

Concurrent and Dissent Statement of Dr. Torres Bernárdez to Procedural Order N° 34 of 9 December 2014.

I agree with the operative part of P.O. N° 34 except paragraphs 1 (ii) and 2.

In my opinion, the extract of the preliminary debate before the Senate with Mr. Zembo's address to the Senate (Appendix 2) and the letter of 9 July 2014 of Mr. Mateo Renzi, Prime Minister of Italy, to Dra. Cristina Fernández de Kichner, President of Argentina (Appendix 4) filed by the Respondent on 20 November 2014, should have been admitted into the record because of its connection with and relevance concerning legal issues before the Tribunal, and once the Claimants have already provided the Tribunal with their comments thereon.

I find without merit the considerations advanced in the preamble of the Order by my co-arbitrators on the basis of which they reject the admission into the record of the two documents referred to above.

Concerning Appendix 2 if the "context of the extract", is not yet in the public domain, it could always be requested to the Respondent to produce it.

As to Appendix 4 is beyond comprehension, in the light of its subject-matter, that the letter addressed by the Prime Minister of a Contracting Party of the applicable BIT to the President of the Republic of the other Contracting Party of the same BIT, whose text is in possession of both Parties to the case, be excluded from the record merely because it could have been submitted at an earlier date in a procedure which has not yet been closed.

Signed: Santiago Torres Bernárdez