STATEMENT OF FACTS

Ever since Liberte gained independence at the end of a long bloody war in 1833 it has been difficult to govern. The population of 20 million, which is divided into four main ethnic groups, is marked by severe economic and social disparities. A bitter internal conflict which lasted ten years resulted in 10,000 deaths, and while the insurgents never amassed enough power or popular support to obtain political power, both the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR) found the State responsible for gross and systematic human rights violations committed by the armed forces and national police.

The United Nations (UN)-brokered peace accords brought an end to the conflict in 1996 and elections were held in 1997 on the traditional and statutory date of December 10. A new centrist government headed by President Claudia Reina took office and had as one of its agenda items the implementation of the peace accords.

Under the peace accords, three principal modifications to the Constitution of Liberte were made: first, human rights treaties ratified by Liberte were given juridical status equivalent to the Constitution. This included the Additional Protocol to the American Convention in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) which Liberte ratified in 1999. This treaty provided for the right to strike. Secondly, the emergency powers of the executive were defined and limited and this was reflected in Article 101 of the Constitution of Liberte. Briefly, this Article outlined the requirements for a valid state of emergency. Thirdly, the armed forces were restricted to external security and the National Police were given exclusivity over internal citizen security. The State also established a working group for the friendly settlement of disputes and to implement decisions of the IACHR and the Inter-American Court.

During the first Reina administration Liberte experienced great economic growth, and the State used the surplus revenue to improve the economic and social conditions of the country. In January 2001 the President started her re-election campaign at the same time that other groups in the country started agitating for political influence. This upsurge in political activity coincided with a sharp...

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1 See Response to Question 19 of the Hypothetical Case Questions.
2 Article 8(1)(b).
downturn in the country's economic situation sparked by a drought in the southwest of Libérté.

In early 2001 the government cut public sector spending, which contributed to increased unemployment, and social discontent to which trade unions responded by escalating industrial action. In July the dockworkers' unions began go-slow actions to protest possible job cuts and loss of benefits, which would violate their contracts. On October 28, 2001, due to the refusal of the employers to negotiate, the dockworkers' unions called for a strike. This adversely affected the supply of food to the southwest of Libérté, as the country is almost landlocked and depends heavily on the port for imports.

By mid-2001 popular protests led by unemployed workers, students and teachers were being held throughout the country. The government became concerned about the possible effect of these protests on elections scheduled for December 2001 as there were reports that government opponents wished to politicize these protests. By early September 2001 a substantial number of protests were ending in violence, and on October 1, 2001 the government ordered sharply increased security measures. In mid-October 2001 the protests became more violent, and by the end of October, five casualties had been reported.

In response, the government ordered the National Police to focus the majority of their efforts on dealing with the protests. At this time the President's approval rating was the lowest it had ever been. The protests became more frequent and resulted in more injuries and casualties while the strike was estimated to be causing the equivalent of hundreds of thousands of dollars (US) in damage to the economy.

On November 7, 2001 the President declared a national state of emergency; postponed elections for one month; suspended Article 22 of the Constitution which provided for the right to personal liberty and the conditions for the deprivation of this right; ordered joint patrols between the armed forces and National Police with the security forces being given powers to arrest; and ordered the immediate end to industrial action in the ports and imposed binding arbitration on the parties. The state of emergency was to remain in force until March 15, 2003. The Organization of American States (OAS) was notified of the state of emergency and was asked to send an electoral observer mission, which was agreed to on November 12, 2001.

In the interim, the armed forces had begun joint patrols with the National Police pursuant to the emergency decree. At 0900 on November 17, 2001, 20 recent military recruits who were still in training and unaccompanied by any National Police officers were sent to deal with a protest in the southwest. Within half an hour

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3 See Response to Question 57 of the Hypothetical Case Questions.