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REPORT No. 115/21
CASE 13.171
FRIENDLY SETTLEMENT

LUIS ARGEMIRO GÓMEZ ATEHORTUA
COLOMBIA

Electronically approved by the Commission on June 13, 2021.

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I. SUMMARY AND PROCEDURAL ASPECTS RELATED TO THE FRIENDLY SETTLEMENT PROCESS

1. On November 20, 2006, the Inter-American Commission on Human Rights (hereinafter, “the Commission” or the “IACHR”) received a petition filed by Roberto Fernando Paz Salas y Luz Estella Posada Baena (hereinafter, “petitioners” or the “petitioning party”), which alleged the international responsibility of the Colombian state, for the violation of the human rights recognized under articles 6, 7 and 10 of the International Covenant on Civil and Political Rights, in relation to Luis Argemiro Gómez Atehortua. The foregoing, due to the lack of reparation for the death of Luis Argemiro Gómez Atehortua and the alleged torture committed against him, which allegedly occurred on February 5, 1999, while he was detained in the Colombian National Police facilities. Likewise, due to the lack of investigation of the facts by the State.

2. On March 19, 2018, the Commission notified the parties of the decision to defer the treatment of the admissibility of the case until the merits stage of the case, in accordance with Article 36 (3) of its Rules of Procedure and Resolution 1/16 on *measures to reduce the procedural backlog*.

3. On April 10, 2018, the petitioning party expressed to the IACHR its interest in initiating a friendly settlement process with the Colombian State and requested the Commission's endorsement to do so. This information was communicated to the State on February 19, 2019. On March 18, 2019, the State indicated that it would contact the petitioners and the victim's next of kin, in order to learn of their claims and confirm their interest in initiating a friendly settlement process.

4. On June 9, 2020, the parties met in the city of Bogota, and signed a memorandum of understanding, whereby they committed to initiate a friendly settlement process and work through joint meetings to convey the elements of the friendly settlement.

5. On December 2, 2020, representatives of the Colombian State and the petitioners met in the city of Bogotá to sign a friendly settlement agreement, the implementation of which has been supervised by the Commission. Subsequently, on March 19, 2021, the parties submitted a joint report to the Commission on the progress made in complying with the friendly settlement agreement and jointly requested its homologation.

6. This friendly settlement report, pursuant to Article 49 of the Convention and Article 40.5 of the Commission's Rules of Procedure, includes the facts alleged by the petitioners and transcribes the friendly settlement agreement, which was signed on December 2, 2020, by the petitioner and representatives of the Colombian State. Likewise, the agreement signed between the parties is approved and the publication of this report in the Annual Report of the IACHR to the General Assembly of the Organization of American States is agreed.

II. THE FACTS ALLEGED

7. According to the petitioner, on February 4, 1999, Luis Argemiro Gómez Atehortua and Roberto Mauricio Montoya Serna were captured by members of the Gaula Group of the National Police, due to alleged illegal activities they had committed. They were then transferred to the city of Medellín and placed in the cells of Gaula Group No. 2 (Judicial Police Investigative Unit). According to a report from the Immediate Reaction Unit of the Attorney General's Office, on February 5, 1999, Mr. Gómez Atehortua died in the cell where he was being held.

8. According to the report of the judicial inspection of the corpse by the Office of the Attorney General of the Nation, the body of Mr. Luis Argemiro Gómez Atehortua was found in his cell, in an incomplete suspended position, and with wounds on his arms. In that regard, the petitioners indicated that the victim committed suicide in the cell where he was in the custody of the Gaula Group No. 2. The petitioners also added that the victim's death could have been prevented had it not been for the negligence of the Gaula agents, and that they became aware of his death several hours later. The report of the Prosecutor General's Office established that copies of the facts should be submitted to the Military Criminal Justice, the Attorney General's Office, and the Prosecutor's Office in charge.

9. On February 5, 1999, Mr. Roberto Mauricio Montoya Serna gave an account of the torture, beatings, threats and aggressions that he and Luis Argemiro Gómez Atehortua had suffered at the hands of members of the Gaula Group. Thus, he stated that he and the victim had been beaten on multiple occasions, and that his aggressors told him to tell the truth.

10. Regarding the investigation before the Military Criminal Justice, on March 28, 2001, the 143rd Military Criminal Prosecutor decreed that it was not possible to determine the involvement of any member of the National Police and ceased all investigation and trial proceedings.

11. On August 30, 1999, the victim's family filed an action for direct reparation before the Contentious Administrative Court of Antioquia. On June 2, 2005, the Court rejected all the claims in the complaint. On July 6, 2005, the petitioner filed an appeal against the decision of dismissal, which was rejected by the same Court arguing that the extent of the claim made it inadmissible before the superior body.

12. On October 11, 2005, the victim's relatives filed a guardianship action before the Council of State. On February 6, 2006, the High Court denied the appeal and its subsequent challenge. On May 8, 2006, the Constitutional Court excluded the guardianship decision from its review.

III. FRIENDLY SETTLEMENT

13. On December 2, 2020, the parties signed a friendly settlement agreement on the following terms:

FRIENDLY SETTLEMENT AGREEMENT Case 13.171 Luis Argemiro Gómez Atehortua

On December 02, 2020, in the city of Bogotá D.C., Ana María Ordóñez Puentes, Director of International Legal Defense of the National Agency for the Legal Defense of the State, acting for and on behalf of the Colombian State, hereinafter referred to as the "Colombian State", and on the other hand, the Organization Indemnizaciones Paz, represented by Roberto Fernando Paz Salas, acting as petitioner in this case, hereinafter referred to as "the petitioner" sign this Friendly Settlement Agreement in the case No. 13,171 processed by the Inter-American Commission on Human Rights.

PART ONE: CONCEPTS

For the purposes of this Agreement, it will be understood as:

IACHR or Inter-American Commission: Inter-American Commission on Human Rights.

Non-pecuniary damage: Harmful effects of the facts of the case that do not have an economic or patrimonial nature, which are manifested through the pain, affliction, sadness, anguish and anxiety of the victims.

State or Colombia: In accordance with Public International Law, it will be understood that it is the signatory of the American Convention on Human Rights (hereinafter "Convention or ACHR"); the Colombian State.

Satisfaction measures: Non-pecuniary measures whose purpose is to seek the recovery of the victims of the damage that has been caused. Some examples of this type of measure are: public knowledge of the truth and acts of redress.

Parties: State of Colombia, next of kin of the victim, as well as the representatives of the victims.

Acknowledgment of responsibility: Acceptance of the facts and human rights violations attributed to the State.

Integral Reparation: All those measures that objectively and symbolically restore the victim to the State prior to the commission of the damage.

Representatives of the victims: Indemnizaciones Paz, represented by Dr. Roberto Fernando Paz Salas.

Friendly Settlement: Alternative conflict resolution mechanism, used for peaceful settlement and agreed upon before the Inter-American Commission.

Victims: Relatives of Mr. Luis Argemiro Gómez Atehortua.

PART TWO: BACKGROUND

1. The facts of the petition refer to the capture of Roberto Mauricio Montoya Serna and Luis Argemiro Gómez Atehortua, on February 4, 1999, by members of the Gaua of the National Police. Messrs. Montoya Serna and Gómez Atehortua were taken to the cells of the Gaua - National Police of Medellín.

2. On February 5, 1999, the agents in charge of reviewing the cells did not do so in the right time and occasion. In accordance with the petition, Mr. Gómez Atehortua committed suicide while in the custody of Gaua agents of the National Police.¹

3. By the time the body of Mr. Gómez Atehortua was discovered, it showed advanced postmortem signs, which confirms the lack of diligence of the members of the National Police in the surveillance and control of the inmates.²

4. On November 21, 2006, the Inter-American Commission on Human Rights received a petition presented by Dr. Roberto Fernando Paz Salas, in which he alleged the international responsibility of the State for the events surrounding the death of Mr. Luis Argemiro Gómez Atehortua, as well as the lack of investigation.

¹ IACHR petition dated November 21, 2006.

² IACHR petition dated November 21, 2006.

5. On August 30, 1999, Mrs. Luz Estela Posada Baena and her children filed a claim for direct reparation against the Ministry of Defense - National Police and the Gaula Group for the death of Mr. Gómez Atehortua.
6. The Fourth Decision Chamber of the Administrative Court of Antioquia denied the claims of the lawsuit, considering that the failure in the service on the part of the defendant entities was not proven.³ The plaintiffs appealed the decision. However, the Administrative Court of Antioquia pointed out that, due to its extent, the process is a single instance, and the appeal was not applicable.
7. The National Police carried out a disciplinary process for the events that culminated in the sanction against an agent and a patrolman, who were in charge of guarding the cells.
8. The 92nd Military Criminal Investigation Court conducted a criminal investigation against the aforementioned National Police officials for the suicide of Mr. Gómez Atehortua.
9. In consideration of the evidence provided in the process, it was concluded that the involvement of the agents in charge of guarding the cells had not been proven in the death of Mr. Gómez Atehortua. As a consequence, the process was terminated.
10. In a communication conveyed to the Colombian State through the IACHR's Individual Petitions Portal on March 23, 2018, the IACHR notified the State of the accumulation of the admissibility and merits stages in this matter.
11. On June 9, 2020, the Colombian State and the victims' representatives signed a Memorandum of Understanding in order to reach a friendly settlement.
12. In the following months, joint meetings were held to analyze the proposals of both parties in order to create this friendly settlement agreement.

THIRD: ACKNOWLEDGMENT OF RESPONSIBILITY

The Colombian State recognizes its international responsibility for omission in its duty to guarantee the right to life recognized in the American Convention on Human Rights (Article 4), in relation to the general obligation established in Article 1.1 of the same instrument, in favor of the Mr. Luis Argemiro Gómez Atehortua. This is evidence that the State did not comply in a timely manner with its obligation of due vigilance with respect to Mr. Gómez Atehortua, who was in a relationship of special subjugation to the state power in a Police station.

PART FOUR: REPARATION MEASURES AGREED BETWEEN THE PARTIES

The State commits itself to carry out the following satisfaction measures.

1.1. Act of redress

A Virtual Act of Responsibility Recognition will be held with the active participation of the next of kin and the representatives of the victims. In this Act, state responsibility will be recognized in the terms established in this Agreement. The National Agency for the Legal Defense of the State will oversee the measure.

³ Administrative Court of Antioquia. Fourth Chamber of Decision. Judgment of June 2, 2005. Rad. 050012331000199902959. File 1999-2959.

1.2. Publication of the facts

The Colombian State commits itself to publish the report on Article 49 of the American Convention on Human Rights issued by the Inter-American Commission on Human Rights that approves the friendly settlement agreement, on the website of the Ministry of Defense and the National Police, for six months.⁴

1.3. Guarantees of non-repetition

The Ministry of Defense will carry out face-to-face and / or virtual training aimed at the Medellín Police Gaule, the Antioquia Police Department, the “General Francisco de Paula Santander” Police Officer Training School and the Non-Commissioned officers and Executive Level School “Gonzalo Jiménez de Quesada”, which will begin two months after the approval of this agreement by the Inter-American Commission on Human Rights.⁵

1.4. Justice Measures

The National Agency for Legal Defense of the State will request the Office of the Attorney General of the Nation to study the feasibility of filing a Review Action against the process initiated by the events that occurred on February 5, 1999 in the Gaule cells of the Medellín Police, in the context of which Mr. Luis Argemiro Gómez Atehortua lost his life.

1.5. Pecuniary Reparation

The Ministry of Defense - National Police undertakes to compensate the moral damages that are proven by the violations recognized in this agreement through the mechanism established by Law 288 of 1996.⁶ The mechanism in question will be initiated once this friendly settlement agreement is approved, through the issuance of the report of Article 49 of the ACHR, with the purpose of repairing the damages caused to the families of the victims duly legitimized, who prove the affectations generated on the occasion of the facts of this case. The people to repair and the amounts to be awarded are as follows:

Full Names	Relationship	SML MV
Luz Estella Posada Baena	Wife	50
Cindy Johanna Gómez Posada	Daughter	50
Dany Alexander Gómez Posada	Son	50
Francisco Antonio Gómez Villegas	Father	50
María Dioselina Atehortua de Gómez	Mother	50
Aura Elena Gómez Atehortua	Sister	25
Alirio de Jesús Gómez Atehortua	Brother	25
Luz Amparo Gómez Atehortua	Sister	25
Liliam del Socorro Gómez	Sister	25
Dora Fanny Gómez Atehortua	Sister	25
Leonardo Alfonso Gómez Atehortua	Brother	25
César Augusto Gómez Atehortua	Brother	25
Over Arley Gómez Atehortua	Brother	25

⁴ Commitment made at the meeting of October 23, 2020 - National Police - Ministry of Defense.

⁵ Communication sent via email on November 23, 2020. Ministry of National Defense.

⁶ OFI20-86604 of October 31, 2020 - Ministry of National Defense.

Those who have been repaired by the administrative contentious jurisdiction for the facts that are the subject of the petition presented to the Inter-American Commission will not benefit from this measure.

FIFTH: APPROVAL AND MONITORING

The parties request that the Inter-American Commission on Human Rights approve this agreement and follow it up.

This agreement was endorsed by the state entities committed to carrying out the reparation measures.

Signed in three copies, on the second (2) day of the month of December 2020.

IV. DETERMINATION OF COMPATIBILITY AND COMPLIANCE

14. The IACHR reiterates that according to Articles 48.1.f and 49 of the American Convention, the purpose of this procedure is "to reach a friendly settlement of the matter based on the respect for the human rights recognized in the Convention." The acceptance of carrying out this procedure expresses the good faith of the State to comply with the purposes and objectives of the Convention by virtue of *the pacta sunt servanda* principle, by which the States must comply in good faith with the obligations assumed in the treaties.⁷ It also wishes to reiterate that the friendly settlement procedure contemplated in the Convention allows the termination of individual cases in a non-contentious manner, and has shown, in cases involving various countries, to offer an important vehicle for settlement, which can be used by both parties. .

15. The Inter-American Commission has closely followed the development of the friendly settlement reached in the instant case and highly values the efforts made by both parties during the negotiation of the agreement to reach this friendly settlement, which is compatible with the object and purpose of the Convention.

16. In accordance with the provisions of the friendly settlement agreement, as well as, by submitting a joint progress report on compliance with the agreed measures, dated March 19, 2021, the parties asked the Commission to adopt the report contemplated in Article 49 of the American Convention.

17. The IACHR observes that, given the information provided by the parties up to that point and the request for approval of the FSA submitted by the parties to the Commission, it is appropriate to assess compliance with the commitments established in the friendly settlement agreement.

18. The Inter-American Commission values the third declaratory clause, in which the Colombian State recognizes its international responsibility for the violation of the right enshrined in Article 4 (right to life) of the American Convention on Human Rights.

19. In relation to the fourth section of the agreement, referring to the reparation measures agreed between the parties, it is up to the Commission to assess progress in compliance with each measure.

20. Regarding numeral 1.1. of the fourth section, related to the act of redress, on March 19, 2021, the parties sent a joint report to the IACHR, in which they reported that there was a permanent communication between the State and the petitioners to agree on the details for compliance with this measure. According to the same report, the National Agency for the Legal Defense of the State sent an invitation to the act of acknowledgment of responsibility to the victims and their next of kin; and on February 23, 2021, an open

⁷ Vienna Convention on the Law of Treaties, U.N. Doc. A / CONF.39 / 27 (1969), Article 26: "*Pacta sunt servanda*". Any treaty in force is binding on the parties and must be performed by them in good faith.

invitation for public participation in the event was published on the entity's website, and through social networks.

21. It should be noted that, according to the information that the Commission was able to verify, the act of redress was carried out on February 25, 2021, at 2:00 pm and was held virtually. This was chaired by the Director of International Legal Defense of the National Agency for the Legal Defense of the State, and was attended by the President of the Inter-American Commission on Human Rights and Rapporteur for Colombia, Antonia Urrejola; the petitioner Roberto Fernando Paz Salas; Mrs. Cindy Johanna Gómez Posada, and victims, relatives and close friends. Likewise, it was followed by technical personnel from the Executive Secretariat of the IACHR. This act was broadcast live through the YouTube platform, and is publicly available.⁸

22. In said space, the national anthem of the Republic of Colombia and a video prepared by the State and the petitioners were shown, in which homage was paid to the memory of the victim. Likewise, Mr. Roberto Fernando Paz Salas gave an account of the petitioners' struggle to achieve justice, and thanked the inter-American human rights system and the National Agency for the Legal Defense of the State for reaching the commitments of the agreement. Likewise, he recognized the value of forgiveness and reconciliation between the victims and the State. For her part, Mrs. Cindy Johanna Gómez, daughter of the victim, expressed the suffering of the next of kin as of the events that occurred on February 5, 1991 and thanked the IACHR, the State and their representatives for the provision and support in the production of this act.

23. Likewise, the Director of International Legal Defense of the National Agency for the Legal Defense of the State indicated the following:

"It is an honor to accompany you today, not only to acknowledge the responsibility of the State in such a painful event, but to honor the memory of Luis Argemiro Gómez Atehortua, who lost his life on February 5, 1999 while in the custody of Guala agents of the National Police. Unfortunately, Mr. Gómez Atehortua was not guaranteed his right to protection while he was in the custody of the State. Today, the invitation is to seek a true space and sample of genuine reconciliation, and that there is forgiveness with the commitment that these painful events will not be repeated in our country. In Colombia we speak of peace with legality, because legality is respect for the Constitution and the law, for the rights of others, and that there are no causes that justify the violation of the intrinsic rights of any citizen. Legality is also the recognition of responsibilities when there are failures and today the Colombian State recognizes its responsibility in the death of Luis Argemiro.

The friendly settlement procedure has become for Colombia the ideal space for dialogue between the State and the victims of human rights violations and has allowed us to generate spaces for consensus to reach agreements that have comprehensive reparation measures, benefits for the victims. A FSA is always seen not only as an expression of good faith, but as a manifestation of a broad commitment to the protection of human rights by a conciliatory state. Today's space is a symbol of forgiveness and reconciliation. To you, the family and friends of Luis Argemiro Gómez, we ask his forgiveness on behalf of the Colombian State.

This forgiveness must transcend words and be translated into true acts of reconciliation and non-repetition. Today we are taking that first step into action. (...). In my capacity as Director of International Legal Defense of the National Agency for the Legal Defense of the State, I recognize the international responsibility of the Colombian State, for the omission in its duty to guarantee the right to life, recognized in Article 4 of the Convention American Human Rights, in relation to the general obligation established in Article 1.1 of the same instrument, in favor of Mr. Luis Argemiro Gómez Atehortua".⁹

⁸ In this regard, see Youtube, [Act of Acknowledgment of Responsibility in the case of Luis Argemiro Gómez Atehortua](#). Published by the National Agency for Legal Defense of the Colombian State on February 25, 2021.

⁹ Excerpt from the speech of the Director of International Legal Defense of the National Agency for the Legal Defense of the State.

24. Finally, the President of the Inter-American Commission on Human Rights and Rapporteur for Colombia, Antonia Urrejola stressed that the act of reparation is an important step for the dignity of Mr. Luis Argemiro Gómez Atehortua, which contributes to the compensation of the damage caused and demonstrates a commitment to make effective comprehensive reparation for the victim's next of kin. Likewise, she highlighted the importance of the voice of the victims being part of this type of act. On the other hand, she emphasized the importance of the non-repetition measures that are part of the agreement and the will of the State to comply with them. Additionally, she mentioned the importance of the friendly settlement process as a mechanism for the peaceful and consensual settlement of disputes and for building trust between the parties. Lastly, she shared a message of solidarity with the victim's family and highlighted the participation of the Colombian State in this and other negotiation processes.

25. The Commission also learned of the coverage of the act of acknowledgment of responsibility in the media and social networks of the State institutions and of the dissemination of the link of the act through the YouTube channel.¹⁰

26. Taking into account the available information elements, the Commission rescues as good practice the adaptation of the act of acknowledgment of responsibility to the current situation in the framework of the COVID-19 pandemic. Therefore, it considers with satisfaction that this part of the friendly settlement agreement has been fully complied with and so it declares it so.

27. On the other hand, regarding numeral 1.2 that refers to the publication of the facts, the Commission observes that said measure requires the publication of this homologation report on the website of the Ministry of Defense and the National Police. Thus, in accordance with the IACHR procedure and the commitment between the parties, said measure must be complied with once this approval report has been issued. Based on the foregoing, the Commission considers that this measure is pending compliance and so it declares it so. Likewise, the IACHR awaits updated information from the parties on its execution after the approval of this report.

28. With respect to numeral 1.3 on guarantees of non-repetition through training in pertinent entities, the Commission realizes that compliance with the measure will begin two months after the approval of this friendly settlement agreement. Likewise, the Commission notes that, according to the information transmitted by the parties, the State has included the training agreed upon in the 2021 Annual Training Plan of the Ministry of National Defense, and that the respective workshop is scheduled for November 17 of the year in progress. Based on the foregoing, the Commission considers that this measure is pending compliance and so it declares it so. Likewise, the IACHR awaits updated information from the parties on its execution after the approval of this report.

29. Regarding section 1.4. on justice measures, it is observed that it requires the State to make the pertinent steps with the Office of the Attorney General of the Nation so that it analyzes the viability of filing a review action against the judicial process carried out by the events of February 5, 1999. Regarding the progress made in this measure, the Commission values the information provided by the parties in the joint report dated March 19, 2021, which states that the National Agency for the Legal Defense of the State has indeed already submitted to the Office of the Attorney General of the Nation, the office in charge of requests to that analyzes the feasibility of promoting the criminal review action to identify and punish the possible perpetrators of the facts. In this way, the Commission considers that the State has taken the pertinent actions to comply with the measure, in the terms agreed upon between the parties, for which it considers that this clause has a level of total compliance and declares so. At the same time, the Commission considers it important to remind the Colombian State that there is a reiterated standard in the jurisprudence of the inter-American system according to which the military criminal jurisdiction is not the competent jurisdiction to investigate and, where appropriate, try and punish the perpetrators for violations of human rights, for which the Commission urges the Colombian state to continue deploying actions to ensure compliance with its obligations in matters of truth and justice, so that the agreement materializes comprehensive reparation for the victim and his next of kin.

¹⁰ In this regard, see El Espectador, Press Release, The State acknowledged responsibility and apologized for the death of Luis Argemiro Gómez. Published on February 25, 2021. (Consulted on April 17, 2021).

30. On the other hand, in relation to numeral 1.5 that deals with pecuniary measures, the Commission observes that, according to the mechanism established in Law 288 of 1996, said measure must be complied with once this approval report has been issued, by which it considers that the measure is pending compliance and thus declares it. The Commission awaits updated information from the parties on its execution after the publication of this report.

31. Based on the aforementioned, the Commission concludes that the third clause on acknowledgment of responsibility is merely declarative and it does not correspond to supervise its compliance. Additionally, the Commission considers that paragraphs 1.1 (act of redress) and 1.4 (measure of justice) of the fourth clause have been fully complied with and so it declares it so. Finally, the Commission considers that numerals 1.2 (publication), 1.3 (training) and 1.5 (financial compensation) of the fourth clause are pending compliance and so it declares it so. Based on all the foregoing, the Commission concludes that the friendly settlement agreement is partially complied with, therefore it will continue to monitor the implementation of the pending and partial measures until they are fully complied with.

V. CONCLUSION

1. Based on the foregoing considerations and by virtue of the procedure provided for in Articles 48.1.f and 49 of the American Convention, the Commission wishes to reiterate its deep appreciation for the efforts made by the parties and its satisfaction with the achievement of a solution friendly in the instant case, based on respect for human rights, and compatible with the object and purpose of the American Convention.

2. By virtue of the considerations and conclusions set forth in this report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. Approve the terms of the friendly settlement agreement signed by the parties on December 2, 2020.

2. Declare that numerals 1.1 (act of redress) and 1.4 (measure of justice) of the fourth clause are fully complied with, according to the analysis contained in this report.

3. Declare that numerals 1.2 (publication), 1.3 (training) and 1.5 (financial compensation) of the fourth clause are pending compliance, according to the analysis contained in this report.

4. Continue with the supervision of the commitments assumed in numbers 1.2 (publication), 1.3 (training) and 1.5 (financial compensation) of the fourth clause of the friendly settlement agreement until full compliance, according to the analysis contained in this report. To this end, remind the parties of their commitment to periodically inform the IACHR on its compliance.

5. Make this report public and include it in its Annual Report to the OAS General Assembly.

Approved by the Inter-American Commission on Human Rights on June 13, 2021. (Signed): Antonia Urrejola, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Esmeralda E. Arosemena Bernal de Troitiño; Joel Hernández García and Edgar Stuardo Ralon Orellana, Members of the Commission.