BEFORE THE INTERNATIONAL CENTRE FOR THE SETTLEMENT OF
INVESTMENT DISPUTES

In the Matter of Arbitration between:

BRIDGESTONE LICENSING SERVICES, INC.
and BRIDGESTONE AMERICAS, INC.,
Claimants,

and

REPUBLIC OF PANAMA,
Respondent.

Case No. ARB/16/34

ORAL HEARING (via video conference)

Wednesday, August 28, 2019

The World Bank Group
Washington, D.C.

The video-conferenced hearing in the
above-entitled matter commenced before:

LORD NICHOLAS PHILLIPS, President of the
Tribunal

MR. HORACIO A. GRIGERA NAÓN, Co-Arbitrator

MR. J. CHRISTOPHER THOMAS, QC, Co-Arbitrator
ALSO PRESENT:

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MS. CELESTE SALINAS
(in absence of Secretary of the Tribunal)

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MR. DEBEVOISE: Mr. President, this is Whitney Debevoise of Arnold & Porter, speaking from Panama. I believe we are ready on our end.

PRESIDENT PHILLIPS: Very well. Then let us begin.

First of all, perhaps we can have everyone identify themselves.

MR. DEBEVOISE: Would you like to hear from Panama?

PRESIDENT PHILLIPS: Yes, you may begin.

MR. DEBEVOISE: Good afternoon, I guess it is for you, Mr. President, and good morning to others. This is Whitney Debevoise of Arnold & Porter speaking from Panama, and here with me in the room I have the Witness, former Ambassador to the U.S. Gonzalez-Revilla.

(Overlapping speakers.)

PRESIDENT PHILLIPS: Yes, can we refer to him, although he's recently retired, as Mr. Ambassador, just to make life a bit easier? Is that all right?
MR. DEBEVOISE: I think that would be very acceptable. Thank you, Mr. President.

PRESIDENT PHILLIPS: Good.

MR. DEBEVOISE: Also my partner, Gaela Gehring Flores.

PRESIDENT PHILLIPS: Yes.

MR. DEBEVOISE: Also representing Panama here today is Mr. Aristides Valdonedo, from the Ministry of Economy and Finance. And also here in the room with me is Adolfo Ponté, from the technical team, our host operator. I think he's not in the picture at the moment, but he's been helping us with the technical side. So that is who's here in the room in Panama here today.

PRESIDENT PHILLIPS: Good.

(Overlapping speakers.)

MR. WILLIAMS: I am on my own, and I believe that I have some colleagues who are in ICSID's room in Washington, D.C. Probably it would be best for them to introduce themselves.

PRESIDENT PHILLIPS: Thank you.

MS. HYMAN: Hello. This is Katie Hyman, and
with me we have Ms. Karol Kepchar, Mr. Stephen Kho, and Ms. Adriana Ramírez.

PRESIDENT PHILLIPS: Thank you.

MS. SILBERMAN: And on the Respondent's side, good morning to you, everyone, or good afternoon. This is Mallory Silberman from Arnold & Porter, and I'm here with my colleagues Katelyn Horne, Brian Vaca, and Michael Rodríguez.

PRESIDENT PHILLIPS: Good. Well, does somebody have a card with the appropriate Witness Statement?

MS. GEHRING FLORES: We do, Mr. President. I believe—I think we just wanted to check and see if there are any matters of housekeeping that we wanted to discuss before launching into the Witness's testimony.

PRESIDENT PHILLIPS: Yes, very well. Has anyone any item of housekeeping to raise?

MR. WILLIAMS: Not on the Claimants' side.

PRESIDENT PHILLIPS: Thank you.

MS. SILBERMAN: For the Respondent, Mr. President—and I apologize if I'm not looking at the right screen—I will look in D.C. at Professor
Grigera Naón, but I just wanted to flag that yesterday, in addition to the various document bundles that were submitted, Panama also submitted a request for the Tribunal's attention, basically that the Claimants provide a brief summary of their merits claim.

Since we're all gathered here today, we would be happy to discuss that. I'm not sure if the Tribunal has yet had an opportunity to review that, or if the Claimants have had a chance to react. But to the extent that you have any questions, we would be happy to answer them.

PRESIDENT PHILLIPS: Yes. Well, let's put that on the back-burner and take it after we have taken the evidence, shall we?

MS. SILBERMAN: Fine with us, Mr. President.

PRESIDENT PHILLIPS: Good.

MS. GEHRING FLORES: And, Mr. President, here in Panama, I just wanted to note that we do have—we did receive the electronic bundle from Claimants for their cross-examination of the Ambassador yesterday. I downloaded that electronic bundle of documents onto this laptop that is to the Ambassador's right. That
laptop also has the direct examination bundle downloaded onto it. And it also has a file with the entire core bundle of the case, in case someone wants the Ambassador to look at another document that's not in either of those bundles.

I have turned the wi-fi off on that computer, so that computer cannot receive any messages from the outside, and I just wanted to note that for the record and make sure that all attorneys are okay with this set-up.

We also have a printout of the cross-examination bundle and direct Bundle as well.

PRESIDENT PHILLIPS: Good. Well, it sounds as though we're well-equipped.

MS. GEHRING FLORES: I believe we are.

PRESIDENT PHILLIPS: All right. Well, if there are no other housekeeping matters, could the witness please have the witness card.

Mr. Ambassador, would you please read--

(Overlapping speakers.)

THE WITNESS: I just read it?

MS. GEHRING FLORES: Yes.
AMBASSADOR EMANUEL GONZÁLEZ-REVILLA, RESPONDENT'S
WITNESS, CALLED

THE WITNESS: I solemnly declare upon my honor
and conscience that I shall speak the truth, the whole
truth, and nothing but the truth.

PRESIDENT PHILLIPS: Thank you very much.

THE WITNESS: Thank you, sir.

MS. GEHRING FLORES: Thank you, Mr. President.

Members of the Tribunal and counsel, I would
like to present Mr. Emanuel Gonzalez-Revilla, former
Ambassador of the Republic of Panama to the United
States.

DIRECT EXAMINATION

BY MS. GEHRING FLORES:

Q. Mr. Ambassador, I will begin by asking you a
few questions--

A. Sure.

Q. --after which opposing counsel will proceed
with their cross-examination.

You have been provided right now with a binder
that are the documents of the direct examination--

A. Yes.
Q. --which includes your witness statement and
the ayuda memoria which you referred to in your witness
statement.

You have also been provided with--or will be
provided with a binder of documents for the
cross-examination, and those printouts are here. As I
mentioned, we have these documents as well on the
laptop to your right in electronic form. We also have
access to other documents in the record, if someone
wishes to show you those.

Mr. Ambassador, you submitted the witness
statement that's in front of you in your binder. If
you want to turn to your witness statement that's dated
September 10, 2018.

A. Um-hmm.

Q. Do you recognize your signature on that
statement?

A. Yes, I do. That is my signature.

Q. And would you like to make any updates or
amendments to your statement?

A. Just that I'm no longer Ambassador to the U.S.
My post--I completed my post on July 1st, so I'm here
as a witness and private citizen.

Q. Could you please describe your background prior to your appointment as Ambassador, in 2014, to the United States.

A. Sure.

I come from the private sector. I am basically involved in several ventures. I'm either director or chairman or CEO of at least three public companies. Of course, I took a leave of absence from both of them when I went on my post. And I'm now back on my--on the private sector side now. So the industries that I am involved in are Telecom, energy, in real estate, and several others.

Q. In your statement, you discussed the meeting that you had with Bridgestone representatives on March 13, 2015.

A. Mm-hmm.

Q. Do you understand how that meeting was arranged?

A. I understand that there was a request from the Embassy through our--the commercial department, and the question was brought up during one of our staff
meetings and we decided to give a courtesy meeting.

Q. How did you prepare for the meeting?

A. They basically--the staff--briefed me before on what they wanted in the meeting, which basically was I understood that Bridgestone was not happy with the Supreme Court. At the time we basically, you know, knew there was nothing we could do but we decided to give them the courtesy anyway. So, you know, for them to be given a chance to be heard, basically.

Q. Before the meeting, did you review the Decision with which Bridgestone was unhappy?

A. No, I didn't.

Q. Did you study the record in that case?

A. No, I didn't.

Q. Mr. Ambassador, what do you recall about the meeting of March 13, 2015, with the Bridgestone representatives?

A. When the meeting--the basic premise of the meeting (unclear) you know (unclear). Also, we began the meeting by introducing ourselves, which I believe we did on both sides and then we started--they started to talk about the issue at hand.
Q. During the meeting, did you state or imply that the Supreme Court Judgment against Bridgestone was procured through corruption?

A. Absolutely not. There is no way for me to have actually known if there had been anything corrupt in that ruling, as I did not know who actually the judges were or what the issue was. And I told them--I told them that we couldn't--you know, since it was a Supreme Court ruling, and we are part of the Executive Branch, there was nothing really to do about it, so...

Q. So, was corruption--do you recall if corruption was raised at any time during that meeting?

A. It might have been--I mean not when it comes specifically to the Supreme Court, but as a template--or basically a pitch that we had, as Ambassador coming in, we basically were actually pushing the President’s agenda, and one of the five pillars of his agenda was actually fighting corruption, but not necessarily tied to the Supreme Court. I mean, we talked about, you know, the framework for foreign investment in Panama, basic sanitation and treatment for everyone. We talked about--for, you know, the
fight against corruption, especially in the light of
what information I found out about the former
administration, and I assumed all the pillars but it
was basically the pitch that we did at every single
meeting so--so I'm assuming that that's probably
when--where it came up.

Q. And I'm being told by--
A. If it did--if it did come up, but I--I don't
have a recollection of that specifically.

Q. I'm being told by my colleagues that are on
the video conference to--that the audio is a bit poor
or weak.

A. Okay.

Q. So, if you could speak up and also slow down.
A. Okay, but--sorry.

Q. No, you're fine. It's just the audio.

So, at the time of the March 13, 2015,
meeting, or now--

A. Um-hmm.

Q. --did you or do you have any knowledge of
corruption during the court proceeding against
Bridgestone in the Panamanian Supreme Court?
Q. After the meeting was over--
A. Um-hmm.
Q. --what was your impression of Bridgestone's purpose for calling the meeting?
A. We were actually--you know, we were laughing about it afterwards because--well, they had come to basically ask us to intervene in a ruling of the Supreme Court--you know, Supreme Court--which is basically completely unacceptable. So--so we knew--and we knew what they wanted from the beginning, so--and we basically told them we--there's nothing we can do, you know, the judicial part is independent from the executive branch. So, you know--and we wished them good luck. We told them straight that there was nothing we could do. You know, I don't understand how they could think that we could actually meddle in a Supreme Court ruling. So that was actually a little odd but, you know, nothing out of the ordinary I would say.

Q. Thank you, Mr. Ambassador. I have no further questions.
A. And you're welcome.

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q. Mr. Ambassador, my name is Justin Williams, and I appear on behalf of the Claimants, and I have--

A. Hello.

Q. Hello.

--I have a few questions for you, but first thank you for making the time to assist everyone in this arbitration today.

And it's a point that the Respondent's counsel made to you a moment ago, but again to repeat, the audio, I'm afraid, is not very good. So, if you could try to speak slowly and as loudly as you can, I'm sure we would all appreciate it.

A. Okay.

Q. Thank you.

So, you, I think, indicated a moment ago, then, that you served as Ambassador to the U.S. from, I think, August 2014 to June--or the 1st of July 2019; that's right, isn't it?

A. Yes, correct.
Q. And you were appointed as Ambassador by the then-serving President Varela; is that right?
   A. Yeah, that is correct.

Q. And am I right that in February 2019--so, this year--President Varela also asked you to become a director of the Panama Canal? Is that right?
   A. Yes. I was nominated, and then I withdrew the--my name from the nomination. Correct.

Q. And that's another important post, isn't it, in Panama?
   A. I guess, yes.

Q. And you're a friend and supporter of President Varela, aren't you?
   A. Yes, I am.

Q. Now, he was elected as President, I believe, in May 2014; am I right?
   A. Yes, I believe so.

Q. And am I right that you supported him in his 2014 presidential campaign? You were a supporter of his.
   A. I was--I don't know how you define "supporter," but yes, yes, I was.
Q. And one of the key issues, I believe, in President Varela's presidential campaign in 2014 was transparency in government and through the State and anticorruption; that's right, isn't it?

A. Yes. I just said that in a--in my previous statement, yes.

Q. And the reason--

(Overlapping speakers.)

Q. And the reason why President Varela ran a campaign which emphasized those two issues was because he believed that the previous administration of President Martinelli was corrupt; that's right, isn't it?

A. You know, I cannot speak for himself, but I would assume so, yes.

Q. And it's right, isn't it, that the President before Martinelli--that is President TO-HE-HOFT (phonetic)--I'm so sorry, Torrijos--

A. Torrijos.

Q. --had also been the subject of accusations of corruption; that's right, isn't it?

A. I don't know specifically to which charges or
implications you are related to, but as I understand it, he was never charged with anything, or anyone from his government, so—so, you know, you know, I don't know exactly what you're referring to.

Q. And President Varela—President Varela's administration, when it took power in 2014, brought a number of corruption investigations against former government officials from the previous administration, didn't it?

A. Yeah, yes, that's correct.

But, actually, it was not President Varela, but it was the Ministerio Público of the—basically the Attorney General's Office.

Q. Yes.

(Overlapping speakers 00:19:29)

Q. The Attorney General's Office of—

A. Yes.

Q. --serving un--within President Varela's administration.

A. Correct. She was appointed—Kenia Porcell was appointed for 10 years, but she does not serve directly for Varela. She's completely independent.
Q. And the investigations that were commenced then during the Varela Government included an investigation into the former Supreme Court Justice MON-KA-DOW; is that right?

A. Moncada Luna, you mean?

Q. Yes.

You must ap--I must apologize for my appalling pronunciation of Spanish.

(Laughter.)

A. No worries.

Q. You--I have no excuse other than--all I can do is apologize, so your pronunciation is of course correct--

(Overlapping speakers.)

Q. --and mine is wrong.

A. So, going back to your question, of course, it was a very public--it was a very public investigation. However, bear in mind that the investigation was basically--the body in charge of the investigation of a Supreme Court Justice is the National Assembly, basically Congress, so that was actually not undertaken by the administration of Varela, but by the Congress,
which again is also an independent branch of
government.

Q. And I believe that there was also--

A. Again, to remind you also—and I would like to
explain also that the assembly at the time was actually
the—-the governing party had a minority in the
assembly, so it was not--it was not even friendly you
could say towards—-towards the government at the time.

Q. And actually--

MS. GEHRING FLORES: Mr. Williams, just one
moment.

And, Mr. President, I just wonder what of
these questions are actually within the scope in
accordance with Section 19.8.5 of Procedural Order
Number 1, which of these questions are within the scope
of this witness's witness statement? This Witness did
not testify to any of these matters in his witness
statement. The Procedural Order is quite clear in
stating that the scope of cross-examination “shall be
limited to the issues addressed by the witness or
expert in his or her direct testimony or report and/or
impeachment of the witness, unless for good cause
shown, the Tribunal agrees to a broader cross-examination."

I've allowed numerous questions on these topics thus far, but the Ambassador did not testify to any of this in his statement, and I believe the inquiry is inappropriate.

MR. WILLIAMS: Well, all I would--

PRESIDENT PHILLIPS: Mr. Williams?

MR. WILLIAMS: Yeah, sorry.

PRESIDENT PHILLIPS: No, no, no, what's your response to that?

MR. WILLIAMS: My response is twofold: Number 1, that these questions are simply directed to the context in which the meeting in March 2014--sorry, 2015, occurred, Number 1; and, Number 2, I only have one more question before turning to the meeting itself.

PRESIDENT PHILLIPS: Ask it.

BY MR. WILLIAMS:

Q. And that other question is this, Mr. Ambassador, which is that I believe that there was also an investigation into another former Supreme Court Justice, Benavides; is that correct?
A. I think that--I don't know if actual investigation was started. As I understand it, and this is just basically from the media, is there was some charges that he was a pedophile, and he basically resigned before--before any investigation could begin. And then, of course, the case--that turned over when he became a private citizen, the case was turned over to the Attorney General's Office, and they couldn't find enough evidence to charge him with anything. So, after the fact, you stating that an actual investigation took place, I don't think that's actually correct.

Q. I think we can agree that the investigation, such as it was, ended when he resigned as a Supreme Court Judge.

A. I--I mean, I don't have any proof an actual investigation had started, so I don't know how you can--you know, how can you actually assure that that's a fact, so I'm just--I'm just saying what I know to be correct.

Q. Understood. Thank you.

Okay. Well, as promised, let me turn, then, to the meeting with Bridgestone in 2015, and apologies
if I'm going over ground that you covered earlier with Respondent's counsel. I'm afraid I didn't hear very well your answers, so I do apologize if you're having to repeat yourself.

To start, then, the meeting was first requested by Akin Gump on behalf of Bridgestone on 23 December 2014, and you'll see the e-mail in the bundle that you have in front of you. It should be at--if you go to the hard-copy bundle--that may be easiest; I don't know--and that is--

A. Which tab?

Q. That is at Tab 11.

A. Um-hmm.

Q. And you should--it should be a document marked at the top right R-0032. And--

A. Um-hmm.

Q. --if you turn to the second page of that document, it has the e-mail sent on 23 December 2014.

A. Um-hmm.

Q. And you'll see there that that is an e-mail from Mr. McNamara [sic, Ms.] from Akin Gump to Roy Galan to the Embassy, the Panamanian Embassy. And in
the first paragraph, second sentence, Mr. McNamara [sic, Ms.] says: "We are writing on behalf of our client to request a meeting with Ambassador Gonzalez-Revilla regarding a trademark issue that Bridgestone is facing in Panama."

Do you see that?

A. Um-hmm--yeah, I do.

Q. And it looks as if there was no response to that e-mail, and so if you could go to the beginning of that tab, the first e-mail in that chain, which is a follow-up e-mail from--

A. Um-hmm.

Q. Do you see that? It's an e-mail from Mr. Lightfoot.

A. Yes, on January 12th.

Q. And Mr. Lightfoot is from a consultancy firm called "Jones Group International," and Mr. Lightfoot was e-mailing Juan Heilbron, and--

A. Um-hmm.

Q. --and he was essentially saying that he would be grateful if a meeting with yourself could be arranged with a few partners from Akin Gump to discuss
a commercial matter relating to Bridgestone/Firestone.

You see that in the first paragraph.

A. Yes, correct.

Q. And Mr. Heilbron was--am I right?--he was the Embassy's commercial attaché.

A. Correct.

Q. And did you--

A. That's correct.

Q. Did you see either of those e-mails at the time in 2014-2015?

A. No, I did not.

Q. And could you turn, then, to Tab 12 in the same bundle, which is the next tab, and this is a note headed "Factual Background," and it was attached to Mr. Lightfoot's e-mail, the one that we were looking at a moment ago, and it sets out some of the factual background to the request for a meeting with yourself.

A. Um-hmm.

Q. And you'll see there on the first page, fourth paragraph, where they--the central point, I believe, was this: They say: "We believe that the Supreme Court's ruling is based on factual
mischaracterizations and a misapplication of Panamanian law, in particular the Decision penalizes Bridgestone simply for utilizing mechanisms provided under Panamanian law for challenging potential trademark infringements."

Do you see that?

A. Yes.

Q. And again, you had not seen that note in 2015; is that right?

A. No, I did not, sir.

You have to understand that, first of all, I have to clarify something, that the e-mail that was sent to Roy Galan on December twenty--what was it?--the 23rd, did not have a response because Mr. Roy Galan no longer worked at the Embassy, so Juan Carlos Heilbron actually replaced Roy Galan as Commercial Attaché.

And then, secondly, I think you need to understand where we were at those times, which was basically we were three weeks before the Summit of the Americas being held here in Panama, and basically a hundred percent of our time was basically at that time
being dedicated to make sure that the summit was successful. So, you know, I did not read those e-mails for the factual background that you mentioned just because I was basically given a brief, you know a normal brief from my staff on what the situation was.

Q. So, before the meeting occurred on 13 March, you were given an oral briefing by your staff.

A. Which is basically what we do on a weekly basis. We basically had a staff meeting--have a staff meeting--or had a staff meeting on Mondays, and we covered all the pending issues and meeting requests and so forth, and at that time when he brought up this meeting, and we said “sure, let’s give them the meeting.” But he explained, you know, briefly what the case was. They were like, you know, "There is nothing we can do, but we’ll meet them. We'll meet with them."

So, you know, there was really no point in me actually going and reviewing all the documentation because again there's nothing we can do when it relates to the Supreme Court.

Q. And in that briefing, when it was explained to you what the case was in Panama, it was explained to
you, I assume, that Bridgestone's concern was that this
decision would penalize Bridgestone simply for
utilizing mechanisms provided under Panamanian law for
challenging potential trademark infringements; is that
right?

A. I--I don't think that we covered that. We
basically covered the fact that they were not happy
with the ruling from the Supreme Court, and they wanted
to talk to us about it. And basically what we did
discuss at that meeting for sure was that what--you
know, there's really nothing we could do to actually
change a ruling from the Supreme Court. So, you know,
Juan Carlos Heilbron is not a lawyer either, so I don’t
think we got into what the claims were and so forth,
and just the fact that we knew that there's nothing we
could do.

And again, you know, we were trying to promote
investment. Bridgestone--you know, it's a very large
company, and we wanted them to feel that they were
being heard. But other than that, there is not more
than--you know, a whole lot more that we could do.

Q. And you've explained that the first e-mail,
the 23 December e-mail, probably was never received because Mr. Galan had left at that time and, therefore, there was no one reading that e-mail account and, therefore, I think you're saying that probably the first time anyone in the Embassy was aware of this request was from the 12 January 2015 e-mail--

A. Yes, correct, correct.

Q. And I'm right, aren't I, that at the beginning of February 2015, former President Martinelli was charged with corruption and that there was an investigation that was commenced by the Supreme Court and, therefore, that was something you were aware of at the time, I assume?

A. I don't remember exactly what the dates were, but yes, there was a process of--that started--investigations started against Martinelli at the Supreme Court level because he could not be judged by--or investigated by regular channels, since at the time he was--he had parliamentary immunity because he was a member of PARLACEN, which is basically a Central American Congress--as I recall, yes.

Q. And it was also at that time, in
February 2015, that the former President of the Supreme Court pleaded guilty to the criminal charges of corruption that we were looking at earlier, and you'll find that--it's on the record--it's at Tab 10, there is a press report from Reuters about him pleading guilty to charges of corruption.

Were you aware of that at the time in February 2015?

A. Yeah, I mean, this is at the end of February, as it says here, February 23rd, so this was a very public case. Of course, that was the first time that a Supreme Court justice has ever been charged and convicted of any crimes in Panama. So yes, it was a very big deal, and it was very public.

And he was--yes.

Q. And it was only a few days later, so that report of the conviction came through on--or the Reuters report we looked at was 23 February; and then on 3 March 2015, Mr. Heilbron from the Embassy then responded to Mr. Lightfoot's request for a meeting, and you'll find that at Tab 5 of the bundle. And Mr. Heilbron's e-mail to Mr. Lightfoot says: "Thanks
for reaching out, and I apologize for the very delayed response. Ambassador Gonzalez-Revilla would be able to sit down with some of the partners from Akin Gump to discuss the matters pertaining to the Bridgestone/Firestone case."

And then he says: "Please let me know if they would still be willing to meet and what dates would work for them."

A. Um-hmm.

Q. It looks, then, as if it was you who took the decision to accept the request for the meeting; would that be right?

A. I mean, every meeting that I had--they're meeting with me, of course, I had to agree to meet, but I--it was them who brought up during the staff meeting as, you know, so of course, you know, they're not telling me, you know, my staff will not be setting meetings up unless actually I agreed to meet with the individual or individuals, so yes, I--I was the one that accepted the meeting.

Q. And so your agreement, then, to have the meeting was made just a few days after the guilty plea
by the President of the Supreme Court, and less than a month after President Martinelli was charged, so that was the context in which you agreed to go ahead with the Bridgestone meeting; that's right, isn't it?

A. I mean, I don't know about the date, but, you know, those things had nothing to do with me accepting the meeting.

You know, I don't know where you're going with this, but I did not--if you're saying that I'm saying that I took the meeting or accepted the meeting because of what I read in the papers and what the rulings were, that is not correct. So, it had nothing to do with accepting the meeting. As far as I recall, it had nothing to do with any--with Moncada or anybody else. It had to do with basically giving Bridgestone a chance to say what it had to say. And that's it.

So, you know, I don't think that you can assume that because of the dates of it's happening, you know, we actually decided to give a meeting to Bridgestone; so no, that is not correct, sir.

Q. Now, the meeting with Bridgestone was held on the 13th of March. That was held at the Embassy;
right?

A. Yes, correct.

Q. And it was attended, I believe, on the Panama side by yourself and the Deputy Chief of Mission, Karla Gonzalez, and the Commercial Attaché, Mr. Heilbron. So this was a reasonably senior group of individuals from the Embassy; that's right, isn't it?

A. It was Karla--Karla was the DCM at the time and commercial counselor. She was batting for both, and then Juan Carlos Heilbron, who I believe, had only been with the Embassy for maybe three months or two months or something like that, so...

Q. But --

(Overlapping speakers.)

A. But it was standard for us to meet when we met with a foreign--you know, a large multinational corporation to have that kind of staff level at those meetings, so there was nothing unusual about that.

Q. But they were--I'm right, aren't I, that, you know, this is a reasonably senior group of people. It was yourself as the Ambassador and then the Deputy Chief of Mission and the Commercial Attaché. I mean,
those are people of seniority--

A. When you have nine people on your staff and pretty much everyone that goes to the meetings are senior people in—you know, we don't have—we're not like the U.K. Embassy or the U.S. Embassy that have 300,000 people in our embassies. I had—at the time, I think I had a staff of nine. We were completely understaffed.

So I don't know what you are implying with that, but—you know, but that was standard. I mean, every time a major corporation came, my Commercial Attaché and my DCM came. And even—you know, to all meetings because that's the staff we had. I didn't have any other staff that I would say who could come to those meetings—you know, lower-level staff, if you will, because, for example, Juan Carlos Heilbron didn't have anyone reporting to him, so—so, again, you know, I don't know what you mean by "senior people," specifically when, you know, it's not like we had a whole ton of people that we could, you know, bring into the meeting, so...

Q. And the attendees at the meeting on the
Bridgestone side were Mr. Steven Akey of Bridgestone America, Mr. Lightfoot from the Jones Group, Steve Kho, and Charlie Johnson from Akin Gump; that's correct, isn't it?

A. I would assume so. I mean, I wouldn't remember who attended the meeting. I know there were representatives from Bridgestone. I didn't remember that there were even lawyers at the meeting. But, you know, going back to documents that I've been shown and then looking at the aide memoire, that those are the names that are—you know, some of the names that are there, so I would assume yes. But I couldn't tell you, you know, one way or another who exactly was at that meeting.

Q. Do you remember--

A. Except for my staff--

(Overlapping speakers 00:40:31)

Q. Do you even remember how many people were at the meeting?

A. From our side, three; and from Bridgestone, I believe there were three or four. But I don't remember specifically the number of people in that meeting.
I mean, it was a very brief meeting of, you know, thousands of meetings that I had. So, you know, I don't recall the exact amount of people that go to every single meeting. So I cannot tell you exactly how many people went.

Q. And if we turn, then, to Tab 13 of the bundle--

A. Tab--which number, sir?

Q. 13, one-three, please.

And that should be referenced R-0035, and you should have--

A. Okay, yeah I have it.

(Overlapping speakers 00:41:28)

Q. --I believe--

A. Yes.

Q. --an English translation, and then underneath it, the Spanish language original. Do you have that?

A. Yes, I do.

Q. And this note was prepared--well, do you remember who prepared this note?

A. I would assume that it was Juan Carlos
Heilbron because he was the lower--the less senior person at the--at the--I believe, Embassy from our side, so I would assume it was Juan Carlos Heilbron. And then he probably reviewed it with Karla, who was the DCM.

Q. And the note includes a reference on the top right. Do you see that? It says "AM 15031." Do you see that?

A. Yes.

Q. And I'm assuming that what that stands for is "AM" stands for "Ayuda Memoria."

A. Um-hmm.

Q. And I expect "15" is the year; is that--

A. Yes.

Q. --would that be right? And then 031, I'm assuming, indicates that this is the 31st ayuda memoria of 2015.

A. Would that be right?

Q. So, this would be a formal record, then, of
the Embassy.

A. This is basically a standard way of proceeding where every time after a meeting, you know, we would do a--basically a small, you know, brief aide mémoire of the meeting to put in a file for future reference in case we needed it.

Q. But the fact that it's given a specific number would suggest that it is a formal document. It's not an informal record. It's a formal record; would that be correct?

A. It goes in the file, of course.

Q. I'm sorry, I didn't hear that. I'm sorry.

A. I said yes, I mean we include it with every single aide mémoire. It goes--you know, we number it, and then it goes into a part of the specific meeting.

Q. And the note does not mention that Mr. Akey attended the meeting, does it? Do you see that? In terms of the attendees there, it does not mention Mr. Akey.

A. Um-hmm.

Q. But we know that Mr. Akey was there, and Mr. Akey has produced a witness statement that I'm sure
that you've read, which is at Tab 2 of the Bundle. You may not need to turn to it, if you've read it recently.

    A. Yeah, I can go there.

    Q. But you can see at Tab 2 that Mr. Akey has produced a witness statement, and he has set out there his recollection of what happened at the meeting, but you'll see that the aide mémoire does not mention Mr. Akey being there.

    Do you see that?

    A. Yes, I do.

    Q. And the note also does not mention that Mr. Johnson attended, Mr. Charlie Johnson from Akin Gump. It doesn't mention that either, does it?

    (Pause.)

    Do you agree that the note, the aide mémoire, does not mention that Charlie Johnson was an attendee at that meeting?

    A. Yes. I don't see his name here either, yes.

    Q. And do you see at the end of the list of attendees it also says that Mr. McNamara [sic, Ms.] from Akin Gump did attend that meeting?

    Do you see that?
A. Yes, I do.

Q. But--but the--the Witness Statements from the other attendees, Mr. Akey and Mr. Lightfoot, which are at Tabs 2 and 3 of your bundle, confirm that he [sic, she] did not attend this meeting; that's right, isn't it?

A. I guess, yes.

Q. So, it's fair to say that this note is inaccurate, isn't it?

A. It's inaccurate to the point of the attendees. Again, you know, we had several meetings where people don't bring business cards or people don't recollect. I don't know exactly why their names are not here. I understand that Yujin McNamara had been corresponding with Juan Carlos directly, so maybe that's why he got confused. But to the effect of what's stated on the core and the main issue of what was discussed in the meeting, the aide mémoire is completely accurate.

Q. You said earlier during the questions you were asked by counsel for the Respondent, you said that--you said you were unclear whether the question of corruption came up at all but that if it did come up,
then it would have been a discussion of corruption from
the previous regime. That's effectively what you said
to counsel for the Respondents a little while ago, isn't it?

A. That's not what I said. What I said it was if
the issue of corruption had come up, it would have come
up in the basically template pitch that we were
basically giving about the new administration, and
basically, as it pertained to the five pillars of the
Varela administration going forward; and that's
something that we repeated to Congress, that we
repeated with private-sector meetings, et cetera, et
cetera, et cetera. So that's what I'm saying, that
that was basically the boilerplate pitch that we would
give.

So maybe it would have come up. If it did
come up, I have no recollection of that. It would have
been under those--under that circumstance, but I don't
recall that corruption being brought up in the meeting.

Q. So, you have no recollection whether
corruption was or was not brought up.

A. Not specifically, no.
Q. And if you could turn, then, please, to Mr. Akey's witness statement—and you will find that—we looked at it before—it's at Tab 2.

A. Tab 2?

Q. Tab 2. And paragraph 8.

A. Um-hmm.

Q. And at paragraph 8, Mr. Akey sets out what he recalls was said at the meeting, at paragraph 8. He says: "However, I could see that the Ambassador had been well briefed and already knew about the case. He interrupted Steve"—and "Steve" is Mr. Kho, who had been providing a summary of the issues in the Supreme Court case. So, Mr. Akey says: "He interrupted Steve after only a short time, since, so it appeared, he did not need to hear any more because he knew the facts already. The Ambassador said that the Supreme Court Judgment was the result of corruption. The specific words he used were 'You know what this is; right? It's corruption.'"

Now, we've looked at the context of this meeting, and you, yourself, said that it was a big deal that the former President then was subject to
investigation for corruption, that the former--a former justice of the Panamanian Supreme Court for the first time ever then had pleaded guilty to corruption. You mentioned that you were a supporter of President Varela who was concerned and had been elected on a platform to address what was said to be corruption from the previous regime.

So, in light of that and in light of what Mr. Kho said, it's not surprising that your immediate reaction would have been, "Well, this sounds like corruption." That's what--

(Overlapping speakers 00:50:09)

A. No, I did not say that, sir. I did not say that. How would I be able to say that if I didn't even know the specifics of the case or who the judges were in the specific case?

I mean, you know, I don't know how you can basically without even knowing me say that it is expected that I would have said that. I mean, I really--I really don't know--I believe that's not what happened, and I would have never said that--ever.

Q. But you don't need to know the specific names
of the parties, and you don't need to know the names of
the judges in order for it to be possible to form the
view that a judgment makes no sense and must have been
the result of corruption; that's right, isn't it?

A. For me to know that a judgment makes no sense,
I would have to know the specifics of actually the
case, the actual case, which I didn't. So, I'm sorry,
but I--I--I did not have enough information at the time
or even today to be able to assert that the
ruling was corrupted, so--

Q. So--

(Overlapping speakers.)

A. --I don't think it's fair to say that because
of what happened at the time, you know I blurted out
these things that I didn't, but I--

Q. Mr. Kho--

(Overlapping speakers.)

A. I didn't have--

Q. --in the meeting--

(Overlapping speakers.)

Q. Mr. Kho, in the meeting, had
explained--provided an overview of Bridgestone's
concern, hadn't he? I mean, that was the point of the meeting--

A. I don't remember exactly what Mr. Kho said, sir. What I remember--basically, what I do remember is they were upset about the specific ruling from the Supreme Court, and they wanted us to basically get involved in meddling with the Supreme Court Judgment when we told them we could not do that, so that to me specifically was very surprising.

So, you know, this--I don't know--I don't know if they thought that Panama would work that way. To me, that's shocking, if you ask me. Again, you know, the rulings of the Supreme Court are final.

As I understand, they were never--there hadn't been any order of investigations or claims or anything against any other Supreme Court Justice, so I don't think you can assert that because Moncada Luna was convicted of corruption, you know, the whole judicial system is corrupt.

So, again, it has nothing to do with that. As I told you before, we were very busy with the Summit of the Americas. Bridgestone was an important company,
and we just wanted to give them a chance to basically say what they had to say, and so they didn't feel that we were basically brushing them off.

So, we did the meeting, and they expressed their concerns, and we immediately told them there was nothing we could do about it, and that was the end of it. We never heard back from them. I don't believe we communicated with them afterwards. I don't believe they communicated with us after that, so that was the end of the meeting because I think they thought that the fact that there was nothing we could do nothing about it, and we told them, and it's in the aide mémoire.

Q. Mr. President, I have no further questions.

PRESIDENT PHILLIPS: Thank you.

Any re-examination?

MS. GEHRING FLORES: Yes.

REDIRECT EXAMINATION

BY MS. GEHRING FLORES:

Q. Just briefly, Mr. Ambassador, if you could turn to Tab 11--

A. Um-hmm.
Q. --in your cross binders--
A. Um-hmm.

Q. --if anything, it's a clarification because I believe that counsel for Bridgestone stated on Page 2 the e-mail that's dated, so if you look at Page 2 of that document--
A. Um-hmm.

MS. GEHRING FLORES: And, sorry, for the record, this is Exhibit R-32.

BY MS. GEHRING FLORES:

Q. On Page 2 of that document appears the e-mail from Yujin McNamara dated December 23rd, 2014, to Roy Galan, I believe that counsel for Bridgestone stated that this e-mail was sent on behalf of a variety of Bridgestone corporations, including Bridgestone Americas, but I just want you to read the first half of that--just read the first sentence of that e-mail that says "We represent."

A. Okay.

"We represent Bridgestone Corporation and Bridgestone Brands, Bridgestone Licensing Services, collectively 'Bridgestone' who collectively owned the
BRIDGESTONE and FIRESTONE trademark in the United States and around the world. We are writing on behalf of our client to request a meeting with Ambassador Gonzalez-Revilla regarding a trademark issue that Bridgestone is facing in Panama."

Q. That's—that's good.

Do you see "Bridgestone Americas" mentioned in that first sentence, Mr. Ambassador?

A. No, I don't.

Q. Thank you.

And if you turn to Tab 12, which is R-0033. This I believe is the background memo that Bridgestone or Akin Gump prepared on behalf of Bridgestone--

A. Um-hmm.

Q. --and I believe it was represented to you that these documents were somehow sent on behalf of or included Bridgestone Americas.

Could you now read just the first sentence of that background memo, please.

A. "Bridgestone Corporation, Bridgestone Brands, and Bridgestone Licensing Services own the BRIDGESTONE and FIRESTONE trademarks in the United States and
around the world."

Q. Thank you.

Is "Bridgestone Americas" mentioned there?

A. I do not see it mentioned there.

Q. Thank you.

Counsel for Claimants also asked you about a particular paragraph in Mr. Akey's--(sound interference)--witness statement which can be found at Tab 2 of your cross binder.

A. Um-hmm.

Q. And he read most, if not all, of that paragraph.

The first line of that paragraph states: "However, I can see that the Ambassador had been well briefed and already knew about the case."

Could you give me your thoughts on that sentence?

A. I mean, I don't know what he refers to "well briefed." I mean, I was briefly briefed as to the scope of what they were complaining about, but I did not know the specifics of the case, so I don't know how Mr. Akey could, you know, basically infer that I had
complete knowledge of the details of the case, which is what he seems to be saying here.

So, I don't know how complete brief or well briefed would be, you know, basically two minute, you know, discussion on the staff meeting, so...

Q. Was Mr. Akey present for any of your preparation for the meetings?
A. No, of course not.
Q. Thank you, Mr. Ambassador.

MS. GEHRING FLORES: No further questions.
PRESIDENT PHILLIPS: Do either of my colleagues have questions?

ARBITRATOR GRIGERA NAÓN: Nothing on my side, Mr. President.

ARBITRATOR THOMAS: None from me, either.
PRESIDENT PHILLIPS: And I have no question either.

So, it just remains to thank you, Mr. Ambassador, for your assistance, and hope that you enjoyed a very good holiday in Africa when we were having our original session.

THE WITNESS: I'm so sorry, Mr. President,
that I couldn't be with you at the time, but there was no connection at the top of Kilimanjaro, so...

PRESIDENT PHILLIPS: Well, if you got there, you have my admiration.

(Laughter.)

THE WITNESS: Well, thank you very much. It's been a pleasure to be here with you, and thank you for your time.

PRESIDENT PHILLIPS: Thank you.

(Witness steps down.)

PROCEDURAL DISCUSSION

PRESIDENT PHILLIPS: Now, can we revert to the matter that was raised in relation to Panama's request sent by e-mail, which I have not yet discussed with my colleagues. The first thing I would ask Mr. Williams, are you in a position to deal with this at all at this point?

MR. WILLIAMS: I will do my best, Mr. President, yes.

PRESIDENT PHILLIPS: Yes.

What they were saying is that they would like some clarification.
I think in short what they're after is to know what, if any, of your originally pleaded case you will not be pursuing in your written submissions, to save some paper in the process replying or in tilting at windmills.

MR. WILLIAMS: Yes. And I think in particular they identify at Footnote 5 the two areas where they have identified a concern as to lack of clarity, and those two areas, I believe, then, are, Number 1, that the res judicata point--

PRESIDENT PHILLIPS: Yes.

MR. WILLIAMS: --which was discussed, I think, on a couple of occasions at the last hearing, and the position I had tried to make clear, but to confirm is that the res judicata point is no longer pursued by the Claimants.

PRESIDENT PHILLIPS: That had been my understanding, but I'm grateful to have it confirmed, and I suspect the Respondent will be as well.

The other, I think the Section 217 point, that the Supreme Court should not have been applying that section, and I think--again, they were seeking
clarification as to whether that was being pursued as one of the elements of denial of justice.

MR. WILLIAMS: That is maintained as an element of the denial of justice, yes.

PRESIDENT PHILLIPS: In that case, that's helpful.

MS. SILBERMAN: Mr. President, if I might clarify, one of the motivations behind the request is certainly to try to get a sense of what the Claimants have abandoned, but we also would like to understand the claim in its affirmative formulation. Typically, this takes place in a PowerPoint presentation. The Claimants didn't provide any such presentation during the earlier session that we had, so really we would just like to make sure that we understand what the elements of the Claimants' merits theory is.

We know, of course, what the measure is, we understand the cause of action, but what we're not entirely clear on is how to connect the dots, so if the Claimants could provide that information to us just in even bullet-point form, it would greatly improve efficiency and ensure that both Parties are saying the
same thing in their Post-Hearing Submissions.

    PRESIDENT PHILLIPS:  Do you have any comment
to make in relation to that?

    MR. WILLIAMS:  Well, I do, and really my
comment is this, that we had really endeavored to be as
focused as we could be in our oral closing and opening
at the last hearing, and we produced a demonstrative
that the Tribunal may or may not remember, which is
C-003 in order to provide as much clarity as we could
and to make it as simple as we could for everyone as to
precisely then what the Claimants' case is. And,
therefore, the--our case is, as outlined in our oral
opening and oral closing by reference, then, to
Demonstrative C-003.

Now--of course, if the Tribunal considers it
would be helpful, of course we will produce a written
document that will set out again what the Claimants'
case is, but it will, I fear, simply largely--or it
will be a repetition, then, of what was said in the
oral opening, oral closing, and in Demonstrative C-003.

    PRESIDENT PHILLIPS:  Thank you.

    (Overlapping speakers.)
MS. SILBERMAN: Mr. President, may I clarify?

PRESIDENT PHILLIPS: Yes.

MS. SILBERMAN: Of course, we have seen these demonstratives, and we sat through the opening and closing. The problem that we encountered especially when we reviewed the transcripts was that there was a lot of chatter, and there were different denial-of-justice terms of art that were thrown out.

For example, during the closing, there was discussion of the "undue delay" line of jurisprudence. We're not sure where that falls in, if that is a theory that the Claimants are advancing; if it is, it would be an entirely new claim. What we would like is an explanation of not just, as it says in these demonstratives, what the Supreme Court majority decision said, what the dissenting opinion stated. We want to know what the theory about those elements actually is. That's what we're having trouble understanding.

And it really shouldn't take the Claimants too long to put this together. This is their merits theory, and they can't validly say they are entitled to
hide the ball on this. This is their claim. Panama, as Respondent, is entitled to know what it's responding to, and we are having trouble in determining what precisely is the Claimants' theory now.

So, to the extent that Claimants could provide a brief summary, that would be very useful for us.

PRESIDENT PHILLIPS: Yes, thank you.

Well, I and my colleagues have heard what you said, we have heard what Mr. Williams has said. We will discuss your request and give a ruling on it as soon as we can, which should be quite soon.

MS. SILBERMAN: Thank you very much.

PRESIDENT PHILLIPS: All right. Is there any other business? No?

Well, I will close this session to thank you all very much.

MR. DEBEVOISE: Thank you, Mr. President.

MS. GEHRING FLORES: Thank you, Mr. President.

MS. KEPCHAR: Thank you, Mr. President.

(End of audio file.)
CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

[Signature]

DAVID A. KASDAN