See the annex with this document, under the heading "transmigration"

representative tries to picture a totally different view of this aspect before this Court

0000710

62. In addition, several individuals from the area received acceptable compensation from the government[31].
The State also indicates that several other villages were built or rebuilt for the citizens who were relocated because of the construction of the Afobaka dam[32]. The colonial government paid for the establishment of these new migration villages.

63. In para 28 of the submission the representative tries to implicate that the colonial government did not take proper steps towards the Saramaka people and some of them were forced to establish communities outside what is referred to as traditional Saramaka territory. Due to this forced displacement the Saramaka people ***".....live in a constant state of uncertainty and insecurity..."***. The State of Suriname contests these statements made by the representative
Firstly, in previous communications the petitioner as well as the original petitioners, through this representative argued that with regard to the exact determination of "Saramaka territory", one must keep in mind that several maroon tribes, e.g. Saramaka tribe, regularly relocate based on the needs and availability for their subsistence in the area. The State acknowledges the possibility that people are depending on the interior (land, rainforest, etc) for their survival and that they have a close tie with the land they live on. With the routine relocation in the interior, to be able to continue living in a sustainable manner with the environment, certainly a new bound will emerge with the new location the people move to. With reference to this, the State notes that the statement made above is tremendously exaggerated and completely beside the practical situation of maroons living in Suriname. The Saramaka people living in Suriname are not living in a constant state of uncertainty and insecurity.

[31] In the registers individual compensation has been given to among others Songo Aboikoni, E.W Vorswijk, R.S. Byron alias Pa Koeli, etc. Id.
[32] Id.

64. The State of Suriname has pointed out in its official response that several of the small scale miners, mostly Brazilians, are contracted by the Saramaka maroons themselves. Several Saramaka maroons are in the mining business, charge fees in gold from anyone who is willing to work in areas close to their village. The State refers to a DVD called "The Gold Line", shown several times on national television, in which the involvement of the maroons in the gold fields in the interior is discussed in detailed
It is besides the truth that the small scale miners are licensed by the State as most of these garimpeiros are contracted by the maroons and other people living in the interior.

65. The State notes that there is a free movement of citizens between Suriname and its southern neighbor Brazil. Brazilians are contracted by individuals living in Suriname to work in the gold fields in the interior, without a permit or license of the government. The State can provide evidence that the Saramaka maroons are among those who contract Brazilians to work in the gold fields close to their village.
The State disagrees with the statement made by the representative and by the members of the Saramaka community claiming that the State is responsible for licensing Brazilian garimpeiros, who invaded the area and that this further increased their ***"…..displaced communities' deep sense of insecurity and loss…."***.

66. The mercury contamination the representative refers to in para 30 of the submission, is not a result of activities conducted by the companies that have a concession of the State to operate in the interior. The mercury contamination is for a major part a result of the small scale mining as suggested by the representative. The small scale mining however is for a significant part conducted by the maroons themselves or by workers under supervision or contract by the Saramaka maroons themselves.
If the small scale mining has its affects on the Saramaka people in the interior, it must be argued that the Saramaka people themselves contributed to these

affects and that the State can not be held responsible for their acts of the individual members of the tribe.

LOGGING AND MINING CONCESSIONS

67. The State respectfully refers to its official response with several statements made by the representative under this heading. It is not true that the mining concession referred to in para. 38 were issued without prior notice or any attempt to obtain the consent of the Saramaka people. The representative introduces a different twist to his aspect.
What have been standard practice for years and is also codified in internal instructions, the local authorities have always been consulted by the District Commissioner, before they advises the government with regard to a request for a concession that is in the interior close to the living area of communities living in the interior. As stated in previous communications, this consent was obtained from the Gaa'man or another subsidiary village leader in charge of that village. Until recently, the oral consent was a satisfactory basis for the District Commissioner to proceed. Due to the current circumstances and the fact that a few village leaders who had given their consent orally made a 180 degrees turn and claim that they have never done so and were not even contacted, the consent must now be given in writing[33]. In Para 38, the State is of the opinion that the representatives falsely provided information regarding the issuing of permits cq. concessions for logging. The State has clearly described the procedure of gaining a concession, in which several stake holders are involved. The information they provided is in pure false, because within this procedure the Saramaka people are part of the whole process if it concerns the area in which they are living.

68. The representative argues that the consent must be given by the Saramaka Lo's and thus that the State should have requested the consent of the Lo's instead of the Gaa'man or another village leader. The State notes that if the maroons in Suriname, and in this case the Saramaka tribe in the

[33] The State refers to page 2 of annex 20 of its Official Response

interior, adopts a different position as to how this particular consent must take place it should have domestically informed the government and discuss this on the national plane. Bringing this issue to an international tribunal without exhausting the domestic remedies is not acceptable under the current international human rights law

69. With this statement the representative does not deny that the State, as argued in previous communications, have consulted the village leaders as this has been done previously with regard to concessions. He simply argues that the consent should have been contracted from the Saramaka lo's, a change of view the State was not aware of, in and for so far this view coincides with the customs and traditions of the maroons e g the Saramaka tribe in the interior (quod non)

70. It is true when the representatives of the victims state in para 38 that the concessions were issued without first conducting an environmental and social impact assessment, but forget to state that although there are no environmental norms and standards effective in Suriname, those of the World Bank apply.

71. In order to minimize the adverse impacts on the environment and the communities, the draft mining act includes provisions to protect both the physical and the social environment, as well as restoration after completion of the mining activities. The draft also states that as long as there are no environmental norms and standards effective in Suriname, those of the World Bank apply.

72. In 2001, the National Institute for Environment and Development (NIMOS) formulated a draft environmental act with broad participation of stakeholders. Recently this draft was discussed by the Council of Ministers. This act will have to become the judicial basis for environmental management in Suriname. International environmental law served as a starting point for this draft; the principles from the Rio Declaration have had a guiding effect. The draft has the character of a framework law. In the draft the Environment

Impact Assessment is made compulsory. This act defines 'Environment Impact Assessment' as an analysis to predict the potential effects on the natural and social environment of a proposed project and the activities pertaining thereto, in order to take responsive actions and if necessary, to mitigate and to avoid these. This means that only the physical environment is examined but the social environment is also taken into consideration during the assessment. The draft also indicates that upon drawing up an environmental plan, relevant administrative bodies, institutions, organizations and the public have to be involved. In addition to the environmental act, there are draft implementation decrees and guidelines to perform environmental impact assessment process. There are already multinationals such as the Suralco and BHP Billiton that, on their own have agreed upon to make use of the guidelines of the NIMOS[34]
Your Honorable Court will notice that the State is aware that the relevant legislation is not yet in place, but is working on it.

73. The State contests the statement made in para 41 of the submission, by which the representative lists several amounts of the export of wood from 1999 till 2003. The amounts and numbers refer to total amounts of export of wood by the State. The representative's reference to ***"The majority of this timber was cut in Saramaka territory ...."*** is too general and unacceptable In addition, the State points out that all villages receive revenues from local logging companies in and around Paramaribo if they want to harvest wood in the HKV issued to the village by the State. A fact the representative did not mention.

74. The State notes that it has a system in place by which the people living in the interior have the opportunity to continue their way of living in a sustainable manner with the environment. The system may not be perfect, but its serves the purpose to give communities in the interior the possibility to maintain their communal way of living in the interior. If this system must be modified, this will take place after thorough consideration and discussions due

[34] An analysis of Land rights of the Indigenous Peoples and Maroons in Suriname by Nancy Del Prado, head of the legal department of the NIMOS

to the complexity of the matter based on the highly diverse population of the State.

75. In para 47 the representative claims that severe environmental and social harm is confirmed in expert testimony presented to the Commission. The State points out that based on article 44(2) of the Rules of Procedures[35] of this Court the evidence that was received in a procedure in which the State was not present does not qualify to be admitted. The State respectfully points out that it was not present at the hearing of March 2004 before the Commission and that several items of evidence submitted during the March 2004 hearing were not sent to the State upon its request. The State concludes that this evidence can not be admitted.

76 The State notes that only one incident of a crop that was accidentally destroyed in the interior. This concerns the crop of Ms. Silvi Adjako. The State notes that compensation was given to Ms. Adjako by the company that accidentally destroyed her crop.

DISREGARD FOR SARAMAKA RIGHTS IN SURINAME'S CONSTITUTION AND LAWS

77. The State notes that before the Constitution of 1987 was adopted a general referendum was held and that all citizens of the State gave their consent to the adoption of the Constitution. All maroons, and thus the Saramaka maroons as well, as citizens of the Republic of Suriname gave their approval for the adoption of the 1987 Constitution.
The argument that the State unilaterally revoked rights of the maroons does not hold any longer since the maroons have given their consent to the adoption of said document, whereby based on the view of this representative rights of the Saramaka maroons are revoked

[35] Article 44(2) reads: "Evidence tendered to the Commission shall form part of the file, provided that it has been received in a procedure with the presence of both parties, unless the Court considers it essential that evidence should be repeated".

78. In para 53 the representative refers to article 4(2) of the L-Decrees: ***"General interest includes the execution of any project within the framework of an approved development plan".*** The necessity for a development plan must be approved indicates that their will be an adequate weighing of the general interest in relation to the interest of the people living in the interior. The statement made by Ms. Muskiet, as discussed in the official response of the State, is therefore not based on science or reasons but is a mere populist statement made on behalf of the original petitioners.

79. In paragraphs 61 and 62 the representative argues that the original petitioners filed petitions to the president based on the Constitution and based on the Article 41(1)(a) of the Forest Management Act and that hey never received a response. After using this procedure the original petitioners petitioned the international tribunal claiming that they no longer need to exhaust the domestic remedies
The State points out that the said provision in Article 41 is a form of recourse within the administration, by which an individual is given a special additional tool, besides the normal judicial remedies, to gain its rights with in the administration. The special recourse is tailored depending on the area of law that is applicable[36]. The State offers expert testimony of Dr. Magda Hoever-Venoaks with regard to the status among others article 41(1)(a) and related articles in the administrative law and constitutional law of Suriname.

80. With reference to para 57 of the submission, the State points out that the representative argues that the "de facto rights" apply to the villages, settlements and forest plots and do not include areas that are presently not cultivated. The representative argues that indigenous and tribal peoples have a practice by which they rotationally move to other areas if this is necessary for water, hunting, fishing, farming etc. This practice is based on the traditional land tenure system and customary laws and values of the tribes living in the

[36] The State refers to article 26 of the Act of 19 December 1963 regarding provisions of labor (G.B. 1963 no. 163) as modified in subsequent acts as of S.B. 1983 no. 91. In all resolutions issued by the Labor inspection an interested party has the recourse within the administration right to the Minister of Labor, Technological Development and Environment. This administrative recourse does not prohibits an interested party to a petition the Court

interior. The State respectfully points out that moving around of tribes is not strange to the Saramaka tribe, and is in fact, referring to the Statements made by their representative part of their tradition, their customs and values. The State contests that the relocation of tribes living in the interior for purposes of general interest in the period 1963 – 1964, had the effects described by this representative in this communication. The State points out that the plan for the Afobaka Dam and the related activities, were under discussion starting in the late 1950's. The people living in the interior participated actively in the process and were included during the proceedings.

0000717

81. The State argues that this issue of relocation of tribes living in the interior, based on their current land tenure system, values and customs, is exactly one of the discussion points in determining how to reach an acceptable mechanism. The State points out that several tribes are living in the interior and that in dept discussion regarding this issue is necessary

82. In para 58 the representative refers to jurisprudence of the judiciary in Suriname with regard to Article 4 of the Decree L-1 and list two decisions of Cantonal Courts. However, the legal questions in these cases were not those indicated by the representative in his submission. The facts and circumstances in both cases were the dominating factor in these decisions.

83. In para 65 of the submission, the representative states that the only form of title that can be obtained in Suriname is leasehold, called "grondhuur" in Dutch. The State refers to the modification of the Land Rights Decree published in the Official Gazette 2003 no. 7[37]. In previous communications the State noted that Ms. Muskiet failed to include this modification in her testimony.

84. The State points out that this representative was very affirmative in his position and categorically refused to consider the possibility of land lease to Saramaka maroons living in the interior. This concept however is not strange because this model was used in a few villages in the district of Sipaliwini[38].

[37] The Land rights decrees were modified in 2003,

[38] The State refers to An Analysis of Land Rights of the Indigenous Peoples and Maroons in Suriname by Amazon Conservation Team, December 2006, pages 20 & 23

85. On the other hand, the State notes that if this representative is of the opinion that the Saramaka tribe has a property right as stated in the Convention, he had the possibility to petition the courts if he believes that this right is violated by a party, either a private party or by the government. In its official response the State pointed out that the choice was made not to exhaust the domestic remedies, while this is a mandatory requirement within international human rights law. The State points out that pursuant to article 1386 of the Civil Code, the original petitioners could have filed a petition in court, but they did not.

86. With regard to military presence in the interior, the State notes that companies active in the interior have established private security units to protect their plan. Officially, the State has no involvement with regard to the protection of private companies. If individuals are contracted for security work, and operate in military uniforms, this in no way indicates the involvement of the State. In several states the military uniform is not a protected item; Suriname is one of these states. It is possible that individuals – maybe former military and military personnel during their spare time – perform security work in the interior for private companies. The State is not involved in the protection of private entities operating in the interior.

87. The State notes that if military personnel are sent to perform official duties in the interior, this will take place based on the protection of general interest in the interior and not that of a private entity. If civil unrest or uprising is anticipated due to actions of individuals in the interior, or upon the request of local authorities, the government might sent police and military to assist in the interior[39]. Requests for police and military assistance in the interior are repeatedly done by the local authorities among which the Saramaka authorities. The Saramaka tribe by its Gaa'man explicitly requested the government to have a police station in several locations in the interior as well as military assistance.

[39] In 2005 the government sent police and military troops to the interior when several individuals engaged in a crime spread among small scale miners among which local maroon youngsters. In this crime spread a policeman was murdered.

88 With this in mind the State contests the statements made by the representative in his communication, namely the devastating affect the presence of military has or should have on the Saramaka people[40]. The State is of the opinion that the representative and thus the original petitioners have a double standard in this regard, which is crucial in analyzing the matter at hand. In its official response the State pointed to the political implications of the matter at hand.

89 According to the reparations and costs the State is of the opinion that it does not violate the articles 3, 21, 25, 1 and 2 of the American Convention as stated by the representatives of the victims and therefore neither inflict material nor non-material harm on its nationals.
If the state does not violate any right of its national, there is no obligation to repair violations. The consequence of this is that the Court can not award any cost in prosecuting this case domestically and before the inter-American human rights organs.

90 The representatives of the victims stated in a meeting with the attorney General that even if the damage to the environment was caused by third parties who got their permission from the Saramaka people themselves, it is not about those people, because the Saramaka may give permission to whomever they want. Their concern is about others who got concessions from the State. A lot of damage has been brought to the environment from the illegal mining of persons who has been brought to the interior by the Saramaka people

[40] The State acknowledges that every individual has active and passive voting rights. These rights are also exercised by the maroons, e.g. Saramaka maroons among which Mr. Hugo Jabini, who is an active member of the "National Democratic Party" – NDP, the party of former military leader D.D. Bouterse and other former military officers. Mr. Hugo Jabini who currently participates on behalf of the NDP in the State Advisory Board, is as a Saramaka maroon actively involved in the military party and on the other hand, the primary advisor of the Saramaka maroons. The State contests the hardship and other affects indicated by the representative in his communication. Question marks are place to these statements which are extremely exaggerated, now that the Saramakans are individually involved with said political party and or the former military leaders in charge of the NDP who were all actively in charge of the military when the Tjonagalanga (Aloeboetoe) incident happened and the occurrences in Moiwana Village.

Please Sir, accept the assurances if our Highest and distinguished considerations.

0000720

Yours sincerely,

Eric P. Rudge LL.M.
Deputy Agent

Address:
Mr. Soebhaschandre Punwasi, Agent
Mr. Eric P. Rudge LL.M., Deputy Agent
Office of the Procurator-General with the
High Court of Justice
[redacted]

List of Annexes Observations / Official Response of the State of Suriname to the document:

"Pleadings, Motions and Evidence of the Victim's Representatives in the Case of 12 Saramaka Clans (case 12.338) against the Republic of Suriname"

0000721

1. Bulletin of Acts and Decrees of the Republic of Suriname - SB 2003 # 07 - Dutch and English
2. An Analysis of Land Rights of the Indigenous Peoples and Maroons in Suriname Adaption of Legislation in Suriname by Amazon Conservation Team (pag. 20 & 23)
3. Current status timber concessions situated in the claimed area of the Saramaka Lö's
4. Transmigration