I. BACKGROUND

1. Esmeralda is a Latin American country, combining urban areas, mountainous zones, rain forests and semi-arid regions. Approximately 70 percent of the country’s 25 million inhabitants live in urban areas. Esmeralda’s population includes a sizable number of professionals and a large middle class. On average, Esmeralda enjoys a significantly more equitable income distribution than other countries in the region, and more secondary and higher education opportunities than its neighbors. The economy is relatively diversified, with an emerging industrial sector and a steady agricultural export industry. The country has been governed by an uninterrupted series of democratic constitutional governments since the 1970s, and its legal system is respected.

2. Although its social and economic policies are advanced and the government of Esmeralda provides subsidized public services to low-income families, increasing openness to markets and falling international agricultural prices have adversely affected the economy. This has led to rising unemployment and increasing poverty. It has also undermined the government’s ability to continue to subsidize public services. As a result, the social and political situation shows signs of mounting tension, manifested by strikes in the public sector and growing agitation by students, labor unions and organizations of unemployed workers. Tensions have become particularly acute in poorer and marginalized urban areas where living conditions have become increasingly precarious.

3. Faced with these adverse economic developments, the last two governments of Esmeralda have taken steps to improve education, increase credit for low-income housing and reform the tax system. They have also put in place a comprehensive development strategy for the exploration and extraction of subsoil hydrocarbon resources as a way to increase income to the economically challenged country. One of these development projects is the Santa Ana Project.
(SAP), dealing with the exploration and exploitation of petroleum and gas reserves. According to initial estimates, SAP would provide a substantial boost to the Esmeralda economy by lowering the price of energy for domestic and industrial use and by providing substantial income from the export of those hydrocarbons. The government of Esmeralda has declared that once completed SAP would provide a gross domestic product increase of two percent annually for the next ten years, or at least until the resources are exhausted. This economic boom would provide needed income for the State to invest in other sectors of the national economy.

4. The 1972 Esmeralda Constitution transferred ownership of subsoil resources to the State, reflecting a trend prevalent at the time of securing negotiating advantages with large oil companies by nationalizing subsoil resources. According to the Constitution, the government determines the most suitable means of exploring and developing these resources.

5. In addition, Article 19 of the 1972 Constitution recognizes that the indigenous groups of Esmeralda are native peoples predating the founding of the nation, and acknowledges that their national cultural importance is to be “valued, respected and protected by law”. As a result, the Constitution mandates the government to delineate the boundaries of their ancestral lands, to grant them legal title to these lands and to guarantee that these lands remain a public good, providing a habitat in which indigenous peoples can exercise their right to self-determination.

6. All international human right instruments ratified by the government of Esmeralda are self-executing. They automatically become part of the Constitution and are incorporated into the domestic law of Esmeralda. The universal covenants and Inter-American treaties were ratified prior to the 1972 Constitution, including the acceptance of the compulsory jurisdiction of the Inter-American Court. Esmeralda has fully ratified all instruments of the Inter-American system, including the 1985 American Convention and the 1995 San Salvador Protocol on Economic, Social and Cultural Rights. Esmeralda has accepted the mandatory jurisdiction of the Inter-American Court. It has also ratified the major universal treaties and covenants on human rights, including International Labour Organization (ILO) Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries, which was ratified in 1990. With respect to other international treaties, the State has ratified the