



THE PERMANENT REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
ORGANIZATION OF AMERICAN STATES
WASHINGTON, D.C.

March 1, 2018

Mr. Paulo Abrão
Executive Secretary
Inter-American Commission on Human Rights
Organization of American States
Washington, D.C. 20006

Re: Salas et al.
Case No. 10.573
Response to Report on Merits

Dear Mr. Abrão:

The United States thanks you for the letter from your office dated December 28, 2017 and sent to us on December 29, 2017, transmitting Report No. 169/16 of the Inter-American Commission on Human Rights (“Commission”) of December 6, 2017, the preliminary merits report in the above-referenced case. We note your office’s request under Article 44(2) of the Rules of Procedure (“Rules”) for a response on measures taken to comply with the Commission’s recommendations by March 1, 2018.

We have read the report and have taken under advisement the nonbinding recommendations set forth therein. The United States takes this opportunity to reiterate its objection to the way the Commission sought to interpret and apply the law of armed conflict in the draft report. As explained in detail in our previous written submissions and hearings in this and several other cases, OAS Member States have not granted the Commission the competence or authority to interpret and apply the law of armed conflict in Commission proceedings. The only international instrument relevant for the United States in IACHR petitions is the

American Declaration of the Rights and Duties of Man (“American Declaration”), the terms of which do not embrace the customary or conventional law of armed conflict.

Furthermore, the United States objects to the suggestion that it establish a special mechanism that would permit recovery for death, injury, or property damage experienced by civilians in conjunction with combat operations during Operation Just Cause. Neither the American Declaration nor customary international law establishes a private right of compensation for individuals who suffer death or injury during the course of lawful international armed conflict.

We also take this opportunity to recall that the United States provided substantial financial assistance to the Government of Panama in the form of reconstruction and other recovery assistance in the years following Operation Just Cause, as explained in detail in our previous written submissions and during the several hearings in this case. In addition, the United States has met with the December 20 Commission, established by the Government of Panama to investigate the events surrounding Operation Just Cause, to identify areas in which the United States can cooperate with the December 20 Commission. As we urged at the December 2016 hearing, the Commission should have waited for the December 20 Commission to finish its important work instead of issuing a series of recommendations to the United States that are infeasible for implementation.

Finally, we take this opportunity to reiterate and incorporate by reference the additional jurisdictional, admissibility, and substantive arguments we have made numerous times over the history of this nearly 30-year-old case.

The United States requests that when the Commission issues a final, public version of the merits report, it note and take account of the additional U.S. views set forth in the present letter, in line with past practice.

Please accept renewed assurances of my highest consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kevin K. Sullivan', with a stylized, cursive script.

Kevin K. Sullivan
Interim Permanent Representative