INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

RIVERSIDE COFFEE, LLC

Claimant

v.

REPUBLIC OF NICARAGUA

Respondent

ICSID CASE NO. ARB/21/16

HEARING ON JURISDICTION AND MERITS

5 July 2024

Volume 5

Washington, DC

ARBITRAL TRIBUNAL

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Mr. Philippe Couvreur

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09:01:10
        1
                          PRESIDENT: Good morning, all. Any
        2
            housekeeping issues that we need to discuss before we
        3
            continue with the witnesses?
        4
                          Good morning, Ms. Gutiérrez.
09:01:22
        5
                          MR. APPLETON: Mr. President, I wonder if
        6
           we might get some understanding. It may be something
        7
           the secretary could assist us with or perhaps after the
        8
           break. This is the first time I've had a hearing that's
        9
           had a weekend break here at the Bank or at -- the whole
09:01:39
        10
           Bank group. Will we be able to have access to the World
        11
           Bank -- to this building, the ICSID building, on the
        12
           weekend?
        13
                          We have many different materials, binders
        14
           and other things that we've moved in, so it would be
09:01:48
        15
           quite disruptive to bring them in, bring them back. I
        16
           don't know what those arrangements are. Might it be
        17
           possible for us to get some understanding?
        18
                          PRESIDENT: I defer to the secretariat.
        19
                          MS. CONOVER: I will confirm and revert
09:02:10
        20
            shortly to the parties.
        21
                          MR. APPLETON: Do you believe that it's
        22
           potentially feasible -- I couldn't hear you.
        23
                          MS. CONOVER: I have to ask.
        24
                          MR. APPLETON: I understand. If you could
09:02:24
        25
           get back to us at your earliest convenience, that would
```

```
09:02:28
        1
           be very helpful.
        2
                          PRESIDENT: Anything on the Respondent's
        3
            side?
        4
                          MS. GONZÁLEZ: No, Mr. President.
09:02:36
        5
                          MR. APPLETON: Perhaps, I just want to
        6
           make sure that I understand the process for today. We
        7
           have three witnesses that are on. Your orders are that
        8
           we usually have a witness available half a day in
        9
            advance. I just want to make sure that it's not your
09:02:50
        10
           intention that we are to have the fourth witness from
        11
           the Republic of Nicaragua potentially available for
        12
           today. I think it's very unlikely, but it would be days
        13
            in advance. I just want to be sure we understand that
        14
           we're all clear.
09:03:09
        15
                          PRESIDENT: I think it's very unlikely.
        16
           Agreed. So no need for the next witness to be
        17
            available. I think we have our hands full with the
        18
           three today.
        19
                          MR. APPLETON: Thank you very much. I
09:03:20
        20
            just thought it was better to clear this all up in
        21
            advance.
        22
                          PRESIDENT: Entirely appropriate.
        23
           you very much.
        24
                          So we continue with the witness
09:03:31
        25
           examination.
```

```
09.03.36
        1
                              DIANA GUTIÉRREZ RIZO
        2
                          PRESIDENT: Good morning, Ms. Gutiérrez.
        3
            You hear me well?
        4
                          MS. GUTIÉRREZ: Yes.
09:03:48
        5
                          PRESIDENT: If we could start first by the
        6
            formalities. I would like to ask you to state your full
        7
           name for the record, please.
        8
                          MS. GUTIÉRREZ: Diana Gutiérrez Rizo.
        9
                          PRESIDENT: You have been called as a
09:04:04
           witness of fact in this proceeding, so you need to
        10
        11
            confirm to the Tribunal that you are telling the truth.
        12
           For that purpose I would kindly ask -- for that purpose,
        13
            I would kindly ask you to make the witness declaration.
        14
            You should have the text in front of you. Please.
09:04:28
        15
                          MS. GUTIÉRREZ: I solemnly declare upon my
        16
           honor and conscience that I shall speak the truth, the
        17
            whole truth, and nothing but the truth.
        18
                          PRESIDENT: Thank you very much.
        19
                          Ms. Gutiérrez, you have submitted two
09:05:04
        20
           witness statements in this arbitration, the first one
        21
           dated March 3, 2023 and the second March 8, 2024. You
        22
            should have hard copies of these statements on the desk.
        23
            Do you have them?
        24
                          MS. GUTIÉRREZ: That's correct. I have
09:05:19
        25
           them here with me.
```

```
09:05:22
        1
                          PRESIDENT: Can you please confirm that
        2
            they are your statements?
        3
                          MS. GUTIÉRREZ: Yes, indeed, they are my
        4
            statements.
09:05:39
        5
                          PRESIDENT: Thank you very much. I'm sure
            counsel has explained to you how the process works now
        6
        7
            going forward, but let me just summarize it for you.
        8
            There will first be a direct examination, brief direct
        9
            examination by counsel for the Respondent, Republic of
09:05:58
        10
                        Then there will be a cross-examination by
           Nicaragua.
        11
            counsel for the Claimant, and then possibly further
        12
            questions by counsel for the Respondent.
        13
                          The members of the Tribunal may ask
        14
            questions at any time during the proceeding. Is that
09:06:18
        15
            clear?
        16
                          MS. GUTIÉRREZ: Yes, indeed. It's clear.
        17
                          PRESIDENT: Thank you very much,
        18
           Ms. Gutiérrez.
        19
                          Over to the Respondent's counsel, please.
09:06:30
        20
                          MS. GONZÁLEZ:
                                          Thank you, Mr. President.
        21
                               DIRECT EXAMINATION
        22
            BY MS. GONZÁLEZ:
        23
                     Ms. Gutiérrez, good morning. My name is
        24
            Analia González. I am counsel for Nicaraqua, and this
09:06:39
        25
           morning I will be asking you very brief questions.
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09:06:44 1 Later on, counsel from the other party will be asking 2 you some questions, and the Republic of Nicaraqua 3 eventually may have some new questions followed by 4 questions by the Tribunal. 09:07:01 5 You have presented two statements in this 6 arbitration dated March 3, 2023 and March 8, 2024. Do 7 you confirm that those are the statements that you have 8 presented within this arbitration? 9 Α. Yes, indeed. I have presented two statements, 09:07:25 10 March 3, 2023 and March 8, 2024. 11 Thank you very much for the correction. I was 12 referring to 2023 and 2024, yes. 13 Could you please state your current 14 position? 09:07:44 15 I am the department attorney for Jinotega. Α. 16 And was that the position that you had when you 17 signed these statements? 18 Α. Yes, that is correct. 19 0. Thank you very much. Would you like to 09:07:59 20 introduce any corrections? 21 Α. Yes. 22 Ο. Could you please tell me what these corrections 23 are? 24 THE INTERPRETER: Correction from the 09:08:09 25 interpreter: Attorney General for Jinotega.

09:08:15	1	A. I have four corrections in my first statement.
	2	At paragraph 37 where it says "sent," it should be
	3	"delivered." It should read delivered.
	4	Q. Please go slowly because the members of the
09:08:28	5	Tribunal and the other party are taking notes. What
	6	will be the next change?
	7	A. Paragraph 65, fourth line. After Mr. Leónidas
	8	Centeno, it should be "in the office of the Attorney
	9	General of Jinotega."
09:08:58	10	Q. Thank you.
	11	A. And after where it says "met," it should say
	12	"August 10, 2018."
	13	Q. Thank you very much.
	14	A. The third change to the statement would be in
09:09:21	15	footnote 38. The exhibit number is R-196.
	16	Q. Thank you.
	17	A. In the English version, at footnote 27 the
	18	exhibit number is missing, and that is R-61. And in the
	19	footnotes 29 and 30, the exhibit numbers are missing.
09:10:06	20	That is R-62.
	21	Q. Thank you very much. What would be the changes
	22	in your second statement?
	23	A. At footnote 70, where it reads "July 13, 2018"
	24	it should read "September 18, 2018." And where it reads
09:10:49	25	"Exhibit R-226," it should read "Exhibit R-225."

09:11:15	1	Q. Thank you very much. Would you like to make
00.11.10	2	another change?
	3	A. At paragraph 48, fifth line, there is a
	4	mistake, a typo in Spanish. Where it reads "to try to
09:11:36	5	delegitimize," it should read "to try to legitimize."
	6	It's not "delegitimize" but "legitimize." And that
	7	correction should also be introduced in the English
	8	version.
	9	MS. GONZÁLEZ: Thank you very much,
09:12:01	10	Ms. Gutiérrez.
	11	So with this, we conclude the direct, and
	12	with the indulgence of the President of the Tribunal,
	13	the attorney for the other party will now ask you
	14	questions. Thank you very much.
09:12:18	15	PRESIDENT: Thank you. I believe it will
	16	be Ms. Cardenas.
	17	MR. APPLETON: Yes, I was just going to
	18	say Cristina Cardenas will be taking us through this
	19	examination this morning. I just wanted to introduce
09:12:33	20	her since this is her first opportunity to join us
	21	today.
	22	PRESIDENT: Thank you. Welcome,
	23	Ms Cardenas. Good morning.
	24	
	25	

09:12:40	1	CROSS-EXAMINATION
	2	BY MS. CARDENAS:
	3	Q. Ms. Gutiérrez, my name is Cristina Cardenas,
	4	and I am one of the attorneys representing Claimant
09:12:56	5	Riverside, LLC. You are an attorney, correct?
	6	A. Correct.
	7	Q. Therefore, you understand how a
	8	cross-examination works, correct?
	9	A. Correct.
09:13:03	10	Q. I am going to ask you some questions, and I am
	11	going to ask you to wait until I finish my question
	12	before you answer, agreed?
	13	A. Agreed.
	14	Q. Now this hearing is a public hearing. It is
09:13:18	15	being streamed online live. Do you understand?
	16	A. Yes.
	17	Q. And since this hearing is being observed in
	18	Nicaragua and in other places of the world, you would
	19	understand the importance for your answers to be
09:13:32	20	complete and precise, correct?
	21	A. Correct.
	22	Q. Now, you graduated from the law school
	23	PRESIDENT: I remind you both, there is an
	24	interpretation going on plus court reporting. So before
09:13:53	25	you answer, if you could wait for a moment so that the

09:13:56	1	translation can be completed. And the same thing if,
	2	Ms. Cardenas, you could wait a little bit after the
	3	answer for the same reason.
	4	MS. CARDENAS: Thank you, Mr. President.
09:14:09	5	Q. So you obtained your degree in 2009, correct?
	6	A. Yes.
	7	Q. Once you graduated in 2009, you started to work
	8	as ancillary or a deputy Attorney General, correct, in
	9	Esteli department, correct?
09:14:29	10	A. Yes.
	11	Q. The Esteli department is mainly urban, correct?
	12	A. Well, it is urban and rural.
	13	Q. But at least it does have some rural areas,
	14	correct, in Esteli?
09:14:48	15	A. Yes, correct.
	16	Q. Before that you worked as secretary to the
	17	State Attorney General in Esteli, correct, with the
	18	Office of Attorney General?
	19	A. Yes, that is correct.
09:15:06	20	Q. Have you ever worked as attorney in the private
	21	sector?
	22	A. No.
	23	Q. So it is correct to say that you have worked
	24	with the FSNL administration under Daniel Ortega for at
09:15:31	25	least 17 years?

09:15:32	1	A. Correct.
	2	Q. And for the clarity of the record, FSNL is the
	3	Sandinista party, correct?
	4	A. Correct.
09:15:40	5	Q. And that is the current administration in
	6	Nicaragua, correct?
	7	A. Correct.
	8	Q. Led by President Ortega, correct?
	9	A. Correct.
09:15:56	10	Q. Now, this hearing is taking place under a
	11	treaty under international law. Are you aware of that?
	12	A. Yes.
	13	Q. Now, as an attorney and also as Attorney
	14	General, you would understand what we mean when we refer
09:16:18	15	to international law, correct?
	16	A. Yes.
	17	Q. Now, you have been Attorney General for
	18	Jinotega department as of May 2019, correct?
	19	A. Correct.
09:16:36	20	Q. And before becoming the Attorney General for
	21	Jinotega, you were working as Attorney General in the
	22	Esteli department, correct?
	23	A. Yes.
	24	Q. So you are very familiar with the work of an
09:16:52	25	Attorney General, correct?

09:16:53	1	A. Correct.
	2	Q. When you took over as Attorney General in
	3	Jinotega, did you review the records and the files that
	4	you were taking over?
09:17:11	5	A. I was asked to review the case, the current
	6	case.
	7	Q. And you reviewed it, right?
	8	A. I reviewed the file, the record.
	9	Q. Now, in your statement you describe the
09:17:28	10	demonstrations in Nicaragua in April 2018 and the
	11	subsequent invasion of Hacienda Santa Fé in 2018,
	12	correct?
	13	A. Correct.
	14	Q. Now, just to confirm, in June 2018 you were
09:17:50	15	still Attorney General in Esteli department, correct?
	16	A. Correct.
	17	Q. You were not working as Attorney General in
	18	Jinotega at that time, correct?
	19	A. Correct.
09:18:09	20	Q. Now, Attorney General, you will understand when
	21	I use the words "personal knowledge"?
	22	A. Would you repeat?
	23	Q. Do you understand what I mean when I use the
	24	terms "personal knowledge"?
09:18:23	25	A. Yes.

09:18:28	1	Q. That means knowledge that you have had
	2	firsthand, correct?
	3	A. Yes.
	4	Q. Now, your statement as to the 2018 events in
09:18:43	5	connection in particular with Hacienda Santa Fé is based
	6	on the review of documents and some interviews with
	7	other individuals, correct?
	8	A. Correct.
	9	Q. You do not have personal knowledge of the
09:19:01	10	events in Hacienda Santa Fé in 2018, correct?
	11	A. Would you repeat the question?
	12	Q. You do not have personal knowledge of the
	13	events that took place in Hacienda Santa Fé in 2018,
	14	correct?
09:19:22	15	A. Correct.
	16	Q. Attorney General, do you have any knowledge of
	17	the fact that during this arbitration, parties requested
	18	the production of documents as part of this arbitral
	19	proceeding?
09:19:53	20	A. Would you repeat the question?
	21	Q. Do you know that during this arbitration the
	22	parties requested mutual production of documents as part
	23	of this arbitration proceeding?
	24	A. Correct.
09:20:10	25	Q. And you would agree with me that the Republic

09:20:14	1	of Nicaragua is in compliance with the orders of this
	2	Tribunal, correct?
	3	A. Yes.
	4	Q. And that is because Nicaragua complies with
09:20:26	5	international law in this arbitration?
	6	A. Would you repeat?
	7	Q. And is this because Nicaragua is complying with
	8	international law in this arbitration?
	9	A. Correct.
09:20:40	10	Q. And Nicaragua also observes international law
	11	in general?
	12	A. Correct.
	13	Q. You were asked to look for documents to address
	14	the requests by Riverside, correct?
09:20:55	15	A. Yes. Back then we did not have them available.
	16	Q. So you looked for the documents and collected
	17	them, correct?
	18	A. It was a strenuous effort because at that point
	19	it was a record that was quite old, dating back to 1990.
09:21:26	20	We didn't have it handy. It was not in digital format.
	21	It took a while for us to be able to find that record.
	22	Q. Would you please describe the requests for
	23	document production that you received in connection with
	24	your office?
09:21:56	25	A. When I was asked to review and study the case

09:24:14

25

09:22:03 1 on the requests presented by some individuals within the institution, and in particular in connection with the 2 3 invasion, we started to document the process, but we 4 only had some pieces. We had not found the record. 09:22:28 5 As I mentioned, it was a record that dated 6 back to 1990, and by 2018, 30 years had gone by. Yes, 7 almost 30 years. And, therefore, we did not have them 8 all available immediately, and that's when we started to 9 collect some information because these individuals were 09:22:56 10 attaching some letters from Agrarian Reform. 11 So that's when we started with the process 12 to be able to rebuild the record. We didn't have it 13 complete, and it was until I reviewed my second 14 statement when we were able to find the record. As I 09:23:19 15 mentioned before, it was not in digital format, and it 16 was not ill-intent on our behalf. Until we finally 17 found the record, it was a very long process. 18 Q. Now, it is not unusual not to have records in 19 digital format in Nicaragua, correct? 09:23:49 20 Back then, the rural titling office was not Α. 21 reporting to the Office of the Attorney General back 22 then, so that's why I'm telling you that we did not have 23 digital records. 24 O. You have mentioned the need to build the

record. Did you have the record at hand in connection

09:24:19 1 with the Hacienda Santa Fé in 2018? 2 I didn't have them. Α. 3 And who had those records? Ο. 4 Α. The rural titling office was within the 09:24:39 5 property office that reported to the ministry of finance 6 and public credit. Therefore, that record was not 7 something that we had in our own office in our own 8 department's office. 9 We took the steps necessary. It took a 09:25:01 10 while, a long time, because these are records that are 11 not within the Jinotega department, but this is at the 12 national level in a depository where all the information 13 for all the departments is kept. But this was 14 centralized. But being centralized, the individuals 09:25:22 15 that handle that area currently did not have them in 16 digital format. 17 We're talking about a very large number of 18 Too much information that we handled back 19 then. And as I mentioned before, these were many boxes, 09:25:42 20 and they were not in digital format. That is what did 21 not allow the individuals that had these documents to be 22 able to find the record, because that process in 1990 23 continued up to 2000, 2001, 2003, 2005, so much so that 24 we were unable to find that record. 09:26:09 25 As a matter of fact, we did not even know

09:26:11 1 the number of the record, the year when that record was 2 started, so it took a while. 3 But I'm asking you specifically about the files 4 in connection with Hacienda Santa Fé in 2018. 09:26:30 5 means you did not have the record? 6 Α. No, no. 7 Just a second. I need to finish my question. 0. 8 Didn't you have -- within the Office of 9 the Attorney General, where you started to work in 2019, 09:26:46 10 didn't you receive the record related to the events in 11 Hacienda Santa Fé in 2018? 12 Α. In 2018, we learned of the illegal taking of 13 Hacienda Santa Fé with the documentation presented by 14 the groups. Then we realized that there could be a 09:27:21 15 record, but until they were able to put together some 16 information, we didn't have any institutional record 17 with the department's office of Jinotega. 18 So, to confirm, the Office of the Attorney Q. 19 General did not have files dated 2018 in electronic 09:27:52 20 format within the Office of the Attorney General. Is 21 that what you're saying? 22 Α. Correct. 23 Q. So the Office of the Attorney General, for 24 example, did not have emails related to Hacienda 09:28:02 25 Santa Fé that were sent or received in 2018 in

09:30:16

25

Α.

Yes.

09:28:07 1 connection with the Hacienda? 2 We had emails related to giving a follow-up to 3 the process of illegal takings in a general fashion all 4 over the country, but not directly for Hacienda 09:28:34 5 Santa Fé. Rather, the emails we had were because of the 6 crisis in the country, the various protests, and we were 7 told that if there were illegal takings and there were 8 emails that we received in late June 2018, to follow up 9 to determine whether there were any takings in the 09:29:07 10 various departments of the country. 11 So you have -- let me ask you the question 12 again. 13 The Office of the Attorney General had electronic files at hand on other events in 2018, other 14 09:29:25 15 land takings in 2018, but not for Hacienda Santa Fé? 16 In connection with Hacienda Santa Fé, we did 17 not have any documents in particular. 18 Are there emails on Hacienda Santa Fé? Ο. 19 The emails have to do with -- that, well, Α. 09:30:01 20 indicated that we should follow up if there were any, 21 and we should report whether there were any takeovers of 22 land in the different departments of Nicaragua. 23 Ο. But wasn't there a takeover of Hacienda 24 Santa Fé in 2018?

09:30:19	1	Q. Yet, I understand from your testimony that
	2	there should, therefore, be emails regarding the
	3	takeover of the Hacienda Santa Fé in 2018, right?
	4	A. As I tell you once again, the emails indicated
09:30:40	5	that we should follow up if there were any illegal land
	6	takings in the different departments of the country.
	7	They did not specifically address Hacienda Santa Fé.
	8	Q. At any time in 2018, did the Attorney General's
	9	office produce a report on the takeover of Hacienda
09:31:03	10	Santa Fé?
	11	A. Could you please repeat the question?
	12	Q. At any time in 2018, did the Attorney General's
	13	office produce a report on the takeover of Hacienda
	14	Santa Fé?
09:31:20	15	A. Are you asking if this was by email?
	16	Q. Well, let me ask you in these terms.
	17	Did it produce a report on Hacienda
	18	Santa Fé in 2018 by email?
	19	A. No.
09:31:33	20	Q. Did the office of the Attorney General at any
	21	time produce a written report written in any way,
	22	electronically or on paper, regarding the takeover of
	23	Hacienda Santa Fé in 2018?
	24	A. No. No.
09:31:48	25	Q. What type of reports did the Attorney General's

09:31:51 1 office produce regarding the takeover of Hacienda 2 Santa Fé in 2018? 3 Well, actually reports or emails, well, there 4 are none from 2018. They don't exist. What there was 09:32:14 5 was information passed on by telephone related to the 6 instructions that our superiors gave us -- our superiors 7 from the office of the Attorney General, and for that 8 purpose there were some summonses on 9 August 2018 were 9 issued to the invaders who were at the Hacienda 09:32:40 10 Santa Fé. 11 Q. So if I understand your testimony, at no time 12 in the Office of the Attorney General was anything 13 produced in writing regarding the takeover of Hacienda 14 Santa Fé in 2018? 09:33:05 15 Α. Reports, no. 16 Was anything at all produced in writing 17 regarding the takeover of Hacienda Santa Fé in 2018? 18 Α. No. 19 Okay. Now, in your testimony you say that 09:33:33 20 you've reviewed documents in order to prepare your 21 witness statement. Did you provide your lawyers in this 22 arbitration all of the documents that you reviewed to 23 write up your witness statements? 24 Α. Based on my getting them gradually, yes, I 09:33:54 25 would then turn them over to them.

09:33:59	1	Q. Now, are you certain that Nicaragua's document
	2	production in this arbitration related to your office
	3	has been thorough?
	4	A. It has been thorough.
09:34:14	5	Q. And you have no reason whatsoever to think
	6	otherwise?
	7	A. I have no reason to think otherwise.
	8	Q. Now, in your witness statements you also
	9	confirm that you conducted certain interviews in
09:34:30	10	preparing your statement, correct?
	11	A. Yes.
	12	Q. Who did you interview?
	13	A. Mr. José Valentin Blandón López, Mr. William
	14	Herrera, persons who live in the area near Santa Fé, and
09:34:58	15	I had conversations with some of the leaders of the
	16	illegal takeovers of Santa Fé.
	17	Q. Now, in your statements you also make many
	18	references to the actions of the police in relation to
	19	the Hacienda. Were you able to confirm were you able
09:35:26	20	to speak directly with the police in order to get the
	21	information needed to be able to inform the Tribunal
	22	about the events at the Hacienda?
	23	A. That's right. I did have conversations with
	24	the National Police.
09:35:45	25	Q. And the only individuals in the police who

09:35:47	1	you've mentioned were William Herrera it was William
	2	Herrera. Was he the only member of the police who you
	3	spoke with?
	4	A. And with Commissioner Castro.
09:36:09	5	Q. Did you interview Inspector Calixto Vargas?
	6	A. I did also.
	7	Q. Now, did you ask Mr. Vargas for any document
	8	that he might have concerning the events at Hacienda
	9	Santa Fé?
09:36:26	10	A. He didn't have them. He didn't have any
	11	documents.
	12	Q. But did you ask him for them?
	13	A. Yes, I asked him what documents did he have.
	14	Q. And he told you that he did not have any
09:36:36	15	documents?
	16	A. Exactly.
	17	Q. And now you mentioned that you interviewed
	18	Messrs. Castro and Herrera. Did you also ask them if
	19	they had any documents related to the Hacienda?
09:36:56	20	A. In the conversations we had, I did ask them
	21	that.
	22	Q. And what did they tell you?
	23	A. They told me that there was a document that
	24	they had given William sent by Mr. Carlos Rondón.
09:37:25	25	Q. So that document that had been given to

09:37:31	1	Mr. Harrara was the only desument that Mr. Castro and
03.37.31		Mr. Herrera was the only document that Mr. Castro and
	2	Mr. Herrera had regarding Hacienda Santa Fé?
	3	A. Yes, dated 10 August 2018.
	4	Q. Were you able to review or let me start
09:37:52	5	over.
	6	Did you ask them if they had drawn up a
	7	response to that document?
	8	A. They produced a report.
	9	Q. And is that report written, in writing?
09:38:15	10	A. It was, if my memory serves me well. Well,
	11	it's a report that was sent by email by the National
	12	Police to their superiors.
	13	Q. When was that report sent?
	14	A. I don't have I don't remember the exact
09:38:35	15	date.
	16	Q. And who sent that report, Mr. Castro or
	17	Mr. Herrera?
	18	A. Mr. Castro.
	19	Q. And who did he send it to?
09:38:46	20	A. To his superior in the National Police. The
	21	director of the National Police.
	22	Q. And do you know whether that report has been
	23	given to Riverside in this arbitration?
	24	A. I understand that it has been.
09:39:07	25	Q. Now, just to confirm, because I don't think I

09:41:21

25

09:39:09	1	got an answer, do you know whether Mr. Castro or
	2	Mr. Herrera responded to the letter from Mr. Rondón
	3	dated August 10th?
	4	A. The Attorney General's office, together with
09:39:28	5	the National Police, days earlier had already taken
	6	their first action, which was to summons the leaders of
	7	the land takeovers on the 9th of August. Mr. Rondón's
	8	letter is dated the 10th of August, and it was delivered
	9	to Mr. Herrera on August 12th, 2018.
09:40:00	10	Q. Now, Ms. Gutiérrez, I don't think you've
	11	answered my question. Is it correct to understand that
	12	there was not a response to Mr. Rondón, that after
	13	Mr. Herrera received the August 10th, there was no
	14	response to Mr. Rondón?
09:40:24	15	A. Of course he was given a response. Of course,
	16	because of the follow-up for the persons left the
	17	property on August 11th. On August 14th, workers of
	18	Mr. Rondón went to the property and they sought the
	19	support of the police in order to take inventory on the
09:40:56	20	property.
	21	Q. So just to understand, at any time did anyone
	22	from the police or the Attorney General's office contact
	23	Mr. Rondón to respond to him personally with respect to
	24	the letter that he had sent on August 10th?

A. At the Attorney General's office we did not

09:41:23	1	harra any nhana nymbon an address to give Mr. Dandán
09.41.23		have any phone number or address to give Mr. Rondón
	2	notice. Mr. Rondón sent the letter through another
	3	person, and his workers had full knowledge that the
	4	property had been abandoned by these invaders.
09:41:45	5	Q. What efforts did the Attorney General's office
	6	make to try to identify the contact information for
	7	Mr. Rondón?
	8	A. Could you please repeat the question?
	9	Q. What did the Attorney General's office do to
09:41:59	10	locate the contact information for Mr. Rondón?
	11	A. Through our counsel in Nicaragua, in he was
	12	contacted in 2021 in order to make the property
	13	available to him so he could retake possession.
	14	Q. In 2018, what efforts did the Attorney
09:42:33	15	General's office make to identify the contact
	16	information for Mr. Rondón so as to be able to respond
	17	to Mr. Rondón regarding the August 10th letter?
	18	A. We did not have his phone number. We did not
	19	have an exact address for him.
09:42:54	20	Q. That is not my question, ma'am.
	21	What efforts did the Attorney General's
	22	office make to try to identify the contact information
	23	for Mr. Rondón?
	24	A. We didn't have any way.
09:43:07	25	Q. Was an effort made to get his contact

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09:43:10
        1
            information? Let me ask you the following question.
        2
                          You mentioned that the workers at the
        3
            Hacienda were aware of the evacuation of the Hacienda on
        4
            August 11th. Did the Attorney General's office at any
09:43:28
        5
            time communicate with any of the workers on the Hacienda
        6
            to try to identify or get the contact information for
        7
            Mr. Rondón?
        8
                Α.
                    No.
        9
                     Okay. Now, INAGROSA is a Nicaraguan company,
                Ο.
09:43:46
        10
            right?
        11
                Α.
                     Yes.
        12
                Q.
                     Now, INAGROSA, as a Nicaraguan company, has a
        13
            local representative, correct?
        14
                Α.
                     I don't know.
09:44:08
        15
                     It has a locally registered representative --
                Ο.
        16
            does it not have a locally registered representative for
        17
            purposes of receiving notice?
        18
                Α.
                     I don't know.
        19
                     You mentioned that you don't know whether
                Ο.
09:44:30
        20
            INAGROSA had a local representative for the purposes of
        21
            receiving notice. Did the Attorney General's office try
        22
            to confirm whether INAGROSA had a local representative
        23
            for the purposes of receiving notice?
        24
                Α.
                     Repeat the question.
09:44:47
        25
                     You've testified that you didn't know whether
                Ο.
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09:44:52	1	INAGROSA had a local representative, it being a
	2	Nicaraguan company, for the purpose of receiving
	3	notices. My question is whether the Attorney General's
	4	office attempted to investigate or confirm whether
09:45:09	5	INAGROSA actually had a local representative for
	6	receiving notices?
	7	A. I don't know.
	8	Q. We've seen testimony in this arbitration about
	9	the fact that the police of La Concordia was at the
09:45:42	10	Santa Fé Hacienda in June of 2018.
	11	Were you able to meet with the police from
	12	the police office in La Concordia?
	13	A. I'm not familiar with that event.
	14	Q. At any time did you interview or meet with the
09:46:08	15	lawyers from La Concordia in relation to the invasion of
	16	the Hacienda?
	17	A. The thing is La Concordia is not in the
	18	municipality of San Rafael del Norte. That's why I say
	19	I'm not familiar with the situation of the police of
09:46:26	20	La Concordia. There's no relationship.
	21	Q. Now, did you interview the mayor of Jinotega,
	22	Leónidas Centeno?
	23	A. I did have a conversation with him.
	24	Q. And did you ask Mr. Centeno whether he had any
09:46:42	25	documents concerning the events at Hacienda Santa Fé?

09:46:48	1	A. In the context of the conversations with him, I
	2	realized that, no, he did not have any documents in his
	3	possession.
	4	Q. But did you ask him whether he had documents in
09:47:01	5	his possession?
	6	A. Yes.
	7	Q. And what did he tell you?
	8	A. That he did not. That he didn't have documents
	9	related to the situation at Santa Fé.
09:47:18	10	Q. Now, were you able to interview Norma Herrera,
	11	the mayor of San Rafael del Norte?
	12	A. We did have conversations.
	13	Q. And did you ask Ms. Herrera whether she had
	14	documents related to the Hacienda?
09:47:37	15	A. Yes, and I was given a statement of accounts of
	16	payment of taxes well, unpaid taxes owed by the
	17	Rondón family. And that is the information through the
	18	municipal cadaster that we were given through the
	19	municipal cadaster regarding their tax debt in the
09:48:04	20	municipality.
	21	Q. So apart from that statement of accounts,
	22	Ms. Herrera told you that she did not have any other
	23	documents regarding Hacienda Santa Fé, correct?
	24	A. That is correct. She did not have any more
09:48:21	25	information.

09:48:26	1	Q. Did you meet with Mr. Edwin Castro?
	2	A. No.
	3	Q. Why not?
	4	A. I didn't have the opportunity to do so.
09:48:39	5	Q. Are you familiar with the fact that there's
	6	evidence in this arbitration that Mr. Edwin Castro was
	7	in communication with the leaders of the invasion?
	8	A. Could you repeat the question?
	9	Q. Are you aware that we have seen evidence in
09:48:59	10	this arbitration that Mr. Edwin Castro was in
	11	communication with the leaders of the invasion regarding
	12	the fact that the invaders should not leave the
	13	Hacienda?
	14	A. I have no knowledge of that sort of
09:49:23	15	conversation. The invaders always take the names of
	16	some persons in order to legitimize some illegal
	17	takeovers or illegal acts. But they take their name but
	18	not because it's real or certain.
	19	Q. So it's possible that those people are not
09:49:58	20	telling the truth?
	21	A. With respect to the question you're putting to
	22	me, that is not true.
	23	Q. But, once again, you don't have knowledge then
	24	of what conversations Edwin Castro may have had with the
09:50:18	25	invaders?
	1	

09:50:20	1	A. I don't know that they've had any conversation.
	2	Q. Now, did you interview your predecessor as
	3	Attorney General, Juan Betanco?
	4	A. I did. I did speak with him.
09:50:44	5	Q. Now, according to your testimony,
	6	President Ortega issued an order in May of 2018 that
	7	required that all police remain in their quarters and
	8	that due to that order, according to the witness
	9	statement you've presented, the police were not able to
09:51:03	10	respond to the invasion in June of 2018. Do you
	11	remember that testimony?
	12	A. Yes.
	13	Q. And you state that it was a verbal order,
	14	correct?
09:51:17	15	A. Repeat the question.
	16	Q. You testified that that order in May of 2018
	17	from President Ortega was a verbal order, correct?
	18	A. And it was televised nationwide.
	19	Q. And were you able to realize whether there was
09:51:41	20	some document, be it at the Attorney General's office or
	21	the police, somewhere in Nicaragua, that reflected in
	22	writing the order that President Ortega had handed down
	23	and televised?
	24	A. There are articles from the press, I saw them,
09:52:02	25	by the director, the National Police director, to all

09:54:10

25

09:52:11 1 the national police in the country. 2 At any time did you see President Ortega issue 3 his order on television? 4 Α. Of course. 09:52:28 5 Did you see it at that moment or afterwards? Ο. 6 Α. At that moment, in real time. 7 And did you see everything that the president Q. 8 said during his televised presentation in May of 2018? 9 Α. That's right. 09:52:54 10 Now, in your document review, did you review 11 any document that analyzed the security risk for 12 Nicaraqua caused by the invasion of Hacienda Santa Fé by 13 the ministry of interior? 14 Repeat the question. Α. 09:53:14 15 In your document review, did you review any 0. 16 document that analyzed the security risk for Nicaragua 17 provoked by the invasion of Hacienda Santa Fé from the 18 ministry of the interior? 19 I don't recall, but we did have instructions Α. 09:53:40 20 from our superiors in the office of the Attorney General 21 in emails from June, July and August of 2018 in which 22 they established that we should continue following the 23 protocol so as to not allow illegal takeovers and that 24 this would have a detrimental impact on the juridical

security of the country.

09:54:12	1	Q. But that is not an answer to my question, which
	2	is did you review any document that analyzed the
	3	security risk to Nicaragua caused by the invasion of the
	4	Hacienda put out by the Ministry of the Interior?
09:54:28	5	A. No.
	6	Q. In your document review, did you review any
	7	document that analyzed the security risk for Nicaragua
	8	caused by the invasion from the army?
	9	A. No.
09:54:40	10	Q. Did you review any document that analyzed the
	11	security risk for Nicaragua caused by the invasion of
	12	the Hacienda from the Ministry of Defense?
	13	A. No.
	14	Q. Did you review any document that analyzed the
09:54:56	15	security risk for Nicaragua caused by the invasion of
	16	the Hacienda from the Office of the Public Prosecutor?
	17	A. No.
	18	Q. Did you review any document that analyzed the
	19	security risk for Nicaragua caused by the invasion of
09:55:14	20	the Hacienda from the head of the National Police?
	21	A. No, I don't recall that.
	22	Q. Now, did you speak with anyone at the Ministry
	23	of the Interior about the security risk to Nicaragua
	24	caused by the invasion of the Hacienda?
09:55:38	25	A. No, I don't recall.

09:55:40	1	Q. Did you speak with anyone in the army about the
	2	security risk to Nicaragua caused by the invasion of the
	3	Hacienda?
	4	A. No.
09:55:48	5	Q. Did you speak with anyone from the Ministry of
	6	Defense about security risk for Nicaragua caused by the
	7	invasion of the Hacienda?
	8	A. No.
	9	Q. Did you speak with anyone from the Office of
09:56:02	10	the Public Prosecutor of Nicaragua concerning the
	11	security risk for Nicaragua caused by the invasion of
	12	the Hacienda?
	13	A. No.
	14	Q. Did you speak with the chief of the National
09:56:15	15	Police about the security for Nicaragua caused by the
	16	invasion of the Hacienda?
	17	A. With Commissioner Castro.
	18	Q. And what did Mr. Castro say?
	19	A. That at the national level, one could not
09:56:36	20	tolerate invasions of any private property.
	21	Q. And apart from the fact that one could not
	22	tolerate invasions of private property, did Mr. Castro
	23	not tell you anything else regarding the security risk
	24	to Nicaragua caused by the invasion of the Hacienda? Is
09:56:59	25	that right?

09:58:40 25

09:56:59	1	A. Yes, it is right.
	2	Q. Now, let me ask once again, just to confirm
	3	that the transcript is correct.
	4	Apart from the fact that Mr. Castro
09:57:15	5	mentioned to you the fact that one could not tolerate
	6	the takeover of private property, did Mr. Castro tell
	7	you anything else about the security risk for Nicaragua
	8	caused by the invasion of the Hacienda?
	9	A. Just that one must not tolerate invasions of
09:57:43	10	properties that belong to others, private property.
	11	Q. So apart from not tolerating invasions of
	12	private properties, did Mr. Castro not tell you anything
	13	else he did not tell you anything else. Is that
	14	right?
09:57:58	15	A. I don't recall.
	16	Q. Are you familiar with the Law on Organization,
	17	Functions, Career and Special Regime of Social Security
	18	of the National Police? This is Law No. 872.
	19	A. I'm familiar with it.
09:58:25	20	Q. Now, article 1 of Law 872 provides that the
	21	National Police is the only police force in the country,
	22	it is indivisible and it is in charge of all police
	23	activity, correct?
	24	A. Yes.
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Q. Now, as Attorney General, you are familiar

09:58:45 1 with -- are you familiar with the criminal law of 2 Nicaragua? 3 Α. Yes. 4 And that's because you play an important role 09:58:51 5 in enforcing it, correct? 6 Α. Yes. 7 Would you agree that, legally, a crime is a 8 crime and it doesn't matter where the crime occurs in 9 the country? Is that right? 09:59:06 10 Α. Yes, it is. 11 Is there any difference in the sanction to be 12 imposed on a criminal who steals something from a 13 home --14 MS. GONZÁLEZ: Excuse me. Ms. Gutiérrez 09:59:19 15 submitted a witness statement about the facts, not about 16 the law of Nicaragua with respect to ley penal in 17 Nicaraqua and all those type of questions. So I object 18 to the questions that Ms. Cardenas is posing to the 19 witness. 09:59:41 20 MS. CARDENAS: Mr. President, she is the 21 Attorney General of the department in Nicaragua. 22 has spoken about the need to comply with international 23 She has full knowledge of the law of Nicaragua. 24 It is 100 percent within the scope of her job duties as 09:59:54 25 the Attorney General of the Department of Jinotega, and

09:59:59 1 any questions in this regard regarding her knowledge of 2 criminal law and the implications of violations of the 3 law as they pertain to the Hacienda Santa Fé is fully 4 within her ambit as the Attorney General of the 10:00:15 5 Department of Jinotega. 6 MS. GONZÁLEZ: But she doesn't speak about 7 international law in her witness statement or the laws, 8 the criminal law, or those type of laws in Nicaragua. 9 PRESIDENT: The scope of cross-examination 10:00:27 10 is not strictly limited to the witness statement. 11 can cover issues that fall within the personal knowledge 12 of a witness. That's in PO1. She's a lawyer. She can 13 answer these questions. If she cannot answer the 14 questions, she can say that. 10:00:44 15 MR. APPLETON: Mr. President, just before 16 we go on, I would like to correct the misstatement made 17 by Ms. González. She does address international law in 18 her statement at one point as well. We'll come back to 19 there. I just simply wanted to make sure we're clear on 10:00:59 20 that before we move on. You've already made your 21 ruling. We'll follow exactly what you've said. 22 PRESIDENT: Please go on. 23 Just to confirm, for purposes of the record, is 24 there a difference between the sanction to a criminal 10:01:23 25 that steals something from a house to that who steals

10:01:28	1	something from a business?
	2	A. Please repeat the question.
	3	Q. Is there a difference between the sanction to a
	4	criminal that steals something from a house from that
10:01:37	5	who steals something from a business?
	6	A. That's correct.
	7	Q. So the penalty does not change according to the
	8	place where the crime is committed, correct?
	9	A. Correct.
10:01:49	10	Q. The place of the offense does not determine the
	11	severity of the penalty, correct?
	12	A. Please repeat the question.
	13	Q. The place where the offense was committed does
	14	not determine the severity of the penalty, correct?
10:02:06	15	A. Correct.
	16	Q. A crime committed in a rural area is the same
	17	as a crime committed in an urban area, correct?
	18	A. But in the context that we had in Nicaragua at
	19	the time, it was difficult for the National Police to do
10:02:24	20	its job. That is the difference.
	21	Q. Again, that is not the question I'm asking you.
	22	In principle in principle a crime
	23	committed in a rural area is the same as a crime
	24	committed in an urban area, correct?
10:02:40	25	A. Yes.

10:02:41	1	Q. But you have to look at the circumstances.
	2	A. Okay.
	3	Q. But, in general, you agree that the place where
	4	the crime was committed does not determine the
10:02:59	5	seriousness of the offense?
	6	A. Correct.
	7	Q. Article 2 of Law 872, that you say you know,
	8	provides that the National Police has a mission in the
	9	national territory to protect the life, integrity and
10:03:28	10	safety of people and property, correct?
	11	A. Yes.
	12	Q. Just to confirm, article 2 of Law 872 does not
	13	provide that the category of a crime is based on the
	14	location of the victim or of the perpetrator, correct?
10:03:48	15	A. Correct. But you have to take into account the
	16	situation that existed at the time and the crisis that
	17	the country was going through at that time. This
	18	prevented the police from carrying out its work.
	19	Q. You mentioned that it depends on the
10:04:23	20	circumstances and it depended on the circumstances that
	21	existed in 2018. I imagine that you're making reference
	22	to the order that the police be there in their barracks
	23	and did not leave in 2018?
	24	A. I'm referring to a number of circumstances.
10:04:47	25	The National Police was addressing the problems that

10:07:12

25

10:04:52 1 started with the political protests, the social 2 protests, and it did not have enough human resources, 3 the police of San Rafael del Norte, to address this 4 problem. 10:05:27 5 Ο. Okay. Now, you were saying that the police of 6 San Rafael del Norte did not have enough resources. 7 That was not my question. 8 My question was if, in principle, article 9 2 of Law 872 provides that the category of a crime is 10:05:59 10 based on the location of the victim or of the 11 perpetrator, correct? 12 Correct. But you always have to take into Α. 13 account the circumstances of the event. There was an 14 enormous amount of people that were inside the property, 10:06:20 15 invaders, and because of the level of the resources, 16 they were not able to try to evict them from Hacienda 17 Santa Fé. So the National Police was prevented from 18 doing that kind of work. So it would be a risk to do 19 that kind of work. 10:06:42 20 Ma'am, let us look at Law 872. This has been Ο. 21 identified in this arbitration as C-0007. Just one 22 moment, please. And, in particular, I'm going to ask 23 you to look at article 2 of this law. Could you please 24 show us where in this article reference is made to the

fact that the classification of a crime may vary,

10:07:19 1 depending on the events and circumstances of the time? 2 No, it doesn't say that. Α. 3 Okay. For the record, this article 2 of C-0007 Q. 4 says that the National Police has, as its mission in the 10:07:51 5 national territory, to protect the life, integrity and 6 the safety of people and property, the free exercise of 7 the rights and freedoms of the individuals to guarantee 8 public policy, social coexistence, the prevention, 9 prosecution and investigation of crime in general, of 10:08:13 10 organized crime, terrorism, drug trafficking and related 11 crimes and any others that may be established by law. 12 It is included in the National System of Democratic 13 Security (SNSD). 14 All individuals and entities are 10:08:36 15 prohibited from exercising the functions that are given 16 to it by the political constitution and this law, which 17 is something exclusively given to the National Police. 18 Individuals and entities may conduct 19 nonpolice investigation activities, investigative 10:08:54 20 journalism, academic research, studies that do not 21 violate constitutional rights and the privacy of 22 individuals. 23 Have I read that correctly, ma'am? 24 Α. Yes. 10:09:26 25 You have testified, Madam Attorney General, 0.

10:09:29 1 that once the invaders were evicted in 2021, the 2 Attorney General's office of Nicaragua invited the legal 3 representatives of the Claimant, by a letter dated 4 9 September, 2021, to take possession of Hacienda 10:09:47 5 Santa Fé, correct? 6 Α. Correct. 7 Let us look at this invitation letter that Ο. 8 you're making reference to. This is C-116. Is this the 9 letter that you're making reference to when you say that 10:10:10 10 the Attorney General's office invited the legal 11 representative of the Claimants to take possession of 12 the Hacienda? 13 It's in English, but yes, that is the date and Α. 14 that is the person addressed to. 10:10:30 15 You have said that the owners of the property Ο. 16 refused to take possession of the Hacienda? 17 Well, they did not show any interest in that. 18 Q. Okay. In your testimony in connection with 19 that lack of interest, you do not cite anything 10:10:51 20 supporting your statement, correct? 21 Α. Yes, that's right. 22 What is your basis to conclude that the 23 property owners refused to take the property? 24 Because in my conversations with the Α. 10:11:07 25 counselors, they told me that these communications had

10:11:18	1	already happened with Mr. Rondón addressing the Rondón
	2	family's counsel.
	3	Q. Okay. Let us look at C-118. Do you recognize
	4	this law firm, Foley Hoag?
10:11:56	5	A. I do.
	6	Q. They were the representatives of Nicaragua in
	7	the past, right?
	8	A. Yes.
	9	Q. Do you know the attorneys that are identified
10:12:06	10	here as representatives of the law firm Foley Hoag?
	11	A. Yes.
	12	Q. Have you seen this letter before?
	13	A. It's in English, but what I know is that they
	14	didn't categorically or firmly state that they were
10:12:25	15	ready to take possession of Hacienda Santa Fé. They do
	16	not literally say that, that they are going to receive
	17	the Hacienda.
	18	Q. One moment, please.
	19	Your statement makes reference to this
10:13:05	20	letter.
	21	A. Well, the one from September 9 that was sent.
	22	In my statement what I say is that the family the
	23	Rondón family was informed that the property was
	24	ready to be delivered.
10:13:30	25	Q. Okay. This letter does not indicate that the

```
10:13:50
        1
           property owners are refusing to take possession of the
        2
           property, correct?
        3
                          MS. GONZÁLEZ: Mr. President, the witness
        4
           doesn't speak English.
10:14:01
        5
                          PRESIDENT: Right. If you want to put
        6
           questions on this letter, you need to have a translation
        7
           provided to the witness.
        8
                          MS. CARDENAS: Please scroll down.
        9
                     I'm going to translate informally this letter
                0.
10:14:39
        10
           to you, Madam Attorney General.
        11
                          PRESIDENT: You can read it in English,
        12
           and the translation is provided by the interpreter.
        13
                          MS. CARDENAS: We are unaware that there
        14
           has ever been an issue regarding the ownership --
10:14:56
        15
                          MS. GONZÁLEZ: I'm sorry, Mr. President.
        16
            I'm not sure if it could be possible for her to read the
        17
            whole letter because, otherwise, she will not have the
        18
           context of the totality of the record if she will only
        19
            read a paragraph.
10:15:09
        20
                          MS. CARDENAS: I am going to read this
        21
           paragraph.
                        The third paragraph.
        22
                          PRESIDENT: Let's see what the question is
        23
           first.
        24
                     "We are unaware that there has ever been an
                Ο.
10:15:18
        25
            issue regarding the ownership of the Hacienda Santa Fé
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10:15:20	1	since the purchase of the property at public auction in
	2	December of 1997. Your client is the Government of the
	3	Republic of Nicaragua which operates the land title
	4	system and would be the logical source of the required
10:15:37	5	information. Our client supplied document C-042 with
	6	the Notice of Arbitration confirming the purchase of
	7	Hacienda Santa Fé in 1997. What other documentation
	8	could you possibly require? Accordingly, could you
	9	please explain why there would be a need to further
10:16:01	10	demonstrate the property ownership in these
	11	circumstances and the process you propose in this
	12	regard?"
	13	Were you able to understand that, Madam
	14	Attorney General? You didn't hear the translation of
10:16:24	15	the paragraph?
	16	A. I didn't hear the last part.
	17	Q. Were you able to understand the translation of
	18	the letter, ma'am Attorney General?
	19	A. I didn't hear the last sentence or the last
10:16:38	20	part.
	21	Q. Okay. My apologies.
	22	"Accordingly, could you please explain why
	23	there would ever be a need to further demonstrate the
	24	property ownership in these circumstances and the
10:16:53	25	process you propose in this regard?"

10:17:04	1	Did you understand that, ma'am?
10.17.04	2	
		A. Yes.
	3	Q. "Concerning the second condition, could you
	4	please elaborate on your client's conditions for
10:17:13	5	returning Hacienda Santa Fé and the basis for the
	6	imposition of these conditions?"
	7	Did you understand that, ma'am?
	8	A. I did.
	9	Q. Can you please tell us where in those two
10:17:34	10	paragraphs Mr. Appleton refuses to recover the property?
	11	A. In this letter, it is not literally stated.
	12	Yes, I agree, we're going to start a process with
	13	Nicaragua to receive the property. I think it is
	14	putting some obstacles for receiving the property, and
10:18:05	15	they didn't really insist in their wanting to receive
	16	the property.
	17	Q. Do you know whether there was a response from
	18	Foley Hoag to this communication from Mr. Appleton in
	19	writing?
10:18:25	20	A. The following year there was another
	21	communication from the counselors of Nicaragua.
	22	Q. Before the precautionary measure was issued
	23	requested by the Attorney General's office in connection
	24	with Hacienda Santa Fé, before that, do you know whether
10:18:50	25	Foley Hoag's attorneys provided a response in writing to

10:18:54 1 this communication? 2 I do not know. Α. 3 Were you able to look at your files to confirm 4 the fact that there was or there wasn't a response to 10:19:10 5 this communication before asking for the precautionary 6 measure? 7 No, because this was processed by the Α. 8 attorneys. 9 Did you ask your counsel to confirm whether 10:19:28 10 there was a written response to this communication 11 before asking for the precautionary measure? 12 Α. I didn't. 13 In your statement you say that because of the 14 fact that the Claimant had refused to recover the 10:19:48 15 property, the Attorney General's office asked the courts 16 to provide a precautionary measure whereby the PGR was 17 the judicial depository of it with the purpose of 18 preserving the interests of the property holders and 19 prevent new invasions, correct? 10:20:13 20 Α. Correct. 21 Who in the Nicaraguan government asked you or 22 authorized you to ask for that precautionary measure? 23 Well, my superiors from the PGR in Managua. Α. 24 Who, within the PGR, authorized you to ask for 10:20:35 25 that precautionary measure?

10:20:37	1	A. The Attorney General.
	2	Q. For the record, I've made reference to the PGR,
	3	and you make reference to the PGR in your statement.
	4	Could you please confirm to us what the PGR is to which
10:20:53	5	you make reference to?
	6	A. Please repeat the question.
	7	Q. Just for the record, I made reference to the
	8	PGR and that you had asked the PGR to be the judicial
	9	depository of the property. You make reference in your
10:21:13	10	statement to the PGR?
	11	A. Yes.
	12	Q. Who are you making reference to when you talk
	13	about the PGR?
	14	A. To the Attorney General. She was a female, as
10:21:27	15	I indicated.
	16	Q. Let us look at the request by the Attorney
	17	General's office asking for the appointment of the
	18	judicial depository. This is C-253, page 11.
	19	This request is signed by Liosber Enoc
10:22:28	20	Guerrero Alfaro, correct?
	21	A. That's correct.
	22	Q. And he is the assistant attorney of the
	23	Jinotega department, correct?
	24	A. Yes.
10:22:40	25	Q. And he is he works under you, correct?

10:22:45	1	A. Yes.
	2	Q. So you authorized Mr. Guerrero Alfaro to submit
	3	this request?
	4	A. Yes, that's right. When we were told we had to
10:23:07	5	submit this document, this is an atypical request. This
	6	is not something that happens all the time to us as
	7	lawyers in the Attorney General's office. They told us
	8	that we needed to make this request, we needed to submit
	9	this request.
10:23:25	10	Q. You reviewed this document before it was
	11	submitted to the court?
	12	A. I read it.
	13	Q. And you made the corrections that you deemed
	14	appropriate?
10:23:37	15	A. I read it.
	16	Q. So if you did not make any corrections, you
	17	were satisfied that this document was correct?
	18	A. Yes, that's right.
	19	Q. Let us look at No. 4 of this document, page 4,
10:24:00	20	where the Attorney General's office says that the reason
	21	for this submission is that the lawyers from Appleton
	22	and Associates responded to Nicaragua's offer in
	23	connection with taking control of the property by saying
	24	that they refused to travel to Nicaragua and that they
10:24:21	25	were afraid to take possession of the property because

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10:24:26
        1
            of alleged threats.
        2
                          Do you see that?
        3
                     Yes.
                Α.
        4
                     As we have seen, Mr. Appleton's letter of
10:24:48
        5
            September 9 does not mention anything about this alleged
        6
            fear to travel to Nicaragua, correct?
        7
                Α.
                    Correct.
        8
                     And you did not submit any document in support
        9
            of this allegation, the one that is stated in this
10:25:16
        10
            document, correct?
        11
                Α.
                    Correct.
        12
                Q.
                     The court that ended up granting this request,
        13
            did it ask for evidence confirming this point that
        14
            Appleton and Associates had expressed their fear to
10:25:40
        15
            travel to Nicaragua?
        16
                Α.
                     No.
        17
                     Are you aware of the fact that Riverside is the
        18
            Claimant in this arbitration, correct?
        19
                     That's correct.
                Α.
10:25:56
        20
                     And you agree, of course, that INAGROSA is the
        21
            property of Hacienda Santa Fé and Riverside is not,
        22
            correct?
        23
                Α.
                     Correct.
        24
                     In fact, this same request recognizes that
10:26:13
        25
            INAGROSA is the owner of the Hacienda Santa Fé lands,
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10:26:17 1 correct? 2 Α. That's right. 3 However, this request names Riverside and not Q. 4 INAGROSA as a party. Is that correct? 10:26:36 5 In this document it says who the property 6 belongs to in accordance with the registry. 7 Q. One moment. 8 PRESIDENT: Ms. Cardenas, we should be 9 breaking in the next five to ten minutes, when it's 10:26:53 10 convenient for you. Just for your information, as you 11 remember, you reserved some one hour, 15 minutes for the 12 cross. I think we are very close to that. As we said, 13 it's for you to manage the time, but I'm just flagging 14 this for your information. 10:27:11 15 MR. APPLETON: Mr. President, I believe 16 the break was scheduled for later today on the schedule, 17 but we have no problem with the usual break time which 18 we think is very convenient. I leave it to 19 Ms. Cardenas, who's in the middle of her questioning, to 10:27:25 20 decide where that would be. As long as you are prepared 21 to let us have the break around 10:30-ish rather than a 22 little later. 23 PRESIDENT: I said we should break around 24 10:30. I'm thinking of the court reporters. 10:27:39 25 MR. APPLETON: So am I.

10:27:41 1 PRESIDENT: They need to break every hour 2 and a half, and it's for Ms. Cardenas to decide whether 3 it's in the next five minutes or it's the next 4 ten minutes. Please proceed. 10:27:53 5 MS. CARDENAS: Thank you, Mr. President. 6 Ο. Here on this document we see that Riverside 7 Coffee, LLC is the Plaintiff, and the Defendant is the 8 State of the Republic of Nicaraqua. No mention is made 9 here to INAGROSA. Is that correct? 10:28:13 10 Α. That is correct. 11 You can continue showing this document. 12 It's on the screen. Please scroll down. Please scroll 13 down. Please scroll down. Please scroll down. Scroll 14 down. Scroll down, please. Stop here. 10:29:25 15 Inversiones Agropecuarias INAGROSA is the 16 owner of this property. 17 Apart from recognizing that INAGROSA is the 18 property owner, there is no other reference that is more 19 substantial in nature in connection with INAGROSA, 10:29:45 20 correct? 21 Well, there was a request to provide notice of 22 this to INAGROSA in Managua. 23 Okay. Let us look at section 1, page 2. Q. 24 Scroll down. 10:30:19 25 Do you see where it reads address to serve

10:30:25	1	notice to Claimant in Nicaragua, the domicile to certain
10.00.20	2	notice on the plaintiff. Riverside Coffee is located in
	3	INAGROSA, but there it says that the party to be served
	4	notice is Riverside Coffee, correct? It does not say
10:30:47	5	the INAGROSA company needs to be served notice, correct?
	6	It says Riverside Coffee that is located with INAGROSA,
	7	correct?
	8	A. Yes, because the complainant the Plaintiff
	9	is Riverside in this case.
10:31:06	10	Q. But INAGROSA was not asked to be served notice?
	11	A. The request for notice indicates that it is
	12	located in INAGROSA Managua.
	13	Q. Yes, but that is different from requesting
	14	INAGROSA's notification.
10:31:26	15	A. When we requested the urgent precautionary
	16	measure, we had to justify why we are requesting that
	17	measure. When that remedy was requested, we needed to
	18	indicate why it is an urgent process. Why? Because we
	19	also have a claim, and we also need to justify from the
10:31:51	20	Office of the Attorney General why we are requesting
	21	that urgent measure. And that's the reason why it is
	22	indicated that it is Riverside Coffee and that it is
	23	located within INAGROSA Managua.
	24	Q. Attorney General, I see in this document that
10:32:08	25	you reviewed and approved that the local domicile of

10:32:16	1	INAGROSA is identified in Managua, the one that you
	2	mentioned was impossible for the Office of the Attorney
	3	General to find to serve notice to Mr. Rondón with an
	4	answer to the communication of August 10th, correct?
10:32:35	5	A. In this request, Riverside had already
	6	presented a claim against the State of Nicaragua, and up
	7	to that point we were able to obtain this domicile.
	8	Q. Do you agree that INAGROSA is not the Claimant
	9	in this arbitration and that the local domicile in
10:32:58	10	Managua that you have identified is not included as the
	11	Riverside domicile in this arbitration?
	12	A. But by talking to counsel, we were able to
	13	identify what the domicile was to serve notice.
	14	Q. Okay. So I invite your attorneys to show us
10:33:21	15	where this domicile was included in the claim presented
	16	by Riverside that you stated in due course was
	17	impossible to identify in 2018 to offer an answer to
	18	Mr. Rondón. Because that domicile is not in the record
	19	of this arbitration in connection with Riverside.
10:33:52	20	Mr. President, this is a good time to
	21	stop, if that's okay with you.
	22	PRESIDENT: Yes. Let's break now for 15
	23	minutes until 10:50.
	24	Ms. Gutiérrez, I should remind you that
10:34:04	25	you are still under examination, so you should not speak

10:34:07 1 to anybody about your testimony during the break. You 2 can, of course, leave the room. You can have a cup of 3 coffee and so on. You just cannot speak. Thank you. 4 (Brief Recess) 10:56:58 5 PRESIDENT: Let's resume. 6 BY MS. CARDENAS: 7 Ms. Gutiérrez, we were discussing 1.A of the Ο. 8 requests for a precautionary measure that includes the 9 domiciles to serve notice to Riverside, and we can see 10:57:34 10 that in section -- we can see that in section B, there 11 are some addresses to serve notice in the United States 12 of California, and there where it says the United States 13 of California there are two addresses. Do you see that? 14 A. Yes. 10:58:10 15 One in Colorado and the other one in Toronto, Ο. 16 Ontario. Do you see that? 17 Α. Yes. 18 Now, would you agree with me that Colorado is Q. 19 not in the United States of California? 10:58:30 20 I apologize. My question is that Colorado 21 is a state in the US, California is another state in the 22 US. Are you aware of that? 23 I do not know. Α. 24 The second domicile included here is for Ο. 10:58:50 25 Mr. Barry Appleton in Toronto, Ontario. Do you see

10:58:59 1 that? 2 Α. Yes. 3 Do you know if Toronto, Ontario is in the state 4 of California? 10:59:15 5 Α. I do not know. 6 What did you do -- or what did the Office of 7 the Attorney General do to attempt to confirm the 8 addresses and make sure that the notices included in 9 this document were correct? 10:59:39 10 When we were given the request or we were 11 informed or told that those are the addresses, we were 12 thinking that those are the proper addresses or 13 domiciles. 14 Who gave you these addresses? Q. 11:00:05 15 The Office of the Attorney General gave them to Α. 16 us. 17 Do you know whether the Attorney General's 18 office has attempted to give notice of this document in 19 keeping with the Hague Convention? 11:00:23 20 In that request the petition is put to the Α. 21 judiciary. 22 Ο. Which request is put to the judiciary? 23 To notify the request for the precautionary Α. 24 measure. 11:00:40 25 But my question is whether specifically an Q.

11:00:43	1	attempt has been made to give notice through the Hague
	2	Convention?
	3	A. I don't know.
	4	Q. And do you agree with me that giving notice of
11:01:08	5	this document to the party affected is important?
	6	A. Yes, it is important.
	7	Q. Now, let's look at the order that the court
	8	issued granting this request. If we could please look
	9	at Exhibit C-251.
11:01:46	10	The order granting the request was issued
	11	15 December 2021, correct?
	12	A. Correct.
	13	Q. And let us look, please, at point 4, and that's
	14	on page 5 of 5.
11:02:19	15	Do you see there where it says that the
	16	order stipulates to deliver a copy of the request to the
	17	person affected with the measure so as to be able
	18	"A copy of the letter is given to the
	19	person affected by the measure, so that the person can
11:02:39	20	exercise the right of opposition, if the person so
	21	wishes, within the third day counted from the
	22	notification, the affected party may propose the
	23	evidence that it intends to use to substantiate its
	24	opposition."
11:02:49	25	Do you see that?

11:04:48 25

11:02:50	1	A. Yes.
	2	Q. Do you know whether that requirement has been
	3	fulfilled?
	4	A. It was not, but it's my understanding that
11:03:07	5	Nicaragua's counsel knew about it and were in contact
	6	with the court and became aware of this precautionary
	7	measure as soon as the judicial order was issued.
	8	Indeed, there's a website where the judiciary online
	9	well, any counsel or attorney can consult the online
11:03:48	10	system, can also become aware of any proceeding there
	11	may be against them and can observe, step by step, what
	12	has been put into that website of the judiciary.
	13	Q. But you've told us that you're an attorney, and
	14	as an attorney, are you not knowledgeable that knowing
11:04:16	15	that something exists is not the same as receiving
	16	official notice in keeping with the law, correct?
	17	A. Correct.
	18	Q. And even if someone has knowledge, that doesn't
	19	mean that they've been notified, correct?
11:04:32	20	A. Correct.
	21	Q. And if they've not been informed, how is it
	22	possible for them to go into the website that you
	23	mentioned to us to see everything that has happened in
	24	the proceeding if they've not been informed?

A. But even so, they realized it.

11:04:52	1	Q. But if they hadn't realized it, how do they
	2	know that they can turn to the website?
	3	A. Well, that's why I'm telling you as soon as the
	4	order was issued, the attorneys had contact with this
11:05:09	5	request, and they found out about this precautionary
	6	measure.
	7	Q. You mentioned communications with counsel. Do
	8	you know whether those counsel at some time communicated
	9	with Riverside's attorneys to ask Riverside whether it
11:05:30	10	was willing to accept notice of the document
	11	voluntarily?
	12	A. I'm not familiar with that aspect.
	13	Q. Now, you, as Attorney General, at some time
	14	have you communicated with the legal representatives of
11:05:44	15	Riverside to ask whether they are willing to voluntarily
	16	accept the notice of the order?
	17	A. No.
	18	Q. Now, the initial term of this order was
	19	two years, correct?
11:06:03	20	A. Yes, it's provisional.
	21	Q. And this order has already been renewed,
	22	correct?
	23	A. Yes, because the State has to guarantee
	24	protection of the property and, as a requirement, there
11:06:20	25	must be a basis for having private security guards

11:09:05

25

Α.

11:06:25 1 there. And I might add that the State, the Office of 2 the Attorney General, has had three contracts with these 3 private companies and, at this time, has paid a 4 considerable sum of money to safeguard this property. 11:06:43 5 At present, those three agreements with 6 this private security company comes to more than 7 \$800,000 for caring for that property ever since private 8 security was placed there. This is an expense that has 9 been incurred by the Nicaraguan government. 11:07:05 10 But my question is whether this precautionary 11 measure has been renewed, yes or no? 12 Yes, it was renewed, because since they did not Α. 13 show interest or insist on taking possession of the 14 property, that is why a second request was made to renew 11:07:22 the precautionary measure, but as I say, it's 15 16 provisional. 17 0. Okay. Now let us look at the request. 18 Now let's look at -- this is the granting 19 of the renewal of the precautionary measure, and I'm 11:08:30 20 going to draw your attention to paragraph 4, which 21 indicates a notice shall be given, and then it requests 22 that INAGROSA be notified. This is paragraph 4. And if 23 we could look at paragraph 5, please, it also refers to 24 notice to Riverside. Do you see that?

Yes, and on that occasion INAGROSA Managua was

11:09:10	1	notified that notice was received by INAGROSA in
	2	Managua.
	3	Q. And do you have a document to show that?
	4	A. Of course.
11:09:19	5	Q. And do you know if that has been produced as
	6	evidence in this arbitration?
	7	A. Yes, it was produced.
	8	Q. I invite the attorneys for the other party to
	9	produce that document. Now, I note at paragraph 5, when
11:09:38	10	we're talking about the company, Riverside Coffee, the
	11	address of Mr. Barry Appleton in Toronto, Ontario is
	12	still not correct in that it makes reference to wetsuit.
	13	602. Do you see that?
	14	A. Yes.
11:10:05	15	Q. A wetsuit is a suit that one wears, correct
	16	excuse me. Do you know what wetsuit means?
	17	A. No, I don't.
	18	Q. You've told us that the Attorney General's
	19	office asked the court to designate the Attorney
11:10:33	20	General's office as judicial depository of the Hacienda,
	21	correct?
	22	A. Yes, that is correct.
	23	Q. Now, a judicial depository is a person or
	24	entity designated by the court to administer certain
11:10:51	25	property while a legal dispute is worked out, correct?

11:10:55	1	A. Yes.
	2	Q. And that person or entity is generally
	3	independent; that is to say, has no conflict of interest
	4	in relation to the dispute, correct?
11:11:09	5	A. Could you please repeat the question?
	6	Q. That individual or entity is generally
	7	independent, having no conflicts of interest in the
	8	resolution of or the terms of the dispute, correct?
	9	A. It could be.
11:11:29	10	Q. But, in general, in your experience as an
	11	attorney, a judicial depository is not one of the
	12	current parties to the dispute, correct?
	13	A. It could be.
	14	Q. Do you know how many judicial depositories were
11:11:51	15	considered before the Attorney General's office was
	16	designated as the judicial depository of the Hacienda?
	17	A. I don't.
	18	Q. Do you know whether other judicial depositories
	19	were sought, apart from the Attorney General's office,
11:12:09	20	to be designated as judicial depository?
	21	A. I do not.
	22	Q. Do you know whether the Tribunal asked or
	23	whether the court asked for other alternatives to be
	24	presented?
11:12:27	25	A. It did not.

11:12:30	1	Q. So only the State of Nicaragua, which is a
	2	party to the controversy with the Hacienda Santa Fé, it
	3	was considered and eventually appointed as judicial
	4	depository of Hacienda Santa Fé, correct?
11:12:46	5	A. It is correct.
	6	Q. Okay. Nicaragua has indicated in its Memorial
	7	before this Tribunal, dated 23 November 2022, that this
	8	measure is also entirely consistent with Nicaragua's
	9	obligations under international law to protect the
11:13:17	10	property of a foreign investor against harm caused by
	11	third persons. Therefore, the Claimant's allegation
	12	that this protection order is tantamount to an
	13	expropriation is imprecise, as shown by the judicial
	14	documents attached by the Claimant in its presentation,
11:13:37	15	Nicaragua recognizes that Hacienda Santa Fé belongs to
	16	the Claimant. Do you agree with that statement by your
	17	attorneys?
	18	A. Could you repeat it, please?
	19	Q. Of course.
11:13:51	20	This measure is also entirely consistent
	21	with Nicaragua's obligations under international law to

21 with Nicaragua's obligations under international law to protect the property of a foreign investor against harm caused by third persons. Therefore, the Claimant's allegation that this protection order was tantamount to an expropriation is imprecise. As shown by the judicial

11:14:12 25

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11:16:14

25

Α.

11:14:17 1 documents that have been attached by the Claimant to its 2 filings, Nicaragua acknowledges that the Hacienda 3 Santa Fé belongs to the Claimant? 4 Α. That's right. 11:14:31 5 So Nicaragua had the duty to protect the Ο. 6 property of a foreign investor from any harm, correct? 7 After the removal of the invaders, that request Α. 8 was made. 9 And from the outset from before the invasion? Ο. 11:14:59 10 We could not request this at that time because 11 we obviously had to remove the persons from there, and 12 they left peacefully. Until the last contingent was 13 evicted, that was 18 August of 2021, and that is it was 14 only then that the request was made and that the private 11:15:25 15 security company was hired. 16 But just to confirm that I'm understanding your 17 testimony properly, is it your testimony that Nicaragua 18 did not have the duty under international law to protect 19 the property of a foreign investor from harm caused by 11:15:44 20 third persons before 2018 and that that obligation only 21 came about after 2018? 22 Of course, because there were invaders on the 23 property. 24 And before 2021, did that obligation exist? Ο.

We made efforts, together with the National

11:16:17	1	Police, to remove the people, but we didn't have anyone
	2	to turn the property over to at that time, and nor did
	3	the Rondón family come forward, knowing through the
	4	workers themselves that the property had been cleared of
11:16:39	5	the invaders as of August 2018.
	6	Q. Well, let me reformulate the question.
	7	Is it your testimony that Nicaragua did
	8	not have the duty under international law to protect the
	9	property of a foreign investor from harm caused by third
11:16:58	10	persons before 2021?
	11	A. Of course. The State has always borne that in
	12	mind.
	13	Q. It had borne what in mind?
	14	A. That one must always protect private property.
11:17:20	15	Q. At all times?
	16	A. At all times.
	17	Q. Now, we've seen in the decision granting the
	18	precautionary measure or we've spoken of that
	19	document. Would you agree with me that at no part in
11:17:57	20	that document is it required that the or is it asked
	21	that the State of Nicaraguan be added as owner to the
	22	title of Hacienda Santa Fé?
	23	A. I don't understand the question.
	24	Q. Would you agree with me that nowhere in the
11:18:21	25	15 December 2021 order granting the precautionary

11:18:25 1 measure is a requirement established for the Nicaraquan 2 State to be added as owner to the title for Hacienda 3 Santa Fé? 4 Α. I don't understand the question. 11:18:43 5 Well, let's look at the document. If we could 6 look at Exhibit C-251. 7 Exhibit C-251 is the order granting 8 issuance of the precautionary measure, correct? 9 Α. Correct. 11:19:26 10 Could you please show me where in this document 11 the court requires that Nicaragua be added to the title 12 of Hacienda Santa Fé as an owner? 13 The thing is no title was being given to the Α. 14 State. The State was not being given ownership. It's a 11:19:48 15 precautionary measure, provisional in nature, that lasts 16 for two years. And at any time, at the request of any 17 of the parties, that precautionary measure could be 18 suspended. 19 So we agree that nowhere in this document, in 11:20:08 20 this order of 15 December 2021, is it established that 21 Nicaraqua must be added as owner on the title of 22 Hacienda Santa Fé, right? 23 Well, the thing is at no time did the State ask 24 that Nicaragua receive ownership or any ownership 11:20:29 25 interest as such.

11:20:30	1	Q. But I'm not talking about Nicaragua's request.
	2	I'm talking about the order of the court. Just to
	3	confirm my understanding, which I think is consistent
	4	with what you're trying to explain to us, but I just
11:20:40	5	want to explain it for the record, that at nowhere in
	6	this document, C-251, is the court requiring that
	7	Nicaragua be added to the title of Hacienda Santa Fé?
	8	A. That's right. We could observe perhaps No.1 or
	9	2.
11:21:02	10	Q. Fine. 1 and 2.
	11	A. It is appropriate to adopt the precautionary
	12	measure naming as appointing judicial depository on
	13	an urgent basis as requested by the Attorney General's
	14	office.
11:21:24	15	Q. Okay. Now let's look at annex 268.
	16	PRESIDENT: For the record, it's
	17	Exhibit 268.
	18	MS. CARDENAS: 268.
	19	PRESIDENT: Not annex 268.
11:22:05	20	MS. CARDENAS: Thank you, sir.
	21	Q. This document 268 is a certified photocopy of
	22	the title for Hacienda Santa Fé, correct?
	23	A. Yes.
	24	Q. And it has a date below. We see the date of
11:22:34	25	issue is 24 October 2022, correct? It's not the last

11:22:43	1	line but the next-to-last line. Date of issue
	2	A. I'm trying to find the date that you say.
	3	Q. Where it says "observations" all the way at the
	4	bottom. First it says "number of copies," then it says
11:22:57	5	"date of issue."
	6	A. Date of issue.
	7	Q. Okay. And we have an issue date of
	8	24 October 2022, correct?
	9	A. Correct.
11:23:13	10	Q. And now, under the section that says "data" on
	11	the entry requested, do you see where it says "belongs
	12	to" and then it identifies the State of the Republic of
	13	Nicaragua? Yes or no? Later your lawyers are going to
	14	be able to ask you all the questions that they want, but
11:23:39	15	for now I'm just asking you to answer yes or no.
	16	Do you see where in this document it
	17	establishes under the section "belongs to" and it says
	18	"State of the Republic of Nicaragua," yes or no?
	19	A. Yes.
11:23:54	20	Q. The contract of preventive annotations
	21	Just yes or no that's all I want to
	22	confirm at this time. Thank you very much.
	23	A. Regarding the precautionary measure, yes.
	24	Q. And below that it says "belongs to" and there
11:24:08	25	it identifies "Riverside Coffee, LLC." Do you see that?

11:24:15 1 Yes or no? 2 Α. Yes. 3 Ο. And it doesn't name INAGROSA. Do you see that? 4 Up above it says "current owner Inversiones 11:24:31 5 Agropecuarias S.A." 6 Ο. Now, let us turn to Exhibit R-223. 7 I'll let you look at the document first. 8 Have you seen this document before? 9 A. Of course. It's an email that was sent by our 11:25:05 10 superiors to -- or superior to all of the departmental 11 delegates nationwide. 12 Ο. And what is it that this document asks of the 13 departmental delegates? 14 I communicate with you regarding the takeovers 11:25:26 15 of properties nationally which do not contribute to the 16 country's juridical security, and which in addition to 17 having a negative impact on the business climate of our 18 country, are contrary to the policy that we as 19 government have maintained. 11:25:44 20 Now, the document starts by saying "by Ο. instructions of the DISUP/PGR." What is that a 21 22 reference to? 23 A. To the superior department of the Office of the 24 Attorney General. 11:25:59 25 O. And who is there?

11:26:01	1	A. That's the Attorney General.
	2	PRESIDENT: It would be helpful if you
	3	could show both the English and the Spanish version.
	4	MS. CARDENAS: So, Mr. President, we don't
11:26:13	5	have an English version of this, and so I was hoping to
	6	kind of read a little bit of it into the record so that
	7	the Tribunal could understand the contents of this.
	8	PRESIDENT: That's fine.
	9	MR. MOLINA: If I may, we submitted a
11:26:28	10	courtesy English translation after the consolidated
	11	index was it should be everyone was copied on it.
	12	I can forward you the document. It's been sent to
	13	everyone some time ago.
	14	MR. APPLETON: I suggest that we just take
11:26:45	15	a minute, if you would send it over right now.
	16	MR. MOLINA: Sure.
	17	MR. APPLETON: We'll put it up and then
	18	we'll put it on the side. I think it would be much
	19	better for everyone and it will be a good investment of
11:26:57	20	two minutes or so.
	21	PRESIDENT: I don't want to interrupt this
	22	cross-examination which is already going beyond the
	23	allocated time. Let's go on with this. If you could
	24	provide the translation, going forward it would be
11:27:11	25	helpful to have the English and the Spanish next to each

11:27:11 1 other. 2 MR. APPLETON: Mr. President, of course 3 this is not in the consolidated bundle. That's what Mr. Molina just explained. It was sent afterwards. 11:27:18 5 That's why it's not as easy to find. So that's why we 6 were unable to locate it. 7 The other thing I would like to point out, 8 as you've noted several times already, it's an 9 indicative period of time that we have. We have a total 11:27:30 10 cap on our time and we're mindful of where we're 11 investing our time, but we think this is a very 12 important area to invest time. 13 PRESIDENT: Understood. The concern is 14 not so much your time budget because that's for you to 11:27:43 15 manage, but we have a witness who is to be examined 16 remotely, and that is the concern. 17 MR. APPLETON: Yes, but we're still on 18 time for that and for the period that would be available 19 for that witness. So we're very mindful of that as 11:28:00 20 well. But I think Mr. Molina's suggestion is very 21 helpful. Did you send it over? Yes? 22 MR. MOLINA: I did. 23 MR. APPLETON: To the extent I can -- yes, 24 I will just send it over. I'm sending it over. 11:28:18 25 Excellent. He's going to pull it up now. I would

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11:28:22
        1
           appreciate it if there's anything we can do to
        2
           facilitate this is significantly easier. It would have
        3
           been easier if we had it in the bundle. I understand in
        4
           fact, it may very well be that we'll have another
11:28:34
        5
           document that we'll want to find and give us something
        6
           on that as well, just to make it easier for witnesses
        7
           who need to see things in Spanish or English.
        8
                          MS. GREENWOOD: Did you send it to
        9
           everyone, Mr. Molina?
11:28:45
        10
                          MR. MOLINA: I've sent it to the parties,
        11
           and I copied the secretary. I'm happy to also send it
           to the members of the Tribunal.
        12
        13
                          MS. GREENWOOD: I'd appreciate that.
        14
                          MR. MOLINA: Absolutely. Right away.
11:28:55
        15
                          MR. APPLETON: I just want to confirm
        16
           again that is R-0223 designated "ENG" so that you'll be
        17
           able to tell it's a normal suffix. Correct, Mr. Molina?
        18
                          MR. MOLINA: Yes.
        19
                     Now, this document indicates that for the
               Q.
11:29:12
        20
           purposes of reestablishing order and rights for the
        21
           legitimate owners, one recalls -- please be reminded of
        22
           the existing instructions, and under the first point it
        23
           says all PGR delegations must have a daily updated list
        24
           of invaded properties, compiling registry and other
11:29:36
        25
           information identified there.
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11:29:37 1 Do you agree that that's what this 2 document stipulates? And, in addition, as per the 3 instructions from the head of the Office of the Attorney 4 General of Nicaragua, it is also required that this 11:29:57 5 information be updated for the DISUP. Can you remind me 6 once again what DISUP is a reference to? 7 The superior or upper level office. Α. 8 Ο. Thank you. So this information must be 9 updated? 11:30:16 10 THE INTERPRETER: Just a minute, please. 11 This information must be updated to the DISUP 12 indicating any possible changes that may occur in this 13 connection. Have I read this correctly? 14 Α. That's correct. 11:30:56 15 The third requirement is that all persons who Ο. 16 consider their rights affected by illegal takings must 17 file a report with the National Police to have it 18 documented for possible legal action. 19 Have I read that correctly? 11:31:15 20 That's correct. Α. 21 The other requirement is the PGR delegates must 22 maintain a close relationship with the police 23 authorities to exchange information on a daily basis 24 related to this issue and report any activity that may 11:31:40 25 have a negative impact on the government.

11:31:43 1 Have I read that correctly? 2 That's correct. Α. 3 And the other requirement that is imposed on Q. 4 them is that the information on land invasions should be 11:31:56 5 triaged; that is to say, amongst other things, if the 6 property is a private property that has a high economic 7 impact and create a significant number of jobs in the 8 area. 9 Have I read that correctly? 11:32:19 10 Α. That's correct. 11 And the last requirement identified in this Ο. 12 document is that in the event of an eviction by the 13 National Police with our support, minutes must be drawn 14 up with the owners at the time of handing over their 11:32:41 15 properties. 16 Have I read that correctly? 17 That's right. Α. 18 Do you know whether these requirements were met Q. 19 in connection with the invasion of Hacienda Santa Fé? 11:32:53 20 Α. We had an issue because right here in this 21 email it says that minutes should be drawn up with the 22 owners, and Carlos was not there. Carlos did not 23 appoint an individual to go there and take possession of 24 the property. There was no one that we could deliver 11:33:22 25 the property to.

11:33:26	1	Q. We've seen that it's possible to identify and
	2	locate the address in Managua of the company INAGROSA,
	3	correct? Yes or no?
	4	A. We're talking about two different points in
11:33:41	5	time.
	6	Q. But at the time stated in the second document
	7	in the request for precautionary measure, then it was
	8	possible to identify INAGROSA's address?
	9	A. 2021.
11:33:56	10	Q. Did you know that INAGROSA has an
	11	administrator?
	12	A. In order to exercise their duties as
	13	representatives as a representative, it has to have
	14	the property title and he has to evidence that formally
11:34:18	15	for us to be able to deliver the property to him.
	16	Q. That's very clear, but INAGROSA had and has an
	17	administrator, yes or no?
	18	A. Correct, Mr. Luis Gutiérrez.
	19	Q. What evidence did he have to the PGR?
11:34:36	20	A. He never came to the PGR.
	21	Q. I never asked you whether he was a legal
	22	representative. I'm asking you whether he was the
	23	administrator of INAGROSA.
	24	A. That's my understanding, yes.
11:34:49	25	Q. Also, you knew Mr. Herrera, correct?

11:34:53	1	A. That's correct.
	2	Q. Did Mr. Herrera ask Luis Rodriguez about the
	3	contact information of Mr. Carlos Rondón?
	4	A. I don't know.
11:35:17	5	Q. My apologies. I made reference to
	6	Luis Rodriguez, and I meant Luis Gutiérrez. I want to
	7	clarify that for the transcript.
	8	Did you know that Mr. Gutiérrez signed a
	9	notarized document on behalf of INAGROSA that has been
11:35:43	10	submitted as evidence in this arbitration?
	11	A. What document?
	12	Q. We can look for it, if you wish. One moment.
	13	We're going to locate the document.
	14	I'm going to repeat some of the questions
11:36:59	15	for the record. Are you aware that INAGROSA has an
	16	administrator? Right?
	17	A. That's my understanding, yes.
	18	Q. Mr. Luis Gutiérrez, correct?
	19	A. Yes.
11:37:16	20	Q. And that Luis Gutiérrez knew Mr. Herrera?
	21	A. Yes.
	22	Q. And that Mr. Herrera, as far as he knew, did
	23	not ask Mr. Gutiérrez for the contact information of
	24	Mr. Rondón?
11:37:33	25	A. I don't know that.

11:37:50	1	Q. And that when you made reference to
	2	Mr. Rodriguez in answer to a question that I posed to
	3	you, we were talking about Mr. Gutiérrez, correct?
	4	A. Please repeat the question.
11:38:02	5	Q. That when before reference was made to
	6	Mr. Rodriguez in answer to a question that I asked you,
	7	we were really making reference to Mr. Gutiérrez. Is
	8	that correct?
	9	A. That's correct.
11:39:00	10	Q. Do you see that this is minutes containing an
	11	inventory of items? Is that right?
	12	A. Yes.
	13	Q. This is a document where it says "duly
	14	accompanied by Captain Herrera." Do you see that?
11:39:29	15	A. Yes.
	16	Q. And then it says "and Luis Adolfo Gutiérrez
	17	Cruz," and he identifies him as the person responsible
	18	for the Hacienda or the administrator of the Hacienda
	19	Santa Fé?
11:39:52	20	A. Yes. That's dated 14 August 2018, and the
	21	property was unoccupied. He went to the Hacienda, he
	22	saw that it was empty and he didn't make use of the
	23	property. He didn't take ownership of the property,
	24	possession of the property as an administrator of it.
11:40:13	25	Q. This is a material document where

11:40:20 1 Captain Herrera, together with Mr. Gutiérrez, 2 inventoried the damaged items, disappeared items and 3 stolen items. Mr. Gutiérrez, as the person responsible 4 for the Hacienda, or the administrator of the Hacienda, 11:40:39 5 well, it was enough for Mr. William Herrera to 6 participate with Mr. Gutiérrez in this notarial 7 document, correct? 8 Α. Yes, he accompanied him. 9 Okay. Let's go back in time, and let us talk 11:41:00 10 about the invasion that took place in 2018. 11 In your statement you say that in 12 connection with the Rondón family, nobody did anything 13 before any local authority to evict the farm or claim 14 the rights in connection with it unofficially, so the 11:41:35 15 department head of the National Police, Mr. Marvin 16 Castro and Mr. Leónidas Centeno met at the offices of 17 the National Police of San Rafael del Norte with the 18 above-mentioned leaders. Do you remember that in the 19 course of your testimony? 11:41:53 20 Α. Of course I do. 21 0. Okay. Let's look at C-353. We've talked about 22 this document many times today. 23 Is this the letter to which you have made 24 reference as the communication of 10 August 2018? 11:42:12 25

That's right.

Α.

11:43:13	2 3 4 5 6 7 8 9 10	<pre>let's see. This is a communication from Mr. Rondón to Captain Herrera, correct? A. Correct. Q. And Mr. Rondón started this communication saying that, "On 16 June of this year, we spoke with you on the phone to inform you of the illegal occupation of Santa Fé by 350 armed occupiers that disarmed and attacked our security guards." Have I read that correctly?</pre>
11:42:57	4 5 6 7 8 9	A. Correct. Q. And Mr. Rondón started this communication saying that, "On 16 June of this year, we spoke with you on the phone to inform you of the illegal occupation of Santa Fé by 350 armed occupiers that disarmed and attacked our security guards."
11:42:57	5 6 7 8 9 10	Q. And Mr. Rondón started this communication saying that, "On 16 June of this year, we spoke with you on the phone to inform you of the illegal occupation of Santa Fé by 350 armed occupiers that disarmed and attacked our security guards."
11:42:57	6 7 8 9 10	saying that, "On 16 June of this year, we spoke with you on the phone to inform you of the illegal occupation of Santa Fé by 350 armed occupiers that disarmed and attacked our security guards."
11:43:13	7 8 9 10	on the phone to inform you of the illegal occupation of Santa Fé by 350 armed occupiers that disarmed and attacked our security guards."
11:43:13	8 9 10	Santa Fé by 350 armed occupiers that disarmed and attacked our security guards."
11:43:13	9 10	attacked our security guards."
11:43:13	10	
11:43:13		Have I read that correctly?
11:43:13	11	
11:43:13		A. Yes.
11:43:13	12	Q. And then Mr. Rondón tells Captain Herrera, the
11:43:13	13	head of the National Police, "We have the right to
	14	receive police protection. They are causing great
	15	damage to our property, these illegal occupants."
	16	Do you see that?
	17	A. Yes.
	18	Q. And Mr. Rondón concludes by, "We suggest the
	19	National Nicaraguan Police to protect our business and
11:43:27	20	our investment. Please tell me whether the position of
:	21	the police has changed. We truly want the police to
:	22	protect our property and remove these illegal
:	23	occupants."
:	24	Have I read that correctly?
11:43:43	25	A. Yes.
11:43:27	20212223	our investment. Please tell me whether the position of the police has changed. We truly want the police to protect our property and remove these illegal occupants."

11:43:45	1	Q. Isn't this a process before a national
	2	authority to evict the farm or claim a right?
	3	A. This letter was received on 12 August. PGR had
	4	sent notices to the leaders of these individuals that
11:44:09	5	took over the property illegally. The citations were
	6	made on 9 August 2018, and when the letter was received
	7	by the National Police, there were processes taking
	8	place on behalf of the PGR.
	9	In the case of the takeover and the phone
11:44:33	10	call of 16 June 2018, the circumstances did not allow
	11	the National Police to go there and try to evict the
	12	invaders or to evict the invaders. In 1990, when this
	13	property was given to the cooperative El Pavón, if it
	14	took such a long time then to brutally evict them in
11:45:04	15	2003, well, us, as the PGR and the State of Nicaragua
	16	Q. Excuse me, excuse me. I don't want to
	17	interrupt you, but we would like to talk about this.
	18	My question was that you have testified
	19	that at no time well, specifically you said that it
11:45:27	20	must be mentioned that on behalf of the Rondón family,
	21	nobody made any processes before any local authority to
	22	evict the farm or to claim the rights.
	23	Isn't this, in your opinion, a process
	24	brought before a local authority?
11:45:50	25	A. Yes, but I'm trying to explain why no immediate

11:45:57	1	action was taken. There were barricades all over the
	2	country. Barricades in the municipality of Jinotega.
	3	Q. Ma'am, that was not my question.
	4	Your lawyers are going to ask you
11:46:10	5	questions about this because that's part of your
	6	testimony. But that was not my question. They're going
	7	to have the opportunity to ask those questions.
	8	A. Okay.
	9	Q. This communication from Mr. Rondón, wasn't this
11:46:27	10	a process before a local authority asking for the
	11	eviction of Hacienda Santa Fé?
	12	A. Of course, and the eviction did take place.
	13	Q. Let us look at your first statement. And I'm
	14	going to ask you to look at paragraph 65.
11:47:26	15	MR. APPLETON: Mr. President, just a
	16	logistical issue because of the witnesses that are
	17	coming up.
	18	We believe that we have about half an hour
	19	or so still to go, but we also have the witnesses that
11:47:38	20	are booked in with respect to the fixed remote time, the
	21	slots.
	22	How would you suggest that we proceed?
	23	Would you prefer for us to at some point shortly to
	24	stop, take a break, have lunch, do the witnesses as are
11:48:01	25	schedule and then come back, because we still have to

11:48:03 1 deal -- we're still going to have to deal with the 2 redirect and Tribunal questions. 3 So, for sure, it looks like this is not 4 going to get finished while we have the slot. Or we can 11:48:14 5 extend the slot. We can advise them. There are a 6 variety of different things. But I thought perhaps, 7 since you were looking at the schedule before, I thought 8 this might be a good idea because the time on the 9 schedule right now was that we were already going to 11:48:28 10 start the lunch. 11 So I'm in your hands and we'll do our 12 best, but we're looking for your suggestion. 13 PRESIDENT: It would have been good if 14 there was discussion between counsel already earlier and 11:48:40 15 a heads-up given to the Respondent that this may take 16 longer than planned. I don't know whether there's been 17 any discussion between counsel. 18 MR. APPLETON: We didn't anticipate that 19 this was going to go longer, but certainly the responses 11:48:52 20 and the testimony has caused it to go longer than we had 21 anticipated, and that's what's taken us off. 22 PRESIDENT: So I think the first question 23 is the availability of Mr. Castro. We are supposed to 24 start with him at a quarter to 1. 11:49:10 25 MS. GONZÁLEZ: Mr. President, he's

11:49:11 1 available all day, and the facilities are also available 2 all day. He's there already. 3 PRESIDENT: That was my question. So if 4 he's available the rest of the afternoon, then we just 11:49:20 5 finish this witness, have a lunch, and then start with 6 Mr. Castro after lunch. 7 MR. APPLETON: So you're suggesting that 8 we'll do -- we're going to do the -- finish the 9 cross-examination and finish the redirect before lunch. 11:49:35 10 PRESIDENT: Well, let's see where we are 11 once -- whether we have the lunch before the redirect or 12 after redirect. It depends on where we are. 13 MR. APPLETON: We're going to have to 14 contact the observer, and since they don't work for us, 11:49:49 15 that's another process to advise them. And at some 16 point somebody's going to want to have food. 17 PRESIDENT: I think somebody in your team 18 can go and give him a call and make sure that he's 19 available in the afternoon. 11:50:01 20 MR. APPLETON: Yes, that's what we don't 21 So we'll deal with that. I'm just asking -- I'm 22 trying to get an idea of what you would like. So can we 23 advise them --24 PRESIDENT: You can advise them that they 11:50:13 25 should be available the entire afternoon.

11:50:16 1 MR. APPLETON: Okay. 2 PRESIDENT: We go on. 3 MS. CARDENAS: Yes, sir. 4 Your first statement shows a timeline of the 11:50:31 5 actions taken by the government of Nicaragua after the 6 invasion of 16 June 2018. In particular, I'm going to 7 refer you to paragraph 65, where you say that there was 8 a meeting at the offices of the National Police between the invaders, Marvin Castro and Leónidas Centeno. 11:51:04 10 that correct? 11 Α. That's correct. 12 And this is the first government act that I see Q. 13 in your statement in response to the invasion of 14 Hacienda Santa Fé. 11:51:28 15 Α. That's correct. 16 You testify that on the basis of discussions 17 held through that meeting, many of the families agreed 18 to leave the Hacienda. Do you see that? 19 That's correct. Α. 11:51:58 20 But you do not identify when that meeting took 21 place, correct? In this paragraph. 22 In this paragraph that was one of the 23 corrections that I made, including the Office of the 24 Attorney General. And at 67, we say that the meetings 11:52:20 25 took place on August 10, 2018.

11:52:23	1	Q. Just to confirm, the meeting that you're making
	2	reference to in paragraph 67 is a meeting that you're
	3	making reference to in paragraph 65?
	4	A. That's correct.
11:52:38	5	Q. Before we look at paragraph 67, you see that at
	6	65, you say that the occupants went back to Hacienda
	7	Santa Fé, and because of this problem, President Ortega
	8	issued instructions to initiate eviction proceedings and
	9	to relocate the unlawful occupants.
11:53:03	10	Do you see that?
	11	A. Yes, relocation.
	12	Q. Yes, relocation, you're right. Do you see
	13	that?
	14	A. Yes.
11:53:13	15	Q. What instruction was given by President Ortega?
	16	A. That we had to peacefully evict the occupants.
	17	This was not going to take one week or two weeks. We
	18	had to do this by a dialogue and not in the way that
	19	this happened in 2003 or 2004.
11:53:38	20	Q. How is it that Mr. Ortega, the president,
	21	issued this order?
	22	A. In the emails that we received from our
	23	superiors, it is stated that we had to follow a
	24	protocol an eviction protocol and that we could
11:54:04	25	not allow illegal invasions because of the security of

11:54:07	1	the country. My understanding, therefore, is that this
	2	order was given by the president of Nicaragua.
	3	Q. Just to understand, what you say here at 65 is
	4	that, in view of this problem that the invaders were to
11:54:27	5	go back to Hacienda Santa Fé, President Ortega issued
	6	instructions to initiate eviction proceedings of those
	7	lands, the lands of Hacienda Santa Fé?
	8	A. Of course. And to relocate the unlawful
	9	occupants.
11:54:52	10	Q. Where is that order, the one by
	11	President Ortega?
	12	A. The orders were received by me directly from my
	13	superiors.
	14	Q. How did you receive them?
11:55:02	15	A. By email.
	16	Q. What email is there? We're talking about
	17	August 2018 here. What email is there that shows the
	18	order given by President Ortega to initiate eviction
	19	proceedings of those lands, the lands of Hacienda
11:55:22	20	Santa Fé?
	21	A. Those were the instructions given by the
	22	president of Nicaragua.
	23	Q. How did he give those instructions?
	24	A. He gave those instructions to my superiors, and
11:55:34	25	my superiors indicated to us that we had to evict the

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11:55:38
        1
            individuals who were there. We had to evict them
        2
           peacefully, and we had to look for a solution.
        3
                     So you do not know how is it that the president
        4
            issued this instruction? Was it by phone, by email, by
11:55:54
        5
           an order?
        6
                     My superior telephonically indicated this to us
        7
           and also the email evidences the situation where we had
        8
           to evict the invaders from the property.
        9
                     As part of discovery, did you ask your superior
11:56:21
        10
           whether she had received a written document from
        11
           Mr. Ortega, the president, in connection with Hacienda
        12
            Santa Fé?
        13
                Α.
                   No.
        14
                O. You didn't ask her?
11:56:27
        15
                Α.
                     No.
        16
                     Do you know where a document exists that shows
                Q.
        17
            the instructions?
        18
                          MS. GREENWOOD: Ms. Cardenas, apologies,
        19
            it's all getting very frenetic to understand both the
11:56:41
        20
            interpretation, and I think sort of smoke is coming out
        21
            from our court reporters.
        22
                          MS. CARDENAS: I'm sorry. I'll certainly
        23
           try to do better.
        24
                          MS. GREENWOOD: I appreciate that. Thank
11:56:51
        25
           you.
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11:56:58	1	Q. You have indicated to us that you did not ask
	2	your superior for any confirmation as to how
	3	President Ortega ordered or required the initiation of
	4	an eviction proceeding in connection with the lands of
11:57:16	5	Hacienda Santa Fé?
	6	A. I don't know, that's correct.
	7	Q. But before you said that you hadn't asked her?
	8	A. Yes, I don't know. I really don't know.
	9	Q. Did you ask your superiors about this?
11:57:28	10	A. I did not ask her anything. That is why I'm
	11	saying that I don't know whether there is something in
	12	writing.
	13	Q. Let's look at paragraph 66 of your statement
	14	where you say that the Attorney General's office
11:58:05	15	summoned the occupants to a meeting in order to discuss
	16	the property, and you are talking about document R-0049.
	17	I'm going to ask you a few questions about this. We're
	18	going to look at that document.
	19	This document is an invitation to attend a
11:58:42	20	meeting. Is that correct?
	21	A. That's correct.
	22	Q. And here the invaders are required to bring
	23	documents that evidence that they are the owners of the
	24	property. Do you see that?
11:58:55	25	A. That's correct.

11:58:56	1	Q. If Nicaragua has always recognized that
	2	INAGROSA is the legitimate owner of these lands, why is
	3	it that it is asking the invaders for documents?
	4	A. Because in the letters they sent the Attorney
11:59:14	5	General's office, they have said that the property was
	6	delivered to them when Violeta Chamorro was the
	7	president in 1990 and, therefore, in their letters they
	8	said that they had been given those lands. So we wanted
	9	to know what documents they had that evidenced their
11:59:39	10	ownership of the property allegedly.
	11	Q. You did not attend this meeting, correct?
	12	A. I did not attend.
	13	Q. Do you know whether there is a sort of minutes
	14	or notes that show the discussions held during these
11:59:58	15	meetings?
	16	A. No minutes were drawn up at that time.
	17	Q. At paragraph 67 of your statement you say that
	18	on the next day, just one day after, the occupants
	19	voluntarily and peacefully abandoned the Hacienda. Is
12:00:16	20	that correct?
	21	A. That's correct.
	22	Q. You do not cite anything confirming that with
	23	only one day, more than 350 invaders left it. How do
	24	you know that they left the property?
12:00:35	25	A. Because in the conversations that I had with

12:00:38	1	Commissioner Castro and with Herrera, that is what they
	2	told me, that the invaders left the property. And
	3	evidence of that is that, on August 14, 2018,
	4	Luis Gutiérrez, the administrator, requested Herrera's
12:00:58	5	support to go and carry out the inventory of the
	6	property on August 14th. It was no longer occupied.
	7	Q. Do you know the number of invaders that left
	8	the property?
	9	A. Right now? Referring to 2018? In this moment,
12:01:17	10	in 2018, it was quite a significant number of invaders.
	11	Q. A good number, significant number. How many?
	12	A. About 400, 500, 600.
	13	Q. How do you know that?
	14	A. Because in the meetings we had with
12:01:35	15	Commissioner Castro and Herrera, there was a large
	16	number of individuals.
	17	Q. Was a survey conducted to determine how many
	18	individuals?
	19	A. No, there was no survey back then, but based on
12:01:54	20	the letters that they presented to the Office of the
	21	Attorney General, we could have an approximate idea of
	22	how many people there were inside the property. I did
	23	have the survey. I remember I did conduct a survey, I
	24	reviewed it, and that was for the meetings in 2021.
12:02:15	25	Q. But we are going to get to 2021. We are

12:02:18	1	talking about 2018. Were pictures taken?
	2	A. I don't recall any pictures.
	3	Q. Was there a list with the names of the
	4	invaders?
12:02:33	5	A. We asked the invaders to provide a list.
	6	Q. Did they present it?
	7	A. Yes, there is a list.
	8	Q. And where is that list?
	9	A. In the letters where they in the letters you
12:02:51	10	can see the names of the leaders and each of the
	11	letters for example, I'm here with 170 families, and
	12	others they say I'm here with well, we did receive on
	13	June 5th, that was the first request. They had not
	14	invaded the property. They were just requesting the
12:03:12	15	restitution of 2018.
	16	And then on June 25, 2018 July 6th,
	17	rather, 2018 there is a letter of the leaders
	18	indicating how many there are, and then there is another
	19	letter from September 5th and another one from
12:03:38	20	September 5, 2018 and a third one from October 28th,
	21	2019, and this is important because they already
	22	indicated they had been there for two years, so that
	23	means they had been there since 2017 in the El Pavón
	24	area and the family Rondón had tolerated those
12:03:54	25	individuals that had entered starting in 2017 and they

12:03:57	1	did not report this invasion.
	2	Q. This has nothing to do with my question.
	3	So my question is where is the list
	4	indicating that in addition to the leaders, in addition
12:04:09	5	to the invaders, the leading invaders, where is the list
	6	that you mentioned you had with the invaders in 2018?
	7	A. In 2018 we have for 2018 we have those
	8	letters of June 25th, 2018, September 5th, 2018. And
	9	now referring in particular to 2018.
12:04:35	10	Q. But what I am trying to understand is that
	11	those are communications with the leadership.
	12	A. Those were the requests that they presented,
	13	but based on the conversations with Commissioner Castro
	14	and Herrera, they stated that there were too many
12:04:53	15	people. Too many people inside the property in 2018.
	16	Q. You mentioned that I am going to start
	17	again.
	18	You mentioned that on the next day, all of
	19	the invaders left Hacienda Santa Fé. Once again, to
12:05:20	20	confirm, you have not presented, you have not indicated
	21	any evidence of that.
	22	Do you know if any record, any minutes
	23	were provided to INAGROSA to indicate that the Hacienda,
	24	that the farm was empty?
12:05:41	25	A. No, but Mr. Gutiérrez got there and he knew

12:05:46 1 perfectly well that he could have access to the farm. 2 0. We're going to get there in time, but I am, 3 please, asking you to answer the question I'm asking you. That will help us come to an end much sooner. 12:06:00 5 Okay? 6 Α. Okay. 7 Was a record taken? Ο. 8 Α. No. 9 Do you know if someone with the police 12:06:15 10 communicated with someone within INAGROSA to let them 11 know that the farm had been emptied? 12 Well, as part of the communications with Α. 13 Mr. William Herrera, at that point in time William 14 Herrera was there with us, and he said that the property 12:06:42 15 was now -- that everyone had left and that they could 16 take possession. 17 But this is a clarification. There was a Ο. 18 meeting on August 10th, and on the next day, hundreds of 19 people leave and only a couple of days later they come 12:06:59 20 back because the farm was not occupied. 21 And I am trying to confirm whether there 22 is any evidence that you cite and that you attached to 23 your statement evidencing that something was said to 24 INAGROSA indicating that the farm was now vacant. Yes 12:07:22 25 or no?

12:07:23	1	A. No.
	2	Q. Paragraph 68 of your statement, there you
	3	mention that since the invaders had gone back to the
	4	farm, El Pavón co-op sent a communication to the
12:07:53	5	Attorney General of the Republic requesting a meeting to
	6	discuss the title for the farm. Do you recall that?
	7	A. Yes.
	8	Q. And at paragraph 68 you mention the government
	9	rejected this request and reiterated that the Hacienda
12:08:16	10	was a private land, correct?
	11	A. Correct.
	12	Q. Yes or no?
	13	A. Yes, correct.
	14	Q. Thank you. I'm just asking your confirmation,
12:08:27	15	yes or no.
	16	Do you attach anything to your statement
	17	showing or evidencing that the government indeed
	18	rejected the request and reiterated that the Hacienda
	19	belonged to private parties?
12:08:48	20	A. No, because the instruction was that we could
	21	not allow illegal takings.
	22	Q. My question was very bad. I'm sorry.
	23	You have mentioned that the government
40.00.00	24	rejected the request by the cooperative to hold a
12:09:08	25	meeting and for the government, in addressing the

12:09:12 1 request by the cooperative, reiterated to the 2 cooperative that the Hacienda belonged to private 3 parties. 4 You have not attached or referred to any 12:09:27 5 document evidencing the fact that the government 6 rejected the request by the cooperative, and you 7 reiterated that the Hacienda belonged to private 8 parties, correct? 9 Α. Correct. 12:09:49 10 At paragraph 69, you mentioned that later on, 11 several meetings were held between the office of the 12 mayor of Jinotega, Leónidas Centeno, and the Attorney 13 General Juan Betanco at paragraph 69 of your statement. 14 Do you see that? 12:10:15 15 Α. Yes. 16 But, once again, you do not cite any document 17 supporting the fact that these meetings took place or 18 whatever was discussed during those meetings, correct? 19 We presented a memorandum of agreement. Α. 12:10:37 20 I apologize. It's going to be easier if we go Q. 21 step by step. 22 At paragraph 69, where you mentioned that 23 there were several meetings among the individuals there 24 identified as invaders, in that paragraph you do not 12:10:56 25 cite anything that evidences that indeed several

1	meetings were held among the mayor of Jinotega, the
2	invaders and the Attorney General, correct?
3	A. Correct.
4	Q. The next government action that you mentioned
5	is at paragraph 20 70, rather, where you indicate
6	that, in January 2019, the government created a
7	committee with the purpose of removing the occupants
8	from the farm, correct?
9	A. Correct.
10	Q. And I think that you already mentioned that to
11	us, that that was on January 24th?
12	A. Correct.
13	Q. And then later on you indicate at paragraph 71
14	that the government continued to implement the plan to
15	remove the invaders from the farm?
16	MR. MOLINA: Can I ask to scroll down to
17	71, since that's what you're asking about. Appreciate
18	it.
19	MS. CARDENAS: That's a fair point, thank
20	you.
21	Q. I will repeat the question.
22	At 71, you mentioned that over the next
23	two years, after January 24, 2019, the government
24	complied with the mandate to implement the removal of
25	the invaders. Do you see that?
	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

12:12:33	1	A. Yes.
	2	Q. But, once again, here you do not cite any
	3	document showing the efforts made by the government to
	4	comply diligently with their mandate for two years,
12:12:49	5	correct?
	6	A. Yes, because they were verbal agreements given
	7	during meetings.
	8	Q. But just to confirm, you have not cited any
	9	document showing the documents held, with whom, whatever
12:13:04	10	was said. None was cited or attached to your statement,
	11	correct?
	12	A. Correct.
	13	Q. Do you know let me restate the question.
	14	You do not cite or you do not mention that
12:13:24	15	at any time INAGROSA was kept abreast of the process
	16	throughout these two years?
	17	A. No.
	18	Q. Do you know if INAGROSA was kept abreast
	19	throughout the two years?
12:13:54	20	A. No.
	21	Q. Okay. Now let me represent to you that this
	22	arbitration and the notice of arbitration was presented
	23	on March 19, 2021, and if counsel has any reason to
	24	disagree with the date, clearly we can confirm that.
12:14:17	25	But the notice of arbitration was submitted on March 19,

12:14:23	1	2021. That is more or less in agreement with your
	2	understanding as to the beginning of the arbitration?
	3	A. Yes.
	4	Q. The following month after this arbitration, or
12:14:39	5	notice of arbitration was presented, in March 2021, the
	6	government sent notices to the invaders to resettle
	7	them, correct?
	8	A. Yes.
	9	Q. That was on April 28, 2021, correct?
12:14:59	10	A. Yes.
	11	Q. And on August 13, 2021, based on your
	12	statement, the invaders were given 72 hours to leave
	13	Hacienda Santa Fé, correct?
	14	A. Correct.
12:15:13	15	Q. So five months after this arbitration was
	16	notice of arbitration was submitted in March 2021, all
	17	of the invaders had been expelled from Hacienda
	18	Santa Fé, correct?
	19	A. Correct.
12:15:28	20	Q. Thank you very much.
	21	Just to confirm, that in preparation of
	22	your statement you used the information provided to you?
	23	A. Would you repeat the question?
	24	Q. Just to confirm that in preparation of this
12:16:34	25	statement of your statement you used information

12:16:37	1	given to you by other individuals, correct?
	2	A. Yes. And also the full record in due course.
	3	Q. But you did not live you did not experience
	4	those events, correct?
12:16:49	5	A. Correct.
	6	Q. Now, you understand or you would understand
	7	that this is hearsay. That means that you are just
	8	talking about what someone else told you happened,
	9	correct?
12:17:08	10	A. Would you repeat?
	11	Q. So your statement as to the events of 2018 are
	12	not based on your own knowledge, correct?
	13	A. Yes. The knowledge of other people whom I
	14	interviewed.
12:17:26	15	Q. Okay. Thank you very much.
	16	MS. CARDENAS: I don't have anything else
	17	for this witness, and we tender her back to counsel.
	18	PRESIDENT: Thank you very much,
	19	Ms. Cardenas. Now the question is can you estimate how
12:17:42	20	long you would need?
	21	MS. GONZÁLEZ: At least 30 minutes, so I
	22	think I think that, if possible, we would prefer to
	23	go to the lunch break right now.
	24	PRESIDENT: Lunch break now. Okay.
12:17:53	25	That's fine.

12:17:55 1 So let's break for an hour, and we will 2 resume at quarter past 1. If you could, in the meantime 3 during the break make sure that you inform Mr. Castro 4 that his examination is delayed and that he remain 12:18:15 5 available. 6 MR. APPLETON: Mr. President, I would ask 7 because the observer is in the foreign ministry, that 8 they would also make arrangements for the observer 9 because the observer won't be able to walk around or get 12:18:26 10 food or anything. Just make sure they accommodate the 11 observer as well, because they're in the foreign 12 ministry. It's not they can do anything on their own. 13 They can't walk, they can't get coffee. I don't know 14 what those things are, but I'm sure they will use their 12:18:40 15 good offices to take care of that. 16 MS. GONZÁLEZ: Yes, he will be taken care 17 of. 18 PRESIDENT: I'm sure the usual courtesies 19 are extended to visitors. 12:18:53 20 MR. APPLETON: Thank you. 21 PRESIDENT: Ms. Gutiérrez, you are still 22 under examination during the lunch break, so the same 23 reminder, if you could avoid speaking with anybody about 24 your testimony during the break. You can of course 12:19:06 25 leave the room, have a lunch and so on. Thank you very

12:19:10 1 much. 2 MS. GUTIÉRREZ: Agreed. 3 (Lunch Recess) 4 PRESIDENT: Welcome back. It's redirect 01:20:31 5 by the Respondent. Please. 6 MS. GONZÁLEZ: Thank you, Mr. President. 7 REDIRECT EXAMINATION 8 BY MS. GONZÁLEZ: 9 Q. Ms. Gutiérrez, welcome back. I am going to ask 01:20:46 10 you a series of questions derived from the questions 11 asked this morning by Ms. Cardenas. 12 A. Understood. 13 Q. Ms. Gutiérrez, do you recall this morning 14 Ms. Cardenas asked you whether you worked, and whether 01:21:05 15 you still work, at the Office of the Attorney General 16 while the FN is still in power, the front is still in 17 power? 18 I work for the State. For the State of 19 Nicaraqua. 01:21:23 20 Thank you. And you were also asked about the Ο. 21 process to recover, to collect documents, and you 22 mentioned and you answered that there were some 23 circumstances that impacted the collection of the 24 documents. 01:21:41 25 Could you please explain what these

01:21:46 1 circumstances were and how they impacted on your ability 2 to collect the documents? 3 First, we did not have a physical record of the 4 process in connection with the requests that the 01:22:10 5 Claimants, those who were on the property, and based on 6 that, we had to collect information, we put together 7 first -- I recall we put together the documents that 8 they provided, and we put together the various pieces. 9 But we didn't have those pieces. We needed to prove 01:22:35 10 that those pieces, those documents, existed, were real, 11 were documents that the institution, the titling -- the 12 rural titling office and the Nicaraguan Institute of 13 Agrarian Reform had actually issued. So we needed to go 14 beyond. We had to go back in time. We had to go back 01:23:06 15 to the '90s, and it took us some time to be able to 16 locate the record. 17 And if you look to my first statement, I 18 did not have the document. Had I had those documents, I 19 would have provided them, because clearly that is going 01:23:23 20 to reveal the truth. But if we didn't have the 21 documents in a responsible manner, we presented that 22 with my second statement. 23 Thank you very much. And you were also asked 24 several questions in connection with what happened 01:23:39 25 during the invasion in June 2018. Do you recall -- or

01:23:47 1 would you be kind to mention who the leaders of this 2 invading group were? 3 Well, the aliases were Cinco Estrellas, 4 Gorgojo, Avispa. There were some gentlemen known as Los 01:24:10 5 Pantasmeños, the Pantasma. So those were the requests 6 that we received, someone by the name Justo Hernandez. 7 And based on the documents that we received so we 8 decided -- we identified who the leaders were for the 9 taking of the lands. 01:24:35 Who were these individuals? So these persons, 10 11 this group, who were they? 12 They were known as Nicaraguan Resistance. Α. 13 What were the characteristics of the group? 14 What was their -- what were they known for? 01:24:52 15 This group is the result of the disarmament Α. 16 that was sort of a peace agreement to consolidate the 17 peace in Nicaragua and put the end to an armed conflict 18 that took place before the '90s. There were 19 presidential elections in 1990, and Ms. Violeta Barrios 01:25:17 20 de Chamorro was elected and, as part of the peace 21 accord, the Agrarian Commission with the -- or in the 22 sixth region gave the Santa Fé farm to a group that was 23 with the resistance. 24 One of the former leaders -- one of the 01:25:39 25 leaders of the group that took Santa Fé was Wendel

01:25:44 1 Mairena, also known as Wama. Wama is also mentioned in 2 the document of the sixth region of the regional 3 commission whereby the Santa Fé farm is handed over. 4 Whether they were private or state run facilities. 01:26:09 5 Private or state run. 6 So, by then, the Santa Fé farm was handed 7 over, and they mentioned in the letters that they 8 presented to us that they were claiming the possession 9 that the administration of Mrs. Violeta had given them. 01:26:32 10 The property was theirs and we needed to investigate 11 whether, indeed, that property had been compensated. 12 So it was an expectation that dated back 13 to the '90s in connection with this group that was 14 created as a cooperative, and a certification was issued 01:26:58 15 that was recorded by the authority back then, the 16 Ministry of Labor, the one that was governing the 17 cooperatives back then in 1997. 18 So they were presenting their applications 19 stating that the government of Nicaragua had already 01:27:21 handed them the property in the '90s. 20 21 MS. CARDENAS: I allowed the witness to 22 finish her answer, and it was a very lengthy answer, as 23 a courtesy, frankly, but I would just note that the 24 question and the answer had nothing to do with the scope 01:27:38 25 of the cross-examination of the witness, and I just want

01:29:34

25

01:27:41 1 to place the objection on the record moving forward 2 because, again, that went well beyond the scope of the 3 cross-examination. 4 PRESIDENT: There were questions about who 01:27:58 5 were among the invaders, but it does go beyond the scope 6 of cross-examination. 7 MS. GONZÁLEZ: Thank you. 8 Ο. In connection now with the taking of possession 9 in June 2018, you were asked several questions as to the 01:28:24 10 measures undertaken by the government, et cetera, and I 11 will be asking you some questions about that. 12 But first I would like to know the context 13 and the situation the country was experiencing back 14 then. 01:28:37 15 In April 2018, there were some social 16 demonstrations in the country, and we're talking about 17 April 2018. At the time of the taking of Hacienda 18 Santa Fé in June 2018, there were roadblocks in the 19 country that made it difficult for the police to proceed 01:29:09 20 normally. And, also, in San Rafael del Norte, there 21 were only 8 persons that were part of the force. That 22 was another difficulty. 23 And another difficulty we had was that it 24 was not going to take us an ordinary time to have a

dialogue with these individuals, and the fact that we

01:29:38	1	had this situation that prevented us from conducting the
	2	institutional work in connection with or together with
	3	the National Police.
	4	Q. And what was going on in Jinotega and
01:29:55	5	San Rafael del Norte. You mentioned some demonstrations
	6	when you were being cross-examined. What were those
	7	demonstrations?
	8	A. Well, they were demonstrations meaning that
	9	there were roadblocks throughout the streets or there
01:30:10	10	were obstacles, meaning there were roadblocks to prevent
	11	circulation to be able to get to the property. That's
	12	what I was trying to say. That type of demonstration.
	13	Q. In response to one of the questions put to you
	14	by Ms. Cardenas, you began to draw a parallel between
01:30:31	15	what had happened or the situation in 2018 and
	16	then you began to describe the situation in 2003, and
	17	she cut you off and noted that the other party would
	18	have the opportunity to put questions to you.
	19	I'd like to go back to that point and ask
01:30:49	20	you what was the parallel that you were trying to draw
	21	with respect to what happened in 2018 and the invasion
	22	that had happened decades earlier in the 2000s or in the
	23	1990s?
	24	MR. APPLETON: Mr. President, this is
01:31:07	25	exactly the same situation we had yesterday, but the

01:31:10 1 shoe is on the other foot now. If they show where there 2 was a question on that, then that's fair, but the topic 3 is not, unless there was a question. 4 I would ask that Ms. González follow the 01:31:21 5 same convention that we followed yesterday, as advised 6 by the Tribunal, to show us exactly where in the record 7 they're coming up with the redirect so it can be as 8 helpful to the Tribunal in exactly the manner that you 9 had requested. 01:31:36 10 PRESIDENT: Fair enough. I think there is 11 a broader point. The purpose of redirect examination is 12 to clarify points that came up during the 13 cross-examination that require clarification. It's not 14 an opening to ask any questions about any topics that 01:31:54 15 were covered during the cross-examination. 16 So, again, the purpose of reexamination is 17 to -- it's not a substitute for a direct examination. 18 MS. GONZÁLEZ: Thank you, Mr. President. 19 PRESIDENT: It is the same debate we had 01:32:09 20 yesterday. 21 I am referring to the question put by 22 Ms. Cardenas at 11:44 a.m. Just a minute, please. 23 checking. Referring to the eviction process. The 24 witness said in 1990 this property was given to the 01:32:43 25 El Pavón cooperative. It took so much time to evict

01:34:18

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01:32:47 1 them brutally that it was in 2003 and in our case as 2 Office of the Attorney General she --3 MR. APPLETON: Sorry, the purpose for the 4 redirect is did the witness answer the question? 01:33:02 5 that's unclear, but if the witness went outside the 6 scope of the question, you don't get to redirect on 7 that. You took us to the spot. Tell us what the 8 question is and then if it's within the scope, it's 9 perfect. But that's your obligation, just like we did 01:33:17 10 yesterday. 11 PRESIDENT: Yes. Again, if the witness 12 was cut off because she went beyond the scope of the 13 question and there was a comment by counsel that this is 14 something you can develop during your redirect, that is 01:33:42 15 not necessarily a basis for conducting a redirect 16 examination unless there was something unclear in the 17 answer in your view that requires clarification. That 18 is the purpose of redirect. 19 These are all issues that we have on 01:33:57 20 record. The Tribunal has taken note. We understand 21 this. The purpose, again, of redirect is to clarify 22 issues that, in your view, are unclear after the 23 cross-examination, not to restate issues that are 24 already on record.

MS. GONZÁLEZ: Understood, Mr. President.

01:34:26	1	Q. Ms. Cardenas showed you a document. I'm going
	2	to ask if you could please show it on the screen. It's
	3	R-223.
	4	Do you recall, Ms. Gutiérrez, that you
01:34:49	5	were shown this document?
	6	A. Yes.
	7	Q. Do you remember?
	8	A. Yes, yes.
	9	Q. In your opinion, what was the purpose of this
01:35:01	10	email?
	11	A. The purpose was zero tolerance for takeovers of
	12	land. This prejudiced the climate of the country in
	13	respect of juridical security
	14	Q. I'm sorry for interrupting you.
01:35:27	15	MS. GONZÁLEZ: I'm told that right now the
	16	public video is not working. The Office of the Attorney
	17	General in Nicaragua is trying to follow the hearing.
	18	Was that solved already?
	19	MS. CONOVER: The session should be open
01:35:48	20	now.
	21	MS. GONZÁLEZ: Thank you.
	22	Q. I'm sorry for having interrupted you,
	23	Ms. Gutiérrez. So you were explaining the purpose of
	24	this email, if you could explain it for me?
01:36:02	25	A. Yes, the purpose of the email is zero tolerance

01:36:07 1 for takeovers of land. Illegal invasions were not going 2 to be allowed. Also to provide accompaniment to the 3 landowners in their complaints or accusations and not to 4 have a negative impact on the business climate and 01:36:27 5 juridical security in our country. 6 What were the instructions that you received 7 based on this email? 8 Α. The instructions were that we should coordinate 9 directly with the National Police in order to carry out 01:36:44 10 any protection for private properties and not to allow 11 the private properties to be negatively impacted. 12 Ms. Gutiérrez, you were also asked questions Q. 13 regarding paragraph 67 of your first witness statement. 14 MS. GONZÁLEZ: If you could please show 01:37:15 15 that paragraph, please. 16 And you were asked if you had presented or if 17 you had knowledge of evidence that on the date you 18 indicate there, 11 August 2018, the invaders had 19 voluntarily left the Hacienda peacefully. You recall 01:38:03 20 you were asked that question? 21 Α. Yes. 22 And you mentioned that you had not attached any 23 evidence to your statement, but you mentioned there was 24 an inventory and you said where did that information 01:38:21 25 come from as far as you know, and you referred to an

25

01:38:26 1 inventory that was taken in August of 2018. Do you 2 recall having given that response? 3 Yes, I do. Α. 4 MS. GONZÁLEZ: If you could please put up 01:38:41 5 C-58 and R-148. These are the versions in English and 6 Spanish. 7 Based on this document, ma'am, why do you think 0. 8 that the people had left Hacienda Santa Fé? And this is 9 the document you mentioned. 01:39:23 10 Because the inventory was taken directly of 11 items that had been supposedly or allegedly taken from 12 the Hacienda but were on the Hacienda Santa Fé. And in 13 the document it says, "duly accompanied by 14 Captain William Herrera, Chief of Police of San Rafael 01:39:45 15 del Norte," such that that indicates that the property 16 was already unoccupied as of 14 August 2018. 17 Now, if you note, as I said earlier, they 18 describe a number of supposed assets that were taken, 19 but had the property been occupied, they wouldn't have 01:40:10 20 been able to go in and take this inventory on the 21 property. 22 You were asked a series of questions regarding 23 what measures the government took and the Attorney 24 General's office took to try to evict these persons who 01:40:24

had invaded. I'd ask if you could please explain what

01:42:16

25

and conversations.

01:40:30 1 measures the government took to be able to evict these 2 persons? 3 Well, first, there were the summonses that we Α. 4 issued after coordinating with the National Police. The 01:40:43 5 summonses are dated 9 August 2018, and they describe or 6 indicate that the leaders of the takeover should appear 7 before the police in San Rafael del Norte, and then they 8 specify who those summonses are directed to. 9 That was done, it was carried out, and 01:41:07 10 based on those meetings, which was a bilateral dialogue 11 with those persons in which they said yes, that they 12 were going to leave the Hacienda, and in effect, that's 13 what happened. And that is why this is supplemented by 14 the inventory document that was presented dated 01:41:34 15 14 August 2018. 16 And why did you think it relevant to relocate 17 these persons rather than removing them from the 18 Hacienda? 19 Well, these are campesino farmers, children, Α. 01:41:52 20 older persons, mothers with children. We could not go 21 in aggressively and with brutal force. That could have 22 been -- it would have been inhuman, there would have 23 been bloodshed. So we could not allow that to happen, 24 and it was better to do it peacefully through a dialogue 01.42.19 1 It took a week or a few days. The first 2 conversations were on April 30th. Indeed, they were at 3 the main office in Managua. We presented a list of 4 properties where they could be relocated. Of the 01:42:39 5 leaders who were called in, only three did so, and we 6 recalled there were 164 families that agreed to leave 7 the property, and some were still left behind. But 164 8 families, made up of mother, father, child, 9 grandparents, children, small children. So it was a 01:43:02 10 lengthy process, somewhat complex. 11 Then, on 4 May 2021, we went to the 12 property, to the Hacienda, to conduct an assembly to try 13 to engage in dialogue and have reconciliation with them 14 peacefully, and that's where they agreed. 01:43:32 15 The agreements happened in that month of 16 May, and subsequently of those families, those that 17 stayed behind, well, we went on 13 August 2021. We 18 discussed -- spoke with them, we conducted a census, and 19 we found 112 families in that census that we conducted. 01:43:58 20 And, as I say, that's not just one person 21 Rather, each person represents a family made up 22 of two, three or four persons, and they were given 23 72 hours to leave. We were there with the police 24 talking, and they left peacefully. 01:44:23 25 It was explained to them that it was a

01:44:25	1	privately owned property, that it was not owned by the
	2	State of Nicaragua and, therefore, that they had to
	3	return the property to its natural state, which was zero
	4	occupants, zero invaders.
01:44:41	5	Q. And during this process, ma'am, how many times
	6	did INAGROSA or Riverside ask you about the status of
	7	the eviction process?
	8	A. Never. Never.
	9	Q. Ms. Gutiérrez, you were also asked certain
01:45:01	10	questions with respect to the precautionary measure, and
	11	you said in your response that it was an atypical
	12	situation. What did you mean when you described it as
	13	"atypical"?
	14	A. It's not something normal that we see. It's an
01:45:17	15	isolated case. At least during all this time that I
	16	have worked in this area, it's the first time that we
	17	sought a precautionary measure such as this.
	18	Q. You also made reference to an urgent
	19	precautionary measure. What are you referring to when
01:45:37	20	you say "urgent precautionary measure"?
	21	A. Well, the urgency is because we had to justify
	22	why we, as an institution, were protecting the property.
	23	It's a private property. It's not state-owned. Had it
	24	been state-owned, we would not have asked for an urgent
01:45:57	25	precautionary measure such that we had to be able to

01:45:59 1 respond quickly, and that is what happened. 2 And what was the purpose of this precautionary 3 measure? 4 Α. To preserve the situation that there not be 01:46:11 5 more takeovers and so that the property would be 6 safequarded and that no damage be done on the property, 7 nor that there be -- and also there should be no new 8 invaders. And to this day, the property continues to be 9 kept in custody or to be watched over by a private 01:46:32 10 company. 11 Q. And you were asked whether notice had been made 12 of the precautionary measure, and you answered that at 13 some point in time Riverside had found out about the 14 existence of this order. 01:46:45 15 Yes, indeed, that's right. Α. 16 Do you know what objections or requests were 17 presented by INAGROSA or Riverside before the Nicaraquan 18 courts in order to file an objection or complain? 19 Never. Never ever. Α. 01:47:06 20 How long did this first precautionary measure 21 last? 22 For two years. It was issued on 23 15 December 2021. For a two-year period. 24 MR. APPLETON: Again, we'd caution this is 01:47:20 25 an area of testimony where there were no questions on

01:47:22 1 that. We're giving as much latitude as possible. I was 2 taken to school yesterday by Mr. Molina, who taught me 3 how to deal with this on the other side, and I have to say that I'm trying to be as polite and appropriate as I 01:47:36 5 can. We're giving tremendous latitude, but that is not 6 the purpose of the redirect. It's not to add new things 7 that you didn't get in before, especially. It is simply 8 to deal with the question that was asked and to clarify 9 the answer from that. 01:47:53 10 And you should give us a reference exactly 11 so we know exactly that it fits within the four corners. 12 We will not complain. I don't want to sit here -- I've 13 had more objections in this case than I've had in an 14 entire 30-year plus career added up. So it's just not 01:48:11 15 something that we want to see and we ask you, please, to 16 try to moderate and think about this as you proceed 17 along the way. 18 PRESIDENT: In any event, the two years is 19 in the documents, so you don't need to ask the witness 01:48:25 20 whether it was two years. We can all see it in the 21 document. 22 MS. GONZÁLEZ: Okay. Thank you. 23 MR. MOLINA: I'm sorry. I just need to 24 state for the record, the insinuation from our friend, 01:48:35 25 Mr. Appleton, is that there were no questions asked

01:48:36 1 about the renewal, which is what the topic was that 2 Ms. González was just covering. 3 MR. APPLETON: No, that wasn't --4 MR. MOLINA: Let me just -- I let you 01:48:47 5 finish. 6 At 11:07 this morning, there was a 7 question asked by Ms. Cardenas saying: 8 "My question is whether this precautionary 9 measure has been renewed, yes or no?" 01:48:58 10 So this was a topic that was brought up 11 and all that Ms. González, I understand, is doing is 12 just asking the witness to clarify for the record facts 13 about the renewal. 14 MR. APPLETON: Mr. Molina, I appreciate 01:49:13 15 your skillful approach, I really do, but the question 16 specifically was about objections that were made and 17 opportunities to make objections with respect to -- in 18 the process, and that is not the question. That is 19 outside of that question. That's why I waited to hear 01:49:27 20 fully whether -- where it was going. I saw what was 21 there, but it's just not within the four corners in any 22 way. 23 So I don't want to belabor the point. 24 just -- we just keep having the same things again and 01:49:40 25 again -- I'm trying to give you an opportunity. I

01:49:43	1	appreciate that perhaps Ms. González doesn't do this as
	2	frequently as you do, and therefore may not be as tight
	3	on how that's going to go, but at the end of the day, we
	4	have to follow the process. We're all trying. And I'm
01:49:57	5	trying to get the next witness on, and so please
	6	PRESIDENT: Okay. Thank you,
	7	Mr. Appleton. But let's also keep the objections short.
	8	Again, going back to what we discussed
	9	earlier, the issue is not whether the topic was raised.
01:50:12	10	The question is whether the evidence requires
	11	clarification, and we all know that the initial period
	12	of the order was for two years, so you don't need the
	13	witness to confirm that because we can see the document.
	14	MS. GONZÁLEZ: Thank you, Mr. President.
01:50:27	15	Actually, it does require clarification and, in fact,
	16	Ms. Cardenas invited our team to show where in the
	17	record is evidence that the renewal was notified. I was
	18	just going to get to that point.
	19	MR. APPLETON: But the invitation to you
01:50:42	20	is for you to get to that in your closing, not unless
	21	there's a question to the witness. It's the same thing.
	22	We've had many invitations from counsel from your side
	23	to our witnesses inviting them to have an opportunity
	24	and then when they had the opportunity
01:51:00	25	PRESIDENT: Mr. Appleton, let's hear the

01:51:01 1 questions now. Please proceed. 2 MS. GONZÁLEZ: Thank vou. 3 Ms. Gutiérrez, do you recall that Ms. Cardenas 4 asked you whether the precautionary measure had been 01:51:14 5 renewed, yes or no? Do you recall that? 6 Yes. Yes, I do remember. Α. 7 And what was your answer? 8 Α. That, yes, that it had been renewed and notice 9 had been given and that they had approached us. 01:51:39 10 You were shown the next document, which is 11 R-199, regarding renewal of the precautionary measure, 12 and the record -- or the file of the precautionary 13 measure. Do you remember they showed you that file? 14 Α. Yes. 01:51:57 Now, could you please go to page 54 of the pdf 15 0. 16 of this document? Thank you very much. 17 Can you read what it says at the top where 18 it says "direction," if you would, please? 19 Α. Yes. It says: 01:52:26 20 "Inversiones Agropecuarias, (INAGROSA); by 21 means of the notice and this document, I inform you that 22 in the matter 000-8194-2024-CO filed in the Fifth Civil 23 District Court of Managua, District of Managua, by 24 request of letters rogatory of the State of Nicaragua 01:52:56 25 represented by the Attorney General's office of

01:52:58	1	Nicaragua, a lawsuit a claim filed by Riverside
	2	Coffee against INAGROSA in the State of the Republic of
	3	Nicaragua for their knowledge.
	4	Q. I'm sorry. I don't want to interrupt you, but
01:53:11	5	where the seal is, where it says "direction", what does
	6	it say there? It says direction or address and then
	7	Managua?
	8	A. It says Managua.
	9	"From the stop lights at Claro Villa
01:53:30	10	Fontana, 20 meters north, house No. 304."
	11	Q. Fine. And could you go to the bottom or the
	12	lower part of this document and where it says: "Es
	13	conforme," could you read?
	14	A. A copy as per the law is attached. It is in
01:53:51	15	keeping with legal requirements and for all legal
	16	purposes I notify you the foregoing resolution by means
	17	of this document, having read it in full in the City of
	18	Managua at 10 it seems like it says 10:40 a.m. of 22
	19	February 2024.
01:54:13	20	MS. GONZÁLEZ: And could you please go to
	21	the next show us the next page, please?
	22	Q. Could you please read where it says No.1?
	23	A. In the City of Managua at 10:45 a.m. on
	24	February 22, 2024, I notified by means of a judicial
01:54:40	25	certificate Mr Inversiones Agropecuarias SA, the

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01:54:45
        1
           foregoing resolution which I left in the place indicated
        2
           for notices. I delivered it to Mr. Miguel Velasquez,
        3
           security quard.
        4
               Q. Fine. Thank you very much.
01:54:56
        5
                          MS. GONZÁLEZ: We can take down the
        6
           document.
        7
               Q. You were also shown another document, which I'm
        8
           going to put up on the screen. It's R-268.
        9
                          MS. GONZÁLEZ: Sorry, it's C-268, not R.
01:55:50
        10
           It's C, I'm sorry.
        11
               Q. Do you recall that this document was put up on
        12
           the screen?
        13
               A. Yes.
        14
                   Could you explain to me, first of all, what is
01:56:09
        15
           this document?
        16
                     It is an exact copy, exact photocopy issued by
        17
           the property registry of the Department of Jinotega.
        18
                     Fine. Could you please read the top line of
               Q.
        19
           that, of the different categories of headings in this
01:56:32
        20
           document?
        21
               A. Current owner.
        22
                    And, according to this document, who is the
                Ο.
        23
           current owner of Santa Fé farm?
        24
                    Inversiones Agropecuarias S.A.
               Α.
01:56:47
        25
                Q. And what is its percentage ownership?
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01:56:50	1	A. 100 percent.
	2	Q. Fine. Also now the second well, you say
	3	the first category is current owner. Then there's a
	4	second category. And what does the second category of
01:57:09	5	documents say? I'm sorry, the second category, it's
	6	in shaded with a title.
	7	A. Data from of the entry requested.
	8	Q. Now, what does that mean?
	9	A. That means that, as regards the act, or
01:57:26	10	contract of a preventive annotation, which is a
	11	precautionary measure issued by an official
	12	communication from a judge, from a court.
	13	Q. Now, what is the entry that was requested
	14	according to this part of this document?
01:57:44	15	A. The precautionary measure.
	16	Q. Where does that appear, if you could tell me?
	17	A. It's in the second section where it says "data"
	18	on the entry requested and where it says "contract
	19	document" and it says "preventive annotations."
01:58:03	20	Q. Now, what does it mean where it says that the
	21	data of the entry requested belongs to, and then where
	22	it says "belongs to" and it says "State of the Republic
	23	of Nicaragua" and then it says "Riverside Coffee," what
	24	does this mean?
01:58:18	25	A. It means that when a certificate is issued or

01:58:20 1 when a copy is issued, it has to include everything that 2 is annotated and recorded at the property registry. The 3 property registry includes preventive annotations, if there are encumbrances, or liens, or if it is free 01:58:44 5 thereof. 6 And if you observe, it goes from category 7 1 to the following categories. For example, current 8 owner is the first level. Then come the preventive 9 annotations and, if you note at the end, it says "free 01:59:00 10 of encumbrances." That's why -- there's a scale, the 11 first, second, third, and last. But in first place is 12 who is the owner of the property in request of which the 13 entry was requested. 14 Now, fine. If we could go to the third 01:59:27 15 category of information where it says "real property," 16 there's one line below that. What is your 17 interpretation of what it says to the left and to the 18 right? 19 I'm sorry, could you repeat the question? 01:59:47 20 Yes. To the right it says "preventive 21 annotations official communication of precautionary 22 measure." Why does that appear here in this document? 23 Because it is the -- the act agreed upon was Α. 24 the annotation to be done in respect of the property. 02:00:08 25 Thank you. And so, for the record, what is the Q.

02:00:12 1 date, if you could go down below towards the bottom, 2 please, of this document? 3 Okay, October 24, 2022. 4 0. Exactly. Thank you very much. 02:00:41 5 MS. GONZÁLEZ: I have no further 6 questions. 7 OUESTIONS BY THE TRIBUNAL 8 PRESIDENT: Thank you very much, 9 Ms. González. Any questions from my colleagues? 02:00:59 10 I would have a couple of questions on your 11 witness statement, the timing. In paragraphs 1 and 2 of 12 your witness statement, Ms. Gutiérrez, you explain how 13 you were appointed to the position of Attorney General 14 for the Jinotega department in May 2019. And before 02:01:25 15 that, I understand you were acting as State Attorney of 16 the Esteli department. How far is the Esteli department 17 from Jinotega? 18 MS. GUTIÉRREZ: It's about an hour and 20 19 minutes away. 02:01:55 20 PRESIDENT: When working at the Esteli 21 department, would you be aware, following news, what's 22 going on in Jinotega during the period, relevant period 23 in this case, 2018? Professionally? 24 MS. GUTIÉRREZ: We'd look at different 02:02:25 25 jurisdictions, and we're governed by the different

02:02:27	1	jurisdictions. I was in the Department of Esteli, and I
	2	did not have jurisdiction over actions related to the
	3	Department of Jinotega.
	4	PRESIDENT: Thank you. And then when you
02:02:43	5	were appointed in May 2019, during this period from
	6	May 2019 until March, April/May 2021, what was the
	7	situation at Hacienda Santa Fé? Was there any action or
	8	any activities in which you were involved in your
	9	capacity as Attorney General?
02:03:19	10	MS. GUTIÉRREZ: Yes. On 28 April 2021, I
	11	directed summons to the leaders of the groups that were
	12	there in Hacienda Santa Fé.
	13	PRESIDENT: My question was precisely what
	14	happened during the period from May 2019 until
02:03:46	15	April 2021, before you served the summons? Was there
	16	any activity were you involved in any activity or any
	17	action involving Hacienda Santa Fé during this two-year
	18	period?
	19	MS. GUTIÉRREZ: Only conversations with
02:04:12	20	the National Police that I had.
	21	PRESIDENT: And what was the subject of
	22	those conversations?
	23	MS. GUTIÉRREZ: The procedures that one
	24	could take to try and have people evicted from the
02:04:32	25	property.

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02:04:39
        1
                          PRESIDENT: So you were aware during this
        2
           period that the property was still occupied?
        3
                          MS. GUTIÉRREZ: Yes, the property was
        4
            still occupied.
02:04:51
        5
                          PRESIDENT: Okay. Thank you very much,
        6
           Ms. Gutiérrez.
        7
                          Do the questions from the Tribunal give
        8
           rise to any questions by counsel?
        9
                          MS. CARDENAS: Nothing on our end, sir.
02:05:04
        10
                          PRESIDENT: And Respondent?
        11
                          MS. GONZÁLEZ: Nothing, thank you.
        12
                          PRESIDENT: Thank you very much. So that
        13
            concludes your examination, Ms Gutiérrez. Thank you
        14
           very much for your time and for your availability. You
02:05:14
        15
           are released.
        16
                          MS. GUTIÉRREZ: Thank you very much. Good
        17
            afternoon.
        18
                          PRESIDENT: Okay. We are a little behind.
        19
           We understand Mr. Castro is available at any time now.
02:06:04
        20
                          For planning purposes for Mr. Castro, we
        21
           have estimated a length of cross-examination of an hour
        22
           and 15 minutes. Just to know whether we would be able
        23
           to start with Mr. Herrera today, would you be able to
        24
           make a rough estimate on whether we are in that ballpark
02:06:29
        25
            still or whether it's going to be more?
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02:06:31
        1
                          MS. CARDENAS: No, I think we can get him
        2
           done today.
        3
                          PRESIDENT: Okay. Mr. Castro or both?
        4
                          MS. CARDENAS: I think we might be able to
02:06:40
        5
           do both.
                      If not, get Mr. Castro done altogether and
        6
           perhaps start with Mr. Herrera.
        7
                          PRESIDENT: Okay. So that's good. Do we
        8
           need a logistical break? He's available.
        9
                          MS. CARDENAS: Mr. President, I am doing
02:07:14
        10
           the cross-examination of the next witness. If I could
        11
            just be afforded five minutes to switch my materials.
        12
                          PRESIDENT: Okay. Entirely appropriate.
        13
           So let's break for five minutes, and then we will resume
        14
           at a quarter past 2.
02:07:29
        15
                          (Brief Recess)
        16
                          PRESIDENT: Okay. We go on record.
        17
           Mr. Zetina, you will be doing the direct?
        18
                          MR. ZETINA: Yes.
        19
                          PRESIDENT: We will continue with the
02:18:05
        20
            testimony of Marvin Castro. Mr. Castro has joined us by
        21
           video.
        22
                          Good afternoon, Mr. Castro.
        23
                          MR. CASTRO: Good afternoon, sir.
        24
                          PRESIDENT: I understand you hear us as
02:18:20
        25
           well and see us as well.
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02:18:23	1	MR. CASTRO: I can hear you well, but
	2	you're speaking very fast.
	3	PRESIDENT: Hopefully the interpreter will
	4	be speaking slower. So I would ask the interpreter to
02:18:39	5	speak a bit more slowly.
	6	So, Mr. Castro, we will now start your
	7	examination and thank you for being available. May I
	8	first ask you to state your
	9	MR. APPLETON: I'm sorry. I realize we
02:18:58	10	need to deal with a procedural issue now because it will
	11	impact as to what will happen into this, and maybe it
	12	should happen that we should just not have the witness
	13	on for a moment while we talk about a matter.
	14	PRESIDENT: It would have been nice if you
02:19:14	15	had raised this earlier.
	16	MR. APPLETON: I'm sorry.
	17	PRESIDENT: Mr. Castro, we need to
	18	disconnect you for a second. There will be a procedural
	19	discussion between the Tribunal and the parties.
02:19:24	20	Apologies for the inconvenience.
	21	Should the procedural be only without the
	22	witness or also offline?
	23	MR. APPLETON: I think it can be online.
	24	Apparently at the break there was more information that
02:19:54	25	has now been provided.

02:19:58 1 MS. CONOVER: We still have not moved him 2 to the breakout room. If you could please wait until 3 he's not shown on camera. 4 You may proceed, Mr. Appleton. 02:20:13 5 MR. APPLETON: Thank you. 6 Just on the break, just as we were coming 7 back in, I was informed that we thought that we were 8 going to have an agreement. We have no agreement. The 9 issue arises with respect to a document that's been 02:20:26 10 filed and both sides have been talking about. It is the 11 video of the president's address. It's called a 12 national dialogue. And you've heard that everyone's 13 been referring to it. 14 What we became aware of just before we 02:20:44 15 commenced with Attorney General Gutiérrez was that the 16 copy that was filed that came from the document 17 production of the Republic of Nicaraqua -- but it's a 18 publicly available video -- is not the full video. 19 is -- it is -- it's just incomplete, and that there is 02:21:08 20 more of it, and that we would like to be in a position 21 to be able to have the complete video rather than the 22 incomplete video. 23 So we asked the Republic of Nicaragua if 24 they would consent to allow the complete video. Of 02:21:23 25 course, we just discovered this, and it's a long video.

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02:21:27
        1
           And so they were unable to agree to be able to have it
        2
           filed, and so the issue fundamentally is we would like
        3
           to be able to refer to the video because it's relevant
           to what's going on here. We were unaware that it was
02:21:45
        5
            incomplete until we went to search for something that we
        6
            then -- wasn't there, to our surprise, that arose
        7
            actually from already several testimony that was here.
        8
                          One, we're going to bring a motion to be
        9
            able to have it added to the record, but the issue is
02:22:05
        10
           how do we want to address the material with respect to
        11
           the witnesses? The ones that would be most relevant
        12
           happen to be today. So -- and since both sides are
        13
            referring to this and it's incomplete, and it seems to
        14
           be something that's somewhat of interest and material as
02:22:22
        15
           we go through, we thought it would be better to now
        16
           address the issues before we started with
        17
            Commissioner Castro.
        18
                          Would that be fair? Have I missed
        19
            something on this?
02:22:34
        20
                          And can you just tell me what the number
        21
           of the video is?
        22
                          MS. CARDENAS: It's C-339.
        23
                          MS. GREENWOOD: That video is 17 minutes
        24
            in length, the one that's on the exhibit list.
02:22:49
        25
                          MS. CARDENAS: Correct.
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02:22:50	1	MS. GREENWOOD: How long is the expanded
	2	version, if I can call it that?
	3	MS. CARDENAS: One hour and 27 minutes.
	4	MS. GREENWOOD: And are you proposing to
02:22:57	5	put obviously are you proposing to put this video to
	6	the next witness?
	7	MS. CARDENAS: Yes. Ideally that would be
	8	our preferred approach. I understand the objections
	9	that have been raised, and we'll take instructions from
02:23:11	10	the Tribunal. Obviously our preferred approach would be
	11	to put the full video to the witness, but again, we'll
	12	be driven by what the Tribunal prefers.
	13	MR. APPLETON: If I might add, I'm sorry,
	14	is that the last witness testified that she watched the
02:23:28	15	entirety of the presentation, and so it becomes a little
	16	bit more difficult if we don't have that and if we want
	17	to be able to raise questions we actually had
	18	intended to raise a question based on what was in that
	19	video. But then when we went back to actually check
02:23:45	20	that video arising specifically from the context of her
	21	witness testimony, to our surprise, it wasn't there.
	22	That's because we actually saw it from the rebroadcast
	23	and it's on the web. It's publicly available.
	24	And then we discovered that, in fact, that
02:24:02	25	part wasn't on the evidence that had been submitted.

02:24:05 1 We're not saying that there's anything inappropriate 2 about that, but we were unaware because we didn't see it 3 was marked that it was abridged. 4 So now we're in a situation of having the 02:24:16 5 situation where the record, we thought it had everything 6 and doesn't have that, and that's why we're dealing with 7 this. 8 PRESIDENT: Respondent? 9 MS. GONZÁLEZ: Yes. Mr. President, we 02:24:28 10 just learned about this request during the break. 11 Counsel for Riverside approached Mr. Molina 12 apparently -- I'm not sure why he didn't approach me. 13 It seems sometimes that Mr. Appleton feels a little bit 14 insecure about his case and has been trying to undermine 02:24:51 15 members of this team. He has done that several times 16 already. 17 Anyways, we just learned about it. 18 didn't -- in our preparations with counsel -- with our 19 witnesses, we didn't know. This is another instance 02:25:09 20 where, at the very last minute, they come with these 21 type of surprises. If we had learned last week or 22 before, but we didn't have the opportunity -- we haven't 23 had the opportunity to watch this video, which is an 24 hour and 27 minutes. Our witnesses also have not seen 02:25:28 25 this video. This was produced, the original video, more

02:25:32 1 than two years ago. That is what our witnesses have 2 seen. 3 So we object to this last-minute 4 presentation that is pretended to be put on to a witness 02:25:46 5 who has not had an opportunity to watch this video and 6 what is he going to be asked about. We object. This is 7 last minute. 8 PRESIDENT: So your objection is you 9 object on the basis that it's late? 02:25:58 10 MS. GONZÁLEZ: It's very late. 11 PRESIDENT: Mr. Appleton, are you planning 12 to show this video to other witnesses than Mr. Castro? 13 MR. APPLETON: Let me defer this entirely 14 to Ms. Cardenas. 02:26:15 15 MS. CARDENAS: Our plan was to show it to 16 Mr. Castro. I mean, one alternative, if I could put it 17 forward, would be to proceed with the video as we have 18 it, as it's in the record, but that we be allowed to 19 present at some point tonight the full video and perhaps 02:26:34 20 we can include a transcript along with that so that it 21 will be in the record, the Tribunal can view it at its 22 own convenience, but that we're prepared to proceed with 23 the questioning of Mr. Castro based on the version that 24 is currently in the record. 02:26:46 25 PRESIDENT: Thank you. The Tribunal will

02:26:49 1 withdraw to deliberate on this. 2 (The Tribunal withdrew) 3 PRESIDENT: So the Tribunal has 4 deliberated, and the applicable rule is paragraph 16.3 02:31:44 5 of PO1. Neither party shall be permitted to submit 6 additional responsive documents after the filing of its 7 respective last submission unless the Tribunal 8 determines that special circumstances exist based on a 9 reasoned written request followed by observations from 02:32:01 10 the other party. 11 The Tribunal doesn't believe that there 12 are sufficiently special circumstances to justify the 13 late introduction of this video. It's the Claimant's 14 own exhibit. 02:32:14 15 So we proceed now with the witness. 16 MS. CARDENAS: And, Mr. President, if I 17 may before we move forward, I will apologize to 18 Ms. González. I am the one that reached out to 19 Mr. Molina. It wasn't Mr. Appleton. It was no 02:32:30 20 disrespect intended. It was simply maybe not wanting to 21 bother you while preparing your direct. I'm the one who 22 approached Mr. Molina, for the record. 23 MS. GONZÁLEZ: No problem, Ms. Cardenas. 24 PRESIDENT: We can call the witness back. 02:35:00 25 Mr. Castro, welcome back. You hear us?

02:35:16	1	THE INTERPRETER: I wonder whether the
	2	interpretation option is on in his Zoom connection.
	3	That might be the problem.
	4	TECHNICIAN: He is able to hear you. He
02:35:28	5	just unmuted himself.
	6	PRESIDENT: Do you hear us now,
	7	Mr. Castro? Can we communicate with the technician to
	8	make sure he can hear us?
	9	MS. CONOVER: Yes.
02:36:02	10	(Technical discussion)
	11	MARVIN ANTONIO CASTRO OROZCO
	12	PRESIDENT: Mr. Castro, welcome back. You
	13	hear me? I just wanted to make sure before we start, is
	14	everything okay? You hear me?
02:36:58	15	THE INTERPRETER: Yes, he can hear us.
	16	PRESIDENT: Very good. May I first ask
	17	you to state your full name for the record.
	18	MR. CASTRO: Marvin Antonio Castro Orozco.
	19	PRESIDENT: Thank you very much. You have
02:37:24	20	been called as a witness of fact in this arbitration.
	21	As a witness of fact you are required to tell the truth,
	22	and for that purpose you need to make a declaration of a
	23	witness. You should have a Spanish version of the
	24	declaration on the desk. Can you please make the
02:37:38	25	declaration?

02:37:49	1	MR. CASTRO: I solemnly declare upon my
	2	honor and conscience that I shall speak the truth, the
	3	whole truth, and nothing but the truth.
	4	PRESIDENT: Thank you very much.
02:38:00	5	Because you are testifying remotely, I
	6	would kindly ask you, or a technician who is helping
	7	you, to show with your camera the surroundings your
	8	surroundings in the room.
	9	MR. CASTRO: Yes.
02:38:59	10	PRESIDENT: Thank you. I will now ask you
	11	to confirm that you will not communicate during your
	12	examination with anybody else except the Tribunal and
	13	the counsel in this room and that you will not receive
	14	any communications from any other parties. Can you
02:39:18	15	please confirm that?
	16	MR. CASTRO: Correct. I confirm.
	17	PRESIDENT: Can I also ask you to confirm
	18	that you have not followed this hearing by the video
	19	streaming or that you haven't read and that you
02:39:39	20	haven't read any of the hearing transcripts?
	21	MR. CASTRO: No, I have not.
	22	PRESIDENT: Thank you very much.
	23	You have submitted two witness statements
	24	in this arbitration, the first one dated March 3, 2023
02:40:09	25	and the second one March 8, 2024. I understand you have

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02:40:13
        1
            hard copies of those witness statements on your desk.
        2
            Can you please confirm you have them?
        3
                          MR. CASTRO: Yes, I do have them.
        4
                          PRESIDENT: And can you please take a look
02:40:34
        5
            at those documents and confirm that they are indeed your
        6
            witness statements?
        7
                          MR. CASTRO: Correct.
                                                  They are my
        8
            statements.
        9
                          PRESIDENT: Thank you very much.
02:41:01
        10
                          Just to briefly explain the procedure of
        11
            your examination, there will first be a brief direct
        12
            examination by counsel for the Respondent, the Republic
        13
            of Nicaragua. Then there will be a cross-examination by
        14
            counsel for the Respondent -- for the Claimant -- and
02:41:19
        15
            then possibly further questions by counsel for the
        16
            Respondent. All of these will be in Spanish.
        17
            members of the Tribunal may put questions to you at any
        18
            time.
        19
                          Is that understood?
02:41:38
        20
                          MR. CASTRO: Yes, understood.
        21
                          PRESIDENT: Thank you very much,
        22
                         I will now hand over to counsel for
           Mr. Castro.
        23
            Respondent.
        24
                          MS. GONZÁLEZ: Thank you, Mr. President.
02:41:51
        25
           Mr. Zetina will conduct Mr. Castro's direct examination.
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02:41:57
        1
                          PRESIDENT: Please proceed, Mr. Zetina.
        2
                          MR. ZETINA: Thank you, Mr. President.
        3
                                   EXAMINATION
        4
            BY MR. ZETINA:
02:42:08
        5
                Q. Commissioner Castro, good afternoon.
        6
                    Good afternoon.
        7
                     My name is Fabián Zetina, and I will be asking
        8
            you a series of questions over the next couple of
        9
            minutes. Please be brief, as indicated by the President
02.42.22
        10
            of the Tribunal.
        11
                          Commissioner Castro, we have simultaneous
        12
            interpretation. Therefore, after I ask you a question,
        13
            I ask you to make a very brief pause and then proceed to
        14
            answer my question.
02:42:45
        15
                          Commissioner Castro, what is your current
        16
           position?
        17
                A. I am the chief of the police for the Department
        18
           of Jinotega.
        19
                     Could you please tell us what your position was
02:42:58
        20
            in 2018?
        21
                     The same. I was the chief of the police for
        22
            the Department of Jinotega.
        23
                     Commissioner Castro, what is your understanding
        24
            of the claim by Claimant in this proceeding?
02:43:17
        25
                Α.
                     I understand that their claim is that the
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02:43:25 1 government supported these invaders. I understand that 2 in the first place. And in the second place, that the 3 National Police cooperated with them to allow for this 4 situation to happen. 02:43:51 5 Commissioner Castro, what is your reaction to Ο. 6 the claims presented by Claimant? 7 I simply do not agree with those claims because Α. 8 it is not true. I have not received any order from the 9 highest Chief of Police or the Chief of the National 02:44:16 10 Police to provide any sort of support to these 11 individuals. 12 And, secondly, the support that the 13 Claimant required back then was not feasible because we 14 had a situation in the country, a widespread situation, 02:44:48 15 in which we faced a potential coup d'état against the 16 government and we were prioritizing this issue. 17 Thank you, Commissioner. Also very briefly, 18 would you please tell me whether you were in favor or 19 against the invasion of Hacienda Santa Fé? 02:45:17 I cannot -- I can never be in favor. I was not 20 Α. 21

22

23

24

private place.

Q. I thank you, Commissioner.

in favor -- I am not in favor because as part of the

private property. And this place, I understand, is a

National Police, it is our obligation to guarantee

02:45:41 25 02:45:44 1 Finally, would you like to introduce any 2 clarification or correction to the two statements that 3 you presented in this arbitration? 4 Yes, sir. One at paragraph 2 of my first 02:45:59 5 statement, I mentioned that the volunteer police is not 6 part of the government. I'd like to say that the 7 volunteer police, according to articles 23 and 25 of the 8 Law 872, is an ancillary body in temporary support for 9 the National Police. Therefore, it is part of the 02:46:26 10 government. 11 And my second clarification, at 23 of my 12 first statement I am referring to some statistics, and I 13 would like to clarify that these statistics were 14 presented by the government of Nicaragua before the 02:46:49 15 Human Rights Council on January 28, 2019, and I 16 understand that this document was presented in this 17 arbitration as Exhibit R-0019. 18 My third correction in my second 19 statement, footnote 16, I am referring to press 02:47:19 20 communication 112-2018 of 2018. September 16, 2018 is 21 R-11 -- is R-0191 rather than R-0190, as indicated. 22 My clarification, therefore, is that my 23 counsel has indicated that in my first statement in 24 English, the legal authority that is cited in footnotes 02:47:53 25 6, 7 and 8 are C-0007.

02:48:03 1 My fifth clarification, finally, at 2 paragraph 20(b) of my second statement, I am referring 3 to an encounter that we had with the legal occupants, 4 and this was on August 10, 2018, according to the 02:48:30 5 information that shows August 9, 2018, and as stated in 6 the documents that I referred to in that paragraph. 7 MR. ZETINA: Thank you very much, 8 Commissioner Castro. With this, I conclude my direct 9 examination, and next, counsel for the other party will 02:48:51 10 be asking you some questions. 11 CROSS-EXAMINATION 12 BY MS. CARDENAS: 13 Good afternoon, Commissioner Castro. Ο. 14 Good afternoon. Α. 02:49:02 15 My name is Cristina Cardenas. I represent Ο. 16 Claimant in this claim, Riverside Coffee, LLC, and I 17 understand you're an attorney, correct? 18 Α. I do not understand the last portion of your 19 question. Could you please repeat? 02:49:25 20 Do you have a degree as an attorney? Ο. 21 You're asking me if I studied to become an 22 attorney? Yes, I have a degree in law. 23 Therefore, you would understand how, in Q. 24 general, a cross-examination works, correct? 02:49:47 25 Yes. Yes, it is clear. Α.

02:49:51	1	Q. I will be asking you some questions, and I am
	2	going to please ask you to wait for me to finish before
	3	you answer. Would you agree?
	4	A. I agree.
02:50:10	5	Q. Now, as I understand that you know this is a
	6	public hearing and it is being streamed online live, and
	7	since this hearing is being observed in Nicaragua and in
	8	other places all over the world, you would understand
	9	the importance for your answers to be thorough and
02:50:29	10	precise.
	11	A. Correct.
	12	Q. Were you asked to appear here in Washington,
	13	D.C. for this hearing?
	14	A. Yes.
02:50:50	15	Q. Obviously we see that you are not here in the
	16	US. Could you please tell us why you're not here in the
	17	US?
	18	A. I do not understand the last portion of your
	19	question.
02:51:13	20	Q. Mr. Castro, I just want to make sure. You're
	21	not understanding my questions, or is it that the sound
	22	is not good? What is the problem, so that I can change
	23	the way I ask you questions?
	24	A. The audio quality is not the audio the
02:51:37	25	audio is not good quality. It's on and off. On and

02:51:40 1 off. 2 Just a moment, please, to see if we can look Ο. 3 into this. 4 PRESIDENT: Let's go on and in the 02:51:56 5 meantime, ICSID is looking into it. 6 Mr. Castro, I understand that we are having 7 problems with the audio. If you do not understand a 8 question that I ask you, please let me know and I'll 9 repeat my question. 02:52:23 10 I cannot hear her. I cannot hear her. Α. 11 PRESIDENT: It looks like we take a break 12 for five minutes, but let's not leave the room because 13 I'm sure it won't take more than five minutes then, and 14 we'll try to resolve the problem in the meantime. 02:54:22 15 (Technical discussion) 16 PRESIDENT: Let's go on. 17 BY MS. CARDENAS: 18 Q. Mr. Castro, could you please explain why you 19 are not in the United States today? 02:57:31 20 The visa was requested, and it was not granted. Α. 21 And when the visa was denied, did the US 22 government offer you a reason for denying the visa? 23 Α. None. 24 Did the US send you a communication with a 02:57:57 25 denial of the visa?

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03:00:08	1	Marvin Castro, and that leads us to believe that you did
	2	not draft your own statement?
	3	A. I cannot hear you. You are too far from the
	4	mic.
03:00:29	5	Q. I am trying to speak as closely as possible to
	6	the mic.
	7	A. That would be excellent.
	8	Q. Mr. Castro, in your second statement, for
	9	example, you refer to yourself as Marvin Castro.
03:00:59	10	A. Yes. Yes, Marvin Castro.
	11	Q. So I understand that you did not draw up that
	12	statement, correct?
	13	A. You're moving away from the microphone quite a
	14	bit. I would ask, please, for me to be able to hear
03:01:22	15	you, that you get closer to the microphone. But you
	16	kept moving away.
	17	Q. I can't speak any closer to the microphone.
	18	MR. APPLETON: We're going to have the
	19	assistance of Marcellus and we'll try the wireless
03:01:43	20	microphone, but I can assure you that Ms. Cardenas is
	21	not moving in any way, shape, or form and she is quite
	22	adjacent to the microphone, so I don't believe that's
	23	the cause. But we'll do our best yet again.
	24	MS. CONOVER: We have also asked for
03:01:59	25	headphones to be provided to Mr. Castro.

03:02:06	1	Q. Mr. Castro, can you hear me better now?
	2	Mr. Castro, can you hear me?
	3	A. Yes, I can hear you well when you get close.
	4	Then I can hear you well.
03:02:29	5	Q. Mr. Castro, you have been with the National
	6	Police for 45 years, since 1979, correct?
	7	A. Yes.
	8	Q. And you have seen many things during that long
	9	time in the police, correct?
03:02:53	10	A. Could you repeat the question, please?
	11	Q. I'm going to ask you another question. It
	12	might be easier that way.
	13	You've had a long career, a long
	14	professional career in keeping with the law complying
03:03:12	15	with the law, correct? Can you hear me?
	16	A. Yes, I hear you better now. Yes.
	17	Q. Let's see if this works.
	18	You've had a long career, a long
	19	professional career, in law enforcement, correct?
03:03:42	20	A. Correct.
	21	Q. And you consider the work of preserving public
	22	order seriously?
	23	A. I take it very seriously.
	24	Q. And the National Police cannot decide who it
03:04:06	25	helps and who it doesn't help, correct?

03:04:09	1	A. That's right.
	2	Q. And that as and as a member of the police,
	3	you must treat citizens and foreigners in the same way
	4	in keeping with the law and public order, correct?
03:04:32	5	A. Correct.
	6	Q. Therefore, if there is destruction of a private
	7	property or invasions, you have the duty to investigate
	8	it as part of your police function, correct?
	9	A. Correct.
03:04:51	10	Q. Now, as Chief of Police for the Department of
	11	Jinotega, the reports that you issued related to your
	12	police functions or police duties are an important part
	13	of your workplace duties as commissioner and head, or
	14	chief, of the National Department of Jinotega, correct?
03:05:17	15	A. Correct.
	16	Q. And the accuracy of those police reports is
	17	something that you expect from the captains and police
	18	officers who work under you, correct?
	19	A. Correct.
03:05:34	20	Q. Is it correct to say that all of the reports
	21	that you issue and sign are accurate and true to the
	22	best of your knowledge?
	23	A. Correct.
	24	Q. And you expect the same from your subordinates,
03:05:53	25	correct?

03:05:54	1	A. Correct.
	2	Q. Now, Mr. Francisco Diaz Madrid is the director
	3	general of the National Police, correct?
	4	A. Correct.
03:06:06	5	Q. The chief of the National Police, Diaz, can
	6	trust in his commissioners and deputy commissioners and
	7	the reports that they send him are accurate and true,
	8	correct?
	9	A. Correct.
03:06:27	10	Q. We're now going to show you a document that has
	11	been identified as Exhibit C-284. Could you please tell
	12	me when you can see it?
	13	MS. CARDENAS: We're showing the witness a
	14	document, but I don't think it's being shown on any of
03:07:07	15	the screens.
	16	PRESIDENT: Who has control over the
	17	screens over there?
	18	MS. CONOVER: Our AV technician.
	19	Q. Mr. Castro, are you seeing a document right
03:07:36	20	now?
	21	A. Yes.
	22	Q. Now, this is a report that you sent
	23	Commissioner General Francisco Diaz Madrid dated 31 July
	24	of 2018, correct?
03:07:55	25	A. Correct.
03:07:55	23 24	Commissioner General Francisco Diaz Madrid dated 31 July of 2018, correct?

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03:07:55
        1
                     And in this document you inform the
                Q.
        2
            Commissioner General of the takeovers of land in
        3
            Jinotega, correct?
        4
                          MR. ZETINA: I apologize for the
03:08:06
        5
            interruption. We're not able to see the document
        6
            either.
        7
                          MS. CARDENAS: I think it's behind you is
        8
           the issue.
        9
                          MR. ZETINA: Maybe the secretary can help
03:08:16
        10
           us because the screen that I have in front of me does
        11
           not have the document either.
        12
                          (Technical discussion)
        13
                          PRESIDENT: Let's proceed.
        14
                          MS. CARDENAS: Thank you, Mr. President.
03:10:39
        15
           BY MS. CARDENAS:
        16
                Q. Mr. Castro, this document is a report that you
        17
            sent the Commissioner General Francisco Diaz Madrid
        18
           dated 31 July 2018, correct?
        19
                   Correct. Correct.
                Α.
03:10:57
        20
                     And in this document you report to the
        21
            Commissioner General of the takeovers of land in
        22
           Jinotega, correct?
        23
                A. Correct.
        24
                Q. Okay. And you write in this report -- excuse
03:11:13
        25
           me. I'm going to start the question again.
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03:11:17	1	You sent this document to Mr. Diaz Madrid
	2	during the time that Hacienda Santa Fé was still being
	3	invaded, correct?
	4	A. Correct.
03:11:37	5	Q. Okay. Now, in the first sentence of this
	6	document you report that the property, Hacienda
	7	Santa Fé, is the property of Carlos Rondón, who you
	8	characterize as, first, a citizen, second, who resides
	9	in the United States, and, third, historically known to
03:12:04	10	have belonged to the right. Do you see that?
	11	A. One would have to bring the document closer or
	12	zoom in on the document.
	13	MS. CARDENAS: I want to instruct the AV
	14	person there to bring the screen closer to him so that
03:12:29	15	he can review the document.
	16	MR. ZETINA: Perhaps we can zoom in and
	17	just refer to the portion of the document that's being
	18	shown.
	19	Q. Mr. Castro, can you read it better there?
03:13:29	20	Mr. Castro, can you hear me?
	21	A. Yes.
	22	Q. Can you read the document better now?
	23	A. Yes.
	24	Q. Now, Mr. Rondón, as representative of INAGROSA,
03:13:49	25	is the victim of the illegal takeover of Hacienda

03:13:52	1	Santa Fé, correct?
	2	A. Yes.
	3	Q. And as Chief of Police for the Department of
	4	Jinotega, you begin your report to Commissioner Diaz
03:14:07	5	noting the conservative political inclinations of the
	6	victim of the takeover, Mr. Carlos Rondón, correct?
	7	A. Correct.
	8	Q. And would you agree with me that Mr. Rondón's
	9	political affiliation is not relevant for the issue of
03:14:28	10	police protection?
	11	A. It is not relevant.
	12	Q. Now, as we have seen, you also indicate that
	13	Mr. Rondón was a resident of the United States. Would
	14	you agree with me that his residency in the United
03:14:46	15	States is also irrelevant when it comes to the question
	16	of police protection?
	17	A. It's not relevant either.
	18	Q. Now if we could please focus on the last
	19	sentence in this document. Just a second, please. Just
03:15:12	20	a second, Mr. Castro. We want to show you the document.
	21	Mr. Castro, do you see the paragraph that
	22	begins "at the moment"?
	23	A. Yes.
	24	Q. And there you explain that at the moment, none
03:15:42	25	of the parties has presented judgments, resolutions or

03:15:50 1 judicial communications that credit them as owners. 2 a conversation that has been had with members of the 3 co-operative, they've indicated that they have 4 communicated with Comrade Edwin Castro and that he has 03:16:06 5 mentioned to them that they should stay on that property 6 since the government is looking for a way to buy it. 7 Do you see that? 8 Α. Yes. 9 So there you refer to Mr. Edwin Castro as 03:16:22 10 "comrade", correct? 11 Correct. Α. 12 But you referred to Mr. Rondón as "citizen", Q. 13 correct? 14 Α. Correct. 03:16:32 15 And that's because Mr. Carlos Rondón is, Ο. 16 according to you, affiliated with the right, whereas 17 Mr. Castro is a partisan of the Sandinista National 18 Liberation Front, correct? 19 No. I am referring to the citizen because Α. 03:16:59 20 that's a way of saying it, just as I might call you sir, 21 ma'am, citizen. I could say comrade, I could say sister 22 on referring to you. So it's normal here in Nicaragua. 23 But what's clear is that you don't refer to 24 Mr. Rondón as comrade, correct? 03:17:39 25 A. For me, it could be comrade, citizen. I could

03:17:47	1	call him brother, citizen
	2	Q. Yes, Mr. Castro. But my question is very
	3	specific, and that is that in this document that you are
	4	the author of, you refer to Mr. Rondón as citizen and
03:18:03	5	not as comrade. Yes or no?
	6	A. There it is. Citizen. If he's there as
	7	citizen, well, that's the way it is.
	8	Q. Now, Mr. Edwin Castro, he has been sanctioned
	9	by the US government, correct?
03:18:26	10	A. I don't know. I don't know that.
	11	Q. And Mr. Edwin Castro has also been sanctioned
	12	by the government of Canada, correct?
	13	A. Nor do I know about that. I don't know.
	14	Q. Now, in your report you have not called into
03:18:57	15	question that assertion that Edwin Castro has been in
	16	communication with members of those who invaded and
	17	indicated that they should stay on the Hacienda,
	18	correct?
	19	A. I don't have personal knowledge of that. I
03:19:17	20	haven't been here. I haven't been with them at any
	21	specific moment.
	22	What I mentioned there in my report is
	23	what some of the members of that cooperative said. But
	24	I have no personal knowledge of that.
03:19:43	25	Q. But there, don't you indicate to Mr. Diaz

03:19:53	1	Madrid that the Nicaraguan police had insisted in their
	2	communication with the invaders that they should leave
	3	the property, correct?
	4	A. No.
03:20:14	5	Q. Okay. Now, Mr. Castro, you testified that an
	6	order was issued by President Ortega in May of 2018 that
	7	required that the police stay in their quarters in order
	8	to preserve the peace, correct?
	9	A. Correct.
03:20:50	10	Q. Do you know whether at some point
	11	President Ortega I'm sorry. I'm going to start over
	12	with this question.
	13	And you indicate that the presidential
	14	order was issued through a video, correct?
03:21:05	15	A. That's right.
	16	Q. Now, at any time have you seen a written
	17	document that confirms the contents of the order issued
	18	by President Ortega?
	19	A. Yes.
03:21:25	20	Q. Where?
	21	A. Well, in principle, he gave the order in a
	22	dialogue between the government and the opposition
	23	publicly. It was broadcast publicly. And then the
	24	structure of the National Police has a division called
03:22:00	25	public relations. It's my understanding that there they

03:22:07	1	issued notes informing the population that that order to
	2	stay in their quarters to shelter in their quarters
	3	to avoid any violent escalation.
	4	Q. Now, the video you refer to, did you see the
03:22:35	5	president's speech live?
	6	A. Yes.
	7	Q. And you saw the entire speech by the president,
	8	correct?
	9	A. Correct.
03:22:52	10	Q. And now do you remember how long the
	11	president's speech was?
	12	A. No, I don't.
	13	Q. Now, in your witness statement you identify the
	14	order that you're referring to in a video that's been
03:23:22	15	identified, for purposes of this arbitration, as
	16	Exhibit C-339. It's a long speech, and I'm going to ask
	17	you we're going to show you some parts of the
	18	president's speech, and then I'm going to ask you some
	19	questions after each part that we're going to show you.
03:23:53	20	Just a moment, Mr. Castro.
	21	A. Okay.
	22	Q. We're going to begin at minute 11 of the video,
	23	which has been identified as Exhibit C-339.
	24	(Video played)
03:24:45	25	"Unfortunately if the police go against

03:24:47	1	them, then the police are the bad guys and they're the
	2	good guys and then the poor kids crashed, they were
	3	drunk, they crashed. The car overturned ."
	4	Q. Mr. Castro, excuse me, but I'm going to show
03:25:18	5	you a second outtake of the video.
	6	(Video played)
	7	"The order was already given. It was
	8	already given and proof of that, the police are
	9	sheltering in Masaya and there wasn't the police did
03:25:43	10	not fire a single shot."
	11	Q. Now, there, Mr. Ortega indicates that the order
	12	has already been given, which implies that he had
	13	already issued an order before this video. Do you know
	14	or at any point did you see the prior order issued by
03:26:13	15	the president?
	16	A. I did not.
	17	Q. Do you know whether there was a prior order?
	18	Do you know if the president had issued an order prior
	19	to this?
03:26:36	20	A. No.
	21	Q. I'm now going to show you another excerpt.
	22	This is minute 13 or 16, I'm sorry.
	23	(Video played)
	24	"The thing is we have convincing proof
03:27:06	25	that the police are in their quarters, and they are only

03:27:14 1 coming out when they're called for the regular problems 2 that they generally deal with. When we have more 3 complicated situations such as this of persons, 4 paramilitary groups moving about at night causing 03:27:26 5 destruction, then no, we're letting them continue. 6 order is for the police to shelter in place and may they 7 do what they may." 8 Ο. Now, Mr. Castro, there I heard the president 9 say that the police were authorized to respond when the 03:27:46 10 population so required to address the normal problems. 11 Did you hear that? 12 Yes, I did hear that. Α. 13 In other words, the president is not saying 14 that the police cannot respond to the population, right? 03:28:05 15 Α. Correct. 16 So the president emphasized that it didn't --17 that the police could act when necessary and when the 18 public so required, correct? 19 Α. Correct. 03:28:27 Now, as Chief of Police in Jinotega, who was 20 21 responsible for conveying those instructions to your 22 subordinates? 23 Α. I was. 24 Q. And how did you do that? 03:28:51 25 We do that -- well, in the context of what was Α.

03:28:56 1 happening at that time, it had to be by telephone. 2 Okay. And if you recall -- just a second -- in 3 the second excerpt we heard, the president indicated, 4 one, that he had already given the order before the 03:29:22 5 video, and second, as evidence he indicates that in 6 Masaya no shots were fired against the demonstrators 7 because the police in Masaya had remained sheltered. 8 Do you remember that? 9 No, I wasn't there. I cannot confirm that or Α. 03:29:49 10 say anything in that regard. 11 But you just heard the president say that, and 12 we can put it up one more time if you need us to do so. 13 Yes, but let me answer. I wasn't there. He Α. 14 says it, but I wasn't there. 03:30:12 We are going to play it for you one more time, 15 Ο. 16 sir. 17 "The order was given. The order was 18 already given. Proof of that is that the police were 19 sheltered in Masaya. They have not done anything. They 03:30:53 haven't fired a single shot, and they've been fired at. 20 21 They've been attacked." 22 The president there is making reference to the 23 fact that the police did not fire a single shot in 24 Masaya, correct? 03:31:09 25 A. Correct.

03:31:10	1	Q. Would it be fair to say that Masaya is one of
	2	the departments in Nicaragua that saw the largest
	3	conflicts with the police during this period?
	4	A. I didn't understand your question. Repeat,
03:31:26	5	please.
	6	Q. Do you know whether Masaya saw conflicts with
	7	the police during this period of time?
	8	A. Yes. Yes, of course.
	9	Q. Would it be fair to say that Masaya was one of
03:31:51	10	the departments in Nicaragua that saw the largest
	11	conflicts?
	12	A. Yes. Masaya, yes.
	13	Q. And also in Managua. Is that right?
	14	A. Also there, yes.
03:32:03	15	Q. When the president makes reference to the fact
	16	that the police has remained in their barracks and has
	17	not shot any shots, he's making reference to the police
	18	in Masaya, correct?
	19	A. Yes, he's making reference to the thing in
03:32:22	20	Masaya.
	21	Q. And not in the whole of the country, the whole
	22	of Nicaragua, correct?
	23	A. My understanding is that at that time the order
	24	was given for the whole country.
03:32:40	25	Q. But from what we heard the president say, he

03:32:43	1	does not say all of the police in Nicaragua. He talks
	2	about the police in Masaya that has remained in the
	3	barracks and has not fired any shots, correct?
	4	A. Correct.
03:33:12	5	Q. When you conveyed what you understood to be the
	6	president's order to your subordinates, did you do that
	7	in writing or orally?
	8	A. Orally.
	9	Q. Is there any document, in whatever form it may
03:33:29	10	exist, that reflects the contents of that order?
	11	A. No.
	12	Q. You cite a number of press releases related to
	13	your support of the affirmation that President Ortega
	14	issued an order for the police to be sheltered in place,
03:33:54	15	and we're going to look at that. But let me ask you.
	16	You have testified that the president's order was issued
	17	in May. Is that correct?
	18	A. Yes, I think it was in May. And the videos are
	19	there. The dates as well.
03:34:17	20	Q. Let's look at C-339. And it is dated May. Let
	21	us look at the press extracts that you were making
	22	reference to. One moment.
	23	Let us look at R-180. Do you see it, sir?
	24	A. I do. If we can blow it up a little bit more
03:35:53	25	so that I can read it.

03:35:57	1	Q. We're going to do what we can, sir.
	2	Now, this press release has to do with
	3	Managua. Is that correct?
	4	A. I understand that it has to do with the whole
03:36:17	5	country.
	6	Q. One moment, sir.
	7	If you look at the third paragraph here,
	8	here this press release talks about violence, in
	9	particular, in connection with the Universidad Centro
03:36:55	10	Americana. Where is the Central American University
	11	located?
	12	A. It's in Managua.
	13	Q. Let us look at the third paragraph now. It
	14	says:
03:37:09	15	"All Nicaraguan citizens are witness to
	16	this reality, especially the families living in Managua,
	17	who have become the target of these acts of terror."
	18	Do you see that?
	19	A. I do.
03:37:30	20	Q. When reference is made here to the fact that
	21	the police has not acted against those criminal groups,
	22	this is making reference to the criminal groups that
	23	have been mentioned in this press release that has to do
	24	with Managua, correct?
03:37:50	25	A. Correct. And the whole country.

03:37:54	1	Q. But, in particular, here they're talking about
	2	violence in Managua. In this press release, in that
	3	document, he is making reference to a specific
	4	situation.
03:38:12	5	Next document. This is R-181. One
	6	moment, sir. We're going to show it on the screen.
	7	We're going to try to blow it up as well.
	8	In the first paragraph, this press release
	9	says that there are criminal gangs with firearms and
03:38:54	10	mortars that attacked the National Police station in the
	11	Department of Masaya. Do you see that?
	12	A. Yes.
	13	Q. And that when the police refrained from
	14	responding to these criminal gangs, reference is made
03:39:19	15	specifically to the criminal gangs in Masaya, correct?
	16	A. Correct.
	17	Q. And this press release does not make reference
	18	to the municipality of San Rafael del Norte, correct?
	19	A. It does not.
03:39:38	20	Q. Next document, please. This is R-183.
	21	Here reference is made to Jinotega, but no
	22	reference is made to the municipality of San Rafael
	23	del Norte, right?
	24	A. I do not see the document very well. I cannot
03:40:30	25	see it very well. Can we please blow it up?

03:40:36	1	Q. One moment, sir. Can you see it better now?
	2	A. Yes.
	3	Q. This document is making reference to a dispute
	4	between gangs in an undisclosed place of the Department
03:41:02	5	of Jinotega. Again, this is a dispute involving gangs,
	6	correct?
	7	A. No. This is a dispute between the police and
	8	these groups.
	9	Q. But here it says:
03:41:18	10	"Criminal groups hooded and with firearms
	11	and mortars and explosive devices improvised
	12	explosive devices were involved in a fight against
	13	each other." Do you see that?
	14	A. Amongst them.
03:41:41	15	Q. Yes, sir, correct.
	16	A. It talks about someone that died.
	17	Q. As a result of a fight between them. Is that
	18	correct, sir?
	19	A. That's what it says there.
03:41:57	20	Q. Next document. This is R-184. Here, violent
	21	acts are identified in Managua, in Masaya. Let's scroll
	22	down.
	23	No mention is made here to the
	24	municipality of San Rafael del Norte. Is that correct?
03:42:55	25	A. Please scroll down. I can't see it. Please

```
03:43:00
        1
            read the document to me.
        2
                     It says: "At 11:30 a.m. at the entrance of the
        3
            Sandino neighborhood, hooded individuals wielding
            firearms, mortars and Molotov cocktails set fire to a
03:43:21
        5
            Mitsubishi van owned by the Mayor's Office."
        6
                          Do you see that?
        7
                     I do.
                Α.
        8
                     But this is in the Sandino neighborhood,
        9
            correct?
03:43:28
        10
                Α.
                     Correct.
        11
                     The Sandino neighborhood is not located in
        12
            San Rafael del Norte, correct?
        13
                A. Correct.
        14
                    Next document, R-188. Do you see it, sir?
03:43:59
        15 l
            We're going to blow it up for you.
        16
                Α.
                     Yes.
        17
                     This press release does not make any reference
        18
            to San Rafael del Norte. Is that correct?
        19
                     I can't see it very well.
                Α.
03:44:23
        20
                     It makes reference to Llano de la Tejera,
        21
            right, sir?
        22
                Α.
                     Can you read it to me, please?
        23
                Q.
                     Yes.
        24
                           "At 5:30 p.m. in the Llano de la Tejera
03:44:33
        25
            neighborhood, criminal gangs maintain a road blockade in
```

```
03:44:37
        1
            the area shot firearms, homemade weapons and mortars at
        2
            locals who were removing obstacles from the road."
        3
                          This again is in the Llano de la Tejera
        4
            neighborhood. That is not located in San Rafael
03:44:50
        5
            del Norte, correct?
        6
                A. Correct.
        7
                Q. Next document, R-189.
        8
                          In connection with Jinotega, it says here
        9
            that a 21-year-old man died in the Llano de la Tejera
03:45:20
        10
            neighborhood. This document does not make reference to
        11
            San Rafael del Norte either, correct?
        12
                A. Correct.
        13
                     Next, R-190. This document makes reference to
        14
            a barricade in the Sandino neighborhood. Do you see
03:46:04
        15
           that?
        16
                Α.
                     I do.
        17
                     The Sandino neighborhood is not located in
        18
            San Rafael del Norte, correct?
        19
                Α.
                     Correct.
03:46:16
        20
                     Next, R-191. This document is dated
        21
            September 15, 2018. Do you see reference to that where
        22
            it says:
        23
                          "The National Police informs the people of
        24
            Nicaragua that on Saturday, September 15, 2018..."
03:46:52
        25
                          Do you see that?
```

HEARING

03:46:53	1	A. Yes.
	2	Q. Now, this is September 2018, and according to
	3	your testimony, President Ortega's order had been
	4	lifted, correct?
03:47:11	5	A. Yes.
	6	Q. From the documents that we've seen that made
	7	reference to the fact that the police needed to stay in
	8	the barracks, the only two that we saw that made
	9	reference to that were the ones related to Managua and
03:47:34	10	Masaya, correct?
	11	A. Correct.
	12	Q. In none of the press releases that we saw did
	13	we see a reference to San Rafael del Norte, correct?
	14	A. These are operational notes. The order of the
03:47:50	15	president
	16	Q. Yes or no, sir? I don't want to interrupt you,
	17	but for the conduction of this examination you need to
	18	answer yes or no.
	19	None of the press releases that we saw
03:48:07	20	mentioned San Rafael del Norte, correct?
	21	A. Correct.
	22	Q. Thank you very much.
	23	I'm going to ask you brief questions about
03:48:30	24 25	the invasion in June 2018. You have testified that

03:48:43 1 testimony. Are you aware of that testimony? 2 Α. Yes. 3 One moment, please. I need to verify Q. 4 something. 03:49:13 5 In particular, in your second witness 6 statement you say that, "On 11 August 2018, we organized 7 a meeting with the illegal occupants presided over by 8 me, together with the representative of the PGR, Ortega 9 and the Mayor of Jinotega." 03:49:36 10 Do you remember that? 11 Α. Yes, I do. 12 And, according to your testimony, that meeting Q. 13 was held on 11 August 2018, correct? 14 Α. Correct. 03:49:49 15 You indicate that after you left that meeting, Ο. 16 the invaders decided to leave Hacienda Santa Fé. What 17 proposal of resettlement did you put to the invaders for 18 them to decide to leave the Hacienda? 19 We did not put any relocation proposal to them. Α. 03:50:19 20 Simply, as a commission, we said that this was private 21 property, and private property had to be respected and 22 that they had to leave it. 23 And where did the police or the PGR think that 24 they were going to go? 03:50:41 25 Α. Well, from wherever they came from.

03:50:46	1	Q. At that meeting, did the invaders commit not to
	2	return to the Hacienda?
	3	A. We demanded that they leave, and that's what
	4	they did.
03:51:01	5	Q. But did they commit not to come back?
	6	A. I do not recall. We simply demanded that they
	7	leave.
	8	Q. Did you ask them to commit not to return?
	9	A. I do not recall. We simply told them you need
03:51:30	10	to leave this place, this is private property, and you
	11	need to respect it. You cannot be here.
	12	Q. At that time you did not order anyone to report
	13	to INAGROSA the fact that the farm had been left
	14	unoccupied?
03:52:03	15	A. No.
	16	Q. And INAGROSA was not given a document of
	17	delivery informing it that the invaders had been
	18	evicted, correct?
	19	A. Correct.
03:52:16	20	Q. You indicate that, in January 2019, a
	21	commission was set up to evict the invaders. Why was it
	22	necessary to set up a committee in 2019 if, a few months
	23	back, the invaders, according to your testimony, had
	24	left, immediately, the farm without the need for any
03:52:43	25	commission or committee to be set up?

03:52:47	1	A. Well, because they came back. After they left
	2	the farm, nobody none of the owners came to take
	3	possession of the farm, knowing that the police was
	4	making efforts to try and solve their problem.
03:53:20	5	Q. Again, as you've explained before, INAGROSA was
	6	not given notice of the fact that the invaders had left
	7	the property, correct?
	8	A. Correct.
	9	Q. Now, in your testimony, you summarized the
03:53:47	10	profiles of the leaders of the invasion, correct?
	11	A. Correct.
	12	Q. And you prepared and appended those profiles to
	13	your statement. Is that correct?
	14	A. Yes, that's correct.
03:54:04	15	Q. And you are satisfied that those profiles that
	16	you have prepared are correct and reliable?
	17	A. They are correct and reliable, yes.
	18	Q. Let us look at them. Let us look at R-0046.
	19	My understanding is that this is the profile that you
03:54:38	20	created for José Cristóbal Luqués Flores. Do you see
	21	that?
	22	A. Yes.
	23	Q. And you have identified his political
	24	affiliation. Is that correct?
03:55:01	25	A. Yes.

03:55:01 1 Q. And also his military experience, correct? 2 Α. Correct. 3 Why is it necessary for you to identify his Q. 4 political inclination? 03:55:19 5 It's part of the investigation. Α. 6 But why is that information relevant? 7 For us, everything is relevant. We're Α. 8 investigating an individual, and I need to set up all of 9 the profiles. 03:55:37 10 Okay. So for you, the political affiliation is 11 relevant, correct? 12 Everything is relevant. They're added to their Α. 13 background. Everything is relevant. This is part of 14 their background. 03:55:57 15 Q. Let us look at the bottom of this document 16 where it says here "Arrest History", and it says here in 17 the last paragraph that: 18 "In 2018 he was contacted by Efrén Orozco, 19 alias "Comandante Cinco Estrellas" and Benicio de Jesús 03:56:25 20 González Pérez, alias Comandante Gorgojo, to take over 21 Hacienda Santa Fé and El Pavón. He organized a group of 22 people to demand the assignment of land in Santa Fé. He 23 was subsequently assigned 5 manzanas of land, which he 24 left in 2021, when the property was recovered by the 03:56:40 25 National Police."

```
03:56:41
        1
                          Do you see that?
        2
                Α.
                     T do.
        3
                     No mention is made here of the fact that he
                Ο.
        4
            left the property in 2018, correct?
03:56:56
        5
                Α.
                     No.
                     Okay. Next document. It is R-45.
        6
                Ο.
        7
                           I understand that this is the police
        8
            profile of Haniel Samuel Rizo Torrez. Do you see that?
        9
                Α.
                     T do.
03:57:29
        10
                     Again, this is a document prepared and signed
        11
            by you, correct?
        12
                Α.
                     Yes.
        13
                     Where it says political affiliation, it says he
        14
            is a supporter of the Sandinista National Liberation
03:57:42
        15
            Front. Do you see that?
        16
                Α.
                     Yes.
        17
                     If we look at the bottom of the document, it
        18
            says here that:
        19
                           "He participated in the taking of Hacienda
03:57:55
        20
            Santa Fé, together with his father, Luis Antonio Rizo,
        21
            alias Toño Loco. After the killing of his father, in
        22
            December 2018, he assumed the leadership of Hacienda
        23
            Santa Fé together with Ney Ariel Ortega Kuan, alias El
        24
            Chino, with whom he allocated land from the farm to
03:58:25
        25
            other squatters."
```

03:58:26	1	And then it says here, "He subsequently
	2	left the premises due to leadership problems with Ney
	3	Ariel Ortega Kuan." Do you see that?
	4	A. I do.
03:58:39	5	Q. This profile that you prepared indicates that
	6	this individual, Luqués Flores, left Hacienda Santa Fé
	7	because of leadership problems. Is that right?
	8	A. That's correct.
	9	Q. And not because the government asked him to
03:58:55	10	leave the farm, correct?
	11	A. Correct.
	12	Q. Perfect. Next document, please. R-41.
	13	This is the profile of another one of the
	14	invasion leaders. He is known as Comandante Cinco
03:59:25	15	Estrellas. Do you see that?
	16	A. I do.
	17	Q. Again, you identify his political affiliation.
	18	Is that correct?
	19	A. That's correct.
03:59:33	20	Q. Let us look at the end of the document here.
	21	It says here that in 2018, he left the Hacienda Santa Fé
	22	because he had leadership problems with Benicio de Jesús
	23	González Perez, alias Gorgojo, and Adrián Wendel Mairena
	24	Arauz, alias Wama.
04:00:09	25	A. Yes.

04:00:10	1	Q. Excuse me. Just to confirm, I don't know if it
	2	was my mistake, but it says here that in 2019 he left
	3	the Hacienda because of leadership problems, right?
	4	A. Yes.
04:00:21	5	Q. So he left the Hacienda in 2019, not in 2018,
	6	correct?
	7	A. Correct.
	8	Q. And he left the Hacienda because of leadership
	9	problems, correct?
04:00:34	10	A. Correct.
	11	Q. And not because the government asked him to do
	12	so, correct?
	13	A. Correct.
	14	Q. Let us look at the next document. That is
04:00:47	15	R-40. This is the profile of Mr. Ciro Manuel Montenegro
	16	Cruz, also known as Comandante Avispa. Do you see this,
	17	sir?
	18	A. Yes.
	19	Q. He was one of the leaders of the invasions as
04:01:13	20	the attorney, and now let's see if we see the political
	21	affiliation. Do you see?
	22	A. Yes.
	23	Q. Let us look at the end of the document.
	24	Do you see this document says, again, this
04:01:26	25	is a profile that you prepared and signed, correct?

04:01:29	1	A. Yes.
	2	Q. And there you identified that Mr. Avispa
	3	participated in the taking of Hacienda Santa Fé and he
	4	is very close to Comandante Gorgojo, that is to say
04:01:44	5	Benicio de Jesús González Pérez, and he also had under
	6	his possession a lot of 50 blocks in Hacienda Santa Fé
	7	where he cultivated malanga, potato and yucca, and he
	8	also abandoned the property due to leadership problems
	9	with Ney Ariel Ortega Kuan, aka El Chino. Do you see?
04:02:15	10	A. Yes.
	11	Q. Here it says that Avispa left the farm in 2019,
	12	but not '18, correct?
	13	A. Yes.
	14	Q. And that he also left the farm due to
04:02:27	15	leadership problems, correct?
	16	A. Yes.
	17	Q. And not because the government requested it,
	18	correct?
	19	A. Yes.
04:02:42	20	Q. Mr. Castro, did you read the witness statement
	21	by Mr. Rondón?
	22	A. I reviewed it.
	23	Q. You reviewed it or read it?
	24	A. I took a look at it.
04:03:10	25	PRESIDENT: Ms. Cardenas, we should break

```
04:03:12
        1
            in the next five, ten minutes. How long do you think
        2
            you still need?
        3
                          MS. CARDENAS: Ten minutes, I think.
        4
            will be 10, 15 minutes if you give me a little bit of
04:03:23
        5
            leewav.
        6
                          PRESIDENT: Okav.
        7
                     Now, in your second statement -- rather, in
                Ο.
        8
            your first statement, you indicated that to prepare this
        9
            statement, "I have read item No.4, the translation into
04:03:54
        10
            Spanish of the witness statement by Mr. Carlos Rondón."
        11
            Do you see that? Do you recall having written that?
        12
                Α.
                     No.
        13
                     So your statement is not correct. Is that what
        14
            you're saying?
04:04:15
        15
                     Would you repeat the question, please?
                Α.
        16
                     "In preparing this statement, I have read at
        17
            item No.4, the translation into Spanish of the witness
        18
            statement by Carlos Rondón."
        19
                          Do you recall having stated that?
04:04:35
        20
                     Yes, I think so. I think so.
                Α.
        21
                     So do you recall, or not, reading Mr. Rondón's
        22
            witness statement?
        23
                     Yes, I read it very quickly.
                Α.
        24
                     And you described in your statements -- just a
04:05:08
        25
            second, please.
```

04.06.23 1 How many police offices are there in 2 Jinotega? 3 Α. Eight. 4 0. How many police offices are in Nicaraqua? 04:06:34 5 I do not know. I am not the director of the Α. 6 police. 7 Could you please give us an approximate number? Ο. 8 We have police stations in each municipality of 9 the country. 153 municipalities we have in Nicaragua. 04:06:58 10 We have police stations in each of those municipalities. 11 How many police stations are there in your 12 department in particular? 13 We have eight, one in each municipality or Α. 14 district, and in some we have some police posts. 04:07:39 15 Q. You have stated that it was not until 2021 that 16 the police was able to eliminate or expel the invaders. 17 Did you meet with the invaders in Jinotega and 18 Diana Gutiérrez Rizo on May 5, 2021? 19 Α. Yes. 04:08:16 20 Now, in spite of the fact that the invaders 21 were not expelled or did not leave the farm until 2021, 22 the invaders were not detained, correct? In spite of 23 the fact that they were invading private property, 24 correct? 04:08:43 25 I don't think I understood, I'm sorry. Α.

```
04.08.44
        1
                     I interrupted you, Mr. Castro, and I apologize.
                Q.
        2
                           The invaders were invading private
        3
            property, correct?
        4
                Α.
                    Correct.
04:08:56
        5
                Ο.
                    And they were on that land for several years,
        6
            correct?
        7
                Α.
                     Three.
        8
                    And they were not detained due to trespassing
            private property, correct?
04:09:09
        10
                Α.
                     No.
        11
                     They were resettled under an agreement,
                Q.
            correct?
        12
        13
                Α.
                   Yes.
        14
                Q. And there were no charges for aggression or
04:09:23
        15
            assault?
        16
                Α.
                    Correct.
        17
                     They were not charged with illegal possession
        18
            of weapons?
        19
                Α.
                    Correct.
04:09:28
        20
                     They were not charged with destruction or
        21
            robbery in private property?
        22
                Α.
                     Correct.
        23
                Q.
                    They were not charged with any environmental
        24
            offenses?
04:09:43
        25
                A. Correct.
```

04:09:59	1	Q. Let us look at document R-51, please. We are
	2	going to look at the last page, please.
	3	Here we have an official document. It is
	4	a Memorandum of Understanding signed by the
04:11:00	5	representative of the Office of the Attorney General of
	6	the Republic and Mr. Adrián Wendel Mairena Arauz?
	7	A. Yes.
	8	Q. Is that the person known as Wama?
	9	A. Yes.
04:11:27	10	Q. Wama is signing this document on behalf of the
	11	El Pavón group, correct?
	12	A. Should be. It should be that he is signing it.
	13	Q. And in this memorandum there is an official
	14	agreement to take Wama and his representatives to
04:11:47	15	another department within Santa Fé, correct?
	16	A. Yes.
	17	Q. At paragraph 4, Wama and Mr. Marlon Ramon
	18	Gutiérrez Ubeda agreeing not to return to the Santa Fé
	19	Hacienda, nor to take over any other property not
04:12:23	20	assigned by the State of Nicaragua. Do you see that?
	21	A. That's what it says.
	22	Q. And under warning of trespassing. Do you see
	23	that?
	24	A. Yes.
04:13:04	25	Q. Just a moment.

24

25

04:15:16

04:13:27 1 Mr. Castro, this memorandum that was 2 signed by Mr. Wama is something that was not done in 3 2018, correct, when he was asked to take the invaders 4 out of the Santa Fé Hacienda? 04:13:46 5 As the Attorney General -- as the Attorney 6 General for the department, I was not there at that 7 point in time. 8 So you do not know that something similar to 9 this when the invaders commit to not going back to the 04:14:01 10 Hacienda, because otherwise they would be trespassing 11 private property, that was not requested of the invaders 12 that you state left the Hacienda in 2018? 13 Α. Yes. 14 And in this document, in spite of the fact that 04:14:26 15 l this invader was on private property for several years, 16 they requested for their comrades that have potato crops 17 be allowed to harvest by July 20, 2021 in case those 18 that had, for example, malanga had a two-month period --19 two-and-a-half-month period. Do you see that? 04:14:55 20 Α. Yes. 21 So in spite of the fact that Mr. Wama was in 22 Hacienda Santa Fé starting in 2018, or even more, the 23 Office of the Attorney General, on behalf of the State,

potatoes. Do you see that?

is giving them additional time to harvest malanga and

04:17:06

04:15:17	1	A. Yes.
	2	Q. Are you aware, Mr. Castro, that do you know
	3	who Mr. Domingo Ferrufino is?
	4	
04.45.07		A. I heard his name.
04:15:37	5	Q. Do you know that Mr. Ferrufino has presented a
	6	statement indicating that he was seriously attacked by
	7	the invaders at the time of the invasion in 2018?
	8	A. I know that he is appearing in this
	9	arbitration.
04:16:05	10	Q. He's appearing, and he has also presented the
	11	statement that he was attacked, that he was assaulted
	12	seriously. And just to confirm, do you know if at any
	13	time the police investigated who had attacked
	14	Mr. Ferrufino?
04:16:26	15	A. If he filed a complaint. If he did not, we do
	16	not have a crystal ball to investigate.
	17	Q. So you don't know whether the police
	18	investigated who attacked Mr. Ferrufino? I understand
	19	that that is what you are saying?
04:16:49	20	A. Yes.
	21	Q. So those who attacked Mr. Ferrufino are still
	22	free?
	23	A. If he did not present a report, he should have
	24	presented a report to the police in due course. A

25 complaint for us to investigate.

1	Q. Thank you, Mr. Castro. I have no further
2	questions for you. But it is likely that the members of
3	the Tribunal might ask you some questions. I apologize.
4	We are going to have some additional questions by your
5	counsel.
6	PRESIDENT: Thank you very much. Let's
7	break now for 15 minutes. We had a long run.
8	Mr. Castro, we'll be breaking for 15
9	minutes. You can have a break as well. During the
10	break, please don't discuss with anybody your evidence.
11	We'll be back in 15 minutes.
12	Did you hear what I said, Mr. Castro? Can
13	you please make sure Mr. Castro is able to hear us?
14	THE INTERPRETER: He cannot hear well.
15	PRESIDENT: Interpreter, can you
16	THE INTERPRETER: Yes, I'm trying to
17	communicate with him.
18	PRESIDENT: Let us know when it works.
19	THE INTERPRETER: He understood.
20	PRESIDENT: Very good. So we will
21	continue at 25 to 5 Washington, D.C. time. Thank you.
22	(Brief Recess)
23	PRESIDENT: Okay. Respondent? Good to
~ 4	
24 25	go.
	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22

04:37:30 1 Just before we continue, we would just like to reserve 2 an objection to the statement and the questions that 3 Ms. Cardenas made in relation to Mr. Ferrufino, just because we have an application pending to strike his 04:37:50 5 witness testimony. We just wanted to have that on 6 record. 7 PRESIDENT: Okay. Noted. 8 REDIRECT EXAMINATION 9 BY MR. ZETINA: 04:38:09 10 Q. Commissioner Castro, I'm going to be putting 11 some questions to you in the next few minutes regarding 12 what Ms. Cardenas -- regarding all the questions she 13 just put to you. 14 Commissioner Castro, you were shown, 04:38:23 15 during the examination, a video in which 16 President Ortega gave the order for the police to 17 shelter in their barracks. I'd ask you to tell us what 18 was happening when that order was issued in the video 19 that you saw? 04:38:48 20 Well, quite simply what we had in Nicaragua at 21 that time was a violent context in which there was an 22 attempt to carry out a coup d'état. Logically, as the 23 forces of order, we deployed 100 percent to address this 24 situation throughout the country. This situation 04:39:28 25 occurred. Jinotega was no exception. And as from

04:42:16

25

04:39:34 1 18 April 2018, a situation unfolded in which the 2 opposition took initiative, and there were any number of 3 violent acts aimed at destabilizing the country. 4 roads were obstructed, all of the highways. There was 04:40:17 5 looting. Fires were set in supermarkets, stores, public 6 buildings, mayors' offices, offices of the state 7 including -- well, in some places police units were 8 attacked by all these people who were wanting to 9 overthrow the government by violent means. 04:41:01 10 Commander Daniel at this time -- well, in 11 the video you showed me, that's when he spoke at the 12 request of the opposition, and he said that the police 13 were going to be sheltered in their barracks and that we 14 would simply be able to address some things that were in 04:41:32 15 keeping with our possibilities and also in keeping with 16 the circumstances in each area. 17 Thank you, Commissioner. You were also asked 18 questions related to the geographic restriction in terms 19 of the applicability of this order. 04:41:59 20 Could you indicate for us what was the 21 geographic scope of this order for the police to stay in 22 their barracks? 23 MS. CARDENAS: I think that this goes 24 beyond the scope of my cross-examination. I certainly

did not ask the question what was the scope of the order

04.42.21 1 that the president, according to their testimony or 2 their position, issued. 3 PRESIDENT: You did ask a series of 4 questions based on the press releases as to what the 04:42:33 5 scope of the --6 MS. CARDENAS: But that was specific as to 7 whether the press release stated or provided. 8 PRESIDENT: But that is the same issue, so 9 it's fair. Please, go ahead. 04:42:49 10 Commissioner Castro, could you answer the 11 question that I put to you a moment ago, that is to say, 12 what was the geographic scope of the order to shelter? 13 The order was nationwide for the whole country. Α. 14 Q. Thank you. 04:43:19 15 MR. ZETINA: Could we please put up 16 Exhibit R-183, please? Just for the record, this is 17 Exhibit R-183. And if we could put up the Spanish 18 version as well, please. 19 Commissioner Castro, a number of questions were 0. 04:44:20 20 put to you related to the press releases that you make 21 reference -- that you reference in your statement, and 22 we see here several of the departments of Nicaragua and 23 some questions were put to you related to this press 24 release. 04:44:45 25 Now, just so we could have clarity on

04:44:48	1	this, could you tell us in which department is
	2	San Rafael del Norte municipality located?
	3	A. In the Department of Jinotega.
	4	Q. And could you tell us also what is the distance
04:45:02	5	between the municipality of Jinotega and the
	6	municipality of San Rafael del Norte?
	7	A. Approximately 20 kilometers.
	8	Q. Thank you. And could you also tell us what the
	9	situation was in the municipality of San Rafael
04:45:20	10	del Norte?
	11	A. Well, the same as in the whole country. There
	12	were incidents. The road between Jinotega and
	13	San Rafael, well, some roadblocks were put up there that
	14	were in the middle of were placed on the road between
04:45:59	15	one place and another.
	16	The vandalism, as we can call it well,
	17	there wasn't all that much vandalism in this place, but
	18	where most of the roadblocks were put up was in the
	19	urban center or the capital of the department, which is
04:46:34	20	the municipality of Jinotega. And there were roadblocks
	21	that were put up by those who were in the opposition and
	22	were calling for the president to resign. And the
	23	different sections of the highway going to the
	24	municipality of Pantasma, Bocay, El Cuá, as I already
04:47:08	25	mentioned San Rafael. We already had another going from

04:49:19

25

Q.

04:47:12 1 San Rafael to La Concordia. 2 0. Thank you. 3 And that's it, more or less. Α. 4 Ο. Thank you, Commissioner. 04:47:21 5 You were also asked some questions -- they 6 put up on the screen some of the profiles you had drawn 7 up which you cited in your first statement, and they 8 asked you about the relevance of the political 9 affiliation of the persons who appear in these profiles. 04:47:47 10 Could you tell me, what was the Nicaraguan 11 Resistance? 12 The Nicaraguan Resistance was a part of the Α. 13 national guard who fled after the triumph of the revolution in 1979. They were in Honduras in the 1980s, 14 04:48:14 and they organized, they were financed, and they 15 16 penetrated Nicaraguan territory and came in as a force 17 seeking to abort the Nicaraguan revolution. 18 As is well known, we had a period of 19 ten years of war, all of the 1980s, up to 1990. During 04:48:58 20 which time -- or at that time, as a result of the 21 agreements -- the agreement reached between the 22 government at the time and these groups -- it was 23 possible for them to demobilize and the government 24 undertook a number of commitments to these people.

Thank you, Commissioner. Thank you very much.

04.49.25 1 As regards these profiles, reference was 2 also made to certain paragraphs where they asked you if 3 these persons had left on orders of the National Police. 4 In this regard, I'd asked if you could please tell us, 04:49:47 5 how many people did the police evacuate by force in 6 August of 2018? 7 In August of 2018, we're talking about Α. 8 approximately 500 people. 9 And then in 2021, could you tell us how many 04:50:14 10 persons were forcibly evacuated by the police? 11 MS. CARDENAS: This goes beyond the scope 12 of my cross-examination. I mean, I've let more go than 13 my co-counsel here is advising me to do, but again, this 14 is well beyond the scope of my cross-examination. 04:50:32 15 MR. ZETINA: If I may, Mr. President, just 16 quickly. 17 Mr. Castro was shown on the screen several 18 documents of the profiles of the leaders of the invaders 19 and she made reference to the fact that these 04:50:48 20 individuals were not -- they did not leave the property 21 as a result of the police force. I'm just asking him to 22 clarify if these people were -- if they left because of 23 the police force? 24 PRESIDENT: Please proceed. 04:51:14 25 Commissioner Castro, I'd asked you the Q.

04:51:17 1 following question. 2 Could you please indicate how many people 3 were evacuated as of the work of the police force in 4 2021? 04:51:31 5 Approximately 500 persons. 6 0. And finally, Commissioner Castro, they also 7 asked you why the police had not arrested the invaders 8 or why it had not gone after them after they were 9 removed in 2021, and a document was shown. And my 04:52:00 10 question for you to clarify for us, why was it important 11 to relocate these persons and not just leave them on the 12 street or put them in prison? 13 Well, simply, because many of these people had Α. 14 come from the neighboring community to this farm. 04:52:28 15 Others came from other localities in the department, and 16 they're people who were calling for land to work. Many 17 of them had minor children and people with needs. 18 of them needed to work and to work the land. 19 Clearly, it was an effort to try to help 04:53:08 20 all these people, mindful of the situation of poverty 21 that we have had in Nicaragua that's been -- it's been a

23

22

24

Q. Yes, you can complete your thought.

04:53:45 25

-- independent of any political affinity. Α.

constant to try to help out all of our people, out of an

attitude of solidarity, independent --

```
04:53:51
        1
                     Thank you very much, Commissioner. I don't
                Q.
        2
            have any more questions for you.
        3
                          PRESIDENT: Thank you very much. Any
        4
            questions from my colleagues?
04:54:04
        5
                          There are no questions from the Tribunal,
        6
           Mr. Castro, so this concludes your examination. You are
        7
            released. Thank you very much for your time. Do you
        8
           hear me?
        9
                          MR. CASTRO: Yes, sir. Thank you very
04:54:24
        10
           much.
        11
                          PRESIDENT: So we still have more than an
        12
            hour, so I suggest we start with Mr. Herrera. I
        13
            understand he's available.
        14
                          (Pause)
04:57:26
        15
                         WILLIAM RAMON HERRERA GONZÁLEZ
        16
                          PRESIDENT: Good afternoon, Mr. Herrera.
        17
                          MR. HERERRA: Good afternoon.
        18
                          PRESIDENT: And welcome.
        19
                          MR. HERERRA: Thank you.
04:58:31
        20
                          PRESIDENT: Can I first ask you to state
        21
            your full name for the record?
        22
                          MR. HERERRA: William Ramon Herrera
        23
            González.
        24
                          PRESIDENT: You have been called as a
04:58:49
        25
            witness of fact to this hearing, and as a witness of
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04:58:52 1 fact, you will be required to tell the truth, and for 2 that purpose, I would ask you kindly to read the witness 3 declaration to that effect, please. 4 MR. HERERRA: I solemnly declare upon my 04:59:17 5 honor and conscience that I shall speak the truth, the 6 whole truth, and nothing but the truth. 7 PRESIDENT: Thank you very much. So you 8 have presented two witness statements in this 9 proceeding, first one dated March 3, 2023, and the 04:59:29 10 second one on March 8, 2024. You should have hard 11 copies of these witness statements in front of you. You 12 have them? 13 MR. HERERRA: I have them before me, yes. 14 PRESIDENT: Can you please take a look at 04:59:45 them and confirm that they are your statements? 15 l 16 MR. HERERRA: They're mine, yes. 17 PRESIDENT: Thank you, Mr. Herrera. 18 will briefly explain. 19 There will be a brief direct examination 05:01:03 20 by the counsel for Respondent, Republic of Nicaragua, 21 and there will be a cross-examination by counsel for the 22 Claimant, Riverside, and there may be further questions 23 by counsel for the Respondent and the members of the 24 Tribunal may put questions to you at any time during 05:01:17 25 your examination. Is this understood?

```
05:01:24
        1
                          MR. HERERRA:
                                         Okay.
        2
                          PRESIDENT: Very good.
        3
                          MS. GONZÁLEZ:
                                          Thank you, Mr. President.
            Mr. Zetina will conduct the direct examination.
        4
05:01:34
        5
            you.
        6
                                DIRECT EXAMINATION
        7
            BY MR. ZETINA:
        8
                    Good afternoon, Deputy Commissioner Herrera.
        9
                     Good afternoon.
                Α.
05:01:43
        10
                     My name is Fabián Zetina, and I'm going to ask
        11
            you a few questions, very brief questions, in the next
        12
            few minutes. I just wanted to ask you something. As
        13
            you know, we have simultaneous interpreters in English.
        14
            After I ask you a question, please wait before
05:02:06
        15
            answering.
        16
                Α.
                     Okay.
        17
                     Deputy Commissioner Herrera, what is your
        18
            current position?
        19
                     I am currently the head of a specialty unit,
05:02:22
        20
                       The Weapons, Explosives and Munitions Office.
            the DAEM.
        21
                0.
                     What was your position in 2018?
        22
                     In 2018, I was the head of police in San Rafael
        23
            del Norte.
        24
                     Thank you, Deputy Commissioner.
                Q.
05:02:42
        25
                          What is your understanding of the claim
```

05:02:44 1 that the Claimant has lodged in this arbitration? 2 My understanding is that this is a claim that 3 was brought by INAGROSA. Supposedly, the Claimant says 4 that the National Police, with headquarters in 05:03:07 5 San Rafael del Norte, did not provide the necessary 6 support that it needed to evict the squatters that were 7 there in the Hacienda Santa Fé. 8 Q. Thank you. 9 What is your reaction in connection with 05:03:25 the claim brought by the Claimant? 10 11 I do not think that that is true. We never 12 ordered anyone to invade private property. The reason 13 why we at that time did not act is because we had big 14 problems in our country. In San Rafael del Norte, the 05:03:51 15 main roadway to San Rafael del Norte, to Jinotega and to 16 the municipalities were blocked. There was violence, 17 there were street protests. 18 At the time we could not go to other 19 places because we were only eight policemen, including 05:04:12 20 me, and we were facing danger. There were roadblocks, 21 armed individuals with shotguns, with AKA, with pistols 22 and other weapons, and at that time we were unable to 23 provide that support immediately because we were going

05:04:42 25

24

Q.

through that problem in Nicaragua.

Thank you, Deputy Commissioner. Briefly, could

05:04:44	1	you explain to me whether you were for or against the
	2	invasion of Hacienda Santa Fé?
	3	A. No, I have never been in favor of that
	4	invasion. As police officers, we would be against that
05:05:02	5	farm invasion. In Nicaragua, you cannot take private
03.03.02		
	6	property by force. We would not allow that. I was not
	7	in favor of that.
	8	Q. Thank you, Deputy Commissioner.
	9	Lastly, are there any clarifications you
05:05:21	10	would like to make to your witness statements?
	11	A. Yes, I have two clarifications. The first one
	12	is at paragraph 24(f) of my second statement. The
	13	routine visit that I make reference to, that was
	14	conducted around 15 August 2018. We went to El Pavón
05:05:47	15	during this visit to verify whether there were
	16	occupants. In this visit we found some individuals that
	17	were left there. I asked them to leave, and I verified
	18	that they indeed leave the area.
	19	At paragraph 24(g) of my second witness
05:06:05	20	statement, I make reference to some meetings that Marvin
	21	Castro and Mayor Centeno had. These people were
	22	summoned in 2018, and this was done on 10 August 2018.
	23	This in order to evict the people who were there.
	24	Q. Thank you very much, Deputy Commissioner. This

05:06:34 25 is the end of my direct.

```
05:06:37
        1
                          PRESIDENT: Thank you very much,
        2
                         And it will be Mr. Mullins for the
           Mr. Zetina.
        3
            Respondent.
                         Please.
        4
                          MR. MULLINS:
                                         Thank you.
05:06:47
        5
                                CROSS-EXAMINATION
        6
           BY MR. MULLINS:
        7
                     Deputy Commissioner Herrera, can I call you
                Ο.
        8
           Mr. Herrera for short?
        9
                Α.
                     Yes, of course.
05:06:56
        10
                     Thank you. My name is Ed Mullins. I'm an
        11
            attorney for the Claimant Riverside Coffee in this
        12
            arbitration. I am going to now ask you some questions.
        13
            Okav?
        14
                A. Of course, yes.
05:07:08
        15
                     And we don't have a lot of time here, so I
                Ο.
        16
            would ask you to listen to my question and answer the
        17
            question that I ask. Is that fair?
        18
                     Yes, that's fine.
                Α.
        19
                     Thank you. Now, as you just told us, you've
05:07:22
        20
            submitted two witness statements that you've identified.
        21
            Other than the corrections that you just provided by the
        22
            questioning from counsel, your lawyer, do you have
        23
            any -- are these witness statements accurate to the best
        24
            of your knowledge?
05:07:46
        25
                Α.
                     Please repeat the question, sir.
```

05:07:49	1	Q. Sure. Other than the corrections that you just
	2	made, are your witness statements accurate to the best
	3	of your knowledge?
	4	A. They are accurate.
05:07:59	5	Q. And you had assistance of Nicaragua's counsel
	6	when you prepared those statements, right?
	7	A. The witness statements well, counsel for
	8	Nicaragua assisted us as advisors.
	9	Q. Well, actually what you say in your statement
05:08:25	10	is that they interviewed you and produced the witness
	11	statement. Isn't that what happened?
	12	A. What I said there is what, indeed, I did in
	13	connection with trying to go there and trying to get the
	14	invaders out.
05:08:50	15	Q. No, you need again, this is something I'm
	16	asking you, Mr. Herrera. A different question.
	17	I'm asking you isn't it true that your
	18	witness statements were prepared because your counsel
	19	interviewed you, talked to you, and they gave you a
05:09:05	20	statement and you signed it? Isn't that what happened?
	21	A. I signed a statement and everything in there is
	22	my statement and that's it.
	23	Q. You didn't write the statement yourself on a
	24	computer, right?
05:09:29	25	A. I was given the first statement and the second

05:09:32 1 statement. And in the first statement, I provide some 2 details. For example, in my first statement when I say 3 that when we were informed of the take-over of the 4 property, a source informed us of this. It was a source 05:09:53 5 that provided this information to us, that those 6 individuals were going to come and take over the 7 property. 8 Well, in my second statement I clarified 9 that the individual that had provided that information 05:10:09 10 to me in connection with the takeover had been Mr. Luis 11 Gutiérrez. I made reference to that situation as a 12 police source information. When you get information 13 from someone like that, in Nicaragua we call it 14 information given to police, and that is the source that 05:10:32 15 provides the information. 16 Understood. I'm going to ask you about that in 17 a moment. I just really need an answer to a pretty 18 clear question, Mr. Herrera. I'm asking you isn't it 19 true that your lawyers drafted this statement after 05:10:51 20 talking to you and you signed it, both statements? 21 Isn't that a true statement? 22 I was with them. I was with them. 23 Correct. And then they gave you the document, Q. 24 you looked at it, saw it was true and you signed it. 05:11:06 25 Isn't that how it worked?

05:11:11	1	A. Yes. I saw that it was the truth, that it was
	2	my statement, and I signed it.
	3	Q. Thank you so much. All right. So let's move
	4	on. You've been part of the National Police in
05:11:23	5	Nicaragua since 1990. Isn't that true?
	6	A. I have been a part of the National Police of
	7	Nicaragua since 1990.
	8	Q. You've been stationed around various
	9	municipalities in Nicaragua, correct?
05:11:41	10	A. Yes, I have been in all of the municipalities,
	11	yes, and in the department itself as well.
	12	Q. What you say is as part of your job as a police
	13	officer scratch that.
	14	You say as part of your job as a captain
05:11:58	15	during the relevant time period, you were responsible
	16	"for taking measures, issuing instructions and giving
	17	orders aimed at the prevention and investigation of
	18	crimes and maintaining law and order within this
	19	specific jurisdiction."
05:12:13	20	Do you agree with that statement?
	21	A. Yes, in the jurisdiction where I was at the
	22	time.
	23	Q. So you're in the law and order business, not
	24	social services. Is that true?
05:12:34	25	A. Well, as police officers, we are at the service

05:12:39 1 of the people, to provide to it response in anything 2 necessary whenever support is requested by a citizen. 3 We have different specialties within the police. The 4 Nicaraquan police, well, when somebody comes to it, 05:13:02 5 well, we send the person to the right place. For 6 example, if it's a traffic issue, we send them to the 7 specialty police for traffic. If I work in law and 8 order, law and order. If I am in a municipality, I as a 9 police officer have to do basically everything, cover 05:13:22 10 all specialties. I am the head -- I am a customer 11 service attendant, I am a patrol officer for law and 12 order and everything that I have to provide in the field 13 of police services that were entrusted to me. 14 Specifically for your job, though, is the Q. 05:13:46 15 prevention and investigation of crimes. Isn't that 16 true? 17 The police -- it's very clear over there -- the Α. 18 police investigates crimes and infractions. 19 Q. Thank you. Now, you agree that the National 05:14:05 20 Police of Nicaragua should treat citizens and foreigners 21 the same in providing law and order, correct? 22 Α. Yes, that's right. 23 And your job is to maintain law and order Q. 24 wherever that takes you. Isn't that true? 05:14:26 25 That's right. Α.

05:14:27	1	Q. And you said in your direct that part of your
03.14.27		
	2	duty in the National Police in Nicaragua is to protect
	3	private property, including that that's been taken by
	4	force. Isn't that true?
05:14:44	5	A. That's right. The protection has to be
	6	provided at all times. I clarified that at that
	7	particular time we were unable to do so.
	8	Q. We're going to get to there we're going to
	9	get there. I just wanted to get your job.
05:14:57	10	So if there's a destruction of private
	11	property or invasion of private property, part of your
	12	function is to prevent it before it happens or stop it
	13	when it's already happened. True?
	14	A. That's right.
05:15:14	15	Q. The National Police in Nicaragua can't choose
	16	who to help and who not to help, correct?
	17	A. If there is imminent danger in the country and
	18	if it's difficult for us to provide police services to a
	19	citizen asking for them, if there is the danger of
05:15:38	20	aggression in my country, I wouldn't be able to do so.
	21	Q. Understood. So in that situation the police
	22	just stop doing their job?
	23	A. Yes, because at that time, yes, the police stop
	24	doing their job because they have an order, and the
05:16:14	25	order is to shelter in place, to stay in their barracks.

05:16:17	1	Q. We're going to get to that order in a second.
	2	One thing you say in your statement
	3	that that you believe that the National Police of
	4	Nicaragua provided "reasonable protection until the
05:16:33	5	invaders of Hacienda Santa Fé were 'actually evicted'."
	6	Do you remember that statement?
	7	A. Yes, that they were evicted.
	8	Q. Right. And when you mean actually evicted, you
	9	mean when they actually were evicted in September of
05:16:54	10	2021, right?
	11	A. No.
	12	Q. No?
	13	A. In 2021, I was no longer in San Rafael
	14	del Norte.
05:17:10	15	Q. Okay. And you understand that when the
	16	invaders, in August of 2021 sorry, August 2018, they
	17	were still there by the end of August 2018, correct?
	18	A. They were there.
	19	Q. So they weren't actually evicted with any
05:17:42	20	finality until September 2021. Isn't that true?
	21	A. They came back. They were evicted and well,
	22	they were evicted on the 10th of August 2018, and they
	23	returned a week after. They returned to the farm. They
	24	were definitively evicted in 2021. I no longer
05:18:13	25	participated in those actions because I was no longer in

05:18:15 1 the department in San Rafael del Norte. 2 0. Thank you. So let's go on. You talk a little 3 bit in your statement -- you were just talking to us about all the protests that were going on, and part of 05:18:31 5 this you say in your statement there was an action to 6 collect weapons. Do you remember that in your 7 testimony? 8 Α. Please repeat the question. 9 Ο. Sure. While the protests were going on in 05:18:47 10 Nicaragua starting in May of 2018, there were some 11 efforts to collect weapons from people. Is that true? 12 Not of every single person. Specifically Α. 13 weapons that were there in Hacienda Santa Fé because the 14 groups that had taken over the farm were going to take 05:19:13 15 them with them. 16 So the Hacienda Santa Fé was treated specially 17 from other property owners? 18 The treatment that was accorded to them was the Α. 19 same treatment that was accorded to other property 05:19:35 20 owners. We were interested in having those individuals 21 to abandon that place and to deliver up that piece of 22 property that was not theirs.

05:19:54 25

23

24

your answer because you told us -- I asked you if you

were taking weapons, and you said not from every single

Let me just ask you, then. I was confused by

05:19:57	1	person that you point out to Hacienda Santa Fé. So
	2	which is it? Were you taking weapons from every
	3	property owner, or was Hacienda Santa Fé treated
	4	differently?
05:20:16	5	A. Only the ones in Hacienda Santa Fé because
	6	because you can bear arms and you have the right to bear
	7	arms and we cannot take the weapons away from you.
	8	Q. Yeah, so property owners generally are allowed
	9	to have weapons in Nicaragua to protect themselves and
05:20:30	10	their property, correct?
	11	A. Yes. In Nicaragua, Nicaraguan citizens can
	12	bear arms. They have a certificate to bear arms. Their
	13	certificate is renewed yearly.
	14	Q. You mentioned earlier when I was asking you
05:20:59	15	questions about an order about staying in the barracks.
	16	I wanted to ask you about that. Okay?
	17	A. Okay.
	18	Q. Now, your own testimony is that
	19	President Ortega issued an order that told the
05:21:20	20	Nicaraguan police they were supposed to stay in their
	21	barracks, correct?
	22	A. That's right.
	23	Q. You've never seen a written order detailing
	24	exactly what the conditions were for when the police
05:21:35	25	were supposed to leave and when they're not supposed to
	ı	

25

05:21:39 1 leave, correct? 2 The order was to protect the communities. 3 Again, I'm going to be very specific with my Q. 4 questions. Let me try again. 05:21:56 5 I'm asking you have you ever seen a 6 written order, something in writing, that said 7 specifically when the police could leave the barrack --8 leave their police station and when they could not leave 9 their police station? 05:22:13 10 Α. There are press releases in that regard. 11 Okay. I'm not talking about press releases. Ο. 12 I'm talking about something from President Ortega 13 himself, or something from the Nicaraquan government at 14 the time, official document telling you exactly when the 05:22:29 15 police could leave and when the police could not leave. 16 Did you ever see that document, Mr. Herrera? 17 When the order was given, I only saw it on 18 television when he gave the order. But personally 19 speaking, I don't have any written order. 05:22:52 20 Q. Thank you. 21 But if I had an order like that, it would come 22 from my superior, from my boss. 23 Right. So, in fact, what you say in your 24 statement, that President Ortega got on TV and told the 05:23:04

public what was happening, and then you got an another

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05:23:08
        1
            oral order from Commissioner Castro, your supervisor.
        2
            Isn't that how it happened?
        3
                     Yes. Commissioner Castro has a superior.
        4
            superior is Marvin Castro, the commissioner. He gave me
05:23:27
        5
            the order to stay in the unit and to protect the unit
        6
            and to protect the weapons that we had so that the
        7
            population wouldn't use those weapons against us.
        8
                Ο.
                     But the oral order you got didn't say that you
        9
            had to stay in the barracks all the time. Isn't that
05:23:44
        10
            right?
        11
                     It was to stay in the police units.
                Α.
        12
                     But you went home, correct, at night?
                Q.
        13
                Α.
                     No.
        14
                Q.
                     You stayed in -- you stayed in the barracks?
05:24:05
        15
                     Yes, that's right.
                Α.
        16
                     So you lived in the barracks --
                Q.
        17
                          THE INTERPRETER: Excuse me, Counselor.
        18
            You overstepped, and I think something may have gotten
        19
            lost.
05:24:16
        20
                          MR. MULLINS:
                                         I apologize.
        21
                          THE INTERPRETER: Please restate.
        22
                     Can you finish your answer, Mr. Herrera?
        23
            didn't mean to cut you off.
        24
                Α.
                     Well, please repeat the question then.
05:24:29
        25
                     Sure. I'm trying to understand this order.
                Q.
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05:24:32	1	Were you living in the barracks for months and didn't go
	2	home, didn't see your family?
	3	A. We lived permanently there for the five years
	4	that I was in San Rafael del Norte. If we left well,
05:24:52	5	I was the head of the unit. If I left the unit, my
	6	superior had to send someone for me to be able to leave
	7	the unit. But we couldn't leave. Everybody had
	8	problems in their municipalities.
	9	Q. I think we're probably misunderstanding each
05:25:12	10	other, Mr. Herrera. Let me try again. I understand
	11	that the station had to be occupied and covered, but
	12	when you were done with your shift, you would go home,
	13	correct? You personally, and then somebody would
	14	replace you. Isn't that accurate?
05:25:31	15	A. No. I stayed there. I live in that
	16	department, and I had to be there in San Rafael.
	17	Q. No, I'm talking about the station itself,
	18	not the actual station. You were staying there
	19	overnight for years? Five years? Is that your
05:25:48	20	testimony? Every night you didn't go home? You had no
	21	separate home?
	22	A. No, I stayed there.
	23	Q. Okay. And so but there were times when the
	24	police could leave, correct?
05:26:03	25	A. When the order was given to us.

05:26:05	1	Q. Okay. And that order would be done by the
	2	commissioner, correct?
	3	A. The order to leave well, that was in late
	4	July when we were given the order to leave. This is
05:26:26	5	when all of the roadblocks were lifted.
	6	Q. Okay. But during the time period let me ask
	7	you let's go back.
	8	When was the order actually in place? The
	9	specific dates.
05:26:43	10	A. Specifically, I do not remember the date, but
	11	the order to leave was in late July. So we could go and
	12	lift the roadblocks that were on the streets and
	13	roadways.
	14	Q. It's not your testimony, is it, Mr. Herrera,
05:26:59	15	that no police officer ever did any work police work
	16	from May to July of 2018. That's not your testimony, is
	17	it?
	18	A. In July in late July that's when the
	19	police officers were able to leave and the roadblocks
05:27:23	20	were lifted all over the country.
	21	Q. Mr. Herrera, I'm asking another question. I'm
	22	asking you before July. Yes or no? Is it your
	23	testimony that no police officer did any police work
	24	between May and July 28 in your region in 2018?
05:27:49	25	A. When we had the roadblock problem, all of the

05.07.50		
05:27:52	1	police officers were in their units. We were not able
	2	to leave.
	3	Q. All right, Mr. Herrera, so you're telling me
	4	that not a single police officer left the station
05:28:05	5	between May 2018 and July 2018 while the State order was
	6	in place. Is that a true statement?
	7	A. There was no order to leave.
	8	Q. So the answer to my question is yes, that no
	9	officer actually left the station between May 2018 and
05:28:27	10	July 2018, correct?
	11	A. All of us were addressing the problems that
	12	each one of us had in our municipalities.
	13	Q. Mr. Herrera, I'm really trying to get through
	14	this. I've asked this question. I just need a yes or
05:28:47	15	no because I want to make sure I understand.
	16	Yes or no? Is it true that no officer
	17	left your station to do any police work between May 2018
	18	and July 2018?
	19	A. Yes, that's right.
05:29:05	20	Q. Thank you. And so there was actually in
	21	your mind there were actually no exceptions for when a
	22	police officer could actually do work, correct?
	23	I'll rephrase the question.
	24	In other words, in your mind between
05:29:27	25	May 2018 and July 2018, no matter what was happening out

05:29:32	1	in Nicaragua, no police officer could do any police
	2	work, correct?
	3	A. All of us were under the shelter order. We
	4	could not leave.
05:29:50	5	Q. I understand, Mr. Herrera. I'm just asking a
	6	separate question. Is it your testimony that between
	7	May 2018 and July 2018, there was no police work at all
	8	being done in the country of Nicaragua because all the
	9	officers were in their police stations protecting the
05:30:09	10	guns?
	11	A. I already clarified that in July, we were able
	12	to act. In July, we were already providing all of the
	13	police services requested by the population.
	14	Q. I'm sorry, Mr. Herrera. Again, I really need
05:30:31	15	you to listen to my question. I'll get to July, trust
	16	me.
	17	MR. ZETINA: I'm sorry. I feel like
	18	Mr. Mullins has asked the question several times. The
	19	witness is answering. I don't know if there's an issue
05:30:48	20	with the translation or interpretation. If he can
	21	rephrase the question or it's he's asked it, like,
	22	five times already by now.
	23	MR. MULLINS: I don't agree. The last
	24	question I asked him is: is it your testimony that
05:31:04	25	between May 2018 and July 2018, there was no police work

05:31:10 1 at all being done in the country of Nicaragua because 2 all the officers were in their police stations 3 protecting the guns? 4 He answered -- I clarified -- that in July 05:31:19 5 we were able to act. I want to know between May and 6 July, and he hasn't answered that question. So I'll try 7 to rephrase, but he hasn't answered the question I 8 asked. 9 PRESIDENT: You did ask: "Is it true that 05:31:31 10 no officer left your station to do any police work 11 between May and July?" And he said "Yes, that's right." 12 MR. MULLINS: Okay. I'll move on then. 13 That's fair. 14 Q. So let's go on. 05:31:55 15 Are you aware that President Ortega 16 actually said that the police could leave to address 17 regular problems? 18 Α. Yes. Regular, yes. 19 But you just told us that no one left the Ο. 05:32:15 20 police station, so can you explain that to us? 21 Well, when we're talking about regular internal 22 things. Not to go out, but anything happening within 23 the unit. 24 Q. Okay. In other words, when President Ortega 05:32:32 25 said that you could address regular problems, it was

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05:32:35
        1
            only anything that would happen inside the police
        2
            station itself?
        3
                Α.
                    That is correct.
        4
                    Thank you. All right. So let's jump now to
05:32:49
        5
            you received a phone call regarding -- well, before I
        6
            get -- sorry.
        7
                          Just before I get there, so
        8
            President Ortega, when he gave his order, he had the
        9
            authority to do that because he was the president,
05:33:05
        10
            right?
        11
                     Would you repeat the question?
                Α.
        12
                     Sure. President Ortega is the one that made
                Q.
        13
            this order, right, to your understanding?
        14
                Α.
                     Yes.
05:33:18
        15
                     And he, as the president of the country, your
                Ο.
        16
            understanding he had the authority and control of the
        17
            National Police in Nicaragua to give that order,
        18
            correct?
        19
                     That is correct.
                Α.
05:33:30
        20
                     So he could lift that order anytime he wanted
                Ο.
        21
            to, right?
        22
                Α.
                     That is correct.
        23
                     He could make changes to that order anytime he
                Q.
        24
            wanted to?
05:33:42
        25
                A. That's correct.
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05.22.42	4	
05:33:43	1	Q. And your understanding is he gave the order in
	2	May 2018, and he didn't lift it until July 2018?
	3	A. He lifted the order in late July 2018.
	4	Q. I don't remember I think you let me just
05:34:00	5	ask again.
	6	You don't remember what date it was
	7	actually lifted either, correct?
	8	A. No, I do not recall.
	9	Q. So all you can tell us is that sometime in May
05:34:09	10	it started, and sometime at the end of July it ended,
	11	right?
	12	A. Yes.
	13	Q. Because we don't have anything in writing that
	14	would actually tell us exactly when it started or ended,
05:34:20	15	right?
	16	A. Yes.
	17	Q. So let's go on. So you were you talk about
	18	in your witness statement that at some point well,
	19	specifically on June 16, 2018, you received a call on
05:34:49	20	your cell phone, correct, regarding the Hacienda
	21	Santa Fé?
	22	A. Yes, I received a phone call in my phone,
	23	someone who identified himself as Carlos Rondón. I
	24	don't know him. And he told me that his property was
05:35:14	25	going to be invaded, that he needed the support. I told

05:35:19	1	him that then we were unable. I explained the problem
	2	we had. We couldn't leave. We only have a reduced
	3	number limited number of police officers to face 300
	4	invaders. It was dangerous to us.
05:35:40	5	Q. Okay. So I'm going to I'm going to unpack a
	6	lot of what you just said. First, you said you didn't
	7	know Carlos Rondón?
	8	A. I do not know him.
	9	Q. Okay. And did you when he told you that he
05:35:53	10	was the owner of Hacienda Santa Fé or involved in the
	11	ownership, did you have any reason to believe that he
	12	was being untruthful?
	13	A. Since it was a phone call and I didn't know
	14	him, I clarified. I even went ahead and said, well, let
05:36:13	15	me state that we cannot leave right now and if these
	16	individuals that are going to take that farm if that
	17	is the case, I have a limited number of police officers.
	18	I only have eight, and I cannot leave the place, and it
	19	would be dangerous because I also have the roadblocks
05:36:40	20	close to the unit.
	21	Q. Mr. Herrera, I'm going to get to all of that.
	22	Let me try to rephrase because I am asking very specific
	23	questions, and I'm going to get to everything you just
	24	said. But let me ask a specific question. Okay?
05:36:52	25	So the first question I have for you

05:36:57 1 let me back up. 2 You said you didn't know Carlos Rondón. 3 Did you have any reason to believe -- when he told you that it was his property that was being invaded, did you 05:37:04 5 have any reason to believe that he was not being 6 truthful to you? 7 Well, yes, because I didn't know him. I didn't Α. 8 know him. It was a call that any citizen could have 9 made and said it was someone else, give me someone 05:37:22 10 else's name. 11 So you're telling me that at this time, when 12 Mr. Carlos Rondón -- somebody called saying he was 13 Carlos Rondón and told you that his property was being 14 invaded, you thought that he may not be truthful? 05:37:41 15 Yes, that is correct. Α. 16 You did find, fairly soon after that, that 17 Mr. Carlos Rondón was not being untruthful, correct? 18 Yes. Later on I found out because he sent a Α. 19 written letter. 05:37:57 20 Ο. Okay. Now, this cell phone -- you say in your 21 statement that it was an unknown caller, correct, that 22 called you? 23 Yes. Well, he identified himself as Α. 24 Carlos Rondón, but as a police officer, I couldn't 05:38:16 25 believe 100 percent that he was Carlos Rondón.

05:38:20	1	Q. And because you were being stuck in the
	2	barracks, you weren't going to do any investigation at
	3	that point, right?
	4	A. Correct.
05:38:29	5	Q. But your witness statement says it was an
	6	unknown caller, and what I'm asking you is that's
	7	because Carlos Rondón obviously was not in your cell
	8	phone contacts. Do you understand my question?
	9	A. I did not have his contact, and it was an
05:38:49	10	unknown number.
	11	Q. Perfect. We're on the same page.
	12	Now, you're a police officer. Is it true
	13	that your cell phone number is not publicly available on
	14	the internet, correct?
05:39:05	15	A. I give my number to the population whenever I
	16	meet with the citizens within the district or with the
	17	population. But my number was not public. There was
	18	another number by then, and I don't recall that number.
	19	Q. Understood. So sitting here today, you have no
05:39:23	20	idea how Mr. Rondón had your phone number, correct?
	21	A. Later on, by reading the statements, I learned
	22	that Luis Gutiérrez, who was the administrator, had
	23	given him my number for him to call me.
	24	Q. So Luis Gutiérrez had your phone number?
05:39:49	25	A. Yes, he did have my phone number.

05:39:52	1	Q. And Luis Gutiérrez actually talked to you first
	2	that day, did he not?
	3	A. The same day he went to the police station he
	4	was riding a motorcycle, and he told me that he had the
05:40:09	5	information that 300 plus individuals were going down to
	6	Hacienda Santa Fé. So that was the first communication
	7	with Luis Gutiérrez.
	8	After, the second step was that this
	9	person called me and identified himself as
05:40:27	10	Carlos Rondón. So the same thing I told Luis Gutiérrez,
	11	I told Rondón then. I explained the same problem we
	12	had, and I said that I was going to consult with General
	13	Marvin Castro to see what we could do in connection with
	14	the information that was coming down with the people
05:40:46	15	that were coming down.
	16	Q. Well, pursuant to your testimony, you weren't
	17	going to leave. No cop was going to leave because you
	18	were on orders to stay in the barracks, right?
	19	A. Yes, we had the order to remain in the units.
05:41:01	20	Q. So going back, though, was this the first time
	21	you had met Mr. Gutiérrez, when he came to the police
	22	station on his motorcycle?
	23	A. Whenever he well, I had already met him
	24	because he is from Jinotega. He lives in the
05:41:27	25	department, and whenever he would go to the Santa Fé, he

05:41:34	1	is the one who came into the station to tell us that
	2	there was going to be a taking by more than 300 people,
	3	that they were going to be coming from the upper part of
	4	El Pavón and go to the lower part of Hacienda Santa Fé.
05:41:48	5	Q. So no matter if you got it from Mr. Rondón or
	6	Mr. Gutiérrez, you understood that there was an invasion
	7	going on at the Hacienda Santa Fé, correct?
	8	A. There was an invasion. There was going to be
	9	an invasion by 300 people in Hacienda Santa Fé.
05:42:10	10	Q. Okay. And your testimony is that because of
	11	the stay order, you couldn't help them out. One
	12	question. Did you take any notes about this phone
	13	call on this phone call?
	14	A. About the call, from whom?
05:42:31	15	Q. Mr the person saying they were Mr. Rondón.
	16	A. Yes, I as a measure, I told General Marvin
	17	Castro of the situation. I reported the situation to
	18	him, and General Marvin Castro established that it was a
	19	danger, so he told me the following:
05:43:01	20	William, look, talk to Calixto Herrera,
	21	the sector chief, for him to go to Hacienda Santa Fé and
	22	also deal with the guns that the take the guns of the
	23	three guards because this is dangerous. All of the
	24	former members of the Nicaraguan resistance are going to
05:43:29	25	get there, and they do have war experience. They do

05:45:14

25

05:43:34 1 have war experience because all of those individuals 2 that were the leaders, clearly those individuals 3 participated in the war in Nicaragua in the '80s, and 4 they were dangerous. They were dangerous individuals 05:43:53 5 that -- and I'm saying that they were dangerous because 6 I was also a member of the military during that time 7 during the war, and we had fought against them. 8 So we were going to be facing dangerous 9 people with military experience. So, upon arriving to 05:44:14 10 the Hacienda, the guards there would be in danger, and 11 even my own police officers. So the idea was to avoid 12 bloodshed that would bring very serious consequences for 13 the works and also the police officers that I would be 14 sending at that moment. 05:44:36 15 But it was done so that -- to prevent them 16 from taking control of the weapons that the security 17 quards had. And we have them. We have it protected. 18 And I am saying we have it because I am the chief of 19 that area and the owner is Mr. Rondón, and we prevented 05:44:57 the invaders from taking those guns. 20 21 Mr. Herrera, I really need to get through these 22 questions. I appreciate -- I was going to get to all 23 that, promise me. The original question I just asked, 24 did you take any notes on this phone call that you had

with this person who was saying they were Mr. Rondón?

05:45:17	1	That was my question. Do you have any notes of that
	2	phone call?
	3	A. I have the letter. I have a letter that I
	4	received on August 12, 2018.
05:45:33	5	Q. And we're going to get to that letter, too.
	6	Promise me.
	7	PRESIDENT: Mr. Herrera, please listen
	8	carefully to the question, and just answer the question.
	9	Q. I'm asking you did you take any notes of the
05:45:45	10	phone call with the person identifying themselves as
	11	Carlos Rondón?
	12	A. No, I did not.
	13	Q. You said you didn't know Mr. Rondón. Did you
	14	take any identifying information his phone number,
05:45:57	15	his address so you could get ahold of him if you
	16	needed to?
	17	A. No.
	18	Q. Okay. Now, I'm now going to talk to you about
	19	Calixto Herrera because you've told us a lot of
05:46:15	20	information. I'm going to go to it. I was going to get
	21	there, but you helped me out.
	22	So you said you talked to Mr General
	23	Castro, and he told you that you should tell Calixto
	24	Herrera it's Calixto Herrera, correct?
05:46:43	25	A. Yes, non-commissioned officer Calixto Herrera.

05:48:13

25 barracks, right?

05:46:49	1	Q. And I apologize for the interruption.
	2	Calixto Herrera is the one that went the next day,
	3	correct, the sector chief, correct?
	4	A. He was my sector chief, my own sector chief
05:47:06	5	within the Santa Fé community.
	6	Q. I'm just trying to let me just go through
	7	the chronology. You have you get this information
	8	and Commander Castro tells you to send Calixto Herrera
	9	to Hacienda Santa Fé to pick the guns up, correct?
05:47:28	10	A. Correct.
	11	Q. Perfect. So that means at this point that not
	12	only are the police not going to leave the barracks,
	13	you've now taken the weapons from the property owner,
	14	correct?
05:47:47	15	A. He went there to take control of the arms, of
	16	the weapons.
	17	Q. Correct. And you mentioned earlier that you
	18	were concerned about that these were former members of
	19	the Nicaraguan resistance, and they had military
05:47:59	20	training. Do you remember that testimony?
	21	A. Yes.
	22	Q. And you said we were concerned about it. But
	23	the police actually were never going to do anything in
	24	June 2018 anyway because they were going to stay in the

05:48:17	1	A. It was a need to do so to avoid a worse
	2	bloodshed.
	3	Q. So not only so we have these invaders and
	4	you don't evict the invaders and in fact, not only did
05:48:30	5	Mr. Calixto Herrera take the weapons, he actually told
	6	the workers on the property to leave, right?
	7	A. We didn't have the ability.
	8	Q. You asked them to leave. Calixto Herrera asked
	9	them to leave, correct?
05:48:51	10	A. They were told to abandon the area because
	11	their life was at risk.
	12	Q. Understood. So if I get this correct, then,
	13	the police are going to not protect the property and
	14	they're going to tell they're going to take the guns
05:49:06	15	from the property owner and they're going to tell the
	16	people that actually live and work there to leave.
	17	Is that what happened? That's exactly
	18	what happened, correct?
	19	A. Only the guards. The guards were told that
05:49:20	20	they needed to leave because they were the ones that had
	21	weapons.
	22	Q. Not just the guards. All the workers who were
	23	there were told to leave. Isn't that true?
	24	A. No, just the security guards. Three security
05:49:34	25	guards.

05:49:34	1	Q. Did you want the other people working there to
00.10.01	2	stay, or you just wanted to get rid of the security
	3	quards that might protect the property?
0- 40 -4	4	A. The workers did not stay. Those workers lived
05:49:51	5	in the area. They didn't stay there. Those workers
	6	lived nearby, so they wouldn't stay there anyways.
	7	Q. But there was an invasion going on. I just
	8	want to understand. Did you want the security guards to
	9	leave, or you wanted the workers to leave, or both?
05:50:08	10	A. I want to clarify that the invasion the
	11	invasion of the property was in El Pavón area when
	12	the when we went there to control the weapons, there
	13	were no individuals in Hacienda Santa Fé. They were in
	14	the upper part of El Pavón still. When Calixto went
05:50:28	15	there to take control of the weapons, he went there
	16	ahead of time just to prevent to avoid any harm done
	17	to the guards. But the other workers had not come to
	18	that area yet.
	19	Q. I understand that.
05:50:42	20	So, Mr. Herrera, just answer my question,
	21	now. You do know that in July, the invasion went to the
	22	Hacienda Santa Fé the actual lower part of Hacienda
	23	Santa Fé. You understand that, correct?
	24	A. Yes. The El Pavón area was taken, and that was
05:51:05	25	in June. June was the take in Santa Fé.

05:51:10	1	Q. And then and then in July they started going
	2	south, right, where the workers were, correct?
	3	A. Would you repeat the question?
	4	Q. In July the invasion started going to the south
05:51:25	5	area of the Hacienda Santa Fé. You know that, right?
	6	A. All I know is that the take took place in
	7	El Pavón in Santa Fé. That is where everyone that took
	8	the farm was located.
	9	Q. Is your testimony that you have no knowledge as
05:51:50	10	to whether or not there were invaders into the southern
	11	part of Hacienda Santa Fé?
	12	A. The south portion of Santa Fé, that's
	13	Santa Fé, the northern portion, belongs to El Pavón.
	14	That was the first take.
05:52:14	15	Q. It doesn't belong to them. They invaded it.
	16	You just told us that, correct?
	17	A. The farm belongs to Mr. Carlos Rondón. The
	18	farm does not belong to the invaders.
	19	Q. Perfect. All right. So I'm going to move on.
05:52:32	20	Let me ask you this. I'm a little confused.
	21	Was Calixto Herrera the only police
	22	officer that did any police work between May leaving
	23	at I'll rephrase the question.
	24	Is he the only police officer that left
05:52:48	25	the police station to actually go and deal with any

05:52:52 1 police situation between May 2018 and July 2018? 2 He left the barracks and three other officers, Α. 3 they are the ones that went to the farm. 4 So other than this visit to Hacienda Santa Fé, 05:53:13 5 there was no other officers going anywhere else anywhere 6 in the area to do any police work, correct? 7 I am talking about locally in my area. Α. 8 answer is yes. 9 And did you find it odd that you had been told 05:53:32 10 that no police officer was going to leave, but your boss 11 told you to send people actually out of the barracks? 12 Yes, but we had to do it. We had to prevent Α. 13 anything from happening to them. 14 And just so we're clear, did Calixto Herrera, Q. 05:53:55 15 was he told to tell the security quard that they should 16 go ahead and hire more security guards to protect the 17 property? 18 What we told Calixto to tell them was that Α. 19 we were going to take control of their weapons. We were 05:54:22 20 going to take control of their weapons and that they 21 needed to avoid being there because those people were 22 going to be there at nighttime. 23 Right. So in other words, the instructions 24 were not to have Hacienda Santa Fé get more 05:54:38 25 reinforcements to protect its property. They were told

05:54:41 1 that they -- you really did not want them to protect 2 their property at all, right? 3 They were not going to have any capacity, any 4 ability to face that group. 05:55:01 5 Correct. But you also did not encourage 6 INAGROSA to actually go hire more people to protect the 7 property, right? 8 I'll rephrase the question. 9 In other words, just so we're clear, 05:55:18 10 you're taking the weapons from security guards, and 11 you're not telling them, hey, you need to go get some 12 more reinforcements here to protect the property because 13 we're not going to do it? 14 A. At that point in time we just took the arms. 05:55:36 15 The weapons. 16 Perfect. Okay. And in your mind, did Calixto 17 Herrera violate President Ortega's order by leaving the 18 barracks? 19 It was an order given by my superior. 05:55:58 20 0. Okay. So your superior had the ability to 21 violate President Ortega's order? 22 Α. As a matter of fact, he thought it was relevant 23 in this situation, and he had to do something. 24 Do you know if he called anybody to make sure Q. 05:56:19 25 he wasn't going to get in trouble with President Ortega?

05:56:28	1	A. They are subordinates to the president, and as
	2	a matter of fact, this is something that they needed to
	3	deal with him.
	4	Q. So you believe that before Commander Castro
05:56:43	5	gave that order, he made sure that the Nicaraguan
	6	leadership was okay with his decision, correct?
	7	A. No. I just consulted him because of the order.
	8	I consulted him and he ordered me what we did, to go and
	9	take control of the weapons.
05:57:03	10	Q. Let me rephrase my question just so I'm clear.
	11	In your mind, what Commander Castro
	12	ordered, he had the authority to do that consistent with
	13	the Nicaraguan policy at that time on police staying in
	14	their barracks, correct?
05:57:23	15	A. No, I do not share that because I am a
	16	subordinate of General Marvin Castro. I consulted, and
	17	that was the order given. I cannot opine on that.
	18	Q. But you did follow the order from Commander
	19	Castro, correct?
05:57:41	20	A. That's correct.
	21	Q. And you're sworn to protect the Nicaraguan law,
	22	correct?
	23	A. Correct.
	24	Q. You wouldn't follow an order from your
05:57:54	25	commander you thought was invalid, correct?

05:58:00	1	A. Yes, because there was a need. That's why I
	2	consulted with him. We worked based on consultations.
	3	Q. Mr. Herrera, I need an answer I asked you a
	4	different question.
05:58:15	5	I'm asking you that you would not have
	6	followed your order from Commander Castro if you thought
	7	it was invalid, correct?
	8	A. Please remember that Commander Ortega
	9	Commander Ortega gives an order to the first
05:58:33	10	Commissioner Diaz Madrid. The first commissioner gives
	11	the order to their superior at the department level.
	12	Marvin Castro in this case is a subordinate of
	13	commissioner the first commissioner, Francisco Diaz
	14	Madrid. So I followed the hierarchy. I consulted with
05:58:55	15	my superior, and that's what my superior told me to do.
	16	Q. So just so we're clear, at the time Commander
	17	Castro gave you the order, did you believe it was
	18	consistent with President Ortega's order, yes or no?
	19	A. No.
05:59:30	20	Q. Okay. But at the time you followed it anyway
	21	because he was the commander, correct?
	22	A. He was my command.
	23	Q. Okay. And at that point, whatever
	24	responsibility for following Ortega's orders were, that
05:59:49	25	was on your boss and not you. Is that how you looked at

05:59:53 1 it? 2 I followed the responsibility of my boss 3 because if he receives an order, he gives the orders to his subordinates. 06:00:12 5 Do you know if any of your superiors consulted Ο. 6 with Commissioner Diaz Madrid before issuing the order 7 to go to Hacienda Santa Fé? 8 Α. No. 9 Okay. So I'm going to try to get through 06:00:27 10 this -- I'm going to get through this chronology, and 11 then we're making pace. 12 PRESIDENT: Mr. Mullins, how long do you 13 think you still need to complete your cross? 14 MR. MULLINS: I think if I can do another 06:01:48 15 15, 20 minutes, I can finish with this witness today. I 16 remember the Chair saying you really didn't want a 17 witness to go over the weekend, so consistent with that, 18 I'm going to work very quickly to try to get through my 19 material so we can finish this witness today. I think I 06:02:00 20 can do it in 15, 20 minutes, if that works. If the 21 answer is we can't, maybe it's a good time to break. 22 think we can try to finish this witness today. 23 PRESIDENT: We still also have the 24 redirect. It may be too early to ask, but can you 06:02:17 25 estimate how long it would be?

06:02:19 1 MR. ZETINA: Thank you. Yes, we will be 2 having some questions, but it will be something quick. 3 PRESIDENT: Let's try to finish today, but 4 let's try to be efficient and focus on the essentials. 06:02:58 5 MR. MULLINS: You'll be happy to know I 6 had all kinds of pages in my outline I flipped over. 7 I've been in your position. How many more pages have 8 you got? I'm flipping them over. What I'm going to try 9 to do, I want to break this up because now I'm into 06:03:15 10 July 2018. 11 In July 2018, is it true that no officer did Ο. 12 anything to protect the property of Hacienda Santa Fé at 13 that time? 14 In July, not yet. Α. 06:03:37 15 And that's because the order wasn't lifted 0. 16 until the end of July, correct? 17 The order was lifted at the end of July. Α. 18 Q. Perfect. And, again, this was also another 19 oral order, right? There was nothing in writing that 06:03:54 20 actually formally said that this order was lifted, 21 correct? 22 Well, our superiors gave us the orders to 23 suspend and to remove all of the roadblocks that were in 24 the public roads. So from there, all the departments 06:04:17 25 began to impose order in each place, and that's how it

06:04:21	1	was.
	2	Q. I don't think I ever asked you this before, but
	3	was this the first time you ever saw an order like this
	4	as a police officer where the president said police
06:04:33	5	officers could not leave? Was that the first time you
	6	ever saw something like that?
	7	A. Well, it was the first time in the time that
	8	I've been a policeman. It's the first time he gave the
	9	shelter order.
06:04:55	10	Q. And, actually, it was the last time that any
	11	kind of order like that was issued, correct?
	12	A. Yes, that's right.
	13	Q. Now, after this meeting with Calixto Herrera
	14	we're going to get to now August of 2018 did you or
06:05:20	15	any of the police officers at the station make any
	16	contact with the owners of Hacienda Santa Fé?
	17	A. With the owners, well, they contacted me to go
	18	to make an inspection of the Santa Fé farm.
	19	Q. But that was actually in August, right?
06:05:49	20	A. In August. That's right. It was in August.
	21	Q. Prior to that time you actually made no contact
	22	with any of the people at Hacienda Santa Fé, correct?
	23	A. No.
	24	Q. You don't know if anybody at the police station
06:06:08	25	did that either, correct?

06:06:10	1	A. No, neither.
	2	Q. So during the from the meeting with Calixto
	3	Herrera when they take the weapons until August until
	4	July actually until August of 2018, you essentially
06:06:22	5	allowed the invaders to take the property, and there was
	6	really being no protection at all given to the property,
	7	correct?
	8	A. No, we did not allow that.
	9	Q. We've had already some testimony just so the
06:06:47	10	record is clear, the meeting with Marvin Castro and
	11	Alcalde Centeno about the invaders, you were not at that
	12	meeting, right?
	13	A. At that meeting yes, I was there.
	14	Q. Oh, okay. Got it.
06:07:04	15	And at that meeting the invaders said they
	16	would leave, right?
	17	A. They agreed to leave because it was clear that
	18	the lands were not theirs, and they were never going to
	19	buy them.
06:07:19	20	Q. Got it. And because of this order, this
	21	meeting actually could have taken earlier, you just
	22	couldn't have that meeting earlier because of the order
	23	that was in place, right?
	24	A. That's right.
06:07:41	25	Q. And then they leave, right? Or they start to

06:07:44 1 leave, right? 2 Yes. Then after the meeting where the order 3 was given, they all agreed and left. 4 And then they pulled a fast one on you because 06:07:56 5 they came right back, right, within a few days? 6 One week later they returned to Santa Fé, to 7 the farm. 8 So help me out here, Captain Herrera. Why did 9 you not have another one of those meetings to tell them 06:08:13 10 to leave when they came back? 11 Well, work continued with a view to figuring Α. 12 out what to do. Other meetings were held to try to 13 resolve the situation, but that was in Jinotega, in 14 Managua. But I did not participate in those meetings. 06:08:38 15 But efforts were made to figure out how to work so that 16 these people could leave that place peacefully. 17 Right. But that's where my confusion is 18 because they tell you they're going to leave, and then 19 they come right back. So is it true that at that point 06:08:56 20 you realize they really probably were not going to leave 21 because they came right back? 22 Α. Well, I clarified. They left the place, and 23 they returned one week later. 24 Q. Got it. So when they came right back, did you 06:09:13 25 get back together and have another meeting and say why

06:09:16	1	are you back here, you're supposed to be leaving? Why
	2	didn't you do that the next week?
	3	A. I did not participate in that meeting because
	4	that was a meeting at the departmental level.
06:09:31	5	Q. Got it.
	6	So what did you personally do in
	7	September 2018 to get the invaders off the property?
	8	You personally, as the captain of the police station.
	9	A. Well, we were saying that we struggled to have
06:09:54	10	them go in August, and we spoke with them, they left.
	11	The farm was empty for just one week, and the following
	12	week they came back once again. So I couldn't do
	13	anything more because that had been channeled through
	14	the departmental police chief.
06:10:15	15	Q. I'll just make it easy for you. I understand
	16	the Tribunal wants to move on.
	17	What did you do personally after they came
	18	back in August 2018 to evict the invaders off of
	19	Hacienda Santa Fé? What did you do at all after that
06:10:32	20	time period? You personally.
	21	A. Personally, I didn't do anything more.
	22	Q. Thank you. There was an inventory taken. You
	23	mentioned that earlier. We'll pull that up real quick.
	24	MR. MULLINS: C-58. In Spanish and
06:11:03	25	English, if you could. If you could pull both of them

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06:11:27
        1
           up. Can we have the Spanish and English up? Give us a
        2
           second.
        3
                          MR. ZETINA: The translation is R-148.
        4
                          MR. MULLINS: I apologize. You're right.
06:12:20
        5
           It's a very short letter.
        6
                          I think we can just do the Spanish for the
        7
           witness. I'll read it for the record. If you can
        8
           scroll down so we can move on. Right where it says
        9
            "Damages." I really just want to ask him one question
06:12:44
        10
           about the document.
        11
                          PRESIDENT: The English version is R-148.
        12
                          MR. MULLINS: The English is 148 and
        13
           Spanish is 58. I'll just read it for the record for
        14
           time purposes.
06:12:56
        15
                    It says here that the actions of a group of 550
               Ο.
        16
           people -- it's up there. I really want to use this to
        17
           refresh your recollection, Mr. Herrera.
        18
                          Do you know where the 550 number came
        19
           from?
06:13:24
        20
               Α.
                    500 persons, what, who were on the property?
        21
                     Correct. Where did that number come from? Was
        22
           there a census? Did somebody run an accounting? Where
        23
           did that number come from?
        24
               A. It's an approximation. This is an approximate
06:13:40
        25
           figure.
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06:15:23 25 so much.

06:13:41	1	Q. So sitting here today, you don't know whether
	2	or not somebody at well, scratch that.
	3	It's true that no one did a thorough
	4	examination of the entire property to make sure every
06:13:54	5	single person was gone at the time of this inventory.
	6	Is that true?
	7	A. That inventory that appears there, well, I
	8	accompanied Mr. Alberto Rivera Monzón to prepare it and
	9	I signed it as the person who was accompanying him.
06:14:21	10	Q. Understood. What I'm asking you is that you
	11	said that the 550 is an approximation, and is it not
	12	true there was no effort to search the entire property
	13	to make sure that every single person that didn't belong
	14	there was not it was still was still not on the
06:14:37	15	property? That's what I'm asking you.
	16	A. Excuse me. I'm getting confused because you're
	17	asking me about numbers of people was there. Well,
	18	recall the notary was reviewing the situation there, and
	19	I was accompanying him. Then he well, what I
06:15:01	20	simply accompanied him, and he said sign this just to
	21	confirm that I accompanied him. But I have no personal
	22	knowledge of whether there were some who were missing
	23	and so forth in that level of detail.
	24	Q. Thank you. That's all I was asking. Thank you

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06:15:24
        1
                          MR. MULLINS: If I could have a moment.
        2
            If I could have five minutes. I literally have saved a
        3
            lot of time, so if I could have five minutes, I think
        4
            that would be beneficial.
06:15:35
        5
                          PRESIDENT: Sure.
        6
                          MR. MULLINS: Thank you so much.
        7
                          (Brief Recess)
        8
                          MR. MULLINS: Mr. Herrera, thank you so
        9
            much for your time. I actually have no other questions.
06:17:13
        10
            Thank you.
        11
                          PRESIDENT: Thank you very much. That was
        12
           an efficient use of your time.
        13
                          MR. MULLINS: I hope you remember that
        14
            later in case I do any more questioning, I want to
06:17:24
        15
           remind you how efficient I was. I will say I've been in
        16
            your position before and I recognize keeping the trains
        17
           moving --
        18
                          PRESIDENT: I have also been in your
        19
            position.
06:17:34
        20
                          MR. MULLINS: I bet you have. On the
        21
            record, that would probably be a pretty scary thought.
        22
                          PRESIDENT: Over to you, Mr. Zetina.
        23
                          MR. ZETINA: Thank you, Mr. President.
        24
            I'll be brief.
        25
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06:17:48	1	REDIRECT EXAMINATION
	2	BY MR. ZETINA:
	3	Q. Commissioner Herrera, do you recall that you
	4	were asked about the shelter order and whether you had
06:17:57	5	gone out in May or June of 2018? My question is as
	6	follows:
	7	Could you tell us why you were able to go
	8	out to help the workers at Hacienda Santa Fé, despite
	9	the shelter order?
06:18:15	10	A. Yes. I clarify that, based on the information
	11	we were given, that that large number of persons armed
	12	were going to go down and take weapons. Well, that was
	13	the priority on that visit, because we were few members
	14	of the police. They had not yet gone down. We were
06:18:40	15	trying to make sure that we could take the weapons from
	16	them so that they would not be used against the workers
	17	or against ourselves. And that was the priority in that
	18	visit because we were in danger as well because they
	19	were going to use the weapons against us because we were
06:19:00	20	also addressing the violent situation in the country
	21	that was happening in the country at that time,
	22	including in San Rafael del Norte.
	23	Q. Thank you very much, Deputy Commissioner. We

06:19:13 25

24

PRESIDENT: Thank you.

don't have any other questions, Mr. President.

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06:19:19
         1
                           Any questions from my colleagues?
         2
                           There are no questions from the Tribunal.
         3
            Mr. Herrera, that concludes your examination. You are
         4
            released. Thank you for your time, and enjoy the
06:19:28
         5
            weekend. Thank you, all. And we will resume 9:00 on
         6
            Monday morning.
         7
                         (Hearing adjourned at 6:19 p.m.)
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