

THE INTERNATIONAL CENTRE FOR THE SETTLEMENT OF  
INVESTMENT DISPUTES

-----x  
 In the Matter of Arbitration :  
 Between: :  
 :  
 FERNANDO PAIZ ANDRADE AND :  
 ANABELLA SCHLOESSER DE LEON DE PAIZ, :  
 :  
 Claimants, : ICSID Case No.  
 : ARB/23/43  
 and :  
 :  
 REPUBLIC OF HONDURAS, :  
 :  
 Respondent. :  
 -----x Volume 2

HEARING ON JURISDICTION

Thursday, September 18, 2025

The World Bank Group  
1225 Connecticut Avenue, N.W.  
C Building  
Conference Room C1-450  
Washington, D.C.

The hearing in the above-entitled matter  
came on at 9:04 a.m. before:

PROF. NICOLAS ANGELET  
President of the Tribunal

MR. STEPHEN L. DRYMER  
Co-Arbitrator

PROF. BRIGITTE STERN  
Co-Arbitrator

**ALSO PRESENT:**

On behalf of ICSID:

**MS. GABRIELA GONZÁLEZ GIRÁLDEZ**  
Secretary of the Tribunal

Realtime Stenographers:

**MS. DAWN K. LARSON**  
Registered Diplomate Reporter (RDR)  
Certified Realtime Reporter (CRR)  
2564 West 280 North Street  
Hurricane, Utah 84737  
United States of America  
DawnStenosTheWorld@gmail.com  
+1.720.298.2480  
DawnStenosTheWorld.com

**SR. LEANDRO LEZZI**  
**SRA. VIRGINIA MASCE**  
D.R. Esteno  
Colombres 566  
Buenos Aires 1218ABE  
Argentina  
(5411) 4957-0083

Interpreters:

**MS. CLAUDIA BISHOPP**

**MS. ELENA HOWARD**

**MR. DANIEL GIGLIO**

**APPEARANCES :**

**On behalf of the Claimants:**

**MS. SILVIA M. MARCHILI  
MS. ESTEFANÍA SAN JUAN  
MR. MAURICIO MOURGLIA  
MS. MARLENE MATEO  
White & Case LLP  
Southeast Financial Center  
200 South Biscayne Boulevard  
Suite 4900  
Miami, Florida 33131-2352  
United States of America**

**MS. ANDREA MENAKER  
White & Case LLP  
5 Old Broad Street  
London EC2N 1DW  
United Kingdom**

**MS. EFAT ELSHERIF  
White & Case LLP  
1221 Avenue of the Americas  
New York, New York 10020-1095  
United States of America**

**MR. JACOB BACHMAIER  
White & Case LLP  
701 Thirteenth Street, NW  
Washington, D.C. 20005-3807  
United States of America**

**Representative of Claimants:**

**MR. FERNANDO PAIZ ANDRADE**

**APPEARANCES: (Continued)**

**On behalf of the Respondent:**

**MR. KENNETH FIGUEROA  
MR. ANDRÉS F. ESTEBAN  
MR. JOSÉ GARCÍA REBOLLEDO  
MR. LUCAS SOLIMANO  
MR. LUIS E. BRUGAL  
MS. MARIANA REYES MUNERA  
MR. LUIS C. BATTISTA  
MS. IRENE SORTO  
MS. MARCELA MUÑOZ  
Foley Hoag LLP  
1717 K Street, N.W.  
Washington, D.C. 20006  
United States of America**

**Representatives of the Republic of Honduras:**

**MR. MANUEL ANTONIO DIAZ GALEAS  
MR. MARCIO A. CANACA CURRY  
MR. NELSON GERARDO MOLINA FLORES  
MS. MARÍA DANIELLA RUEDA CÁRCAMO  
Procuraduría General de la República**

**MR. NORMAN V. RODRÍGUEZ PAZ  
MR. ANDY J. RIVERA ZEPEDA  
Empresa Nacional de Energía Eléctrica**

**APPEARANCES: (Continued)**

**NON-DISPUTING CAFTA-DR PARTY:**

**For the United States of America:**

**MR. DAVID BIGGE  
MS. MARY MUINO  
Office of International Claims and  
Investment Disputes  
Office of the Legal Adviser  
U.S. Department of State  
Suite 203, South Building  
2430 E Street, N.W.  
Washington, D.C. 20037-2800  
United States of America**

C O N T E N T S

	PAGE
PRELIMINARY MATTERS.....	307
WITNESSES:	
FERNANDO PAIZ	
Direct examination by Ms. Marchili.....	311
Cross-examination by Mr. Figueroa.....	319
Cross-examination by Mr. Solimano.....	360
Questions from the Tribunal.....	387
Direct examination by Ms. San Juan.....	394
Cross-examination by Mr. Solimano.....	402
Questions from the Tribunal.....	451
Additional exam. by Ms. San Juan.....	463
Additional exam. by Mr. Solimano.....	464
HOUSEKEEPING MATTERS.....	465
CONFIDENTIAL SESSIONS...322-326, 333-341, 354-357, 361	

P R O C E E D I N G S

1  
2           PRESIDENT ANGELET: Good morning, ladies  
3 and gentlemen.

4           So this is the second day of the Hearing  
5 on Jurisdiction in Arbitration Case 23/43,  
6 Mr. Fernando Paiz Andrade and Ms. Annabella  
7 Schloesser de Leon De Paiz v. The Republic of  
8 Honduras.

9           The day is entirely devoted to witness  
10 examination, except that the Tribunal considers  
11 asking a few additional questions on other issues  
12 ahead of the Closing Statements of tomorrow. That  
13 will be towards the end of the day.

14           So if the Parties have no housekeeping  
15 issues to address?

16           MR. FIGUEROA: Mr. President, yes. The  
17 Republic does. And it's just a point of order. For  
18 purposes of efficiency, the cross-examination of  
19 Mr. Paiz has been divided into two parts between  
20 myself and my colleague Lucas Solimano. The lines  
21 of questioning are completely separate.

22           Neither of us intend to overlap, so it

1 will be very clear, very delineated, and we  
2 just -- it is not prohibited by the Procedural  
3 Order, but neither is it expressly stated, so we  
4 want to just put it before the Tribunal and hope  
5 that we can proceed in that manner.

6 PRESIDENT ANGELET: Thank you.

7 Claimants?

8 (Interruption.)

9 MS. MARCHILI: No housekeeping issues, and  
10 we don't have an issue with what the Counsel just  
11 proposed.

12 PRESIDENT ANGELET: Thank you very much.

13 MR. FIGUEROA: And just one more. We  
14 believe the second witness for today, we understand  
15 that even his name is confidential, and maybe we can  
16 come to agreement that it is -- you know, whether or  
17 not it will be. But the second witness, if even his  
18 name is confidential, we propose that the entire  
19 cross-examination be done off -- you know, under the  
20 confidentiality rules.

21 PRESIDENT ANGELET: Sorry. I'm not sure I  
22 understood what you said.

1           MR. FIGUEROA: Sorry. Since the second  
2 witness, even his name is confidential, we propose  
3 that the entire cross-examination be done under seal  
4 or, under -- you know.

5           PRESIDENT ANGELET: Claimant, what is your  
6 position in that respect?

7           MS. MARCHILI: That seems a practical  
8 arrangement. Thank you.

9           (Comments off microphone.)

10          PRESIDENT ANGELET: Thank you.

11          MR. FIGUEROA: Thank you.

12          PRESIDENT ANGELET: Very good. Then we  
13 may proceed, and we will ask Mr. Paiz to join us.

14          FERNANDO PAIZ ANDRADE, CLAIMANT'S WITNESS, CALLED

15          PRESIDENT ANGELET: And may I, perhaps,  
16 ask a question to the Claimants or: Will Mr. Paiz  
17 testify in English or in Spanish?

18          MS. MARCHILI: In English, Mr. President.

19          PRESIDENT ANGELET: Thank you.

20          MS. MARCHILI: Thank you.

21          PRESIDENT ANGELET: Mr. Fernando Paiz  
22 Andrade, welcome. I am the President of Tribunal,

1 Nicolas Angelet. My co-arbitrators, Stephen Drymer,  
2 and Brigitte Stern. As you will have been informed,  
3 we will first invite you to make a declaration of  
4 truthfulness, which should be on your desk, and then  
5 you will first be examined by Counsel, by your  
6 Counsel and then cross-examined by Counsel for the  
7 Respondent.

8 So now, you -- please, if you may read the  
9 Statement, and then we will proceed with the  
10 examination. Thank you.

11 (Comments off microphone.)

12 PRESIDENT ANGELET: Importantly, you  
13 should -- yes. Thank you.

14 THE WITNESS: I forgot. Should I read it  
15 in English, sir? Or it makes no difference.

16 PRESIDENT ANGELET: Please do, yes.

17 THE WITNESS: Okay.

18 I solemnly declare, upon my honor and  
19 conscience, that I shall speak the truth, the whole  
20 truth, and nothing but the truth.

21 PRESIDENT ANGELET: Thank you.

22 Counsel.

1 MS. MARCHILI: Thank you, Mr. President.

2 DIRECT EXAMINATION

3 BY MS. MARCHILI:

4 Q. Good morning, Mr. Paiz.

5 You have submitted two Witness Statements  
6 in this arbitration. And could you please confirm  
7 that you have them in front of you?

8 A. Yes, I do.

9 Q. Thank you.

10 In Paragraph 5 of your Second Witness  
11 Statement, if you could look at it, if you  
12 wish -- you mentioned that you made the decision to  
13 invest in the Project. Could you please describe  
14 how you acquired the investment in Pacific Solar and  
15 why you decided to invest in the Project?

16 A. When Honduras made public the plans to  
17 provide incentives and created a very friendly  
18 environment for Green Energy in the country. In  
19 fact, the legislation promised to give a -- tax  
20 incentives and other incentives for investors in  
21 that area.

22 And, most importantly, for me, I became

1 aware that the Ministry of Finance and the  
2 Procuraduría General de Nacional -- I don't know how  
3 you translate that entity -- were providing a  
4 co-signature to the Contract, the PPA Contract, that  
5 one was subscribed between the publicly-owned  
6 utility and ourselves.

7           That was very important for me because I  
8 remember I even took the time to go and review  
9 the -- how well Honduras was paying their  
10 international bonds and so forth. And Honduras has  
11 a very good credit rating internationally. So I  
12 assumed that the co-signature was very important.

13           It hasn't proved to be so, but at that  
14 time, it -- for me, it was a no-brainer to invest.  
15 I had been in business in Honduras for many years  
16 developing other operations from -- my God, I  
17 started in Honduras when I was about 17 years old  
18 accompanying my parents when we invested in our  
19 first supermarket in the country. And after that I  
20 developed shopping centers and other businesses in  
21 the -- in other real estate developments.

22           And I felt I knew the country, the people,

1 and I felt very comfortable in Honduras. So that  
2 was the reason to decide to invest, so my wife and I  
3 made the decision to acquire Pacific Solar at that  
4 time.

5 Q. Thank you. And, as you know, Mr. Paiz,  
6 Honduras has questioned your ownership and control  
7 of Pacific Solar. Could you please describe your  
8 personal involvement in Pacific Solar throughout the  
9 life of the Project?

10 A. My gosh, the involvement in the Project is  
11 from the very beginning from meeting with different  
12 multinational -- multilateral lending institutions  
13 and seeking to finance a Project, meeting with the  
14 Contractors to build a Project, and eventually going  
15 to Holland to -- and Germany to sign the Loan  
16 Agreements with our financing entities, DEG, the  
17 Development Bank of Germany, and FMO, the  
18 Development Bank of Holland.

19 And so I was involved -- I met with the  
20 Contractors and we were deciding the different types  
21 of technology that was available at the time. So I  
22 visited the construction site, and I met with my

1 management. So I was -- I'm a -- pretty much a  
2 hands-on investor. I don't just look at the  
3 Projects. I get involved quite a bit from the very  
4 beginning.

5 Q. Thank you.

6 And from then on, once the Plant was  
7 built, what has been your role?

8 A. Well, for example the Plant is right now  
9 around seven years old, and we are making Decisions  
10 of changing technology, changing the older solar  
11 panels for newer ones and putting the older panels  
12 in storage for spare parts because they are becoming  
13 difficult to get. So we have recently decided to  
14 change the inverters for new technology from [REDACTED]  
15 that is more efficient and so forth.

16 And in fact, not -- just a couple months  
17 ago we decided to acquire a spare transformer  
18 because we have always feared that, if ours went  
19 out, it would take almost a year to get a new one.  
20 So we've made those decisions.

21 So the day-to-day continues with the  
22 relationship with our banks. We have restructured

1 our loans and we did so in attending personally to  
2 the headquarters of FMO in Davos. We met at length  
3 to negotiate a new restructuring of our loans.

4 So I continued to be involved. I enjoyed  
5 going to Pacific Solar. It makes me happy to see.  
6 Our Project is run very well, and we are usually  
7 recognized as being one of the best-run Plants in  
8 the country.

9 Q. Thank you.

10 In Paragraph 6 of your Second Witness  
11 Statement, you mentioned that you are the  
12 decision-maker as it relates to Pacific Solar, and I  
13 think that you have already alluded to that in  
14 answering the prior question, but could you please  
15 explain what that means vis-à-vis the lenders, who  
16 you also just mentioned?

17 A. Well, it's important to say that I've had  
18 a relationship with these lenders for a long time.  
19 They have financed forestry Projects in  
20 South America, hotels for us in Nicaragua, and they  
21 even financed a thermal Plant in Nicaragua also. So  
22 they know us. We are comfortable with them.

1           They are comfortable with us. They trust  
2 in our decision-making on every day, so we make the  
3 decisions of how we use the funds, even though we  
4 have Trust Agreements with the Banks for our  
5 collateral. We run the Plant as if the Trust  
6 Agreements didn't exist. It's a day-to-day  
7 operation for us in the decision-making. So I don't  
8 know if that satisfies the answer to your question.

9           Q.    Yes. Thank you very much.

10           You just mentioned the Trusts. As you  
11 know, Honduras is questioning your ownership and  
12 control relying on two Trust Agreements in which  
13 ██████████ is the Trustee. Could you please explain  
14 a little bit more the role of those Trusts and their  
15 effects in, if any, on your ownership and control of  
16 Pacific Solar?

17           A.    I would say --

18           ARBITRATOR DRYMER: As you answer that,  
19 she asked you about ownership and control, please  
20 add the words "and decision-making," the Trust's  
21 role, if any, in the decision-making.

22           THE WITNESS: Thank you, sir. I will make

1 sure to emphasize that, that aspect.

2 The Trust Agreements are quite common,  
3 common practice by banks today. They replace giving  
4 a first mortgage on a property or a lien on assets  
5 and so forth. The banks, the international banks,  
6 as they don't have local presence in Honduras, they  
7 requested that we secure a local bank to provide a  
8 Trust Agreement for us, and we chose [REDACTED], and  
9 not accidentally. [REDACTED] is a bank, even though  
10 it's a Honduras-licensed bank, it's owned by an  
11 international group from Colombia, and that gave us  
12 an additional level of comfort that they would  
13 effect their decisions in whatever management  
14 decision they had on our Trust with independence  
15 from local authorities.

16 Now, the Trust, for example, we have local  
17 currency accounts, we have U.S. dollar accounts, we  
18 have Certificate of Deposit accounts where we store  
19 cash in -- so it's ready to make our payments on due  
20 dates to our lending banks. For example, in  
21 November, we have payments coming up and our CDs  
22 mature just a few days before the due date. So we

1 make those decisions.

2           The bank never asks us anything. They  
3 are -- I'm saying the Trust bank, [REDACTED] doesn't  
4 question anything, and they are not asked by the  
5 lending banks to question anything. They are  
6 comfortable that our decisions abide by the terms of  
7 the loan and that we use the resources for the  
8 purpose they are intended.

9           So even though these Trust accounts exist,  
10 we control and -- and I would say I control and I  
11 make the final decisions regarding this Project.  
12 Those decisions I don't make alone. I have  
13 professionals that are quite more expert in solar  
14 energy and the operating of plants like this. And  
15 [REDACTED], who is my CEO of my energy division,  
16 will be here later to speak to you. But the General  
17 Manager and the staff, I know them personally. I  
18 visit the Plant often. So I run that Plant like I  
19 run my other businesses, on a hands-on manner.

20           I hope that addresses the concern. The  
21 banks don't own. I have final control of the  
22 Company, even though the assets are put in trust,

1 where the banks access -- custodian of those assets  
2 on behalf of the lending banks.

3 MS. MARCHILI: Thank you, Mr. Paiz.

4 That concludes our direct examination.

5 Thank you.

6 PRESIDENT ANGELET: Thank you very much.

7 Then the floor is yours.

8 MR. FIGUEROA: Thank you, Mr. President.

9 CROSS-EXAMINATION

10 BY MR. FIGUEROA:

11 Q. Good morning, Mr. Paiz. Thank you for  
12 being here with us. My name is Kenneth Figueroa.  
13 I'm a partner with Foley Hoag and I represent the  
14 Republic of Honduras in this Arbitration. To my  
15 left is my colleague Lucas Solimano, who is also an  
16 attorney with Foley Hoag and represents the Republic  
17 of Honduras. We will be asking you questions today  
18 regarding your witness testimony, your written  
19 testimony as well as any documents or facts about  
20 which you may have personal knowledge.

21 Just so you're aware, I'm going to be  
22 doing a first couple lines of questions with respect

1 to very specific issues. After that, I'll cede the  
2 floor to my colleague who will proceed with other  
3 lines of questioning. There won't be an overlap in  
4 questioning, so each of us have separate topics we  
5 would like to address with you.

6 I am going to try and be as clear as  
7 possible in my questions. I ask that, if there is  
8 any confusion or you would like me to repeat the  
9 question, please ask me to do so, or please ask to  
10 clarify anything you don't understand.

11 Most of my questions will require a  
12 yes-or-no answer. I ask that you please verbalize  
13 "yes" or "no." Nodding or shaking your head won't  
14 do us very much for the record. So please verbalize  
15 "yes" or "no." And I'm going to ask you to keep it  
16 yes or no unless you really feel the need to  
17 explain. If you need to explain something, I  
18 obviously will permit you, obviously within reason,  
19 given that we have certain time limits during the  
20 day. If there's any open issues, my colleagues  
21 across the floor always have the right to redirect  
22 you after my cross-examination.

1                   So I hope all of those instructions are  
2 clear?

3           A.    They are clear.   Good morning, sir.

4           Q.    Good morning.

5                   One last issue is we will be dealing with  
6 some documents that are in Spanish, but I understand  
7 you speak Spanish and are able to read Spanish;  
8 correct?

9           A.    Yes, sir, I do.

10          Q.    There may be situations where I'll ask you  
11 to read the Spanish for the record for Translators  
12 to translate it into English in the process, and I  
13 may ask you to confirm my understanding in English  
14 of what you just said.

15                   Does that make sense?

16          A.    Will do.   Thank you.

17          Q.    Thank you.

18                   Now, Mr. Paiz, you first acquired an  
19 ownership stake in Pacific Solar in late 2014;  
20 correct?

21          A.    That is correct, sir.

22          Q.    Now I'm going to take you to a document

1 that has been marked confidential by Claimants, and  
2 so we are going to ask that we go off record.

3 (End of open session. Attorneys' Eyes  
4 Only information follows.)

5 CONFIDENTIAL SESSION

[REDACTED]







[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 (End of Attorneys' Eyes Only session.)

9 OPEN SESSION

10 BY MR. FIGUEROA:

11 Q. Now, I'd like to go to Exhibit C-3. This  
12 is Tab 17 in your Binder.

13 A. 17 you said, sir?

14 Q. One sec.

15 A. What section should I be paying attention  
16 to, sir?

17 Q. Okay. So this is Exhibit C-3. This now  
18 is the Operating Agreement, and you recognize this  
19 document, don't you?

20 A. Yes, I remember seeing it in the past. I  
21 don't remember ever consulting it again, though, but  
22 I remember seeing it originally, yeah.

1 Q. Okay. And on the first page, you can see  
2 where it says "Considerando." It appears that the  
3 Agreement is signed on February 23, 2015; is that  
4 right?

5 A. I'm looking for the date, sir. I'm sorry.  
6 I can't find it.

7 Q. Sure. After the first considerando  
8 [whereas], it says "que en fecha veintitrés de  
9 Febrero del año dos mil quince." [that on 23  
10 February 2015.]

11 A. Yes, I see it. On the top line, yes, I  
12 see it.

13 Q. Okay. Good.

14 Now, there seems to be an error in the  
15 document, and later on, after Article 1, on the  
16 second column of that document, which is Page 1,  
17 right on that very same page, it says that the  
18 Agreement is 23 February 2014; correct? It's on the  
19 screen and highlighted in yellow in case you --

20 A. Yes, I see that.

21 Q. Okay. Now, that's an error; right? The  
22 Agreement was signed in 2015; right? I just want to

1 confirm that with you.

2 A. I don't exactly remember the date of that  
3 signature, sir, but, like I said, it got published.  
4 That did happen. I presume it did. I just don't  
5 remember the dates precisely.

6 Q. Okay.

7 A. Yeah.

8 Q. If you don't recall, that's fine. But,  
9 regardless of the date, I want to go down to the  
10 very last page, Page 11, and I want you to confirm  
11 for me -- very last page, the right-hand column.  
12 No, 11, Page 11.

13 A. Yeah.

14 Q. The person who signs for Pacific Solar is  
15 Ms. [REDACTED]; correct?

16 A. You're talking Page 11; right? Yes. This  
17 was signed before they sold the Shares to us. [REDACTED]  
18 [REDACTED] was one of the Shareholders. That is  
19 correct. I think so.

20 Q. Okay.

21 Now, I'd like to take you to C-13 SP.

22 A. In the same exhibit?

1 Q. This is Tab 18, Exhibit C-13.

2 A. Okay.

3 Q. So we're at C-13, and this is a letter  
4 from Pacific Solar to ENEE, and you see it dated  
5 August 12, 2015; right?

6 A. Yes. It's signed by [REDACTED], that,  
7 at that time, was the biggest Shareholder in the  
8 corporation, which is addressed to ENEE to advise  
9 them of the change.

10 Q. Right. Right. Okay. Which you described  
11 as one of your operating companies.

12 (Interruption.)

13 Q. I'll start from the beginning. This is a  
14 letter from Pacific Solar to ENEE dated August 12,  
15 2015; correct?

16 A. Yes, sir.

17 Q. Okay. And you stated in your answer  
18 earlier that you said it was signed by [REDACTED]  
19 [REDACTED] at the time it was the biggest Shareholder  
20 in the corporation; correct?

21 A. We are reporting the change of ownership  
22 to ENEE, yes, sir.

1 Q. And [REDACTED], you mentioned earlier,  
2 was one of your operating companies in Honduras;  
3 correct?

4 A. Yes, sir.

5 Q. Okay. Now, if we look at the first  
6 paragraph of that letter, in the middle, there's a  
7 reference to the "Escritura Pública" Number 5 of 26  
8 February 2015; right?

9 Do you see that?

10 A. Yes, sir. I'm trying to read it.

11 Q. And now, according to this, this is the  
12 formal document --

13 A. This is giving a special power of  
14 management to [REDACTED].

15 Q. Okay. And that date is three days after  
16 we just saw Ms. [REDACTED] had signed the Operation  
17 Agreement; correct?

18 A. Yes, sir.

19 Q. If we go to the second paragraph, there is  
20 a reference to Public Deed Number 74. And that is  
21 the particularization of the Shareholder's Act in  
22 which the Shares of Mr. [REDACTED] and

1 Ms. [REDACTED] were transferred to [REDACTED]

2 and to you; correct?

3 A. Yes. That's the document we saw before.

4 Q. Yeah. And if we go towards the bottom of  
5 that paragraph, it says: "Se adjunta copia de ambas  
6 escrituras;" correct?, which means:

7 "Copies of both of these formal documents  
8 were attached to this letter;" correct?

9 A. Yes, sir.

10 Q. So Mr. Paiz, I just want to confirm my  
11 understanding with you. So according to this  
12 letter, it is on this day, August 12, 2015, Pacific  
13 Solar first notifies ENEE that there was a change in  
14 relation to the project representative; correct? As  
15 well as the new Shareholders; is that right?

16 A. Reporting a change of ownership, yes, sir.

17 Q. Okay. Now, in 2018, as part of the  
18 financing for Phase II of the construction of the  
19 Nacaome I Plant, there were certain modifications to  
20 the Trust Agreement that you reference if your  
21 direct examination; correct?

22 A. Trust Agreements with the Bank.

1 Q. With the Bank, with [REDACTED]?

2 A. [REDACTED].

3 Q. Is that right?

4 A. I presume so. You, please, direct me to  
5 the document you are referring to.

6 Q. Sure. I'm asking you just from your  
7 memory for now.

8 In 2018 -- right? -- you needed to finance  
9 Phase II for the construction of the plant. And as  
10 part of that process, there were certain  
11 modifications made to the Trust Agreement with [REDACTED]  
12 [REDACTED]; is that correct?

13 A. Yes. At that time FMO entered as a lead  
14 financier of the Project, and we had to change the  
15 structure of the Trust Agreements because before the  
16 financing came from DEG.

17 Q. I don't want to get in to the structure.  
18 My colleague is going to discuss that issue.

19 A. Okay.

20 Q. But what I will like to direct you to  
21 another confidential document.

22 (End of open session. Attorneys' Eyes

1 Only information follows.)

2 CONFIDENTIAL SESSION

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]











- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]





1 Q. And that would include, for example, the  
2 identification of losses for which you seek  
3 compensation; correct?

4 A. Yes. We hired an expert to help us with  
5 that process.

6 Q. Okay. But you would -- as Claimant, you  
7 would have directed the Expert to say what category  
8 of losses you believe you've suffered; correct?

9 A. Very much so. I have felt in person, yes.

10 Q. Okay. Now, I want to direct your  
11 attention to the Memorial on the Merits. The  
12 version we will put on screen is an extract of the  
13 redacted version, which is published on the ICSID  
14 website. And it is Tab 16, if you want to take a  
15 look at it, the physical version.

16 Now, I want to -- just for clarity and to  
17 avoid any objections, I'm not going to ask you any  
18 questions about legal conclusions or even technical  
19 conclusions. That is for the Tribunal to decide. I  
20 want to ask you questions about what your intention  
21 is or what your understanding of it is as a  
22 Claimant; right? As the person making the Claim.

1 Do you understand?

2 A. I understand.

3 Q. So I want you to answer my questions with  
4 that in mind.

5 Now, the extract we provided is an extract  
6 of the compensation or damages chapter. And I'd  
7 like you to go to Paragraph 371.

8 Now, do you see where it says "historical  
9 losses"? It's the next page. Yeah, there it goes.

10 Do you see that?

11 A. Paragraph 371, you said?

12 Q. Yeah. It's on the screen. It is Page 154  
13 of the document. It will be the --

14 A. Maybe I have the wrong document. Compass  
15 Lexecon as an independent expert?

16 Q. Yeah. It's the next page.

17 A. Next page. Okay. Oh, I see. Thank you.

18 Q. Sure. And as historical losses, Compass  
19 Lexecon indicates that, you know, certain amount  
20 which correspond to actual past due principle and  
21 unpaid interest resulting from Honduras's  
22 insufficient payments for energy and capacity

1 supplied by Pacific Solar.

2 Do you see that?

3 A. Yes, I see it very well.

4 Q. Okay. And you, of course, would have  
5 identified that as some of the damages you wish to  
6 be compensated for?

7 A. Yes. Those are amounts due to us for  
8 energy we provided.

9 Q. Okay. Now we'd like to go to  
10 Paragraph 377(i). 377(i), sorry. If you could read  
11 the header in bold, just that one sentence.

12 A. "To measure Pacific Solar's historical  
13 losses." Is that what you --

14 Q. Correct.

15 A. "Compass Lexecon computed the past due  
16 amounts that Honduras owed Pacific Solar as of the  
17 Valuation Date, which are composed of," and then I'm  
18 sure it details outstanding balances of past due  
19 invoices and paid interest and other amounts.

20 Q. Perfect. You can stop right there.

21 So I want you to confirm my understanding,  
22 Mr. Paiz, then in terms of these damages, which you

1 indicated you helped identify for Compass Lexecon to  
2 evaluate. Essentially it consists of Unpaid  
3 Invoices of Pacific Solar; correct?

4 A. Yes, Unpaid Invoices are the tip of the  
5 iceberg, because --

6 Q. That's okay. I just wanted an answer to  
7 that question.

8 MS. MARCHILI: I would appreciate if --

9 THE WITNESS: You can't just say those are  
10 the only damages. My God.

11 BY MR. FIGUEROA:

12 Q. Just to be clear, Mr. Paiz, I'm not  
13 asking -- again, as I said, I'm not asking you to go  
14 into damages, I'm just asking you, your views as the  
15 Claimant. And my specific question is, and it's  
16 just a yes-or-no answer -- at least part of the  
17 damages you're claiming, part of damages you're  
18 claiming involve Unpaid Invoices of Pacific Solar;  
19 correct? Yes or no.

20 A. That is correct.

21 Q. Okay. Let's live in a hypothetical world  
22 where ENEE cannot -- you know, the allegation is

1 ENEE has not paid these invoices. Let's live in a  
2 hypothetical world where they did.

3 Had they paid these invoices in full, the  
4 proceeds would have been part of the Trust; correct?

5 A. The proceeds would have been used to pay  
6 Operating Costs to the Plant first.

7 Q. I'm going to interrupt you, because I'm  
8 asking you --

9 A. They go into the Trust, yes, but the  
10 proceeds are not owned by the Bank.

11 Q. But that's --

12 A. We would have -- I would have derived  
13 dividends. I would pay the Banks. I would pay the  
14 salaries and so forth.

15 Q. Mr. Paiz, just -- the question is very  
16 specific.

17 (Overlapping speakers.)

18 Q. Mr. Paiz, my question is very specific.

19 Had ENEE paid these invoices in full, the  
20 proceeds would have been part of the Trust? Yes or  
21 no.

22 A. They would have been deposited in the

1 Trust, yes.

2 Q. Thank you.

3 Now -- now I want to return to the  
4 Memorial, and I want to get clarity in terms of your  
5 understanding --

6 A. Remind me the tab.

7 Q. Oh, sorry. It's the same tab, but --

8 A. Oh, the same tab. Where?

9 Q. 13. No, no. Sorry. 16.

10 A. Yeah, it's the same tab then, 16.

11 Where about?

12 Q. Now we are going to go to -- yes, the  
13 Request for Relief, which is the very last page.  
14 Yeah, Paragraph 414.

15 Now, we're going to go to Item C-1. And  
16 in the Memorial there's a request of the Tribunal:  
17 "Order Honduras to pay compensation for the losses  
18 arising from Honduras' breaches of the Treaty and  
19 the Agreements in accordance with Section V above."

20 And as we just went over, at least some of  
21 those losses involve these undue payments of  
22 invoices. And what I want to get clarification from

1 you, Mr. Paiz, is you're asking for compensation,  
2 but you don't specify to whom the Tribunal should  
3 order payment should be made; correct?

4 MS. MARCHILI: I'm sorry. I have to  
5 object. That is -- he didn't draft the Memorial on  
6 the Merits, and he's not a lawyer, so I'm not sure  
7 he's the right audience for that question.

8 MR. FIGUEROA: Again, I'm not asking for  
9 his view from a legal -- I'm asking for his view as  
10 what he desires as a Claimant.

11 BY MR. FIGUEROA:

12 Q. Let me postpone that question. I want to  
13 take you to Paragraph 361. Okay.

14 A. 361. You want to go to Paragraph 361?

15 Q. 361. So there Memorial  
16 states: "Claimants acting on their own behalf and  
17 on behalf of Pacific Solar"; correct?

18 A. I'm sorry. Where are you?

19 Q. "Claimants acting on their own behalf and  
20 on behalf of Pacific Solar." You see that's  
21 highlighted?

22 A. Yes. That is correct. Claimants is me

1 and my wife.

2 Q. Yes, okay.

3 A. My wife and I. I'm sorry.

4 Q. Okay. Yes. So I want to get that  
5 decision correct. So, in other words, Claimants are  
6 you and your wife, and that's how it appears. And  
7 you're seeking redress for yourself and for Pacific  
8 Solar; correct?

9 A. Yes, sir.

10 Q. Now I want to go to Paragraph 380.

11 A. 380.

12 Q. Go back to Quantum and we see it says, "In  
13 sum, as of the Valuation Date, again" -- no, wait.  
14 Yeah, that's it -- "Honduras owes Claimants for  
15 Pacific Solar's historical losses of 16.5 million."

16 Confirm me if I'm wrong, but there what  
17 you're referring to is damages to yourself in a  
18 personal capacity, you and your wife; correct?  
19 Claimants.

20 A. You say the due amounts are due to the  
21 company. As an owner, I would have derived  
22 dividends, I would have derived benefits from the

1 company, which have not happened because of the lack  
2 of discipline of ENEE in paying their bills. So,  
3 yes, the amount of compensation that Honduras owes  
4 Pacific Solar at that moment was that amount in  
5 invoices and that amount in historical losses we  
6 had. The past due interest and so forth.

7 Q. So there is the confusion I'd like to  
8 clarify because there appears to be both Claims for  
9 Pacific Solar, as you mentioned, but you're claiming  
10 as Claimant for you and your wife. And so I'm going  
11 to ask you this as Claimant, again, not as a lawyer,  
12 and not what actually can or cannot happen. That  
13 the Tribunal will have to decide eventually.

14 You, as Claimant, are you seeking or would  
15 you like any compensation to be paid to you and your  
16 wife directly? Are you seeking compensation to be  
17 paid to Pacific Solar?

18 MS. MARCHILI: I have to object again.  
19 This is a technical question as to how the  
20 intricacies of and on behalf of claim. He's not a  
21 lawyer. He's not articulating the way in  
22 which -- the answer to your question as a Claimant.

1           MR. FIGUEROA: Mr. President, I think I  
2 caveated my question quite discreetly. In other  
3 words, I'm not asking him for the legal, what will  
4 actually or can or cannot happen. That's for the  
5 Tribunal. I'm asking for him as Claimant what he  
6 wishes, and that's a different question. That he  
7 can answer. That's not a technical question.

8           I'm just asking him what he wishes to be  
9 done.

10           (Tribunal conferring off the record.)

11           MS. MARCHILI: Let me, perhaps, simplify  
12 the task of the Tribunal, if it's framed in the  
13 exact terms that you have just articulated, I  
14 wouldn't object.

15           MR. FIGUEROA: Okay.

16           BY MR. FIGUEROA:

17           Q. I believe that's how I framed it, but I  
18 can reframe it more specifically as I just did.

19           Mr. Paiz, as Claimant, what is -- what  
20 would you wish the Tribunal to order, that  
21 compensation be paid to you and your wife, or that  
22 compensation be paid to Pacific Solar?

1           A.    Mr. Figueroa, I don't see the difference  
2 between the two. I am the owner of Pacific Solar.  
3 The monies are received by Pacific Solar. My wife  
4 and I, as ultimate beneficiaries would receive that  
5 money. If I'm paid directly, for me, it's the same  
6 difference. I'm the owner of Pacific Solar. So I'm  
7 claiming on behalf of my company, and for the  
8 damages I have received personally as an investor.

9                   I have never derived dividends from this  
10 company other than miniscule amounts in the recent  
11 past. So, imagine you make a huge equity investment  
12 and never see the benefit of the return on that.  
13 And on top of that, operate in an environment that  
14 is not very friendly.

15                   (Interruption.)

16                   BY MR. FIGUEROA:

17           Q.    Now, Mr. Paiz, you and your wife are not  
18 parties to the asset trust we just reviewed with the  
19 Tribunal; correct?

20           A.    We are after the payment of the loans.  
21 We, again, become -- we receive them. Any asset  
22 that was contributed to the Trust comes back to us.

1 Q. Right. But you're not a signatory to the  
2 Trust; correct?

3 A. My CEO signed those.

4 Q. The signatory, the direct party to the  
5 Trust, is the company Pacific Solar; correct?

6 A. Yes.

7 Q. Now, so if this Tribunal were to make a  
8 payment directly to you and your wife in your  
9 personal capacity, that would not be subject to the  
10 Trust; correct?

11 A. Probably not.

12 Q. Mr. Paiz, do you have an agreement with  
13 the banks, with the lending banks to pay any amounts  
14 awarded in this Arbitration?

15 Do you have an agreement with the lending  
16 banks to pay them any amounts awarded in this  
17 Arbitration should you receive any compensation?

18 MS. MARCHILI: Objection.

19 THE WITNESS: No. We don't have a  
20 specific agreement at all, no.

21 MS. SAN JUAN: Objection. He is asking  
22 for Confidential Information not on the record,

1 legal issue, he hasn't established a basis for  
2 asking for this.

3 MR. FIGUEROA: Well, Mr. President, I  
4 think this is relevant. There hasn't been a  
5 designation of confidentiality because there hasn't  
6 been anything submitted to the record on this.

7 I'm asking him for general information  
8 about what would occur if compensation was made  
9 directly to him and his wife. I think it is  
10 directly relevant to some of the jurisdictional  
11 issues.

12 (Tribunal conferring.)

13 PRESIDENT ANGELET: Thank you. Shall we  
14 perhaps first move into confidentiality mode since  
15 Claimants made a point that this is Confidential  
16 Information.

17 MR. FIGUEROA: Okay.

18 (End of open session. Attorneys' Eyes  
19 Only information follows.)

20 CONFIDENTIAL SESSION



[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

13

14

15

16

17

18

19

20

21

22

(End of Attorneys' Eyes Only session.)

OPEN SESSION

BY MR. FIGUEROA:

Q. Okay. Mr. Paiz, so I'll try and reframe it in as tight a way as possible.

Should the Tribunal award you and your wife compensation directly, is there an agreement between you and the lending banks to pay them any of that compensation amount?

A. There is no agreement. I have a Loan

1 Agreement with the Bank, and any monies that come  
2 into the corporation there's a clear --

3 Q. I'm not asking about the corporation --

4 A. -- how that is used.

5 Q. I'm not asking about the corporation, I'm  
6 asking about money to you and your wife.

7 A. There is no agreement.

8 Q. Okay. Now I want to ask you about the  
9 corporation. If the Tribunal orders compensation to  
10 be paid to Pacific Solar, that payment would become  
11 part of the trust; correct?

12 A. That is correct.

13 ARBITRATOR DRYMER: Mr. Figueroa, before  
14 you continue, under control of the President, if I  
15 may, since I'm uncertain of your familiarity with  
16 these sorts of proceedings, if an attorney objects  
17 to a question, you should not answer the question  
18 until the objection is discussed and resolved.

19 THE WITNESS: Okay. Yes. I am not  
20 familiar. Thank you for the clarification.

21 ARBITRATOR DRYMER: Thank you.

22 MR. FIGUEROA: Thank you.

1           Thank you, Mr. Paiz. That finishes my  
2 line of questioning. I will now cede the floor to  
3 my colleague Lucas Solimano who will proceed with  
4 additional questions.

5           Mr. President, we're in your hands, but  
6 perhaps this would be a good moment for a  
7 five-minute break. We have gone about an hour, but  
8 up to you.

9           PRESIDENT ANGELET: Thank you. Yes,  
10 indeed. Shall we -- 10 minutes' break, perhaps.

11          MR. FIGUEROA: Okay.

12          PRESIDENT ANGELET: Thank you.

13          Mr. Paiz, may I kindly remind you not to  
14 speak to anybody during this break. Thank you.

15          THE WITNESS: Yes, I have been instructed.

16          PRESIDENT ANGELET: I'm sure you have.  
17 It's just a kind reminder.

18          THE WITNESS: Don't worry.

19          (Brief recess.)

20          PRESIDENT ANGELET: Thank you very much.

21          Shall we proceed?

22          MS. MARCHILI: Yes, Mr. President. Thank

1 you.

2 PRESIDENT ANGELET: Thank you.

3 MR. SOLIMANO: Thank you, Mr. President.

4 CROSS-EXAMINATION

5 BY MR. SOLIMANO:

6 Q. Good morning, Mr. Paiz. My name is Lucas  
7 Solimano. And I'll conduct the rest of your  
8 cross-examination.

9 Mr. Paiz, very simple question, Pacific  
10 Solar built the Nacaome Plant; correct?

11 (Interruption.)

12 A. Yes. I -- yes, we did built the Pacific  
13 Plant, the Pacific Solar Plant. Yeah.

14 Q. Okay. Thank you. But Pacific Solar did  
15 not provide all the capital for the construction;  
16 right? As is usual in these kinds of things,  
17 infrastructure, it relied on some sort of Project  
18 finance; correct?

19 A. That is correct.

20 Q. Okay. I would like to discuss with you  
21 the evolution in changes of this financing.

22 So let's start with a Confidential

1 Document.

2 (End of open session. Attorneys' Eyes

3 Only information follows.)

4 CONFIDENTIAL SESSION

[REDACTED]



[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]







- █ [REDACTED]
- █ [REDACTED]
- █ █ [REDACTED]
- █ [REDACTED]
- █ █ [REDACTED]
- █ █ [REDACTED]
- █ [REDACTED]
- █ █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ █ [REDACTED]
- █ █ [REDACTED]
- █ █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]







[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]









[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- █
- █
- █
- █
- █
- █
- █
- █
- █
- █
- █
- █
- █
- █
- █
- █
- █
- █

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

14 MR. SOLIMANO: Okay. I don't have any  
15 further questions.

16 PRESIDENT ANGELET: Thank you very much.  
17 Counsel?

18 MS. MARCHILI: No questions for redirect.  
19 Thank you, Mr. Paiz.

20 PRESIDENT ANGELET: Thank you very much.

21 THE WITNESS: Thank you.

22 PRESIDENT ANGELET: Are there questions

1 from my colleagues?

2 (Comments off microphone.)

3 PRESIDENT ANGELET: Arbitrator Drymer is  
4 preparing a few questions.

5 ARBITRATOR DRYMER: I simply am trying to  
6 confirm whether or not the questions I had thought  
7 of have already been put ably by both sides, and I  
8 think that is so.

9 QUESTIONS FROM THE TRIBUNAL

10 ARBITRATOR DRYMER: One general question  
11 that arose from -- I believe it was your First  
12 Witness Statement, but I don't think it matters.

13 You speak about your experience in energy,  
14 investing in energy industries. I don't recall  
15 whether you said specifically in Honduras or  
16 otherwise. In other words, prior to Pacific Solar.

17 Can you describe very briefly what that  
18 experience is?

19 THE WITNESS: At one point in time I  
20 invested in a thermal generating plant in Nicaragua  
21 with a friend of mine. We bought the interest of  
22 Ormat, a multinational group in a thermal electric

1 plant in Nicaragua, and I got involved as a partner  
2 for several years, and eventually sold my  
3 investment. [REDACTED] at the time was my CEO  
4 and he became involved in that project also.

5 We also developed a hydroelectric plant in  
6 the border of Guatemala and Honduras, and that  
7 project eventually was also sold. So I've had an  
8 interest in green energy where in our supermarkets  
9 and even in my home I installed solar panels to  
10 handle the -- you know, it is an effort to become  
11 green.

12 And I must say also that I'm proud that I  
13 developed one of the largest shopping centers and  
14 bus terminals in my country, and that was the first  
15 project that was ever LEED certified in Latin  
16 America. As you know that makes the Project  
17 substantially more expensive to build, and the only  
18 reason to do it is because you believe in being  
19 energy-efficient.

20 ARBITRATOR DRYMER: Thank you.

21 Counsel, in case you are interested, I  
22 just found the reference that had prompted the

1 question. It was Paragraph 12 of the Witness's  
2 First Statement.

3 MS. MARCHILI: Sorry, and if I may add,  
4 also Paragraph 9.

5 ARBITRATOR DRYMER: That is most likely  
6 true. Indeed. Thank you. Thank you for that.

7 Just a follow-up question.

8 In any of those other energy investments  
9 specifically were there any instruments or  
10 instrumentalities similar to what is referred to in  
11 this case as the "State guarantee"?

12 THE WITNESS: No, sir. Those projects did  
13 not have a State guarantee. They had State support,  
14 Income Tax --

15 ARBITRATOR DRYMER: Right.

16 THE WITNESS: -- benefits and things like  
17 that, but no State support in any of those.

18 ARBITRATOR DRYMER: Thank you. Those were  
19 my two remaining questions apart from those, as I  
20 said, have been ably covered already. So thank you.

21 THE WITNESS: Thank you, sir.

22 PRESIDENT ANGELET: Thank you. I may have

1 a brief question, even though perhaps it may be  
2 addressed later on by Counsel.

3 Pacific Solar is not the only Operator in  
4 Honduras. Do you know the nationality of foreign  
5 investors who may have invested in the other  
6 operators?

7 THE WITNESS: Yes. One of our neighbors  
8 with whom we share a huge electric substation is  
9 owned by Sweden Shareholders, and several other  
10 participants, Norwegian and so forth. I know of  
11 very large investments by Guatemalan group in wind  
12 farms in Honduras. I know the Shareholders  
13 personally. And, you know, Honduras attracted  
14 investors from all over the world, and obviously  
15 also some local investors, because it was quite  
16 unique to have the Government cosign a PPA. That I  
17 never had as a benefit in any of my investments  
18 before, and it changed the rules of the game. It  
19 gave -- it was a huge vote of confidence that  
20 Honduras was giving to the investors in their  
21 country, welcoming them to bring foreign invest.

22 And, sure enough, just a few months after

1 that law was enacted several -- I would say hundreds  
2 of megawatts were installed in the country. And the  
3 country stopped having blackouts and things like  
4 that. It was a successful policy, and it really  
5 changed the grid and it made a big difference for  
6 the society in Honduras.

7 PRESIDENT ANGELET: Thank you very much.  
8 I have no further questions.

9 THE WITNESS: Thank you, sir.

10 PRESIDENT ANGELET: So your Witness  
11 Statement has come to an end. As you may have been  
12 informed, you are now allowed to stay in the room,  
13 if you wish.

14 THE WITNESS: I will very much wish to.

15 PRESIDENT ANGELET: Thank you. The  
16 Tribunal is grateful for your time.

17 THE WITNESS: As you know, it is very  
18 important for me. Thank you, sir. Thank you.

19 (Witness steps down.)

20 PRESIDENT ANGELET: Perhaps a short  
21 housekeeping.

22 We are about one hour ahead of our

1 original schedule, I believe. I would like to know  
2 how Counsel would like to proceed.

3           Shall we immediately move to the  
4 examination of the other witness? Or, perhaps, we  
5 can also have a short break? Or would the Parties  
6 like to postpone the second examination until the  
7 afternoon?

8           MS. MARCHILI: We are ready to start.  
9 Maybe a five-minute break for humane reasons, but  
10 otherwise --

11           PRESIDENT ANGELET: Thank you. Let's make  
12 it.

13           MR. FIGUEROA: Mr. President. From our  
14 perspective, if it's agreeable, we would -- we  
15 wouldn't mind postponing until the afternoon, just  
16 to gather other papers and thoughts.

17           PRESIDENT ANGELET: Thank you.

18           (Tribunal conferring.)

19           MS. MARCHILI: If I may react to that --

20           (Comments off microphone.)

21           PRESIDENT ANGELET: Thank you, ladies and  
22 gentlemen. The Hearing is resumed.

1                   So we will be waiting for Mr. [REDACTED] to  
2 join us.

3                   [REDACTED], CLAIMANTS' WITNESS, CALLED

4                   PRESIDENT ANGELET: Good afternoon, sir.  
5 You are Mr. [REDACTED]?

6                   THE WITNESS: Yes.

7                   PRESIDENT ANGELET: Thank you. I'm  
8 Nicolas Angelet. I'm the President of the Tribunal;  
9 Arbitrator Drymer and Arbitrator Stern.

10                  Thank you for making yourself available.

11                  You have before you a Statement that we  
12 invite you to read ahead of the examination, and,  
13 from a technical viewpoint, perhaps, first, always  
14 make sure that your mic is on because that  
15 determines the translation and the reporting. And  
16 please always let one second between the question  
17 that is being asked by Counsel and your answer which  
18 facilitates all the operations surrounding your  
19 testimony.

20                  Thank you. So please proceed.

21                  THE WITNESS: Yes.

22                  I solemnly declare, upon my honor and

1 conscience, that I shall speak the truth, the whole  
2 truth, and nothing but the truth.

3 PRESIDENT ANGELET: Thank you very much.

4 Counsel, Ms. Marchili or Ms. San Juan, you  
5 have the floor. Thank you.

6 MS. SAN JUAN: Yeah. Thank you.

7 DIRECT EXAMINATION

8 BY MS. SAN JUAN:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[Redacted text block consisting of 21 lines of blacked-out content]







- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]
  - [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

12

**CROSS-EXAMINATION**

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block containing approximately 25 lines of obscured content]

- █ [REDACTED]
- █ [REDACTED]
- █   █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █           [REDACTED]
- █   █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █   █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █   █ [REDACTED]
- █           [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]

[Redacted text block containing approximately 25 lines of obscured content]

[Redacted text block]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]



[Redacted text block consisting of multiple lines of blacked-out text and bulleted points]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

- [REDACTED]









[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



























[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13

**QUESTIONS FROM THE TRIBUNAL**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]























█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

6

**ADDITIONAL EXAMINATION**

█

[REDACTED]

█

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

█

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16

**ADDITIONAL EXAMINATION**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



1           The first question is a request.

2           If the Parties intend to use slide decks  
3 in aid of their Closing Presentations tomorrow,  
4 could they please systematically give precise  
5 references to both the Spanish and English version  
6 of any exhibits cited or displayed.

7           Thank you in advance. And then the  
8 questions.

9           First question: Article 20.6 of the PPA  
10 provides, in the English translation, that: "The  
11 Parties expressly agree that in the event of a  
12 signing, encumbering or pledging this Contract and  
13 all the rights to the lender or for the purposes of  
14 the financing to be provided by the lenders, such  
15 assignment, pledge, or encumbrance of the Contract  
16 and/or rights shall not be understood as a transfer  
17 of ownership of this contract."

18           Does this or does this not preclude the  
19 Respondent from asserting that the Trusteeship has  
20 deprived the Claimants of their ownership in the  
21 investment? If, yes, why? If not, why not?

22           Second question: Is the right to sell a

1 movable or immovable asset an essential element of  
2 ownership of the asset? Is it correct or incorrect  
3 that, under the Trusteeship, the Claimants do not  
4 have the right to sell the pledged assets. And what  
5 conclusions could be drawn from this?

6 Third question: In order to determine  
7 ownership and control, is it relevant that the  
8 Claimants' rights have been pledged but not their  
9 obligations?

10 Fourth question: Could the Claimants  
11 produce a chart showing the financial flows to and  
12 from the Trust based on Exhibits MN-5 to MN-11 and  
13 or MN-67 to MN-70 over the last two or three years  
14 available.

15 Fifth question: In its Reply at  
16 Paragraph 136, the Respondent identified a series of  
17 links in the corporate chain that the Claimants had,  
18 according to the Respondent, failed to prove. Is  
19 this still the case today, notably after the  
20 Claimants' Rejoinder? And, if so, to what extent?

21 Sixth question: Generally speaking, is it  
22 practically feasible for a foreign investor seeking

1 to determine whether it could enjoy MFN treatment to  
2 identify all its competitors and to determine  
3 whether they are foreign-owned or controlled in such  
4 a manner that they benefit from a different legal  
5 regime? And is that relevant or not?

6 Seventh and last question: How do the  
7 various possible concretizations of the MFN similar  
8 circumstances requirement in the CAFTA-DR as  
9 advocated by the Respondent or the United States  
10 apply to umbrella clauses?

11 First subquestion: If the MFN Clause only  
12 applies in the presence of two competitors, does  
13 this mean that the investor invoking the MFN Clause  
14 must be able to identify a competitor who is  
15 actually invoking and obtaining the protection of  
16 its contract based on the umbrella clause? Or is it  
17 sufficient for the investor to identify a competitor  
18 who could rely on the umbrella clause in the  
19 hypothesis that a Host State would violate or  
20 repudiate its contractual obligations?

21 Subquestion two: If by contrast the MFN  
22 Clause applies in the presence of a host state's

1 regulatory measures without necessarily requiring  
2 the identification of two competitors, what then is  
3 the kind of Host State regulatory measures that can  
4 trigger the application of an MFN Clause to an  
5 umbrella clause?

6 Can the absence of a regulation, or, in  
7 other words, can abstention with respect to  
8 investors of another nationality constitute  
9 treatment?

10 What would typically constitute the  
11 relevant treatment accorded to third-State nationals  
12 where an umbrella clause is concerned?

13 That is the end of the questions. Thank  
14 you very much beforehand, for addressing them  
15 tomorrow.

16 MR. SOLIMANO: Mr. President, I have a  
17 question about Question Number 4. Are you asking if  
18 it's possible to produce a chart, or you're  
19 requesting a chart from Claimant? If it's the  
20 second scenario, when it has to be produced?  
21 Because we are going to speak first and then, if  
22 then they show a chart, we don't have the

1 possibility to comment on the chart.

2           So I'm a little lost on the logistic of  
3 Question Number 4.

4           PRESIDENT ANGELET: Thank you. You are  
5 absolutely right. Well, it is, of course, the  
6 second hypothesis. We would like to see a chart and  
7 your question is perfectly legitimate. So shall we,  
8 perhaps, see? Well, perhaps we can start addressing  
9 the question right now.

10           Could the Claimants produce a chart? And,  
11 if so, by when? Thank you.

12           MS. MARCHILI: Sorry, your question was  
13 focused on the nationality of other --

14           ARBITRATOR DRYMER: No. No.

15           MR. SOLIMANO: No, the flowchart of  
16 financial flows from the Trust.

17           PRESIDENT ANGELET: I may, perhaps,  
18 specify that, of course, we don't need very detailed  
19 numbers, it is rather rough figures that we would  
20 like to see.

21           ARBITRATOR DRYMER: From, to, to, to, that  
22 sort of flow.

1           MS. SAN JUAN: I see. Okay. I will have  
2 to talk to the team, but we can certainly have it  
3 tomorrow. I'm not sure if there is further  
4 guidance, and we're in your hands as to how you want  
5 to manage the process in terms of the --

6           (Comments off microphone.)

7           ARBITRATOR DRYMER: It is certainly fair  
8 that your friends should see it before they stand up  
9 to plead tomorrow morning. All right.

10          MR. SOLIMANO: Mr. President, we have an  
11 additional -- Mr. President, we have an additional  
12 problem with this that we just realized. Opposing  
13 Counsel has retained a financial advisor. As we  
14 bifurcated this, Honduras does not have a financial  
15 advisor retained for this case. So I don't know how  
16 complex it is going to be, but I'm not sure if we  
17 can tomorrow at some point comment on this. Maybe  
18 it would be a better idea to have this question be  
19 bifurcated and delayed for -- I don't know -- a week  
20 or whatever time you may think it is possible.

21           Because I'm not sure how can I say  
22 anything about a chart, even if I receive in a

1 couple of hours from now.

2 ARBITRATOR STERN: One of the ideas could  
3 be that here we have only Closing. In Closing say  
4 that we have a kind of answer of part of a quarter  
5 of an hour just to deal with the chart, and if it's  
6 not sufficient, we could imagine a very short  
7 Post-Hearing Briefing, which, in general, we are not  
8 very favorable to.

9 MR. SOLIMANO: I'm not asking for a  
10 Post-Hearing Brief. I made just this point. I'm  
11 not sure what we are going to receive and when we  
12 are going to receive.

13 ARBITRATOR STERN: But it will be, you  
14 know, clear enough so that the Tribunal, who has no  
15 financial advisor, understands.

16 PRESIDENT ANGELET: So thank you. I would  
17 like to make a further suggestion, or otherwise, we  
18 would propose that you produce the file by tomorrow  
19 morning. We would then, if that is agreeable,  
20 provide for one more line in the agenda of tomorrow.  
21 So it would be produced probably before the  
22 Respondent's Closing Statement, but I understand

1 that that would not allow you sufficient time to  
2 revise it.

3 We would, perhaps, then add one more  
4 specific statement from the Respondent after the  
5 Claimants to allow you to comment on the chart, and  
6 then we will see whether it is necessary, or not, to  
7 allow you to comment after the Hearing.

8 MS. MARCHILI: I'm sorry, as much as I  
9 would like to accommodate to my colleagues, I also  
10 like to be realistic. We just heard about this  
11 request, which, of course, you know, we're happy to  
12 provide you with as much information as you possibly  
13 can, but I'm looking at the time. It is 3:30.

14 I look at the references to the exhibits  
15 that you just mentioned of the damages Report. I  
16 understand that those are financial statements and  
17 that, if I understood correctly -- and please do let  
18 me know if I didn't -- you want us to show how the  
19 flow of the funds have gone through all the  
20 corporate chain. Is that -- or through.

21 PRESIDENT ANGELET: No. It is --

22 MS. MARCHILI: If you could clarify,

1 please.

2 PRESIDENT ANGELET: In and out the  
3 Trusteeship. So we would like to see what comes  
4 into the Trusteeship, where does it come from, where  
5 does it go.

6 MS. MARCHILI: I do not see how we can  
7 produce that without assuming the risk of making a  
8 mistake and that resulting in problems for everyone  
9 at this juncture, but at the same time, I'm sure we  
10 would all like to accommodate the Tribunal as much  
11 as possible.

12 I don't have any brilliant suggestions or  
13 conclusions other than maybe if we can have a couple  
14 of hours, maybe, to liaise with our points of  
15 contact, the client, and even the Damages Expert to  
16 make sure that we are referring to the right  
17 documents and get back to everyone, or maybe even  
18 offline to Respondent to see how realistic it is.  
19 We will, again, try our best, but I wouldn't like to  
20 commit to do something that I'm not sure we can  
21 deliver or that cannot being quality-controlled;  
22 right?

1           PRESIDENT ANGELET: Thank you. We fully  
2 understand that. So let's work on a best-efforts  
3 basis, and then we will see how this goes.

4           Thank you very much.

5           (Pause.)

6           PRESIDENT ANGELET: Thank you. So  
7 ultimately, we have decided, in light of the complex  
8 issues that our request raises, we will wait until  
9 tomorrow until after the Closing Statements and then  
10 see whether it is still necessary or useful to  
11 maintain our request.

12          MR. SOLIMANO: Thank you very much.

13          MS. MARCHILI: Again, please do ask us as  
14 much information as you wish.

15          (Comments off microphone.)

16          MS. MARCHILI: That, and, yes, given the  
17 timing.

18          ARBITRATOR DRYMER: Well, that plus  
19 a -- including a consideration of such evidence as  
20 we have heard already. It may -- and with your  
21 submissions tomorrow, it may or may not prove  
22 necessary, in our view, to ask for this.

1                   **PRESIDENT ANGELET:** Thank you very much.  
2                   So if there are no further questions, this is the  
3                   end of today's Hearing, and we look forward to  
4                   seeing you tomorrow. Thank you very much.

5                   **MS. MARCHILI:** Thank you.

6                   (Whereupon, at 3:31 p.m., the Hearing was  
7                   adjourned until 9:00 a.m. the following day.)

POST-HEARING REVISIONS

CERTIFICATE OF REPORTER

I, Dawn K. Larson, RDR, CRR, CRC Court Reporter, do hereby attest that the foregoing English-speaking proceedings, after agreed-upon revisions submitted by the Parties, were revised and re-submitted to the Parties per their instructions.

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.

  
Dawn K. Larson