I. INTRODUCTION

A. Context

In an application lodged with the Inter-American Court of Human Rights (the “Inter-American Court” or the “Court) on May 29, 2004, the Inter-American Commission on Human Rights (the “Inter-American Commission” or “Commission”) has alleged the international responsibility of the Republic of Belor for the following violations of the American Convention on Human Rights (the “American Convention”) and related instruments, based upon the facts in the New Atria Embassy bombings Hypothetical Case:

1. with respect to the apprehension, detention, treatment and criminal investigation of Ferris Blanco, violations of Articles 1(1), 5, 7, 8, 9 and 25 of the American Convention on Human Rights and the State’s obligations under Articles 1 and 6 of the Inter-American Convention to Prevent and Punish Torture;

2. with respect to the detention and treatment of unnamed Citadel detainees, violations of Articles 1(1), 5, 7, 8 and 25 of the American Convention on Human Rights and the State’s obligations under Articles 1 and 6 of the Inter-American Convention to Prevent and Punish Torture;

3. with respect to the application of sections 13, 14 and 32 of the Defense of Freedom Act to the named members of the congregation of the Gir Temple and the closure of the Temple, violations of Articles 1(1), 11, 12, 15, 16, 21 and 24 of the American Convention on Human Rights;


The Commission has also requested the Court to adopt provisional measures pursuant to Article 63(2) of the American Convention and Article 25 of the Court’s Rules of Procedure in favor of Ferris Blanco, requiring Belor to suspend the criminal
proceedings against him pending the determination of his complaint before the Inter-American system.

The Republic of Belor has raised a preliminary objection to the Court's jurisdiction *ratione loci*, in respect of both the request for provisional measures and the claims relating to Mr. Blanco and the other detainees at the Citadel, on the ground that the alleged victims were located outside of Belor's territory and beyond the geographic region encompassed by the Organization of American States (OAS).

The Inter-American Court has convened one hearing to receive arguments in the three principal phases of these proceedings: preliminary objections; request for provisional measures; and merits and reparations. Accordingly, teams are expected to address each of these areas in their oral and written arguments.

The purpose of this Bench Memorandum is to outline the main legal issues and corresponding arguments that each team may raise. It is intended to serve as a guide and is not meant to be exhaustive. Structurally, the Memorandum sets out the pertinent facts, the applicable law and the arguments of the Commission and the State in respect of each issue issues raised by the Hypothetical.

**B. Focus of the Hypothetical**

The 2005 Inter-American Human Rights Moot Court Competition Hypothetical focuses upon the challenges in securing protection for fundamental human rights and freedoms in the struggle against terrorism, particularly in the post-September 11, 2001 environment where terrorist groups are capable of perpetrating massive acts of violence on a global basis. In this connection, four topics in particular are raised by the circumstances in the problem and should inform the teams' presentations as well as the questions of judges:

1. the extraterritorial application of the Inter-American system to anti-terrorism measures taken by OAS Member States outside of the Americas;
2. the limits of employing provisional measures in the context of domestic judicial proceedings;
3. the role of other areas of international law in interpreting and applying international human rights protections in the context of efforts to prevent, punish and suppress terrorism. In particular:
   (a) Parts A and B of the merits of the case, which address the situation of the unnamed Citadel detainees and Ferris Blanco, require teams to address the application and effect of international humanitarian law upon the rights invoked under the American Convention, to