

**IN THE MATTER OF AN ARBITRATION UNDER THE
NORTH AMERICAN FREE TRADE AGREEMENT**

- and -

**THE ARBITRATION RULES OF THE
UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW (1976)**

- between -

**Alicia Grace; Ampex Retirement Master Trust; Apple Oaks Partners, LLC; Brentwood
Associates Private Equity Profit Sharing Plan; Cambria Ventures, LLC; Carlos
Williamson-Nasi in his own right and on behalf of Axis Services, Axis Holding, Clue and F.
305952; Carolyn Grace Baring; Diana Grace Beard; Floradale Partners, LLC;
Frederick Grace; Frederick J. Warren; Frederick J. Warren IRA; Gary Olson; Genevieve
T. Irwin; Genevieve T. Irwin 2002 Trust; Gerald L. Parsky; Gerald L. Parsky IRA; John
N. Irwin III; José Antonio Cañedo-White in his own right and on behalf of Axis Services,
Axis Holding and F. 305952; Nicholas Grace; Oliver Grace III; ON5
Investments, LLC; Rainbow Fund, L.P.; Robert M. Witt; Robert M. Witt IRA; Vista
Pros, LLC; Virginia Grace**

Claimants

v.

The United Mexican States

Respondent

**PROCEDURAL ORDER No. 8
DECISION ON THE PARTIES' REQUESTS
FOR DOCUMENT PRODUCTION**

Tribunal

Prof. Diego P. Fernández Arroyo, President
Mr. Andrés Jana Linetzky, Arbitrator
Mr. Gabriel Bottini, Arbitrator

Secretary of the Tribunal
Ms. Celeste E. Salinas Quero

October 9, 2020

I. Introduction

1. This Procedural Order deals with the Parties' Requests for Document Production (the "Requests for Documents"), simultaneously exchanged by the Parties on September 7, 2020, along with their respective Objections and Replies, in accordance with the Amended Procedural Timetable of June 8, 2020 (the "Timetable").
2. On October 2, 2020, the Tribunal informed the Parties that, in spite of its best efforts to issue its Decision on the Requests for Documents in accordance with the deadline of the Timetable, due to the voluminous requests, the Tribunal estimated it would issue its Decision on October 9, 2020.

II. Applicable Standards

3. This arbitration is subject to (i) the NAFTA, (ii) the 1976 UNCITRAL Arbitration Rules (the "Arbitration Rules"); and (iii) the procedural rules set out in Procedural Order No. 1. Furthermore, paragraph 16.1 of Procedural Order No. 1 provides that:

"16.1 For matters concerning the gathering or taking of evidence that are not otherwise covered by a procedural order issued by the Tribunal, the UNCITRAL Rules or NAFTA Chapter 11, the Tribunal may refer to the IBA Rules on the Taking of Evidence in International Arbitration (2010) (the "IBA Rules") for guidance as to the practices commonly accepted in international arbitration, but it shall not be bound to apply them."¹

4. Regarding document production, paragraphs 17.1 and 17.3.2 of Procedural Order No. 1, respectively, provide in relevant part that:

"17.3 [...] Any request for the production of document shall comply with the requirements set forth in Article 3(3) of the IBA Rules."

[...]

17.3.2. Objections to the production of a document or a category of documents shall be justified on one or more of the grounds identified in Article 9(2) of the IBA Rules."²

¹ Paragraph 16.1 of Procedural Order No. 1 of March 25, 2019.

² Paragraphs 17.3 and paragraph 17.3.2 of Procedural Order No. 1 of March 25, 2019.

5. For the purposes of this Order, Articles 3.3, 3.7, and 9.2 of the IBA Rules are reproduced in the following paragraphs:

(i) Article 3.3:

“A Request to Produce shall contain:

- a. (i) a description of each requested Document sufficient to identify it, or
(ii) a description in sufficient detail (including subject matter) of a narrow and specific requested category of Documents that are reasonably believed to exist; in the case of Documents maintained in electronic form, the requesting Party may, or the Arbitral Tribunal may order that it shall be required to, identify specific files, search terms, individuals or other means of searching for such Documents in an efficient and economical manner;
- b. a statement as to how the Documents requested are relevant to the case and material to its outcome; and
- c. (i) a statement that the Documents requested are not in the possession, custody or control of the requesting Party or a statement of the reasons why it would be unreasonably burdensome for the requesting Party to produce such Documents, and
(ii) a statement of the reasons why the requesting Party assumes the Documents requested are in the possession, custody or control of another Party.”³

(ii) Article 3.7:

“Either Party may, within the time ordered by the Arbitral Tribunal, request the Arbitral Tribunal to rule on the objection. The Arbitral Tribunal shall then, in consultation with the Parties and in timely fashion, consider the Request to Produce and the objection. The Arbitral Tribunal may order the Party to whom such Request is addressed to produce any requested Document in its possession, custody or control as to which the Arbitral Tribunal determines that (i) the issues that the requesting Party wishes to prove are relevant to the case and material to its outcome; (ii) none of the reasons for objection set forth in Article 9.2 applies; and (iii) the requirements of Article 3.3 have been satisfied. Any such Document shall be

³ IBA Rules, Article 3.3.

produced to the other Parties and, if the Arbitral Tribunal so orders, to it.”⁴

(iii) Article 9.2:

“The Arbitral Tribunal shall, at the request of a Party or on its own motion, exclude from evidence or production any Document, statement, oral testimony or inspection for any of the following reasons:

- a) lack of sufficient relevance to the case or materiality to its outcome;
- b) legal impediment or privilege under the legal or ethical rules determined by the Arbitral Tribunal to be applicable;
- c) unreasonable burden to produce the requested evidence;
- d) loss or destruction of the Document that has been shown with reasonable likelihood to have occurred;
- e) grounds of commercial or technical confidentiality that the Arbitral Tribunal determines to be compelling;
- f) grounds of special political or institutional sensitivity (including evidence that has been classified as secret by a government or a public international institution) that the Arbitral Tribunal determines to be compelling; or
- g) considerations of procedural economy, proportionality, fairness or equality of the Parties that the Arbitral Tribunal determines to be compelling.”⁵

6. Taking into consideration all the indications contained in the preceding paragraphs, the Tribunal issues the present Procedural Order.

III. Order

7. In light of the above, the Tribunal:

- i. Decides on the Parties’ Requests for Documents and Objections as set out in the Redfern Schedules that are attached hereto as Annexes A (Claimants’ Redfern Schedule) and B (Respondent’s Redfern Schedule). These Annexes form an integral part of the present Procedural Order;
- ii. As a consequence and in light of the Tribunal’s determination of October 2, 2020, extending the date for the issuance of this Decision, orders each Party to produce all the documents pertaining to Requests that have been fully or partially granted

⁴ IBA Rules, Article 3.7.

⁵ IBA Rules, Article 9.2.

on or before **Friday, November 6, 2020**, unless the Parties agree to another time limit.⁶

- iii. The documents shall be produced in accordance with Sections 17.4 to 17.6. of Procedural Order No. 1. In particular, in accordance with Section 17.6 of Procedural Order No. 1, these documents shall be communicated to the requesting party by the due date; they shall not be communicated to the Tribunal or the Tribunal Secretary. As provided in Section 17.7 of Procedural Order No. 1, documents produced in response to a Request for Documents will not be part of the record, unless they are included as exhibits to a written submission or as an annex to a witness statement or expert report.

On behalf of the Tribunal,

[Signed]

Profesor Diego P. Fernández Arroyo
Presiding Arbitrator
Date: October 9, 2020
Place of arbitration: Toronto, Canada

⁶ According to the Timetable of June 8, 2020, the simultaneous production of documents ordered by the Tribunal would take place 4 weeks from the date of the Decision on the Requests for Documents.

**IN THE MATTER OF
AN ARBITRATION UNDER THE RULES OF THE
UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW**

**Alicia Grace; Ampex Retirement Master Trust; Apple Oaks Partners, LLC; Brentwood
Associates Private Equity Profit Sharing Plan; Cambria Ventures, LLC; Carlos Williamson-
Nasi; Carolyn Grace Baring; Diana Grace Beard; Floradale Partners, LLC; Frederick
Grace; Frederick J. Warren; Frederick J. Warren IRA; Gary Olson; Genevieve T. Irwin;
Genevieve T. Irwin 2002 Trust; Gerald L. Parsky; Gerald L. Parsky IRA; John N. Irwin III;
José Antonio Cañedo-White; Nicholas Grace; Oliver Grace III; ON5 Investments, LLC;
Rainbow Fund, L.P.; Robert M. Witt; Robert M. Witt IRA; Vista Pros, LLC; Virginia
Grace**

Claimants

v.

United Mexican States

Respondent

CLAIMANTS' REDFERN

September 7, 2020

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Introduction

Claimants submit the following document requests to the Tribunal, all of which comply with Article 3 of the IBA Rules on the Taking of Evidence in International Arbitration. For each request, Claimants provide 1) a description of the narrow and specific category of documents requested, 2) a statement as to how the requested documents are relevant to the case and material to its outcome, and 3) (i) a statement that the documents requested are not in the possession, custody, or control of the requesting party or why it would be unreasonably burdensome for Claimants to produce such Documents, and (ii) a statement of the reasons why Claimants assumes the Documents requested are in the possession, custody or control of Respondent.

As can be seen below, Respondent individually objected to every single one of Claimants' document requests without exception, and submitted six general objections to Claimants' document requests. Claimants replied to each of the specific objections in the Redfern schedule and to Respondent's general objections at the end of this document. Respondent's general objections and Claimants' replies are included in this document as Appendix A. While objecting to all of Claimants' document requests, Respondent produced minimal documents for nine document requests.

Claimants respectfully request that the Tribunal order production from Respondent on Claimants' requests below.

Alicia Grace and others v. United Mexican States

(ICSID Case No. UNCT/18/4)

Redfern Schedule

Request No.	1.
Document / Category of Documents:	The documents related to Pemex's refusal to contract the New Rigs (<i>Supremus, Animus, and Vastus</i>), including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding the New Rigs prepared between January 1, 2013 and December 31, 2017. <i>See SOC ¶¶ 75-76, 162-164; Gil Decl. ¶¶ 46-47, 72-80; SOD ¶¶ 45-50.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México retaliated against Oro Negro for its failure to pay bribes by declining to contract the New Rigs despite its representation to Oro Negro that it would do so. The requested documents are also relevant and material to Claimants' claims that México accorded preferential treatment to Oro Negro's primary competitor Seamex and colluded with the Bondholders to drive Oro Negro out of business.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 1 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de esta Solicitud están basadas en las propias alegaciones de las Demandantes y en las declaraciones de sus testigos. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, el trato preferencial recibido por Seamex, las medidas de represalia recibidas por Oro Negro por no entregar sobornos, y el supuesto rechazo de Pemex de contratar las Nuevas Plataformas.</p>

	<p>Además, el término “<i>documents</i>” de esta Solicitud no es concreto y específico de conformidad con las Reglas IBA. Asimismo, las Demandantes ni siquiera han señalado cuándo ofrecieron las Nuevas Plataformas a Pemex o en qué procedimiento de contratación Oro Negro participó para poner a disposición de Pemex las Nuevas Plataformas. Las Demandantes minimizan el hecho de que Pemex y sus empresas subsidiarias cuentan con estructuras administrativas complejas y con diversas áreas administrativas. Sin mayor especificación, resulta sumamente oneroso y una carga irrazonable para la Demandada buscar la documentación solicitada.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to one of Claimants’ central allegations that Respondent accorded preferential treatment to Oro Negro’s competitor, Seamex. As explained in the Statement of Claim and in the request, Pemex refused to contract with Oro Negro for the New Rigs, with no explanation. At the same time, it entered into new contracts with Seamex, while still leading Oro Negro to believe that it was interested in the New Rigs, forcing Oro Negro to make unnecessary expenditures of hundreds of millions of dollars. <i>See SOC ¶¶ 71, 75-76.</i> Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information relating to Pemex’s refusal to contract three specific New Rigs, which took place in the limited time frame of two years (2014-2015). <i>See SOC ¶¶ 70-77.</i> Moreover, Respondent’s objections as to burden and lack of specificity are undetailed and fail to identify the bases for such assertions. There are a limited subset of very specific documents that Mexico has relating to Pemex’s decision not to contract the New Rigs.</p> <p><i>Third</i>, Claimants’ request should not be denied, as Respondent asserts, because it is based on Claimants’ allegations and the statements of their witnesses. Claimants make their document requests for the very purpose of preparing their case and obtaining documentary evidence in support of those assertions. Respondent’s reason to not produce documents based on such requests is inapposite. As the tribunal noted in</p>

	<p><i>Gabriel Res. Ltd. v. Romania</i>, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”¹</p> <p><i>Fourth</i>, the term “documents” does not lack specificity here, and Claimants’ request complies with Article 3 of the IBA Rules. At the outset, Claimants provided examples of the types of documents that would be responsive to this Request. Moreover, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes when and what types of negotiations took place between Pemex and Oro Negro relating to the New Rigs. <i>See</i> SOC ¶¶ 70-77. Such information sufficiently identifies the requested documents. Respondent’s argument that Pemex has complex administrative structures, and that it is therefore an unreasonable burden to search for the documents without further specification is inapposite. Claimants are obviously unable to provide Respondent with information regarding where within Pemex such documents might reside, as that is information to which Claimants are not privy.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration. The Tribunal orders the production of internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding the New Rigs prepared between January 1, 2013 and December 31, 2017.

Request No.	2.
Document / Category of Documents:	The documents related to Pemex’s contracting of five rigs from Seamex in 2014 and 2015, including quality of Seamex rigs and lease rates, prepared between January 1, 2014 and December 31, 2016. SOC ¶¶ 74, 158-161.

¹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Justification:	<p>The requested documents are relevant and material to Claimants' claims that México declined to contract the New Rigs for discriminatory and retaliatory reasons and instead contracted rigs with Seamex in exchange of bribes, although Seamex's rigs were of inferior quality to the New Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 2 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información comercial confidencial de una empresa ajena a este arbitraje (Objeción General No. 6).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, el supuesto trato preferencial recibido por Seamex a cambio de sobornos. Además, el término “documents” de esta Solicitud no es concreto y específico de conformidad con las Reglas IBA.</p> <p>Asimismo, anteriormente las Demandantes han utilizado como prueba documentos relacionados con Seamex y han señalado algunas fuentes donde se encuentra disponible la información requerida de otras empresas, incluida Seamex.² Esto demuestra que las Demandantes conocen los procedimientos para obtener la información requerida o conocen las fuentes donde se encuentra disponible. De la misma forma, las Demandantes solicitan información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas ajenas a este</p>

² Ver Resolución Procesal No. 7, Anexo A, pp. 3-5.

	arbitraje lo que demuestra que esta Solicitud es una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4 and 6 and their response to Request No. 1 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to Claimants’ claim that Respondent accorded preferential treatment to Oro Negro’s competitor, Seamex, and that such preferential treatment was on account of Oro Negro’s refusal to pay Pemex bribes and Seamex’s agreement to pay bribes to Pemex. As explained in the Statement of Claim and in the request, Pemex reneged on its agreement with Oro Negro to contract the New Rigs, and instead entered into contracts with Seamex even though its rigs were of inferior quality. <i>See SOC ¶¶ 74-76</i>. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information relating to the contracts entered into between Pemex with Seamex during the specified time period of 2015 and 2016, and the terms of such contracts. Moreover, Respondent’s objections as to burden and lack of specificity are undetailed and fail to identify the bases for such assertions.</p> <p><i>Third</i>, the term “documents” does not lack specificity here, and Claimants’ request complies with Article 3 of the IBA Rules. Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes when Pemex entered into the contracts with Seamex, and information about the quality of Seamex’s rigs and the lease rates. Such information sufficiently identifies the requested documents.</p> <p><i>Fourth</i>, the Request does not ask for information that is confidential commercial information. There is nothing sensitive about documents relating to the quality of the rigs, or to general lease rates between two parties.</p>

	<p>Moreover, such information relates to contracts that no longer exist, and Oro Negro is no longer a competitor of Seamex as it is not in business.</p> <p><i>Fifth</i>, the Request is not a “fishing expedition,” as it seeks concrete information in Pemex’s possession relating to its contracts with Seamex. Furthermore, Claimants are not requesting information that they already have, as they are asking for information from Pemex’s files relating to its own communications regarding the contracts with Seamex. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. <i>See</i> IBA Rules Art. 3(3)(c)(i).</p> <p><i>Sixth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration. The Tribunal orders the production of the documents related to Pemex’s contracting of five rigs from Seamex in 2014 and 2015, including quality of Seamex rigs and lease rates, prepared between January 1, 2014 and December 31, 2016. The documents may be produced where relevant for “Attorneys’ Eyes Only”. In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for “Attorneys’ Eyes Only”.

Request No.	3.
Document / Category of Documents:	The documents related to any investigation into Oro Negro's complaints to Pemex regarding Pemex's discriminatory treatment against Oro Negro and favorable treatment of other vendors, such as Seamex, prepared between January 1, 2014 and December 31, 2017. SOC ¶¶ 74, 158-161.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México singled out Oro Negro for discriminatory treatment in lease terms and amendments and colluded with the Bondholders to drive Oro Negro out of business.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 3 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de esta Solicitud está basada en las propias alegaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, el supuesto trato discriminatorio recibido por Oro Negro y la colusión entre los Tenedores de Bonos y la Demandada.</p> <p>De igual forma, las Demandantes ni siquiera identifican a qué investigaciones se refiere la Solicitud, y tampoco identifican la autoridad o autoridades a cargo de "cualquier investigación". Asimismo, las Demandantes no han precisado cuándo y ante quién fueron presentadas las denuncias o quejas de Oro Negro. Por ello, la búsqueda y exhibición de los documentos requeridos en esta Solicitud constituye una tarea sumamente onerosa y una carga irrazonable para la Demandada. Además, la Solicitud no puede considerarse concreta y específica conforme a las Reglas de la IBA.</p>

	Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and their response to Request No. 1 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to Claimants’ claim that Respondent accorded preferential treatment to Oro Negro’s competitor, Seamex, and that such preferential treatment was on account of Oro Negro’s refusal to pay Pemex bribes and Seamex’s apparent willingness to pay Pemex bribes. As explained in the Statement of Claim and in the request, Pemex reneged on its agreement with Oro Negro to contract the New Rigs, and instead entered into contracts with Seamex even though its rigs were of inferior quality. <i>See SOC ¶¶ 74-76</i>. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for documents relating to any investigation by Pemex in response to Oro Negro’s specific complaint to it that it was being subjected to discriminatory treatment, while other vendors such as Pemex were being treated favorably. <i>See SOC ¶ 74</i>. Moreover, Respondent’s objections as to burden and lack of specificity are undetailed and fail to identify the bases for such assertions.</p> <p><i>Third</i>, Respondent’s objection that Claimants do not identify the investigation is inapposite, as the request clearly refers to any investigation that was conducted by Pemex in response to a specific complaint made to Pemex by Oro Negro. <i>See id.</i> Claimants are not privy to the investigation, so they cannot know who or what divisions at Pemex may have been involved in such an investigation. The request is concrete, relating to a specific complaint by Oro Negro to Pemex in response to Pemex’s sudden refusal to contract the New Rigs from Oro Negro, and as such it complies with Article 3 of the IBA Rules, and does not constitute a fishing expedition nor unnecessary harassment.</p>

	On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. The Tribunal orders the production of the documents related to any investigation into Oro Negro's written complaints to Pemex regarding Pemex's discriminatory treatment against Oro Negro and favorable treatment of other vendors, such as Seamex, prepared between January 1, 2014 and December 31, 2017.

Request No.	4.
Document / Category of Documents:	The documents related to the 2015 Amendments to the Oro Negro Contracts, including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's decision to impose the 2015 Amendments prepared between January 1, 2014 and December 31, 2015. <i>See SOC ¶¶ 82-88, 452; Gil Decl. ¶ 52.</i>
Justification:	The requested documents are relevant and material to Claimants' claims that México imposed discriminatory and retaliatory amendments on the Oro Negro Contracts and unlawfully induced and pressured Oro Negro to accept the amendments by way of making fraudulent representations and delaying payment due to Oro Negro under the Oro Negro Contracts. This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	La Demandada objeta la Solicitud No. 4 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general y por falta de especificidad (Objeción General No. 3).

	<p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Gonzalo Gil, testigo de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluido, <i>inter alia</i>, el trato discriminatorio recibido por Oro Negro.</p> <p>Además, el término “<i>documents</i>” de esta Solicitud no es concreto y específico de conformidad con las Reglas IBA. Las Demandantes minimizan el hecho de que Pemex y sus empresas subsidiarias cuentan con estructuras administrativas complejas y con diversas áreas administrativas. Sin mayor especificación, resulta sumamente oneroso y una carga irrazonable para la Demandada buscar la documentación solicitada.</p> <p>Por otra parte, Oro Negro y Pemex mantuvieron una relación contractual por cuatro años (sin contar el tiempo en que la plataforma Rig 3 fue puesta a disposición de Pemex). Con base en ello, resulta razonable considerar que las Demandantes cuentan con la documentación requerida.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and their response to Request No. 1 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to Claimants’ claim that Respondent imposed onerous and destructive amendments to the Oro Negro Contracts, disregarded contractual commitments and obligations made in relation to the Oro Negro Contracts, and this discriminatory treatment is related to Oro Negro’s refusal to pay bribes and the willingness of other companies to pay bribes to Pemex. <i>See SOC ¶¶ 82-83, 173-215, 509, 511-513</i>. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific, as it asks for documents relating to specific amendments entered into between Oro Negro and Pemex in 2015. Moreover, Respondent’s objections as to relevance, burden, and lack of specificity are undetailed and fail to identify the bases for such assertions.</p> <p><i>Third</i>, contrary to Respondent’s assertion, Claimants are not in the possession of the requested documents, as they are not requesting the actual amendments, but rather documents relating to Pemex’s decision to impose the</p>

	<p>2015 Amendments, including internal or external government correspondence, memoranda, official resolutions, reports, and analyses. These documents are not in Claimants possession.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's decision to impose the 2015 Amendments prepared between January 1, 2014 and December 31, 2015.

Request No.	5.
Document / Category of Documents:	The documents related to or prepared in connection to the 2016 Amendments to the Oro Negro Contracts, including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's decision to impose the 2016 Amendments prepared between January 1, 2015 and December 31, 2016. <i>See SOC ¶ 84–85, 88; Gil Decl. ¶¶ 53–54, 57.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México imposed discriminatory and retaliatory amendments on the Oro Negro Contracts and unlawfully induced and pressured Oro Negro to accept the amendments by way of making fraudulent representations and delaying payments due to Oro Negro under the Oro Negro Contracts.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 5. Para evitar repeticiones innecesarias, la Demandada replica en esta Solicitud las mismas objeciones señaladas en la Solicitud No. 4.

Reply:	Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and their responses to Requests Nos. 1 and 4 above. In addition, Claimants' request is not irrelevant, onerous, or unspecific, as it asks for documents relating to specific amendments entered into between Oro Negro and Pemex in 2016 and referring to a specific time period from January 1, 2015, to December 31, 2016. <i>See SOC ¶¶ 84-88.</i> Moreover, Respondent's relevance objection is undetailed and fails to identify the basis for such assertion. On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence.

Request No.	6.
Document / Category of Documents:	The documents related to or prepared in connection to the 2017 Amendments to the Oro Negro Contracts, including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's decision to impose the 2017 Amendments prepared between January 1, 2016 and December 31, 2017. <i>See SOC ¶ 91; Gil Decl. ¶ 61.</i>
Justification:	The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to undermine Oro Negro's solvency and drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	La Demandada objeta la Solicitud No. 6. Para evitar repeticiones innecesarias, la Demandada replica en esta Solicitud las mismas objeciones señaladas en la Solicitud No. 4.

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and their responses to Requests Nos. 1 and 4 above. In addition, Claimants' request is not irrelevant, onerous, or unspecific, as it asks for documents relating to specific amendments entered into between Oro Negro and Pemex in 2017 and referring to a specific time period from January 1, 2016, to December 31, 2017. <i>See</i> SOC ¶¶ 89-93. Moreover, Respondent's relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's decision to impose the 2017 Amendments prepared between January 1, 2016 and December 31, 2017.

Request No.	7.
Document / Category of Documents:	The documents related to Pemex's decision to not execute the 2017 Amendments to the Oro Negro Contracts, including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's failure to execute the 2017 Amendments prepared between March 1, 2017 and December 31, 2017. <i>See</i> SOC ¶ 93; Gil Decl. ¶ 64; SOD ¶¶ 175-183, 639, 841-842.
Justification:	The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to fail to timely execute the 2017 Amendments in order to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. The requested documents are also relevant to assessing Respondent's claims that Pemex's termination of the Oro Negro Contracts was caused, in part, by the "reluctance (or impossibility) of Oro Negro to formalize" the 2017 Amendments (SOD ¶¶ 841-842).

	<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 7 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Gonzalo Gil, testigo de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluido, <i>inter alia</i>, la supuesta colusión entre los Tenedores de Bonos y la Demandada.</p> <p>Además, el término “<i>documents</i>” de esta Solicitud no es concreto y específico de conformidad con las Reglas IBA. Las Demandantes minimizan el hecho de que Pemex y sus empresas subsidiarias cuentan con estructuras administrativas complejas y con diversas áreas administrativas. Sin mayor especificación, resulta sumamente oneroso y una carga irrazonable para la Demandada buscar la documentación solicitada.</p> <p>En adición a ello, la descripción y justificación de esta Solicitud parten de una premisa incorrecta ya que funcionarios de Pemex sí llegaron a firmar los Convenios Modificatorios 2017 (<i>ver R-0139-0142</i>). A pesar de ello, los Convenios Modificatorios 2017 no fueron formalizados por causas imputables a Oro Negro.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and their response to Request No. 1 above. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to Claimants' claim that Respondent colluded with the Bondholders to drive Oro Negro out of business by suddenly refusing to execute the 2017 Amendments and forcing Oro Negro into bankruptcy. <i>See SOC ¶ 93</i>. Moreover, Respondent's relevance objection is undetailed and fails to identify the basis for such assertion.</p>

	<p><i>Second</i>, Claimants' request is reasonable and specific, as it asks for documents relating to a specific decision made by Pemex in August 2017 not to execute the 2017 Amendments. <i>See id.</i> Moreover, Respondent's objections as to burden and lack of specificity are undetailed and fail to identify the basis for such assertions.</p> <p><i>Third</i>, Respondent's allegation that Pemex officials signed the 2017 Amendments but that they were not formalized for reasons attributable to Oro Negro is disputed and besides the point, as the Claimants are seeking documents relating to the decision by Pemex to not go forward with the Amendments, regardless of who Pemex believes was at fault for it. Moreover, this objection is not appropriate as a response to a document request, and should instead be limited to Respondent's Statement of Defense and related pleadings to the Tribunal.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's failure to execute the 2017 Amendments prepared between March 1, 2017 and December 31, 2017.

Request No.	8.
Document / Category of Documents:	The documents related to the Oro Negro Contract terminations, including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's decision to terminate the Oro Negro Contract prepared between March 1, 2017 and December 31, 2017. <i>See SOC ¶ 127; SOD ¶¶ 117, 124.</i>
Justification:	The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to cause unlawful termination of the Oro Negro Contracts and drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex.

	This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	<p>La Demandada objeta la Solicitud No. 8 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de esta Solicitud están basadas en las propias alegaciones de las Demandantes.</p> <p>De igual forma, las Demandantes ni siquiera identifican qué autoridad, entidad o persona cuenta con el poder, custodia o control de los documentos solicitados. En el caso hipotético de que la Solicitud esté enfocada en Pemex, las Demandantes minimizan el hecho de que Pemex y sus empresas subsidiarias cuentan con estructuras administrativas complejas y con diversas áreas administrativas. Sin mayor especificación, resulta sumamente oneroso y una carga irrazonable para la Demandada buscar la documentación solicitada.</p> <p>Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and their responses to Requests Nos. 1 and 2 above. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, and in no way unnecessary harassment, as it is discrete and directly related to Claimants' claim that Respondent colluded with the Bondholders to drive Oro Negro out of business by unlawfully terminating the Oro Negro Contracts. See SOC ¶¶ 124-29. Moreover, Respondent's relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific, and certainly not a fishing expedition. It asks for documents relating to a specific decision made by Pemex in October 2017 to terminate the Oro Negro Contracts.</p>

	<p><i>See</i> SOC ¶ 124. Moreover, Respondent's objections as to burden and lack of specificity are undetailed and fail to identify the basis for such assertions.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent claims, because it is based on Claimants' allegations and their witnesses' statements. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."³</p> <p><i>Fourth</i>, Respondent's argument that Claimants do not identify the authorities that may have the requested information is unavailing, as Claimants are obviously unable to provide Respondent with information regarding where within the Mexican government's structure such documents might reside. Respondent cannot hide behind its bureaucracy to shield itself from document production.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's decision to terminate the Oro Negro Contract prepared between March 1, 2017 and December 31, 2017.

Request No.	9.
Document / Category of Documents:	The documents or communications related to Pemex's failure to pay past due amounts under the Oro Negro Contracts, including any internal or external government correspondence, memoranda, official resolutions,

³ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	reports, or analyses regarding the same, prepared between January 1, 2014 and December 31, 2017. See SOC ¶ 321–322; Gil Decl. ¶¶ 140–141.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México collude with the Bondholders to refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to drive Oro Negro out of business and allow the Bondholder to take over the Rigs and lease them back to Pemex through Seamex.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 9 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de esta Solicitud están basadas en las propias alegaciones de las Demandantes y del Sr. Gonzalo Gil White, testigo de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus reclamaciones, incluido, <i>inter alia</i>, la presunta negativa de Pemex de pagar los servicios prestados bajo los Contratos Perforadora-PEP. A pesar de ello, la Solicitud parte de una premisa incorrecta ya que los pagos bajo los Contratos Perforadora-PEP se realizaban en favor de Deutsche Bank y no en favor de Oro Negro.</p> <p>De igual forma, las Demandantes ni siquiera identifican qué autoridades intercambiaron las comunicaciones requeridas. Si la Solicitud estuviera enfocada a documentos y comunicaciones de Pemex, las Demandantes no toman en consideración la compleja estructura administrativa de Pemex y sus empresas subsidiarias. Sin mayor especificación resulta sumamente oneroso y una carga irrazonable para la Demandada buscar la documentación solicitada, sin dejar a un lado el hecho de que las Demandantes solicitan documentación posiblemente elaborada hace más de seis años.</p>

	Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and their response to Request No. 1 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, and in no way unnecessary harassment, as it is discrete and directly related to Claimants’ claim that Respondent colluded with the Bondholders to drive Oro Negro out of business by refusing to pay past due daily rates to Oro Negro without any valid justification, as there was a plan between Pemex and the bondholders to financially strangle Claimants to force them to a situation where they would lose the Rigs. <i>See SOC ¶ 322</i>. Moreover, México’s assertion that the payments were made in favor of Deutsche Bank and not in favor of Oro Negro is simply an attempt to distract attention from the actual request, which concerns money ultimately owed to Oro Negro. <i>See SOC ¶ 321</i>. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific, and certainly not a fishing expedition. It asks for documents and communications relating to a specific subject matter—Pemex’s refusal to pay its past due daily rates in connection with the Oro Negro Contracts. <i>See id.</i> Moreover, Respondent’s objections as to burden and lack of specificity are undetailed and fail to identify the basis for such assertions.</p> <p><i>Third</i>, Respondent’s argument that Claimants do not identify the authorities that may have the requested information is unavailing, as Claimants are obviously unable to provide Respondent with information regarding where within the Mexican government’s structure such documents might reside. Respondent cannot hide behind its bureaucracy to shield itself from document production. Similarly, Respondent’s argument that the request should be denied because it seeks documentation possibly prepared more than six years ago is unavailing, as there is no time limitation under the IBA Rules prohibiting the Claimants from seeking documents from six years ago, and indeed Respondent points to no authority in support of its argument.</p>

	On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding the same, prepared between January 1, 2014 and December 31, 2017.

Request No.	10.
Document / Category of Documents:	The documents regarding meetings between Pemex officials or their agents and the Bondholders or their agents regarding the 2017 Amendments, including meeting minutes, notes, reports, memorandum, or analyses related to or prepared in connection with these meetings prepared between March 1, 2017 and December 31, 2017. <i>See SOC ¶¶ 101, 103–105, 108, 145–146.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to undermine Oro Negro's solvency and ultimately cause the unlawful termination of the Oro Negro Contracts, in order to drive Oro Negro out of business and allow the Bondholders to take over the Rigs and lease them back to Pemex through Seamex.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 10 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).

	<p>La descripción y justificación de esta Solicitud están basadas en las propias alegaciones de las Demandantes y de sus testigos. Las Demandantes cuentan con la carga probatoria de demostrar sus reclamaciones, incluido, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y la Demandada.</p> <p>Independientemente de ello, las Demandantes ni siquiera precisan el nombre de los funcionarios de Pemex y de los Tenedores de Bonos que participaron en las supuestas reuniones, lo que hace que esta Solicitud no sea concreta y específica. Asimismo, las Demandantes han señalado que cuentan con la información requerida.⁴ Por ello, resulta incorrecta la afirmación de las Demandantes respecto a que no tienen bajo su poder, custodia o control de los documentos requeridos.</p> <p>Esta Solicitud es una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4 and their responses to Requests Nos. 1 and 2 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is directly relevant to Claimants’ allegations in this case, and in no way unnecessary harassment, as it is discrete—asking for information relating to specific meetings between the Bondholders and Pemex—and is directly related to Claimants’ claim that Respondent colluded with the Bondholders to drive Oro Negro out of business, including through such meetings held between members of the Bondholders and Pemex officials regarding the 2017 Amendments. <i>See, e.g.</i>, SOC ¶ 104. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for documents and communications relating to specific meetings between Resondent’s representatives and Claimants’ Bondholders, or their representatives,</p>

⁴ Escrito de Demanda, ¶ 108 (“Much of this discovery material is subject to a protective order and cannot be disclosed without court approval. Claimants are still in the process of obtaining permission to use that evidence in this proceeding, but have not received it yet. Claimants reserve their right to submit the evidence with its Reply”).

	<p>that took place during the March-December 2017 time period. <i>See</i> SOC ¶¶ 103-04. Moreover, Respondent's objections as to burden and lack of specificity are undetailed and fail to identify the bases for such assertions.</p> <p><i>Third</i>, Respondent's argument that Claimants do not identify the authorities that may have the requested information is unavailing, as Claimants are obviously unable to provide Respondent with the names of the Bondholders and Pemex officials who participated in a meeting that Claimants did not attend. On the contrary, the Claimants have actually specified the names of the Pemex officials of which they were aware. <i>See</i> SOC ¶¶ 103, 105. Moreover, Claimants have sufficiently identified the subject matter and there is no requirement in the IBA Rules that they must specify names of attendees of meetings, nor has Respondent pointed to any such authority.</p> <p><i>Fourth</i>, contrary to Respondent's assertion, the Claimants do not have custody or control over the required documents. As stated in the Statement of Claim, ¶ 108, such documents may be subject to a protective order. While Claimants are in the process of attempting to obtain some of those documents from third parties, they have thus far not succeeding in doing so. Furthermore, the documents Claimants request from Respondent include Respondent's own meeting minutes, notes, reports, memoranda, and analyses related to or prepared in connection with these meetings, which only Respondent would possess.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of documents regarding meetings between Pemex officials or their agents and the Bondholders or their agents regarding the 2017 Amendments, including meeting minutes, notes, reports, memorandum, or analyses related to or prepared in connection with these meetings between March 1, 2017 and December 31, 2017.

Request No.	11.
Document / Category of Documents:	The communications between Pemex officials or their agents and the Bondholders or their agents regarding the meetings to discuss the 2015 Amendments, 2016 Amendments, 2017 Amendments, and the Oro Negro Contract terminations, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, regarding these meetings between June 1, 2014 to December 31, 2017. <i>See SOC ¶ 125.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that that México colluded with the Bondholders to impose discriminatory amendments on the Oro Negro Contracts and ultimately cause the unlawful termination of the Oro Negro Contracts, in order to drive Oro Negro out of business and allow the Bondholder to take over the Rigs and lease them back to Pemex through Seamex.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 11 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).</p> <p>La descripción y justificación de esta Solicitud están basadas en las propias alegaciones de las Demandantes y de sus testigos. Las Demandantes cuentan con la carga probatoria de demostrar sus reclamaciones, incluido, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y la Demandada.</p>

	<p>Independientemente de ello, las Demandantes ni siquiera precisan el nombre de los funcionarios de Pemex y de los Tenedores de Bonos que participaron en las supuestas reuniones, ni tampoco el nombre de funcionarios públicos o y Tenedores de Bonos que supuestamente intercambiaron comunicaciones, incluido números telefónicos, usuarios de las plataformas de mensajería, día y hora de intercambio de mensajes, o algún parámetro de búsqueda más específico.</p> <p>Asimismo, las Demandantes han señalado que cuentan con la información requerida.⁵ Por ello, resulta incorrecta la afirmación de las Demandantes respecto a que no tienen bajo su poder, custodia o control de los documentos requeridos.</p> <p>Esta Solicitud es muy general e invasiva siendo solamente una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4 and their responses to Requests Nos. 1, 2, and 10 above.</p> <p>In addition, Respondent’s objections are without merit and should be overruled as Claimants have actually specified the names of the Pemex officials they believe were involved in the communications to the extent that they knew them. <i>See SOC ¶ 103.</i> Moreover, Claimants have sufficiently identified the subject matter and there is no requirement in the IBA Rules that they must specify names of the individuals communicating, time and day of exchange of messages, telephone numbers, or anything else of that level of specificity, nor has Respondent pointed to any such authority. Indeed, it is unreasonable that Respondent could expect the Claimants to possess such information to which Claimants are not privy.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>

⁵ Escrito de Demanda, ¶ 125 (“Claimants are still in the process of obtaining permission to use that evidence in this proceeding, but have not received it yet. Claimants plan to submit the evidence with its Reply”).

Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. The Tribunal orders the production of the communications between Pemex officials or their agents and the Bondholders or their agents regarding the meetings to discuss the 2015 Amendments, 2016 Amendments, 2017 Amendments, and the Oro Negro Contract terminations. The request is limited to relevant communications regarding these meetings, exchanged in writing or per email, between June 1, 2014 to December 31, 2017.
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Request No.	12.
Document / Category of Documents:	The communications regarding meetings between Pemex officials or their agents and the Bondholders or their agents regarding the renegotiation of the Oro Negro Contracts in January 2018, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, exchanged from September 1, 2017 to February 1, 2018. <i>See SOC ¶ 140–142; Gil Decl. ¶¶ 93–95.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to refuse the reactivation of the Oro Negro Contracts in order to drive Oro Negro out of business and allow the Bondholders to take over the Rigs and lease them back to Pemex through Seamex.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 12 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).

	<p>La descripción y justificación de esta Solicitud están basadas en las propias alegaciones de las Demandantes y de sus testigos. Las Demandantes cuentan con la carga probatoria de demostrar sus reclamaciones, incluido, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y la Demandada. Asimismo, la Solicitud parte de una premisa incorrecta ya que los Contratos Perforadora-PEP fueron terminados en octubre de 2017, es decir, no pudo haber ninguna “renegociación” en enero de 2018.</p> <p>Independientemente de ello, las Demandantes ni siquiera precisan el nombre de los funcionarios de Pemex y de los Tenedores de Bonos que participaron en las supuestas reuniones, ni tampoco el nombre de funcionarios públicos y Tenedores de Bonos que supuestamente intercambiaron comunicaciones, incluido números telefónicos, usuarios de las plataformas de mensajería, día y hora de intercambio de mensajes, o algún parámetro de búsqueda más específico.</p> <p>Asimismo, las Demandantes han señalado que cuentan con la información requerida.⁶ Por ello, resulta incorrecta la afirmación de las Demandantes respecto a que no tienen bajo su poder, custodia o control de los documentos requeridos.</p> <p>Esta Solicitud es muy general e invasiva siendo solamente una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4 and their responses to Requests Nos. 1, 2, 10, and 11 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case as it seeks documents that are squarely relevant to Claimants’ allegations of discrimination and other unlawful conduct by Mexico, including through Pemex, and in no way unnecessary harassment, as it is discrete—asking for information relating to the renegotiation of the Oro Negro Contracts in January 2018—and is directly related to Claimants’ claim that Respondent colluded with the</p>

⁶ Escrito de Demanda, ¶ 142 (“Claimants are still in the process of obtaining permission to use that evidence in this proceeding, but have not received it yet. Claimants plan to submit the evidence with its Reply”).

	<p>Bondholders to drive Oro Negro out of business, because Claimants allege that Pemex decided not to reactivate the Oro Negro Contracts because it colluded with the Bondholders. <i>See</i> SOC ¶¶ 140-42. Respondent's relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific, and certainly not a fishing expedition. It asks for communications relating to a specific incident, the renegotiation of the Oro Negro Contracts in January 2018. <i>See id.</i> Moreover, Respondent's objections as to burden and lack of specificity are undetailed and fail to identify the bases for such assertions.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. The Tribunal orders the production of the communications regarding meetings between Pemex officials or their agents and the Bondholders or their agents regarding the renegotiation of the Oro Negro Contracts in January 2018. The request is limited to relevant communications regarding these meetings, exchanged in writing or per email, from September 1, 2017 to February 1, 2018.

Request No.	13.
Document / Category of Documents:	The communications related to the solicitation of bribes from Gonzalo Gil White and José Anotnio Cañedo White, including any internal government correspondence, correspondence with third parties, memoranda, official resolutions, reports, or analyses regarding the solicitation of bribes by Pemex officials or persons acting on behalf of Pemex officials between January 1, 2012 and January 1, 2017. <i>See</i> SOC ¶¶ 100, 179, 187 191, 203; Cañedo Decl. ¶¶ 19–23; Gil Decl. ¶ 30, 101, Black Cube ¶ 28.3.
Justification:	The requested documents are relevant and material to Claimants' claims that México retaliated against Oro Negro for its failure to pay bribes by imposing significant rate reductions on Oro Negro and ultimately causing the unlawful termination of the Oro Negro Contracts, in order to drive Oro Negro out of business and allow the Bondholders to take over the Rigs lease them back to Pemex through Seamex.

	<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 13 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser documentos que no están bajo el poder, custodia o control de la Demandada (Objeción No. 6).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y de los Sres. Gil White, Cañedo White y Avi Yanus, testigos de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus reclamaciones, incluido, <i>inter alia</i>, los supuestos actos de corrupción cometidos por la Demandada.</p> <p>Independientemente de ello, las Demandantes ni siquiera precisan las autoridades, funcionarios públicos o personas que supuestamente intercambiaron las comunicaciones y documentos solicitados. Con base en ello, esta Solicitud no es concreta ni específica y su búsqueda y exhibición es onerosa y una carga irrazonable para la Demandada.</p> <p>Asimismo, los documentos y comunicaciones solicitadas versan sobre “<i>conversations between 2012 to 2017 among Oro Negro executives [...] and individuals</i>”.⁷ Con base en ello, resulta incorrecto suponer que los documentos están bajo el poder, custodia o control de la Demandada.</p> <p>Esta Solicitud es muy general y constituye una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>

⁷ Escrito de Demanda, ¶ 179. Ver también Segunda Declaración del Sr. Gil, ¶ 101 y Segunda Declaración del Sr. Cañedo White, ¶¶ 19-23.

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and 6 and their responses to Requests No. 1, 2, 10, and 11 above. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, and is in no way unnecessary harassment, as it is discrete—asking for information relating to the particular subject matter of the solicitation of bribes from two particular individuals, Messrs. Gil and Cañedo—and is directly related to Claimants' claim that Respondent retaliated against Oro Negro for not paying bribes to Pemex. <i>See, e.g.</i>, SOC ¶¶ 179-182. Moreover, Respondent's relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific, and certainly not a fishing expedition. It asks for communications relating specifically to the solicitation of bribes from two Oro Negro shareholders. <i>See</i> SOC ¶¶ 172.</p> <p><i>Third</i>, Claimants' request does not seek documents that are in Claimants' possession, custody, or control. It specifically seeks communications <i>related to</i> the solicitation of bribes. That is, the Claimants are not seeking records of the communications that Messrs. Gil and Cañedo had with the individuals that "offer[ed] to help 'operate'... to resolve Oro Negro's difficulties with Pemex." SOC ¶ 179. Rather, they are seeking internal Pemex communications as well as communications with third parties, memoranda, official resolutions, reports, and analyses relating to such solicitation.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	<p>The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of communications related to the solicitation of bribes from Gonzalo Gil White and José Anotnio Cañedo White, including any internal government correspondence, correspondence with third parties, memoranda, official resolutions, reports, or analyses regarding the solicitation of bribes by Pemex officials or persons acting on behalf of Pemex officials between January 1, 2012 and January 1, 2017.</p>

Request No.	14.
Document / Category of Documents:	The documents and communications regarding Pemex's relationship with Mr. Martinez and Fintech Advisory, Inc., Seadrill Limited, and the formation of Seamex, including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's relationship with Mr. Martinez, Seamex, Seadrill, Fintech and the Seamex Contracts, prepared between January 1, 2014 and December 31, 2018. SOC ¶¶ 74, 158-161, 160, 162, 164, 189, 212; Gil Decl. ¶¶ 45, 102–103; Black Cube ¶ 28.2.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México accorded preferential treatment to Seamex in exchange of bribes and singled out Oro Negro for discrimination for its refusal to participate in the corrupt scheme. The requested documents are also relevant and material to Claimants' claims that México colluded with the Bondholders to have Pemex enter into new contracts for the Rigs with the Bondholders, wherein Seamex would operate and maintain the Rigs and thereby eliminate Oro Negro as one of Seamex's competitors.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 14 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser documentos bajo control de terceros ajenos a este arbitraje (Objeción No. 6).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y de los Sres. Gil White, Cañedo White y Avi Yanus, testigos de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus reclamaciones, incluido, <i>inter alia</i>, los supuestos actos de corrupción cometidos por la Demandada.</p>

	<p>Independientemente de ello, las Demandantes ni siquiera precisan las autoridades, funcionarios públicos o personas que supuestamente intercambiaron las comunicaciones y documentos solicitados. Con base en ello, esta Solicitud no es concreta ni específica y su búsqueda y exhibición es onerosa y una carga irrazonable para la Demandada.</p> <p>Asimismo, Seamex, Fintech Advisory, Inc, Seadrill Limited y el Sr. Martínez no son parte en este arbitraje y la Demandada no está en posibilidad de exhibir documentos relacionadas con estas personas y empresas al no estar en su poder, custodia o control.</p> <p>Esta Solicitud es muy general y constituye una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and 6 and their response to Request No. 1 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case and not “unnecessary harassment,” as documents concerning Pemex’s relationship with Seadrill, Fintech, Mr. Martinez, and Seamex are directly related to Claimants’ claims that Respondent colluded with the Bondholders to drive Oro Negro out of business and grant new contracts for the Rigs to the Bondholders, with Seamex operating and maintaining them, and that Respondent discriminated against Claimants and Oro Negro and treated Oro Negro less favorably than Seamex because Claimants and Oro Negro refused to pay Pemex bribes. <i>See, e.g.</i>, SOC ¶¶ 158-64. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific, and certainly not a fishing expedition, because it asks for documents relating to Pemex’s relationship with the entities and individual that controlled Oro Negro’s primary competitor, Seamex.</p>

	<p><i>Third</i>, Respondent's argument that the request should be overruled because Claimants have not specified the particular persons who actually participated in the communications and documents is inapposite, as the Claimants have sufficiently identified the subject matter and there is no requirement in the IBA Rules that they must specify names, nor has Respondent pointed to any such authority. Moreover, that is not information to which the Claimants are privy.</p> <p><i>Fourth</i>, Respondent's argument that Claimants are requesting information outside of their possession, custody, and control is erroneous, as the request solely seeks "internal or external government correspondence, memoranda, official resolutions, reports, or analyses" relating to Pemex's relationship with the specified third parties. The Request does not seek documents or communications that are solely in the possession, custody, or control of non-parties to this arbitration.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request is insufficiently specific. The Tribunal rejects the request.

Request No.	15.
Document / Category of Documents:	The documents and communications regarding the terms of the Seamex Contracts including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Pemex's relationship with Mr. Martinez, Seamex, Fintech, Seadrill, and the Seamex Contracts, prepared between January 1, 2014 and December 31, 2018. SOC ¶¶ 74, 158-161, 160, 162, 164, 189, 212; Gil Decl. ¶¶ 45, 102–103; Black Cube ¶ 28.2; SOD ¶¶ 204-215.
Justification:	The requested documents are relevant and material to Claimants' claims that México contracted with Seamex for its rigs on more favorable terms than those of Oro Negro and colluded with the Bondholders to have Pemex enter into new contracts for the Rigs with them, wherein Seamex would operate and maintain the Rigs.

	<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 15 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información comercial confidencial de una empresa ajena a este arbitraje (Objeción General No. 6).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y de los Sres. Gil White, Cañedo White y Avi Yanus, testigos de las Demandantes. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México.</p> <p>Las Demandantes ni siquiera precisan las autoridades, funcionarios públicos o personas que supuestamente intercambiaron las comunicaciones y documentos solicitados. En otras palabras, esta Solicitud no es concreta ni específica. Asimismo, anteriormente las Demandantes han utilizado como prueba documentos relacionados con Seamex y han señalado algunas fuentes donde se encuentra disponible la información requerida de otras empresas, incluida Seamex.⁸ Esto demuestra que las Demandantes conocen los procedimientos para obtener la información requerida o conocen las fuentes donde se encuentra disponible.</p> <p>De la misma forma, las Demandantes solicitan información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas y personas ajenas a este arbitraje lo que demuestra que esta Solicitud es una</p>

⁸ Ver Resolución Procesal No. 7, Anexo A, pp. 3-5.

	expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4 and 6 and their responses to Requests No. 1, 2, and 14 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, contrary to Respondent’s suggestion, Claimants are not required to seek documents from a third party even if they know such documents exist. They are prohibited only from requesting documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. <i>See</i> IBA Rules Art. 3(3)(c)(i). Moreover, this Request seeks “internal or external government correspondence, memoranda, official resolutions, reports, and analyses,” which are not documents that Claimants would be able to obtain from a third party, as most such documents would be only in the possession, custody, or control of the Respondent. Finally, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Respondent has not explained how documents relating to Pemex’s contracts with Seamex are confidential commercial information that cannot be provided to Claimants, particularly since Oro Negro is no longer a competitor of Seamex as it is not in business. Furthermore, confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p><i>Fourth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>

Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding the Seamex Contracts, prepared between January 1, 2014 and December 31, 2018. The documents may be produced where relevant for "Attorneys' Eyes Only". In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for "Attorneys' Eyes Only".
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Request No.	16.
Document / Category of Documents:	The documents and communications regarding México's involvement with the publication of defamatory media stories against the Gonzalo Gil White family in October of 2018, including any internal government correspondence, correspondence with the Bondholders or their agents, memoranda, official resolutions, reports, or analyses regarding the media stories. <i>See SOC ¶ 259; C-32.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México launched reputational attacks against the Gonzalo Gil White family and Oro Negro in order to facilitate the seizure of the Rigs by the Bondholders. The requested documents are also relevant to assessing whether México's political ill will against Mr. Francisco Gil had affected Pemex's decision to terminate the Oro Negro Contracts (Black Cube ¶ 42).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 16 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).

	<p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y de sus testigos. Las Demandantes cuentan con la carga probatoria para demostrar que la Demandada atacó la reputación del Sr. Gonzalo Gil White y su familia, testigo de las Demandantes. Asimismo, la Demandada desconoce la razón por la cual las Demandantes mencionan al Sr. Francisco Gil, lo que demuestra que esta Solicitud no es sustancial para el caso.</p> <p>Las Demandantes ni siquiera precisan las autoridades o funcionarios públicos relacionados con el supuesto involucramiento del Estado mexicano en la publicación de una cápsula relacionada con Oro Negro transmitida por un canal de televisión privado. La Solicitud no es concreta ni específica y es un ejemplo adicional del “fishing expedition” practicado por las Demandantes.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and their response to Request No. 1 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case as documents and communications relating to Respondent’s involvement in defamatory media stories against Mr. Gil and his family published in October 2018 are directly related to Claimants’ claims that Respondent colluded with the Bondholders to attempt to seize the Rigs, as the stories were published in the middle of the Bondholders’ attempts to take over the Rigs. <i>See SOC ¶ 259</i>. Moreover, Respondent’s relevance objection lacks detail and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific, and certainly not a fishing expedition, because it asks for documents relating to particular publications of media stories—specifically, a 10-minute television clip that aired in October 2018. <i>See id.</i></p> <p><i>Third</i>, Respondent’s argument that the request should be denied because Claimants have not specified the particular persons who were actually involved in the publication is inopposite, as the Claimants have sufficiently identified the subject matter and there is no requirement in the IBA Rules that they must specify names, nor has Respondent pointed to any such authority. Claimants also hereby clarify that the documents they seek are those</p>

	<p>in Respondent's possession, custody, or control. Moreover, that is not information to which the Claimants are privy.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal government correspondence, correspondence with the Bondholders or their agents, memoranda, official resolutions, reports, or analyses regarding the 10-minute television clip that aired in October 2018.

Request No.	17.
Document / Category of Documents:	The documents and communications related to México's promotion of Judge Enrique Cedillo Garcia in December of 2018, including any internal government correspondence, memoranda, official resolutions, reports, or analyses regarding his promotion prepared between August 31, 2018 and December 31, 2018. <i>See SOC ¶ 265.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate and pursue baseless criminal proceedings based on false and fabricated evidence, resulting in the seizure of Oro Negro's cash and in a court order authorizing the Bondholder's possession of the Rigs. The requested documents are also relevant to assessing whether México's promotion of Judge Cedillo was in any way related to his Seizure and Rigs Take-Over Orders.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>

Objections:	<p>La Demandada objeta la Solicitud No. 17 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluidas aquellas aseveraciones en contra del Juez Cedillo.</p> <p>El Juez Cedillo forma parte de un órgano judicial imparcial e independiente que conoció de procesos judiciales penales bajo el expediente 0009/1887/2018 (C-0023, C-0026 y C-0027), relacionado con la investigación penal 787/2018. La relevancia de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Por otro lado, las Demandantes ni siquiera identifican las autoridades que pudieran contar con la documentación solicitada. Independientemente de ello, la solicitud no es concreta ni específica y es un ejemplo adicional del “<i>fishing expedition</i>” practicado por las Demandantes.</p>
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Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and their response to Request No. 1 above. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case as documents and communications relating to Judge Cedillo's promotion are directly related to Claimants' claim that he was promoted for his role in Pemex's collusion with the Bondholders to take over the Rigs, through the issuance of orders permitting the seizure of Oro Negro's assets and the takeover of the Rigs. <i>See SOC ¶¶ 247-57, 265.</i> Respondent's assertion that Judge Cedillo is impartial and independent judge is self-serving. Claimants have provided strong reasons to believe that Judge Cedillo was rewarded for issuing the Seizure and Take-Over rights contracts. Moreover, Respondent's relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific, and certainly not a fishing expedition, because it asks for documents and communications relating to a specific incident—the promotion of Judge Cedillo. <i>See SOC ¶ 265.</i> Moreover, Respondent's objections as to burden and lack of specificity are undetailed and fail to identify the bases for such assertions.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal however finds that it cannot order the production of the requested evidence related to the promotion of Judge Enrique Cedillo Garcia.

Request No.	18.
Document / Category of Documents:	The documents and communications related to the removal of the former liquidator of the Oro Negro estate, Fernando Pérez Correa, including the basis for Respondent's statement that it "is aware that various creditors and the Singapore Subsidiaries strongly objected to some of the decisions and actions of Mr. Pérez Correa." <i>See SOC ¶ 152; SOD ¶ 258.</i>

Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to subvert the <i>Concurso</i> Proceeding by removing Fernando Pérez-Correa as liquidator after he filed the New York Lawsuits and replacing him with a liquidator who would support the stratagem to enable the Bondholder to take over the Rigs and lease them back to Pemex under new contracts. The requested documents are also relevant and material to Claimants' claims that México colluded with the Bondholders to prevent Oro Negro's pursuit of claims against the Bondholders in the United States.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 18 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México para que el Sr. Pérez Correa fuera destituido como síndico concursal. Más que una justificación para solicitar documentos, las Demandantes realizan una nueva acusación en contra de la Demandada. La fase de Solicitud de Documentos no es el momento procesal para reclamar medidas en contra de un Estado demandado.</p> <p>La Demandada no participa en los Concursos Mercantiles de Oro Negro. Sin embargo, las Demandantes sí lo hacen o al menos cuentan con acceso a los expedientes de los juicios. Es por ello que las Demandantes cuentan con el poder, custodia o control de los documentos solicitados o conocen los procedimientos para obtenerlos.</p>

	<p>Asimismo, las Demandantes ni siquiera identifican las autoridades que pudieran contar con la documentación solicitada, <i>i.e.</i>, especulan sobre la existencia de los documentos. Esta Solicitud no puede ser considerada concreta y específica conforme las Reglas IBA.</p> <p>Sin perjuicio de las objeciones planteadas, bajo el principio de buena fe la Demandada exhibe documentos relacionados con esta Solicitud.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to Claimants’ claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments and ensure the complete destruction of their assets and investments in México. As explained in the justification, Claimants’ request is relevant and material to Claimants’ claims that Respondent colluded with the Bondholders to subvert the <i>Concurso</i> Proceeding by removing Fernando Pérez Correa as liquidator after he filed the New York Lawsuits and replacing him with a liquidator who would support the stratagem to enable the Bondholders to take over the Rigs and lease them back to Pemex under new contracts. The requested documents are also relevant and material to Claimants’ claims that México colluded with the Bondholders to prevent Oro Negro’s pursuit of claims against the Bondholders in the United States. <i>See</i> SOC ¶ 152. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information relating to the removal of the former liquidator of the Oro Negro estate, Fernando Pérez Correa, including the basis for Respondent’s statement that it “is aware that various creditors and the Singapore Subsidiaries strongly objected to some of the decisions and actions of Mr. Pérez Correa.” <i>See</i> SOC ¶ 152; SOD ¶ 258. Claimants hereby limit the time of this request to documents and communications prepared between September 25, 2018—the date Fernando Pérez Correa was appointed as <i>Conciliador</i>—and the present. <i>See</i> SOD ¶ 252. Claimants hereby also limit the types of documents that would be responsive to this request to any internal government correspondence, memoranda, official resolutions, reports, or analyses regarding the removal of Fernando Pérez Correa.</p>

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make this document request for the very reason of developing their case and obtaining documentary evidence in support of their assertions. Respondent's reason to not produce documents based on such requests is nonsensical. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁹

Fourth, Claimants are not requesting any information that they already have, as they are asking for information from Respondent's files related to the removal of the former liquidator of the Oro Negro estate, Fernando Pérez Correa, and the basis for Respondent's statement that it "is aware that various creditors and the Singapore Subsidiaries strongly objected to some of the decisions and actions of Mr. Pérez Correa." See SOD ¶ 258. Claimants are entitled to the documents on which Respondent relied for this specific assertion. Moreover, even if Claimants would be able to obtain some of the documents responsive to this request from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that the Claimants do not request documents that are "in the possession, custody or control of the requesting Party," which is not the case here. See IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants apparently have access to the requested information because Claimants participate in the *Concurso* proceedings is ludicrous. Claimants are requesting documents and communications in Respondent's files, to which Claimants do not have access. Respondent's argument that Claimants do not identify the authorities that may have the requested information is inapt, as Claimants are obviously unable to provide Respondent with information regarding where within the Mexican government's structure such documents might reside. Also, Respondent is certainly aware of the documents on which it relied to assert the above statement in paragraph 258 of the Statement of Defense.

Fifth, the documents produced by Respondent are deficient, as Respondent has not produced the documents in accordance with Procedural Order No. 1. Section 17. 5 of Procedural Order No. 1 requires that Respondent provide Claimants "with a complete and accurate list of the documents that are being produced, at the time of

⁹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>production. Said list shall contain the name of the corresponding electronic file and a brief description of the document.” However, in response to this request, Respondent has produced one 819-page document and one 956-page document, both of which are comprised of many separate documents. Respondent must identify each one of the documents comprising these 819 and 956-page documents separately and provide an accurate description of each such document.</p> <p>Given Respondent’s objections and the documents produced, Respondent’s partial production was insufficient. For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.</p>
Tribunal’s decision:	The Tribunal acknowledges Respondent’s produced evidence. The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal government correspondence, memoranda, official resolutions, reports, or analyses regarding the removal of Fernando Pérez Correa. The Tribunal further orders the Respondent to identify each one of the documents comprising the above mentioned 819 and 956-page documents separately and provide a description of each such document.

Request No.	19.
Document / Category of Documents:	The documents and communications regarding México’s attempts to obtain copies of the Black Cube recordings outside of the NAFTA proceeding, including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding Respondent’s attempts to access the Black Cube recordings prepared between July 1, 2018 and November 1, 2018. <i>See SOC ¶¶ 323–324.</i>
Justification:	<p>The requested documents are relevant and material to Claimants’ claims that México attempted to subvert this NAFTA Proceeding by improperly trying to obtain the Black Cube recordings from non-parties to this Proceeding.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary</p>

	operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	<p>La Demandada objeta la Solicitud No. 19 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria para demostrar que la Demandada buscó afectar el procedimiento arbitral al solicitar copia de las grabaciones de Black Cube. Sin embargo, las Demandantes ni siquiera precisan qué autoridades o funcionarios públicos requirieron copia de las grabaciones de Black Cube.</p> <p>Asimismo, las Demandantes han presentado documentación relacionada con requerimientos de información por parte de la SFP y Pemex (C-0044 y C-0045).</p> <p>La Solicitud es sumamente general y no puede ser considerada concreta y específica conforme a las Reglas IBA. Su búsqueda y exhibición es excesivamente onerosa y prácticamente imposible de realizar. Esta Solicitud es una muestra más del “fishing expedition” realizado por las Demandantes.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and their response to Request No. 1 above. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to their claim that Respondent has attempted to subvert the proper course of the NAFTA proceeding. <i>See SOC ¶¶ 323-24</i>. Moreover, Respondent's relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific, and certainly not a fishing expedition, because it asks for documents and communications relating to specific occasions when Pemex and the SFP specifically asked Oro Negro to turn over the BlackCube recordings. <i>See id.</i> Moreover, Respondent's objections as to burden and lack of specificity are undetailed and fail to identify the bases for such assertions.</p>

	<p><i>Third</i>, the documentation referenced by Respondent is not part of Claimants' request, which seeks not the letters to Oro Negro themselves, but rather "internal or external government correspondence, memoranda, official resolutions, reports, or analyses" relating to these requests from SFP and Pemex.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Tribunal finds that the Claimants' request does not relate to a relevant issue for the claims it has put forward in the present dispute. The request relates to a possible interference by the Respondent with the present proceedings and cannot be dealt with through the present phase of Document Production.

Request No.	20.
Document / Category of Documents:	The documents related to Pemex's <i>amparo</i> challenge to the December 29, 2017 <i>Concurso</i> Court Order invalidating the Oro Negro Contract terminations and México's delay in resolving the <i>amparo</i> , including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding the <i>amparo</i> . See SOC ¶ 120–121, 133; Lopez Melih Decl. ¶¶ 41–42; SOD ¶¶ 271–272.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to enable them to take over the Rigs by causing the unlawful termination of the Oro Negro Contracts, delaying the resolution of Pemex's <i>amparo</i>, and depriving Oro Negro of the funds necessary to maintain the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 20 por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).

	<p>La Solicitud está relacionada con el Amparo Indirecto 66/2018 promovido por Pemex. Las Demandantes cuentan con acceso al expediente del Amparo Indirecto 66/2018 debido a que Perforadora Oro Negro es parte de ese proceso judicial en su calidad de “tercero interesado”, además de que en algún momento ese juicio de amparo se acumuló con el Amparo 57/2018 promovido por Perforadora Oro Negro.</p> <p>La Solicitud no identifica las autoridades que supuestamente intercambiaron las comunicaciones solicitadas por las Demandantes. Debido a ello, la Solicitud no es concreta y específica conforme a las Reglas IBA.</p> <p>Sin perjuicio de las objeciones señaladas, bajo el principio de buena fe la Demandada exhibe documentos relacionados con la Solicitud.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 3 and 4. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is specific. It asks for discrete information relating to a specific proceeding and issue, Pemex’s <i>amparo</i> challenge to the December 29, 2017 <i>Concurso</i> Court Order invalidating the Oro Negro Contract terminations and Respondent’s delay in resolving the <i>amparo</i>. See SOC ¶¶ 120–121, 133; Lopez Melih Decl. ¶¶ 41–42; SOD ¶¶ 271–272. Moreover, Claimants provided examples of the types of documents that would be responsive to this request (any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding this specific <i>amparo</i>). Additionally, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes who initiated the <i>amparo</i>, against which order the <i>amparo</i> was sought, and how the <i>amparo</i> is affecting Claimants. See SOC ¶¶ 120–121, 133. Such information sufficiently points to the documents requested. The time frame of Claimants’ document request is also specific, reasonable, and limited, as any responsive documents would have been prepared between December 29, 2017 and the present.</p> <p><i>Second</i>, Claimants are not requesting any information they already have, as they are asking for documents from Respondent’s files related to Pemex’s <i>amparo</i> challenge to the December 29, 2017 <i>Concurso</i> Court Order to</p>

	<p>which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the responsive documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that the Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. <i>See</i> IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent’s statement that Claimants apparently have access to the requested information because they participated in the <i>Amparo Indirecto</i> 66/2018 is ludicrous. Claimants are requesting documents and communications in Respondent’s files. Further, Respondent’s argument that Claimants do not identify the authorities that may have the requested information is unavailing, as Claimants are obviously unable to provide Respondent with information regarding where within the Mexican government’s structure such documents might reside. Respondent cannot hide behind its bureaucracy to shield itself from document production.</p> <p><i>Third</i>, the documents produced by Respondent are deficient, as Respondent has not produced the documents in accordance with Procedural Order No. 1. Section 17.5 of Procedural Order No. 1 requires that Respondent provide Claimants “with a complete and accurate list of the documents that are being produced, at the time of production. Said list shall contain the name of the corresponding electronic file and a brief description of the document.” However, in response to this Request, Respondent has produced a number of documents (File Names 20.4, 20.5, 20.9 and 20.11) which are comprised of many separate documents. Respondent must identify each one of the documents separately and provide an accurate description of each document. Moreover, Respondent has also produced documents without providing a valid description of each document (File Names 20.15 and 20.16). Respondent simply states “documents related to <i>incidente de suspensión</i> 66/2018” and “documents additional to the <i>incidente de suspensión</i> 66/2018” as descriptions for these documents. These descriptions are insufficient as they do not reasonably describe the documents that are being produced.</p> <p>Given Respondent’s objections and the documents produced, Respondent’s partial production was insufficient. For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.</p>
Tribunal’s decision:	The Tribunal acknowledges Respondent’s produced evidence. The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external

	government correspondence, memoranda, official resolutions, reports, or analyses related to Pemex's <i>amparo</i> challenge to the December 29, 2017 <i>Concurso</i> Court Order invalidating the Oro Negro Contract terminations and México's delay in resolving the <i>amparo</i> . The Tribunal further orders the Respondent to identify each one of the produced documents and provide an accurate description of each such document.
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Request No.	21.
Document / Category of Documents:	The documents related to Pemex's appeal of the February 2019 Federal Court ruling finding the Oro Negro Contract terminations to be unlawful, including any internal government correspondence, memoranda, official resolutions, reports, or analyses regarding the appeal prepared between February 1, 2019 and the present. <i>See</i> SOC ¶ 131; Lopez Melih Decl. ¶ 59; SOD ¶¶ 295-300.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México improperly used its court system to deny Oro Negro the funds necessary to maintain the Rigs and force them to turn the Rigs over to the Bondholders.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 21 por su demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).</p> <p>La Solicitud está relacionada con el Juicio Mercantil 446/2017 promovido por Perforadora Oro Negro. Resulta evidente que las Demandantes cuentan con acceso al expediente de ese juicio y a los expedientes de las apelaciones (175/2019 y 654/2019) y juicios de amparo que derivaron del Juicio Mercantil 446/2017. En otras palabras, las Demandantes cuentan con acceso a los documentos solicitados.</p>

	<p>La Solicitud no identifica las autoridades que supuestamente intercambiaron las comunicaciones solicitadas por las Demandantes. Debido a ello, la Solicitud no es concreta y específica conforme a las Reglas IBA.</p> <p>Sin perjuicio de las objeciones señaladas, bajo el principio de buena fe la Demandada exhibe documentos relacionados con la Solicitud.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 3 and 4. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is specific. It asks for discrete information relating to a specific proceeding, specifically Pemex's appeal of the February 2019 Federal Court ruling finding the Oro Negro Contract terminations to be unlawful. <i>See</i> SOC ¶ 131; Lopez Melih Decl. ¶ 59; SOD ¶¶ 295-300. Moreover, Claimants provided examples of the types of documents that would be responsive to this Request (<i>i.e.</i>, any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding this specific appeal). Additionally, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes the specific ruling that was appealed, the date of such ruling, and the parties who appealed the ruling. <i>See</i> SOC ¶ 131. Such information sufficiently points to the requested documents. The time frame of this request is both specific and limited, as the request is explicitly limited to documents prepared between February 1, 2019 and the present.</p> <p><i>Second</i>, Claimants are not requesting any information that they already have, as they are asking for documents from Respondent's files related to Pemex's appeal of the February 2019 Federal Court ruling finding the Oro Negro Contract terminations to be unlawful. Moreover, even if Claimants would be able to obtain some of the documents in response to this request from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that the Claimants not request documents that are "in the possession, custody or control of the requesting Party," which is not the case here. <i>See</i> IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants apparently have access to</p>

	<p>the requested documents because Claimants participate in the <i>Juicio Mercantil</i> 446/2017 is ludicrous because, again, Claimants are requesting documents and communications in Respondent's files. Respondent's argument that Claimants do not identify the authorities that may have the requested information is unavailing, as Claimants are obviously unable to provide Respondent with information regarding where within the Mexican government's structure such documents might reside.</p> <p>Given Respondent's objections and the documents produced, Respondent's partial production was insufficient. For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.</p>
Tribunal's decision:	The Tribunal acknowledges Respondent's produced evidence. The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal government correspondence, memoranda, official resolutions, reports, or analyses regarding the appeal prepared between February 1, 2019 and the present.

Request No.	22.
Document / Category of Documents:	The documents related to the SAT's decisions to initiate and continue the seven pending tax audits of Integradora Oro Negro and four of its subsidiaries, including Perforadora Oro Negro, including any internal government correspondence, memoranda, official resolutions, reports, or analyses regarding the audits prepared between October 1, 2017 and the present. <i>See</i> SOC ¶ 317; Gil Decl. ¶ 137; RFIM ¶¶ 49-55.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México, in retaliation for Oro Negro's refusal to pay bribes and in collusion with the Bondholders, initiated meritless tax audits to initiate and harass Claimants and their investments and to ultimately enable the Bondholders to take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>

Objections:	<p>La Demandada objeta la Solicitud No. 22 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado generales, especulativas y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones fiscales-administrativas (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y del Sr. Gil White. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México y el inicio de auditorías sin méritos.</p> <p>Además, las Demandantes han ofrecido como prueba diversos documentos relacionados con las auditorías fiscales de Integradora Oro Negro y otras subsidiarias de Oro Negro, lo que demuestra que las Demandantes tienen acceso a los documentos solicitados o conocen el procedimiento legal para obtener acceso a la información requerida. Las auditorías fiscales iniciadas por el SAT constituyen una facultad de comprobación de esta autoridad y tienen como fin verificar el cumplimiento de obligaciones fiscales del contribuyente, el cual está en posibilidad de demostrar que su situación fiscal se encuentra conforme a derecho. En ese sentido, las auditorías fiscales inician con base en la información que el contribuyente previamente proporcionó al SAT. Es decir, las Demandantes cuentan con la información que Oro Negro proporcionó al SAT.</p> <p>Los documentos elaborados por el SAT en el ejercicio de sus facultades de comprobación son de carácter reservado/confidencial bajo el Código Fiscal de la Federación. Conseguir documentación de auditorías fiscales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación para no afectar las auditorías. Asimismo, la estructura del SAT es compleja y cuenta con múltiples unidades administrativas. Debido a esto y a la falta de especificidad, la búsqueda de los documentos es excesivamente onerosa y una carga irrazonable para la Demandada.</p>
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Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-5. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent retaliated against Oro Negro as a result of its refusal to pay bribes. As explained in the Statement of Claim and in the Request, in retaliation for Oro Negro's refusal to pay bribes and in collusion with the Bondholders, Respondent initiated a number of meritless tax audits against Integradora and four of its subsidiaries, including Perforadora. Respondent did so in an attempt to harass Claimants and their investments and to ultimately enable the Bondholders to take over the Rigs. <i>See SOC ¶¶ 317-318.</i> Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is both reasonable and specific. It asks for discrete information relating to seven tax audits initiated against Integradora and four of its subsidiaries, which took place in a limited time frame—between October 2017 and the present date—as specified in the Statement of Claim. <i>See SOC ¶¶ 317-318.</i> Moreover, Claimants provided examples of the types of documents that would be responsive to this request (any internal government correspondence, memoranda, official resolutions, reports, or analyses regarding these specific audits). Additionally, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim and referenced the specific paragraphs in the request. Such information includes the number of tax audits conducted by the SAT against Integradora and four of its subsidiaries, and the time frames in which such SAT investigations took place. <i>See SOC ¶¶ 317-318.</i> Such information sufficiently identifies the requested documents. Respondent's argument that the SAT has complex administrative structures, and that it is therefore an unreasonable burden to search for them without further specification is inapt, as Claimants are obviously unable to provide Respondent with information regarding where within the SAT such documents might reside. Respondent cannot hide behind its bureaucracy to shield itself from document production.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their own witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions.</p>
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	<p>Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."¹⁰</p> <p><i>Fourth</i>, Claimants are not requesting any information that they already have, as they are asking for documents from SAT's files—such as internal government correspondence, memoranda, official resolutions, reports, or analyses—relating to its own communications regarding the SAT's decision to initiate and continue the seven pending tax audits of Integradora and four of its subsidiaries. Moreover, even if Claimants would be able to obtain some of the documents in response to this request from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that the Claimants not request documents that are "in the possession, custody or control of the requesting Party," which is not the case here. <i>See</i> IBA Rules, Art. 3(3)(c)(i).</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal government correspondence, memoranda, official resolutions, reports, or analyses regarding the audits, prepared between October 1, 2017 and the present.

Request No.	23.
Document / Category of Documents:	The documents or communications related to or prepared in connection to the initiation of Mexican criminal proceedings against Oro Negro, its directors, executives and employees, including any internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding the same prepared between May 1, 2018 and the present. <i>See</i> SOC ¶¶ 144, 154, 242, 245.

¹⁰ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate meritless Mexican criminal proceedings, based on the Bondholders' agents' baseless criminal complaints, and requested seizure orders that ultimately enabled the Bondholders to take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 23 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2), por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser información reservada y confidencial relacionada con investigaciones fiscales-administrativas (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México y el inicio de investigaciones penales sin méritos. La Demandada considera que no existe nexo entre las reclamaciones y la relevancia de los documentos solicitados.</p> <p>La Solicitud no especifica a qué investigaciones penales se refiere y qué autoridades cuentan con la información requerida. Esta Solicitud no es concreta ni específica y es un ejemplo adicional del "<i>“fishing expedition”</i>" practicado por las Demandantes.</p> <p>Independientemente de lo anterior, en el caso hipotético de que los documentos existieran, éstos serían de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Conseguir documentación de investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente e invasivo. La propia naturaleza de los documentos solicitados</p>

	demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and 5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders and that Respondent initiated baseless criminal proceedings as retaliation against Oro Negro for its refusal to pay bribes and in an effort to destroy Integradora, Perforadora, and Claimants’ investments and ensure the complete destruction of their assets and investments in México. As explained in the Statement of Claim and in the Request, Respondent colluded with the Bondholders to initiate meritless Mexican criminal proceedings, based on the Bondholders’ agents’ baseless criminal complaints, and requested seizure orders that ultimately enabled the Bondholders to take over the Rigs. Respondent did so in an attempt to harass Claimants and to ultimately enable the Bondholders to take over the Rigs. <i>See SOC ¶¶ 144, 154, 217-246.</i> Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information relating to the Mexican criminal proceedings initiated by México against Oro Negro, its directors, executives, and employees, which took place in a limited time frame—between May 1, 2018 and the present date—as specified in the Statement of Claim. <i>See SOC ¶¶ 144, 154, 217-246.</i> Moreover, Claimants provided examples of the types of documents that would be responsive to this Request (internal or external government correspondence, memoranda, official resolutions, reports, or analyses regarding these specific proceedings). Additionally, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. <i>See SOC ¶¶ 144, 154, 217-246.</i> Such information includes clear references to key data which should undoubtedly allow México to easily identify the criminal proceedings, such as the dates on which the criminal proceedings were commenced, before whom the criminal complaints were filed (PGR, PGJCDMX, etc.), who filed the criminal complaints, and against whom the criminal complaints were filed. Such information sufficiently identifies the requested documents.</p>

	<p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their own witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."¹¹</p> <p><i>Fourth</i>, the Request is not a "fishing expedition," as it seeks concrete information in Respondent's possession relating to specific criminal proceedings initiated by Respondent against Oro Negro, its directors, executives, and employees, which took place in a limited time frame—between May 1, 2018 and the present date—as specified in the Statement of Claim. See SOC ¶¶ 144, 154, 217-246. On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, official resolutions, reports, or analyses related to or prepared in connection to the initiation of Mexican criminal proceedings against Oro Negro, its directors, executives and employees, prepared between May 1, 2018 and the present.

Request No.	24.
Document / Category of Documents:	The communications between Mexican judges, prosecutors, and the Bondholders and/or their agents related to or prepared in connection to the initiation of Mexican criminal proceedings, including any correspondence, emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, exchanged from May 1, 2018 to the present. See SOC ¶¶ 219, 232.
Justification:	The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate meritless Mexican criminal proceedings, based on the Bondholders' agents' baseless criminal complaints, and requested seizure orders that ultimately enabled the Bondholders to take over the Rigs.

¹¹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 24 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones fiscales-administrativas (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México y el inicio de investigaciones penales sin méritos. La Demandada considera que no existe nexo entre las reclamaciones y la relevancia de los documentos solicitados.</p> <p>Además, la Solicitud no especifica a qué investigaciones o procesos penales se refiere; qué autoridades cuentan con la información requerida y a qué agentes del ministerio público o fiscales, jueces y Tenedores de Bonos se refiere esta Solicitud. Por ello, esta Solicitud es especulativa, invasiva, y tampoco es concreta y específica. La Solicitud es un ejemplo adicional del “<i>fishing expedition</i>” practicado por las Demandantes. Asimismo, las Demandantes aparentemente cuentan con la documentación solicitada.¹²</p> <p>Independientemente de lo anterior, en el caso hipotético de que los documentos existieran, éstos serían de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Conseguir documentación de investigaciones penales en curso (así como mensajes privados) a través de un arbitraje inversionista-Estado es improcedente e invasivo. La propia</p>

¹² Escrito de Demanda, ¶ 219 (“Claimants are still in the process of obtaining permission to use that evidence in this proceeding, but have not received it yet. Claimants plan to submit the evidence with its Reply”).

	naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to Claimants’ claim that Respondent colluded with the Bondholders and that Respondent initiated baseless criminal proceedings as retaliation against Oro Negro for its refusal to pay bribes and in an effort to destroy Integradora, Perforadora, and Claimants’ investments and ensure the complete destruction of their assets and investments in México. As explained in the Statement of Claim and in the Request, Respondent colluded with the Bondholders to initiate meritless Mexican criminal proceedings, based on the Bondholders’ agents’ baseless criminal complaints, and requested seizure orders that ultimately enabled the Bondholders to take over the Rigs. Respondent did so in an attempt to harass Claimants and to ultimately enable the Bondholders to take over the Rigs. See SOC ¶¶ 219, 232, 144, 154, 217-246. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information relating to communications between Mexican judges, prosecutors, and the Bondholders and/or their agents related to or prepared in connection to the initiation of Mexican criminal proceedings against Oro Negro, its directors, executives, and employees, which took place in a limited time frame—between May 1, 2018 and the present date—as specified in the Statement of Claim. See SOC ¶¶ 219, 232, 144, 154, 217-246. Moreover, Claimants provided examples of the types of documents that would be responsive to this Request (correspondence, emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service). Additionally, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. See SOC ¶¶ 291, 232, 144, 154, 217-246. Such information includes clear references to key data which should undoubtedly allow Respondent to easily identify the criminal proceedings, such as the dates in which the criminal proceedings were commenced, before whom the criminal complaints were filed (PGR,</p>

PGJCDMX, etc.), who filed the criminal complaints, and against whom the criminal complaints were filed, as well as the types of communications between Mexican judges, prosecutors, and the Bondholders and/or their agents related to or prepared in connection to the initiation of Mexican criminal proceedings (correspondence, emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service). Such information sufficiently identifies the requested documents.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."¹³

Fourth, Claimants are not requesting any information that they already have, as they are asking for communications between Mexican judges, prosecutors, and the Bondholders and/or their agents relating to or prepared in connection to the initiation of the Mexican criminal proceedings. Moreover, even if Claimants would be able to obtain some of the information in response to this Request from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that the Claimants not request documents that are "in the possession, custody or control of the requesting Party," which is not the case. See IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants apparently have access to the requested information because they stated, in the Statement of Claim, that "Claimants are still in the process of obtaining permission to use that evidence in this proceeding, but have not received it yet. Claimants reserve their right and plan to submit the evidence with its Reply" is ludicrous. Claimants' statement references evidence related to "the relationship between Mexican prosecutors and judges and Ad-Hoc Group (through their Mexican attorneys), including information that suggests strong red flags of corruption or other improper forms of influence." SOC ¶ 219. This does not mean that Claimants have in their

¹³ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>possession communications between Mexican judges, prosecutors, and the Bondholders and/or their agents related to or prepared in connection to the initiation of the referenced Mexican criminal proceedings.</p> <p><i>Fifth</i>, the Request is not a “fishing expedition,” as it seeks concrete information in Respondent’s possession relating to specific criminal proceedings initiated by Respondent against Oro Negro, its directors, executives, and employees, which took place in a limited time frame—between May 1, 2018 and the present date—as specified in the Statement of Claim. <i>See</i> SOC ¶¶ 144, 154, 217-246.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal however finds that it cannot order the production of the requested communications involving public officials. The request is rejected.

Request No.	25.
Document / Category of Documents:	The documents related to the PGR investigation (Case No. FED/SEIDF/UEIDFF-CDMX/0000864/2018), including the entire investigation file, any internal or external government correspondence, memoranda, reports, or analyses regarding this investigation from May 1, 2018 to the present. <i>See</i> SOC ¶¶ 222, 224, 229; Izunza Decl. ¶¶ 20, 22, Gil Decl. ¶¶ 111–112; RFIM ¶ 41; SOD ¶¶ 313-323.
Justification:	<p>The requested documents are relevant and material to Claimants’ claims that México used the PGR investigation as a vehicle to fabricate evidence against Oro Negro so that the Bondholders could use it to initiate other criminal proceedings against Oro Negro and its agents. The requested documents are also relevant to assessing Respondent’s claims that Claimants’ contention regarding this PGR investigation “is totally false and lacks any evidence” (SOD ¶ 320).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>

Objections:	<p>La Demandada objeta la Solicitud No. 25 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones penales en aún en curso (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes, testigos y expertos. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México, y el inicio de investigaciones penales sin mérito alguno.</p> <p>Conseguir copia de todos los expedientes de la carpeta de investigación es excesivamente oneroso y una carga irrazonable para la Demandada, principalmente si se considera que el equipo legal de la Demandada no tiene acceso a tales documentos. Además, las Demandantes cuentan con acceso a la carpeta de investigación 864/2018, lo que demuestra que las Demandantes tienen bajo su poder los documentos solicitados o conocen el procedimiento legal para obtenerlos.¹⁴</p> <p>Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Conseguir documentación de investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>

¹⁴ Ver Escrito de Demanda, ¶¶ 224 y pie de página 370. Segunda Declaración del Sr. Gil White, ¶ 112. Informe pericial del Sr. Izunza, pie de página 3. Solicitud de Medidas Provisionales, pie de página 30 (“Finally, in March 2019, the PGR allowed Perforadora to access the PGR’s case file”).

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-5. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim of retaliation and specifically that Respondent used the PGR investigation as a vehicle to fabricate evidence against Oro Negro so that the Bondholders could use it to initiate other criminal proceedings against Oro Negro and its agents, as well as their claim that such criminal investigation was among Respondent's many efforts to destroy Integradora, Perforadora, and Claimants' investments and ensure the complete destruction of their assets and investments in México. As explained in the request, such documents are also relevant to assessing Respondent's claims that Claimants' contention regarding this PGR investigation "is totally false and lacks any evidence." <i>See SOC ¶¶ 222, 224, 229; Izunza Decl. ¶¶ 20, 22, Gil Decl. ¶¶ 111–112; RFIM ¶ 41; SOD ¶¶ 313-323.</i> Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a specific PGR investigation (Case No. FED/SEIDF/UEIDFF-CDMX/0000864/2018), which took place in a limited time frame as specified in the Statement of Claim. <i>See SOC ¶¶ 220-229.</i> Moreover, Claimants provided examples of the types of documents that would be responsive to this Request (the investigation file, any internal or external government correspondence, memoranda, reports, or analyses regarding the specific investigation). Additionally, Claimants have provided Respondent with the relevant case file number (Case No. FED/SEIDF/UEIDFF-CDMX/0000864/2018) and the types of documents that would be responsive, as described above. Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their own witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a</p>
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	<p>Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”¹⁵</p> <p><i>Fourth</i>, Claimants are not requesting any information that they already have, as they are asking for documents in Respondent’s files related to the PGR investigation (Case No. FED/SEIDF/UEIDFF-CDMX/0000864/2018). Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. <i>See</i> IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent’s statement that Claimants apparently have access to the requested information because of Claimants’ assertion in the Application for Interim Measures that “[f]inally, in March 2019, the PGR allowed Perforadora to access the PGR’s case file”¹⁶ is ludicrous. Claimants having been able to obtain access to some documents from PGR’s case file does not mean that Claimants have in their possession the entire investigation file, or any of the other documents requested related to the PGR investigation.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the entire investigation file and internal or external government correspondence, memoranda, reports, or analyses regarding this investigation from May 1, 2018 to the present.

¹⁵ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

¹⁶ Application for Interim Measures, footnote 60.

Request No.	26.
Document / Category of Documents:	The documents or communications related to or prepared in connection to the PGR’s June 2018 request to SAT seeking all available tax information regarding Integradora Oro Negro and Perforadora Oro Negro including any internal or external government correspondence, memoranda, reports, or analyses regarding this investigation, as well as all documents sent to the PGR by the SAT in response to this request between June 1, 2018 and December 31, 2018. <i>See SOC ¶¶ 226, 228, 261–262; RFIM ¶¶ 49-55; SOD ¶¶ 313-323.</i>
Justification:	<p>The requested documents are relevant and material to Claimants’ claims that México, in collusion with the Bondholders, unlawfully used the PGR investigation to collect broad ranging tax information regarding Integradora and Perforadora from the SAT, and, based on the fabricated Excel spreadsheet provided by the SAT, initiated another meritless criminal investigation that resulted in the seizure of Oro Negro’s cash and in a court order authorizing the Bondholders to take over the Rigs. The requested documents are also relevant to assessing Respondent’s claims that the SAT’s provision of the requested tax information “only obeys the SAT’s legal mandate . . .” (SOD ¶ 318).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 26 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones penales aún en curso (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes, testigos y expertos. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México y el inicio de investigaciones</p>

	<p>penales sin ningún mérito. La Demandada considera que no existe nexo entre las reclamaciones y la relevancia de los documentos solicitados.</p> <p>Además, la Solicitud está relacionada con documentos que constan en las carpetas de investigación 864/2018 ante la FGR y en la carpeta de investigación 787/2018 ante la FGJCDMX, a las cuales las Demandantes y/o sus representantes tienen acceso.¹⁷</p> <p>Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Conseguir documentación de investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to Claimants’ claim of retaliation and specifically that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments and ensure the complete destruction of their assets and investments in México. As explained in the Request, the requested documents are relevant to Claimants’ claims that Respondent, in collusion with the Bondholders, unlawfully used the PGR investigation to collect broad ranging tax information regarding Integradora and Perforadora from the SAT, ad, in turn, based on the fabricated Excel spreadsheet provided by the SAT, initiated another meritless criminal investigation that resulted in the seizure of Oro Negro’s cash and in a court order authorizing the Bondholders to take over the Rigs. <i>See</i> SOC ¶¶ 226, 228, 261–262; RFIM ¶¶ 49-55; SOD ¶¶ 313-323. Additionally, the requested documents are also relevant to assessing Respondent’s claims that the SAT’s provision of the requested tax information “only obeys the SAT’s legal mandate . . .” <i>See</i> SOD</p>

¹⁷ Solicitud de Medidas Provisionales, pie de página 60. Escrito de Demanda, ¶ 261.

¶ 318. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.

Second, Claimants' request is reasonable and specific. It asks for discrete information related to a specific PGR request from the SAT, which took place in a limited time frame—June 2018—as specified in the Statement of Claim. *See SOC ¶¶ 220-229*. Moreover, Claimants have provided examples of the types of documents that would be responsive to this request (internal or external government correspondence, memoranda, reports, or analyses regarding the specific investigation, as well documents sent to the PGR by the SAT in response to this request between June 1, 2018 and December 31, 2018). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes the date on which the PGR sent SAT the request, the date of the SAT's response, and the types of documents provided by the SAT. *See SOC ¶¶ 226, 227, 228, 261–262; RFIM ¶¶ 49-55*. Such information sufficiently identifies the requested documents.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”¹⁸

Fourth, Claimants are not requesting any information that they already have, as they are asking for information from Respondent's files relating to the PGR's June 2018 request to the SAT and documents sent to the PGR by the SAT in response to the PGR's request. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case. *See IBA Rules, Art. 3(3)(c)(i)*. Additionally, Respondent's statement that Claimants have access to the requested documents because

¹⁸ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>the information is related to other case files to which apparently Claimants have access is ludicrous. Respondent does not even explain how Claimants having had access to the PGR case file (which, as explained above, does not mean that Claimants have in their possession the entire investigation file) or Claimants having supposedly had access to the CI-FDF/T/UI-1 S/D/00787/09-2018 case file (although Claimants have never stated they have access to that case file, but only that they were able to review the file),¹⁹ means that Claimants have in their possession the requested documents.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, reports, or analyses regarding this investigation, as well as all documents sent to the PGR by the SAT in response to this request between June 1, 2018 and December 31, 2018.

Request No.	27.
Document / Category of Documents:	The documents or communications related to the Improper Representation Complaint (Case No. CI-FPC/74/UI-5 S/D/00187/06-2018), including any internal or external government correspondence, memoranda, reports, or analyses regarding this complaint prepared between June 1, 2018 and the present. <i>See SOC ¶¶ 233–238, Gil Decl. ¶ 123, 127.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate meritless Mexican criminal proceedings, based on the Bondholders' agents' baseless criminal complaints, and requested seizure orders that ultimately enabled the Bondholders to take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary</p>

¹⁹ Application for Interim Measures, footnote 60.

	operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	<p>La Demandada objeta la Solicitud No. 27 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones penales aún en curso (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes, testigos y expertos. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México, y el inicio de investigaciones penales sin mérito alguno.</p> <p>Además, la Solicitud está relacionada con documentos que constan en los expedientes de la investigación 187/2018 a cargo de la FGJCDMX, a la cual las Demandantes y/o sus representantes tienen acceso.²⁰ Las Demandantes ya han aportado en este arbitraje documentos relacionados con esta investigación, lo que significa que las Demandantes tienen acceso a los documentos solicitados o conocen el procedimiento legal para obtenerlos.</p> <p>Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Tratar de conseguir documentación de investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>

²⁰ Solicitud de Medidas Provisionales, pie de página 60. Escrito de Demanda, ¶ 261.

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-5. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants' investments, and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants' claims that Respondent colluded with the Bondholders to initiate meritless Mexican criminal proceedings, based on the Bondholders' agents' baseless criminal complaints, and requested seizure orders that ultimately enabled the Bondholders to take over the Rigs. <i>See SOC ¶¶ 233–238, Gil Decl. ¶¶ 123, 127.</i> Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a specific complaint, the Improper Representation Complaint (Case No. CI-FPC/74/UI-5 S/D/00187/06-2018), which took place in a limited time frame—June 2018—as specified in the Statement of Claim. <i>See SOC ¶¶ 233–238.</i> Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (internal or external government correspondence, memoranda, reports, or analyses regarding the specific complaint). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes the date on which the complaint was filed, the forum where the criminal complaint was filed, the parties who filed the criminal complaint, and the parties against whom the complaint was filed. <i>See SOC ¶¶ 233–238.</i> Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their own witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd.</i></p>
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	<p><i>v. Romania</i>, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”²¹</p> <p><i>Fourth</i>, Claimants are not requesting any information that they already have, as they are asking for documents from Respondent’s files relating to the Improper Representation Complaint—files to which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. See IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent’s statement that Claimants have access to the requested information because the documents requested are part of the Improper Representation Complaint case file, which Respondent states Claimants have had access to, is ludicrous. The fact that Claimants were able to obtain a copy of the Improper Representation Complaint (Exhibit C-15) does not mean that Claimants have access to the entire case file or to the other documents requested in connection with the Improper Representation Complaint. Moreover, Respondent does not even explain how Claimants having been able to obtain the Improper Representation Complaint (Exhibit C-15) means that Claimants have in their possession the requested documents.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, reports, or analyses regarding this complaint, prepared between June 1, 2018 and the present.

Request No.	28.
Document / Category of Documents:	The documents or communications related to or prepared in connection with the Sham Companies Investigation (Case No. CI-FDF/T/UI-1 S/D/00787/09-2018), including the entire investigation file, any internal or external

²¹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	government correspondence, memoranda, reports, or analyses regarding this investigation between September 1, 2018 and the present. See SOC ¶¶ 239–241, 244, 264; RFIM ¶¶ 65-66; SOD ¶ 352.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate meritless Mexican criminal proceedings, based on false and fabricated evidence, and requested seizure orders that ultimately enabled the Bondholders to take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 28 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones penales en aúnen curso (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes, testigos y expertos. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México, y el inicio de investigaciones penales sin mérito alguno.</p> <p>La Solicitud está relacionada con documentos que constan en los expedientes de la investigación 787/2018 a cargo de la FGJCDMX, a la cual las Demandantes y/o sus representantes tienen acceso.²² Las Demandantes ya han aportado en este arbitraje documentos relacionados con esta investigación penal, lo que significa que las</p>

²² Escrito de Demanda, ¶ 261 (“the PGJCDMX allowed the defendants to make copies of the file”). Solicitud de Medidas Provisionales, pie de página 60. Primera Declaración del Sr. Gil White, pie de página 12. Segunda Declaración del Sr. Gil White, ¶ 127.

	<p>Demandantes tienen acceso a los documentos solicitados o conocen el procedimiento legal para obtener acceso a la información requerida. Conseguir copia de todos los expedientes de la carpeta de investigación es excesivamente oneroso y una carga irrazonable para la Demandada, principalmente si se considera que el equipo legal de la Demandada no tiene acceso a tales documentos.</p> <p>Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Tratar de conseguir documentación de investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants’ claims that Respondent colluded with the Bondholders to initiate meritless Mexican criminal proceedings, based on the Bondholders’ agents’ baseless criminal complaints, and requested seizure orders that ultimately enabled the Bondholders to take over the Rigs. <i>See</i> SOC ¶¶ 239–241, 244, 264; RFIM ¶¶ 65-66; SOD ¶ 352. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information related to a specific investigation, the Sham Companies Investigation (Case No. CI-FDF/T/UI-1 S/D/00787/09-2018), which took place in a limited time frame—September 2018—as specified in the Statement of Claim. <i>See</i> SOC ¶¶ 239–241, 244, 264. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (internal or external government correspondence, memoranda, reports, or analyses regarding the specific investigation). In addition, Claimants have provided concrete information regarding the facts and time</p>

period surrounding this request in their Statement of Claim, and referenced the relevant paragraphs in the request. Such information includes the date on which the complaint was filed, the forum before whom the criminal complaint was filed, the parties who filed the criminal complaint, and the parties against whom the complaint was filed. *See* SOC ¶¶ 239–241, 244, 264. Such information sufficiently identifies the requested documents.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."²³

Fourth, Claimants are not requesting any information that they already have, as they are asking for information from Respondent's files relating to the Sham Companies Investigation—files to which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are "in the possession, custody or control of the requesting Party," which is not the case here. *See* IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants have access to the requested information because the documents are part of the Sham Companies Complaint case file, which Respondent states Claimants have had access to, is ludicrous. The fact that Claimants were able to provide copies of the Sham Companies Complaints (Exhibits C-16 - C-18) does not mean that Claimants have access to the entire case file or to the documents requested relating to the Sham Companies Investigation. Moreover, Respondent does not even explain how Claimants having been able to obtain copies of the Sham Companies Complaints (Exhibits C-16 - C-18) means that Claimants have in their possession the requested documents.

²³ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the entire investigation file, any internal or external government correspondence, memoranda, reports, or analyses regarding this investigation between September 1, 2018 and the present.

Request No.	29.
Document / Category of Documents:	The documents or communications related to the September 25, 2018 Seizure Order, including any internal or external government correspondence, memoranda, reports, or analyses regarding the procurement of this Order between August 1, 2018 and October 1, 2018. <i>See SOC ¶¶ 251–252; RFIM ¶ 76; SOD ¶¶ 343–349.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to allow them to seek and obtain the illegal Seizure Order based on the fabricated evidence so that they could deprive Oro Negro of the fund necessary to operate and maintain the Rigs and ultimately take over the Rigs. The requested documents are also relevant to assessing Respondent's claims that "any accusation by Claimants against the alleged illegality of securing the bank accounts of Perforadora Oro Negro and Deutsche Bank, or any accusation against the control judge that issued it, is unfounded" (SOD ¶ 347).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 29 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones penales aún en curso (Objeción General No. 5).

	<p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y sus testigos. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México, y las alegaciones relacionadas con el aseguramiento temporal ordenado por un juez penal.</p> <p>La Solicitud no es concreta ni específica ya que no menciona quiénes intercambiaron los documentos y comunicaciones solicitadas. Independientemente de esto, la Solicitud está relacionada con documentos que constan en los expedientes de la investigación 787/2018 a cargo de la FGJCDMX, y con procesos judiciales penales relacionados a esta investigación. Las Demandantes y/o sus representantes tienen acceso a los expedientes de ambos procesos y han presentado en este arbitraje documentos relacionados con tales procesos.²⁴</p> <p>Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Tratar de conseguir documentación de investigaciones penales pendientes de resolución a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants’ claims that Respondent colluded with the Bondholders to allow them to seek and obtain the illegal Seizure Order based on the fabricated evidence so that they could deprive Oro Negro of the funds necessary to operate and maintain the Rigs, thereby allowing the Bondholders to ultimately take over the Rigs. See SOC ¶¶ 251–252; RFIM ¶ 76; SOD ¶¶ 343-349. The requested documents, as explained in the request, are</p>

²⁴ Escrito de Demanda, ¶ 247. C-0023 y C-0024.

also relevant to assessing Respondent's claims that "any accusation by Claimants against the alleged illegality of securing the bank accounts of Perforadora Oro Negro and Deutsche Bank, or any accusation against the control judge that issued it, is unfounded." *See* SOD ¶ 347. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.

Second, Claimants' request is reasonable and specific. It asks for discrete information related to a specific order issued by Judge Cedillo, the Seizure Order, which was issued in September 2018, as specified in the Statement of Claim. *See* SOC ¶¶ 247–252. Moreover, Claimants have provided examples of the types of documents that would be responsive to this request (internal or external government correspondence, memoranda, reports, or analyses regarding the procurement of this specific order). Additionally, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, and referenced the relevant paragraphs in the request. Such information includes who sought the order, before what forum the order was sought, who issued the order, and the date when such order was issued. *See* SOC ¶¶ 247–252. Such information sufficiently identifies the requested documents.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their own witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."²⁵

Fourth, Claimants are not requesting any information that they already have, as they are asking for information from Respondent's files relating to the Seizure Order—files to which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are "in the possession, custody or control of the

²⁵ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>requesting Party,” which is not the case here. <i>See</i> IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent’s statement that Claimants apparently have access to the requested information because Claimants filed as exhibits the Seizure Order (C-23) and the Perforadora’s <i>amparo</i> against the Seizure Order (C-24) is ludicrous. Claimants having been able to obtain copies of C-23 and C-24 does not mean that Claimants have in their possession the requested documents relating to the Seizure Order, including any internal or external government correspondence, memoranda, reports, or analyses related to such order.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, reports, or analyses regarding the procurement of this Order between August 1, 2018 and October 1, 2018.

Request No.	30.
Document / Category of Documents:	The documents or communications related to or prepared in connection to the October 19, 2018 Rigs Take-Over Order, including any internal or external government correspondence, memoranda, reports, or analyses regarding the procurement of this Order between September 1, 2018 and November 1, 2018. <i>See</i> SOC ¶¶ 255, 257.
Justification:	<p>The requested documents are relevant and material to Claimants’ claims that México colluded with the Bondholders to allow them to obtain the illegal Rigs Take-Over Order, and actively assisted the Bondholder’s illegal physical intrusion onto the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 30. Para evitar repeticiones innecesarias, la Demandada replica en esta Solicitud las mismas objeciones señaladas en la Solicitud No. 29 haciendo hincapié en que los procesos

	<p>judiciales relacionados con la restitución de las Plataformas del 19 de octubre de 2018 están relacionados a su vez con la investigación 787/2018 a cargo de la FGJCDMX. Las Demandantes y/o sus representantes tienen acceso a los expedientes de ambos procesos e inclusive han presentado como prueba grabaciones de audiencias judiciales.²⁶</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-5. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants' investments and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants' claims that Respondent colluded with the Bondholders to allow them to obtain the illegal Rigs Take-Over Order, and actively assisted the Bondholders' illegal physical intrusion onto the Rigs. <i>See</i> SOC ¶¶ 253-260. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a specific order issued by Judge Cedillo, the Rigs Take-Over Order, was issued in October 2018, as specified in the Statement of Claim. <i>See</i> SOC ¶¶ 253-260. Moreover, Claimants have provided examples of the types of documents that would be responsive to this request (internal or external government correspondence, memoranda, reports, or analyses regarding the procurement of this specific order). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, and referenced the relevant paragraphs in the request. Such information includes who sought the order, the forum where the order was sought, who issued the order, and the date when such order was issued. <i>See</i> SOC ¶¶ 253-260. Such information sufficiently identifies the requested documents.</p>

²⁶ Escrito de Demanda, ¶ 261. Solicitud de Medidas Provisionales, pie de página 60. Primera Declaración del Sr. Gil White, pie de página 12. Segunda Declaración del Sr. Gil White, ¶ 127. C-0026 y C-0027.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."²⁷

Fourth, Claimants are not requesting any information that they already have, as they are asking for information from Respondent's files relating to the Rigs Take-Over Order—files to which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are "in the possession, custody or control of the requesting Party," which is not the case here. See IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants have access to the requested information because the information is related to another case file to which apparently Claimants have access is ludicrous. Respondent does not even explain how Claimants allegedly having had access to the Sham Companies Investigation case file (which Claimants have never stated, but only stated that they have been able to review the file),²⁸ means that Claimants have in their possession the requested documents. Moreover, even if the fact that such proceedings were related was relevant, and the Sham Companies Investigation case file contained the requested information, Claimants having been able to obtain copies of the Sham Companies Complaints (Exhibits C-16 - C-18) does not mean that Claimants have access to the entire Sham Companies Investigation case file or to the requested documents.

On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.

²⁷ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

²⁸ Application for Interim Measures, footnote 60.

Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of any internal or external government correspondence, memoranda, reports, or analyses regarding the procurement of this Order between September 1, 2018 and November 1, 2018.
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Request No.	31.
Document / Category of Documents:	The documents or communications related to or prepared in connection to Tax Evasion Investigation (Case No. FED/SEIDF/UEIFF-CDMX/0000997/2019 (CI 997/2019)), including the entire investigation file, any internal or external government correspondence, memoranda, reports, or analyses regarding this investigation prepared between June 1, 2018 and the present. <i>See SOC ¶ 273; Gil Decl. ¶ 131; RFIM ¶ 118.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) initiate and pursue meritless Mexican criminal proceedings, based on the Bondholders' agents' unfounded criminal complaints and (2) intimidate and harass Claimants and their witnesses.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 31 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones penales en aún en curso (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y testigos. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México, y el inicio de investigaciones penales sin mérito alguno.</p>

	<p>Conseguir copia de todos los expedientes de la carpeta de investigación es excesivamente oneroso y una carga irrazonable para la Demandada, principalmente si se considera que la Demandada no tiene acceso a tales documentos. Además, la Solicitud está relacionada con documentos que constan en las carpetas de investigación 997/2019 a cargo de la FGR, a la cual las Demandantes y/o sus representantes tienen acceso.</p> <p>Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Tratar de conseguir documentación de investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants’ claims that Respondent colluded with the Bondholders to (1) initiate and pursue meritless Mexican criminal proceedings, based on the Bondholders’ agents’ unfounded criminal complaints and (2) intimidate and harass Claimants and their witnesses. <i>See</i> SOC ¶ 273; Gil Decl. ¶ 131; RFIM ¶ 118. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information related to a specific tax investigation, the Tax Evasion Investigation, which took place in a limited and specific time frame—June 2019—as specified in the Statement of Claim. <i>See</i> SOC ¶¶ 271–275. Moreover, Claimants have provided examples of the types of documents that would be responsive to this request (internal or external government correspondence, memoranda, reports, or analyses regarding the procurement of this specific order). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, and referenced the relevant paragraphs in the request. Such information includes the</p>

	<p>specific tax investigation case number, who filed the complaint, and against whom the complaint was filed. See SOC ¶ 273. Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."²⁹</p> <p><i>Fourth</i>, Claimants are not requesting any information that they already have, as they are asking for information from Respondent's files relating to the Tax Evasion Investigation. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are "in the possession, custody or control of the requesting Party," which is not the case here. See IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants apparently have access to the requested information because Claimants filed an exhibit related to the Tax Evasion Investigation (Exhibit C-179) is ludicrous. Claimants having been able to obtain a copy of Exhibit C-179 does not mean that Claimants have in their possession the requested documents relating to the Tax Evasion Investigation, including internal or external government correspondence, memoranda, reports, or analyses related to such investigation.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the entire investigation file, any internal or external government correspondence, memoranda, reports, or analyses regarding this investigation prepared between June 1, 2018 and the present.

²⁹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Request No.	32.
Document / Category of Documents:	The documents or communications related to the issuance of the July Arrest Warrants (Case No. CI-FDF/T/UI-1 S/D/00787/09-2018), including internal correspondence, external correspondence with Luis E. Lambarri-Boladeras, memoranda, reports, or analyses regarding the arrest warrants prepared between May 1, 2018 and the present. <i>See SOC ¶¶ 283, 288; Gil Decl. ¶¶ 132–134; RFIM ¶¶ 55-60.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) initiate and pursue meritless Mexican criminal proceedings, based on the Bondholders' agents' unfounded criminal complaints and (2) intimidate and harass Claimants and their witnesses.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 32 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones penales en aún en curso (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y testigos. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México, y el inicio de investigaciones penales sin mérito alguno.</p> <p>La Solicitud está relacionada con documentos que constan en las carpetas de investigación 787/2018 a cargo de la FGJCDMX, a la cual las Demandantes y/o sus representantes tienen acceso. Asimismo, la Solicitud está relacionada con órdenes de aprehensión emitidas en contra de individuos relacionados con Oro Negro, personas que han promovido juicios de amparo y que aún están pendientes de resolución.</p>

	<p>Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Tratar de conseguir documentación de investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments, and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants’ claims that Respondent colluded with the Bondholders to (1) initiate and pursue meritless Mexican criminal proceedings, based on the Bondholders’ agents’ unfounded criminal complaints and (2) intimidate and harass Claimants and their witnesses. <i>See</i> SOC ¶¶ 283, 288; Gil Decl. ¶¶ 132–134; RFIM ¶¶ 55-60. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information related to a specific set of arrest warrants, which were issued in a limited time frame—July 2019—as specified in the Statement of Claim. <i>See</i> SOC ¶¶ 281-288. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (internal correspondence, external correspondence with Luis E. Lambarri-Boladeras, memoranda, reports, or analyses regarding the issuance of these specific arrest warrants). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, and referenced the relevant paragraphs in the request. Such information includes who issued the arrest warrants, and against whom such arrest warrants were issued. <i>See</i> SOC ¶ 281. Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants’ request should not be denied, as Respondent asserts, because is based on Claimants’ allegations and the statements of their witnesses. Claimants make their document requests for the very reason of</p>

	<p>preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."³⁰</p> <p><i>Fourth</i>, Claimants are not requesting any information that they already have, as they are asking for documents from Respondent's files relating to specific arrest warrants—files to which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are "in the possession, custody or control of the requesting Party," which is not the case here. See IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants have access to the requested information because the information is related to another case file to which allegedly Claimants have access is ludicrous. Respondent does not even explain how Claimants allegedly having had access to the Sham Companies Investigation case file (Claimants have never stated that; but only stated they were able to review the file),³¹ means that Claimants have in their possession the requested documents. Moreover, even if the fact that such proceedings were related were relevant, and the Sham Companies Investigation case file contained the requested information, Claimants having been able to provide the Sham Companies Complaints (Exhibits C-16 - C-18) does not mean that Claimants have access to the entire Sham Companies Investigation case file.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of internal correspondence, external correspondence with Luis E. Lambarri-Boladeras, memoranda, reports, or analyses regarding the arrest warrants prepared between May 1, 2018 and the present.

³⁰ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

³¹ Application for Interim Measures, footnote 60.

Request No.	33.
Document / Category of Documents:	The documents or communications related to criminal investigations against Quinn Emanuel LLP, including internal correspondence, external correspondence with the Bondholders, memoranda, reports, or analyses regarding the investigations prepared between July 1, 2018 and the present and the basis for Respondent's statement that "some actions by Quinn Emanuel regarding Oro Negro should be considered at least questionable." See SOC ¶¶ 276, 278; SOD ¶ 387.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México initiated and pursued meritless Mexican criminal proceedings against Claimants and their counsel in retaliation for Oro Negro's failure to pay bribes and attempts to exercise its rights, as part of a larger plan to enable the Bondholders to take over the Rigs and drive Oro Negro out of business.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 33 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).</p> <p>Sobre esta última objeción se debe considerar que el 25 de septiembre de 2019, las Demandantes afirmaron tener información sobre un proceso penal iniciado en contra de Quinn Emanuel, aunque nunca presentaron información al respecto.³²</p>

³² R-0208, p. 6 ("We have received additional information from Mexican counsel confirming that there is an ongoing criminal proceeding against Quinn Emanuel or its attorneys in the PGJ").

	<p>Sin perjuicio de las objeciones planteadas, como fue señalado en el Escrito de Contestación³³, en múltiples ocasiones la Demandada ha consultado a la FGR y a la FGJCDMX si existe alguna carpeta de investigación o mandamiento judicial (e.g., orden de aprehensión) en contra de Quinn Emanuel o en contra de los abogados de esta firma que participan en este arbitraje. Ambos Ministerios Públicos han confirmado que no existe carpeta de investigación o mandamiento judicial al respecto.</p> <p>En el Escrito de Contestación la Demandada ha explicado porque las acciones de Quinn Emanuel resultan cuestionables.³⁴</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-4. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent mounted a campaign to attack and retaliate against Claimants, which included launching baseless investigations against Claimants' counsel. As explained above, the requested documents are relevant to Claimants' claims that Respondent initiated and pursued meritless Mexican criminal proceedings against Claimants and their counsel in retaliation for Oro Negro's failure to pay bribes and attempts to exercise its rights, as part of a larger plan to enable the Bondholders to take over the Rigs and drive Oro Negro out of business. <i>See</i> SOC ¶¶ 276, 278; SOD ¶ 387. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a specific criminal investigation, which took place in a limited and specific time frame—July 2018 and July-August 2019—as specified in the Statement of Claim. <i>See</i> SOC ¶¶ 276-280. Moreover, Claimants have provided examples of the types of documents that would be responsive to this request (including internal correspondence, external correspondence with the Bondholders, memoranda, reports, or analyses regarding this specific</p>

³³ Escrito de Contestación, ¶¶ 386-387.

³⁴ Escrito de Contestación, ¶¶ 411-419, 436-437.

investigation). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes the basis on which (1) the Mexican government was considering launching, or had already launched, an investigation against Quinn Emanuel in July 2018, and (2) the PGJCDMX was working on obtaining charges and arrest warrants against Quinn Emanuel and its attorneys. *See* SOC ¶¶ 276-280. Such information sufficiently identifies the requested documents.

Third, Claimants are not requesting any information that they already have, as they are asking for documents from Respondent's files relating to a criminal investigation against Quinn Emanuel—files to which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. *See* IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants have access to the requested information because of Claimants' statement that they “received additional information from Mexican counsel confirming that there is an ongoing criminal proceeding against Quinn Emanuel or its attorneys in the PGJ”³⁵ is ludicrous. Claimants having received information confirming the existence of a criminal investigation against Quinn Emanuel does not mean that Claimants have access to internal government correspondence, external correspondence with the Bondholders, memoranda, reports, or analyses regarding such criminal investigation. Furthermore, Respondent's statement that Claimants have access to the requested information because the information is related to another case file to which apparently Claimants have access is equally ludicrous. Respondent does not even explain how Claimants allegedly having had access to the Duplicative *Amparos* Investigation case file (Claimants have never stated they have access to such file, but only filed the complaint in such investigation as Exhibit C-41, which does not mean that Claimants have access to the Duplicative *Amparos* Investigation case file) means that Claimants have in their possession the requested documents.

³⁵ R-0208, p. 6.

	<p><i>Fourth</i>, Respondent's statement as to it having already consulted with the FGR and the PGJCDMX about the existence of an investigation against Quinn Emanuel, and the FGR and PGJCDMX having responded in the negative, is irrelevant to Claimants' request. As Claimants communicated to Respondent in a letter dated January 29, 2020, Claimants believe that the FGR and PGJCDMX's answers may be incomplete as to the existence of any investigation against Quinn Emanuel and/or Claimants' counsel.³⁶ Moreover, the FGR and PGJCDMX's response to Respondent cannot be considered responsive to Claimants' request, as Claimants are requesting documents or communications related to the criminal investigation against Quinn Emanuel, including internal correspondence, external correspondence with the Bondholders, memoranda, reports, or analyses regarding these investigations. Respondent's response to Claimants relaying its efforts to ask the FGR and the PGJCDMX if there were any investigation files or warrants against Quinn Emanuel is not responsive to this request.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Tribunal finds that the Claimants' request does not relate to a relevant issue for the claims it has put forward in the present dispute. The request relates to a possible interference by the Respondent with the present proceedings and cannot be dealt with through the present phase of Document Production.

Request No.	34.
Document / Category of Documents:	The documents or communications related to the Duplicative <i>Amparos</i> investigation (FED/JAL/GDL/0005523/2018), including the entire case file, internal correspondence, external correspondence, memoranda, reports, or analyses regarding the investigation prepared between September 1, 2018 and the present. See SOC ¶¶ 269–270.
Justification:	The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) initiate and pursue meritless Mexican criminal proceedings, based on the Bondholders' agents' unfounded criminal complaints and (2) intimidate and harass Claimants and their witnesses.

³⁶ Claimants' Letter to Mexico Regarding Interim Measures Order (Jan. 29, 2020), p. 2.

	<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 34 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con investigaciones penales en aún en curso (Objeción General No. 5).</p> <p>La descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes y testigos. Sin embargo, las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México, y el inicio de investigaciones penales sin mérito alguno.</p> <p>Conseguir copia de todos los expedientes de la carpeta de investigación es excesivamente oneroso y una carga irrazonable para la Demandada, principalmente si se considera que el equipo legal de la Demandada no tiene acceso a tales documentos. Además, la Solicitud está relacionada con documentos que constan en los expedientes de la investigación 5523/2018 a cargo de la FGR, a la cual las Demandantes y/o sus representantes tienen acceso.</p> <p>Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Tratar de conseguir documentación de investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-5. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants' investments, and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants' claims that Respondent colluded with the Bondholders to (1) initiate and pursue meritless Mexican criminal proceedings, based on the Bondholders' agents' unfounded criminal complaints and (2) intimidate and harass Claimants and their witnesses. <i>See SOC ¶¶ 269–270.</i> Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a specific investigation, the Duplicative <i>Amparos</i> Investigation (Case No. FED/JAL/GDL/0005523/2018), which took place in a limited and specific time frame—October 2018—as specified in the Statement of Claim. <i>See SOC ¶¶ 269–270.</i> Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (the entire case file, internal correspondence, external correspondence, memoranda, reports, or analyses regarding this specific investigation). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, and referenced the relevant paragraphs in the request. Such information includes who filed the complaint, the parties against whom the complaint was filed, and the basis on which the complaint was filed. <i>See SOC ¶¶ 269–270.</i> Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v.</i></p>
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	<p><i>Romania</i>, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”³⁷</p> <p><i>Fourth</i>, Claimants are not requesting any information that they already have, as they are asking for information from Respondent’s files relating to the Duplicative <i>Amparos</i> Investigation. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. See IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent’s statement that Claimants have access to the requested information because Claimants were able to obtain a copy of the complaint in the Duplicative <i>Amparos</i> Investigation (Exhibit C-41) is ludicrous. Claimants having been able to obtain a copy of Exhibit C-41 does not mean that Claimants are in their possession of the requested documents relating to the Duplicative <i>Amparos</i> Investigation, including the entire case file, internal correspondence, external correspondence, memoranda, reports, or analyses regarding this specific investigation.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the entire case file, internal correspondence, external correspondence, memoranda, reports, or analyses regarding the investigation prepared between September 1, 2018 and the present.

Request No.	35.
Document / Category of Documents:	The documents related to the April 6, 2017 meeting between Pemex and Oro Negro, including any notes, minutes, reports, memorandum or internal correspondence related to the meeting prepared between March 1, 2017 and May 1, 2017. See SOD ¶¶ 165–166.

³⁷ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Justification:	<p>The requested documents are relevant and material to Claimants' claims that México enabled the Bondholders to take over the Rigs by(1) imposing discriminatory amendments on the Oro Negro Contracts; (2) declining to contract the New Rigs without justification; (3) refusing to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully attempting to terminate the Oro Negro Contracts.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 35 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3). Sobre esta última objeción, las Demandantes ni siquiera identifican qué funcionarios de Pemex, qué personas o qué áreas administrativas de Pemex cuentan con los documentos solicitados. Las Demandantes minimizan la compleja estructura administrativa de Pemex y de sus subsidiarias.</p> <p>Sin perjuicio de las objeciones planteadas, bajo el principio de buena fe la Demandada exhibe documentos relacionados con la Solicitud.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's general objections 1-3. In addition, Respondent's objections are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to Respondent's defense against Claimants' allegations and Claimants' claim that Respondent withheld payments from Oro Negro as a negotiating weapon. See SOC ¶ 91, SOD ¶¶ 165–166. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p>

	<p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a specific matter: an April 6, 2017 meeting and request documents within a specific and limited time frame—March 1, 2017-May 1, 2017. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (notes, minutes, reports, memorandum or internal correspondence). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Defense, the exact paragraphs of which they reference. Such information sufficiently points to which documents the Claimants are requesting. There are a limited subset of very specific documents that Mexico has relating to this meeting.</p> <p><i>Third</i>, Respondent's argument that Claimants do not identify the officials or administrative areas that may have the requested information is unavailing, as Claimants are obviously unable to provide Respondent with information regarding where within the Mexican government's structure such documents might reside. Respondent cannot hide behind its bureaucracy to shield itself from document production.</p> <p>Given Respondent's objections and the documents produced, Respondent's partial production was insufficient. For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.</p>
Tribunal's decision:	The Tribunal acknowledges the Respondent's produced evidence. The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence, to the extent it has not already been produced and is in the possession of the Respondent.

Request No.	36.
Document / Category of Documents:	The documents related to or prepared in connection to Pemex's understanding of Oro Negro's filing for <i>Concurso</i> Proceeding between September 1, 2017 and November 1, 2017. See SOD ¶¶ 176, 183-185.
Justification:	The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to subvert the <i>Concurso</i> Proceeding and cause the illegal termination of the Oro Negro Contracts in order to deny Oro Negro the funds necessary to operate and maintain the Jack-Up Rigs and force them to turn the Rigs over to the Bondholders. The requested documents are also relevant to assessing Respondent's claims

	<p>that “Oro Negro . . . through evasions refused to enter into the 2017 Modification Agreements and never informed Pemex and the Bondholders that it would request to be declared in bankruptcy” (SOD ¶ 183).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 36. Para evitar repeticiones innecesarias, la Demandada replica en esta Solicitud las mismas objeciones señaladas en la Solicitud No. 35.</p> <p>Sin perjuicio de las objeciones planteadas, la Demandada ha realizada una búsqueda exhaustiva, pero a la fecha no ha podido localizar documentación relacionada con la Solicitud No. 36. Bajo el principio de buena fe, la Demandada informa a las Demandantes que seguirá realizando una búsqueda exhaustiva y a más tardar el 4 de septiembre de 2020 exhibirá los documentos que haya podido localizar.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and its response to Respondent’s Objection to Request No. 35. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments, and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants’ claims that Respondent colluded with the Bondholders to subvert the <i>Concurso</i> Proceeding and cause the illegal termination of the Oro Negro Contracts in order to deny Oro Negro the funds necessary to operate and maintain the Jack-Up Rigs and force them to turn the Rigs over to the Bondholders. The requested documents are also relevant to assessing Respondent’s claims that “Oro Negro . . . through evasions refused to enter into the 2017 Modification Agreements and never informed Pemex and the Bondholders that it would request to be declared in bankruptcy.” See SOD ¶ 183. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p>

	<p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to Pemex's understanding of Oro Negro's filing for <i>Concurso</i>, which took place in a limited time frame—from September 1, 2017 to November 1, 2017—as specified in the request. Moreover, Claimants have provided the exact paragraphs of Respondent's Statement of Defense relevant to Claimants' request. Such information sufficiently identifies the requested documents. Respondent's argument that Pemex has complex administrative structures, and that it is therefore an unreasonable burden to search for the documents without further specification is inapt, as Claimants are obviously unable to provide Respondent with information regarding where within Pemex such documents might reside.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested documents produced between September 1, 2017 and November 1, 2017.

Request No.	37.
Document / Category of Documents:	The documents related to Pemex's September 20, 2017 communication to Oro Negro regarding the 2017 Amendments, including internal or external correspondence exchanged between September 1, 2017 and October 1, 2017. <i>See SOD ¶¶ 176, 183-185, 639, 841-842.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to fail to timely execute the 2017 Amendments and cause the illegal termination of the Oro Negro Contracts in order to drive Oro Negro out of business and allow the Bondholders to take over the Rigs. The requested documents are also relevant to assessing Respondent's claims that "any damage caused by the termination of the Perforadora-PEP Contracts was . . . due to the delay of Oro Negro in execute the 2017 Modification Agreements, despite having previously reached an agreement with Pemex, and despite having the consent of the Bondholders to modify the Perforadora-PEP Contracts" (SOD ¶ 639).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary</p>

	operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	<p>La Demandada objeta la Solicitud No. 37. Para evitar repeticiones innecesarias, la Demandada replica en esta Solicitud las mismas objeciones señaladas en la Solicitud No. 35.</p> <p>Sin perjuicio de las objeciones planteadas, bajo el principio de buena fe la Demandada exhibe documentos relacionados con la Solicitud.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's general objections 1-3 and its response to Respondent's objection to Request No. 35. In addition, Respondent's objections are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to Claimants' claim that Respondent colluded with the Bondholders to fail to timely execute the 2017 Amendments and cause the illegal termination of the Oro Negro Contracts to drive Oro Negro out of business and allow the Bondholders to take over the Rigs. <i>See</i> SOC ¶ 89-112, SOD ¶¶ 176, 183-185, 639, 841-842. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a specific matter: Pemex's September 20, 2017 communication to Oro Negro regarding the 2017 Amendments, within a specific and limited time frame—September 20, 2017-October 1, 2017. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (documents, including internal or external correspondence).</p> <p>Given Respondent's objections and the documents produced, Respondent's partial production was insufficient. For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.</p>

Tribunal's decision:	The Tribunal acknowledges the Respondent's produced evidence. The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence, to the extent it has not already been produced and is in the possession of the Respondent.
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Request No.	38.
Document / Category of Documents:	The documents related to the August 9, 2017 meeting between Oro Negro and Pemex regarding the 2017 Amendments, including correspondence, notes, reports, or analyses related to or prepared in connection with this meeting prepared between August 1, 2017 and September 1, 2017. <i>See SOD ¶ 180.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to fail to timely execute the 2017 Amendments and cause the illegal termination of the Oro Negro Contracts in order to drive Oro Negro out of business and allow the Bondholders to take over the Rigs. The requested documents are also relevant to assessing Respondent's claims that “[e]vidence shows that the Oro Negro Group never intended to enter into the 2017 Amendment Agreements” (SOD ¶ 180).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 38. Para evitar repeticiones innecesarias, la Demandada replica en esta Solicitud las mismas objeciones señaladas en la Solicitud No. 35.</p> <p>Sin perjuicio de las objeciones planteadas, bajo el principio de buena fe la Demandada exhibe documentos relacionados con la Solicitud.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's general objections 1-3 and its response to Respondent's objection to Request No. 35. In addition, Respondent's objections are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to Claimants' claim that Respondent colluded with the Bondholders to fail to timely execute the 2017 Amendments and cause the illegal termination</p>

	<p>of the Oro Negro Contracts to drive Oro Negro out of business and allow the Bondholders to take over the Rigs. <i>See SOC ¶ 89-112, SOD ¶¶ 176, 183-185, 639, 841-842.</i> Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second,</i> Claimants' request is reasonable and specific. It asks for discrete information related to a specific matter: the August 9, 2017 meeting between Oro Negro and Pemex referenced by Respondent in the Statement of Defense. <i>See SOD ¶ 180.</i> The time frame is also specific and limited—August 1, 2017-September 1, 2017. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (documents, including internal or external correspondence).</p> <p>Given Respondent's objections and the documents produced, Respondent's partial production was insufficient. For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.</p>
Tribunal's decision:	The Tribunal acknowledges the Respondent's produced evidence. The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence, to the extent it has not already been produced and is in the possession of the Respondent.

Request No.	39.
Document / Category of Documents:	The documents related to Pemex's meetings with Alp Ercil, or any other representative of Asia Research & Capital Management (ARCM) in 2016 and 2017 regarding the Oro Negro Contracts, including any internal correspondence, external correspondence with the Bondholders, notes, reports, analyses, or memoranda regarding the Oro Negro Contracts, prepared between January 1, 2016 and December 31, 2017. <i>See SOC ¶ 103; SOD ¶¶ 228-230; Treviño Decl. ¶¶ 39-42; Servín Decl. ¶¶ 55-59.</i>
Justification:	The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs.

	<p>The requested documents are also relevant to assessing Respondent's claims that in the meetings in 2016 and 2017 "ARCM, through Mr. Ercil, sought to persuade Pemex not to lower the rates of the Perforadora-PEP Contracts, as well as the rates of the Perforadora Latina contracts" (SOD ¶ 229).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 39 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).</p> <p>Particularmente, la Solicitud no es concreta y específica conforme a las Reglas IBA. Las Demandantes ni siquiera identifican qué personas o qué funcionario de Pemex cuentan con los documentos solicitados o supuestamente intercambiaron las correspondencias requeridas.</p> <p>Además, las Demandantes han señalado que cuentan con la documentación solicitada.³⁸ Lo anterior, sin omitir la relación comercial y financiera que existió entre ARCM y Oro Negro siendo razonable suponer que durante esa relación ARCM proporcionó la información a Oro Negro y/o a las Demandantes relacionada con esta Solicitud.</p> <p>Sin perjuicio de lo anterior, la Demandada realizó una búsqueda exhaustiva y localizó los documentos que ya constan en el expediente de este arbitraje (R-0166, R-0167 y R-0229).</p>

³⁸ Ver Escrito de Demanda, ¶ 108.

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-4. Additionally, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it asks for information relating to specific meetings held between Pemex and Alp Ercil or another member of ARCM, which are directly related to Claimants' claim that Respondent colluded with the Bondholders to drive Oro Negro out of business, including through discussions they had at such meetings. <i>See, e.g.</i>, SOC ¶ 103. Moreover, Respondent's relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for documents and communications relating to specific meetings that took place during the 2016-2017 time period between ARCM employees and Pemex officials regarding the Oro Negro Contracts. Respondent's argument that the request should be denied because Claimants have not specified the names of the individuals who may have such documents is inapposite, as Claimants have sufficiently identified the subject matter and there is no requirement in the IBA Rules that they must specify names of the particular individuals who may possess the documents, nor has Respondent pointed to any such authority. Moreover, Claimants cannot be expected to be privy to the names of individuals at meetings to which they were not invited but know took place.</p> <p><i>Third</i>, contrary to Respondent's assertion, Claimants do not have custody or control of the required documents, and Respondent's "assumption" that ARCM would have provided information to Oro Negro.</p> <p><i>Fourth</i>, Claimants request that Respondent please confirm that it has produced all documents responsive to this Request.</p>
Tribunal's decision:	The Tribunal acknowledges the Respondent's produced evidence and seeks confirmation from the Respondent that it has produced all documents responsive to this Request.

Request No.	40.
Document / Category of Documents:	The documents related to the <i>Concurso</i> Proceeding court orders on June 18, July 24, August 22, and September 4, 2018 requiring Pemex to make payments to the Mexican Trust, including correspondence, notes, reports, or analyses prepared between June 18, 2018 and December 31, 2018. See SOC ¶ 137; SOD ¶ 280.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to subvert the <i>Concurso</i> Proceeding in order to deny Oro Negro the funds necessary to operate and maintain the Jack-Up Rigs and force them to turn the Jack-Up Rigs over to the Bondholders to lease back to Pemex under new contracts. The requested documents are also relevant to assessing Respondent's claims that "Pemex has never neglected the requirements of the Bankruptcy Judge" (SOD ¶ 280).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 40 por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).</p> <p>Contrario a lo que las Demandantes argumentan, la descripción y justificación de esta Solicitud están basadas en las afirmaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la presunta colusión entre los Tenedores de Bonos y México.</p> <p>Las Demandantes tienen acceso a los expedientes de los Concursos Mercantiles de Oro Negro. Eso significa que cuentan con la documentación solicitada o conocen el procedimiento para obtenerla.</p> <p>Por otro lado, la Solicitud no es específica y concreta conforme a las Reglas IBA. Las Demandantes ni siquiera identifican qué personas, qué funcionarios públicos o qué autoridades podrían tener los documentos solicitados. Si la intención de las Demandantes era requerir documentos que se encuentran al interior de Pemex, resulta</p>

	sumamente onerosa la búsqueda de documentación en la forma en la que fue planteada la Solicitud, si se toma en consideración la compleja estructura administrativa de Pemex y de sus empresas subsidiarias.
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 2-4. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants' investments, and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants' claims that Respondent colluded with the Bondholders to subvert the <i>Concurso</i> Proceeding in order to deny Oro Negro the funds necessary to operate and maintain the Jack-Up Rigs and force them to turn the Jack-Up Rigs over to the Bondholders to lease back to Pemex under new contracts. The requested documents are also relevant to assessing Respondent's claims that "Pemex has never neglected the requirements of the Bankruptcy Judge." <i>See</i> SOD ¶ 280.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a number of specific court orders issued by the <i>Concurso Court</i>, the June 18, July 24, August 22, and September 4, 2018 orders, as specified in the Statement of Claim. <i>See</i> SOC ¶ 137. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (correspondence, notes, reports, or analyses regarding these specific <i>Concurso</i> Court orders). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes who requested the court orders, who granted the orders, and the basis on which the orders were granted. <i>See id.</i> Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v.</i></p>

	<p><i>Romania</i>, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”³⁹</p> <p><i>Fourth</i>, Claimants are not requesting any information that they already have, as they are asking for documents from Respondent’s files, including Pemex’s files, relating to the June 18, July 24, August 22, and September 4, 2018 <i>Concurso</i> Court orders. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. <i>See</i> IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent’s statement that Claimants apparently have access to the requested information because Claimants have access to the <i>Concurso</i> files is ludicrous. Respondent’s, including Pemex’s, files related to the June 18, July 24, August 22, and September 4, 2018 <i>Concurso</i> Court orders are not a part of the <i>Concurso</i> files. Moreover, Respondent’s argument that Pemex has complex administrative structures, and that it is therefore an unreasonable burden to search for the documents without further specification is inapt, as Claimants are obviously unable to provide Respondent with information regarding where within Pemex such documents might reside. Respondent’s argument that Claimants have not specified which persons, public officials, or authorities would have responsive documents is equally inapt. Claimants are obviously unable to provide Respondent with information regarding which persons, public officials, or authorities may have documents responsive to this request, and such information is exclusively within Respondent’s knowledge.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of relevant correspondence, notes, reports, or analyses prepared between June 18, 2018 and December 31, 2018.

³⁹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Request No.	41.
Document / Category of Documents:	The documents related to or prepared in connection to Pemex's analysis of the effect of oil prices on the Pemex's contracts and the demand for jack-up rigs with 400-foot self-rising axles, including all correspondence, notes, reports, and analyses related to the preparation of its new range of day rates for oil rigs prepared between January 1, 2014 and the present. <i>See SOD ¶¶ 158-163, 599; Treviño Decl. ¶ 20.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs. The requested documents are also relevant to assessing Respondent's claims that Pemex's decision to terminate the Oro Negro Contracts "was a result a combination of factors, including . . . Pemex's need to renegotiate contracts with its service providers in a crisis oil market . . ." (SOD ¶ 599).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 41 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición considerando el rango de tiempo de búsqueda (Objeción General No. 2) y por ser demasiado general y por falta de especificidad (Objeción General No. 3). Sobre esta última objeción, las Demandantes ni siquiera identifican qué funcionarios de Pemex, qué personas o qué áreas administrativas de Pemex cuentan con los documentos solicitados. Las Demandantes minimizan la compleja estructura administrativa de Pemex y de sus subsidiarias.</p> <p>Sin perjuicio de las objeciones planteadas, bajo el principio de buena fe la Demandada exhibe documentos relacionados con la Solicitud.</p>

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants' investments, and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants' claims that Respondent colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purported to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs. <i>See SOD ¶¶ 158-163, 599; Treviño Decl. ¶ 20.</i> Furthermore, the requested documents are also relevant to assessing Respondent's claims that Pemex's decision to terminate the Oro Negro Contracts "was a result a combination of factors, including . . . Pemex's need to renegotiate contracts with its service providers in a crisis oil market . . ." <i>See SOD ¶ 599.</i> Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for discrete information related to a specific matter: Pemex's analysis of the effect of oil prices on Pemex's contracts and the demand for jack-up rigs with 400-foot self-rising axles. Furthermore, the request is for a limited and specific time frame—between January 1, 2014 and the present. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (correspondence, notes, reports, and analyses related to the preparation of Pemex's new range of day rates for oil rigs). Such information sufficiently identifies the requested documents. However, in a spirit of good faith and cooperation, Claimants hereby further limit the time frame of this request to documents prepared between January 1, 2015 and the present.</p> <p>Respondent's argument that Pemex has complex administrative structures, and that it is therefore an unreasonable burden to search for them without further specification is inapt, as Claimants are obviously unable to provide Respondent with information regarding where within Pemex such documents might reside.</p>
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	Given Respondent's objections and the documents produced, Respondent's partial production was insufficient. For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.
Tribunal's decision:	The Tribunal acknowledges the Respondent's produced evidence. The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence, to the extent it has not already been produced and is in the possession of the Respondent.

Request No.	42.
Document / Category of Documents:	The documents related to the negotiations regarding the amendments to the Seamex Contracts between 2015 and 2017, including any internal correspondence, notes, reports, analyses, or memoranda prepared between January 1, 2015 and December 31, 2017. <i>See SOD ¶¶ 209–210; Treviño Decl. ¶¶ 33–37.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México retaliated against Oro Negro for its failure to pay bribes by declining to contract the New Rigs despite its representation to Oro Negro that it would do so. The requested documents are also relevant and material to Claimants' claims that México accorded preferential treatment to Oro Negro's primary competitor Seamex and colluded with the Bondholders to drive Oro Negro out of business.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 42 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información comercial confidencial de una empresa ajena a este arbitraje (Objeción General No. 6).

	<p>El término “<i>documents</i>” de esta Solicitud no es concreto y específico de conformidad con las Reglas IBA. Asimismo, las Demandantes han utilizado como prueba documentos relacionados con Seamex y han señalado algunas fuentes donde se encuentra disponible la información requerida de otras empresas, incluida Seamex.⁴⁰ Esto demuestra que las Demandantes conocen los procedimientos para obtener la información requerida o conocen las fuentes donde se encuentra disponible.</p> <p>De la misma forma, las Demandantes solicitan información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas ajenas a este arbitraje lo que demuestra que esta Solicitud es una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4 and 6, and their responses to Requests Nos. 1 and 2 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case and not “unnecessary harassment,” as documents relating to Pemex’s negotiations of the amendments to the contracts with Seamex are directly related to Claimants’ claim that Respondent accorded preferential treatment to Oro Negro’s competitor, Seamex. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific, and certainly not a “fishing expedition.” It asks for discrete information relating to the amendments entered into between Pemex with Seamex during the specified time period of 2015-2017.</p> <p><i>Third</i>, contrary to Respondent’s suggestion, Claimants are not required to seek documents from a third party even if they know such documents exist. They are only prohibited from requesting documents that are “in the possession, custody or control of the requesting Party,” which is not the case. See IBA Rules Art. 3(3)(c)(i).</p>

⁴⁰ Ver Resolución Procesal No. 7, Anexo A, pp. 3-5.

	<p>Claimants also do not know if they even will be able to obtain any documents from third parties, or if they will obtain them in time to incorporate them into their Reply. Moreover, this Request seeks “internal correspondence, notes, reports, analyses, or memoranda,” which are not documents that Claimants would be able to obtain from a third party, as such documents would be only in the possession, custody, or control of the Respondent. Similarly, contrary to Respondent’s assertion, Claimants are not seeking information from a company outside of this arbitration, as they are seeking México’s “internal” documents. Moreover, Respondent has not explained how such documents are confidential or commercially sensitive, especially given that Oro Negro is no longer in business.</p> <p><i>Fourth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of relevant internal correspondence, notes, reports, analyses, or memoranda prepared between January 1, 2015 and December 31, 2017. The documents may be produced where relevant for “Attorneys’ Eyes Only”. In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for “Attorneys’ Eyes Only”.

Request No.	43.
Document / Category of Documents:	The documents related to the negotiations conducted by the Pemex “Working Group” between 2015 and 2017, including internal correspondence, reports, notes, memoranda, analyses, emails or messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, prepared between January 1, 2015 and December 31, 2017. México refers to over 300 instances of contract

	amendments with other service providers but does not provide any documentary support for this statement. See SOD ¶¶ 118–123, 768; Anaya Decl. ¶ 19; Servín Decl. ¶¶ 13–14, 17; Lozano Decl. ¶ 11.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs. The requested documents are also relevant to assessing Respondent's claims that "Pemex treated all contractors the same way" (SOD ¶ 768).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 43 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser información comercial confidencial de una empresa ajena a este arbitraje (Objeción General No. 6).</p> <p>La Solicitud es sumamente amplia e involucra un considerable número de proveedores de Pemex, incluidos prestadores de embarcaciones, servicios de pozos, equipos de perforación y bienes y servicios. La mayoría de estos proveedores ni siquiera están relacionados a los servicios de Oro Negro, <i>i.e.</i>, no eran sus competidores. Por ello, los documentos no son relevantes y sustanciales y tampoco puede considerarse concreta y específica esta Solicitud conforme a las Reglas de la IBA.</p> <p>Además, las Demandantes han utilizado como prueba documentos relacionados con otras empresas. Esto demuestra que las Demandantes conocen los procedimientos para obtener la información requerida. Independientemente de ello, el alcance de "documents" de la Solicitud es ilimitado, invasivo y especulativo. Las</p>

	<p>Demandantes ni siquiera identifican las personas que intercambiaron las correspondencias y tampoco señalan rangos más específicos de búsqueda.</p> <p>Las Demandantes solicitan información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas ajena a este arbitraje lo que demuestra que esta Solicitud es una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA. Buscar y exhibir los documentos requeridos esta Solicitud constituye una labor prácticamente imposible de realizar.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and 6 and their response to request 2 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case and not “unnecessary harassment,” as the documents sought are directly relevant to Respondent’s claim that it treated Oro Negro similarly to its other contractors. <i>See</i> SOD ¶ 768. Indeed, it is the Respondent who brought up the existence of the Pemex “Working Group” in its Statement of Defense. <i>See</i> SOD ¶¶ 118-23. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific, and certainly not a “fishing expedition.” It asks for information relating to Pemex’s negotiations of contracts with other contractors, in direct response to Pemex’s claim that Pemex did not treat Oro Negro with discrimination because it treated all of the contractors the same way. <i>See</i> SOD ¶ 768. Claimants should not just be required to take such statements at face value without being able to examine the underlying evidence.</p> <p><i>Third</i>, contrary to Respondent’s suggestion, Claimants are not required to seek documents from a third party even if they know such documents exist. They are only prohibited from requesting documents that are “in the possession, custody or control of the requesting Party.” <i>See</i> IBA Rules Art. 3(3)(c)(i). These documents are not in Claimants’ possession, custody, or control, despite Respondent’s assertion, because the request specifically seeks “internal correspondence, reports, notes, memoranda, analyses, emails or messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service,” to which Claimants are obviously not privy. Moreover, Claimants are not required to identify the</p>

	<p>persons who exchanged such communications, especially given that this is a subject matter that was first mentioned by Respondent. Similarly, contrary to Respondent's assertion, Claimants are not seeking information from a company outside of this arbitration, as they are seeking Respondent's internal documents.</p> <p><i>Fourth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as "Attorneys' Eyes Only" information. Furthermore, Respondent has not explained how such documents are confidential or commercially sensitive, especially given that Oro Negro is no longer in business.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of internal correspondence, reports, notes, memoranda, analyses or emails related to the negotiations conducted by the Pemex "Working Group" between 2015 and 2017. The documents may be produced where relevant for "Attorneys' Eyes Only". In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for "Attorneys' Eyes Only".

Request No.	44.
Document / Category of Documents:	The documents related to or prepared in connection to Pemex's negotiated price reductions or contract cancellations with other jack-up rig providers with self-rising axles between January 1, 2015 and December 31, 2017. <i>See SOD ¶¶ 127, 768; Lozano Decl. ¶¶ 3839; Servín Decl. ¶ 35 .</i>
Justification:	The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the

	<p>New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs. The requested documents are also relevant to assessing Respondent's claims that "Pemex treated all contractors the same way" (SOD ¶ 768).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 44 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información comercial confidencial de empresas no relacionadas con el arbitraje (Objeción General No. 6).</p> <p>La Solicitud es sumamente amplia e involucra un considerable número de proveedores de Pemex dedicados a arrendar equipos de perforación. La mayoría de estos proveedores ni siquiera eran competidores de Oro Negro. Por ello, los documentos no son relevantes y sustanciales y tampoco puede considerarse concreta y específica conforme a las Reglas de la IBA.</p> <p>Además, el alcance de "<i>documents</i>" de esta Solicitud es ilimitado e inespecífico. Las Demandantes ni siquiera identifican los "<i>jack-up rig providers</i>" referidos en la Solicitud. Adicionalmente, las Demandantes han utilizado como prueba documentos relacionados con otras empresas y han señalado algunas fuentes donde se encuentra disponible la información requerida de empresas que contaban con plataformas auto-elevables de 400 pies.⁴¹</p>

⁴¹ Ver Resolución Procesal No. 7, Anexo A, pp. 3-5.

	<p>Las Demandantes solicitan información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas ajena a este arbitraje lo que demuestra que esta Solicitud es una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4 and 6 and their response to Request No. 2 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case and not “unnecessary harassment,” as the documents sought are directly relevant to Respondent’s claim that it treated Oro Negro similarly to its other contractors. <i>See</i> SOD ¶ 768. Indeed, it is Respondent who brought up the negotiated price reductions and cancellations of contracts with other contractors in its Statement of Defense. <i>See</i> SOD ¶ 127. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific, and certainly not a “fishing expedition.” It asks for information relating to Pemex’s negotiations of contracts with other contractors, in direct response to Pemex’s claim that Pemex did not treat Oro Negro with discrimination because it treated all of the contractors the same way, including through similar price reductions, as well as cancellation of contracts. <i>See</i> SOD ¶¶ 127, 768. Claimants should not be required to take such statements at face value without being able to examine the underlying evidence.</p> <p><i>Third</i>, Claimants are not required to identify the jack-up rig providers, especially given that it was the Respondent who first mentioned this issue, and Claimants are not privy to information related to which jack-up rig providers the Respondent is referencing in its Statement of Defense. <i>See</i> SOD ¶ 127.</p> <p><i>Fourth</i>, Respondent has not specified how such documents are confidential or commercially sensitive, especially given that Oro Negro is no longer in business. Moreover, if Respondent has made a factual assertion, Claimants should be entitled to the underlying evidence supporting such assertion. Further, confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers</p>

	<p>confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration. The Tribunal orders the production of internal correspondence, reports, notes, memoranda, analyses or emails related to or prepared in connection to Pemex’s negotiated price reductions or contract cancellations with other jack-up rig providers with self-rising axles between January 1, 2015 and December 31, 2017. The documents may be produced where relevant for “Attorneys’ Eyes Only”. In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for “Attorneys’ Eyes Only”.

Request No.	45.
Document / Category of Documents:	The documents related to the 2017 audit of Pemex’s “Working Group,” including any internal correspondence, reports, memoranda, notes, or analyses related to this audit prepared between January 1, 2017 and December 31, 2017. <i>See SOD ¶¶ 469-470; Servín Decl. ¶ 44.</i>
Justification:	The requested documents are relevant and material to Claimants’ claims that México colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs. The requested documents are also relevant to assessing Respondent’s claims that the 2017 audit of the Working Group did not “find[] any anomalies or irregularities”(SOD ¶ 469); and that “Pemex has taken a series of measures to prevent and punish any illegal conduct within the company, including acts of corruption” (SOD ¶ 470).

	This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	<p>La Demandada objeta la Solicitud No. 45 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La Solicitud es sumamente amplia y el término “<i>documents</i>” de esta Solicitud no puede considerarse concreto y específico conforme a las Reglas IBA.</p> <p>Esta Solicitud involucra una auditoría iniciada hace cuatro años en la que la ASF analizó un considerable número de información relacionada a proveedores de equipos de perforación, servicios a pozos, embarcaciones y obras, bienes y servicios de Pemex. El anexo R-0189 (pp. 29-30) establece los resultados de la auditoría y es conclusivo. La auditoría finalizó en octubre de 2017. Esta Solicitud es una expedición de pesca y un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and their response to Request No. 2 above. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case and not “unnecessary harassment,” as the documents sought are directly related to Respondent's claim that the 2017 audit of the Working Group did not “find[] any anomalies or irregularities,” and that “Pemex has taken a series of measures to prevent and punish any illegal conduct within the company, including acts of corruption.” <i>See</i> SOD ¶¶ 469-70. The request is also relevant to Claimants' claims of corruption at Pemex. <i>See</i> SOC ¶¶ 173-215. Moreover, Respondent's relevance is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific, and certainly not a “fishing expedition.” It asks for documents relating to a specific audit conducted in 2017 of Pemex that Respondent itself mentioned in its Statement of Defense and used as evidence to assert that Pemex was free of corruption. <i>See</i> SOD ¶ 469.</p>

	<p>Claimants should not be required to take such statements at face value or be limited to just the final audit, without being able to examine all of the underlying evidence. Moreover, Respondent's refusal to provide documents relating to the audit because the audit analyzed a considerable amount of information and began four years ago do not warrant a rejection of this request, as it is Respondent that is relying on the audit in its Statement of Defense.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production any internal correspondence, reports, memoranda, notes, or analyses related to this audit prepared between January 1, 2017 and December 31, 2017.

Request No.	46.
Document / Category of Documents:	The documents related to the appointment of Gerardo Badin as liquidator of the Oro Negro estate, including any internal correspondence, reports, memoranda, notes, or analyses related to his appointment prepared between October 1, 2019 and December 31, 2019. <i>See SOD ¶ 258; Asali Decl. ¶¶ 59–61.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to subvert the <i>Concurso</i> Proceeding by removing Fernando Pérez-Correa as liquidator after he filed the New York Lawsuits and replacing him with a liquidator who would support the stratagem to enable the Bondholder to take over the Rigs. The requested documents are also relevant and material to Claimants' claims that México colluded with the Bondholders to prevent Oro Negro's pursuit of claims against the Bondholders in the United States.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>

Objections:	<p>La Demandada objeta la Solicitud No. 46 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).</p> <p>La justificación de esta Solicitud versa sobre la sustitución del Sr. Pérez Correa como Síndico en los Concursos Mercantiles y la designación del Sr. Gerardo Badín como nuevo síndico concursal. Más que una justificación, las Demandantes realizan una nueva acusación en contra de la Demandada. La fase de Solicitud de Documentos no es el momento procesal para reclamar medidas en contra de un Estado demandado.</p> <p>Las Demandantes tienen acceso a los expedientes del Concurso Mercantil y por ende cuentan con los documentos solicitados o conocen los procedimientos para obtenerla. Asimismo, la Solicitud no es concreta y específica ya que las Demandantes ni siquiera identifican las autoridades que pudieran contar con la documentación solicitada.</p> <p>Sin perjuicio de las objeciones planteadas, bajo el principio de buena fe la Demandada exhibe los documentos utilizados por el Sr. Jorge Asali para la elaboración de su informe de experto en derecho.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's general objections 1-4. In addition, Respondent's objections are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to Claimants' claim that that Respondent colluded with the Bondholders to subvert the <i>Concurso</i> Proceeding by removing Fernando Perez-Correa as liquidator after he filed the New York Lawsuits and replacing him with a liquidator, Mr. Badin, who would support the stratagem to enable the Bondholder to take over the Rigs. The requested documents are also relevant and material to Claimants' claims that México colluded with the Bondholders to prevent Oro Negro's pursuit of claims against the Bondholders in the United States. As evident from the Application for Interim Measures and the Statement of Claim, Respondent continues to retaliate against Claimants and their investment</p>

to the present day. Respondent's argument that once Claimants submit a written submission, it can no longer add any claims, even if relevant and stemming from the same factual background as claims in the Statement of Claim, is nonsensical and inefficient. It would result both in Respondent having virtual impunity to violate the NAFTA with regard to these Claimants and in procedural inefficiency and increased costs on all parties, as Claimants' only recourse would be to file another NAFTA claim. Moreover, Respondent itself refers to the appointment of Badin in the Statement of Defense and in Mr. Asali's declaration, and therefore is plainly relevant. Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.

Second, the documents requested by Claimants are specific in that they relate to the specific appointment of a specific individual, Mr. Badin, to a specific post, liquidator of the Oro Negro estate. and limited to a reasonable time frame, October 1, 2019 to December 31, 2019.

Third, Respondent's argument that Claimants have access to the *concurso* documents is completely irrelevant, as Claimants obviously do not have access to the documents related to Badin's appointment that are available in Respondent's files. Documents produced by Respondent are documents filed in the court. However, Claimants requested documents such as internal correspondence, reports, memoranda, notes, or analyses related to Mr. Badin's appointment, none of which Respondent produced.

Fourth, Respondent's argument that Claimants do not identify the officials or administrative areas that may have the requested information is unavailing, as Claimants are obviously unable to provide Respondent with information regarding where within the Mexican government's structure such documents might reside. Respondent cannot hide behind its bureaucracy to shield itself from document production.

Given Respondent's objections and the documents produced, Respondent's partial production was insufficient. For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.

Tribunal's decision:	The Tribunal acknowledges the Respondent's produced evidence. The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence, to the extent it has not already been produced and is in the possession of the Respondent.
Request No.	47.
Document / Category of Documents:	The documents regarding México's September of 2019 request to the Interpol to issue Red Notices against Gonzalo Gil-White, Jose Antonio Cañedo-White, Carlos Williamson-Nasi, and Miguel Angel Villegas. SOD ¶ 354.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) initiate and pursue meritless Mexican criminal proceedings, based on the Bondholders' agents' unfounded criminal complaints and (2) intimidate and harass Claimants and their witnesses.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 47 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con una investigación penal en curso (Objeción General No. 5).</p> <p>La Solicitud no es concreta y específica. Las Demandantes ni siquiera señalan las autoridades que podrían contar con los documentos solicitados y tampoco precisan un rango de tiempo para realizar la búsqueda solicitada. Asimismo, el término "<i>documents</i>" de esta Solicitud es ambiguo y su búsqueda es excesivamente onerosa y una carga irrazonable para la Demandada.</p>

	<p>Además, la Solicitud está relacionada con documentos que constan en los expedientes de la carpeta de investigación 787/2018 a cargo de la FGJCDMX, a la cual las Demandantes y/o sus representantes tienen acceso. Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a investigaciones penales en curso. Además, existen juicios de amparo aún pendientes de resolución relacionadas con las órdenes de aprehensión referidas.</p> <p>Tratar de obtener documentos relacionados a investigaciones penales en curso a través de un arbitraje inversionista-Estado es improcedente. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as the documents sought are directly related to their claim that Pemex colluded with the Bondholders in filing baseless criminal complaints against Claimants and their witnesses in an effort to intimidate and harass them. <i>See SOC ¶ 520</i>. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for documents specifically in response to a request made in September 2019 by Respondent to INTERPOL for the issuance of Red Notices against Messrs. Gil, Cañedo, Williamson, and Villegas. Respondent’s argument that the request should be denied because Claimants did not indicate the specific authorities that could have the requested documents is inapposite, as that is information to which Claimants are not privy. Moreover, Respondent’s assertion that the documents cannot be produced because they are related to an ongoing investigation is also erroneous, because on the one hand, Respondent states that the documents cannot be produced on account of criminal secrecy, but on the other hand, it states that Claimants have access to the documents. If the documents are such that Respondent believes Claimants can have access to them, then they should be produced. On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>

Tribunal's decision:	The Claimants' request is insufficiently specific. The Tribunal rejects the production of the requested evidence.
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Request No.	48.
Document / Category of Documents:	The documents related to or prepared in connection to Pemex' award of contracts to jack-up rigs above 300 feet in water depth for each year between 2017 and 2020, including payment terms and projections made by PEMEX regarding oil production and jack-up needs since 2015. <i>See SOD ¶¶ 158-159, 866-869; Alberro Report ¶¶ 29-30, 33.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) impose onerous price reductions on Oro Negro and (2) cause unlawful termination of the Oro Negro Contracts. The requested documents are also relevant to assessing the accuracy of the Parties' claims and assumptions regarding the forecasted income generated from the leasing of the Rigs until the end of their useful life.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 48 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información comercial confidencial de empresas no relacionadas con el arbitraje (Objeción General No. 6).</p> <p>La Solicitud es sumamente amplia e involucra un considerable número de proveedores de Pemex dedicados a arrendar equipos de perforación. La mayoría de estos proveedores ni siquiera eran competidores de Oro Negro.</p>

	<p>Asimismo, el término “<i>documents</i>” de esta Solicitud es ambiguo y la búsqueda de información es excesivamente onerosa y una carga irrazonable para la Demandada.</p> <p>Además, las Demandantes han utilizado como prueba documentos relacionados con otras empresas y han señalado algunas fuentes donde se encuentra disponible la información requerida de otras empresas.⁴²</p> <p>Las Demandantes solicitan información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas ajena a este arbitraje lo que demuestra que esta Solicitud es una expedición de pesca.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4 and 6 and their response to Request No. 2 above. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as the documents sought are directly related to Claimants’ claim that Pemex treated it unfavorably and unlawfully terminated the Oro Negro Contracts. They are also relevant to assessing the accuracy of the Parties’ claims and assumptions regarding the forecasted income generated from the leasing of the Rigs until the end of their useful life. Moreover, Respondent’s relevance objection is undetailed and fails to identify the basis for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific, and is certainly not a “fishing expedition.” It asks for specific information relating to Pemex’s award of contracts to jack-up rigs during a three-year period, in direct response to Pemex’s claim that Pemex did not treat Oro Negro with discrimination because it treated all of the contractors the same way. See SOD ¶¶ 127, 768.</p> <p><i>Third</i>, Claimants are not requesting any information that they already have, as they are asking for documents from Pemex’s files relating to Pemex’s contracts, including payment terms and projections made by Pemex.</p> <p><i>Fourth</i>, Respondent claims that these documents should not be produced because they concern confidential information. But Respondent has not specified how such documents are confidential or commercially sensitive,</p>

⁴² Ver Resolución Procesal No. 7, Anexo A, pp. 3-5.

	<p>especially given that Oro Negro is no longer in business. Further, confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request does not sufficiently justify the relevance of the requested evidence. The Tribunal rejects the production of the requested evidence.

Request No.	49.
Document / Category of Documents:	The documents related to or prepared in connection to Pemex’ evaluation of Oro Negro’s performance under the Oro Negro Contracts between April 1, 2013 and October 1, 2017. See SOC, ¶¶ 94–96; Gil Decl. ¶¶ 66–67.
Justification:	<p>The requested documents are relevant and material to Claimants’ claims that notwithstanding Oro Negro’s impeccable performance under the Oro Negro Contracts, México discriminated and retaliated against Oro Negro for its refusal to pay bribes by (1) imposing onerous price reductions on Oro Negro; (2) significantly delaying or refusing payment due to Oro Negro; and (3) unlawfully attempting to terminate the Oro Negro Contracts.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 49 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición considerando el lapso de tiempo señalado (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4)

	<p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Gonzalo Gil, testigo de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, <i>inter alia</i>, el supuesto trato discriminatorio recibido por Oro Negro y la intención de la Demandada de llevar a la quiebra a Oro Negro.</p> <p>Asimismo, el término “<i>documents</i>” de esta Solicitud es ambiguo y genera que la búsqueda de información sea excesivamente onerosa y una carga irrazonable para la Demandada. La Solicitud no es concreta y específica conforme a las Reglas de la IBA.</p> <p>Además, Oro Negro y Pemex mantuvieron una relación comercial por más de cuatro años (sin contar el tiempo en el que la plataforma Rig 3 fue contratada por Pemex). Las Demandantes deben de tener bajo su poder y custodia los documentos emitidos por Pemex con relación al desempeño de los servicios prestados por Oro Negro.</p> <p>A pesar de ello, y sin perjuicio de las objeciones planteadas, la Demandada exhibe documentos relacionados con esta Solicitud.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to Claimants’ claim that Respondent retaliated against Oro Negro as a result of its refusal to pay bribes. As explained in the Statement of Claim and in the Request, notwithstanding Oro Negro’s impeccable performance under the Oro Negro Contracts, Respondent discriminated and retaliated against Oro Negro for its refusal to pay bribes by (1) imposing onerous price reductions on Oro Negro; (2) significantly delaying or refusing payments due to Oro Negro; and (3) unlawfully attempting to terminate the Oro Negro Contracts. <i>See</i> SOC ¶¶ 94–96; Gil Decl. ¶¶ 66–67. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p>

Second, Claimants' request is reasonable and specific. It asks for discrete information relating to Pemex's evaluation of Oro Negro's performance under the Oro Negro Contracts, which took place in a limited time frame—between April 1, 2013, and October 1, 2017—as specified in the Statement of Claim. *See* SOC ¶¶ 94–96. Moreover, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information includes Oro Negro's performance under the Oro Negro Contracts and Oro Negro's experience in obtaining payments from Pemex. *See* SOC ¶¶ 94–96; Gil Decl. ¶¶ 66–67. Such information sufficiently identifies the requested documents. Claimants hereby limit the types of documents sought in this request to any correspondence, notes, reports, or analyses related to or prepared in connection to Pemex's evaluation of Oro Negro's performance under the Oro Negro Contracts between April 1, 2013, and October 1, 2017.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”⁴³

Fourth, contrary to Respondent's assertion, Claimants are not requesting any information that they already have, as they are asking for documents from Pemex's files relating to its own evaluation of Oro Negro's performance under the Oro Negro Contracts—files to which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. *See* IBA Rules, Art. 3(3)(c)(i).

Given Respondent's objections and the documents produced, Respondent's partial production was insufficient.

⁴³ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	For this and the above reasons, Claimants respectfully request that the Tribunal order Respondent to fully produce the requested documents.
Tribunal's decision:	The Tribunal acknowledges the Respondent's produced evidence. The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence, to the extent it has not already been produced and is in the possession of the Respondent.

Request No.	50.
Document / Category of Documents:	The documents related to Pemex's payment vis-à-vis date of work performed under each of the Oro Negro Contracts, including any correspondence, notes, reports, or analyses related to the approval or timing of these payments prepared between April 1, 2013 and the present. <i>See SOC, ¶ 96; Gil Decl. ¶¶ 31, 57.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México unlawfully delayed payment or refused to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to undermine Oro Negro's solvency and cause the loss of the Rigs for the benefits of the Bondholders.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 50 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición considerando el lapso de tiempo señalado (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información comercial confidencial de empresas no relacionadas con el arbitraje (Objeción General No. 6).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Gonzalo Gil, testigo de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus</p>

	<p>afirmaciones, <i>inter alia</i>, el supuesto trato discriminatorio recibido por Oro Negro, la colusión entre los Tenedores de Bonos y México, y la intención de México de llevar a la quiebra a Oro Negro.</p> <p>Asimismo, el término “<i>documents</i>” de esta Solicitud es ambiguo y el periodo de búsqueda es muy amplio. Esta situación genera que la búsqueda de información sea excesivamente onerosa y una carga irrazonable para la Demandada. Es decir, la Solicitud no es concreta y específica conforme a las Reglas de la IBA.</p> <p>Además, Oro Negro y Pemex mantuvieron una relación comercial por más de cuatro años (sin contar el tiempo en el que la plataforma Rig 3 fue contratada por Pemex). Las Demandantes deben de tener bajo su poder y custodia los documentos emitidos por Pemex con relación a los pagos generados por los servicios prestados bajo los Contratos Perforadora-PEP. Sin embargo, se debe considerar que los derechos de cobro bajo los Contratos Perforadora-PEP fueron cedidos a Deutsche Bank, empresa que no forma parte de este arbitraje.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4, and 6. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent retaliated against Oro Negro as a result of its refusal to pay bribes. As explained in the Statement of Claim and in the Request, in retaliation for Oro Negro’s refusal to pay bribes Respondent unlawfully delayed payment or refused to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to undermine Oro Negro’s solvency and cause the loss of the Rigs for the benefit of the Bondholders. <i>See SOC ¶ 96; Gil Decl. ¶¶ 31, 57.</i> Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information relating to Pemex’s payment for work performed under the Oro Negro Contracts, which took place in a specific limited time frame—between April 1, 2013 and the present—as specified in the Statement of Claim and in this request. <i>See SOC ¶¶ 94-96.</i> Moreover, the term “<i>documents</i>” does not lack specificity here, and Claimants’ request complies with Article 3 of the IBA Rules. At the outset, Claimants provided examples of the types of documents that</p>

would be responsive to this Request (correspondence, notes, reports, or analyses related to the approval or timing of these specific payments). Additionally, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. *See SOC ¶¶ 94-96.* Such information includes Oro Negro’s performance under the Oro Negro Contracts and Oro Negro’s experience in obtaining payments from Pemex. Such information sufficiently identifies the requested documents.

Third, Claimants’ request should not be denied, as Respondent asserts, because it is based on Claimants’ allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent’s reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”⁴⁴

Fourth, Claimants are not requesting any information that they already have, as they are asking for documents from Pemex’s files—such as any correspondence, notes, reports, or analyses—relating to its payment vis-à-vis date of work performed under each of the Oro Negro Contracts. Claimants do not have access to Pemex’s files. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. *See IBA Rules, Art. 3(3)(c)(i).* Additionally, Respondent’s statement that Claimants apparently have access to the requested information because Claimants had a commercial relationship with Pemex is ludicrous. Claimants are requesting documents and communications in Pemex’s files which Claimants would not have obtained as a result of their commercial relationship with Pemex, such as correspondence, notes, reports, or analyses by Pemex.

⁴⁴ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p><i>Fifth</i>, Claimants are not requesting information from parties who are unrelated to the arbitration. The fact that Deutsche Bank assumed the payment rights under the Perforadora-PEP Contracts is irrelevant and unrelated to Claimants' request. Claimants are requesting any correspondence, notes, reports, or analyses related to the approval or timing of these payments by Pemex, which are documents that would be in Pemex's possession, custody, or control, not Deutsche Bank's, contrary to Respondent's assertion. Moreover, Respondent does not even offer an explanation as to why the requested documents would be within Deutsche Bank's possession, custody, or control.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence.

Request No.	51.
Document / Category of Documents:	The documents related to Pemex's contracts, contract suspensions, and contract amendments with all its jack-up rig providers, including any correspondence, notes, reports, or analyses related to the reasons and terms of these contracts and amendments prepared between January 1, 2015 and December 31, 2017. Respondent cites to 25 temporary suspensions and 26 terminations of contracts between 2015 and 2017, but fails to provide any documentary support for this statement. <i>See SOD ¶¶ 126, 768; Lozano Decl. ¶ 22.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs. The requested documents are also relevant to assessing Respondent's claims that "Pemex treated all contractors the same way" (SOD ¶ 768).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary</p>

	operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	<p>La Demandada objeta la Solicitud No. 51 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información comercial confidencial de empresas no relacionadas con el arbitraje (Objeción General No. 6).</p> <p>La Solicitud es sumamente amplia y el término “<i>documents</i>” de esta Solicitud no puede considerarse concreto y específico conforme a las Reglas IBA. Además, esta Solicitud está relacionada con una considerable pluralidad de proveedores de plataformas (“<i>jack-up rig providers</i>”). Al parecer la intención de las Demandantes es que México exhiba todos los documentos relacionados con las suspensiones y terminaciones anticipadas de todos los proveedores de plataformas de Pemex lo que sería excesivamente oneroso realizar y una carga excesiva para la Demandada.</p> <p>Las Demandantes han utilizado como prueba documentos relacionados con otras empresas y han señalado algunas fuentes donde se encuentra disponible la información requerida de otras empresas.⁴⁵ Además, las Demandantes solicitan información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas ajenas a este arbitraje lo que demuestra que esta Solicitud es una expedición de pesca.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-4, and 6. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claims that Respondent colluded with the Bondholders to destroy Claimants' investment in Oro Negro and that Respondent treated Claimants and their investment vis-à-vis the Oro Negro Contracts in a manner that violated Respondent's obligations under the</p>

⁴⁵ Ver Resolución Procesal No. 7, Anexo A, pp. 3-5.

NAFTA. Furthermore, as noted above, Respondent itself cites to 25 temporary suspensions and 26 terminations of contracts between 2015-2017 without providing any documentary support for its statement. See SOD ¶¶ 126, 768; Lozano Decl. ¶ 22. Respondent cannot assert an alleged fact and then refuse to provide the documents that would corroborate the alleged fact. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.

Second, Claimants’ request is reasonable and specific. It asks for discrete information related to a specific matter that took place in a limited time frame—from 2015-2017—as specified in the request and Statement of Claim. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (correspondence, notes, reports, or analyses related to the reasons and terms of these contracts and amendments). Such information sufficiently identifies the requested documents.

Third, Claimants’ request should not be denied, as Respondent asserts, because it is based on Claimants’ allegations and the statements of their witnesses. Claimants make their document requests to prove their case by obtaining documentary evidence in support of those assertions. Respondent’s reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”⁴⁶

Fourth, Claimants are not requesting any information that they already have, as they are asking for information from Respondent’s files relating to Pemex’s contracts, contract suspensions, and contract amendments with all its jack-up rig providers—files to which Claimants obviously do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. See IBA Rules, Art. 3(3)(c)(i).

⁴⁶ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p><i>Fifth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection over the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of relevant correspondence, notes, reports, or analyses related to the reasons and terms of these contracts and amendments prepared between January 1, 2015 and December 31, 2017. The documents may be produced where relevant for “Attorneys’ Eyes Only”. In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for “Attorneys’ Eyes Only”.

Request No.	52.
Document / Category of Documents:	All communications between Pemex or its agents, including U.S. or Mexican counsel for Pemex and the Bondholders or their agents, including their U.S. or Mexican counsel, regarding Oro Negro prepared between January 1, 2016 and the present. <i>See</i> SOC, ¶¶ 101, 104; Gil Decl. ¶ 98.
Justification:	<p>The requested documents are relevant and material to Claimants’ claims that México colluded with the Bondholders to enable them to take over the Rigs, and pursued baseless and retaliatory criminal and civil investigations against Oro Negro, its agents, and counsel following Claimants’ filing of Notice of Intent.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>

Objections:	<p>La Demandada objeta la Solicitud No. 52 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Gonzalo Gil, testigo de las Demandantes. Las Demandantes ni siquiera precisan el nombre de los funcionarios de Pemex y de los Tenedores de Bonos que supuestamente intercambiaron comunicaciones. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones incluido, <i>inter alia</i>, la supuesta colusión entre los Tenedores de Bonos y las represalias sufridas por Oro Negro.</p> <p>Asimismo, las Demandantes aparentemente cuentan con la documentación solicitada.⁴⁷ Por ello, resulta incorrecta la afirmación de las Demandantes respecto a que no cuentan con el poder, custodia o control de los documentos requeridos.</p> <p>Además, el término “<i>communications</i>” de esta Solicitud es sumamente general y ambiguo y por ende no puede considerarse concreto y específico conforme a las Reglas IBA.</p> <p>Finalmente, las Demandantes tampoco identifican quiénes son los “<i>agents</i>”, el “<i>counsel</i>,” o los “<i>Bondholders</i>”. Además, a través de esta Solicitud aparentemente se busca obtener información relacionada con las Demandantes y los litigios aún en curso ante cortes de México y Estados Unidos en lugar de estar relacionada con este arbitraje.</p>
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⁴⁷ Escrito de Demanda, ¶ 108 (“Much of this discovery material is subject to a protective order and cannot be disclosed without court approval. Claimants are still in the process of obtaining permission to use that evidence in this proceeding, but have not received it yet. Claimants reserve their right to submit the evidence with its Reply”).

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-4 and 6. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants' investments and ensure the complete destruction of their assets and investments in México. Respondent's suggestion that the documents are for a different litigation is nonsensical given that Claimants have clearly and repeatedly alleged the collusion between Respondent and the Bondholders in this arbitration. <i>See, e.g.</i>, SOC ¶¶ 9, 20, 79, 247-57, 265, 317-318, 515-521, 543. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It asks for Respondent's communications with the Bondholders regarding Oro Negro, which took place in a limited time frame—2016 to present—that is reasonable considering the collusion appears to have taken place during that time period. As described in other requests, communications in this case could take the form of emails, Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service that Mexican officials used to communicate with the Bondholders about Oro Negro. In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim and Mr. Gil's witness statement, including references to the exact paragraphs.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests to prove their case by obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁴⁸</p>
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⁴⁸ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p><i>Fourth</i>, Claimants requested communications between Pemex and/or its agents and/or its counsel and the Bondholders and/or their agents and/or their counsel because they are cognizant that Pemex and the Bondholders carried out communications directly and indirectly. Claimants are not in a position to know the exact individuals between whom communications were made about Oro Negro. Given the collusive nature of the communications, Claimants are in even less of a position to identify the individuals. On the other hand, Respondent should be well aware of the individuals who carried out the communications between Pemex and the Bondholders regarding Oro Negro.</p> <p><i>Fifth</i>, much of the documents Claimants believe to be responsive to this request are not in their possession, as they are communications solely between Pemex and/or its agents and/or its counsel and the Bondholders and/or their agents and/or their counsel. Moreover, even if Claimants are able to obtain some of the information in response to this Request from another source, assuming they are able to do so and in time to submit the information as part of their Reply, the IBA Rules require only that the Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. See IBA Rules, Art. 3(3)(c)(i).</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration. It appears however unduly broad and is not sufficiently specific as to the content of the requested evidence. The Tribunal rejects the production of the requested evidence.

Request No.	53.
Document / Category of Documents:	All internal communications between Pemex officials regarding Oro Negro, including messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service between January 1, 2014 and the present. <i>See</i> SOC, ¶¶ 79, 101, 104; Gil Decl. ¶ 98.

Justification:	<p>The requested documents are relevant and material to Claimants' claims that México retaliated against Oro Negro for its refusal to pay bribes and colluded with the Bondholders to cause the unlawful termination of the Oro Negro Contracts and the loss of the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 53 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Gonzalo Gil, testigo de las Demandantes. Además, las Demandantes ni siquiera precisan el nombre de los funcionarios de Pemex o las áreas administrativas de la empresa en las que podrían estar las comunicaciones solicitadas. Las Demandantes al parecer ignoran que Pemex cuenta con más de 120,000 trabajadores y minimizan la compleja estructura administrativa de Pemex y de sus subsidiarias. Solicitar "<i>all internal communications between Pemex officials regarding Oro Negro</i>" no constituye una solicitud concreta y específica, y su búsqueda y exhibición es imposible de realizar.</p> <p>Esta Solicitud es sumamente general e invasiva. Consiste en una expedición de pesca y en un "acoso innecesario" en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, for clarification, Claimants hereby narrow this request to internal communications between Pemex officials regarding Oro Negro and the reasons for the modification and termination of the Oro Negro Contracts, and collusion between Pemex and the Bondholders discussed in Claimants' Statement of Claim. Claimants</p>

further narrow the time frame of this request to April 2017 to December 2018. Narrowed as such, Claimants' requests are specific and reasonable.

Second, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests to prove their case by obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁴⁹

Third, Claimants are not in a position to know the exact individuals at Pemex between whom communications were made about Oro Negro, but at least some, but likely not all, of the individuals are likely those identified in Claimants' Statement of Claim ¶ 103 as the following:

- (a) José Antonio González-Anaya ("González"), Pemex's CEO from February 2016 to November 2017 (when he became the Minister of Finance of México);
- (b) Juan Pablo Newman-Aguilar ("Newman"), Pemex's Corporate Director of Finances (equivalent to a CFO) from November 2015 to January 2018;
- (c) Miguel Ángel Servín-Diago ("Servín"), Pemex's Procurement Director from April 2016 to date; and
- (d) Carlos Alberto Treviño-Medina ("Treviño"), Pemex's Corporate Director of Management and Services (equivalent to a COO) from February 2016 to November 2017, when he replaced González as CEO, until December 2018.

In any event, Respondent should be well aware of the individuals at Pemex who may have documents responsive to this request.

⁴⁹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. It appears however unduly broad and is not sufficiently specific as to the content of the requested evidence. The Tribunal rejects the production of the requested evidence.

Request No.	54.
Document / Category of Documents:	All notes prepared by Pemex officials and their attorneys in conjunction with any of the Bondholders or their attorneys regarding Oro Negro, the Jack-Up Rigs, or the New Rigs from January 1, 2017 to the present. <i>See</i> SOC, ¶¶ 101, 103–105, 108, 145–146.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 54 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4).

	<p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y de los testigos de las Demandantes. Además, las Demandantes ni siquiera precisan el nombre de los funcionarios de Pemex que supuestamente prepararon notas y documentos de forma conjunta con los Tenedores de Bonos (o los abogados de estos). Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones incluido, <i>inter alia</i>, demostrar el trato discriminatorio recibido por Oro Negro y la colusión entre la Demandada y los Tenedores de Bonos.</p> <p>Solicitar “<i>all notes prepared by Pemex officials</i>” no constituye una solicitud concreta y específica, y su búsqueda y exhibición es excesivamente onerosa y una carga irrazonable para la Demandada. Además, las Demandantes aparentemente cuentan con la documentación solicitada.⁵⁰</p> <p>Independientemente de lo anterior, esta Solicitud es sumamente general y especulativa. Consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-4. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs. See SOC, ¶¶ 101, 103–105, 108, 145–146. Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p>

⁵⁰ Ver Escrito de Demanda, ¶¶ 108, 125 y 142.

Second, Claimants' request is reasonable and specific. It asks for discrete information related to specific matters, Oro Negro, the Jack-Up Rigs, and the New Rigs, and over a specific and limited time frame from January 1, 2017 to the present. Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. For example, Claimants request the documents, including drafts, prepared by Pemex officials and/or their attorneys made with the Bondholders with regard to any scheme to allow the Bondholders to foreclose on the Rigs (SOC, ¶ 101), plans to force Perforadora to accept the 2017 proposed Pemex Amendments (SOC, ¶ 104), plans for Pemex to cancel the Oro Negro Contracts so that the Bondholders could take over the Rigs (SOC, ¶ 104), and plans to assign the Oro Negro Contracts to the Bondholders (SOC, ¶ 105), and regarding the New Rigs (SOC ¶¶ 70-80). Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information sufficiently identifies the requested documents.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests to prove their case by obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁵¹ allegations

Fourth, Claimants are not in a position to know the exact individuals between whom documents were created concerning the schemes described above, but at least some, but likely not all, of the individuals are likely those identified in Claimants' Statement of Claim ¶ 103 as the following:

- (a) José Antonio González-Anaya ("González"), Pemex's CEO from February 2016 to November 2017 (when he became the Minister of Finance of México);
- (b) Juan Pablo Newman-Aguilar ("Newman"), Pemex's Corporate Director of Finances (equivalent to a CFO) from November 2015 to January 2018;

⁵¹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>(c) Miguel Ángel Servín-Diago (“Servín”), Pemex’s Procurement Director from April 2016 to date; and</p> <p>(d) Carlos Alberto Treviño-Medina (“Treviño”), Pemex’s Corporate Director of Management and Services (equivalent to a COO) from February 2016 to November 2017, when he replaced González as CEO, until December 2018.</p> <p>In any event, Respondent should be well aware of the individuals at Pemex who may have documents responsive to this request.</p> <p><i>Fifth</i>, the documents Claimants believe to be responsive to this request are not in the possession of Claimants, as they are documents created by Pemex and/or its counsel in conjunction with the Bondholders and Claimants request only the files in Respondent’s possession, custody, and control. Moreover, even if Claimants would be able to obtain some of the information in response to this request from another source (assuming they would be able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that the Claimants not request documents that are “in the possession, custody or control of the requesting Party,” which is not the case here. See IBA Rules, Art. 3(3)(c)(i).</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence, to the extent it is not covered by an Attorney-Client Privilege.

Request No.	55.
Document / Category of Documents:	All emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, from SAT related to or prepared in connection to the fabricated Excel spreadsheet purporting to show Oro Negro’s connection to sham companies, including any instructions from SAT officials regarding the preparation of the fabricated spreadsheet. <i>See</i> SOC ¶ 317; Gil Decl. ¶ 137; RFIM ¶¶ 69, 73.

Justification:	<p>The requested documents are relevant and material to Claimants' claims that México, in collusion with the Bondholders, unlawfully used the PGR investigation to collect broad ranging tax information regarding Integradora and Perforadora from the SAT, and, based on the fabricated Excel spreadsheet provided the SAT, initiated another meritless criminal investigation that resulted in the seizure of Oro Negro's cash and in a court order authorizing the Bondholders to take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 55 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser información reservada y confidencial relacionada con investigaciones fiscales-administrativas (Objeción General No. 5).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Gonzalo Gil, testigo de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación de que el SAT, en colusión con los Tenedores de Bonos y la PGR, fabricó documentación para ser utilizada en una investigación penal.</p> <p>Además, las Demandantes ni siquiera precisan el nombre de los funcionarios del SAT o las áreas administrativas de esta dependencia en las que podrían estar las comunicaciones solicitadas. El SAT es una autoridad federal con una estructura administrativa compleja. Solicitar “<i>all emails and messages [...] from SAT</i>” no puede considerarse una solicitud concreta y específica. Asimismo, solicitar mensajes de texto intercambiados vía “apps” es sumamente general, especulativo e invasivo. Buscar y exhibir la información de esta Solicitud es una tarea prácticamente imposible de realizar.</p>

	<p>Independientemente de lo anterior, en el caso hipotético de que los documentos existieran, éstos serían de carácter reservado/confidencial y existe una prohibición legal en México para revelar documentos relacionados a auditorías fiscales. Tratar de conseguir este tipo de documentación (así como mensajes privados) a través de un arbitraje inversionista-Estado es improcedente e invasivo. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación para no afectar las auditorías fiscales.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-4 and 5. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case, as it is directly related to their claim that Respondent retaliated against Oro Negro as a result of its refusal to pay bribes. As explained in the Statement of Claim and in the request, in retaliation for Oro Negro's refusal to pay bribes and in collusion with the Bondholders, Respondent initiated a number of meritless tax audits against Integradora and four of its subsidiaries, including Perforadora, using a spreadsheet reflecting that from 2014 to 2017, Perforadora supposedly issued invoices totaling approximately USD 500,000 to 16 companies that are blacklisted by the Mexican government as companies that facilitate tax evasion. <i>See</i> SOC ¶¶ 228, 241, 261, 264, 543. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is both reasonable and specific. It asks for communications relating to a single spreadsheet purporting to show Oro Negro's connection to sham companies. Given that the information in the spreadsheet is demonstrably false (SOC ¶ 243), the spreadsheet was fabricated. Moreover, Claimants provided examples of the types of documents that would be responsive to this Request (any emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service regarding this single spreadsheet). Additionally, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Respondent's argument that the SAT has complex administrative structures, and that it is therefore an unreasonable burden to search for the documents without further specification is inapt, as Claimants are</p>

	<p>obviously unable to provide Respondent with information regarding which individuals within the SAT may have responsive communications. One likely custodian is an individual identified in the Statement of Claim as the Minister of Finance when the SAT provided the information to the PGR: José A. Gonzalez-Anaya. However, very likely others at SAT, including those who provided the spreadsheet to the PGR or those who provided the spreadsheet to the individual who provided the spreadsheet to the PGR, would have responsive communications. As with other requests, Respondent cannot hide behind its bureaucracy to shield itself from document production.</p> <p><i>Fourth</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁵²</p> <p><i>Fifth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as "Attorneys' Eyes Only" information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. The Tribunal however limits the production of the requested evidence to exchanges in writing or per email related to or prepared in connection to the Excel spreadsheet in question. The documents may be produced where relevant for "Attorneys' Eyes Only". In such

⁵² *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for “Attorneys’ Eyes Only”.
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Request No.	56.
Document / Category of Documents:	Any <i>Declaraciones Informativas de Operaciones con Terceros</i> (DIOTs) in SAT’s possession showing work provided for Oro Negro by any of the sham companies or any DIOTs filed by Oro Negro reflecting work provided for those sham companies or any records in possession of the SAT indicating that Oro Negro and the sham companies ever had any relationship of any kind, with metadata reflecting the creation of these documents between June 1, 2018 and April 1, 2019. <i>See SOC ¶¶ 226-241; Gil Decl ¶ 137; RFIM ¶ 73.</i>
Justification:	The requested documents are relevant and material to Claimants’ claims that México colluded with the Bondholders to initiate and pursue baseless criminal proceedings based on the fabricated Excel spreadsheet furnished by the SAT, resulting in the seizure of Oro Negro’s cash and in a court order authorizing the Bondholder’s possession of the Rigs. This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	La Demandada objeta la Solicitud No. 56 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser información reservada y confidencial (Objeción General No. 5) y por ser información fiscal de personas y empresas no relacionadas con el arbitraje (Objeción General No. 6). La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Gonzalo Gil, testigo de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i> , la reclamación de que el SAT, en colusión con los Tenedores de Bonos y la PGR, fabricó documentación para ser utilizada en una investigación penal. Bajo el sistema jurídico mexicano los

	<p>contribuyentes obligados al pago del Impuesto al Valor Agregado deben proporcionar mensualmente al SAT información sobre el pago de este impuesto derivado de operaciones realizadas con proveedores. Esta información se presenta mediante las llamadas “DIOTs”. En ese sentido, las llamadas “<i>sham companies</i>” o “EFOS” fueron las que indicaron que Oro Negro era su proveedor mediante las DIOTs que presentaron ante el SAT.</p> <p>La Solicitud es sumamente amplia e involucra un considerable número de personas físicas y morales que posiblemente fueron clientes de Oro Negro. Es decir, son documentos fiscales de terceras personas ajenas a este arbitraje y de carácter reservado y confidencial de conformidad con el artículo 69 del Código Fiscal de la Federación y el artículo 133, fracción II de la LFTAIP.</p> <p>Además, bajo la investigación 787/2018 la FGJCDMX se investigan posibles conductas delictivas relacionadas con ejecutivos y directivos de Oro Negro y con EFOS. La Demandada considera improcedente que las Demandantes busquen obtener información fiscal reservada y confidencial mediante este arbitraje inversionista-Estado.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3, 5, and 6 and the response to Respondent’s objections to Request No. 55. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments, and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants’ claims that Respondent colluded with the Bondholders to initiate and pursue baseless criminal proceedings based on the fabricated Excel spreadsheet furnished by the SAT, resulting in the seizure of Oro Negro’s cash and in a court order authorizing the Bondholders to take over of the Rigs. <i>See RFIM ¶ 88; SOC ¶¶ 239-246.</i> Moreover, Respondent’s objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for DIOTs showing work provided for Oro Negro by any of the “<i>sham companies</i>” or any DIOTs filed by Oro Negro reflecting work provided for those sham</p>

	<p>companies or any records in possession of the SAT indicating that Oro Negro and the sham companies ever had any relationship of any kind, with metadata. The request also delineates a specific and limited time frame, between June 1, 2018, and April 1, 2019. In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim and Application for Interim Measures, the exact paragraphs of which they reference. <i>See</i> RFIM ¶¶ 73; SOC ¶¶ 226-241. Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁵³</p> <p><i>Fourth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as "Attorneys' Eyes Only" information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request is unduly broad. The Tribunal rejects the request.

⁵³ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Request No.	57.
Document / Category of Documents:	The documents or communications related to or prepared in connection to meetings or payments between Mr. Martinez, Fintech or Seamex or their agents and Emilio Lozoya or his agents between January 1, 2014 and the present. See SOC ¶¶ 160, 162, 164, 176, 189, 212; Gil Decl. ¶¶ 45, 102–103; Black Cube ¶ 28.2.
Justification:	<p>The requested documents are also relevant and material to Claimants' claims that México treated Oro Negro unfairly and arbitrarily based on a willingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 57 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado generales, especulativas y por falta de especificidad (Objeción General No. 3) y por ser información de personas y empresas no relacionadas con el arbitraje (Objeción General No. 6).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y de los Sres. Gonzalo Gil, José Antonio Cañedo y Avi Yanus, testigos de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre un trato discriminatorio y supuestos actos de corrupción relacionados con los Tenedores de Bonos, competidores de Oro Negro y Pemex.</p> <p>Además, las Demandantes solicitan documentos y comunicaciones de personas ajenas a este arbitraje y sobre las cuales la Demandada no tiene ningún control. Asimismo, las Demandantes ni siquiera precisan las autoridades y/o funcionarios públicos que pudieran contar con los documentos y comunicaciones requeridos. La Solicitud no es concreta y específica conforme a las Reglas IBA.</p>

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3 and 6. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants' request is relevant to this case and their claims that Respondent colluded with the Bondholders to drive Oro Negro out of business and grant new contracts for the Rigs to the Bondholders, with Seamex operating and maintaining them, and that Respondent treated Oro Negro less favorably than Seamex because Oro Negro refused to pay Pemex bribes. <i>See, e.g.</i>, SOC ¶¶ 158-64. Moreover, Respondent's objection as to relevance is undetailed and fails to identify the reasons for such assertion.</p> <p><i>Second</i>, Claimants' request is reasonable and specific. It specifies meetings between specific entities and individuals and during a specific time period—between 2014 and the present. In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim and Application for Interim Measures, and referenced the relevant paragraphs in their request. For example, in paragraph 189 of the Statement of Claim, Claimants describe how in 2015, Mr. Lozoya traveled to New York to meet personally with Mr. Martinez. Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁵⁴</p> <p><i>Fourth</i>, Respondent's argument that Claimants are requesting information outside of their possession, custody, and control is erroneous, as the request solely seeks documents or communications related to or prepared in connection to meetings or payments between Mr. Martinez, Fintech or Seamex or their agents and Emilio</p>
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⁵⁴ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>Lozoya or his agents. As explained in the Statement of Claim, Mr. Lozoya was CEO of Pemex from 2012 to 2016. Therefore, it is likely that at least some of the documents are in Respondent's possession, custody, or control. The request does not seek documents or communications that are solely in the possession, custody, or control of non-parties to this arbitration.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request is unduly broad. The Tribunal rejects the request.

Request No.	58.
Document / Category of Documents:	All communications from Carlos Treviño Medina, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, regarding: 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders; and 3) the Seamex Contracts and their amendments between January 1, 2014 and the present. SOD ¶¶ 124, 150, 159, 174, 210, 214, 228–231, 241.
Justification:	<p>The requested documents are also relevant and material to Claimants' claims that México treated Oro Negro unfairly and arbitrarily based on a willingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	La Demandada objeta la Solicitud No. 58 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).

	<p>Las razones y justificaciones de esta Solicitud están basadas en las reclamaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre un trato injusto y arbitrario a Oro Negro y los supuestos actos de corrupción relacionados con los Tenedores de Bonos específicos, competidores de Oro Negro y Pemex.</p> <p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesivo. Solicitar todos los correos y mensajes del Sr. Carlos Medina Treviño, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos.</p> <p>Requerir mensajes de texto privados de testigos va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial discovery</i>”. La relevancia o utilidad de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada y su testigo, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Esta Solicitud, al igual que otras similares, al parecer tienen como finalidad intimidar a los testigos de la Demandada e imponer sobre ellos obligaciones invasivas y onerosas, lo cual sería totalmente inapropiado. Las Demandantes tendrán la oportunidad de presentar sus propias pruebas junto al Escrito de Réplica y a contrainterrogar a los testigos de la Demandada en la audiencia arbitral.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants’ Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease</p>

them back to Pemex through Seamex. See SOC ¶ 1. Respondent also discusses Mr. Treviño various times in its Statement of Defense.

Second, Claimants' request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The three categories of documents requested seek documents related only to this case, and related specifically to Mr. Treviño, who was Corporate Director of Management and Services of Pemex (equivalent to COO) from February 2016 to November 2017, and then CEO of Pemex until December 2018. For further clarification, Claimants seek communications from Mr. Treviño regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders about the Oro Negro Contracts; and 3) the Seamex Contracts and their amendments. January 2014 and December 2018. Further, in a spirit of good faith and cooperation, Claimants hereby further limit the time frame of this request to documents prepared between April 1, 2017 to December 2018 and the present.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁵⁵

Fourth, Claimants' request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines "document" as "a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means." Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media was used by these individuals to communicate with it and its personnel regarding the topics at hand.

⁵⁵ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p><i>Fifth</i>, Claimants reject the accusation that their document requests are any kind of intimidation of witnesses. Claimants simply request documents relevant to their case, which is permitted under the IBA rules.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. The Tribunal however first limits the production of the requested evidence to exchanges in writing or per email. The Tribunal further limits the production to the communications from Mr. Treviño regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders about the Oro Negro Contracts; and 3) the Seamex Contracts and their amendments. Lastly, the production is limited to documents prepared between April 1, 2017 to December 2018 and the present.

Request No.	59.
Document / Category of Documents:	All communications from Maria Luz Lozano, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, regarding: 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders; and 3) the Seamex Contracts and their amendments between January 1, 2014 and the present. SOD ¶¶ 120, 126, 155, 768
Justification:	<p>The requested documents are also relevant and material to Claimants' claims that México treated Oro Negro unfairly and arbitrarily based on a willingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>

Objections:	<p>La Demandada objeta la Solicitud No. 59 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificaciones de esta Solicitud están basadas en las reclamaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre un trato injusto y arbitrario a Oro Negro y los supuestos actos de corrupción relacionados con algunos Tenedores de Bonos específicos, competidores de Oro Negro y Pemex.</p> <p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesivo. Solicitar todos los correos y mensajes de la Sra. Lozano, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos.</p> <p>Requerir mensajes de texto privados de testigos va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial discovery</i>”. La relevancia o utilidad de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada y su testigo, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Esta Solicitud, al igual que otras similares, al parecer tienen como finalidad intimidar a los testigos de la Demandada e imponer sobre ellos obligaciones invasivas y onerosas, lo cual sería totalmente inapropiado. Las Demandantes tendrán la oportunidad de presentar sus propias pruebas junto al Escrito de Réplica y a contrainterrogar a los testigos de la Demandada en la audiencia arbitral.</p>
Reply:	Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3. In addition, Respondent's objections are without merit and should be overruled for the following reasons:

First, Respondent's argument that Claimants' request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants' Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. *See* SOC ¶ 1. Respondent also discusses Ms. Lozano various times in its Statement of Defense.

Second, Claimants' request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The three categories of documents requested seek documents related only to this case, and related specifically to Ms. Lozano, who is the Deputy Manager of Drilling and Well Services Procurement at Pemex, and who was part of the Working Group at Pemex in 2016 and 2017, which was involved in negotiations of contracts with drill equipment and well services suppliers. For further clarification, Claimants seek communications from Ms. Lozano regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders about the Oro Negro Contracts; and 3) the Seamex Contracts and their amendments. Further, in a spirit of good faith and cooperation, Claimants hereby further limit the time frame of this request to documents prepared between April 1, 2017 to December 2018 and the present.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁵⁶

Fourth, Claimants' request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA

⁵⁶ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>defines “document” as “a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means.” Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media was used by these individuals to communicate with it and its personnel regarding the topics at hand.</p> <p><i>Fifth</i>, Claimants reject the accusation that their document requests are any kind of intimidation of witnesses. Claimants simply request documents relevant to their case, which is permitted under the IBA rules.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration. The Tribunal however first limits the production of the requested evidence to exchanges in writing or per email. The Tribunal further limits the production to the communications from Ms. Lozano regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders about the Oro Negro Contracts; and 3) the Seamex Contracts and their amendments. Lastly, the production is limited to documents prepared between April 1, 2017 to December 2018 and the present.

Request No.	60.
Document / Category of Documents:	All communications from José Antonio González Anaya, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders; and 3) the Seamex Contracts and their amendments between January 1, 2014 and the present. SOD ¶¶ 118, 127, 198.
Justification:	The requested documents are also relevant and material to Claimants’ claims that México treated Oro Negro unfairly and arbitrarily based on a willingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. The requested documents are also relevant to assessing whether José Antonio González Anaya was involved in the SAT’s provision of the fabricated Excel spreadsheet to the PGR and the Bondholders.

	<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 60 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificaciones de esta Solicitud están basadas en las reclamaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre un trato injusto y arbitrario a Oro Negro y los supuestos actos de corrupción relacionados con algunos Tenedores de Bonos específicos, competidores de Oro Negro y Pemex, y la supuesta fabricación de pruebas del SAT.</p> <p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesivo. Solicitar todos los correos y mensajes del Dr. José Antonio González Anaya, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos. Asimismo, se debe recordar que el Dr. González Anaya laboró en Pemex de febrero de 2016 a noviembre de 2017, y fungió como Secretario de Hacienda de noviembre de 2017 a noviembre de 2018. En otras palabras, el periodo de búsqueda es fútil.</p> <p>Requerir mensajes de texto privados de testigos va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial discovery</i>”.</p> <p>La relevancia o utilidad de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta</p>

	<p>Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada y su testigo, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Esta Solicitud, al igual que otras similares, al parecer tienen como finalidad intimidar a los testigos de la Demandada e imponer sobre ellos obligaciones invasivas y onerosas, lo cual sería totalmente inapropiado. Las Demandantes tendrán la oportunidad de presentar sus propias pruebas junto al Escrito de Réplica y a contrainterrogar a los testigos de la Demandada en la audiencia arbitral.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants’ Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. <i>See</i> SOC ¶ 1. Respondent also discusses Mr. Gonzalez-Anaya various times in its Statement of Defense.</p> <p><i>Second</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The three categories of documents requested seek documents related only to this case, and related specifically to Mr. Gonzalez-Anaya, who was the CEO of Pemex from February 2016 to November 2017. For further clarification, Claimants seek communications from Mr. Gonzalez-Anaya regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders about the Oro Negro Contracts; and 3) the Seamex Contracts and their amendments, during Mr. Gonzalez-Anaya’s tenure at Pemex between February 2016 and November 2017.</p> <p><i>Third</i>, Claimants’ request should not be denied, as Respondent asserts, because it is based on Claimants’ allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent’s reason to</p>

	<p>not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”⁵⁷</p> <p><i>Fourth</i>, Claimants’ request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines “document” as “a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means.” Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media was used by these individuals to communicate with it and its personnel regarding the topics at hand.</p> <p><i>Fifth</i>, Claimants reject the accusation that their document requests are any kind of intimidation of witnesses. Claimants simply request documents relevant to their case, which is permitted under the IBA rules.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration. The Tribunal however first limits the production of the requested evidence to exchanges in writing or per email. The Tribunal further limits the production to the communications from Mr. Gonzalez-Anaya regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders about the Oro Negro Contracts; and 3) the Seamex Contracts and their amendments, during Mr. Gonzalez-Anaya’s tenure at Pemex between February 2016 and November 2017.

Request No.	61.
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⁵⁷ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Document / Category of Documents:	All communications from Rodrigo Loustaunau, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, regarding: 1) the Oro Negro Contracts, their amendments, and termination; 2) Pemex's compliance with the orders from the <i>Concurso</i> Proceeding; and 3) the Seamex Contracts and their amendments between July 1, 2015 and the present. SOD ¶¶ 36, 95–96, 192, 208–209, 213, 280–281.
Justification:	<p>The requested documents are also relevant and material to Claimants' claims that México treated Oro Negro unfairly and arbitrarily based on a willingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. The requested documents are also relevant to assessing Respondent's claims that "Pemex has never neglected the requirements of the Bankruptcy Judge" (SOD ¶ 280).</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 61 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>Las razones y justificaciones de esta Solicitud están basadas en las reclamaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre un trato injusto y arbitrario a Oro Negro y los supuestos actos de corrupción relacionados con algunos Tenedores de Bonos específicos, competidores de Oro Negro y Pemex.</p> <p>El alcance de las definiciones "<i>documents</i>" y "<i>communications</i>" de esta Solicitud es excesivo. Solicitar todos los correos y mensajes del Sr. Rodrigo Loustaunau, incluidos aquellos intercambiados por "apps" de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos.</p>

	<p>Requerir mensajes de texto privados de testigos va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial discovery</i>”.</p> <p>La relevancia o utilidad de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada y su testigo, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Esta Solicitud, al igual que otras similares, al parecer tienen como finalidad intimidar a los testigos de la Demandada e imponer sobre ellos obligaciones invasivas y onerosas, lo cual sería totalmente inapropiado. Las Demandantes tendrán la oportunidad de presentar sus propias pruebas junto al Escrito de Réplica y a contrainterrogar a los testigos de la Demandada en la audiencia arbitral.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants’ Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. <i>See</i> SOC ¶ 1. Respondent also discusses Mr. Loustaunau various times in its Statement of Defense.</p> <p><i>Second</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The three categories of documents requested seek documents related only to this case, and related specifically to Mr. Loustaunau, who is the Associate Litigation General Counsel at Pemex . For further clarification, Claimants seek communications from Mr. Loustaunau regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the</p>

	<p>Bondholders about the Oro Negro Contracts; and 3) the Seamex Contracts and their amendments. Further, in a spirit of good faith and cooperation, Claimants hereby further limit the time frame of this request to documents prepared between April 1, 2017 to December 2018 and the present.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁵⁸</p> <p><i>Fourth</i>, Claimants' request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines "document" as "a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means." Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media was used by these individuals to communicate with it and its personnel regarding the topics at hand.</p> <p><i>Fifth</i>, Claimants reject the accusation that their document requests are any kind of intimidation of witnesses. Claimants simply request documents relevant to their case, which is permitted under the IBA rules.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. The Tribunal however first limits the production of the requested evidence to exchanges in writing or per email. The Tribunal further limits the production to the communications from Mr. Loustaunau regarding 1) the Oro Negro Contracts, their

⁵⁸ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	amendments, and termination; 2) communications with the Bondholders about the Oro Negro Contracts; and 3) the Seamex Contracts and their amendments. Lastly, the production is limited to documents prepared between April 1, 2017 to December 2018 and the present.
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Request No.	62.
Document / Category of Documents:	All communications from Miguel Ángel Servín Diago, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, regarding: 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders; 3) and the Seamex Contracts and their amendments between January 1, 2014 and the present. SOD ¶¶ 161, 173, 209, 228–230.
Justification:	The requested documents are also relevant and material to Claimants' claims that México treated Oro Negro unfairly and arbitrarily based on a willingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	La Demandada objeta la Solicitud No. 62 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3). Las razones y justificaciones de esta Solicitud están basadas en las reclamaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i> , la reclamación sobre un trato injusto y arbitrario a Oro Negro y los supuestos actos de corrupción relacionados con los algunos Tenedores de Bonos específicos, competidores de Oro Negro y Pemex.

	<p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesiva. Solicitar todos los correos y mensajes del Sr. Servín Diago, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos. Asimismo, se debe recordar que el Sr. Servín Diago laboró en Pemex de abril de 2016 a diciembre de 2018. En otras palabras, el periodo de búsqueda es fútil.</p> <p>Requerir mensajes de texto privados de testigos va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial discovery</i>”.</p> <p>La relevancia o utilidad de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada y su testigo, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Esta Solicitud, al igual que otras similares, al parecer tienen como finalidad intimidar a los testigos de la Demandada e imponer sobre ellos obligaciones invasivas y onerosas, lo cual sería totalmente inapropiado. Las Demandantes tendrán la oportunidad de presentar sus propias pruebas junto al Escrito de Réplica y a contrainterrogar a los testigos de la Demandada en la audiencia arbitral.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants’ Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease</p>

them back to Pemex through Seamex. See SOC ¶ 1. Respondent also discusses Mr. Servín various times in its Statement of Defense.

Second, Claimants' request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The three categories of documents requested seek documents related only to this case, and related specifically to Mr. Servín, who was the Operations Director of Procurement and Supply at Pemex between April 2016 and December 2018. For further clarification, Claimants seek communications from Mr. Servín regarding 1) the *Oro Negro Contracts*, their amendments, and termination; 2) communications with the Bondholders about the *Oro Negro Contracts*; and 3) the Seamex Contracts and their amendments. Further, in a spirit of good faith and cooperation, Claimants hereby further limit the time frame of this request to documents prepared between April 1, 2017 to December 2018 and the present.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁵⁹

Fourth, Claimants' request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines "document" as "a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means." Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media was used by these individuals to communicate with it and its personnel regarding the topics at hand.

⁵⁹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p><i>Fifth</i>, Claimants reject the accusation that their document requests are any kind of intimidation of witnesses. Claimants simply request documents relevant to their case, which is permitted under the IBA rules.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. The Tribunal however first limits the production of the requested evidence to exchanges in writing or per email. The Tribunal further limits the production to the communications from Mr. Servín regarding 1) the Oro Negro Contracts, their amendments, and termination; 2) communications with the Bondholders about the <i>Oro Negro Contracts</i> ; and 3) the Seamex Contracts and their amendments. Lastly, the production is limited to documents prepared between April 1, 2017 to December 2018 and the present.

Request No.	63.
Document / Category of Documents:	All communications, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, from Julio Scherer, General Counsel to the Mexican Presidency, regarding: 1) any bribe requests to Oro Negro; 2) any strategy to retaliate against Oro Negro; 3) the <i>Concurso</i> Proceeding; 4) the Oro Negro Contract terminations; 5) Mexican criminal proceedings against Oro Negro; and 6) the Seamex Contracts and their amendments between January 1, 2014 and the present. <i>See</i> SOC ¶¶ 23, 74, 78, 124, 138, 158, 161, 163, 176, 202, 204, 207, 210–211, 216, 218, 222, 229, 232, 244, 259, 403; Cañedo Decl. ¶¶ 19–23; Gil Decl. ¶ 1.
Justification:	The requested documents are also relevant and material to Claimants' claims that México treated Oro Negro unfairly and arbitrarily based on an unwillingness ⁶⁰ to pay bribes and colluded with the Bondholders to drive

⁶⁰ Claimants fix a typo here – the original text said “based on a willingness,” but should have said “based on an unwillingness” as it now says here.

	<p>Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 63 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y de los Sres. Gonzalo Gil y José Antonio Cañedo, testigos de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre un trato injusto y arbitrario a Oro Negro y los supuestos actos de corrupción relacionados con los algunos Tenedores de Bonos específicos, competidores de Oro Negro y Pemex.</p> <p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesiva. Solicitar todos los correos y mensajes del Sr. Julio Scherer, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos.</p> <p>Requerir mensajes de texto privados de cualquier persona va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial Discovery</i>”.</p> <p>Independientemente de ello, esta es la primera vez que el Sr. Julio Scherer, Consejero Jurídico del Ejecutivo Federal, es mencionado en este arbitraje. La relevancia o utilidad de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente</p>

	<p>existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Además, la Demandada no encuentra razón alguna por la cual las comunicaciones requeridas existen.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants’ Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. <i>See</i> SOC ¶ 1. Communications involving high-level advisers to the Mexican Presidency, such as Mr. Scherer, regarding bribe requests to Oro Negro, plans to retaliate against it, and the actions taken in retaliation (including in relation with the <i>Concurso</i> Proceeding, the Oro Negro Contract terminations, criminal proceedings against Oro Negro, and the Seamex Contracts and amendments) are thus at the center of Claimants’ claims.</p> <p><i>Second</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The six categories of documents requested are narrowly tailored to serve the needs of the case and determine its outcome, and they are described in sufficient detail to identify any responsive documents. In a spirit of good faith and cooperation, Claimants hereby further limit the time frame of this request to documents prepared between April 1, 2017 to December 2018 and the present.</p> <p>Indeed, Respondent’s objection claiming that it has no reason to believe such documents exist plainly contradicts its objection under Article 3.3(a). Furthermore, Claimants assert that, because of Mr. Scherer’s role as General Counsel of the Mexican Presidency, he was involved in communications regarding matters relevant to this case, such as the <i>Concurso</i> Proceedings, the Oro Negro Contract terminations, criminal proceedings against Oro Negro, and the Seamex Contracts and amendments. <i>See, e.g.</i>, SOC ¶¶ 17, 23, 176, 383, 386.</p>

	<p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁶¹</p> <p><i>Fourth</i>, Claimants' request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines "document" as "a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means." Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media Mr. Scherer used to communicate with it and its personnel regarding the topics at hand.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal however finds that it cannot order the production of the requested evidence from the General Counsel to the Mexican Presidency. The Tribunal cannot order such evidence from public officials such as the General Counsel to the Mexican Presidency.

Request No.	64.
Document / Category of Documents:	All communications, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, from Andres Maximino Perez-Hicks, the <i>Procuraduría General de Justicia de la Ciudad de México</i> (the "PGJCDMX") prosecutor, regarding: 1) any

⁶¹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	bribe requests to Oro Negro; 2) any strategy to retaliate against Oro Negro; 3) the <i>Concurso</i> Proceeding; 4) the Oro Negro Contract terminations; 5) Mexican criminal proceedings against Oro Negro; and 6) the Seamex Contracts and their amendments between January 1, 2018 and the present. See SOC ¶¶ 248, 254, 284, 286, 288, 315.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate and pursue meritless criminal proceedings based on the Bondholders' agents' baseless criminal complaints, resulting in the seizure of Oro Negro's cash and in a court order authorizing the Bondholders to take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 64 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser información reservada y confidencial (Objeción General No. 5).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y de sus testigos. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre una supuesta colusión entre los Tenedores de Bonos y México para dar inicio a investigaciones penales relacionadas con Oro Negro.</p> <p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesiva. Solicitar todos los correos y mensajes del Sr. Pérez Hicks, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos.</p>

	<p>Requerir mensajes de texto privados de cualquier persona (<i>e.g.</i>, un agente del Ministerio Público) va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial Discovery</i>”.</p> <p>Independientemente de ello, existe un claro impedimento para exhibir los documentos solicitados debido a que el Sr. Pérez Hicks forma parte de la Fiscalía de Investigación Estratégica de Delitos Financieros perteneciente a la FGJCDMX, encargada de la investigación 787/2018. La Demandada considera improcedente que las Demandantes traten de obtener información personal y reservada relacionada con un agente del Ministerio Público que participa de forma activa en una investigación penal en curso mediante este arbitraje inversionista-Estado. La propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “<i>sigilo penal</i>” para no afectar la investigación de delitos y procuración de justicia.</p> <p>La relevancia o utilidad de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “<i>acoso innecesario</i>” en contra de la Demandada, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and 5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants’ Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. <i>See</i> SOC ¶ 1. Communications involving high-level prosecutors, such as Mr. Perez-Hicks, regarding bribe requests to Oro Negro, plans to retaliate against it, and the actions taken in retaliation (including in relation with the criminal proceedings against Oro Negro) are thus at the center of Claimants’ claims. Respondent fails to provide any explanation of why it argues to the contrary. Indeed, it itself admits that Mr. Perez-Hicks is actively involved in Respondent’s investigations of Oro Negro.</p>

Second, Claimants' request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The six categories of documents requested are narrowly tailored to serve the needs of the case and determine its outcome, and they are described in sufficient detail to identify any responsive documents. Further, Claimants' document request specifies a single custodian from which to obtain documents.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁶²

Fourth, Claimants' request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines "document" as "a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means." Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media Mr. Perez-Hicks used to communicate with it and its personnel regarding the topics at hand.

Fifth, Respondent claims that these documents should not be produced because they concern an active criminal investigation. Respondent should not be entitled to use criminal investigations as tools for harassment and retaliation and then refuse to provide evidence of its misconduct because it was executed through such tools. Confidentiality itself is not a basis to refuse production under the IBA Rules, but only to impose certain protection on the documents produced. Claimants would be willing to receive documents Respondent considers

⁶² *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal however finds that it cannot order the production of the requested evidence from the <i>Procuraduría General de Justicia de la Ciudad de México</i> . The Tribunal cannot order such evidence from public officials such as the <i>Procuraduría General de Justicia de la Ciudad de México</i> .

Request No.	65.
Document / Category of Documents:	All communications, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, from Judge Enrique Cedillo Garcia, regarding: 1) any bribe requests to Oro Negro; 2) any strategy to retaliate against Oro Negro; 3) the <i>Concurso</i> Proceeding; 4) the Oro Negro Contract terminations; 5) Mexican criminal proceedings against Oro Negro, and 6) the Seamex Contracts between January 1, 2018 and the present. <i>See SOC ¶¶ 246–247, 250, 253, 255, 257, 260, 262, 265, 547.</i>
Justification:	<p>The requested documents are relevant and material to Claimants’ claims that México colluded with the Bondholders to initiate and pursue meritless criminal proceedings based on the Bondholders’ agents’ baseless criminal complaints, resulting in the seizure of Oro Negro’s cash and in a court order authorizing the Bondholders to take over the Rigs. The requested documents are also relevant to understanding the reasons for Judge Cedillo’s unlawful refusal to withdraw the Rigs Take-Over order on the instruction of the <i>Concurso</i> judge.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>

Objections:	<p>La Demandada objeta la Solicitud No. 65 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser información reservada y confidencial (Objeción General No. 5).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y de sus testigos. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre una supuesta colusión entre los Tenedores de Bonos y México para dar inicio a investigaciones penales relacionadas con Oro Negro.</p> <p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesivo. Solicitar todos los correos y mensajes del Juez Enrique Cedillo, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos.</p> <p>Requerir mensajes de texto privados de cualquier persona (<i>e.g.</i>, un juez) va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas como de un “<i>common law-style pre-trial discovery</i>”.</p> <p>Independientemente de ello, existe un claro impedimento para exhibir los documentos solicitados debido a que el Juez Cedillo forma parte de un órgano judicial imparcial e independiente que conoció de procesos judiciales penales bajo el expediente 1887/2018 (C-0023, C-0026 y C-0027), relacionado con la investigación penal 787/2018. La Demandada considera improcedente que las Demandantes traten de obtener comunicaciones personales de un juez a través de un arbitraje inversionista-Estado.</p> <p>Además, la relevancia de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta</p>

	<p>Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Además, la Demandada no encuentra razón alguna por la cual las comunicaciones requeridas existen.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and 5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants assert that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. See SOC ¶ 1. Communications regarding bribe requests to Oro Negro, plans to retaliate against it, and the actions taken in retaliation (including in relation with the <i>Concurso</i> proceedings) are thus at the center of Claimants’ claims, especially as they involve government officials, such as Judge Cedillo, who refused to withdraw the Rigs Take-Over order on the instruction of the <i>Concurso</i> judge. Respondent fails to provide any explanation of why it argues to the contrary. Indeed, Respondent itself admits that Judge Cedillo was involved in judicial actions involving Oro Negro.</p> <p><i>Second</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The six categories of documents requested are narrowly tailored to serve the needs of the case and determine its outcome, and they are described in sufficient detail to identify any responsive documents. Further, Claimants’ document request specifies a single custodian from which to obtain documents and a narrow time frame to search – January 1, 2018 to the present. Respondent’s objection that it has no reason to believe that such communications exist directly contradicts its objection under Article 3.3(a). Furthermore, by Respondent’s own admission, Judge Cedillo was involved in the <i>Concurso</i> proceedings and thus will be in possession of, at minimum, communications related to those proceedings.</p>

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁶³

Fourth, Claimants' request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines "document" as "a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means." Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media Judge Cedillo used to communicate with it and its personnel regarding the topics at hand.

Fifth, Respondent claims that these documents should not be produced because they concern communications by a judge in relation to a case he presided over. Respondent should not be entitled to use judicial proceedings as tools for harassment and retaliation and then refuse to provide evidence of its misconduct because it was executed through such tools. Confidentiality itself is not a basis to refuse production under the IBA Rules, but only to impose certain protection on the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as "Attorneys' Eyes Only" information.

On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.

⁶³ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal however finds that it cannot order the production of the requested evidence from Judge Enrique Cedillo Garcia. The Tribunal cannot order such evidence from judges.
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Request No.	66.
Document / Category of Documents:	All communications, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, from Judge Joel de Jesus Garduño Venegas, regarding: 1) any bribe requests to Oro Negro; 2) any strategy to retaliate against Oro Negro; 3) the <i>Concurso Proceeding</i> ; 4) the Oro Negro Contract terminations, 5) Mexican criminal proceedings against Oro Negro; and 6) the Seamex Contracts and their amendments between January 1, 2015 and the present. <i>See SOC ¶¶ 284, 315.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate and pursue meritless criminal proceedings based on the Bondholders' agents' baseless criminal complaints, resulting in the seizure of Oro Negro's cash and in a court order authorizing the Bondholders to take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 66 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser información reservada y confidencial (Objeción General No. 5).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre una supuesta colusión entre los Tenedores de Bonos y México para dar inicio a investigaciones penales relacionadas con Oro Negro.</p>

	<p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesiva. Solicitar todos los correos y mensajes del Juez Garduño Venegas, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos. Requerir mensajes de texto privados de cualquier persona (<i>e.g.</i>, un juez) va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial discovery</i>”.</p> <p>Independientemente de ello, existe un claro impedimento para exhibir los documentos solicitados debido a que el Juez Garduño forma parte de un órgano judicial imparcial e independiente que conoció de procesos judiciales penales bajo el expediente 559/2019 (<i>ver C-0195 y R-0203</i>), relacionado con la investigación penal 787/2018. La Demandada considera improcedente que las Demandantes traten de obtener comunicaciones personales de un juez a través de un arbitraje inversionista-Estado. Asimismo, el periodo de búsqueda es fútil ya que el proceso judicial 559/2019 no inició desde el año 2015.</p> <p>La relevancia de los documentos requeridos es notoriamente nula. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “<i>acoso innecesario</i>” en contra de la Demandada, conforme el Artículo 3(3)(c)(i) de las Reglas IBA.</p> <p>Además, la Demandada no encuentra razón alguna por la cual las comunicaciones requeridas existen.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and 5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants’ Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease</p>

them back to Pemex through Seamex. See SOC ¶ 1. Communications regarding bribe requests to Oro Negro, plans to retaliate against it, and the actions taken in retaliation (including in relation with the *Concurso* proceedings) are thus at the center of Claimants' claims, especially as they involve government officials, such as Judge Garduño, who issued the Seizure and Rigs Take-Over Orders. Respondent fails to provide any explanation of why it argues to the contrary. Indeed, Respondent itself admits that Judge Garduño was involved in judicial actions involving Oro Negro.

Second, Claimants' request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The six categories of documents requested are narrowly tailored to serve the needs of the case and determine its outcome, and they are described in sufficient detail to identify any responsive documents. Further, Claimants' document request specifies a single custodian from which to obtain documents. Respondent's objection that it has no reason to believe that such communications exist directly contradicts its objection under Article 3.3(a). Furthermore, by Respondent's own admission, Judge Garduño was involved in the legal proceedings against Oro Negro and thus will be in possession of, at minimum, communications related to those proceedings.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁶⁴

Fourth, Claimants' request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines "document" as "a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means." Emails, text messages, and

⁶⁴ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media Judge Garduño used to communicate with it and its personnel regarding the topics at hand.</p> <p><i>Fifth</i>, Respondent claims that these documents should not be produced because they concern communications by a judge in relation to a case he presided over. Respondent should not be entitled to use judicial proceedings as tools for harassment and retaliation and then refuse to provide evidence of its misconduct because it was executed through such tools. Confidentiality itself is not a basis to refuse production under the IBA Rules, but only to impose certain protection on the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal however finds that it cannot order the production of the requested evidence from Judge Joel de Jesus Garduño Venegas. The Tribunal cannot order such evidence from judges.

Request No.	67.
Document / Category of Documents:	All communications, including emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, from any/all of the individuals recorded in the Black Cube Recordings, including Luis Sergio Guaso Montoya, Jose Carlos Pacheco, Gustavo Escobar Carré, and Arturo Henríquez Autrey, regarding: 1) any bribe requests to Oro Negro; 2) any strategy to retaliate against Oro Negro; 3) the <i>Concurso</i> Proceeding; 4) the Oro Negro Contract terminations; 5) Mexican criminal proceedings against Oro Negro, and 6) the Seamex Contracts and their amendments between January 1, 2015 and the present. <i>See SOC ¶¶ 201–215.</i>
Justification:	The requested documents are relevant and material to Claimants’ claims that México colluded with the Bondholders to (1) impose discriminatory amendments on the Oro Negro Contracts; (2) decline to contract the

	<p>New Rigs without justification; (3) refuse to pay Oro Negro past due amounts for services rendered pursuant to the Oro Negro Contracts, in order to deny Oro Negro the funds necessary to operate and maintain the Rigs; and (4) unlawfully purport to terminate the Oro Negro Contracts, so that the Bondholders could take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 67 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser información de personas no relacionadas con el arbitraje (Objeción General No. 6).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes y del Sr. Avi Yanus, testigo de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la reclamación sobre un trato discriminatorio a Oro Negro y supuestos actos de corrupción.</p> <p>El alcance de las definiciones “<i>documents</i>” y “<i>communications</i>” de esta Solicitud es excesivo. Solicitar todos los correos y mensajes de las personas entrevistadas por Black Cube, incluidos aquellos intercambiados por “<i>apps</i>” de mensajería instantánea es sumamente general, ambiguo e invasivo, sin dejar a un lado la onerosidad y carga irrazonable que constituye buscar esta información sin parámetros más específicos.</p> <p>Requerir mensajes de texto privados de personas ajenas a la controversia va en contra de las Reglas IBA, principalmente en un arbitraje inversionista-Estado en el cual no son admisibles prácticas similares de un “<i>common law-style pre-trial discovery</i>”.</p> <p>La Demandada no cuenta con el poder, custodia o control de las comunicaciones solicitadas al no tener relación alguna con los Sres. Guaso, Pacheco, Escobar y Henríquez. Independiente de ello, la relevancia de los</p>

	documentos requeridos es notoriamente nula. No existe “ <i>nexus</i> ” entre los documentos solicitados y la relevancia para el resultado del caso; simplemente existe especulación. Esta Solicitud consiste en una expedición de pesca y en un “acoso innecesario” en contra de la Demandada conforme el Artículo 3(3)(c)(i) de las Reglas IBA.
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3 and 6. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is not only conclusory, but completely baseless. Claimants’ Statement of Claim asserts that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and colluded with the Bondholders to drive Oro Negro out of business so that the Bondholders could take over the Rigs and lease them back to Pemex through Seamex. <i>See SOC ¶ 1</i>. The individuals at issue in this request are individuals involved in the Black Cube Recordings, which indicated that Pemex favored Seamex because Seamex paid bribes. Therefore, it is highly probable that Respondent is in the possession of further communications with these individuals on this topic, which is at the center of Claimants’ case. Respondent’s claim that it has no relationship with these individuals is inaccurate, as they are current or former Pemex officials.</p> <p><i>Second</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules, and thus will not impose an undue burden on Respondent. The six categories of documents requested are narrowly tailored to serve the needs of the case and determine its outcome, and they are described in sufficient detail to identify any responsive documents. Claimants also specify four custodians.</p> <p><i>Third</i>, Claimants’ request should not be denied, as Respondent asserts, because it is based on Claimants’ allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent’s reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd.</i></p>

	<p><i>v. Romania</i>, “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both.”⁶⁵</p> <p><i>Fourth</i>, Claimants’ request for responsive emails, text messages, and instant messaging communications is not overbroad. The IBA Rules do not exclude such communications from the scope of discovery. In fact, the IBA defines “document” as “a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means.” Emails, text messages, and instant messaging communications are not excluded from such definitions and squarely fit within its scope. Respondent is uniquely situated to identify which media was used by these individuals to communicate with it and its personnel regarding the topics at hand.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal’s decision:	The Claimants’ request relates to a relevant issue in this arbitration. The Tribunal however limits the production of the requested evidence to relevant exchanges in writing or per email in the possession of the Respondent.

Request No.	68.
Document / Category of Documents:	The documents related to Pemex’s January 2019 bidding and selection process, including any correspondence, notes, reports, or analyses related to the decision not to include Oro Negro prepared between September 1, 2018 and February 1, 2019. See SOC ¶¶ 169-170; RFIM ¶¶ 22-23.
Justification:	<p>The requested documents are relevant and material to Claimants’ claims that México unreasonably denied Oro Negro an opportunity to participate Pemex’s January 2019 bidding process and continue servicing Pemex under the Oro Negro Contracts, again showing its discriminatory treatment towards Oro Negro.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody, or control because they are or should be inherent to ordinary</p>

⁶⁵ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	<p>La Demandada objeta la Solicitud No. 68 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información de personas no relacionadas con el arbitraje (Objeción General No. 6).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes a pesar de que éstas cuentan con la carga probatoria de demostrar sus afirmaciones, <i>inter alia</i>, la supuesta denegación de Pemex de permitir de que Oro Negro participara en una licitación público en enero de 2019.</p> <p>El término “<i>documents</i>” de esta Solicitud es ambiguo y la búsqueda de información es onerosa y una carga irrazonable para la Demandada. Las Demandantes ni siquiera aportan datos concretos sobre la licitación o el contrato relacionado con la misma. Las Demandantes minimizan el hecho de que Pemex y sus empresas subsidiarias cuentan con estructuras administrativas complejas y con diversas áreas administrativas. Las Demandantes también minimizan el hecho de que año con año Pemex y sus subsidiarias organizan distintos procedimientos de contratación para diversos servicios que requieren sus actividades comerciales. Sin mayor especificación, resulta sumamente oneroso y una carga irrazonable para la Demandada buscar la documentación solicitada.</p> <p>Además, las Demandantes ya han exhibido en el arbitraje documentos de otras empresas, lo que hace suponer que conocen las fuentes donde se encuentra la información o conocen los procedimientos para obtenerla.</p> <p>Lo anterior, sin perjuicio de que la información requerida posiblemente consiste en información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas ajenas a este arbitraje.</p>

Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-4 and 6. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent's conclusory claim that the request does not concern documents relevant or material to the outcome of the case is baseless. The documents requested will inform Claimants' claim that Respondent unreasonably denied Oro Negro an opportunity to participate in Pemex's January 2019 bidding process and continue servicing Pemex under the Oro Negro Contracts. Respondent did not explain how documents related to the bidding and selection process are not related to Claimants' claim that this process was discriminatory towards Oro Negro.</p> <p><i>Second</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁶⁶</p> <p><i>Third</i>, Respondent objects to the term "<i>documents</i>" as ambiguous and overbroad. Specifically, Respondent complains that Claimants have not provided the concrete date of the bidding process and related contract. Respondent further complains that the request is onerous because Pemex is a complex entity, and as such it requires further specificity. These complaints are red herrings. Claimants have provided a sufficiently specific date range for the bidding process and the documents to be provided (<i>i.e.</i>, the "January 2019 bidding process" and documents "prepared between September 1, 2018 and February 1, 2019"). Further, Respondent, which fully owns Pemex, is in a better position to identify the location of responsive documents related to the bidding process Pemex conducted.</p>
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⁶⁶ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p><i>Fourth</i>, Respondent's claim that Claimants are already in possession of some responsive documents is irrelevant. Claimants do not have access to Respondent's documents and so many relevant documents would otherwise be out of reach.</p> <p><i>Fifth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as "Attorneys' Eyes Only" information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence. The documents may be produced where relevant for "Attorneys' Eyes Only". In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for "Attorneys' Eyes Only".

Request No.	69.
Document / Category of Documents:	The documents related to the letters Claimants sent to Mexico on July 20, 2018, July 28, 2018, July 31, 2018, and October 9, 2018, including any correspondence, notes, reports, or analyses related to the letters prepared between July 20, 2018 and December 31, 2018 . See RFIM ¶ 87.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate and pursue meritless criminal proceedings based on the Bondholders' agents' baseless criminal complaints, resulting in the seizure of Oro Negro's cash and in a court order authorizing the Bondholders to take over the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary</p>

	operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.
Objections:	<p>La Demandada objeta la Solicitud No. 69 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes a pesar de que éstas cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la supuesta colusión entre México y los Tenedores de Bonos para iniciar investigaciones penales en contra de personas relacionadas con Oro Negro.</p> <p>Las Demandantes ni siquiera identifican las autoridades o funcionarios públicos que pudieran contar con los documentos solicitados. La búsqueda y exhibición de los documentos es una tarea sumamente onerosa y una carga irrazonable para la Demandada. La Solicitud tampoco puede considerarse concreta y específica conforme a las Reglas de la IBA. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso. En efecto, las Demandantes basan sus alegaciones en la Solicitud de Medidas Provisionales presentada el 21 de julio de 2019, la cual ya ha sido resuelta por el Tribunal.</p> <p>Esta Solicitud consiste en una expedición de pesca y contraria al Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-3. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent's conclusory claim that the request does not concern documents relevant or material to the outcome of the case is baseless. Claimants' claims of retaliation in the Application for Interim Measures directly align with and are incorporated into the retaliation claims made in the Statement of Claim. See e.g., SOC ¶¶ 216-324, 506-510, 513, 517, 519, 520-521, 525. Respondent's efforts to unjustifiably separate the claims in the Application for Interim Measures from this arbitration and the Statement of Claim is unavailing.</p>

	<p><i>Second</i>, Claimants' request is reasonable and specific. Claimants' specify a limited and narrow time period of July 20, 2018 and December 31, 2018. Claimants are not in a position to know the entities or authorities who were involved in the letters referenced, but this information should be readily available to Respondent. Moreover, Claimants provided examples of the types of documents that would be relevant.</p> <p>Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁶⁷</p> <p><i>Third</i>, Respondent further claims that the request is overbroad because Claimants do not identify the personnel likely to be in possession of the responsive documents. But Respondent, as the custodian of such documents and the recipient of the letters, is better positioned to identify such personnel.</p> <p><i>Fourth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as "Attorneys' Eyes Only" information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of relevant correspondence, notes, reports, or analyses related to the letters prepared between July 20, 2018 and December 31, 2018. The documents may be produced where relevant for "Attorneys'

⁶⁷ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	Eyes Only". In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for "Attorneys' Eyes Only".
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Request No.	70.
Document / Category of Documents:	The documents related to Oro Negro's November 25, 2018 letter to SHCP requesting the preservation of all documents concerning an alleged relationship between Perforadora and the "sham" companies, and the fabrication of DIOTS showing such a relationship, including any correspondence, notes, reports, or analyses related to the request prepared between November 25, 2018 and the present. <i>See RFIM ¶ 88.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate and pursue baseless criminal proceedings based on the fabricated Excel spreadsheet furnished by the SAT, resulting in the seizure of Oro Negro's cash and in a court order authorizing the Bondholder to take over of the Rigs.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 70 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2) y por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes a pesar de que éstas cuentan con la carga probatoria de demostrar sus afirmaciones. Las Demandantes parten de una premisa falsa y en todo caso son las propias Demandantes quienes tienen la carga de la prueba para demostrar la supuesta colusión entre México y los Tenedores de Bonos, el inicio de investigaciones penales sin méritos, y la supuesta fabricación y manipulación de documentos – incluidas las DIOTS de personas ajenas al arbitraje – por parte del SAT. Resulta improcedente que las Demandantes busquen transferir esta carga</p>

	<p>probatoria a la Demandada. Además, las Demandantes basan sus alegaciones en la Solicitud de Medidas Provisionales presentada el 21 de julio de 2019, la cual ya ha sido resuelta por el Tribunal.</p> <p>Las Demandantes ni siquiera identifican las unidades o áreas administrativas dentro de la SCHP que pudieran contar con la documentación requerida. Las Demandantes minimizan la compleja estructura administrativa de la SHCP lo que genera que la búsqueda y exhibición de los documentos sea una tarea sumamente onerosa y una carga irrazonable para la Demandada.</p> <p>Independiente de ello, la Solicitud tampoco puede considerarse concreta y específica conforme a las Reglas de la IBA. No existe “<i>nexus</i>” entre los documentos solicitados y la relevancia para el resultado del caso. Esta Solicitud consiste en una expedición de pesca y contraria al Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments, and ensure the complete destruction of their assets and investments in México. As explained above, the requested documents are relevant to Claimants’ claims that Respondent colluded with the Bondholders to initiate and pursue baseless criminal proceedings based on the fabricated Excel spreadsheet furnished by the SAT, resulting in the seizure of Oro Negro’s cash and in a court order authorizing the Bondholders to take over of the Rigs. See RFIM ¶ 88; SOC ¶¶ 239-246.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information related to a specific letter sent by Oro Negro to SHCP related to the fabrication of DIOTs showing a purported relationship between Perforadora and “sham companies,” which took place in a limited and specific time frame—November 25, 2018 to the present—as specified in the Statement of Claim. See RFIM ¶ 88; SOC ¶¶ 239-246. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (any correspondence, notes, reports, or analyses). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim and Application for</p>

Interim Measures, the exact paragraphs of which they reference. *See* RFIM ¶¶ 49-71, 88; SOC ¶¶ 239-246. Such information includes who sent the letter, to whom the letter was addressed, what was requested in the letter, and the relevance of the request. *See* RFIM ¶ 88. Such information sufficiently identifies the requested documents.

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁶⁸

Fourth, Respondent's argument that Claimants base their allegations on Claimants' Application for Interim Measures and that such Application was already resolved by the Tribunal is also inapposite. The fabrication of the Excel spreadsheet furnished by the SAT, and Claimants' claims that Respondent colluded with the Bondholders to initiate and pursue baseless criminal proceedings based on such fabricated Excel, is an integral part of Claimants' Statement of Claim. *See* SOC ¶¶ 239-246. Therefore, Claimants' requested documents are in fact relevant and material to the case (IBA Rules, Art. 3.3(b)).

Fifth, the Request is not a "fishing expedition," as it seeks concrete information in Respondent's possession related to Oro Negro's November 25, 2018 letter to SHCP. Respondent's argument that SHCP has complex administrative structures, and that it is therefore an unreasonable burden to search for them without further specification is inapt, as Claimants are obviously unable to provide Respondent with information regarding where within SHCP such documents might reside.

On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.

⁶⁸ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration. The Tribunal orders the production any correspondence, notes, reports, or analyses related to Oro Negro's November 25, 2018 letter, prepared between November 25, 2018 and the present.
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Request No.	71.
Document / Category of Documents:	The documents and communications related to or prepared in connection to investigations initiated by Mexico upon learning of the Black Cube recordings against the individuals interviewed by Black Cube, Black Cube itself, or Quinn Emanuel LLP, including internal correspondence, external correspondence with the Bondholders, memoranda, reports, or analyses regarding the investigations prepared between July 1, 2018 and the present. <i>See</i> SOC ¶¶ 276, 278; SOD ¶¶ 387, 420, 433-435, 452, 454.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México treated Oro Negro unfairly and arbitrarily based on a willingness to pay bribes and accorded preferential treatment to Oro Negro's primary competitor Seamex. The requested documents are also relevant to assessing Respondent's claims that the Black Cube services "would give rise to the probable commission . . . of the crime" (SOD ¶ 434; Paz Report ¶ 171) and that "Pemex acted diligently and reported in accordance with the applicable legal framework possible acts of corruption at FGR" (SOD ¶ 454),</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 71 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2), por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3) y por ser información reservada y confidencial (Objeción General No. 5).</p> <p>La descripción y justificación de la Solicitud están basadas en las propias afirmaciones de las Demandantes a pesar de que éstas cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, los supuestos actos de corrupción y el trato injusto y arbitrario a Oro Negro.</p>

	<p>La Solicitud no identifica con precisión las investigaciones penales supuestamente iniciadas en contra de los entrevistados por Black Cube, Black Cube o los miembros de Quinn Emanuel. Por ello, la búsqueda y exhibición de los documentos es una tarea sumamente onerosa y una carga irrazonable para la Demandada. Además, la Solicitud no puede considerarse concreta y específica conforme a las Reglas de la IBA. No existe “nexus” entre los documentos solicitados y la relevancia para el resultado del caso.</p> <p>Como ya ha sido señalado por la Demandada, el 23 de julio de 2018 Pemex presentó una querella “contra quien resulte responsable” ante la FGR (la cual es reservada/confidencial y existe un impedimento legal para divulgar documentación contenida en ella para no vulnerar el sigilo penal) y ha aportado a esta investigación las grabaciones de Black Cube (Contestación de Demanda, ¶ 482).</p> <p>Esta Solicitud consiste en una expedición de pesca y es contraria al Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-3, and 5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent’s actions resulted in the complete destruction of Integradora, Perforadora, and Claimants’ assets and investments in México. As explained above, the requested documents are relevant to Claimants’ claims that Respondent treated Oro Negro unfairly and arbitrarily based on an unwillingness to pay bribes and accorded preferential treatment to Oro Negro’s primary competitor Seamex. The requested documents are also relevant to assessing Respondent’s claims that the Black Cube services “would give rise to the probable commission . . . of the crime” and that “Pemex acted diligently and reported in accordance with the applicable legal framework possible acts of corruption at FGR.” <i>See</i> SOD ¶¶ 34, 454; Paz Report ¶ 171.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information related to investigations initiated by Respondent against a specific number of people, for a specific and unfolding during a limited time frame—between July 1, 2018, and the present—as specified in the Statement of Claim. <i>See</i> SOC ¶¶ 276, 278. Moreover, Claimants have provided examples of the types of documents that would be responsive to this request</p>

	<p>(internal correspondence, external correspondence with the Bondholders, memoranda, reports, or analyses regarding these investigations). In addition, Claimants have provided concrete information regarding the facts and time period surrounding this request in their Statement of Claim, the exact paragraphs of which they reference. <i>See SOC ¶¶ 276, 278.</i> Such information includes the basis on which (1) the Mexican government was considering launching, or had already launched, an investigation against Quinn Emanuel in July 2018, and (2) the PGJCDMX was working on obtaining charges and arrest warrants against Quinn Emanuel and its attorneys. <i>See SOC ¶¶ 276-280.</i> Such information sufficiently identifies the requested documents.</p> <p><i>Third</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁶⁹</p> <p><i>Fourth</i>, the Request is not a "fishing expedition," as it seeks concrete information in Respondent's possession relating to investigations it initiated upon learning of the Black Cube recordings against the individuals interviewed by Black Cube, Black Cube itself, or Quinn Emanuel. Claimants are obviously unable to provide Respondent with specific information regarding the aforementioned investigations, as Claimants do not have access to documents which would allow them to confirm with specificity these investigations. Claimants are making this request for the very reason of obtaining documentary evidence related to such investigations.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request is insufficiently justified. The Tribunal rejects the request.

⁶⁹ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

Request No.	72.
Document / Category of Documents:	The documents or communications related to the issuance of Arrest Warrants against Gonzalo Gil White, Miguel Angel Villegas and Cynthia Ann Delong in November 2019, including the entire investigation file, any internal or external government correspondence, memoranda, reports, or analyses regarding this investigation. See SOD ¶ 352.
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México colluded with the Bondholders to initiate and pursue meritless and retaliatory criminal proceedings based on false and fabricated evidence, making Claimants and their witnesses fear for their safety.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 72 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información reservada y confidencial relacionada con una investigación penal en curso (Objeción General No. 5).</p> <p>Contrario a lo que señalan las Demandantes, las razones y justificaciones de esta Solicitud están basadas en las reclamaciones de las Demandantes. Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, la colusión entre los Tenedores de Bonos y la Demandada, o el inicio de investigaciones penales con base en evidencia falsa y como represalia en contra de las Demandantes.</p> <p>La solicitud está relacionada con documentos que constan en los expedientes de la investigación 787/2018 a cargo de la FGJCDMX, a la cual las Demandantes y/o sus representantes tienen acceso. Adicionalmente, los documentos solicitados son de carácter reservado/confidencial y existe una restricción para tener acceso a tal</p>

	<p>documentación bajo el sistema jurídico mexicano ya que están relacionados con una investigación penal en curso.</p> <p>La Demandada considera improcedente que las Demandantes traten de obtener información reservada y confidencial relacionada con investigaciones penales mediante este arbitraje inversionista-Estado. La documentación solicitada podría ser indebidamente utilizada para otros fines o procesos legales. Además, la propia naturaleza de los documentos solicitados demuestra que se debe evitar su divulgación y respetar el “sigilo penal” para no afectar la investigación de delitos y procuración de justicia.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent’s General Objections Nos. 1-5. In addition, Respondent’s objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Claimants’ request is relevant to this case, as it is directly related to their claim that Respondent colluded with the Bondholders to initiate and pursue meritless and retaliatory criminal proceedings based on false and fabricated evidence, making Claimants and their witnesses fear for their safety. <i>See SOD ¶ 352</i>. Further, these documents further support the claim that Respondent colluded with the Bondholders to destroy Integradora, Perforadora, and Claimants’ investments, and ensure the complete destruction of their assets and investments in México.</p> <p><i>Second</i>, Claimants’ request is reasonable and specific. It asks for discrete information related to a specific set of arrest warrants which were issued in a limited time frame—November 2019—as specified in Respondent’s Statement of Defense. <i>See SOD ¶ 352</i>. Moreover, Claimants have provided examples of the types of documents that would be responsive to this Request (the entire investigation file, any internal or external government correspondence, memoranda, reports, or analyses regarding these specific arrest warrants). Moreover, Claimants have provided concrete information regarding the facts and time period surrounding this request by referencing the information provided by Respondent in its Statement of Defense, and identified the relevant paragraphs in the request. <i>See SOD ¶ 352</i>. Such information includes who issued the arrest warrants and against whom such arrest warrants were issued. <i>See SOD ¶ 352</i>. Such information sufficiently identifies the requested documents.</p>

Third, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is inapposite. As the tribunal noted in *Gabriel Res. Ltd. v. Romania*, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁷⁰

Fourth, Claimants are not requesting any information that they already have, as they are asking for information from Respondent's files in connection to arrest warrants issued against Gonzalo Gil White, Miguel Angel Villegas, and Cynthia Ann Delong in November 2019—files to which Claimants do not have access. Moreover, even if Claimants would be able to obtain some of the requested documents from another source (assuming they are even able to do so and in time to submit the information as part of their Reply), the IBA Rules require only that Claimants not request documents that are "in the possession, custody or control of the requesting Party," which is not the case here. See IBA Rules, Art. 3(3)(c)(i). Additionally, Respondent's statement that Claimants have access to the requested information because the information is related to another case file to which apparently Claimants have access is ludicrous. Respondent does not even explain how Claimants allegedly having had access to the Sham Companies Investigation case file (Claimants have never stated they have access to that file, but only stated they have been able to review it),⁷¹ means that Claimants have in their possession the requested documents. Furthermore, even if the fact that such proceedings were related were relevant, and the Sham Companies Investigation case file contained the requested information, Claimants having been able to obtain copies of the Sham Companies Complaints (Exhibits C-16 - C-18) does not mean that Claimants have access to the entire Sham Companies Investigation case file.

On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.

⁷⁰ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

⁷¹ Application for Interim Measures, footnote 60.

Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence.
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Request No.	73.
Document / Category of Documents:	The documents or communications related to the termination of the contract for Seamex's West Pegasus platform, including any internal correspondence, external correspondence with Seamex, notes, reports, analyses, or memoranda regarding the termination of the West Pegasus contract and/or Seamex's Complaint for Annulment (R-0156), prepared between January 1, 2016 and March 31, 2017. <i>See SOD ¶¶ 204–215, 768.</i>
Justification:	<p>The requested documents are relevant and material to Claimants' claims that México accorded preferential treatment to Oro Negro's primary competitor Seamex in exchange of bribes, and colluded with the Bondholders to drive Oro Negro out of business.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody, or control because they are or should be inherent to ordinary operations of government functions, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>
Objections:	<p>La Demandada objeta la Solicitud No. 73 por no ser relevante para el caso y sustancial para su resultado (Objeción General No. 1); por ser excesivamente onerosa su búsqueda y exhibición (Objeción General No. 2); por ser demasiado general, especulativa y por falta de especificidad (Objeción General No. 3); por ser incorrectas las afirmaciones de las Demandantes sobre la falta de poder, custodia o control sobre los documentos solicitados (Objeción General No. 4) y por ser información comercial confidencial de una empresa ajena a este arbitraje (Objeción General No. 6).</p> <p>Las Demandantes cuentan con la carga probatoria de demostrar sus afirmaciones, incluida, <i>inter alia</i>, el trato preferencial recibido por Seamex a cambio de sobornos.</p> <p>La Solicitud es sumamente amplia y el alcance de las definiciones “documents” y “communications” de esta Solicitud no puede considerarse concreto y específico. Asimismo, las Demandantes han utilizado como prueba</p>

	<p>documentos relacionados con Seamex y han señalado algunas fuentes donde se encuentra disponible la información requerida de otras empresas, incluida Seamex.⁷²</p> <p>De la misma forma, las Demandantes solicitan información confidencial y/o comercialmente sensible conforme el ¶ 4 (i) de la RP 3 de empresas ajenas a este arbitraje. Esta Solicitud es una expedición de pesca y es contraria al Artículo 3(3)(c)(i) de las Reglas IBA.</p>
Reply:	<p>Claimants refer to and incorporate by reference as if fully set forth herein their responses to Respondent's General Objections Nos. 1-4 and general objection 6. In addition, Respondent's objections are without merit and should be overruled for the following reasons:</p> <p><i>First</i>, Respondent's conclusory claim that the request does not concern documents relevant or material to the outcome of the case is baseless. Respondent itself put Seamex's West Pegasus contracts at issue in its Statement of Defense, proving the relevance of such documents. Claimants have the right to assess Respondent's defenses by reviewing any related documents. Similarly, Claimants narrowly defined the request to match Respondent's allegations in its Statement of Defense. It also specifies a limited time period for documents – from January 1, 2016 to March 31, 2017.</p> <p><i>Second</i>, Claimants' request should not be denied, as Respondent asserts, because it is based on Claimants' allegations and the statements of their witnesses. Claimants make their document requests for the very reason of preparing their case and obtaining documentary evidence in support of those assertions. Respondent's reason to not produce documents based on such requests is simply inapposite. As the tribunal noted in <i>Gabriel Res. Ltd. v. Romania</i>, "while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both."⁷³</p> <p><i>Third</i>, Respondent's objection that the request is overbroad because of the definitions of "documents" and "communications" is meritless. The fact that third parties, such as Seamex, are in the possession of related</p>

⁷² Ver Resolución Procesal No. 7, Anexo A, pp. 3-5.

⁷³ *Gabriel Res. Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10 ¶ 28, June 8, 2018.

	<p>documents does not excuse Respondent from producing the documents in its possession, which are potentially different than those in Seamex's possession and more probative of Respondent's discriminatory conduct towards Claimants.</p> <p><i>Fourth</i>, Respondent claims that these documents should not be produced because they concern confidential information. Confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as "Attorneys' Eyes Only" information.</p> <p>On these grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents.</p>
Tribunal's decision:	The Claimants' request relates to a relevant issue in this arbitration and is sufficiently specific. The Tribunal orders the production of the requested evidence. The documents may be produced where relevant for "Attorneys' Eyes Only". In such case, the Parties are expected to find an express agreement on the modalities to ensure the confidentiality of the relevant documents. The Tribunal requests in particular the preparation of a list identifying all persons who shall have access to the documents for "Attorneys' Eyes Only".

APPENDIX A: RESPONDENT'S GENERAL OBJECTIONS AND CLAIMANTS' REPLIES TO SAME

Claimant's Preface: Respondent submitted six general objections to Claimants' document requests, which begin below. Claimants respond to each general objection below.

[Respondent's] Introducción

De conformidad con la § 17 y el Anexo C de la Resolución Procesal No. 1 (RP 1) del 25 de marzo de 2019, y la comunicación y calendario actualizado del 8 de junio de 2020, la Demandada formula objeciones a la Solicitud de Exhibición de Documentos de las Demandantes, presentada el 20 de julio de 2020. El ¶ 17.1 de la RP 1 establece que todas las solicitudes de exhibición de documentos deben cumplir con los requisitos establecidos en el Artículo 3(3) de las Reglas de la IBA sobre Práctica de Prueba en el Arbitraje Internacional de 2010 (Reglas IBA). Con base en ello, cada solicitud de documentos deberá mencionar las causas que motivan la solicitud respecto de cada documento o categoría de documentos solicitados y deberá precisarse la relevancia para el caso y sustancial para su resolución. Las solicitudes de las Demandantes (Solicitudes) no fueron presentadas conforme a las Reglas IBA. Además de ello, las Demandantes tienen una idea equivocada sobre la fase de Solicitud de Documentos de un arbitraje inversionista-Estado. Esta etapa procesal no es similar a los procesos judiciales iniciados ante las cortes de Estados Unidos para la obtención de documentos (“U.S. pre-trial discovery practices”).⁷⁴ Las Solicitudes constituyen una práctica de “discovery”, similar a la que se sigue en procesos judiciales civiles bajo derecho común anglosajón (“common law civil litigation procedures”), lo que resulta contrario al objeto y lenguaje de las Reglas IBA. En este caso, alrededor de 56 Solicitudes no son solamente generales, sino también son especulativas al encontrarse basadas en las propias alegaciones de las Demandantes y/o en las declaraciones de sus testigos y expertos y sin documentos que lo corroboren⁷⁵, bajo un enfoque posiblemente aceptable bajo las reglas civiles de algunas jurisdicciones del derecho común anglosajón, pero ajeno al arbitraje internacional.⁷⁶ Como un experto en la materia señala, “[i]t is [...] not unusual for US lawyers to come to hearings [...] carrying with them a belief in the entitlement to ‘discovery’ of a certain document, or groups of

⁷⁴ *Tidewater Inc. et al. v. The Bolivarian Republic of Venezuela*, ICSID Case No ARB/10/5, Procedural Order No. 1 on Production of Documents, ¶ 32, 29 de marzo de 2011 (“The Tribunal acknowledges that (absent the express decision of the parties) Common Law-style pre-trial discovery does not belong in international arbitration.”).

⁷⁵ Ver Solicitudes No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 40, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71 y 72.

⁷⁶ Nathan D. O'Malley, *Rules of Evidence in International Arbitration*, pp. 23 (2nd ed. 2019) (“[P]robably the most outstanding characteristic of international judicial procedure is the extent to which reliance is placed upon its written word, both in the manner of pleadings, and of evidence, but especially the latter. This stands in marked contrast to the traditions following in common law jurisdictions [...] [where] [d]ocumentary evidence [...] is often introduced only after a foundation establishing its reliability has been laid using oral witness testimony.”).

*documents. [...] The result can be that a huge amount of time and expense is incurred in dealing with disputes concerning document production.”*⁷⁷ En contraste, los comentarios de 2010 a las Reglas IBA dejan claro su objetivo de eliminar las prácticas amplias de “*discovery*” y “*fishing expeditions*”: 1. Expansive American- or English-style discovery is generally inappropriate in international arbitration. Rather, requests for documents to be produced should be carefully tailored to issues that are relevant and material to the determination of the case. [...] Article 3.3 provides certain requirements regarding the content of a request to produce, which are generally designed to have the request specifically describe the documents being sought. Article 3.3 is designed to prevent a broad “*fishing expedition*”, while at the same time permitting parties to request documents that can be identified with reasonable specificity and which can be shown to be relevant to the case and material to its outcome. This specificity of the information required by Article 3.3 is also designed to help the receiving party decide whether it wants to comply with the request voluntarily (as provided in Article 3.4), or if it wants to raise objections (Article 3.5). The specificity of the request is also designed to make it possible for the arbitral tribunal to decide, if there is an objection to the request to produce, whether or not to grant the request pursuant to the standards set forth in Article 3.7.⁷⁸ Para prevenir las tan reprendidas “*fishing expeditions*” por parte de los demandantes, O’Malley señala lo siguiente: [T]he presumption in arbitration is that a party will establish its case based largely (if not entirely) on the documents within its own possession. Thus, a wide-ranging discovery process that allows a party to substantiate a case by “*discovering*” the primary evidence to support its arguments is not compatible with this threshold concept. Indeed, it is more accurate to view disclosure under [IBA Rules] article 3.3 as a limited process aimed at filling gaps or providing assistance in covering important, but discreet, issues raised by the factual record, for which sufficient evidence has not been voluntarily supplied by the parties.⁷⁹ Otro tratadista hace eco a la observación de O’Malley, notando que las Reglas IBA “*establish the principle [...] that the parties should produce the evidentiary documents on which they rely as the first stage.*”⁸⁰ Es axiomático que la parte que alega una violación al derecho internacional tiene la carga de probar su afirmación, y que la carga se traslada solo si hay evidencia *prima facie* que soporte su alegación.⁸¹ Si la única evidencia son alegaciones vagas y sin fundamento por parte de las Demandantes, debe considerarse que éstas no han satisfecho la carga de la prueba y no se les puede permitir transferir dicha carga a la Demandada.

⁷⁷ Nigel Blackaby et al., *Redfern and Hunter on International Arbitration*, pp. 380-81 (6th ed. 2015).

⁷⁸ 1999 IBA Working Party and 2010 IBA Rules of Evidence Review Subcommittee, Commentary on the revised text of the 2010 IBA Rules on the Taking of Evidence in International Arbitration, 8, 29 de mayo de 2010, pp. 7-8.

⁷⁹ O’Malley, *supra*, p. 39. Ver Nigel Blackaby et al., *supra*, p. 382 (6th ed. 2015) (“noting that the IBA Rules “establish the principle, [...] that the parties should produce the evidentiary documents on which they rely as the first stage””).

⁸⁰ Nigel Blackaby et al., *supra*, p. 382 (6th ed. 2015).

⁸¹ *International Thunderbird Gaming Corporation v. United Mexican States*, UNCITRAL, Award, Jan. 26, 2006, ¶ 95. Ver también Crompton (Chemtura) Corp. v. Government of Canada, PCA Case No. 2008-01, Award, Aug. 2, 2010, ¶ 155 (“[T]he burden of proving each of these factual components [supporting claimant’s allegations] rests with the Claimant.”).

El hecho de que múltiples Solicitudes estén basadas en las propias afirmaciones de las Demandantes y de sus testigos le resta credibilidad al Escrito de Demanda y a las declaraciones testimoniales, así como a la supuesta relevancia de las Solicitudes. En específico, las Solicitudes no cumplieron las cinco condiciones establecidas en el Artículo 3(3) de las Reglas IBA: Describir suficientemente el documento; Proporcionar una descripción “concreta y específica” en caso de solicitar una categoría de documentos; Proporcionar una explicación razonada sobre las causas por las cuales los documentos son “relevantes para el caso” y “sustanciales para su resolución”; Confirmar que los documentos no están bajo el control de la parte solicitante, y Explicar las razones por las cuales se asume que los documentos están bajo el control de la otra parte.⁸² Asimismo, las Solicitudes de las Demandantes: Involucran a diversas entidades gubernamentales cuya estructura es compleja y cuya coordinación interna requiere tiempo y recursos considerables. Tales entidades involucradas son, *inter alia*, Petróleos Mexicanos (Pemex), el Servicio de Administración Tributaria (SAT), la Secretaría de Hacienda y Crédito Público (SHCP), la Fiscalía General de la República (FGR), la Procuraduría Fiscal de la Federación (PFF), la Fiscalía General de Justicia de la Ciudad de México (FGJCDMX), sin perjuicio de que al interior de algunas de estas entidades los asuntos corresponden a distintas unidades administrativas. Contrario a lo que las Demandantes puedan suponer, la Demandada no cuenta con un poder ilimitado para obtener información reservada y confidencial bajo el control de las distintas autoridades, personas y empresas señaladas en las Solicitudes. Las Solicitudes hacen referencia a información que, en caso de que existir, estaría clasificada como “confidencial” o “reservada” conforme a las leyes mexicanas. Dicho en otras palabras, la exhibición de esa información estaría prohibida bajo el sistema jurídico mexicano o realizarlo requeriría un considerable tiempo y una extensa labor de testado (“*redacting exercise*”).

El gran volumen de los documentos solicitados no ha permitido identificar la cuantía de los documentos que, hipotéticamente, sería procedente y materialmente posible exhibir.

Las Demandantes cuentan con acceso a diversa información solicitada e inclusive está bajo su poder, custodia o control. Las Solicitudes son muy generales y no cumplen con las Reglas IBA.

La Demandada desarrolla a continuación seis objeciones generales que serán referidas en cada Solicitud. Adicionalmente, y con la finalidad de respetar lo establecido en la RP 1, adicionalmente la Demandada ha desarrollado objeciones específicas a cada Solicitud.

Objeción No. 1: Las Solicitudes son irrelevantes para el caso y no son sustanciales para su resolución

Los Artículos 3(3)(b) y 9(2)(a) de las Reglas IBA establecen importantes estándares que son aplicables a solicitudes y decisiones sobre exhibición de documentos. En síntesis, las solicitudes de documentos deben ser relevantes para el caso y sustanciales para su resolución. Particularmente,

⁸² O’Malley, *supra*, p. 38. Ver *Aguas del Tunari S.A. v. Republic of Bolivia*, ICSID Case No. ARB/02/3, Decision on Respondent’s Objections to Jurisdiction, ¶ 25, 21 de octubre de 2005 (citando la Resolución Procesal No. 1, ¶ 14 (2003)).

el Artículo 9.2 (a) de las Reglas IBA establece que “El Tribunal podrá excluir, a instancia de parte o de oficio, la prueba o la exhibición de cualquier Documento, declaración, testimonio oral o inspección por cualquiera de las siguientes razones: (a) falta de relevancia suficiente o utilidad para la resolución del caso.” En *Tidewater v. Venezuela*, para decidir si era necesario ordenar la exhibición de ciertos documentos, el Tribunal determinó que debía guiarse por el “*test*” de la relevancia o utilidad establecido en las Reglas IBA.⁸³ La relevancia de un documento consiste en demostrar de forma convincente las razones por las cuales el documento solicitado dará sustento a un hecho en controversia específico, y el documento solicitado permitirá a la parte solicitante cumplir con la carga probatoria aplicable.⁸⁴ En *Glamis Gold v. United States of America*, el tribunal enfatizó el valor de que las partes expresarán con claridad la importancia de los documentos solicitados en cualquier solicitud, lo cual requiere un “*substantial nexus to be articulated between the category of requested documents and the likely materiality of such documents to the outcome of the case*”.⁸⁵

Por ejemplo, en al menos 17⁸⁶ de las 73 Solicitudes las Demandantes señalan que la información es relevante y sustancial para sus alegaciones sobre “razones discriminatorias y de represalia” (“*discriminatory and retaliatory reasons*”), un trato discriminatorio (“*discriminatory treatment*”) o “modificaciones discriminatorias” (“*discriminatory amendments*”). Conforme al Artículo 1108(7) del TLCAN, las Demandantes están impedidas a reclamar violaciones sobre discriminación bajo los Artículos 1102 y 1103 del TLCAN. De hecho, la Notificación de Intención demuestra que las Demandantes basaron sus reclamaciones en estas disposiciones del TLCAN pero posteriormente reconocieron su error y suprimieron esas reclamaciones en la Notificación de Arbitraje y en el Escrito de Demanda.⁸⁷

Inclusive haciendo a un lado el hecho de que el Tribunal no cuenta con jurisdicción para conocer reclamaciones bajo los Artículos 1102 y 1103 del TLCAN, y suponiendo que las Demandantes no hayan presentado tales reclamaciones (haciendo notar los esfuerzos de las Demandantes de evadir las limitaciones jurisdiccionales del Tribunal al pretender presentar sus reclamaciones de discriminación bajo el Artículo 1105 del TLCAN), las Demandantes cuentan con la carga probatoria de demostrar un trato discriminatorio. Las Solicitudes no identifican la información que

⁸³ *Tidewater, Inc. et. al. v. The Bolivarian Republic of Venezuela*, ICSID Case No. ARB/10/5, Procedural Order No. 1 on Production of Documents, ¶ 14 (March 29, 2011).

⁸⁴ Bernard Hanotiau, *Document Production in International Arbitration: A Tentative Definition of “Best Practices*, ICC Bulletin (2006), p. 116 (“[W]hen a party alleges that its opponent has failed to provide the evidence for a submission it has made and requests that party to produce the relevant evidence, this request should in most cases be dismissed.”)

⁸⁵ *Glamis Gold Ltd v United States of America*, UNCITRAL, Decision on Objections to Document Production, ¶ 28, 20 de julio de 2005. Ver Nigel Blackaby et al., *supra*, p. 382 (6th ed. 2015) p. 382 (haciendo notar que las Reglas IBA “also enable[] arbitral tribunals to deny document requests where, although the requested documents would generally be relevant, they consider that their production will not affect the outcome of the proceedings”).

⁸⁶ Ver Solicitudes no. 2, 3, 4, 5, 11, 14, 35, 39, 41, 43, 44, 45, 49, 51, 54, 67 y 68.

⁸⁷ Ver Notificación de Intención, p. 11 y R-0087.

las Demandantes requieren, en particular el nombre específico de competidores que se encuentren en circunstancias similares a Oro Negro a efecto de realizar el análisis comparativo necesario para sustentar su alegación. Las Demandantes se limitan a solicitar “comunicaciones con los Tenedores de Bonos o sus agentes”, “documentos relacionados con reuniones entre Pemex y Oro Negro”, o “documentos relacionados con contratos celebrados por Pemex con todos los proveedores *jack-ups*”, sin indicar cómo la información solicitada es relevante para el caso y sustancial para su resolución.

Esto es insuficiente para demostrar que los documentos requeridos son relevantes y sustanciales para el caso debido a que carecen de un nexo esencial con las Demandantes y sus reclamaciones.

Otro ejemplo son al menos 21 Solicitudes relacionadas con la Solicitud de Medidas Provisionales en lugar de estar relacionadas con las reclamaciones de las Demandantes y su Escrito de Demanda.⁸⁸ Como fue señalado en el Escrito de Contestación, las Demandantes replicaron en el Escrito de Demanda los mismos argumentos relacionados con investigaciones penales y administrativas expuestos en su Solicitud de Medidas Provisionales.⁸⁹ El 19 de diciembre de 2019 el Tribunal emitió la Resolución Procesal No. 6 sobre la Solicitud de Medidas Provisionales de las Demandantes. A pesar de ello, las Demandantes no han sido capaces en explicar cómo estas Solicitudes son todavía relevantes para el caso y sustanciales para su resultado. La realidad es que las Solicitudes son especulativas y carecen de “*nexus*” con el caso, lo que da como resultado de que sean contrarias al Artículo 9.2 (a) de las Reglas IBA.

Adicionalmente, 16 Solicitudes⁹⁰ versan sobre “comunicaciones”, incluidos “*emails*” y mensajes de texto enviados vía Whatsapp, iMessage, WeChat, Signal Messenger y Telegram enviados por anteriores y actuales funcionarios públicos. Salvo en contadas excepciones, las Demandantes ni siquiera hacen el esfuerzo de identificar el nombre de los funcionarios o personas que cuentan con los mensajes de texto requeridos. Estas Solicitudes son ambiguas, especulativas, invasivas y carecen de cualquier nexo con las reclamaciones de las Demandantes. La falta de relevancia o utilidad para la resolución del caso es obvia en estas Solicitudes, razón por la cual son objetadas de conformidad con el Artículo 9.2. (a) de las Reglas IBA.

Claimants’ response to Objection No. 1:

Respondent’s general objection regarding relevance is without merit. The very fact that Respondent characterizes nearly all of Claimants’ requests as not relevant or material to the outcome of the case renders Respondent’s general objection as to relevance meaningless. Furthermore, Respondent’s accusations of lack of relevance are conclusory and lack detail.

In any event, Respondent errs in its general objection that Claimants’ requests lack relevance or are not substantial to the case. Under Article 3.3(b) of the IBA Rules, Claimants are entitled to

⁸⁸ Ver Solicitudes No. 17, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 47, 55, 56, 64, 65, 66 y 72.

⁸⁹ Escrito de Contestación, ¶¶ 301-302.

⁹⁰ Ver Solicitudes No. 11, 12, 24, 43, 53, 55, 58, 59, 60, 61, 62, 63, 64, 65, 66 y 67.

request documents that are relevant to the case and substantial for its resolution. The justification for each one of Claimants' document requests asserts the relevance to Claimants' claims.

For example, Claimants assert various violations of Respondent's obligation to provide foreign investors fair and equitable treatment under the NAFTA. Respondent objects to 17 requests because they deal with discriminatory treatment, even though arbitrary and discriminatory treatment is a core element of fair and equitable treatment, and in turn, a core allegation of Claimants in this arbitration. As the tribunal in *CMS Gas v. Argentina* noted, “[a]ny measure that might involve arbitrariness or discrimination is in itself contrary to fair and equitable treatment.”⁹¹ Claimants are therefore entitled to request documents that speak to whether the Respondent violated the fair and equitable treatment obligation by discriminating against Claimants and/or treating Claimants in an arbitrary manner. This is exactly what Claimants' document requests seek.

Respondent's other examples are similarly misplaced. Respondent objects to the requests that are related to the Application for Interim Measures and therefore allegedly not related to the Statement of Claim. However in the same paragraph, Respondent itself notes that Claimants reiterated the same arguments from the Application for Interim Measures in the Statement of Claim. The reason for this reiteration is that the retaliation detailed in the Application for Interim Measures is simply additional manifestations of the retaliation the Respondent is inflicting on Claimants in violation of the NAFTA. Respondent fails to provide a reason why the requests dealing with retaliation are not relevant, conclusorily stating that Claimants' requests lack a “nexus” to the case. The Tribunal should reject such objections without reasoning, particularly given that the requests dealing with Claimants' retaliation claims are part and parcel of Claimants' core allegations against Respondent. See, e.g., SOC ¶¶ 216-324, 506-510, 513, 517, 519, 520-521, 525.

Finally, Respondent raises 16 requests that deal with electronic communications, stating that Claimants do not identify the names of the officials or individuals who have the communications. Besides the fact that Respondent's articulation of this objection appears to be an objection with regard to specificity as opposed to relevance, the only argument Respondent attempts to make with regard to relevance is that the lack of relevance is “obvious.” Claimants amply describe the justification and relevance of each of these requests and request that the Tribunal should reject such a conclusory general objection.

Accordingly, Claimants respectfully request that the Tribunal overrule Respondent's Objection No. 1 and disregard it in connection with its decisions on whether to order the Respondent to produce the requested documents.

Objeción No. 2: Las Solicitudes son excesivamente onerosas y su exhibición genera una carga irrazonable

⁹¹ *CME Czech Republic BV v Czech Republic* (“CME”), UNCITRAL, Partial Award (Sept. 13, 2001), ¶ 591, CL-118.

Las Solicitudes no cuentan con referencias suficientemente precisas, *inter alia*, sobre fechas o rangos de fechas; precisiones sobre las autoridades o entidades que cuentan con la información; los autores, remitentes o destinatarios de las comunicaciones requeridas; tipo de documentos solicitados; especificidad sobre los temas contenidos en los documentos o comunicaciones o algún otro parámetro que permita a la Demandada concretizar la búsqueda. Por ello, muchas de las Solicitudes constituyen una carga excesiva para la Demandada, de conformidad con el Artículo 9.2 (c) de las Reglas IBA.

En *Waste Management II v. Estados Unidos Mexicanos*, el tribunal consideró que la solicitud de producir “copias de todas las facturas emitidas en el periodo de 1994-1998” era *prima facie* demasiado onerosa (“*too burdensome*”), dado que era probable incluir un gran número de documentos de los cuales todos o la mayoría no estarían en disputa como tal.⁹²

Sobre el tiempo y esfuerzos requeridos para exhibir documentos, tribunales como el de *Bilcon v. Canada* han señalado lo siguiente: The issue of whether a request should be rejected as unduly burdensome must, in the Tribunal’s view, take into account both the time and effort required to produce the requested documents and the prospect that these documents will have probative value.⁹³ Con base en ello, por ejemplo, el Tribunal debe rechazar las Solicitudes⁹⁴ de “communications”, lo cual es sumamente amplio y ambiguo (“*emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service*”). Nuevamente, las Demandantes ni siquiera realizaron el intento de: *i)* precisar los periodos de búsqueda para estas Solicitudes (inclusive siendo necesario especificar días, meses y hasta horarios de intercambio de mensajes); *ii)* temas señalados en las “comunicaciones” referentes a Oro Negro; *iii)* números telefónicos o usuarios mediante los cuales se intercambiaron las comunicaciones solicitadas; *iv)* funcionarios públicos o personas que intercambiaron las comunicaciones y *v)* brindar justificaciones que demuestren las razones por las cuales se deben realizar búsquedas de comunicaciones en “apps” de mensajería de índole privado. La búsqueda y exhibición de todas estas Solicitudes relacionadas con “comunicaciones” constituye una carga excesiva para la Demandada, de conformidad con el Artículo 9.2. (c) de las Reglas IBA.

Asimismo, las Demandantes asumen que los documentos dentro del territorio de México se encuentran de alguna forma bajo el poder, custodia o control de la Demandada. Además, con base en las justificaciones de las Solicitudes se busca dar la impresión de que la Demandada tiene una extensa facultad para obtener información de cualquier departamento, área o unidad administrativa de cualquier autoridad, entidad gubernamental o empresa productiva del Estado, sin importar el nivel de gobierno (municipal, local o federal) o división de poderes (legislativo, judicial y ejecutivo). Esto es incorrecto. Las Demandantes evitan reconocer la imposibilidad legal de la

⁹² *Waste Management, Inc. v United Mexican States*, ICSID Case No ARB (AF)/00/3, Procedural Order Concerning Disclosure of Documents, ¶ 11, 1 de octubre de 2002.

⁹³ *William Ralph Clayton, William Richard Clayton, Douglas Clayton, Daniel Clayton and Bilcon Delaware Inc. v. Government of Canada*, PCA Case No. 2009-04, Procedural Order No. 8, ¶ 1(d), 25 de noviembre de 2009.

⁹⁴ Es decir, las Solicitudes No. 11, 12, 24, 43, 53, 55, 58, 59, 60, 61, 62, 63, 64, 65, 66 y 67.

Demandada para obligar a otras entidades del gobierno a proveer información que ni siquiera es posible determinar si existe.⁹⁵ Para cumplir con las búsquedas de información, la Demandada tendría que realizar una revisión a todos los archivos en posesión de algunas entidades que la Demandada supone podrían contar con la información requerida por las Demandantes, e.g., Pemex o el SAT. Sin embargo, realizar esta tarea sería una carga excesiva y una tarea prácticamente imposible de cumplir. Por ello, la Demandada objeta las Solicitudes conforme al Artículo 9(2)(c) de las Reglas IBA.

Claimants' response to Objection No. 2:

Respondent's general objection regarding burden is without merit. The very fact that Respondent characterizes nearly all of the requests as burdensome without, in most cases, specific mention of the actual burden of obtaining particular documents, renders the general objection meaningless.

As to Respondent's objections with regard to particular requests, Respondent incorrectly characterizes Claimants' requests as not specifying search time periods and/or the issues to search when all of Claimants' requests contain search periods or specific dates around which a communication or document would have been made and Claimants' requests themselves discuss the the issues to search to find the documents requested. In the case of electronically stored information, Claimants would be happy to suggest search terms to facilitate the production of documents. In certain instances, Claimants also narrowed date ranges and/or clarified the subject matter of the search. However, some of Respondent's suggestions as to burden are misplaced. For example, it is excessive (and unnecessary) to require Claimants to specify phone numbers of custodians. Further, in many instances, it would be impossible for Claimants to specify custodians within Pemex or the government, for example with regard documents or communications related to meetings between Pemex and the Bondholders, meetings to which Claimants were not invited or privy. Additionally, Respondent itself made numerous document requests for "communications" without specifying custodians or phone numbers, so the Tribunal should disregard this general objection.

Finally, Respondent appears to make a sweeping assertion that requesting a government to conduct searches of other government authority records would be an "undue burden" and a "practically impossible task," and therefore seemingly objects to all requests seeking such information. Respondents in investor-state arbitrations are virtually always states, and a rule like the one Respondent appears to be promoting would ensure that state respondents never have to produce any documents. The Tribunal should reject such a self-serving objection.

⁹⁵ Reto Marghitola, *Document Production in International Arbitration*, p. 67 (2015) Kluwer Law International, ("Documents are in the possession, custody or control of a party if the party or an entity of the same group of companies holds the requested documents or has a right to obtain the requested documents."). Ver Noah Rubins, *Particularities when Dealing with State Entities*, en *Guerrilla Tactics in International Arbitration*, p. 4 (2013), eds. Günther Horvath & Stephan Wilske ("two useful exceptions to production," including a lack of "control" over "departments, ministries, agencies, and state-owned companies" "other than the one responsible for the arbitration").

Accordingly, Claimants respectfully request that the Tribunal overrule Respondent's Objection No. 2 and disregard it in connection with its decisions on whether to order the Respondent to produce the requested documents.

Objeción No. 3: Las Solicitudes de Documentos de las Demandantes son demasiado generales y carecen de especificidad

El Artículo 3.3 de las Reglas IBA requiere que cada solicitud de documentos incluya una descripción suficientemente detallada de los documentos solicitados. Las Solicitudes de las Demandantes incumplen este requisito. Como ha sido señalado anteriormente, el objetivo de los requerimientos señalados en el Artículo 3.3. de las Reglas de la IBA es evitar una “expedición de pesca” o “*fishing expedition*”.⁹⁶ Esta práctica no está permitida en el arbitraje internacional ni tampoco puede ser utilizada como un mecanismo para “construir” un caso o tener la esperanza de descubrir hechos desconocidos por la parte solicitante de documentos. El tribunal de *Libananco v. Turkey* fue enfático al respecto:

The Tribunal, like any other arbitral tribunal in a similar position, could not allow its process to be used as the cover for a mere fishing expedition launched in the hope of uncovering material to serve as the foundation for an argument⁹⁷

La Demandada objeta las Solicitudes al ser contrarias al Artículo 3(3)(a)(ii) de las Reglas IBA. Las Solicitudes tuvieron que haber sido presentadas de forma suficientemente detallada y de forma concreta y específica por categoría de documentos para demostrar que razonablemente existen. Salvo muy contadas excepciones, las Solicitudes carecen de especificidad y concreción al utilizar fórmulas generales, *e.g.*, “any internal government correspondence”; “related to or prepared in connection to” o “external correspondence”, entre otras. Los siguientes ejemplos ilustran la falta de especificidad de las Solitudes (énfasis añadido):

“The documents related to any investigation [...].” Solicitud No. 3.

“The documents and communications regarding México’s involvement with the publication of defamatory media stories against the Gonzalo Gil White family in October of 2018 [...].” Solicitud No. 16.

“The documents or communications related to or prepared in connection to the initiation of Mexican criminal proceedings against Oro Negro [...].” Solicitud No. 23.

“The documents related to Pemex’s contracts, contract suspensions, and contract amendments with all its jack-up rig providers [...].” Solicitud No. 51.

⁹⁶ Ver 1999 IBA Working Party and 2010 IBA Rules of Evidence Review Subcommittee, Commentary on the revised text of the 2010 IBA Rules on the Taking of Evidence in International Arbitration, 8, May 2010, pp. 8-9. David Caron and Lee Caplan, *The UNCITRAL Arbitration Rules: A Commentary*, p. 567 (2013) OUP. (“[...] the tribunal should not accept non-specific requests or permit so-called “fishing expedition” by granting requests, for example, for “all possibly relevant material””).

⁹⁷ *Libananco Holdings Co. Limited v Republic of Turkey*, ICSID Case No. ARB/06/8), Decision on Preliminary Issues ¶70, 23 de junio de 2008.

“All internal communications between Pemex officials regarding Oro Negro [...].” Solicitud No. 53.

“All emails and messages sent via Whatsapp, text message, iMessage, WeChat, Signal Messenger, Telegram, or any other cloud-based messaging service, from SAT [...].” Solicitud No. 55.

El Artículo 3.3 de las Reglas de la IBA establece la definición de “documento” como escrito, comunicación, foto, diseño, programa o datos de cualquier tipo, ya consten en papel, soporte electrónico, audio, visual o en cualquier otro medio”. Sin embargo, no resulta apropiado designar cualquier tipo concebible de documento bajo esta definición.⁹⁸ El intento de las Demandantes de expandir la definición de “documento” como referencia a “*writing of any kind*” excede la propia definición prevista en las Reglas IBA y carece del requisito de especificidad. Las Solicitudes de las Demandantes son la antítesis del requisito de “concreta y específica categoría de Documentos requeridos que razonablemente se crea que existen”, conforme al Artículo 3.3 (a)(ii) de las Reglas IBA. En *Thunderbird v. Estados Unidos Mexicanos*, el tribunal interpretó los términos “concreta y específica” (“*narrow and specific*”) como “estrechamente adaptado” (“*narrowly tailored*”), es decir, razonablemente limitado en tiempo y tema, de conformidad con la naturaleza de las reclamaciones y defensas promovidas en el caso.⁹⁹ Al igual que las Demandantes, en *ADF Group Inc v. United States of America* el inversionista utilizó redacciones muy generales. El tribunal rechazó las solicitudes del inversionista bajo el siguiente argumento: “*We consider that Category C documents are described in overly broad terms which makes identification of the requested documents very problematical. In addition, the Claimant has not shown how those documents relate to the issues raised, or expected to be raised, in the present case.*”¹⁰⁰ La conclusión del tribunal de *ADF Group Inc v. United States of America* es aplicable a las Solicitudes de las Demandantes, las cuales están redactadas en términos muy amplios que hacen problemática su identificación y su búsqueda sería ilimitada. Por ello, las Solicitudes incumplen los requisitos del Artículo 3(3)(a)(ii) de las Reglas de la IBA.

Claimants’ response to Objection No. 3:

Respondent’s assertion that Claimants’ requests lack specificity is erroneous. Article 3.3(a) of the IBA Rules requires that a request for production contain “a description in sufficient detail (including subject matter) or a narrow and specific requested category of Documents that are reasonably believed to exist.”

⁹⁸ Marghitola, *supra*, p. 41. (“[A] document production request that begins with “All memoranda, minutes and correspondence . . .” is typically considered to be too broad in arbitration. In addition, a request for all documents relating to a specific contract or for all minutes of the board meetings for the past three years generally does not satisfy the requirement of specificity. Similarly, [...] [a] request for “all Field Site Instruction for Areas [A], [B], [C] and [D]” [has been held] to be insufficiently specific”).

⁹⁹ *International Thunderbird Gaming Corporation v Estados Unidos Mexicanos*, CNUDMI, Resolución Procesal No. 2, ¶ 2(ii), 31 de julio de 2003.

¹⁰⁰ *ADF Group Inc v United States of America*, ICSID Case No ARB (AF)/00/1, Procedural Order No 3, Concerning the Production of Documents, ¶ 10, 4 de octubre de 2001.

Each of the Claimants' document requests specifically identifies a narrow category of documents that pertains to a particular subject matter. Respondent's examples of Claimants' requests are not to the contrary. For instance, Respondent partially cites Request No. 3, complaining that it is not specific enough because it asks for documents related to "any investigation." However, the full request asks for "documents related to any investigation into Oro Negro's complaints to Pemex regarding Pemex's discriminatory treatment against Oro Negro and favorable treatment of other vendors, such as Seamex, prepared between January 1, 2014 and December 31, 2017." See Request No. 3. As indicated in the citations to the Statement of Claim that follow the Request, the Claimants made a specific complaint to Pemex during a certain time period of 2014-2015 regarding Pemex's discriminatory treatment of it. See SOC ¶ 74. Claimants are reasonably seeking any investigation that may have been conducted by Pemex in response to this specific complaint. This request falls squarely within the permissions outlined by the IBA Rules.

Claimants' Request No. 16 is similarly specific. While Respondent takes issue with Claimants' use of the term "México," that is not impermissibly broad or contrary to the IBA Rules, as Claimants are clearly interested in certain defamatory media stories that took place in a specific time frame—October 2018—and related to a specific individual—Gonzalo Gil White—and his family. Because Claimants are not privy to the specific administrative arm or department of México that may have been involved in such stories, Claimants are being as specific as possible. Similarly, Claimants' Request No. 23 does not specify the particular department involved in the initiation of criminal proceedings against Oro Negro, but the request is sufficiently specific as it provides the category of documents in sufficient detail, referring to specific criminal complaints that were filed against Oro Negro between May 2018 and the present, and Claimants described these complaints in detail in its Statement of Claim. See SOC ¶¶ 233-52, 269-320. The cases that Respondent cites in support of its argument are inapposite. In *Libananco Holdings Co. Limited v. Republic of Turkey*, the Tribunal denied the claimant's request for documents on the basis that it was not relevant to the claimant's case, and therefore was a "fishing expedition." See *id.*, ICSID Case No. ARB/06/8, Decision on Preliminary Issues ¶¶ 63, 66, 70, June 23, 2008. In addition, the claimant had never made a formal request for document disclosure in connection with the request underlying the Tribunal's decision. See *id.* ¶ 66. Here, Claimants have made formal requests for all of the documents. In addition, here, Claimants' requests are clearly relevant to their case, as Claimants have pointed out in detail in connection with each request, additionally citing to the paragraphs in their Statement of Claim where they made such claims.

Respondent's reference to *ADF Group, Inc. v. United States of America* is also inapposite. In that arbitration, the Tribunal denied one category of requests that asked for "[a]ll records prepared by or on behalf of the Office of the United States Trade Representative, the Department of State or the Department of Transport[ation], or any agencies thereof relating in whole or in part to the impact of the North American Free Trade Agreement ('NAFTA') on buy national requirements such as Buy American and Buy American Requirements...." ICSID Case No. ARB(AF)/00/1, Procedural Order No. 3 Concerning the Production of Documents, ¶ 2(C), October 4, 2001. As the Respondent noted, the Tribunal denied such request as being described "in overly broad terms" and because "Claimant has not shown how those documents relate to the issues raised, or expected to be raised, in the present case." *Id.* ¶ 10. Again, the requests here stand in stark contrast. Each request is narrowly tailored to documents relating to a specific subject matter, with references to the

Statement of Claim and other documents filed in this proceeding that describe the Claimants' claims against the Respondent that underlie each such request. Each request further specifies why each request is relevant to the Claimants' claims against Respondent. For example, Claimants' Request No. 55, which Respondent alleges lacks specificity, asks for all emails and communications via cloud-based messaging services from SAT "related to or prepared in connection to the fabricated Excel spreadsheet purporting to show Oro Negro's connection to sham companies, including any instructions from SAT officials regarding the preparation of the fabricated spreadsheet." *See* Request No. 55. The request references Paragraph 317 of the Statement of Claim, which alleges seven baseless tax audits initiated by the SAT against Oro Negro. The justification for this Request explains that the requested documents are relevant and material to Claimants' claims that México, together with the Bondholders, "unlawfully used the PGR investigation to collect broad ranging tax information regarding Integradora and Perforadora from the SAT, and, based on the fabricated Excel spreadsheet provided [by] the SAT, initiated another meritless criminal investigation that resulted in the seizure of Oro Negro's cash and in a court order authorizing the Bondholders to take over the Rigs." *See* Request No. 55. Thus, the request is both narrow in scope, asking for documents specifically related to the fabricated Excel spreadsheet, as well as relevant, because it relates to the Claimants' allegation that the fabricated spreadsheet was used to initiate a criminal investigation that led to the takeover of Oro Negro's Rigs.

As further described below, each of Claimants' other requests is similarly narrowly tailored, and in compliance with the IBA Rules, as each request references a particular subject matter that is relevant to the Claimants' claims against Respondent, provides an explanation detailing such relevance, and cites to the particular paragraphs in the Statement of Claim and/or Statement of Defense, and supporting documents where such allegations are made.

Accordingly, Claimants respectfully request that the Tribunal overrule Respondent's Objection No. 3 and disregard it in connection with its decisions on whether to order the Respondent to produce the requested documents.

Objeción No. 4: Son incorrectas las declaraciones de las Demandantes respecto a que los documentos solicitados no están en su poder, custodia o control

El Artículo 3(3)(c) de las Reglas IBA establece lo siguiente: 3. Una Solicitud de Exhibición de Documentos deberá contener: [...] (c) (i) una declaración de que los Documentos requeridos no se encuentran en poder, custodia o control de la Parte que los solicita o una declaración de las razones por las cuales sería irrazonablemente gravoso para la Parte solicitante exhibir tales Documentos [Énfasis añadido] De lo anterior se desprende que la parte solicitante debe cumplir con alguno de los siguientes dos elementos: *i)* declarar que no está en su poder, custodia o control la documentación requerida o *ii)* declarar por qué, estando en posesión de la misma, resultaría irrazonablemente gravoso aportarla. En *ADF Group Inc v. United States of America*, el tribunal estableció lo siguiente: Where, [...] the documents requested are in the public domain and equally and effectively available to both parties, we believe that there would be no necessity for requiring the other party physically to produce and deliver the documents to the former for inspection and copying. Where, however, the requesting party shows it would sustain undue burden or expense in accessing the publicly available material, the other party should be required to produce the

documents for inspection.¹⁰¹ En este sentido, las Demandantes incumplen con el Artículo 3(3)(c)(i) de las Reglas IBA, toda vez que al menos 30 Solicitudes versan sobre documentos que están en poder, custodia o control de las Demandantes o éstas cuentan con la posibilidad de obtenerlos. Lo anterior, debido a que la información solicitada: *i*) es de dominio público; *ii*) las Demandantes tienen acceso a los expedientes de procesos judiciales, administrativos o penales en los que se encuentra la documentación solicitada; *iii*) los documentos están en su poder pero tienen un impedimento legal para utilizarla en este arbitraje (situación que no es imputable a la Demandada), y *iv*) las Demandantes cuentan con la posibilidad de requerir esa documentación a través de diversos mecanismos previstos ya sea bajo derecho americano o derecho mexicano (*e.g.*, solicitudes de acceso a la información a la dependencia o entidad que aparentemente cuenta bajo su custodia la información).

Además, esta omisión resulta contraria al principal objetivo del Artículo 3(3)(c)(i) de las Reglas IBA, el cual radica en evitar un “acoso innecesario” (“unnecessary harrassment”) por una parte solicitante.¹⁰² Inclusive, las Demandantes han omitido ofrecer explicaciones por las cuales la búsqueda y exhibición de los documentos solicitados no implica una carga irrazonable a la Demandada. Por lo tanto, el Tribunal debe rechazar las Solicitudes antes señaladas.

Claimants’ response to Objection No. 4:

Respondent’s assertion that certain requested documents are in the Claimants’ power, custody, or control is erroneous. There are certain documents that Claimants are seeking through a proceeding in the United States District Court pursuant to 28 U.S. Code Section 1782 from certain non-parties to this arbitration. These are also documents that the foreign representative in the Oro Negro U.S. bankruptcy proceeding had obtained subject to a litigation in the United States Bankruptcy Court against those non-parties. As to the latter, Respondent’s assertion that the Claimants have custody of these documents is incorrect—only the foreign representative does, and Claimants are currently unable to view those documents or to use them in this arbitration. Accordingly, they do not have “possession, custody or control” over them under Article 3(3)(c)(i) of the IBA Rules.

Respondent’s argument that Claimants cannot seek documents that they have the possibility of obtaining from other sources is equally erroneous. There is no such requirement in the IBA Rules, and Respondent has not pointed to any authority prohibiting Claimants from seeking documents from multiple sources. *See, e.g., Eurogas Inc. v. The Slovak Republic*, ICSID Case No. Arb/14/14, Annex 2 to Procedural Order No. 4, Tribunal’s Decision on Document Request No. 2, at 3-6, August 17, 2015 (granting respondent’s request for document in claimants’ possession where such document is also in possession of third party, and where third party is not under an obligation to

¹⁰¹ *ADF Group Inc. v. United States of America*, ICSID Case No. ARB(AF)/00/1, Procedural Order No. 3, ¶ 4, 4 de octubre de 2001. Ver Marghitola, *supra*, p. 69 (“Document production requests for public documents unnecessarily harass the other party.”).

¹⁰² Ver 1999 IBA Working Party and 2010 IBA Rules of Evidence Review Subcommittee, Commentary on the revised text of the 2010 IBA Rules on the Taking of Evidence in International Arbitration, 10, 29 May 2010, p. 10.

produce the document and respondent has no mechanism by which to compel the document's production from the third party).

In addition, Claimants do not know if they will ultimately succeed in obtaining the documents they requested pursuant to the Section 1782 proceeding, and even if they do, there is no certainty that they would obtain the documents in time to submit them in this arbitration. Similarly, Claimants have thus far not been successful in obtaining documents from judicial, administrative, or criminal proceedings in México. Accordingly, Claimants seek such documents from Respondent, as permitted in this arbitration. Moreover, Claimants would indeed sustain undue burden and expense if they had to request documents in the possession of the Respondent through other mechanisms under U.S. or Mexican law. Claimants are already sustaining much expense and burden in attempting to obtain certain documents pursuant to Section 1782. They should not be forced to sustain even more expense and burden, when the IBA Rules are designed to permit Claimants to obtain documents that are in Respondent's possession, custody, or control from Respondent itself.

Finally, many of the documents that Claimants are seeking in their requests to Respondent are not duplicative of documents from other sources, as the requests ask for internal government correspondence, memoranda, official resolutions, reports, and analyses, which would be in Respondent's files and not be available from other sources. Accordingly, Claimants' requests are in accordance with the IBA Rules, and Respondent's objection, if sustained, would subject Claimants to undue burden and expense, as well as the possibility of not being able to obtain the evidence in time to be used it in this arbitration.

Claimants respectfully request that the Tribunal overrule Objection No. 4 and disregard it in connection with its decision on whether to order the Respondent to produce the requested documents.

Objeción No. 5: Las Demandantes solicitan información reservada y confidencial relacionada con investigaciones penales y fiscales-administrativas

Las Demandantes minimizan el carácter de confidencialidad y de reserva de investigaciones penales y administrativas en México, y omiten el hecho de que las autoridades investigadoras de México se encuentran impedidas, conforme al sistema jurídico mexicano, a divulgar información

de investigaciones en curso.¹⁰³ Al menos 13 Solicitudes¹⁰⁴ están relacionados con investigaciones penales y administrativas. Esta información es de naturaleza reservada y/o confidencial conforme al sistema jurídico mexicano y su divulgación puede generar sanciones en contra de funcionarios públicos.¹⁰⁵ En efecto, de conformidad con los artículos 210, 214 fracción IV y 225 fracción

¹⁰³ Las siguientes leyes establecen lo siguiente:

Artículo 218 del Código Nacional de Procedimientos Penales (“Los registros de la investigación, así como todos los documentos, independientemente de su contenido o naturaleza, los objetos, los registros de voz e imágenes o cosas que le estén relacionados, son estrictamente reservados, por lo que únicamente las partes, podrán tener acceso a los mismos, con las limitaciones establecidas en este Código y demás disposiciones aplicables.”)

Artículo 110 de la Ley Federal de Transparencia y Acceso a la Información Pública (LFTAIP) (“Conforme a lo dispuesto por el artículo 113 de la Ley General, como información reservada podrá clasificarse aquella cuya publicación: [...] VII. Obstruya la prevención o persecución de los delitos; [...] XI. Vulnere la conducción de los Expedientes judiciales o de los procedimientos administrativos seguidos en forma de juicio, en tanto no hayan causado estado [...] XII. Se encuentre contenida dentro de las investigaciones de hechos que la ley señale como delitos y se tramiten ante el Ministerio Público, y XIII. Las que por disposición expresa de una ley tengan tal carácter”).

Artículo 113 de la Ley General de Transparencia y Acceso a la Información Pública (LGTAIP) (“Como información reservada podrá clasificarse aquella cuya publicación [...] VI. Obstruya las actividades de verificación, inspección y auditoría relativas al cumplimiento de las leyes o afecte la recaudación de contribuciones; VII. Obstruya la prevención o persecución de los delitos; VIII. La que contenga las opiniones, recomendaciones o puntos de vista que formen parte del proceso deliberativo de los servidores públicos, hasta en tanto no sea adoptada la decisión definitiva, la cual deberá estar documentada; IX. Obstruya los procedimientos para fincar responsabilidad a los Servidores Públicos; X. Afecte los derechos del debido proceso; XI. Vulnere la conducción de los Expedientes judiciales o de los procedimientos administrativos seguidos en forma de juicio, en tanto no hayan causado estado; XII. Se encuentre contenida dentro de las investigaciones de hechos que la ley señale como delitos y se tramiten ante el Ministerio Público.”)

Artículo 116 de la LGTAIP (“Se considera información confidencial la que contiene datos personales concernientes a una persona física identificada o identifiable [...] La información confidencial no estará sujeta a temporalidad alguna y sólo podrán tener acceso a ella los titulares de la misma, sus representantes y los Servidores Públicos facultados para ello [...] los secretos bancario, fiduciario, industrial, comercial, fiscal, bursátil y postal, cuya titularidad corresponda a particulares [...] o a sujetos obligados cuando no involucren el ejercicio de recursos públicos”).

¹⁰⁴ Ver Solicitudes No. 25, 26, 27, 28, 29, 31, 32, 34, 47, 52, 61, 69, 71 y 72.

¹⁰⁵ Las siguientes leyes establecen lo siguiente:

Artículo 206 de la LGTAIP (“La Ley Federal y de las Entidades Federativas, contemplarán como causas de sanción por incumplimiento de las obligaciones establecidas en la materia de la presente Ley, al menos las siguientes: IV. Usar, sustraer, divulgar, ocultar, alterar, mutilar, destruir o inutilizar, total o parcialmente, sin causa legítima, conforme a las facultades correspondientes, la información que se encuentre bajo la custodia de los sujetos obligados y de sus Servidores Públicos o a la cual tengan acceso o conocimiento con motivo de su empleo, cargo o comisión”).

XXVIII del Código Penal Federal (CPP), la divulgación de información reservada o documentos relacionados con una investigación penal es considerada un delito.¹⁰⁶ Inclusive, el equipo legal de la Demandada en este arbitraje ni siquiera ha tenido acceso a los expedientes de las carpetas de investigación relacionadas con Oro Negro, y tampoco ha tenido acceso a los expedientes de auditorías e investigaciones fiscales. Con relación a los expedientes de auditorías e investigaciones fiscales, se debe tener en cuenta que éstas inician con base en las facultades de comprobación de las autoridades fiscales (*e.g.*, el SAT). Debido a esto, gozan de la protección del llamado “secreto fiscal” previsto en el artículo 69 del Código Fiscal de la Federación (CFF).¹⁰⁷ Asimismo, dicha

Artículo 186 de la LFTAIP (“Serán causas de sanción por incumplimiento de las obligaciones establecidas en la materia de la presente Ley [...] IV. Usar, sustraer, divulgar, ocultar, alterar, mutilar, destruir o inutilizar, total o parcialmente, sin causa legítima, conforme a las facultades correspondientes, la información que se encuentre bajo la custodia de los sujetos obligados y de sus Servidores Públicos o a la cual tengan acceso o conocimiento con motivo de su empleo, cargo o comisión”).

¹⁰⁶ Ver:

Artículo 210 del CPP (“Se impondrán de treinta a doscientas jornadas de trabajo en favor de la comunidad, al que sin justa causa, con perjuicio de alguien y sin consentimiento del que pueda resultar perjudicado, revele algún secreto o comunicación reservada que conoce o ha recibido con motivo de su empleo, cargo o puesto”).

Artículo 214 del CPP (“Comete el delito de ejercicio ilícito de servicio público, el servidor público que [...] IV. Por sí o por interpósita persona, sustraiga, destruya, oculte, utilice, o inutilice ilícitamente información o documentación que se encuentre bajo su custodia o a la cual tenga acceso, o de la que tenga conocimiento en virtud de su empleo, cargo o comisión”).

Artículo 225 del CPP (“Son delitos contra la administración de justicia, cometidos por servidores públicos los siguientes [...] XXVIII Dar a conocer a quien no tenga derecho, documentos, constancias o información que obren en una carpeta de investigación o en un proceso penal y que por disposición de la ley o resolución de la autoridad judicial, sean reservados o confidenciales”).

Artículo 213 del Código Penal para el Distrito Federal (CPDF) (“Al que sin consentimiento de quien tenga derecho a otorgarlo y en perjuicio de alguien, revele un secreto o comunicación reservada, que por cualquier forma haya conocido o se le haya confiado, o lo emplee en provecho propio o ajeno, se le impondrán prisión de seis meses a dos años y de veinticinco a cien días multa”).

Artículo 259 del CPDF (Comete el delito de ejercicio ilegal de servicio público, el servidor público que: [...] III. Por sí o por interpósita persona, sustraiga, destruya, oculte, altere, utilice o inutilice, indebidamente información o documentación que se encuentre bajo su custodia o a la cual tenga acceso, o de la que tenga conocimiento en virtud de su empleo, cargo o comisión).

¹⁰⁷ Artículo 69 del CFF (“El personal oficial que intervenga en los diversos trámites relativos a la aplicación de las disposiciones tributarias estará obligado a guardar absoluta reserva en lo concerniente a las declaraciones y datos suministrados por los contribuyentes o por terceros con ellos relacionados, así como los obtenidos en el ejercicio de las facultades de comprobación [...]”). Lo anterior, sin perjuicio de las explicaciones que México y su experto legal han señalado respecto a la facultad de los Ministerios Públicos de requerir información a autoridades y el mandato de las autoridades requeridas de colaborar en investigaciones penales. Ver Escrito de Contestación, ¶ 318-319.

información es considerada confidencial conforme el artículo 113 fracción II de la LFTAIP.¹⁰⁸ La protección de la confidencialidad de archivos relacionados con investigaciones penales y administrativas no es desproporcionada o poco razonable ya que la diseminación de esta información puede afectar gravemente la investigación de delitos y la administración de justicia, así como los derechos humanos de las partes relacionadas con la investigación (*e.g.*, denunciantes, víctima u ofendido e imputado) protegidos por los tratados internacionales suscritos por México – tales como la Convención Americana sobre Derechos Humanos – y por la propia Constitución de la Demandada debido a que los expedientes de las carpetas de investigación contienen información de personas no vinculadas a Oro Negro.

De igual forma, las diversas entidades gubernamentales identificadas por las Demandantes (*e.g.*, el SAT, la PFF, la FGR o la FJGCDMX) pueden objetar la producción de los documentos solicitados por las Demandantes por razones de especial sensibilidad política o institucional.¹⁰⁹ Inclusive, la información requerida mediante estas Solicituds ni siquiera requiere encontrarse formalmente clasificada como reservada o confidencialidad dada que su propia naturaleza hace evidente la necesidad de evitar su divulgación.¹¹⁰ No se puede ignorar el hecho de que varias investigaciones penales y administrativas relacionadas con Oro Negro aún siguen en curso y algunos de los documentos requeridos por las Demandantes podrían contener el trabajo y análisis deliberativo de servidores públicos (*e.g.*, ministerios públicos, fiscales o auditores fiscales) que aún no es conclusivo. Sería desproporcionado que la Demandada tuviera que exhibir esta documentación porque podría obstruir la prevención o persecución de delitos y vulnerar la conducción de expedientes administrativos y judiciales en los que aún no se ha emitido una resolución o sentencia, respectivamente.

Además, las Demandantes solicitan información de investigaciones penales y administrativas-fiscales en curso y relacionadas con Oro Negro en las que directa o indirectamente participan. Las Demandantes han ofrecido a través de la Solicitud de Medidas Provisionales del 21 de julio de 2019 y el Escrito de Demanda anexos documentales que se encuentran en expedientes de estas investigaciones penales y fiscales. Esto demuestra que las Demandantes cuentan con acceso a los expedientes donde se encuentra archivada la información requerida o conocen los procedimientos bajo derecho mexicano para obtenerla. Nuevamente, un arbitraje inversionista-Estado no es la vía legal ni el foro pertinente para obtener información, mucho menos de investigaciones penales y

¹⁰⁸ Artículo 113 de la LFTAIP (“Se considera información confidencial: [...] II. Los secretos bancario, fiduciario, industrial, comercial, fiscal, bursátil y postal, cuya titularidad corresponda a particulares, sujetos de derecho internacional o a sujetos obligados cuando no involucren el ejercicio de recursos públicos, y [...]”).

¹⁰⁹ Artículo 9.2(f) de las Reglas IBA. *Ver* Reto Marghitola, *supra*, p. 98 (“National laws often bind governments and their administrations to keep their internal communication secrets.”).

¹¹⁰ *Merrill & Ring Forestry L.P. v. Government of Canada*, UNCITRAL Case, Decision of the Tribunal on Production of Documents, ¶ 18, 18 de julio de 2008 (“Even if such information is not formally classified as ‘secret,’ the purpose of the privilege is quite evidently to prevent disclosure of documents containing information which is sensitive in nature.”). *Ver* Marghitola, *supra*, p. 98 (“‘special political or institutional sensitivity’ is broader than the term ‘state secret’”).

administrativas. Debido a ello, las Solicitudes deben ser desestimadas por el Tribunal al ser otro tipo de “*fishing expedition*”.

Claimants’ response to Objection No. 5:

Respondent errs in asserting that Mexican investigating authorities are prevented, under the Mexican legal system, from disclosing information related to ongoing criminal and administrative investigations. While Article 218 of the National Code of Criminal Procedure establishes that information related to criminal investigations is reserved, very importantly, such reservation does not apply to the parties to the investigation or proceeding. Specifically, it cannot be applied to the detriment of the defendant and his or her defense. Article 113, section VIII, of the National Code of Criminal Procedure recognizes the right of the defendant and his or her defense counsel to have access to the investigation records, as well as to obtain a copy of the same. Therefore, Respondent’s assertion that it is prevented from producing documents related to the criminal and administrative investigations and proceedings involving Claimants, Oro Negro, and or Quinn Emanuel Urquhart & Sullivan (“Quinn Emanuel”) is erroneous. Claimants, Oro Negro, and Quinn Emanuel are entitled to this information and Respondent’s arguments to the contrary are legally incorrect.

Furthermore, the fact that certain information contained in the investigations *may* be classified as reserved or confidential, and/or that the government entities involved (such as the SAT, PGR, or PGJCDMX) may object to the production of the requested documents, does not imply that all such information *is* reserved or confidential. Similarly, an objection to the production of the requested information on this basis cannot be carried out *a priori*. Under Mexican law, in order to classify information as reserved or confidential—or to object to the production of such information on that basis—a case-by-case analysis must be carried out by the parties from whom the information is being requested (i.e. SAT, PGR, or PGJCDMX).

Moreover, the classification of information as reserved or confidential must be done in accordance with the rules established in, among others, Articles 97, 98, and 99 Federal Law of Transparency and Access to Public Information. Therefore, Respondent’s assertion here—*a priori*—that it can withhold information simply because the requested information *could* be classified as reserved or confidential, and/or that the government entities involved (such as the SAT, PGR, or PGJCDMX) *could* object to the production of the requested documents on that basis—is inapposite. Respondent is required under Mexican law to first perform a case-by-case analysis of the documents that would be produced to determine if the information can in fact be classified as reserved or confidential. Those documents that are not properly classified as such would be eligible to be produced to Claimants.

Additionally, regardless of the foregoing, Articles 118, 119, and 120 of the Federal Law of Transparency and Access to Public Information establish that, in the event that the requested documents do in fact contain certain reserved or confidential information, the government entity must create a public version of the requested documents or files. In the public version of the document or file, the government entity may redact only the names of the parties or the classified portions of the text, with respect to which it must indicate in a general manner the content of the redacted portions of the text, and must provide a legal basis for the classification. Mexican

Collegiate Tribunals have confirmed that if the government entity considers that the requested document contains reserved or confidential information, it must provide a public copy of said document. *See Época: Décima Época; Registro: 2018285; Instancia: Tribunales Colegiados de Circuito; Tipo de Tesis: Aislada; Fuente: Gaceta del Semanario Judicial de la Federación; Libro 60, Noviembre de 2018, Tomo III, Materia(s): Penal; Tesis: I.9o.P.229 P (10a.); Página: 2181 (“De acuerdo con el artículo 118 de la Ley Federal de Transparencia y Acceso a la Información Pública, cuando un documento o expediente contenga partes o secciones reservadas o confidenciales, los sujetos obligados, a través de sus áreas, para efectos de atender una solicitud de información, deberán elaborar una versión pública en la que se testen las partes o secciones clasificadas, indicando su contenido de manera genérica, fundando y motivando su clasificación.”)*

Equally inapposite is Respondent’s statement that Claimants have access to the requested information because Claimants were able to obtain certain documents related to these investigations that Claimants filed as exhibits to the Application for Interim Measures and Statement of Claim. Claimants are requesting documents and communications in Respondent’s possession, custody, or control to which Claimants clearly do not have access and that only Respondent would possess, such as internal or external government correspondence, memoranda, reports, or analyses regarding the investigations. More importantly, the fact that Claimants have been able to obtain access to copies of very limited and specific documents within some of the investigation files does not mean that Claimants have in their possession the entire investigation file or all of the requested documents. For example, Claimants’ Request No. 27—to which Respondent objected on the basis that Claimants have access to the requested documents because Claimants provided documents related to the request in the arbitration—asks for documents or communications related to the Improper Representation Complaint (Case No. CI-FPC/74/UI-5 S/D/00187/06-2018). The fact that Claimants were able to obtain a copy of the Improper Representation Complaint (Exhibit C-15) does not mean that Claimants have access to the entire case file or to the other documents requested in connection with the Improper Representation Complaint. Moreover, Respondent does not even explain how the fact that Claimants were able to obtain the Improper Representation Complaint (Exhibit C-15) somehow means that Claimants have in their possession the requested documents. In addition, even if Claimants were able to obtain some of the information in response to this Request from another source, assuming they are even able to do so and in time to submit the information as part of their Reply, the IBA Rules require only that Claimants do not request documents that are “in the possession, custody or control of the requesting Party.” *See* IBA Rules, Art. 3(3)(c)(i). None of the documents requested are in Claimants’ possession, and thus Claimants’ requests comply with the IBA Rules in this regard.

Therefore, Claimants respectfully request that the Tribunal overrule Objection No. 5 and disregard it in connection with its decision on whether to order the Respondent to produce the requested documents.

Objeción 6: Las Demandantes solicitan información comercial confidencial de personas y empresas no relacionadas con el arbitraje e información de personas no relacionadas con la Demandada

Las Demandantes han solicitado información comercial confidencial que está excluida de la producción de documentos. El Artículo 9.2(e) de las Reglas de la IBA prevé la exclusión de documentos solicitados en la fase de exhibición por “motivos de confidencialidad comercial o técnica que el Tribunal Arbitral estime suficientemente relevantes”. Como regla general, es una costumbre dentro del arbitraje internacional considerar la necesidad de preservar información secreta, confidencial o comercialmente sensible.¹¹¹ Por ejemplo, un tribunal puede negar: [R]equests for documents that relate[] to the financial status of a company, including bank statements and also tax returns, for being unduly invasive. Rulings of this kind may seem reasonable when applied to evidence that reveals the financial inner workings of a company since the repercussions for a party if such information were to be improperly disclosed are potentially great. Such reasoning would also extend to formulas, know-how, trade secrets or other proprietary information which firms go to great lengths to keep confidential.¹¹² Las Solicitudes de las Demandantes relacionadas con información comercial confidencial o información de personas y empresas no relacionadas con el arbitraje se pueden dividir en tres grupos.

Primero, al menos nueve Solicitudes están relacionadas con información de otras empresas.¹¹³ Esta información incluye documentos confidenciales y comercialmente sensibles – definidos por el ¶4(i) de la RO 3 – de empresas que prestan (o prestaron) servicios a Pemex y que no están relacionadas con este arbitraje inversionista-Estado. Además, las Demandantes han ofrecido como pruebas documentales diversos documentos relacionados a otras empresas.¹¹⁴ Asimismo, las Demandantes ya han señalado en este arbitraje que cierta información relacionada con otras empresas se encuentra disponible al público.¹¹⁵ Esta situación demuestra que las Demandantes han podido obtener acceso a la información requerida en las Solicitudes, conocen las fuentes en donde se encuentra disponible la información requerida o conocen los mecanismos de acceso a información y transparencia bajo el sistema jurídico mexicano para ese fin.

Segundo, al menos seis Solicitudes están relacionadas con los “Tenedores de Bonos” de Oro Negro (“Bondholders”).¹¹⁶ La Demandada desconoce si la información solicitada por las Demandantes existe. Independientemente de ello, al día de hoy aún sigue siendo una incógnita para la Demandada quiénes son los “Tenedores de Bonos” de Oro Negro. Se tiene conocimiento de que algunos fondos o firmas de inversión formaron un grupo *ad-hoc* de bonistas o actúan como intermediarios

¹¹¹ O’Malley, *supra*, p. 313 (“[A]s a general rule, it is customary within international arbitration for consideration to be given to the legitimate need to keep sensitive business or technical information secret.”). Otro tratadista señala lo siguiente: “[Companies] cannot be expected to produce [their secrets] even in a confidential arbitration procedure and independently from confidentiality measures that would be taken.” Marghitola, *supra*, pp. 93-94.

¹¹² O’Malley, *supra*, p. 313 (citando el Caso No. 1000 de la ICC Case No. 1000, Orden Procesal No. 8 (2006) (No publicada).

¹¹³ Ver Solicitudes No. 2, 14, 15, 42, 43, 44, 48, 51 y 57.

¹¹⁴ Por ejemplo, los anexos documentales C-F.1, C-F.2, C-F.3, C-F.4, C-F.5, C-202 a C-215.

¹¹⁵ Ver Resolución Procesal No. 7, Anexo A, pp. 3-5.

¹¹⁶ Ver Solicitudes No. 10, 11, 12, 39, 52 y 54.

financieros de éstos.¹¹⁷ Sin embargo, es imposible que la Demandada tenga conocimiento de quiénes son en realidad los Tenedores de Bonos si se toma en consideración que Oro Negro emitió más de US\$ 900 millones en bonos de deuda y posiblemente estos valores financieros han cambiado de poseedor. Además, las Demandantes deben de contar con copia de la información relacionada con los “Tenedores de Bonos” debido a la cercana relación que existió entre ellos y Oro Negro. Tercero, las Demandantes solicitan información de personas (físicas y morales) no relacionadas con la Demandada o este arbitraje. Dicho en otras palabras, la Demandada no puede exhibir documentos que están bajo el poder, custodia o control de terceros ajenos a la Demandada y a este arbitraje inversionista-Estado.

Claimants’ response to Objection No. 6:

Respondent’s assertion that Claimants’ requests seek confidential business information from individuals and companies unrelated to the arbitration and information from individuals unrelated to the Respondent is erroneous. Article 9.2(e) of the IBA Rules provides for the exclusion of evidence on “grounds of commercial or technical confidentiality that the Arbitral Tribunal determines to be compelling.” Contrary to Respondent’s assertion, Claimants’ document requests do not seek documents related to confidential business information or information of individuals and companies not related to the arbitration, and therefore should not be denied based on Article 9.2(e) of the IBA Rules.

For instance, Respondent claims that Claimants’ Request No. 2 seeks information from other companies. However, Request No. 2 asks for “documents related to Pemex’s contracting of five rigs from Seamex in 2014 and 2015, including quality of Seamex rigs and lease rates.” The Request does not ask for information that is confidential commercial information. There is nothing sensitive about documents relating to the quality of the rigs, or to general lease rates between two parties. Moreover, such information relates to contracts that no longer exist, Claimants are no longer in control of Oro Negro, and in any event, Oro Negro is no longer a competitor of Seamex as it is not in business. Claimants are reasonably seeking further evidence to support Claimants’ claims that Respondent declined to contract Oro Negro’s rigs for discriminatory and retaliatory reasons and instead contracted rigs with Seamex in exchange of bribes, even though Seamex’s rigs were of inferior quality to Oro Negro’s rigs. This evidence also speaks to Respondent’s assertion that this was an ordinary commercial decision. Claimants’ request falls squarely within the permissions outlined by the IBA Rules.

Respondent also cites to Claimants’ Request No. 11, complaining that this request is related to the Bondholders and that the identity of the Bondholders remains a “mystery” to Respondent. Respondent’s assertion is false. It is apparent from the Statement of Claim that Claimants’ allegations regarding the “Bondholders” are allegations against the Ad-Hoc Group—the group that controls all of the Bondholders. The members of the Ad-Hoc Group are named in Paragraph 17 of the Statement of Claim. Therefore, Respondent’s assertion that the identity of the Bondholders is unknown to Respondent is spurious. Moreover, Respondent’s statement that Claimants have

¹¹⁷ Ver Escrito de Demanda, ¶ 97.

access to the requested information because of the “close relationship” Respondent alleges existed between Claimants and the Bondholders is equally inapposite. As stated in Paragraph 108 of the Statement of Claim, such documents may be subject to a protective order. While Claimants are in the process of attempting to obtain some of those documents from third parties, they have thus far not succeeding in doing so. Furthermore, the documents Claimants request from Respondent include Respondent’s own meeting minutes, notes, reports, memoranda, and analyses related to or prepared in connection with these meetings, which only Respondent would possess.

Respondent also erroneously states that Claimants are requesting information from people or companies that are not related to the Respondent or this arbitration. Respondent, however, does not cite to any request in which Claimants have requested information from companies or individuals unrelated to Respondent or the present arbitration proceedings. In response to Claimants’ Request No. 50—which requests “documents related to Pemex’s payment vis-à-vis date of work performed under each of the Oro Negro Contracts”—Respondent complains that Deutsche Bank assumed the payment rights under the Perforadora-PEP Contracts and that Deutsche Bank is not a party to the arbitration. However, in that request, Claimants are requesting any correspondence, notes, reports, or analyses related to the approval or timing of the payments by Pemex, which are documents that would be in Pemex’s possession, custody or control, not Deutsche Bank’s, contrary to Respondent’s assertion. Moreover, Respondent does not even offer an explanation as to why the requested documents would be under Deutsche Bank’s possession, custody, or control.

Finally, confidentiality itself is not a basis to refuse production under the IBA Rules and/or Procedural Order 3, ¶ 4 (i), but rather, allows for certain protection of the documents produced. Claimants would be willing to receive documents Respondent considers confidential under the terms of Procedural Order 3, including, if appropriate, as “Attorneys’ Eyes Only” information.

Therefore, Claimants respectfully request that the Tribunal overrule Objection No. 6 and disregard it in connection with its decision on whether to order the Respondent to produce the requested documents.

Alicia Grace y otros v. Estados Unidos Mexicanos
(ICSID Case No. UNCT/18/4)

Solicitud de exhibición de documentos de los Estados Unidos Mexicanos

I. Introducción

Esta solicitud de exhibición de documentos (SeD) se presenta de conformidad con la § 17 y el Anexo C de la Resolución Procesal No. 1 (RP 1) del 25 de marzo de 2019, y la comunicación y calendario actualizado del 8 de junio de 2020. La Demandada ha formulado esta SeD con base en los requisitos señalados en el Artículo 3.3 de las Reglas de la IBA sobre Práctica de Prueba en el Arbitraje Internacional de 2010 (Reglas de la IBA).

La Sección III de esta SeD está dividida en siete categorías. Cada categoría versa sobre un tema específico y algunas de estas categorías incluyen una justificación general la cual debe ser leída de forma conjunta con la justificación particular de cada solicitud.

Esta SeD busca identificar documentos que se encuentren en poder, posesión o control de las Demandantes o terceras partes asociadas a ellas *e.g.*, empresas subsidiarias, abogados, representantes, asesores o contadores, o aquellas personas que, debido a sus funciones, deben contar con la documentación solicitada.

La Demandada no ignora el hecho de que las Demandantes no son Oro Negro, sin embargo, la Demandada considera razonable suponer que las Demandantes tienen en su poder, custodia o control los documentos solicitados porque presentaron con su Escrito de Demanda diversos documentos corporativos, jurídicos y financieros de Oro Negro, lo cual demuestra que tienen acceso a dichos documentos.

Asimismo, se debe considerar que los Sres. Gonzalo Gil White, José Antonio Cañedo White, Frederick Warren y Carlos Williamson Nasi son testigos de las Demandantes, y los tres últimos también son Demandantes en el arbitraje. Estos señores participaron en la creación de Oro Negro y tuvieron puestos directivos importantes al interior de la empresa (*e.g.*, Director General de Oro Negro, presidente y miembro del Consejo de Administración de Integradora, respectivamente).

Para evitar repeticiones innecesarias, la Demandada declara que no se encuentran en su poder, custodia o control de ninguno de los documentos o categorías de documentos que se solicitan en la sección III de esta SeD.

II. Definiciones

Las siguientes definiciones son aplicables a esta SeD:

AFORES	Significa las Administradoras de Fondos para el Retiro que invirtieron en Integradora Oro Negro, incluida Afore Banamex y Afore SURA.
Black Cube	Significa B.C. Strategy UK Ltd o Black Cube.
Comunicaciones o Registros de comunicaciones	Significa registros de discusiones, análisis, conferencias, conversaciones, negociaciones, acuerdos, reuniones, entrevistas, conversaciones telefónicas, cartas, correspondencias escritas, correos electrónicos o cualquier otra forma de comunicación, incluidos los anexos o archivos adjuntos a las Comunicaciones.

Concurso Mercantil 345/2017	Significa el juicio concursal iniciado por Perforadora Oro Negro el 11 de septiembre de 2017 y admitido el 5 de octubre de 2017 por el Juez Concursal.
Contratos Perforadora-PEP	Significa contrato 421003823 celebrado el 23 de abril de 2013 (Contrato Primus); contrato 421003824 celebrado el 23 de abril de 2013 (Contrato Laurus); contrato 421004800 celebrado el 13 de enero de 2014 (Contrato Fortius); contrato 421004806 celebrado el 27 de enero de 2014 (Contrato Decus) y el contrato 641005817 celebrado el 18 de diciembre de 2015 (Contrato Impetus).
Demandada o México	Significa Estados Unidos Mexicanos.
Demandantes	Significa Alicia Grace, Ampex Retirement Master Trust, Apple Oaks Partners LLC, Brentwood Associates Private Equity Profit Sharing Plan, Cambria Ventures LLC, Carlos Williamson-Nasi; Carolyn Grace Baring; Diana Grace Beard; Floradale Partners LLC, Frederick Grace; Frederick J. Warren IRA; Gary Olson, Genevieve T. Irwin, Genevieve T. Irwin 2002 Trust, Gerald L. Parsky, Gerald L. Parsky IRA, John N. Irwin III, José Antonio Cañedo White; Nicholas Grace; Oliver Grace III, ONS Investments, LLC, Rainbow Fund L.P., Robert M. Witt, Robert M. Witt IRA, Vista Pros, LLC y Virginia Grace.
Deutsche Bank	Deutsche Bank México, S.A., Institución de Banca Múltiple, División Fiduciaria.
Documento	Significa un escrito de cualquier tipo, ya sea que esté impreso en papel, o guardado en algún medio electrónico, audio, visual o en cualquier otro medio electrónico de conservación o grabación de información, incluyendo cualquier foto, diseño, programa o datos.
Documentos Interno	Significa cualquier Documento que contenga notas, minutos, memorándums, opiniones y reportes, preparados por las Demandantes, ejecutivos, directivos, accionistas, empleados, o consultores externos (<i>e.g.</i> , abogados, contadores o asesores financieros) de Integradora Oro Negro o de alguna empresa que forme parte del grupo societario Oro Negro.
Entidades Mexicanas	Significa Axis Oil Field Services, S. de R.L. de C.V., Axis Oil Field Holding, S. de R.L. de C.V., Clue, S.A. de C.V., y el Fideicomiso 305952.
Escrito de Contestación	Escrito de Contestación de Demanda presentado el 1º de junio de 2020 por la Demandada.
Escrito de Demanda	Escrito de Demanda presentado el 7 de octubre de 2019 por las Demandantes.
Integradora Oro Negro	Integradora de Servicios Petroleros Oro Negro, S.A.P.I. de C.V.
Juez Concursal	Significa Juez Segundo de Distrito en Materia Civil en la Ciudad de México.

Nordic Trustee	Significa Nordic Trustee ASA, anteriormente conocido como Norsk Tillitsmann, representante común de los Tenedores de Bonos.
Oro Negro	Significa el grupo corporativo o societario encabezado por Integradora Oro Negro y conformado por diversas subsidiarias mexicanas y extranjeras.
Pemex	Petróleos Mexicanos.
Perforadora Oro Negro	Perforadora Oro Negro, S. de R.L. de C.V.
Plataformas	Plataformas auto-elevables Primus, Laurus, Fortius, Decus e Impetus.
PPL	Significa PPL Shipyard Pte. Ltd.
SAT	Servicio de Administración Tributaria.
Tenedores de Bonos	Significa cualquier persona física o moral, o intermediario de estos, que haya adquirido bonos de deuda emitidos por las empresas que forman parte de Oro Negro, incluidos Alterna Capital Partners, Asia Research and Capital Management, CQS LLP, GHL, Ltd., Maritime Finance Company y Ship Finance International Limited.
TLCAN	Tratado de Libre Comercio de América del Norte.

Claimants' Objections to Mexico's Request for Production of Documents

Definitions:

- (1) "Any" and "all" mean "all;" "Including" means "including, but not limited to;" and "And" and "or" mean "and/or."
- (2) "Bondholders" refers to any member of the group of individuals or entities that hold bonds in Oro Negro and any agents acting on the behalf of any of the Bondholders.
- (3) "Concurso Proceeding" means the bankruptcy proceeding initiated in México by Oro Negro in 2017.
- (4) The "Jack-Up Rigs" means the *Decus*, *Fortius*, *Impetus*, *Laurus* and *Primus* jack-up rigs.
- (5) "Mexican criminal proceedings" refers to any of the criminal proceedings initiated against Oro Negro and/or its executives, directors, and/or employees between 2018 and 2019.
- (6) The "New Rigs" means the *Supremus*, *Animus*, and *Vastus* jack-up rigs.
- (7) The "Oro Negro Rigs" means the Jack-Up Rigs (*Decus*, *Fortius*, *Impetus*, *Laurus*, and *Primus*) and the New Rigs *Supremus*, *Animus*, and *Vastus*).
- (8) "Oro Negro" means Integradora de Servicios Petroleros Oro Negro, S.A.P.I. de C.V. and its subsidiaries.
- (9) The "Oro Negro Contracts" means the five contracts between Perforadora Oro Negro, S. de R.L. de C.V. and Pemex under which Oro Negro leased Jack-Up Rigs to Pemex in 2014.
- (10) The "Oro Negro Contract terminations" means Pemex's purported termination of the Oro Negro Contracts in 2017.
- (11) "Pemex" refers to México's state-owned oil company, Petróleos Mexicanos, and any of its attorneys, agents, affiliates, or subsidiaries, or anyone acting on behalf of Pemex.
- (12) "Seamex" refers to the companies Seamex, Ltd., Fintech Advisory, Inc., and Seadrill Limited.
- (13) The "Seamex Contracts" means the contracts between Seamex and Pemex under which Seamex leased five jack-up rigs to Pemex in 2014.
- (14) The "2015 Amendments" means Pemex's amendments to the Oro Negro Contracts in 2015.
- (15) The "2016 Amendments" means Pemex's amendments to the Oro Negro Contracts in 2016.

(16) The “2017 Amendments” means Pemex’s proposed amendments to the Oro Negro Contracts in 2017.

(17) All capitalized or previously defined terms shall have the same meaning as detailed in Claimants’ Request for Interim Measures (“RFIM”), Claimants’ Statement of Claim (“SOC”) or Respondent’s Statement of Defense (“SOD”).

Réplicas a las objeciones planteadas por las Demandantes a la Solicitud de exhibición de documentos de los Estados Unidos Mexicanos

(7 de septiembre de 2020)

La mayoría de las objeciones formuladas por las Demandantes respecto a las solicitudes de exhibición de documentos de México (Solicitudes) tienen el mismo fundamento jurídico y están redactadas en términos similares, y particularmente toman como base las objeciones de las Solicitudes No. 12 y 20. Por ello, y con la finalidad de evitar repeticiones innecesarias, la Demandada procede a presentar una serie de réplicas de carácter general que son aplicables a diversas objeciones. Adicionalmente, la Demandada replicará y abordará las particularidades de cada una de las objeciones formuladas por la Demandantes.

Como observación general, el 24 de agosto de 2020 las Demandantes exhibieron parcialmente documentos relacionados con las Solicitudes No. 4, 5, 18, 29, 37, 38 y 40. Debido a ello, la Demandada se ve en la necesidad de reiterar las razones por las cuales los documentos solicitados son relevantes y sustanciales para el caso y requiriendo al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y a exhibir los documentos solicitados.

Réplica General No. 1 sobre las objeciones basadas en un supuesto impedimento legal o privilegio

Las Demandantes objetan las Solicitudes de México con fundamento en el artículo 9.2 (b) y (e) de las Reglas de la IBA sobre Práctica de Prueba en el Arbitraje Internacional (Reglas IBA). Al respecto, dicha disposición establece:

2. El Tribunal Arbitral podrá excluir, a instancia de parte o de oficio, la prueba o la exhibición de cualquier Documento, declaración, testimonio oral o inspección por cualquiera de las siguientes razones:

[...]

(b) existencia de impedimento legal o privilegio bajo las normas jurídicas o éticas determinadas como aplicables por el Tribunal Arbitral;

[...]

(e) confidencialidad por razones comerciales o técnicas que el Tribunal Arbitral estime suficientemente relevantes.

En el “Comentario sobre el texto revisado de las Reglas IBA sobre Práctica de Prueba en el Arbitraje

Internacional del año 2010” (Comentario a las Reglas de la IBA), se reconoce que dicha disposición: “brinda protección para documentos [...] que pueden estar cubiertos por ciertos privilegios, de conformidad con la ley aplicable correspondiente, como el privilegio cliente-abogado, el secreto profesional o el privilegio sin perjuicio”.¹

No obstante, los tribunales arbitrales y la doctrina también han sido enfáticos en señalar que la parte que afirma el privilegio tiene la carga de demostrar que dicho privilegio se aplica a cada solicitud de documentos.² De hecho, dicha carga probatoria aplica para demostrar tanto el privilegio legal que se debe aplicar como la base fáctica para la afirmación del privilegio.³

En *Merrill and Ring Forestry L.P. v. Canada*, el tribunal reconoció que las objeciones basadas en razones de privilegio deben cumplir con ciertos parámetros, en particular, identificar los documentos específicos y explicar detallada y claramente las razones para invocar el privilegio:

The Tribunal is also persuaded, however, that the privilege, as held in Pope & Talbot and the Canada-Aircraft decisions invoked by the Investor, can only be asserted in respect of sufficiently identified documents together with a clear explanation about the reasons for claiming such privilege. The parties would need such information in order to assess whether they agree or disagree about a refusal on these grounds, just as the Tribunal needs it to decide in case of disagreement between the parties.⁴

Las Demandantes objetan algunas Solicitudes alegando de forma general que éstas “*in the event that any documents responsive to this request were to exist – would be privileged under Procedural Order No. 3 and would constitute privileged or commercially confidential information*”.⁵ Sin embargo, se aclara que las Solicitudes no tienen por objeto obtener documentos o información privilegiada. De hecho, las Demandantes parecen simplemente suponer que los documentos solicitados están protegidos de alguna forma por cualquier (“any”) privilegio. Sin embargo, las Demandantes omite explicar la razón por la cual dichos documentos involucran alguna información confidencial y, a pesar de que contengan dicha información, no ha identificado qué tipo de información sería confidencial y cuál sería el fundamento jurídico para clasificar a la información

¹ Comentario sobre el texto revisado de las Reglas de la IBA sobre Práctica de Prueba en el Arbitraje Internacional del año 2010 confeccionadas por el Subcomité Revisor de las Reglas de la IBA sobre Prueba del año 2010, p. 25 (traducción de la Demandada).

Disponible en <https://www.ibanet.org/Document/Default.aspx?DocumentUid=DD240932-0E08-40D4-9866-309A635487C0>.

² *Glamis Gold v United States of America*, Decision on Parties’ Requests for Production of Documents Withheld on Grounds of Privilege, November 17, 2005, ¶ 23.

³ Nathan D. O’Malley, *Rules of Evidence in International Arbitration: An Annotated Guide*, p. 290 (2nd ed. 2019).

⁴ *Merrill and Ring Forestry L.P. v. Canada*, ICSID Case No. UNCT/07/1, Decision on Production of Documents, July 18, 2008, ¶ 19.

⁵ Por ejemplo, ver las objeciones formuladas por las Demandantes a las Solicitudes No. 2, 33, 39, 42 y 43.

como tal o alegar privilegio a fin de que el Tribunal trate en forma apropiada dicha información.

Conforme a lo anterior, México considera que si las Demandantes estiman que existen documentos protegidos por privilegio –*attorney-client privilege, work product doctrine, or any other privilege, protection, doctrine or immunity*–, se debe proceder conforme a la práctica del arbitraje internacional. Lo anterior conlleva a preparar un registro de privilegio (“privilege log”) en el que se explique de forma sucinta y general *i)* cuál es el documento para el cual se invoca el privilegio, así como su contenido; y *ii)* cuál es el fundamento jurídico conforme al derecho aplicable para invocar tal privilegio. Dicho registro debería ser remitido al Tribunal y a la Demandada y en caso de que ésta cuestione el privilegio invocado, el Tribunal deberá analizar su procedencia.

Réplica General No. 2 sobre las objeciones relacionadas con la suposición de que la Demandada cuenta con el poder, control o custodia de todo documento almacenado en registros, archivos o expedientes gubernamentales

Las Demandantes parecen suponer que se tiene igual o mejor acceso a los documentos solicitados por el simple hecho de que están en posesión de una entidad gubernamental. Contrario a lo que puedan considerar las Demandantes, la Demandada no cuenta con el control de todos los documentos que obran en poder de órganos gubernamentales o empresas productivas del Estado.

La suposición de las Demandantes es errónea e ignora el hecho de que los gobiernos son organizaciones complejas, que abarcan una gran cantidad de áreas, agencias, instituciones y otras entidades provistas de diversas competencias y facultades, las cuales se regulan por diferentes ordenamientos jurídicos. Inclusive las prácticas y ordenamientos aplicables para registro y conservación de documentos pueden variar entre diversas entidades gubernamentales.

El hecho de que los documentos solicitados puedan estar en posesión o almacenados en los archivos de un ente de gobierno no es suficiente para que las Demandantes afirmen que la Demandada tiene igual o mayor acceso que la Demandante. Dicha premisa omite tener en consideración el funcionamiento administrativo de un Estado demandado. La siguiente cita de un reconocido tratadista cobra relevancia:

In modern business practice, where the use of subsidiary companies and agents is common, or within government, where different departments, agencies and local branches are involved, it may be that a party which is technically “different” from the party in the arbitration has possession of the document. Thus the “control” issue may become somewhat complicated. In terms of evidentiary procedure, “control” is not a strict concept that is defined by legal personage.⁶

Con base en dicha cita, el hecho de que el documento solicitado pudiera estar en control de otra agencia no significa que la Demandada lo tenga a su alcance.

⁶ O’Malley, *supra*, p. 47.

Algunos documentos solicitados por las Demandantes están al alcance inmediato de las Demandantes, *e.g.*, los pasaportes y credenciales INE de los Sres. Williamson y Cañedo White. Por lo tanto, la Demandada solicita al Tribunal que rechace las objeciones de las Demandantes, y, por cuestión de practicidad, ordene a las Demandantes que, si éstas cuentan con los documentos solicitados, los exhiban.

Réplica General No 3 a las objeciones formuladas por las Demandantes sobre el supuesto carácter general e inespecífico de las solicitudes

Las Demandantes objetan las Solicitudes de México refiriendo al artículo 3.3(a) de las Reglas de la IBA y argumentando que son “*excessively broad*” o “*lacks the specificity required*”. Al respecto, el artículo 3.3(a) de las Reglas de la IBA establece:

3. Una Solicitud de Exhibición de Documentos deberá contener:
 - (a) (i) una descripción de cada Documento cuya exhibición se solicite que sea suficiente para identificarlo, o
(ii) una descripción suficientemente detallada (incluyendo el asunto de que se trate) de la concreta y específica categoría de Documentos requeridos que razonablemente se crea que existen; en el caso de Documentos conservados en formato electrónico, la Parte solicitante puede ó el Tribunal Arbitral puede requerirle que proceda a, identificar archivos específicos, términos de búsqueda, individuos o cualquier otro medio de búsqueda para esos Documentos en una forma eficiente y económica.

Tal como se explica en el Comentario a las Reglas de la IBA, éstas admiten la posibilidad de que algunos documentos no se puedan identificar de forma particular.⁷ En esos casos, las solicitudes pueden aceptarse “si se encuentran diseñadas cuidadosamente a fin de que se exhiban los documentos relevantes y sustanciales”.⁸

Si bien en algunas Solicitudes (*e.g.*, Solicitud No. 21) la Demandada no señaló un periodo de tiempo particular de los documentos que solicita (“*time limitation*”), la descripción de los documentos, el contexto aludido, los ejemplos de documentos solicitados, así como la explicación sobre la relevancia y materialidad son elementos que permiten identificar claramente la naturaleza de los documentos solicitados. En este ejemplo en particular, resulta cuestionable e improcedente que las Demandantes objeten exhibir los planes de negocios de Oro Negro siendo éste un documento toral de cualquier empresa.

Por lo tanto, el Tribunal debe rechazar las objeciones planteadas por las Demandantes y ordenar la exhibición de los documentos solicitados por México.

Réplica General No. 4 sobre la supuesta carga irrazonable para las Demandantes

⁷ Ver Comentario a las Reglas de la IBA *supra*, p. 9.

⁸ [...] arbitrators would generally accept such requests if they were carefully tailored to produce relevant and material documents. *Idem*.

A consideración de la Demandada, para determinar si una solicitud es excesivamente onerosa o una carga irrazonable el Tribunal debe examinar el tiempo y el costo que requiere la exhibición de los documentos solicitados en relación con la importancia de la afirmación que se busca sustentar. Con base en ello, las Solicitudes de la Demandada no imponen una carga irrazonable o excesiva a las Demandantes porque los documentos solicitados se debieron de haber preparado y conservado en el curso ordinario del negocio de las Demandantes.

Se debe considerar que algunos de los ejecutivos y directivos de Oro Negro también formaron parte de Axis, y estos mismos individuos son demandantes o testigos en el arbitraje. La Demandada considera sumamente cuestionable que las Demandantes aleguen que diversos documentos solicitados por México no se encuentran en su poder, control o custodia por el hecho de que la administración de Oro Negro está actualmente bajo la administración de un síndico concursal. Claramente los directivos y ejecutivos de Oro Negro deben de contar con respaldos de los documentos solicitados por la Demandada, o en su caso los podrían solicitar al síndico concursal.

Además, se debe recordar que Oro Negro obtuvo financiamientos mediante operaciones bursátiles ante la Bolsa Mexicana de Valores y otros mercados, como por ejemplo el noruego. Cualquier operación bursátil – e.g., la colocación de certificados de un CKD o la emisión de cientos de millones de dólares en bonos de deuda – requiere documentar, *inter alia*, el plan de negocios, las proyecciones de inversión, e informar sobre cualquier factor que pudiera afectar las operaciones comerciales de la empresa o proyecto financiado, justamente para captar el interés del público inversionista y brindarles certidumbre. Ejemplo de ello son los eventos relevantes publicados en la página web de la Bolsa Mexicana de Valores, la información que Oro Negro publicaba en el sitio web de stamdata.com, o los comunicados que Oro Negro publicaba en su sitio web.⁹

Con base en lo anterior, el Tribunal debe rechazar las objeciones planteadas por las Demandantes respecto a que diversas solicitudes son una carga irrazonable, y ordenar a las Demandantes que exhiban los documentos requeridos por México.

⁹ Ver R-0009, R-0075, R-0079, R-0121, R-0122, R-0143, R-0227 y R-0230.

Claimants' Objections to Mexico's Document Requests

I. Los accionistas de Integradora Oro Negro

Solicitud No.	1.
Documento / Categoría de Documentos:	Copia completa del libro de registro de acciones o accionistas de Integradora Oro Negro.
Justificación:	<p>Las Demandantes han presentado como prueba una copia del libro de registro de acciones de Integradora Oro Negro (C-0084). Esta copia comprende el periodo entre el 18 de diciembre de 2009 y el 1º de abril de 2017. Han transcurrido más de tres años desde el último asiento que consta en el anexo C-0084. Integradora Oro Negro ha modificado de forma constante sus estatutos, estructura corporativa y capital accionario. Resulta razonable pensar que ha habido más asientos desde entonces si se toma en consideración que previo al 1º de abril de 2017 se realizaron 33 asientos.</p> <p>Los documentos son relevantes y sustanciales para el caso porque permitirán verificar la participación accionaria de ciertos vehículos de inversión – supuestamente controlados por algunos demandantes – que han invertido de forma directa o indirecta en Integradora Oro Negro, lo que podría afectar la legitimidad procesal de las Demandantes para presentar reclamaciones bajo el TLCAN.</p> <p>La documentación solicitada no se encuentra en poder, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en poder, custodia o control de las Demandantes porque se trata de un documento que ya ha sido exhibido en el arbitraje de forma incompleta.</p>
Objeción:	Claimants object to this request on the basis that they have already provided a complete, up-to-date copy of Oro Negro's shareholder registry as Exhibit C-0084 to Claimants' Statement of Claim and therefore the request to provide additional documentation is unnecessary and unreasonably burdensome under IBA Rules, Art. 9.2(c). A more updated version does not exist in Claimants'

	<p>possession, as the shareholder registry is a living document that shows only the changes to shareholding, and there have been no changes to the shareholder registry since April 1, 2017 up until the date in which the former management lost the administration of Integradora Oro Negro, June 13, 2019.¹⁰ Given that from April 1, 2017 up until June 19, 2019 there have not been any changes to the shareholder registry, Exhibit C-0084 is the most up-to-date shareholder registry in Claimants' possession. Respondent may consult the previously produced document, Exhibit C-0084, to satisfy its stated justification to verify the participation of certain investment vehicles.</p>
Réplica:	<p><i>Ver Réplica General No. 4.</i></p> <p>La Demandada no está de acuerdo con la objeción planteada por las Demandantes. El anexo R-0084 no es una versión actualizada (“<i>up-to-date</i>”) debido a que está limitada al 1º de abril de 2017. Las Demandantes argumentan que no ha habido movimiento en el libro de registros de acciones hasta el 13 de junio de 2019, fecha en la que la administración de la empresa pasó a manos del Síndico concursal. Sin embargo, realmente no hay certeza de lo que ha sucedido a partir del 1º de abril de 2017.</p> <p>A pesar de ello, no resulta creíble que las Demandantes: <i>i)</i> no conozcan los movimientos accionarios dentro de Integradora Oro Negro y <i>ii)</i> no cuenten con una copia actualizada (<i>i.e.</i>, al 7 de septiembre de 2020) del libro de registros de la empresa en la que supuestamente han invertido.</p> <p>Efectivamente, el libro de registro de acciones es un “<i>living document</i>”; 33 asientos fueron registrados en el libro de acciones al 1º de abril de 2017 modificando con ello la tenencia accionaria de Integradora Oro Negro. Esta es justamente la razón por la cual el documento solicitado es relevante y sustancial para el resultado del caso.</p> <p>Asimismo, resulta razonable suponer que los anteriores administradores de Integradora Oro Negro, las Demandantes o sus representantes se encuentran en contacto con el Síndico. Esto significa que las Demandantes cuentan con la posibilidad de solicitar una copia completa del libro de registro de acciones de Integradora Oro Negro al Sr. Gerardo Badín.</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir el documento requerido.</p>

¹⁰ As of June 13, 2019, the person in charge of Integradora Oro Negro's shareholder registry is the liquidator (*síndico*).

Decisión del Tribunal:	Respondent convincingly established that the Claimants have in all likelihood the possibility to obtain the requested evidence. The Tribunal finds that the Respondent's arguments related to the procedural legitimacy of the Claimants are sufficient to order the production of the requested evidence.
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Solicitud No.	2.
Documento / Categoría de Documentos:	Copia de los demás libros corporativos de Integradora Oro Negro, es decir, <i>i</i>) libro de actas de asamblea, <i>ii</i>) libro de sesiones del Consejo de Administración y <i>iii</i>) libro de variaciones de capital. Esta solicitud incluye todos los asientos o registros disponibles desde la constitución de la empresa (17 de diciembre de 2009) hasta el último asiento realizado a tales libros.
Justificación:	<p>Las Demandantes han presentado como prueba una copia incompleta del libro de registro de acciones o accionistas de Integradora Oro Negro (C-0084). El hecho de que las Demandantes hayan exhibido este documento demuestra que tienen acceso a los cuatro los libros corporativos que Integradora Oro Negro y que toda empresa mercantil mexicana debe tener, <i>i.e.</i>, <i>i</i>) libro de registro de acciones (<i>ver Solicitud No. 1</i>), <i>ii</i>) libro de actas de asamblea, <i>iii</i>) libro de sesiones del Consejo de Administración y <i>iv</i>) libro de variaciones de capital.</p> <p>Los documentos solicitados son relevantes para el caso y sustanciales para su resultado porque demostrarán que la Demandada no es responsable de los problemas enfrentados por las Demandantes u Oro Negro; permitirán entender con mayor detenimiento los movimientos en el capital social de Integradora Oro Negro y qué porción del capital de la empresa es propiedad de las Demandantes; así como los cambios en la estructura de la empresa y las decisiones adoptadas por el Consejo de Administración de Integradora Oro Negro ante eventos relevantes como la renegociación de los contratos con Pemex, las negociaciones con los Tenedores de Bonos y la crisis petrolera de 2014, por poner algunos ejemplos.</p> <p>Asimismo, los documentos son relevantes y sustanciales para el caso porque permitirán verificar la participación accionaria de ciertos vehículos de inversión que directa o indirectamente son accionistas de Integradora Oro Negro, y verificar si efectivamente estos vehículos de inversión son controlados por las Demandantes.</p> <p>La documentación solicitada no se encuentra en poder, custodia o control de la Demandada.</p>

	<p>La Demandada considera razonable suponer que los documentos existen y están en poder, custodia o control de las Demandantes porque consisten en documentos que tuvieron que haber sido elaborados y preservados en el curso ordinario de sus operaciones comerciales y corporativas.</p>
Objeción:	<p>Claimants object to this request on the basis that it is excessively broad (IBA Rules, Art. 3.3(a)(ii)), given that Claimants have already produced and submitted documents in this proceeding that show Claimants' direct ownership of Oro Negro. <i>See Ex. C-0084.</i> Given that Respondent's request is duplicative and unnecessary, Respondent's request is unreasonably burdensome (IBA Rules, Art. 9.2(c)).</p> <p>Specifically, the book of capital variations for Oro Negro shows only shareholder equity in Oro Negro, not the identity of or number of shares held by any individual shareholder. This document is thus unrelated and not necessary to show Claimants' ownership of Oro Negro, which has been sufficiently demonstrated in Exhibit C-0084 to the Statement of Claim. Similarly, shareholder and board meetings cover a variety of topics. This request is, for this reason and others, thus overbroad and not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)).</p> <p>In any event, the requested documents contain confidential and/or sensitive business information and can be disclosed only with the authorization of the shareholders, or by a competent authority (IBA Rules, Art. 9.2(e)). Therefore, Claimants additionally object to the other requested documents on this ground as well.</p>
Réplica:	<p><i>Ver Réplicas Generales No. 1, 3 y 4.</i></p> <p>La Demandada no está de acuerdo con la objeción planteada por las Demandantes. Esta solicitud no es excesivamente amplia y tampoco se encuentra duplicada.</p> <p>Las Demandantes han ofrecido como prueba el libro de registro de acciones de Integradora Oro Negro. Esto significa que cuentan con copia de los otros tres libros esenciales de cualquier sociedad mercantil mexicana: <i>i)</i> libro de actas de asamblea; <i>ii)</i> libro de sesiones del Consejo de Administración y <i>iii)</i> libro de variaciones de capital.</p> <p>Anteriores directivos y ejecutivos de Integradora Oro Negro participan de forma activa en este arbitraje, como por ejemplo el Sr. José Antonio Cañedo White (demandante y testigo en el arbitraje), quien fungió como Presidente del Consejo de Administración de Integradora Oro Negro. Resulta</p>

	<p>razonable suponer que las Demandantes cuentan con una copia del libro de sesiones del Consejo de Administración que el propio Sr. Cañedo presidió.</p> <p>Las objeciones de las Demandantes dan a entender de que, efectivamente, cuentan bajo su poder, control o custodia los documentos requeridos. Esto demuestra que la Solicitud No. 2 no es excesivamente amplia. Por un lado, las Demandantes señalan que el libro de variaciones de capital solo demuestra el “<i>shareholder equity in Oro Negro</i>”. Por otro lado, las Demandantes señalan que los libros de actas de asamblea cubren una “variedad de temas”. La Demandada considera inapropiado que las Demandantes busquen excusar la exhibición de los documentos requeridos bajo estas alegaciones.</p> <p>Las Demandantes también alegan que los documentos son confidenciales o contienen información comercial sensible que no puede ser divulgada sin el consentimiento de los accionistas o por una autoridad competente. A pesar de ello, las Demandantes no aportan mayor sustento sobre este supuesto impedimento legal para exhibir el libro de asambleas de Oro Negro.</p> <p>La Demandada considera futile las objeciones de las Demandantes, principalmente porque ellas mismas han aportado en el arbitraje uno de los libros corporativos torales de cualquier empresa mexicana sin información testada o protegida. Esta situación contradice totalmente las objeciones planteadas por las Demandantes.</p> <p>No obstante lo anterior, la Demandada no tendría inconveniente en que las Demandantes exhiban una versión del libro de registro de asambleas en la que se proteja o teste la información comercial sensible.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent's request is not “excessively” broad. Claimant's argument that the documents contain confidential and/or sensitive business information and can be disclosed only with the authorization of the shareholders, or by a competent authority is not substantiated. The Tribunal finds that the request is not “unreasonably burdensome” and orders the production of the requested evidence.

Solicitud No.	3.
Documento / Categoría de Documentos:	Copia de los <i>i</i>) libros de registro de acciones o accionistas, <i>ii</i>) libros de actas de asamblea, <i>iii</i>) libro de sesiones del Consejo de Administración y <i>iv</i>) libro de variaciones de capital (o documentos equivalentes) de, Axis Oil Field Services, S. de R.L. de C.V., Axis Oil Field Holding, S. de R.L. de C.V., Clue, S.A. de C.V y Oro Negro Cooperatief U.A.

	<p>Esta solicitud de documentos está limitada al periodo comprendido entre la constitución de cada empresa hasta el último asiento realizado a cada libro corporativo.</p>
Justificación:	<p>Las empresas Axis Oil Field Services, S. de R.L. de C.V. (Axis Services), Axis Oil Field Holding, S. de R.L. de C.V. (Axis Holdings) y Clue, S.A. de C.V. (Clue) forman parte de las Entidades Mexicanas. Las Demandantes alegan que a través de la empresa holandesa denominada Oro Negro Cooperatief U.A. (Oro Negro Cooperatief) indirectamente poseen un porcentaje de acciones en Integradora Oro Negro.¹¹</p> <p>La Demandada ha refutado que los demandantes Carlos Williamson Nasi y José Antonio Cañedo White tengan la propiedad y/o el control de las Entidades Mexicanas, en cuya representación buscan hacer valer sus reclamaciones en contra de la Demandada bajo el Artículo 1117 del TLCAN. Las pruebas documentales aportadas por las Demandantes (<i>e.g.</i>, C-B.7, C-B.8, C-0085, C-0086, C-0087) no demuestran que los Sres. Williamson y Cañedo, efectivamente, controlen las Entidades Mexicanas y a Oro Negro Cooperatief.¹²</p> <p>Los documentos solicitados son relevantes para el caso y sustanciales para su resultado debido a que permitirán conocer con claridad la tenencia accionaria, movimientos en el capital y decisiones adoptadas al interior de Axis Services, Axis Holdings, Clue y Oro Negro Cooperatief. En específico los documentos solicitados permitirán corroborar el porcentaje accionario que los Sres. Williamson Nasi y Cañedo White afirman tener en estas empresas, y determinar si ese porcentaje les otorga propiedad y/o control sobre ellas.</p> <p>Los documentos solicitados también son sustanciales para el resultado de este arbitraje porque permitirán entender si los Sres. Williamson y Cañedo White cuentan con la legitimidad procesal para presentar reclamaciones en nombre y representación de estas empresas.</p> <p>Además, los documentos son relevantes para determinar los daños reclamados por las Demandantes, ya que su cuantificación está basada en la supuesta tenencia accionaria en Integradora Oro Negro a través de diferentes entidades y vehículos de inversión, incluidas las Entidades Mexicanas y Oro Negro Cooperatief.</p>

¹¹ Ver Escrito de Demanda, pie de página 15.

¹² Ver Escrito de Contestación, ¶¶ 500-511, 518-520.

	<p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido elaborados y preservados por las sociedades mercantiles que forman parte de las Entidades Mexicanas en el curso ordinario de sus operaciones comerciales. Asimismo, la Demandada considera razonable suponer que documentos equivalentes o similares existen para el caso de Oro Negro Cooperatief, independientemente de ser una sociedad constituida en los Países Bajos pues los Sres. Cañedo y Williamson afirman tener la propiedad y/o control de dicha empresa a través de las empresas Axis y su tenencia accionaria en dichas empresas.</p>
Objeción:	<p>Respondent's request is excessively broad and lacks the specificity required by the IBA Rules (IBA Rules, Art. 3.3(a)(ii)). Further, the documents produced and submitted by Claimants in this proceeding in connection with the above-named entities show that Messrs. Williamson y Cañedo White have a legitimate right to bring claims on behalf of themselves and their companies, as they establish Messrs. Williamson and Cañedo White's ownership in Axis Services, Axis Holding, Clue, and Fideicomiso 305952, and Axis Services, Axis Holding and Fideicomiso 305952, respectively (Exhibits C-0085 – C-0088).</p> <p>Given that Respondent's request is duplicative and unnecessary, Respondent's request is also unreasonably burdensome (IBA Rules, Art. 9.2(c)).</p>
Réplica:	<p>Ver Réplicas Generales No. 3 y 4.</p> <p>La Demandada no está de acuerdo con la objeción planteada por las Demandantes. La Solicitud No. 3 no es excesivamente amplia y tampoco carece de especificidad.</p> <p>La Demandada ha solicitado los cuatro libros corporativos de las Entidades Mexicanas, documentos esenciales de cualquier sociedad mercantil mexicana. De igual forma la Demandada solicita los documentos equivalentes de Oro Negro Cooperatief, sociedad aparentemente constituida en los Paises Bajos.</p> <p>Los documentos que hasta este momento han aportado las Demandantes en el arbitraje no demuestran que efectivamente cuenten con el poder o control de las Entidades Mexicanas, y mucho menos es clara la tenencia accionaria que los Sres. Williamson y Cañedo cuentan en estas empresas. La Demandada</p>

	<p>inclusive ha hecho notar errores en los documentos aportados por las Demandantes.¹³ Esta situación le resta credibilidad a los documentos aportados por las Demandantes que, dicho sea de paso, fueron firmados por el Sr. Gustavo Mondragón, ejecutivo de Integradora Oro Negro. De igual forma, las Demandantes han identificado contradicciones entre los documentos aportados por las Demandantes.¹⁴</p> <p>Estos errores y contradicciones no son menores. Los documentos solicitados son sumamente relevantes para el caso porque permitirán corroborar si los Sres. Williamson Nasi y Cañedo White, <i>inter alia</i>, tienen la propiedad y/o control de las Entidades Mexicanas y con ello confirmar si cuentan con la legitimación procesal (“standing”) para presentar una reclamación en nombre de tales empresas conforme el Artículo 1117 del TLCAN.</p> <p>La Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos requeridos.</p>
Decisión del Tribunal:	The Respondent's request is not “excessively” broad and relates to a relevant issue in dispute. The Tribunal orders the production of the requested evidence.

Solicitud No.	4.
Documento / Categoría de Documentos:	Copia del Contrato de Fideicomiso número F/305952 del 14 de diciembre de 2012 (Fideicomiso F/305952), y copia de cualquier convenio modificatorio o reexpresión que el Fideicomiso F/305952 haya sufrido.
Justificación:	<p>Los señores Carlos Williamson Nasi y José Antonio Cañedo White afirman controlar y ser propietarios del Fideicomiso F/305952: “<i>F/305952, a Mexican special purpose vehicle organized under the laws of Mexico. F/305952 is majority owned and controlled by Messrs. Williamson and Cañedo [...] Exhibit C-B.10 is a redacted copy of the F-30592 Trust Agreement certifying that Mr. Cañedo has been the 33.3% beneficial owner of F.30592 since December 14, 2011 to date</i>”.¹⁵</p> <p>El anexo C-B.10 (denominado por las Demandantes como “Fideicomiso HSBC”) se encuentra severamente testado, no es legible y resulta imposible para la Demandada (o el Tribunal) determinar si este documento respalda adecuadamente las afirmaciones de las Demandantes, o si el contrato y cualquiera de sus modificaciones prevén restricciones a las supuestas participaciones de los Sres.</p>

¹³ Escrito de Demanda, ¶¶ 501, 508 y 511.

¹⁴ Escrito de Demanda, ¶ 503.

¹⁵ Escrito de Demanda, pie de página 50.

	<p>Williamson Nasi y Cañedo White. Por ello, la Demandada solicita una copia legible del Fideicomiso F/305952, así como de cualquier convenio modificatorio o de reexpresión que haya sido celebrado posterior al 14 de diciembre de 2012.</p> <p>Los documentos solicitados son relevantes para el caso y sustanciales para el resultado de este arbitraje para determinar si los Sres Williamson y Cañedo White cuentan con la propiedad y control de las Entidades Mexicanas, incluido el Fideicomiso F/305952, en cuya representación presenta reclamaciones bajo el Artículo 1117 del TLCAN.</p> <p>Además, los documentos son relevantes para determinar el monto de los daños ya que éste está basado en la supuesta tenencia accionaria indirecta en Integradora Oro Negro a través de diferentes entidades y vehículos de inversión, incluido el Fideicomiso F/305952.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>Resulta razonable suponer que los documentos solicitados están en poder, custodia o bajo control de las Demandantes porque ya ha sido presentado en este arbitraje una versión testada del contrato del Fideicomiso F/305952.</p>
Objeción:	Claimants hereby voluntarily re-produce a legible copy of the following document: a copy of the “HSBC Trust” agreement F/305952.
Réplica:	<p>La Demandada agradece la exhibición del Fideicomiso F/305952. Sin embargo, el Fideicomiso F/305952 fue constituido el 14 de diciembre de 2012, <i>i.e.</i>, prácticamente hace 8 años. Resulta razonable suponer que el contrato llegó a ser modificado o “re-expresado” en ese lapso.</p> <p>En ese sentido, la Demandada solicita al Tribunal que requiera a las Demandantes que confirmen si existieron modificaciones al Fideicomiso F/305952 y en dado caso de que sí, exhiban los documentos.</p> <p>Los documentos solicitados son sumamente relevantes para el caso porque permitirán corroborar si los Sres. Williamson Nasi y Cañedo White, <i>inter alia</i>, cuentan con una participación accionaria indirecta en Integradora Oro Negro gracias a su calidad de fideicomisarios del Fideicomiso F/305952; si los Sres. Williamson y Cañedo están facultados para presentar una reclamación en representación del Fideicomiso F/30592 conforme el artículo 1117 del TLCAN, y ayudarán a determinar los daños reclamados por las Demandantes.</p>

Decisión del Tribunal:	The Tribunal acknowledges the Claimants' produced evidence. The Tribunal orders the production of the requested additional information about the existence of any modification to the agreement in question.
Solicitud No.	5.
Documento / Categoría de Documentos:	Copia del Contrato de Fideicomiso número F/169852 del 14 de diciembre de 2011 y copia de cualquier convenio modificadorio o reexpresión que este fideicomiso haya sufrido.
Justificación:	<p>Las Demandantes afirman ser accionistas indirectos de Integradora Oro Negro, a través del Fideicomiso F/305952, el cual a su vez controla un porcentaje del Fideicomiso F/169852: “<i>F. 305952 indirectly owns shares in Integradora by holding the beneficial interest of 3.2618% of Fideicomiso 169852 (“F. 169852”), a Mexican special purpose vehicle organized under the laws of México that directly owns shares of Integradora. Exhibit C-88 is a redacted copy of the F. 169852 Trust Agreement certifying that F. 305952 has been the beneficial owner of 3.2618% of F. 169852 since December 14, 2011 to date</i>”.¹⁶</p> <p>Como fue señalado en el Escrito de Contestación de Demanda, el anexo C-0088 parece ser una copia del Fideicomiso F/169852. Sin embargo, el documento se encuentra severamente testado, no es legible y resulta imposible para la Demandada (o el Tribunal) determinar si este documento respalda adecuadamente las afirmaciones de las Demandantes, o si el contrato y cualquiera de sus modificaciones prevén restricciones a las supuestas participaciones de los Sres. Williamson Nasi y Cañedo White.</p> <p>Los documentos solicitados son relevantes para el caso y sustanciales para el resultado de este arbitraje porque permitirán determinar si los Sres Williamson y Cañedo White son beneficiarios del Fideicomiso F/169852 y conocer la participación accionaria o relevancia de este instrumento en el capital de Integradora Oro Negro.</p> <p>Además, los documentos son relevantes para determinar los daños reclamados por las Demandantes ya que su cuantificación está basada en la supuesta tenencia accionaria indirecta en Integradora Oro Negro a través de diferentes entidades y vehículos de inversión, incluido el Fideicomiso F/169852.</p>

¹⁶ Escrito de Demanda, pie de página 19.

	<p>La Demandada únicamente cuenta con un convenio modificatorio al Fideicomiso F/169852 del 8 de marzo de 2013 el cual fue exhibido como R-0073. La Demandada no está en posibilidad de confirmar si el anexo R-0073 es el mismo documento que el anexo C-0088. Fuera de ello, la Demandada no cuenta con la posesión, custodia o control de la documentación solicitada.</p> <p>Resulta razonable solicitar esta documentación debido a que las Demandantes ya han presentado en este arbitraje una versión del Fideicomiso F/169852.</p>
Objeción:	Claimants hereby voluntarily re-produce a legible copy of the following document: a copy of the trust agreement F/169852.
Réplica:	<p>La Demandada agradece la exhibición del Fideicomiso F/169852. Sin embargo, el Fideicomiso F/169852 fue celebrado el 14 de diciembre de 2011, <i>i.e.</i>, prácticamente hace 9 años. Resulta razonable suponer que el contrato llegó a ser modificado o “re-expresado” en ese lapso.</p> <p>En ese sentido, la Demandada solicita al Tribunal que requiera a las Demandantes que confirmen si existieron modificaciones al Fideicomiso F/169852 y en dado caso de que sí, exhiban los documentos.</p> <p>Los documentos solicitados son sumamente relevantes para el caso porque permitirán corroborar si los Sres. Williamson Nasi y Cañedo White, <i>inter alia</i>, cuentan con una participación accionaria indirecta en Integradora Oro Negro gracias al Fideicomiso F/169852, y además ayudarán a determinar los daños reclamados por las Demandantes.</p>
Decisión del Tribunal:	The Tribunal acknowledges the Claimants' produced evidence. The Tribunal orders the production of the requested additional information about the existence of any modification to the agreement in question.

Solicitud No.	6.
Documento / Categoría de Documentos:	Copia de los pasaportes mexicanos y credenciales de elector vigentes de los Sres. José Antonio Cañedo White y Carlos Williamson Nasi.
Justificación:	<p>Los Sres. José Antonio Cañedo White y Carlos Williamson Nasi son nacionales mexicanos y han realizado diversos actos jurídicos en los que se han ostentado como tales.</p> <p>Diversos documentos que constan en el expediente de este arbitraje hacen referencia a los pasaportes y credenciales de elector (usualmente denominadas “credencial INE”) de los señores Williamson y</p>

	<p>Cañedo White. Las credenciales INE son el documento de identificación oficial por excelencia en México y también es un documento utilizado para demostrar el domicilio de una persona.¹⁷</p> <p>Los documentos solicitados son relevantes para el caso para este arbitraje porque permitirán determinar la nacionalidad dominante y efectiva de los Sres. Williamson Nasi y Cañedo White. La Demandada busca argumentar que determinar la nacionalidad dominante y efectiva de los Sres. Williamson y Cañedo es necesario para determinar si el Tribunal cuenta con jurisdicción <i>ratione personae</i> sobre las reclamaciones de estos dos demandantes. Por esta razón los documentos solicitados son sustanciales para el resultado del caso.</p> <p>El hecho de que autoridades mexicanas (Secretaría de Relaciones Exteriores y el Instituto Nacional Electoral) hayan expedido estos documentos no significa que el equipo de defensa de México cuente con los documentos solicitados.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión de las Demandantes. Las Demandantes han informado al Tribunal que el Sr. Williamson Nasi cuenta con la nacionalidad mexicana desde 2002.¹⁸ Los documentos solicitados forman parte de los documentos de identificación que todo ciudadano mexicano cuenta y resulta razonable suponer que los documentos han sido utilizados por los Sres. Williamson y Cañedo White al momento de entrar y salir del territorio mexicano y para realizar actos jurídicos o ejercer sus derechos políticos. La Demandada no considera que la exhibición de estos documentos genere una carga irrazonable a las Demandantes.</p>
Objeción:	Claimants object to Respondent's request on the basis of the lack of materiality of the evidence requested to the outcome of the proceeding (IBA Rules, Art. 9.2). Respondent's sole justification for the documents is to determine Messers. Cañedo White and Williamson Nasi's "dominant and effective" nationality. However, the NAFTA contains neither a "dominant and effective nationality" test nor a prohibition on dual nationals bringing a claim against one of its home states and instead specifically authorizes citizens and permanent residents of one of the NAFTA Contracting States to advance claims against a State of which they also are nationals. Claimants have provided sufficient evidence to prove that Messers. Cañedo White and Williamson Nasi are U.S. nationals as required by the NAFTA and are therefore eligible to bring a claim (Exhibits C-B.23 and C-B.6 to Claimants' Notice of Arbitration). Furthermore, as Respondent admits, Respondent, through the <i>Secretaría de</i>

¹⁷ Ver Escrito de Contestación, ¶¶ 565 y 569.

¹⁸ Ver Comunicación enviada por los representantes de las Demandantes al CIADI del 21 de noviembre de 2021.

	<i>Relaciones Exteriores and the Instituto Nacional Electoral, is in possession of the requested documentation and therefore requesting that Claimants provide these documents is unnecessary and unreasonably burdensome as per IBA Rules, Art. 9.2(c).</i>
Réplica:	<p><i>Ver Réplicas Generales No. 2 y 4.</i> La Demandada no está de acuerdo con las objeciones de las Demandantes.</p> <p>Los documentos solicitados son relevantes y sustanciales para el resultado del caso, particularmente para corroborar si los Sres. Williamson y Cañedo cuentan con la legitimidad para iniciar este arbitraje y corroborar si el Tribunal cuenta con jurisdicción.</p> <p>El hecho de que los documentos solicitados hayan sido emitidos por autoridades mexicanas no significa que la Demandada los tenga a su alcance o tenga acceso a ellos.</p> <p>Además, resulta incorrecto que esta solicitud sea una carga para las Demandantes. Las Demandantes han ofrecido como pruebas los pasaportes e identificaciones de identidad de las Demandantes (<i>ver</i> anexos C-B.1 a C-B.22), incluido el permiso de residencia del Sr. Cañedo (C-B.23) y el pasaporte norteamericano del Sr. Williamson junto con sus cartas de naturalización (C-B.6, C-233 y C-234). De igual forma, los documentos requeridos son documentos de identificación que los Sres. Williamson y Cañedo cuentan a la mano, <i>i.e.</i>, están al alcance de las Demandantes.</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. In doing so, the Tribunal does not prejudge the issue and applicability of a possible "dominant and effective nationality" test. The Tribunal orders the production of the requested evidence.

Solicitud No.	7.
Documento / Categoría de Documentos:	<p>Copia de la cédula fiscal emitida por el SAT, comprobantes de situación fiscal, o cualquier comprobante de situación fiscal emitido por autoridades tributarias mexicanas en favor de los Sres. Carlos Williamson Nasi y José Antonio Cañedo.</p> <p>Esta solicitud está limitada al periodo comprendido entre el 1º de enero de 2012 (año en el que las operaciones de Oro Negro iniciaron) y el 19 de junio de 2018, fecha en la que fue presentada la Notificación de Arbitraje.</p>

Justificación:	<p>Los Sres. José Antonio Cañedo White y Carlos Williamson Nasi son nacionales mexicanos y han realizado diversos actos jurídicos en los que se han ostentado como tales. De igual forma, los Sres. José Antonio Cañedo White y Carlos Williamson Nasi cuentan con registro federal de contribuyentes (RFC), lo que significa que tributan en México.¹⁹</p> <p>Los documentos solicitados son relevantes para el caso para este arbitraje porque permitirán determinar la nacionalidad dominante y efectiva, así el domicilio, y centro de negocios o actividades comerciales de los Sres. Williamson Nasi y Cañedo White. La Demandada busca argumentar que al establecer la nacionalidad dominante y efectiva de los Sres. Williamson y Cañedo se podrá determinar si el Tribunal cuenta con jurisdicción <i>ratione personae</i> sobre las reclamaciones de estos dos demandantes. Por esta razon los documentos solicitados son sustanciales para el resultado del caso.</p> <p>El hecho de que autoridades fiscales mexicanas (e.g. SAT o la SHCP) hayan expedido los documentos solicitados no significa que el equipo de defensa de México cuente con copia de ellos. Como ha sido debatido entre las partes, existe la figura del secreto fiscal.²⁰ Debido a ello, se genera una carga irrazonable a la Demandada conseguir copia de la documentación solicitada ante las respectivas autoridades.</p> <p>La Demandada no tiene inconveniente en que los documentos solicitados sean producidos con ediciones, de conformidad con la § 25 de la Resolución Procesal No. 1 y la Resolución Procesal No 3, en caso de que los documentos contengan información reservada o confidencial.</p> <p>La Demandada considera razonable que los documentos existen y están en posesión de las Demandantes debido a que cuentan con Registro Federal de Contribuyentes, lo que hace suponer que los Sres. Williamson y Cañedo White tributan en México. De igual forma, los documentos solicitados forman parte de las operaciones comerciales de los Sres. Williamson y Cañedo, lo que hace suponer en que los documentos existen y han sido preservados. La Demandada no considera que la exhibición de estos documentos genere una carga irrazonable a las Demandantes.</p>
Objeción:	Claimants object to Respondent's request on the basis of the lack of materiality of the evidence requested to the outcome of the proceeding (IBA Rules, Art. 9.2). Respondent's sole justification for the documents is to determine Messers. Cañedo White and Williamson Nasi's "dominant and

¹⁹ Ver R-0216 y R-0224.

²⁰ Ver Escrito de Contestación, ¶ 227.

	effective” nationality. However, the NAFTA contains neither a “dominant and effective nationality” test nor a prohibition on dual nationals bringing a claim against one of its home states instead specifically authorizes citizens or lawful permanent residents of one of the NAFTA Contracting States to advance claims against a State of whichom they also are nationals and instead specifically authorizes citizens and permanent residents of one of the NAFTA Contracting States to advance claims against a State of which they also are nationals. Claimants have provided sufficient evidence to prove that Messers. Cañedo White and Williamson Nasi are U.S. nationals as required by the NAFTA and are therefore eligible to bring a claim (Exhibits C-B.23 and C-B.6 to Claimants’ Notice of Arbitration). Furthermore, as Respondent admits, Respondent, through SAT or SHCP, is in possession of the requested documentation and therefore requesting that Claimants provide these documents is unreasonably burdensome as per IBA Rules, Art. 9.2(c).
Réplica:	Con la finalidad de evitar repeticiones innecesarias, la Demandada solicita que sean tomadas en consideración <i>mutatis mutandis</i> las réplicas de la Solicitud No. 6 en esta Solicitud No. 7.
Decisión del Tribunal:	The Tribunal finds that the Respondent’s request relates to a relevant issue for the present dispute. In doing so, the Tribunal does not prejudge the issue and applicability of a possible “dominant and effective nationality” test. The Tribunal orders the production of the requested evidence.

Solicitud No.	8.
Documento / Categoría de Documentos:	Copia de los títulos o certificados de acciones de Integradora Oro Negro emitidos en favor de Ampex Retirement, Apple Oaks Partners, LLC, Cambria Ventures LLC Axis Oil Field Services, S. de R.L. de C.V., Floradale Partners, LLC Frederick J. Warren IRA, Brentwood Associates Private Equity Profit Sharing Plan, Gary Olson, Genevieve T. Irwin 2002 Trust, John N. Irwin III, Gerald L. Parsky IRA, ON5 Investments, LLC, Rainbow Fund LP y Robert M. Witt IRA.
Justificación:	<p>Prácticamente el anexo C-0084 es la única prueba aportada por las Demandantes para demostrar que son accionistas de Integradora Oro Negro. Como fue descrito <i>supra</i>, el anexo C-0084 es una copia incompleta del libro de registro de acciones de Integradora Oro Negro, limitada hasta el 1º de abril de 2017.</p> <p>El anexo C-0084 resulta insuficiente para que las Demandantes busquen acreditar su calidad como accionistas de Integradora Oro Negro. Conforme a la legislación mercantil mexicana, los títulos o certificados de acciones son documentos legales que acreditan la participación de una persona física o moral en el capital social de una empresa.</p>

	<p>Los documentos solicitados son relevantes para el caso y sustanciales para el resultado de este arbitraje porque permitirán corroborar si efectivamente Ampex Retirement, Apple Oaks Partners, LLC, Cambria Ventures LLC Axis Oil Field Services, S. de R.L. de C.V., Floradale Partners, LLC Frederick J. Warren IRA, Brentwood Associates Private Equity Profit Sharing Plan, Gary Olson, Genevieve T. Irwin 2002 Trust, John N. Irwin III, Gerald L. Parsky IRA, ON5 Investments, LLC, Rainbow Fund LP y Robert M. Witt IRA son accionistas de Integradora Oro Negro.</p> <p>Además, los documentos son relevantes para determinar los daños reclamados por las Demandantes ya que su cuantificación está basada en la supuesta tenencia accionaria de estos en Integradora Oro Negro a través de diferentes entidades y vehículos de inversión.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en poder, custodia o control de las Demandantes porque consisten en documentos que tuvieron que haber sido elaborados y preservados en el curso ordinario de sus operaciones comerciales y corporativas.</p>
Objeción:	Claimants first contest Respondent's characterization of Exhibit C-0084 as an incomplete document limited until April 1, 2017. As noted in the objection to Request No. 1, Exhibit C-0084 is the most up-to-date shareholder registry in Claimants' possession because there have been no changes in the shareholder registry since April 1, 2017 up until June 13, 2019, the date on which the former management lost the administration of Integradora Oro Negro. ²¹ The last entry is April 1, 2017 simply because that is the last change in the shareholder registry until at least June 13, 2019. Claimants thus object to this request as it seeks documents that lack materiality to the outcome of this arbitration (IBA Rules, Art. 9.2(a)), given that Claimants have already provided sufficient documentation in Exhibit C-0084 to show their status as shareholders of Integradora Oro Negro for the purposes of bringing a claim under the NAFTA. Further, given that Claimants have provided the most up-to-date shareholder registry in Claimants' possession in Exhibit C-0084, Respondent's request is duplicative and unnecessary and therefore imposes an unnecessary burden on Claimants (IBA Rules, Art. 9.2(c)).
Réplica:	<i>Ver Réplica General No. 4.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 8 esté duplicada y que los documentos solicitados no sean relevantes y sustanciales para el caso.

²¹ As of June 13, 2019, the person in charge of Integradora Oro Negro's shareholder registry is the liquidator (*síndico*).

	<p>Las pruebas aportadas por las Demandantes no son conclusivas y tampoco son suficientes para demostrar que 14 demandantes (algunas de ellas sociedades mexicanas y norteamericanas, fideicomisos e “<i>individual retirement accounts</i>” creados en Estados Unidos) son inversionistas directos o indirectos de Integradora Oro Negro. El anexo C-0084 no es suficiente para demostrar esta situación. Además, la documentación requerida es necesaria para determinar con precisión la tenencia accionaria de las Demandantes en Integradora Oro Negro, lo que permitirá poder cuantificar con detenimiento los daños reclamados.</p> <p>Por lo anterior, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. and orders the production of the requested evidence.

Solicitud No.	9.
Documento / Categoría de Documentos:	Copia de los contratos de compraventa de acciones (“ <i>share purchase agreements</i> ”) o documentos equivalentes a través de los cuales Ampex Retirement, Apple Oaks Partners, LLC, Cambria Ventures LLC Axis Oil Field Services, S. de R.L. de C.V., Floradale Partners, LLC Frederick J. Warren IRA, Brentwood Associates Private Equity Profit Sharing Plan, Gary Olson, Genevieve T. Irwin 2002 Trust, John N. Irwin III, Gerald L. Parsky IRA, ON5 Investments, LLC, Rainbow Fund LP y Robert M. Witt IRA adquirieron acciones de Integradora Oro Negro.
Justificación:	<p>Misma justificación que la solicitud no. 8.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en poder, custodia o control de las Demandantes porque consisten en documentos que tuvieron que haber sido elaborados y preservados en el curso ordinario de sus operaciones comerciales y corporativas.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Request 8 above.</p> <p>Claimants additionally object to this request as it seeks documents that lack materiality to the outcome of this arbitration (IBA Rules, Art. 9.2(a)), given that Claimants have already provided sufficient documentation in Exhibit C-0084 to show their status as shareholders of Integradora Oro Negro for the purposes of bringing a claim under the NAFTA. Further, given that Claimants have provided the most</p>

	up-to-date shareholder registry in Claimants' possession in Exhibit C-0084, Respondent's request is duplicative and unnecessary and therefore imposes an unnecessary burden on Claimants (IBA Rules, Art. 9.2(c)).
Réplica:	Con la finalidad de evitar repeticiones innecesarias, la Demandada solicita que sean tomadas en consideración las réplicas de la Solicitud No. 8 en esta Solicitud No. 9.
Decisión del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. and orders the production of the requested evidence.

Solicitud No.	10.
Documento / Categoría de Documentos:	<p>Copia de los siguientes Documentos:</p> <ul style="list-style-type: none"> a. Documentos constitutivos o equiparables (<i>e.g.</i>, actas constitutivas, “<i>articles of incorporation</i>”, contratos de sociedad, “<i>partnership agreements</i>”, escritura de constitución de fideicomiso o <i>trust, members registry</i>, entre otros) de Ampex Retirement Master Trust, Apple Oaks Partners, LLC, Brentwood Associate Private Equity Profit Sharing Plan, Cambria Ventures, LLC, Floradale Partners, LLC, Frederick J. Warren IRA, Gerald L. Parsky IRA, Robert M. Witt IRA, Genevieve T. Irwin 2002 Trust, ON5 Investments, LLC, Rainbow Fund, L.P., Vista Pros, LLC, Field Nominee Trust, Field Nominee Trust y Oro Negro Cooperatief U.A., y cualquier convenio modificatorio que haya sido celebrado posterior al documento constitutivo. b. Estatutos o <i>bylaws</i> de los vehículos de inversión identificados <i>supra</i> y cualquier modificación que hayan sufrido. <p>Esta solicitud se encuentra limitada al periodo entre la constitución de las entidades y vehículos de inversión señalados <i>supra</i> y la presentación de la Notificación de Arbitraje (19 de junio de 2018).</p>
Justificación:	Las Demandantes alegan que ciertos individuos controlan algunos fideicomisos y vehículos de inversión a través de los cuales invirtieron en Integradora Oro Negro. Para ello, las Demandantes se han limitado a ofrecer como pruebas los pasaportes de Alicia Grace, Frederick J. Warren, Carolyn Grace Baring, Diana Grace Beard, Frederick Grace, Frederick J. Warren, Genevieve T. Irwin, Gerald L. Parsky y Robert M. Witt y algunos documentos relacionados con estos vehículos de inversión, <i>e.g.</i> , estados bancarios, documentos severamente testados, “ <i>certificates of formation</i> ” o “ <i>annual reports</i> ”. ²²

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Ver anexos C-B.1 a C-B.31.

	<p>Los documentos solicitados son relevantes para el caso y sustanciales para el resultado de este arbitraje porque permitirán corroborar si los Sres. Alicia Grace, Frederick J. Warren, Carolyn Grace Baring, Diana Grace Beard, Frederick Grace, Frederick J. Warren, Genevieve T. Irwin, Gerald L. Parsky y Robert M. Witt efectivamente controlan los vehículos de inversión identificados <i>supra</i>.</p> <p>De igual forma, los documentos solicitados permitirán corroborar las alegaciones de las Demandantes ya que la escasa documentación proporcionada por las Demandantes se encuentra severamente testada, es ilegible y resulta imposible para la Demandada (o el Tribunal) determinar si respalda adecuadamente las afirmaciones de las Demandantes, o si los documentos constitutivos de los vehículos de inversión prevén restricciones a las supuestas participaciones de las Demandantes.</p> <p>Los documentos también son relevantes y sustanciales para el caso porque permitirán verificar si las Demandantes controlaban algunos vehículos de inversión que directa o indirectamente son accionistas de Integradora Oro Negro, lo que determinará si cuentan con la legitimidad procesal para presentar reclamaciones bajo el TLCAN.</p> <p>Además, los documentos son relevantes para determinar los daños reclamados por las Demandantes ya que su cuantificación está basada en la supuesta tenencia accionaria en Integradora Oro Negro a través de diferentes entidades y vehículos de inversión.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en poder, custodia o control de las Demandantes porque consisten en documentos que tuvieron que haber sido elaborados y preservados en el curso ordinario de sus operaciones comerciales y corporativas.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Request 8 above.</p> <p>Claimants further object to this request as it seeks documents that lack materiality to the outcome of this arbitration (IBA Rules, Art. 9.2(a)), given that Claimants have already provided sufficient documentation in Exhibit C-0084 to show their status as shareholders of Integradora Oro Negro for the purposes of bringing a claim under the NAFTA. Further, given that Claimants have provided the most up-to-date shareholder registry in Claimants' possession in Exhibit C-0084, Respondent's request is</p>

	duplicative and unnecessary and therefore imposes an unnecessary burden on Claimants (IBA Rules, Art. 9.2(c)).
Réplica:	<p>Ver Réplica General No. 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 10 éste duplicada y que los documentos solicitados no sean relevantes y sustanciales para el caso.</p> <p>Las pruebas aportadas por las Demandantes no son conclusivas y tampoco son suficientes para demostrar que algunos individuos controlan algunos fideicomisos y empresas. Por ejemplo, los anexos C-B.2 y C-B.19 aparentemente son los contratos constitutivos de los “<i>trusts</i>” de Ampex y Genevieve T. Irwin 2002 Trust. Sin embargo, se encuentran severamente testados lo que genera que sean ilegibles tanto para la Demandada como para el Tribunal. Otros documentos son igual o menos conclusivos, como por ejemplos los “<i>certificates</i>” o estados de cuenta de algunas entidades (ver C-B.3, C-B.4, C.B.5, C.B.13, C.B.16, C.B.21, C.B.26, C.B.27, C.B.29, C.B.30 y C-0087). Estos documentos no demuestran quiénes son los accionistas o beneficiarios de las empresas y fideicomisos, respectivamente.</p> <p>Debido a que las Demandantes han ofrecido algunos escasos documentos, resulta razonable suponer que las Demandantes cuentan con los documentos constitutivos, los estatutos o algún documento similar de tales entidades (<i>i.e.</i>, Ampex Retirement Master Trust, Apple Oaks Partners, LLC, Brentwood Associate Private Equity Profit Sharing Plan, Cambria Ventures, LLC, Floradale Partners, LLC, Frederick J. Warren IRA, Gerald L. Parsky IRA, Robert M. Witt IRA, Genevieve T. Irwin 2002 Trust, ON5 Investments, LLC, Rainbow Fund, L.P., Vista Pros, LLC, Field Nominee Trust, y Oro Negro Cooperatief U.A.) que demuestren la tenencia accionaria de tales empresas o los beneficiarios de los “<i>trusts</i>” e “<i>IRAs</i>”. Lo anterior, con la finalidad de corroborar si ciertos individuos controlan o son beneficiarias de tales sociedades y fideicomisos, y con ello se pueda cuantificar con detenimiento los daños reclamados.</p> <p>Por lo anterior, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute and orders the production of the requested evidence.

Solicitud No.	11.
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Documento / Categoría de Documentos:	<p>Documentos Internos que contengan un análisis, opinión o discusión sobre los siguientes temas:</p> <ul style="list-style-type: none"> a. Estado de insolvencia, bancarrota, concurso mercantil o procedimiento similar al que haya sido sometido Ampex Retirement Master Trust, Apple Oaks Partners, LLC, Brentwood Associate Private Equity Profit Sharing Plan, Cambria Ventures, LLC, Floradale Partners, LLC, Frederick J. Warren IRA, Gerald L. Parsky IRA, Robert M. Witt IRA, Genevieve T. Irwin 2002 Trust, ON5 Investments, LLC, Rainbow Fund, L.P., Vista Pros, LLC, Field Nominee Trust, Field Nominee Trust y Oro Negro Cooperatief U.A. b. Suspensión de actividades empresariales de los vehículos de inversión señalados <i>supra</i>. <p>Esta solicitud se encuentra limitada al periodo entre el 17 de febrero de 2012 (fecha en la que algunos Demandantes se incorporaron como accionistas de Integradora Oro Negro) y la presentación del Escrito de Demanda (7 de octubre de 2019).</p>
Justificación:	<p>Misma justificación que la solicitud no. 10.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en poder, custodia o control de las Demandantes porque consisten en documentos que tuvieron que haber sido elaborados y preservados en el curso ordinario de sus operaciones comerciales y corporativas.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Request 8 above. See also the generalized objection in Request 12.</p> <p>Claimants further object to this request as it is an overly broad, fishing expedition that spans an excessively long time period of seven years, fails to identify the documents sought with sufficient specificity, and seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). The search period is also excessively long as it spans over more than seven and a half years. Respondent fails to explain how internal documents regarding any bankruptcy proceeding involving Oro Negro's shareholders are relevant to corroborating Claimants' status as shareholders. As mentioned above, Claimants have provided documents sufficient to show the shareholders statuses of all Claimants in Exhibit C-0084, and any bankruptcy proceeding is irrelevant to their claims or shareholder status for the purposes of bringing this action. Given that the documents requested are not</p>

	relevant or material, Respondent's request imposes an unreasonable burden on Claimants in contravention of IBA Rules, Art. 9.2(c).
Réplica:	<p>Con la finalidad de evitar repeticiones innecesarias, la Demandada solicita que sean tomadas en consideración las réplicas de la Solicitud No. 10 en esta Solicitud No. 11.</p> <p>La Demandada agrega que no hay certeza sobre quiénes son los accionistas y beneficiarios de Ampex Retirement Master Trust, Apple Oaks Partners, LLC, Brentwood Associate Private Equity Profit Sharing Plan, Cambria Ventures, LLC, Floradale Partners, LLC, Frederick J. Warren IRA, Gerald L. Parsky IRA, Robert M. Witt IRA, Genevieve T. Irwin 2002 Trust, ON5 Investments, LLC, Rainbow Fund, L.P., Vista Pros, LLC, Field Nominee Trust, Field Nominee Trust y Oro Negro Cooperatief U.A. Tampoco existe certeza sobre la creación de estas entidades y si se encuentran en un estado de insolvencia o si han sido liquidadas o si se encuentran bajo la administración de un tercero, similar a un síndico concursal mexicano o un “<i>trustee</i>”.</p> <p>La documentación requerida es relevante y sustancial para el caso porque permitirá conocer si las Demandantes cuentan con la legitimidad de iniciar este arbitraje y determinar la cuantificación de daños.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent's request is “overly broad.” The Respondent fails to establish the relevance of the documents. The Tribunal finds that granting this request would impose an unreasonable burden on Claimants. The Respondent's request is rejected.

Solicitud No.	12.
Documento / Categoría de Documentos:	<p>Documentos Internos que contengan un análisis, opinión o discusión sobre los siguientes puntos:</p> <ul style="list-style-type: none"> a. La participación de las AFORES en el capital de Integradora Oro Negro. b. Los derechos corporativos y tomas de decisión de las AFORES en su calidad de accionistas de Integradora Oro Negro. c. Las decisiones de las AFORES en su calidad de miembros del comité técnico y Tenedores de Certificados bajo el Fideicomiso F/17272-21 o “Fideicomiso CKD”. d. Copia de las asambleas de Tenedores de Certificados y Comité Técnico del CKD.

	<p>e. Los cuestionamientos de las AFORES sobre la administración de Integradora Oro Negro <i>inter alia</i>, a cargo de los señores Gonzalo Gil White, Luis Ramírez Corzo, Carlos Williamson Nasi, José Antonio Cañedo White, Gilberto Perezalonso Cifuentes, Gustavo Armando Mondragón y Miguel Ángel Villegas Vargas.</p> <p>f. Los análisis independientes financieros, jurídicos y de cualquier naturaleza que las AFORES hayan solicitado o hayan realizado.</p> <p>Esta solicitud se encuentra limitada al periodo entre la constitución del Fideicomiso CKD (11 de diciembre de 2012) y la presentación del Escrito de Demanda (7 de octubre de 2019).</p>
Justificación:	<p>En el párrafo 39 del Escrito de Demanda, las Demandantes señalan que “<i>Integradora is owned by a combination of two Mexican pension funds (known in México as afores) and investors based in the United States, México and Europe. Currently, two Mexican pension funds own approximately 47% of Integradora</i>”.²³</p> <p>Sin embargo, las Demandantes no han explicado con detenimiento la participación de las AFORES en los mecanismos de financiamiento de Integradora Oro Negro, ni tampoco se ha explicado con precisión el capital social de Integradora Oro Negro en manos de las AFORES, y la participación de las AFORES en las tomas de decisión al interior de la empresa. Inclusive, las AFORES han llegado a requerir la elaboración de análisis independientes a dicha empresa y han expresado su preocupación sobre la administración de Integradora Oro Negro.²⁴</p> <p>Los documentos solicitados son sustanciales para el resultado del caso porque permitirán determinar si las AFORES controlaban el Fideicomiso F/169852 y si Oro Negro era efectivamente una compañía mayoritariamente propiedad de trabajadores mexicanos a través de ahorros en fondos de pensiones mexicanos.²⁵</p>

²³ Ver también la segunda declaración del Sr. Gil White, ¶ 10.

²⁴ Ver Escrito de Contestación, ¶¶ 54-64 y 226.

²⁵ Ver Escrito de Contestación, ¶ 64.

	<p>Además, los documentos son relevantes para determinar los daños reclamados por las Demandantes ya que su cuantificación está basada en la supuesta tenencia accionaria indirecta en Integradora Oro Negro a través de diferentes entidades y vehículos de inversión, incluido el Fideicomiso F/169852.</p> <p>Asimismo, los documentos solicitados son relevantes para el caso y sustanciales para su resultado porque demostrarán que la Demandada no es responsable de los problemas enfrentados por las Demandantes u Oro Negro. En específico, los documentos solicitados permitirán entender las verdaderas causas que originaron las dificultades financieras de la empresa, lo cual resulta esencial para determinar la causalidad (“causation”) de las reclamaciones en este arbitraje.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido elaborados en el curso ordinario de sus operaciones como accionistas de Integradora Oro Negro.</p>
Objeción:	<p>As an initial matter, this request, like many of Respondent's other requests (including Requests 11, 12, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 28, 31, 32, 33, 34, 35, 36, 41, and 42) soliciting internal documents or communications that contain an analysis, opinion, or discussion regarding a wide ranging number of topics and over an excessively long period of time is simply an impermissible fishing expedition that does not comply with IBA Rules, Art. 3.3(a)(i) or (ii) and is therefore unreasonably burdensome under IBA Rules, Art. 9.2(c). Claimants include this general objection to this present request as well as Requests 11, 12, 14, 15, 16, 20, 21, 22, 23, 24, 25, 26, 28, 31, 32, 33, 34, 35, 36, 41, and 42, such that this general objection is incorporated as if fully set forth therein.</p> <p>In addition, Claimants object to this request for the following reasons:</p> <p><i>First</i>, Claimants object to this request to the extent it seeks document not relevant or material to the outcome of this arbitration. (IBA Rules, Art. 9.2(a)) Mexico seeks documentation related to non-Claimant shareholders of Oro Negro and complains that Claimants do not sufficiently describe the shareholding and participation of the AFORES. The AFORES are irrelevant to this arbitration because they are non-Claimant shareholders in Oro Negro and the only ones with claims against Mexico in this arbitration are Claimants. Mexico's further stated justification for seeking the requested documents is that they are necessary to show causation and determine damages. However, the ownership status of the AFORES is not relevant in showing Mexico's responsibility for expropriating the shareholders'</p>

	<p>investment in Oro Negro, and the participation of the AFORES in Oro Negro is in no way related to the calculation of damages, given that their portion of the shareholding is already excluded from the damages calculation.</p> <p><i>Second</i>, Mexico's stated justifications for this request do not align with the documents requested and therefore does not comply with IBA Rules, Art. 3.3(b). For instance, any independent analyses of Oro Negro are not relevant to Claimants' shareholder status, causation or damages.</p> <p><i>Third</i>, Respondent's request is over broad, spans an excessively long period of seven years, and fails to identify the documents sought with sufficient specificity (IBA Rules, Art. 3.3(a)(i) and (ii)), and complying with it would be unreasonably burdensome for Claimants (IBA Rules, Art. 9.2(c)).</p> <p>In any event, Claimants have provided sufficient documentation to show the nature of the investment in Oro Negro by the Afores. See Exhibit C-0084 (Shareholder Log). Furthermore, as Oro Negro is in liquidation, Claimants do not have access to additional documents outside of any documents they have happened to retain in their personal possession.</p>
Réplica:	<p><i>Ver Réplicas Generales No. 3 y 4.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes. La Solicitud No. 12 no constituye una “expedición de pesca”, y tampoco constituye una carga irrazonable para las Demandantes.</p> <p><i>Primero</i>, los documentos son relevantes para el caso debido a que permitirán entender quién realmente controla al Fideicomiso F/17272-1. Las Demandantes han sido sumamente herméticas respecto a la relevancia del Fideicomiso F/17272-1 y la participación accionaria y de administración de las AFORES en Oro Negro.</p> <p>Resulta incorrecto afirmar que la participación de las AFORES es irrelevante. Se debe recordar que las AFORES cuentan con una considerable tenencia accionaria en Integradora Oro Negro del 49.36% y han manifestado su preocupación de que administradores y funcionarios de Oro Negro hayan realizado “actos dolosos o de mala fe, o bien, ilícitos”.²⁶ Además, la participación de las AFORES en Oro Negro se realizó gracias al CKD. Esa operación bursátil requirió que una gran cantidad de documentación, análisis y soporte técnico fuera elaborado con la finalidad de captar el interés de las AFORES para invertir en Oro Negro.</p>

²⁶ R-0164, p. 8.

	<p><i>Segundo</i>, los Tenedores de Certificados del CKD han argumentado en asambleas que el administrador del CKD (<i>i.e.</i>, Axis) “no ha proporcionado información completa, imparcial y oportuna a las partes del Fideicomiso CKD, en relación con el propio Fideicomiso CKD y, particularmente, con Integradora”, y han requerido análisis independientes de asesores externos sobre el cumplimiento de las obligaciones del Administrador del CKD.²⁷ No resulta menor señalar que Axis y Oro Negro contaban con los mismos directivos y ejecutivos.²⁸</p> <p><i>Tercero</i>, la documentación es sustancial para el caso ya que permitirá demostrar la causalidad de las reclamaciones de las Demandantes. La Demandada supone que las AFORES estuvieron informadas de los supuestos actos de corrupción recibidos por Oro Negro. De igual forma, la crisis en los precios internacionales del barril del petróleo tuvo que haber sido una situación de cuidado y preocupación para las operaciones de Oro Negro, la administración del CKD y para las inversiones de las AFORES en Oro Negro.</p> <p><i>Cuarto</i>, resulta futil la objeción de las Demandantes respecto a que la administración de Oro Negro está actualmente a cargo del Síndico concursal. Axis era el administrador del CKD. Funcionarios de Axis y Oro Negro son testigos y demandantes en este arbitraje (<i>i.e.</i>, Gonzalo Gil White, José Antonio Cañedo White y Carlos Williamson Nasi), lo que hace razonable suponer que tienen en su poder, control o custodia, <i>inter alia</i>, documentación relacionada con el CKD, las decisiones adoptadas por los miembros del Comité Técnico y Tenedores de Certificados bajo el Fideicomiso F/17272-1, comunicaciones entre las AFORES y Oro Negro, y los informes y documentos que llegaron a elaborarse por parte Oro Negro y/o Axis a petición de las AFORES.</p> <p>La Demandada solicita al Tribunal que rechace las objeciones de las Demandantes y ordene la exhibición de los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent’s request is “overly broad.” The Respondent fails to convincingly establish the relevance of the documents and the Tribunal finds that granting this request would impose an unreasonable burden on Claimants. The Respondent’s request is rejected.

²⁷ R-0163, pp. 7-8.

²⁸ Ver R-0057, pp. 83-84 y R-0071, p. 15.

Solicitud No.	13.
Documento / Categoría de Documentos:	<p>Toda Comunicación intercambiada entre las AFORES o los representantes de éstas, y Oro Negro y las Demandantes en las que se haya discutido, analizado o comentado:</p> <ul style="list-style-type: none"> a. Los cuestionamientos de las AFORES sobre la administración de Integradora Oro Negro <i>inter alia</i>, a cargo de los señores Gonzalo Gil White, Luis Ramírez Corzo, Carlos Williamson Nasi, José Antonio Cañedo White, Gilberto Perezalonso Cifuentes, Gustavo Armando Mondragón y Miguel Ángel Villegas Vargas. b. La crisis en los precios internacionales del barril de petróleo iniciada a partir de 2014 y su efecto en las operaciones comerciales de Integradora Oro Negro. <p>Esta solicitud se encuentra limitada al periodo entre la constitución del Fideicomiso CKD (11 de diciembre de 2012) y la presentación del Escrito de Demanda (7 de octubre de 2019).</p>
Justificación:	<p>Misma justificación que la solicitud no. 12.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido elaborados en el curso ordinario de sus operaciones como accionistas de Integradora Oro Negro.</p>
Objeción:	Claimants refer to and incorporate by reference as if fully set forth herein the entirety of the objections raised in connection with Request 12 above.
Réplica:	<p>Con la finalidad de evitar repeticiones innecesarias, la Demandada solicita que sean tomadas en consideración las réplicas de la Solicitud No. 12 en esta Solicitud No. 13.</p> <p>La Demandada hace especial énfasis en que la Solicitud está limitada a temas y a un periodo de tiempo preciso. Además, no puede pasar por desapercibido el hecho de que las AFORES cuentan con una considerable tenencia en Integradora Oro Negro del 49.36%. Debido a ello, resulta razonable suponer que Oro Negro y las AFORES llegaron a intercambiar comunicaciones con los ejecutivos y directivos de Oro Negro (algunos de ellos identificados en la categoría de esta Solicitud) sobre la crisis en los precios internacionales del barril del petróleo y las tomas de decisión de estos ejecutivos y directivos al interior de Oro Negro.</p>

	Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y de buena fe y exhibir los documentos solicitados.
Decisión del Tribunal:	The Tribunal finds that the Respondent's request is "overly broad." The Respondent fails to convincingly establish the relevance of the documents and the Tribunal finds that granting this request would impose an unreasonable burden on Claimants. The Respondent's request is rejected.

Solicitud No.	14.
Documento / Categoría de Documentos:	<p>Documentos Internos que contengan un análisis, opinión o discusión sobre los siguientes puntos:</p> <ul style="list-style-type: none"> a. La participación de Temasek Holdings y Ares Management en el capital de Integradora Oro Negro. b. Los derechos corporativos y tomas de decisión de Temasek Holdings y Ares Management en su calidad de accionistas de Integradora Oro Negro. c. Los cuestionamientos de Temasek Holdings y Ares Management sobre la administración de Integradora Oro Negro <i>inter alia</i>, a cargo de los señores Gonzalo Gil White, Luis Ramírez Corzo, Carlos Williamson Nasi, José Antonio Cañedo White, Gilberto Perezalonso Cifuentes, Gustavo Armando Mondragón y Miguel Ángel Villegas Vargas. <p>Esta solicitud se encuentra limitada al periodo entre el anuncio de la participación de Temasek Holdings y Ares Management en Integradora Oro Negro (22 de febrero de 2012) y la firma del convenio a través del cual estas dos empresas retiraron su inversión de Integradora Oro Negro (24 de febrero de 2016).</p>
Justificación:	<p>En el párrafo 32 del Escrito de Demanda se señala: "<i>At the time, the potential investors included Ares Management, L.P., one of the largest asset management firms in the world, and Temasek Holdings Private Limited, the Singaporean sovereign wealth fund</i>".</p> <p>La Demandada entiende que Temasek Holdings participó en el capital de Integradora a través de una empresa constituida bajo las leyes de los Países Bajos llamada Sommerville (antes Sheares Investments B.V.), y Ares Management lo hizo a través de ACOF, sociedad constituida bajo las leyes de las Islas Caimán. Sin embargo, las Demandantes no han explicado con detenimiento la participación de Temasek</p>

	<p>Holdings y de Ares Management en el capital social de Integradora Oro Negro y en la toma de decisiones de la empresa.</p> <p>Los documentos solicitados son relevantes para el caso y sustanciales para el resultado de este arbitraje porque demostrarán que la Demandada no es responsable de los problemas enfrentados por las Demandantes u Oro Negro.</p> <p>Asimismo, los documentos son relevantes y sustanciales para el resultado del caso porque permitirán entender las razones por las cuales dos importantes accionistas de Oro Negro decidieron retirar su inversión de la empresa, los problemas entre accionistas de Integradora Oro Negro y el descontento de Ares Management y Temasek Holdings por la administración de Oro Negro a cargo de ciertos ejecutivos y directivos de la empresa, lo cual es relevante para determinar las causas originales de los problemas financieros de Oro Negro (<i>i.e.</i>, la causalidad de las reclamaciones).</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en poder, custodia o control de las Demandantes porque consisten en documentos que tuvieron que haber sido elaborados y preservados en el curso ordinario de sus operaciones comerciales y corporativas.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants additionally object to this request as it is overly broad, spans an excessively long time period and fails to identify the documents sought with sufficient specificity (IBA Rules, Art. 3.3(a)(i) and (ii)), and seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). Mexico's stated justification for seeking the requested documents is that they are relevant to showing causation, but Oro Negro's internal communications with <i>potential</i> investors is not relevant to whether Claimants can show causation.</p> <p><i>Second</i>, Claimants have produced documents sufficient to show the shareholder status of each shareholder relevant to this action, including the complete Shareholder Log of Integradora Oro Negro through April 1, 2017, well after Mexico's breach of the NAFTA. See Exhibit C-0084. Given that the documents are not relevant and material to the outcome of the case, Respondent's request imposes an unreasonable burden on Claimants (IBA Rules, Art. 9.2(c)).</p>

Réplica:	<p><i>Ver Réplicas Generales No. 3 y 4.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 20 sea una “expedición de pesca” o que constituya una carga irrazonable para las Demandantes.</p> <p>Los Documentos solicitados son sustanciales para el caso ya que permitirá demostrar la causalidad de las reclamaciones de las Demandantes, <i>i.e.</i>, demostrarán que la Demandada no es responsable de los problemas enfrentados por las Demandantes u Oro Negro. La Demandada supone que Ares Management y Temasek Holdings estuvieron informadas de los supuestos actos de corrupción recibidos por Oro Negro. De igual forma, la crisis en los precios internacionales del barril del petróleo tuvo que haber sido una situación de cuidado y preocupación para las operaciones de Oro Negro y las inversiones de Ares Management y Temasek Holdings en Oro Negro.</p> <p>La Demandada ve con sorpresa que se busque minimizar la relevancia de Ares Management y Temasek Holdings al calificarlos como “<i>potential investors</i>”. La reducida cantidad de documentos exhibidos por las Demandantes relacionadas con la Solicitud No. 37 demuestra la efusividad que existía en Oro Negro por la participación de Ares Management y Temasek Holdings en Oro Negro. De igual forma, las pruebas aportadas por las propias Demandantes señalan que Oro Negro “<i>was controlled by three institutional investors, Axis, Ares and Temasek</i>”.²⁹</p> <p>Además, algunos de los escasos documentos exhibidos por las Demandantes relacionados con la Solicitud No. 37 datan al año 2011. Esta situación demuestra que la Solicitud No. 14 no es demasiado amplia o que abarque un periodo de tiempo excesivamente extenso.</p> <p>Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent’s request is “overly broad.” The Respondent fails to convincingly establish the relevance of the documents and the Tribunal finds that granting this request would impose an unreasonable burden on Claimants. The Respondent’s request is rejected.
Solicitud No.	15.

²⁹ C-0185, p. 10; C-0191, p. 10.

Documento / Categoría de Documentos:	<p>Copia de las Comunicaciones intercambiadas entre Temasek Holdings y Ares Management o los representantes de éstas, y Oro Negro y las Demandantes en las que se haya discutido, analizado o comentado:</p> <ul style="list-style-type: none"> a. La participación de Temasek Holdings y Ares Management en el capital de Integradora Oro Negro. b. Los derechos corporativos y tomas de decisión de Temasek Holdings y Ares Management en su calidad de accionistas de Integradora Oro Negro. c. Los cuestionamientos de Temasek Holdings y Ares Management sobre la administración de Integradora Oro Negro <i>inter alia</i>, a cargo de los señores Gonzalo Gil White, Luis Ramírez Corzo, Carlos Williamson Nasi, José Antonio Cañedo White, Gilberto Perezalonso Cifuentes, Gustavo Armando Mondragón y Miguel Ángel Villegas Vargas. d. La crisis en los precios internacionales del barril de petróleo iniciada a partir de 2014 y su efecto en las operaciones comerciales de Integradora Oro Negro. e. Modificaciones en el capital social y en la estructura corporativa de Integradora Oro Negro. <p>Esta solicitud se encuentra limitada al periodo entre el anuncio de la participación de Temasek Holdings y Ares Management en Integradora Oro Negro (22 de febrero de 2012) y la firma del convenio a través del cual estos dos fondos retiraron su inversión de Integradora Oro Negro (24 de febrero de 2016).</p>
Justificación:	<p>Misma justificación que la solicitud no. 14.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera de manera razonable que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido intercambiados entre las Demandantes y Oro Negro con Temasek Holdings y Ares Management en el curso ordinario de sus operaciones comerciales como accionistas de Integradora Oro Negro.</p>
Objeción:	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Request 14 above, including the general objection set forth in Request 12. This

	request is overly broad and fails to identify the documents sought with sufficient specificity (IBA Rules, Art. 3.3(a)(i) and (ii)) and seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). In addition, the search period of four years is too long to be reasonable.
Réplica:	Con la finalidad de evitar repeticiones innecesarias, la Demandada solicita que sean tomadas en consideración las réplicas de la Solicitud No. 14 en esta Solicitud No. 15.
Decisión del Tribunal:	The Tribunal finds that the Respondent's request is "overly broad." The Respondent fails to convincingly establish the relevance of the documents and the Tribunal finds that granting this request would impose an unreasonable burden on Claimants. The Respondent's request is rejected.

Solicitud No.	16.
Documento / Categoría de Documentos:	<p>Documentos internos y Registros de Comunicaciones del Consejo de Administración ("Board of Directors"), de los comités ejecutivos ("executive committees") y del equipo de administración ("management team") de Oro Negro en los que se mencione cualquiera de los siguientes temas:</p> <ul style="list-style-type: none"> a. La incorporación y salida de accionistas de Integradora Oro Negro. b. La incorporación y salida de directivos, ejecutivos y trabajadores relevantes dentro de Oro Negro (e.g., la incorporación del Sr. Ramírez Corzo a Integradora Oro Negro). c. La incorporación y salida de miembros del Consejo de Administración de Integradora Oro Negro. d. Informes de actividades del Consejo de Administración ("Board of Directors"), de los comités ejecutivos ("executive committees") y del equipo de administración ("management team") de Oro Negro relacionados con: <i>i</i>) las negociaciones con Pemex; <i>ii</i>) las modificaciones y terminaciones de los Contratos Perforadora-PEP; <i>iii</i>) la adquisición de las plataformas Supremus, Vastus y Animus; <i>iv</i>) los contratos con PPL; <i>v</i>) la Crisis de 2014; <i>vi</i>) las controversias entre accionistas de Integradora Oro Negro; <i>vii</i>) las negociaciones y controversias con los Tenedores de Bonos y <i>viii</i>) los Concursos Mercantiles de Integradora Oro Negro y subsidiarias del grupo corporativo. e. Informes del Sr. Luis Ramírez Corzo, en su calidad de Presidente de Oro Negro relacionados con: <i>i</i>) las negociaciones con Pemex; <i>ii</i>) las modificaciones y terminaciones de los Contratos

	<p>Perforadora-PEP; <i>iii</i>) la adquisición de las plataformas Supremus, Vastus y Animus; <i>iv</i>) los contratos con PPL; <i>v</i>) la Crisis de 2014; <i>vi</i>) las controversias entre accionistas de Integradora Oro Negro; <i>vii</i>) las negociaciones y controversias con los Tenedores de Bonos y <i>viii</i>) los Concursos Mercantiles de Integradora Oro Negro y subsidiarias del grupo corporativo.</p> <p>f. Informes del Sr. Gonzalo Gil White, en su calidad de <i>CEO</i> de Oro Negro relacionados con: <i>i</i>) las negociaciones con Pemex; <i>ii</i>) las modificaciones y terminaciones de los Contratos Perforadora-PEP; <i>iii</i>) la adquisición de las plataformas Supremus, Vastus y Animus; <i>iv</i>) los contratos con PPL; <i>v</i>) la Crisis de 2014; <i>vi</i>) las controversias entre accionistas de Integradora Oro Negro; <i>vii</i>) las negociaciones y controversias con los Tenedores de Bonos y <i>viii</i>) los Concursos Mercantiles de Integradora Oro Negro y subsidiarias del grupo corporativo.</p> <p>g. Informes del Sr. José Antonio Cañedo White, en su calidad de Presidente del Consejo de Administración de Integradora Oro Negro relacionados con: <i>i</i>) las negociaciones con Pemex; <i>ii</i>) las modificaciones y terminaciones de los Contratos Perforadora-PEP; <i>iii</i>) la adquisición de las plataformas Supremus, Vastus y Animus; <i>iv</i>) los contratos con PPL; <i>v</i>) la Crisis de 2014; <i>vi</i>) las controversias entre accionistas de Integradora Oro Negro; <i>vii</i>) las negociaciones y controversias con los Tenedores de Bonos y <i>viii</i>) los Concursos Mercantiles de Integradora Oro Negro y subsidiarias del grupo corporativo.</p> <p>h. La incorporación de Emilio Lozoya Austin como ejecutivo, directivo, trabajador o consultor de Oro Negro.</p> <p>Esta solicitud se encuentra limitada al periodo entre el 22 de febrero de 2012 y el 19 de junio de 2018, fecha de la Notificación de Arbitraje.</p>
Justificación:	<p>Ver justificación general de esta sección.</p> <p>A partir del 22 de febrero de 2012, la organización y el capital de Oro Negro empezaron a sufrir constantes cambios. Con ello, se creó una nueva estructura al interior del grupo societario encabezado por un Presidente Ejecutivo y un Director General.³⁰</p>

³⁰

Ver Escrito de Contestación, ¶¶ 66, 468.

	<p>En palabras del Sr. Gonzalo Gil White, “<i>Oro Negro’s goal was to provide premium assets, run by the best professionals, through a company with institutional capital and strong corporate governance</i>”.³¹</p> <p>Los documentos solicitados son relevantes para el caso y sustanciales para el resultado de este arbitraje porque demostrarán que la Demandada no es responsable de los problemas enfrentados por las Demandantes u Oro Negro. Los documentos solicitados también permitirán entender la forma en la que la Oro Negro era dirigida, cómo se tomaban decisiones al interior de Oro Negro y las verdaderas causas que originaron las dificultades financieras de la empresa, lo cual resulta esencial para determinar la causalidad (“<i>causation</i>”) de las reclamaciones en este arbitraje.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera de manera razonable que los documentos existen y se encuentran en poder, control o custodia de las Demandantes porque se tratan de documentos que habrían tenido que haber sido creados en el curso ordinario de las operaciones comerciales, gerenciales y corporativas de Oro Negro.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>In addition, Claimants object to this request on the basis that it contains overly broad categories that do not state with specificity the documents it seeks or identify with any reasonable degree of precision the specific documents it seeks as required by IBA Rules, Art. 3.3(a)(ii), is based on a false factual premise and seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). The search period of six and a half years is also excessively long. Therefore, Respondent’s request is overbroad and complying with it would be unreasonably burdensome for Claimants (IBA Rules, Art. 9.2(c)).</p> <p>Despite Respondent’s stated justification that it must “understand how Oro Negro was managed” in order to verify causation under Claimants’ claims, how Oro Negro was run is unrelated to Mexico’s discriminatory treatment of Oro Negro and therefore the request is not material to the outcome of the case (IBA Rules, Art. 9.2(a)).</p>

³¹ Segunda declaración testimonial del Sr. Gonzalo Gil White, ¶12.

	Finally, Respondent's request for documents regarding the hiring of Emilio Lozoya Austin by Oro Negro is perplexing because Mr. Lozoya never served as a director, executive, employee or contractor of Oro Negro. This demonstrates that Respondent's request is a fishing expedition, and Claimants cannot fulfill this request.
Réplica:	<p>Ver Réplicas Generales No. 3 y 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 16 sea una “expedición de pesca” o que constituya una carga irrazonable para las Demandantes.</p> <p>La Solicitud precisa de forma específica: <i>i)</i> períodos de búsqueda; <i>ii)</i> tipos de Documentos solicitados; <i>iii)</i> personas, ejecutivos o directivos de Oro Negro que pudieran contar con los documentos solicitados, y <i>iv)</i> temas contenidos en los documentos documentos.</p> <p>Oro Negro aparentemente contaba con un gobierno corporativo conformado por un Consejo de Administración, una Presidencia, una Dirección General, comités ejecutivos y un equipo de administración. De igual forma, Oro Negro realizaba operaciones bursátiles en México y en el extranjero. Resulta sumamente razonable suponer que las distintas áreas directivas de Oro Negro constantemente elaboraron reportes, análisis, memorándums o documentos similares para informar a sus propios accionistas, a los Tenedores de Certificados y a los Tenedores de Bonos sobre los temas precisados en esta Solicitud.</p> <p>Los Documentos solicitados son sustanciales para el caso ya que permitirán demostrar la causalidad de las reclamaciones de las Demandantes, <i>i.e.</i>, demostrarán que la Demandada no es responsable de los problemas enfrentados por las Demandantes u Oro Negro.</p> <p>Con relación al inciso h, la Demandada toma nota de la explicación de las Demandantes. Sin embargo, la solicitud de documentos está relacionada con la posible incorporación del Sr. Lozoya a Oro Negro, como algunos medios de comunicación lo señalaron (<i>ver R-0081</i>).</p> <p>Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Respondent's request is fairly broad. At this stage, the Tribunal does not prejudge the importance of “how Oro Negro was managed” as an element for the verification of the causation under Claimants' claims. The Tribunal orders the production of the requested evidence.

II. Documentación proporcionada por las Demandantes a sus expertos para la preparación de sus informes periciales

Solicitud No.	17.
Documento / Categoría de Documentos:	Toda la documentación proporcionada por las Demandantes a los Sres. Alfonso López Melih y José Luis Izunza para la preparación de sus informes de periciales.
Justificación:	<p>Los Sres. López Melih y José Luis Izunza han señalado lo siguiente en los párrafos 13 de sus informes periciales: “Para preparar este Reporte, me fueron proporcionados para mi revisión diversos materiales relacionados con el caso en cuestión y documentos presentados por las Partes durante el mismo. También participé en diversas conversaciones con los abogados de las Demandantes.”</p> <p>De conformidad con la § 19.1 de la RP 1 y el artículo 5(2) de las Reglas IBA, los dictámenes o informes periciales deberán contener las pruebas e información utilizados para llegar a sus conclusiones. Los Sres. López Melih y José Luis Izunza omitieron describir los documentos analizados para la elaboración de sus informes y adjuntarlos a sus informes como anexos.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada. Conforme al artículo 27 (3) del Reglamento de Arbitraje CNUDMI de 1976, la Demandada tiene el derecho a examinar cualquier documento que los peritos de las Demandantes hayan invocado en sus informes.</p> <p>Resulta razonable que la documentación solicitada existe debido a que los propios Sres. López Melih y José Luis Izunza realizaron una referencia genérica a esta documentación. Las Demandantes están obligadas a proporcionar los documentos solicitados de conformidad con la Resolución Procesal No. 1 y las Reglas IBA.</p>
Objeción:	Claimants object to this request on the basis that while per Procedural Order No. 1, the IBA Rules, and the UNCITRAL Rules, Respondent's right is limited to examining any document on which the expert <i>has relied</i> in his report, Respondent nevertheless requests “ <i>all documentation</i> provided by the Claimants to Messrs. López Melih and Izunza.” Claimants object to this request as it seeks documents that have already been produced by Claimants in conformity with Procedural Order No. 1, Article 5(2) of the IBA Rules, and Article 27(3) of the Arbitration Rules of the United Nations Commission on International Trade Law adopted by the UN General Assembly on 15 December 1976 (the “UNCITRAL Rules”). Article 5(2) of the IBA Rules states that the expert report shall contain “[d]ocuments on which the Party-Appointed Expert relies that have not already been provided” and, similarly, Article 27(3) of the UNCITRAL Rules

	<p>establishes that “[a] party shall be entitled to examine any document on which the expert has relied in his report.”</p> <p>Claimants have complied with the relevant provisions of Procedural Order No. 1, the IBA Rules, and the UNCITRAL Rules because all of the documents on which experts Messrs. Alfonso López Melih and José Luis Izunza have relied in their reports are cited within the report in the footnotes of each report, and correspond to factual exhibits filed with the Statement of Claim.</p>
Réplica:	<p>La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que las Demandantes hayan cumplido con las Reglas IBA y la Resolución Procesal No. 1.</p> <p>Por un lado, el informe pericial del Sr. López Melih solo identifica a pies de página disposiciones de la Ley de Concursos Mercantiles y escasos anexos que acompañaron la Notificación de Arbitraje y el Escrito de Demanda. La Demandada supone que el Sr. López Melih analizó documentos adicionales ya que de forma expresó argumento haber analizado “diversos materiales relacionados con el caso en cuestión y documentos presentados por las Partes durante el mismo”. Resulta razonable suponer que el Sr. López Melih analizó un considerable número de documentos adicionales relacionados, al menos, con los Concursos Mercantiles (y las apelaciones y juicios de amparo relacionadas con ellos) y el Juicio Mercantil 446/2017 (y las apelaciones y juicios de amparo derivados de dicho juicio).</p> <p>Por otro lado, en los pies de página del informe del Sr. Izunza únicamente se identifican 11 anexos y una grabación (C-0026) como parte de los “diversos materiales relacionados con el caso en cuestión y documentos presentados por las Partes durante el mismo”. La Demandada no considera creible que el Sr. Izunza solamente haya revisado 12 archivos relacionados con las ocho investigaciones penales referidas en su Escrito de Demanda.³²</p> <p>La Demandada solicita al Tribunal que ordene a las Demandantes identificar con precisión los documentos analizados por sus expertos en derecho para la preparación de sus informes periciales y que esta documentación sea exhibida.</p>
Decisión del Tribunal:	The Tribunal finds that the Claimants have complied with the relevant provisions of Procedural Order No. 1, the IBA Rules, and the UNCITRAL and rejects the Respondent's request.

Solicitud No.	18.
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³² Escrito de Demanda, ¶ 217.

Documento / Categoría de Documentos:	En la medida de que no haya sido exhibida aún, toda la documentación proporcionada por las Demandantes a los Sres. Pablo T. Spiller y Carla Chavich para la preparación de su informe pericial en materia de daños del 7 de octubre de 2019.
Justificación:	<p>La relevancia y materialidad de los documentos solicitados es evidente a partir del hecho de que las Demandantes eligieron proporcionárselos a sus peritos de daños o éstos los solicitaron expresamente. La Demandada está consciente que el Sr. Spiller y la Sra. Chavich presentaron una serie de anexos documentales a su informe pericial. Esta solicitud comprende, todos los documentos que les fueron proporcionados al Sr. Spiller y la Sra. Chavich, que no fueron incluidos como anexo a su informe pericial, para asegurar igualdad de armas de los peritos de las Demandantes y de la Demandada.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada. Conforme al artículo 27 (3) del Reglamento de Arbitraje CNUDMI de 1976, la Demandada tiene el derecho a examinar cualquier documento que los peritos de las Demandantes hayan invocado en sus informes.</p> <p>Resulta razonable suponer que la documentación solicitada existe. Por ejemplo, en el párrafo 40 del informe, los Sres. Spiller y Chavich señalan lo siguiente: "<i>We have also evaluated the relevance to our analysis of asset and accounting-based indicators, such as the book value, the replacement cost, or the historical values of capital contributions</i>".</p> <p>De igual forma, en el párrafo 77 señalan: "<i>This resulted in 23 reports from 11 different analysts. We relied on the latest report by each of the analysts</i>".</p> <p>Las Demandantes están obligadas a proporcionar los documentos solicitados de conformidad con la de la Resolución Procesal No. 1 y las Reglas IBA.</p>
Objeción:	Claimants refer to and incorporate by reference as if fully set forth herein the objection made in connection with Request 17 above. Moreover, Claimants object to this request on the basis that while per Procedural Order No. 1, the IBA Rules, and the UNCITRAL Rules, Respondent's right is limited to examining any document on which the expert <i>has relied</i> in his report, Respondent nevertheless requests " <i>all documentation provided by the Claimants to Messrs. Pablo T. Spiller and Carla Chavich for the preparation of their expert report</i> ." However, Respondent can only request and have access to the documents on which the experts, in this instance Mr. Pablo T. Spiller and Ms. Carla Chavich, relied for the preparation of their expert report.

	<p>Notwithstanding and without waiving the above objection, Claimants hereby voluntarily produce the following documents:</p> <ul style="list-style-type: none"> • Rig Statement Excels for 2017 <ul style="list-style-type: none"> ○ While Compass Lexecon included the ‘RS’ or ‘Summary’ tab of the 2017 Rig Statements in “CLEX-18_Valuation Model.xlsx” (more specifically in the ‘Rig Costs Summary’ tab), Claimants hereby provide the Rig Statement Excels for 2017. The Rig Statement Excels for 2017 reflect the information relied on by Compass Lexecon even though, as previously mentioned, this information is already reproduced in “CLEX-18_Valuation Model.xlsx.” • Analyst Reports <ul style="list-style-type: none"> ○ While Compass Lexecon provided the seven reports on which Compass relied that established forecasts for jackup dayrates or utilization in “CLEX-07. Analyst Reports.pdf,” Claimants hereby provide the additional 4 reports mentioned by Compass Lexecon.
Réplica:	La Demandada agradece la exhibición de documentos relacionada con la Solicitud No. 18.
Decisión del Tribunal:	The Tribunal acknowledges Claimants’ produced evidence.

III. Plan de negocios y análisis de riesgos

Justificación general

Las Demandantes afirman que entre 2012 y 2016 los accionistas de Integradora Oro Negro pudieron acumular más de US \$ 590 millones en capital (“equity”) y, para 2014, lograron obtener recursos por parte de inversionistas extranjeros debido a la emisión de US \$900 millones en deuda.³³ Resulta razonable pensar que diversa documentación tuvo que haber sido elaborada para captar todos los recursos que Integradora Oro Negro recibió.

De igual forma, las Demandantes afirman que Oro Negro fue creada derivado de las reformas al sector energético en México. Sin embargo, las Demandantes también señalan que Pemex era el único cliente de Oro Negro, pero reconocen que, hasta 2015,

³³ Escrito de Demanda, ¶¶ 6 y 40.

Pemex fue el monopolio estatal sobre las actividades de exploración y producción de petróleo y gas en México. Con base en estas afirmaciones se puede inferir que debieron existir diversos análisis realizados al interior de Oro Negro previo a su entrada al mercado mexicano, así como estudios bajo los cuales trataron de diversificar sus clientes en México y posiblemente en el extranjero.³⁴

Esta situación es de suma relevancia si se toma en consideración que los precios y tarifas de servicios relacionados con el sector energético están expuestos a la volatilidad de los precios del barril del petróleo.

Al día de hoy, las Demandantes no han exhibido evidencia alguna sobre la supuesta estrategia para poner en marcha una flota de ocho plataformas marinas auto-elevables en México, y poner a disposición de Pemex cada una de ellas.

Asimismo, la Demandada considera indispensable conocer la forma en la que las Demandantes buscaron mitigar cualquier afectación a sus inversiones derivado de la crisis en los precios internacionales del barril de petróleo. Por otra parte, las Demandantes no han explicado la constante interacción que hubo entre Oro Negro y el Grupo de Trabajo de Pemex. La Demandada entiende que, derivado de estas reuniones, se llegó a acuerdos mutuamente satisfactorios en 2015 y 2016 con respecto a las modificaciones a los Contratos Perforadora-PEP debido a la Crisis de 2014.³⁵

Los documentos solicitados en esta categoría también son relevantes y sustanciales para conocer la compensación económica reclamada por las Demandantes. Las Demandantes reclaman daños por un monto de al menos US \$ 270 millones por la presunta violación de los artículos 1105 (Nivel mínimo de trato) y 1110 (Expropiación) del TLCAN como resultado de: *i*) la terminación de los Contratos Perforadora-PEP; *ii*) la pérdida de las cinco Plataformas, y *iii*) la pérdida de ciertos anticipos que Oro Negro pagó para la construcción de las nuevas plataformas.³⁶

De conformidad con el Escrito de Demanda, el experto de las Demandantes ha calculado las pérdidas históricas (“*historical losses*”) sufridas por las Demandantes previo a la fecha de valuación (“*valuation date*”) que comprende tres componentes: *i*) ingresos (“*revenues*”), *ii*) costos de operación y capital (“*operational and capital costs*”) y *iii*) deuda (“*debt*”).³⁷

Sin embargo, las Demandantes no han exhibido la evidencia necesaria que permita a la Demandada y a su experto corroborar o refutar estas alegaciones. Por ejemplo, las Demandantes no han exhibido Documentos, Documentos Internos o Comunicaciones

³⁴ Escrito de Demanda, ¶¶ 27 y 66.

³⁵ Ver Segunda declaración testimonial del Sr. Gonzalo Gil White, ¶ 54.

³⁶ Escrito de Contestación, ¶ 787.

³⁷ Escrito de Demanda, ¶¶ 584-585.

sobre la captación de *equity* y sus obligaciones frente a inversionistas y acreedores (e.g., Tenedores de Bonos y Tenedores de Certificados), proyecciones de negocios, los impactos financieros generados por la Crisis de 2014, entre otros.

Una vez que la Demandada tenga acceso completo a los documentos solicitados, podrá refutar las reclamaciones de las Demandantes al amparo del TLCAN.

La documentación solicitada en esta sección es relevante y sustancial para el resultado de este arbitraje porque permitirá entender la inversión de las Demandantes, las tomas de decisión adoptadas al interior de Oro Negro y las proyecciones de negocio de Oro Negro y las Demandantes. Además, los documentos solicitados son necesarios para determinar si los Demandantes en realidad tuvieron una inversión cubierta por pérdidas reflejas y el valor perdido del negocio que las Demandantes reclaman en este arbitraje.

Solicitud No.	19.
Documento / Categoría de Documentos:	<p>En la medida en que aún no consten en el expediente del arbitraje, favor de proporcionar una copia de los estados financieros auditados (incluidas las notas a los mismos) de Integradora Oro Negro, Perforadora Oro Negro, las Subsidiarias Singapur y Oro Negro Drilling.</p> <p>En caso de que no existan estados financieros auditados favor de proporcionar estados financieros no auditados con las notas a los mismos.</p> <p>Esta solicitud se limita al periodo entre 2012 y 2017.</p>
Justificación:	<p><i>Ver</i> justificación general de esta sección.</p> <p>La reclamación de daños de las Demandantes está basada en el presunto valor de su participación accionaria en Integradora Oro Negro. El valor de dichas acciones se fundamenta a su vez en los flujos de efectivo que la empresa habría generado a futuro de no haber sido por las medidas reclamadas. La información contenida en los estados financieros es fundamental para verificar la razonabilidad de las proyecciones elaboradas por el perito de las Demandantes y la elaboración de una valoración alternativa que sea acorde con la situación financiera de la empresa.</p> <p>En virtud de lo anterior, la Demandada sostiene que los documentos solicitados son relevantes para el caso y sustanciales para su resolución, pues de ellos depende la posibilidad de presentar una defensa completa a la reclamación de daños de las Demandantes. De igual forma, los documentos solicitados</p>

	<p>son relevantes para los puntos en controversia entre las partes sobre la cuantificación de daños reclamados en este arbitraje.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes pues habrían sido preparados y mantenidos por la empresa en el curso ordinario de sus operaciones. Las Demandantes evidentemente tienen acceso a estos documentos, pues ya han exhibido algunos estados financieros de Oro Negro (<i>ver</i> C-0185, C-019, R-0060 y R-0067).</p>
Objeción:	<p>Claimants object to this request as it seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)) and therefore would be unduly burdensome to produce (IBA Rules, Art. 9.2(c)).</p> <p>Claimants included as Exhibits C-0186 and C-0187 to their Statement of Claim the detailed financial statements audited by the Bondholders as of August 2015, which is sufficient to establish the value of Oro Negro at the time Mexico began its retaliatory campaign against Oro Negro and thus, provide sufficient information to Respondents regarding Oro Negro's value for the purposes of calculating damages.</p>
Réplica:	<p><i>Ver</i> Réplica General No. 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 19 constituya una carga irrazonable para las Demandantes.</p> <p>Las Demandantes han exhibido en el arbitraje los estados financieros de Oro Negro Drilling y las Subsidiarias Singapur de 2014 y 2015 (C-0185) y los estados financieros no consolidados de Integradora Oro Negro de 2013 y 2014 (C-0191). El hecho de que hayan exhibido estos documentos junto a su Escrito de Demanda significa que las Demandantes los consideran relevantes y se encuentran bajo su poder, control o custodia los documentos requeridos.</p> <p>La Demandada solicita al Tribunal que ordene a las Demandantes exhibir los estados financieros de Integradora Oro Negro, Perforadora Oro Negro, Oro Negro Drilling y las Subsidiarias Singapur del periodo 2012 a 2017 pendientes de ser exhibidos en el arbitraje, ya sea que estén auditados o no auditados, y ya sea que sean estados financieros consolidados o no consolidados.</p>

Decisión del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. Claimant has not demonstrated that production of the evidence would be unduly burdensome. The Tribunal orders the production of the requested evidence.
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Solicitud No.	20.
Documento / Categoría de Documentos:	<p>Documentos Internos que contengan un análisis, opinión o discusión sobre:</p> <ul style="list-style-type: none"> a. el mercado de servicios costa afuera u <i>offshore</i> en México o el mercado global, b. el mercado de arrendamiento de plataformas marinas en México o en el mercado global, c. la Reforma Energética de 2013 y sus implicaciones sobre las operaciones de Oro Negro en México. <p>Esta solicitud se limita al periodo entre el 1º de enero de 2012 al 31 de diciembre de 2017.</p>
Justificación:	<p><i>Ver</i> justificación general de esta sección.</p> <p>Los documentos solicitados son relevantes para determinar cuáles eran las expectativas y los riesgos que Oro Negro anticipaba ante acontencimientos relevantes como la Crisis de 2014 en el sector petrolero y la Reforma Energética de 2013. Esta información, a su vez, es relevante y necesaria para evaluar la razonabilidad de la reclamación de daños presentada por la Demandante y los supuestos en los que se fundamenta.</p> <p>Los documentos solicitados son sustanciales para la resolución del caso pues inciden sobre la cuantificación de los daños, en caso de que el Tribunal determine que existió una violación al TLCAN.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que cualquier empresa del sector habría preparado y mantenido en el curso ordinario de sus operaciones, por tratarse de análisis del mercado en el que operaba. La Demandada considera que las Demandantes tienen acceso a estos documentos pues han presentado diversos documentos corporativos de Integradora Oro Negro en este procedimiento y</p>

	han ofrecido el testimonio de Gonzalo Gil White, quien era el CEO de Integradora Oro Negro y primo del Sr. Cañedo White, demandante en este arbitraje y anterior Presidente del Consejo de Administración de Integradora Oro Negro.
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants object to this request on the basis that it includes overly broad categories of vaguely defined documents spanning six years and does not provide sufficient specificity, nor does it identify with any reasonable degree of precision, the specific documents it seeks as required by IBA Rules, Art. 3.3(a)(i) and (ii). For these reasons, Respondent's request is unduly burdensome on Claimants (IBA Rules, Art. 9.2(c)).</p> <p>Also, Claimant object to this request as it seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). Mexico's stated justification for seeking the requested documents is that they are relevant to evaluating the reasonableness of Claimants' claims of damages. However, internal documents reflecting Oro Negro's analysis, opinion, or discussion regarding the categories listed are not in fact relevant to Claimants' calculation of damages, which is a function of Mexico's discriminatory treatment of Claimants' investment.</p>
Réplica:	<p>Ver Réplicas Generales No. 3 y 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 20 sea una "expedición de pesca" o que constituya una carga irrazonable para las Demandantes.</p> <p>Los Documentos Internos solicitados son sustanciales para el caso ya que permitirá demostrar la causalidad de las reclamaciones de las Demandantes, <i>i.e.</i>, demostrarán que la Demandada no es responsable de los problemas enfrentados por las Demandantes u Oro Negro. Oro Negro obtuvo financiamientos mediante la colocación de valores en la Bolsa Mexicana de Valores y en el extranjero. Además, captó capital o "<i>equity</i>" de inversionistas extranjeros. Debido a estas operaciones financieras resulta razonable suponer que fueron elaborados análisis sobre la situación del mercado en el que Oro Negro participaría.</p> <p>Asimismo, la Solicitud No. 20 precisa con especificidad períodos de tiempo, tipo de documentos y temas contenidos en los Documentos Internos requeridos.</p>

	Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y exhibir los documentos solicitados.
Decisión del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. The Tribunal does not prejudge at this stage the relevance to attribute to such information in the possible calculation of damages. Claimant has not demonstrated production of the evidence would be unduly burdensome. The Tribunal orders the production of the requested evidence.

Solicitud No.	21.
Documento / Categoría de Documentos:	Copia del (los) plan(es) de negocio de Integradora Oro Negro, Perforadora Oro Negro u Oro Negro Drilling. Esta solicitud incluye cualquier modificación al plan de negocios, documentos adjuntos o cualquier documentación de soporte.
Justificación:	<p>Ver justificación general de esta sección.</p> <p>Las Demandantes han presentado un informe de daños basado <i>inter alia</i> en la expectativa de las Demandantes de que los Contratos Perforadora-PEP no se terminarían de forma anticipada, Integradora Oro Negro no perdería la posesión de las Plataformas y contaría con equipos adicionales. La Demandada busca refutar la existencia de tales expectativas con los documentos solicitados.</p> <p>La Demandada también ha alegado que la decisión de Oro Negro de tener un solo cliente la exponía a un riesgo excesivo que no enfrentan otras empresas que operan en el mismo sector. El plan de negocios solicitado permitirá determinar si la ausencia de una cartera diversificada de clientes formó parte del plan original y/o si este riesgo fue debidamente identificado en el análisis SWOT (“<i>strengths, weaknesses, opportunities and threats</i>”) que normalmente se incluye en un plan de negocios. El análisis contemporáneo de la empresa sobre este riesgo es fundamental para valorar adecuadamente los daños en este caso, pues este tipo de riesgos deben ser incorporados a la valoración (e.g., la tasa de descuento).</p> <p>Los documentos solicitados demostrarán que el plan de negocios, al igual que las proyecciones financieras eran más conservadoras que las alegaciones planteadas en este caso.</p> <p>Los documentos solicitados son relevantes para el caso y sustanciales para el resultado de este arbitraje porque permitirán entender las expectativas de las Demandantes sobre ganancias futuras (“<i>future profits</i>”) y el riesgo asociado estos flujos, lo cual incide en la cuantificación de los daños reclamados y podría tener un impacto significativo en el resultado del arbitraje.</p>

	<p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera de manera razonable que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que debieron haber sido preparados y mantenidos por Oro Negro como parte de sus operaciones normales.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Requests 12 and 20 above. Furthermore, Respondent's request contains no time limitation and therefore on its face is excessively broad and therefore an unreasonable burden on Claimants (IBA Rules, Art. 9.2(c)).</p>
Réplica:	<p>Ver Réplicas Generales No. 3 y 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 21 sea una “expedición de pesca” o que constituya una carga irrazonable para las Demandantes.</p> <p>La Demandada considera sustancial el poder conocer el plan de negocios de Oro Negro y cualquier modificación que hubiera podido sufrir para entender las expectativas de las Demandantes y las proyecciones financieras de la empresa. Los documentos solicitados deben de existir ya que con ellos seguramente Oro Negro trató de captar “equity” proveniente de accionistas, la participación accionaria y de inversión de las AFORES en el capital de Integradora Oro Negro y la posibilidad de obtener préstamos respaldados en bonos de deuda.</p> <p>Los documentos solicitados han sido identificados con detenimiento. Resulta razonable suponer que existió un plan de negocios creado en 2009 a partir de la constitución de Oro Negro o en 2012 cuando inició operaciones, sin perjuicio de las modificaciones que pudo haber recibido a lo largo de las operaciones comerciales de Oro Negro.</p> <p>Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir el plan de negocios de Oro Negro y cualquier modificación que haya tenido.</p>
Decisión del Tribunal:	<p>The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. Claimant has not demonstrated production of the evidence would be unduly burdensome. The Tribunal orders the production of the requested evidence.</p>
Solicitud No.	22.

Documento / Categoría de Documentos:	<p>Documentos Internos que contengan cualquiera de los siguientes análisis en relación con la decisión de las Demandantes de invertir en México:</p> <ul style="list-style-type: none"> a. Impacto de las distintas modificaciones a los Contratos Perforadora-PEP; b. Proyecciones financieras, en formato Excel de preferencia; c. Análisis de industria/mercado; d. Análisis de riesgo; e. Análisis de competencia o de empresas nacionales e internacionales competidoras. f. En caso de existir, cualquier otro Documento que de sustento al plan de negocios original. <p>Esta solicitud se limita al periodo comprendido entre el 1º de enero de 2012 al 31 de diciembre de 2014.</p>
Justificación:	<p><i>Ver justificación general de esta sección.</i></p> <p>Los documentos solicitados son relevantes para la determinación de los daños pues permitirán analizar la evolución financiera de la empresa, el impacto de las distintas modificaciones a los contratos entre Oro Negro y Pemex, y las causas reales de las solicitudes de los Concursos Mercantiles y las propuestas de reestructuración presentadas por Oro Negro en 2017 a los Tenedores de Bonos (<i>véase ¶¶ 621-628 del Escrito de Contestación</i>). Además, son sustanciales para la resolución de este arbitraje porque permitirán valorar la causalidad y el monto de los daños.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se tratan de documentos que cualquier empresa en las mismas circunstancias prepararía y mantendría en el curso ordinario de sus operaciones. Por otra parte, es claro que las Demandantes tienen acceso a los documentos corporativos de Oro Negro, pues han presentado diversos documentos de esa naturaleza en este arbitraje. Asimismo, han presentado una declaración del Sr. Gonzalo Gil White quien se desempeñaba como CEO de Oro Negro y del Sr. Cañedo White,</p>

	demandante en este arbitraje y anterior Presidente del Consejo de Administración de Integradora Oro Negro.
Objeción:	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Requests 12 and 20 above. Additionally, the time frame of three years is excessively long and is therefore an unreasonable burden on Claimants (IBA Rules, Art. 9.2(c)).
Réplica:	<p><i>Ver Réplicas Generales No. 3 y 4.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 22 sea una “expedición de pesca” o que constituya una carga irrazonable para las Demandantes.</p> <p>Resulta sustancial para el caso conocer las razones por las cuales las Demandantes decidieron invertir en Oro Negro. Los documentos solicitados deben de existir ya que seguramente fueron elaborados por Oro Negro con la finalidad de captar el “equity” aportado por las Demandantes en Integradora Oro Negro. Adicionalmente, los documentos demostrarán que la Demandada no es responsable de los problemas enfrentados por las Demandantes u Oro Negro.</p> <p>Los documentos solicitados han sido identificados con detenimiento. Los periodos de búsqueda son precisos al igual que los documentos requeridos. Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. Claimant has not demonstrated that production of the evidence would be unduly burdensome. The Tribunal orders the production of the requested evidence.

Solicitud No.	23.
Documento / Categoría de Documentos:	<p>Documentos Internos y Comunicaciones de Integradora Oro Negro que contengan un análisis, opinión o discusión sobre los siguientes temas:</p> <ul style="list-style-type: none"> a. Los efectos de la crisis ocurrida en 2014 que disminuyó de forma significativa los precios internacionales y nacionales del petróleo (Crisis de 2014) en las operaciones de Oro Negro; b. El impacto de la Crisis de 2014 en las operaciones de Pemex y/u Oro Negro. c. Los trabajos realizados por el Grupo de Trabajo de Negociaciones de Pemex.

	<p>d. Las propuestas, contrapropuestas intercambiadas entre el Grupo de Trabajo de Negociaciones de Pemex y Oro Negro.</p> <p>Esta solicitud se limita al periodo entre el 1º de enero de 2014 y el 5 de octubre de 2017, fecha en la que fue admitido el Concurso Mercantil 345/2017.</p>
Justificación:	<p><i>Ver</i> justificación general de esta sección.</p> <p>La Crisis de 2014 tuvo un impacto significativo y adverso en la industria energética mundial y nacional. La Crisis de 2014 es un hecho de dominio público y fue reconocido como un riesgo en los propios estados financieros de Integradora Oro Negro: “[...] <i>These changes are being implemented in the midst of a global crisis in the oil and gas industry [...] The drop in oil price combined with PPS's restructuring plans could lead to contract renegotiations that in turn could potentially impact future revenues</i>”.³⁸</p> <p>Las Demandantes han omitido mencionar la Crisis de 2014 en el Escrito de Demanda a pesar de que las tarifas y precios de los servicios contratados por Pemex dependen del precio del barril de petróleo.</p> <p>Los documentos solicitados son relevantes para el caso y sustanciales para el resultado de este arbitraje porque permitirán entender la forma de actuar de las Demandantes y las medidas adoptadas al interior de Oro Negro ante la Crisis de 2014, incluidas medidas de mitigación para evitar impactos negativos en las finanzas y operaciones de Oro Negro. Estos documentos también son necesarios para determinar la causalidad de los daños.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable que los documentos existen y están en posesión, custodia o control de las Demandantes porque se tratan de documentos que tuvieron que haber sido realizados como parte del “<i>due diligence</i>” a cargo de las Demandantes durante el tiempo de su inversión y principalmente durante la Crisis de 2014, y tuvieron que haber formado parte de los documentos que Oro Negro preparó en el curso de sus operaciones.</p>

³⁸

R-0067, pp. 10 y 20.

Objeción:	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Requests 12 and 20 above. Additionally, the time frame of three years is excessively long and is therefore an unreasonable burden on Claimants (IBA Rules, Art. 9.2(c)).
Réplica:	<p><i>Ver Réplicas Generales No. 3 y 4.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 23 sea una “expedición de pesca” o que constituya una carga irrazonable para las Demandantes.</p> <p>Resulta sustancial para el caso conocer las medidas adoptadas al interior de Oro Negro a partir del inicio de la Crisis de 2014 y la evaluación del riesgo e impacto que generaría este suceso en el plan de negocios, en las proyecciones financieras y en las obligaciones financieras de Oro Negro frente a sus accionistas, Tenedores de Certificados bajo el CKD y ante los Tenedores de Bonos.</p> <p>Los propios estados financieros de Integradora Oro Negro reconocen de forma expresa la caída de los precios como un riesgo financiero.³⁹ Como ya ha sido explicado por la Demandada, los mercados internacionales y el mercado nacional se vieron afectados por la Crisis de 2014. El mercado de plataformas marinas no fue la excepción.</p> <p>Los documentos solicitados han sido identificados con detenimiento y los períodos de búsqueda son específicos. Además, los documentos tuvieron que haber sido elaborados debido a la relevancia de la Crisis de 2014 y como parte de las operaciones comerciales de Oro Negro.</p> <p>Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. Claimant has not demonstrated that production of the evidence would be unduly burdensome. The Tribunal orders the production of the requested evidence.
Solicitud No.	24.

³⁹ C-0191, p. 17 (“Note 4 – Financial risk management: [...] (c) Price risk The company will be exposed to price risk if operational costs increase in relation to the estimated budget prepared by the Company.”).

Documento / Categoría de Documentos:	<p>Documentos Internos y Comunicaciones que contengan un análisis, opinión o discusión sobre las cláusulas de terminación anticipada e inmediata que Pemex suele incluir en los contratos que celebra con proveedores de servicios.</p> <p>Esta solicitud se encuentra limitada al periodo entre el 1º de enero de 2012 y el 5 de octubre de 2017, fecha en la que fue admitido el Concurso Mercantil 345/2017.</p>
Justificación:	<p><i>Ver justificación general de esta sección.</i></p> <p>Las Demandantes reconocen que los Contratos Perforadora-PEP contenían disposiciones que permitían a Pemex terminarlos válidamente de forma anticipada.⁴⁰ A pesar de ello, tanto las Demandantes como su experto en derecho mexicano han calificado las terminaciones anticipadas e inmediatas de los Contratos Perforadora-PEP como actos ilegales.⁴¹</p> <p>Los documentos requeridos son relevantes y sustanciales para el resultado del caso para determinar si Oro Negro y las Demandantes tenían conocimiento de la relevancia de estas disposiciones usualmente establecidas en los contratos que Pemex suele celebrar con proveedores, y la posibilidad de que Pemex ejecutara tales derechos contractuales.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se tratan de documentos que cualquier empresa en las mismas circunstancias prepararía y mantendría en el curso ordinario de sus operaciones.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants object to this request on the basis that it is overly broad, unduly burdensome on Claimants (IBA Rules, Art. 9.2(c)) and it seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)).</p>

⁴⁰ Escrito de Demanda, ¶ 69.

⁴¹ Escrito de Demanda, ¶ 516. *Ver informe del Sr. López Melih, ¶ 50.*

	<p><i>First</i>, the request is overly broad and does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks as required by IBA Rules, Art. 3.3(a)(ii). Additionally, the search period exceeds five years which is excessively long. Therefore, the request is overbroad and complying with it would be unreasonably burdensome for Claimants (IBA Rules, Art. 9.2(c)). Respondent's request is the type of fishing expedition that should not be allowed in this proceeding and is designed to impose an impermissible, unreasonable burden on Claimants.</p> <p><i>Second</i>, Claimants object to this request as it seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). Mexico's stated justification for seeking the requested documents is that they are relevant to showing Claimants' knowledge of Pemex's ability to unilaterally cancel the Oro Negro Contracts. However, Claimants' knowledge or understanding of the termination provision in the Oro Negro Contracts is not relevant in determining that Mexico discriminated and retaliated against Oro Negro when Pemex canceled the Oro Negro Contracts as retaliation for Claimants' failure to pay bribes.</p>
Réplica:	<p>Ver Réplicas Generales No. 3 y 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 24 sea una “expedición de pesca” o que constituya una carga irrazonable para las Demandantes.</p> <p>Resulta sustancial para el caso conocer el entendimiento de las Demandantes y de Oro Negro respecto a las cláusulas de terminación inmediata y anticipada que Pemex suele incluir en contratos celebrados con proveedores de servicios.</p> <p>Se debe tener en consideración que Oro Negro, a través de Perforadora Oro Negro externó su voluntad y aceptación al clausulado establecido en los Contratos Perforadora-PEP – incluidas las cláusulas sobre terminación inmediata y anticipada – a través de su firma y a través de la firma de los convenios modificatorios de dichos contratos. Sin embargo, en este arbitraje las Demandantes califican como “ilegales” tales disposiciones. La Demandada no encuentra congruencia en las afirmaciones de las Demandantes.</p> <p>Los propios estados financieros de Integradora Oro Negro reconocen de forma expresa la posibilidad de que Pemex podía dar por terminado de forma anticipada los Contratos Perforadora-PEP.⁴² Esta situación</p>

⁴² C-0191, p. 16 (“Note 4 – Financial risk management: [...] Service contracts signed with PEP include a unilateral 30 days’ notice termination clause as customary in the Mexican oil and gas market enforceable by PEP in accordance to governmental contracting law”).

	<p>demuestra que Oro Negro analizó con detenimiento estas disposiciones contractuales y deben existir Documentos Internos y Comunicaciones al respecto.</p> <p>Los documentos solicitados han sido identificados con precisión y los períodos de búsqueda son específicos. Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y exhibir los documentos solicitados.</p>
Decision del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. Claimant has not demonstrated that production of the evidence would be unduly burdensome. The Tribunal orders the production of the requested evidence.

Solicitud No.	25.
Documento / Categoría de Documentos	<p>Documentos Internos y Comunicaciones de Integradora Oro Negro que contengan un análisis, opinión o discusión sobre los siguientes temas:</p> <ul style="list-style-type: none"> a. Los contratos celebrados entre Seadrill o cualquiera de sus empresas subsidiarias (<i>e.g.</i>, Seamex o Sea Dragon) con Pemex. b. Los equipos de perforación que Seadrill opera en México. c. Los contratos, equipos de perforación y/o actividades de las demás empresas arrendadoras de plataformas marinas auto-elevables de 400 pies que operen en México (<i>e.g.</i>, Perforadora Latina, Perforadora México, CICSA y Grupo R). d. Los contratos, equipos de perforación y/o actividades de las demás empresas arrendadoras de plataformas marinas que operen en México. e. Modificaciones tarifarias a los contratos de empresas competidoras de Oro Negro. f. Análisis de tarifas para el arrendamiento de plataformas en México y en el extranjero. <p>Esta solicitud se encuentra limitada al periodo entre el 1º de enero de 2012 y el 5 de octubre de 2017, fecha en la que fue admitido el Concurso Mercantil 345/2017.</p>
Justificación:	<i>Ver</i> justificación general de esta sección.

	<p>Las Demandantes han realizado una serie de afirmaciones respecto a las tarifas de empresas competidoras en México, en específico sobre Seamex.⁴³ Inclusive las Demandantes han ofrecido como prueba algunos de los contratos celebrados entre Seamex y Pemex.⁴⁴</p> <p>En particular, señalan que los Contratos Perforadora-PEP fueron los que sufrieron las modificaciones mas severas y “draconianas” sin dar mayor detalle sobre ello.⁴⁵</p> <p>Los documentos requeridos son relevantes para el caso y sustanciales para su resolución pues permitirán a la Demandada refutar las alegaciones sobre trato discriminatorio vertidas en el Escrito de Demanda. De igual forma, la documentación solicitada permitirá determinar si las empresas con las que se compara a Oro Negro estaban realmente en “circunstancias similares” y permitirá, asimismo, comprender las razones por las cuales las Demandantes califican de más “severas” y “draconianas” las modificaciones de los Contratos Perforadora-PEP a comparación de las modificaciones de los contratos de empresas competidoras.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se tratan de documentos que cualquier empresa en las mismas circunstancias prepararía y mantendría en el curso ordinario de sus operaciones.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>In addition, Claimants note the following objections:</p> <p><i>First</i>, Claimants object to this request as it is unduly burdensome on Claimants (IBA Rules, Art. 9.2(c)) because it is overly broad, spans an excessively long five years, and does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks as required under IBA Rules, Art. 3.3(a)(ii).</p>

⁴³ Escrito de Demanda, ¶¶ 11, 135, 155.

⁴⁴ Ver C-F.1 a C-F.5 y C-0202 a C-0215.

⁴⁵ Escrito de Demanda, ¶ 163.

	<p><i>Second</i>, Claimants object to this request as it seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). Oro Negro’s evaluation of markets, rates, contract, or teams related to competitors is not related to Respondent’s actual discriminatory treatment of Oro Negro.</p>
Réplica:	<p><i>Ver Réplicas Generales No. 3 y 4.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 25 sea una “expedición de pesca” o que constituya una carga irrazonable para las Demandantes.</p> <p><i>Primero</i>, gran parte de las reclamaciones de las Demandantes giran en torno a un supuesto trato discriminatorio sufrido por las Demandantes. Los documentos solicitados son sustanciales para el caso para entender con exactitud a qué trato discriminatorio se refieren las Demandantes.</p> <p><i>Segundo</i>, resulta sustancial para el caso conocer el entendimiento de las Demandantes y de Oro Negro respecto a los contratos de empresas competidoras. Las Demandantes han ofrecido como prueba contratos y convenios modificatorios de los contratos celebrados entre Pemex y Seamex, y de igual forma han señalado algunas fuentes donde se encuentra disponible información relacionada con otras empresas competidoras.⁴⁶ Esto significa que Oro Negro cuenta con información de sus competidores, la cual seguramente fue analizada.</p> <p><i>Tercero</i>, Oro Negro – al igual que todos los proveedores de plataformas marinas de Pemex – tuvieron que renegociar sus contratos debido a la Crisis de 2014. Por una razón que desconoce la Demandada, las Demandantes objetan esta Solicitud señalando “<i>Oro Negro’s evaluation of markets, rates, contract, or teams related to competitors is not related to Respondent’s actual discriminatory treatment to Oro Negro</i>”. Contrario a esta información, las Demandantes han asegurado, <i>inter alia</i>, que los Contratos Perforadora-PEP recibieron las modificaciones más severas y “draconianas” sin aportar pruebas sobre ello.⁴⁷ Los documentos requeridos justamente son relevantes para el caso con la finalidad de esclarecer este tipo de afirmaciones.</p>

⁴⁶ *Ver Resolución Procesal No. 7, Anexo A, p. 3.*

⁴⁷ Asimismo, en el ¶ 516 del Escrito de Demanda las Demandantes han señalado lo siguiente: “México violated Article 1105 when it singled out Oro Negro for discrimination by granting more favorable lease terms and amendments to competitors, suspending payment on 40% of its Contracts, and then unilaterally terminating all of Oro Negro’s Contracts. No other competitor had 40% of its Contracts suspended, and then all of its Contracts terminated”.

	Los documentos solicitados han sido identificados con precisión y los períodos de búsqueda son específicos. Por estas razones, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y exhibir los documentos solicitados.
Decision del Tribunal:	The Tribunal finds that the Respondent's request relates to a relevant issue for the present dispute. Claimant has not demonstrated that production of the evidence would be unduly burdensome. The Tribunal orders the production of the requested evidence.

Solicitud No.	26.
Documento / Categoría de Documentos:	<p>Documentos Internos y Comunicaciones sobre las políticas o documentos equivalentes de Oro Negro sobre el pago de dividendos o políticas para la distribución de ganancias en favor de accionistas.</p> <p>Esta solicitud de documentos está limitada al periodo comprendido entre el 1º de enero de 2013 (un año después de que Integradora Oro Negro iniciara operaciones) y el 5 de octubre de 2017 (fecha en la que fue admitido el Concurso Mercantil 345/2017).</p>
Justificación:	<p>El informe de daños del experto de las Demandantes toma en consideración los ingresos ("revenues") que Oro Negro hubiera recibido de conformidad con los Contratos Perforadora-PEP.⁴⁸</p> <p>A partir de 2015, Integradora Oro Negro empezó a contratar expertos financieros y legales para evaluar sus obligaciones crediticias lo que finalizó en una reestructura de pasivos mediante el Contrato de Bonos 2016.⁴⁹</p> <p>A consideración de la Demandada, los documentos solicitados son relevantes y sustanciales para el resultado del caso porque permitirán entender los ingresos obtenidos por las Demandantes por concepto de dividendos con base en su supuesto carácter de accionistas de Integradora Oro Negro. Lo anterior, sin perjuicio de que contractualmente Oro Negro acordó no realizar el pago de los mismos sino hasta que fuera saldado el adeudo frente a los Tenedores de Bonos.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p>

⁴⁸ Escrito de Demanda, ¶¶ 586-588.

⁴⁹ Ver Escrito de Contestación, ¶¶ 134-144.

	<p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que cualquier empresa en las mismas circunstancias prepararía y mantendría en el curso ordinario de sus operaciones.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants object to this request as it is overly broad and does not specify the documents sought with sufficient specificity and seeks documents that are not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)) and therefore is unreasonably burdensome to produce (IBA Rules, Art. 9.2(c)). The search period of four and a half years is also too long. Mexico's stated justification for seeking the requested documents is that they are relevant to understanding the revenues Oro Negro received under the Oro Negro Contracts. <i>First</i>, Oro Negro's internal documents and communications regarding its policies or payments of dividends to shareholders is not relevant to Claimants' damages calculation. <i>Second</i>, Claimants' revenues as shareholders is not relevant in determining their shareholder status.</p>
Réplica:	<p>Ver Réplicas Generales No. 3 y 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 26 sea una “expedición de pesca”, que constituya una carga irrazonable para las Demandantes o que el periodo de búsqueda sea demasiado amplio.</p> <p>El arbitraje ha sido iniciado por inversionistas de Integradora Oro Negro. Esto significa que su prioridad era obtener beneficios provenientes del capital invertido en Integradora Oro Negro, <i>i.e.</i>, a través de los dividendos que se les pagarían por su calidad de accionistas. Debido a ello, resulta incorrecto objetar la Solicitud señalando que es amplia o abarca un periodo de tiempo extenso. Los documentos requeridos tuvieron que haber sido preparados por Oro Negro y los Demandantes tuvieron que haberlos mantenido en el curso ordinario de sus operaciones debido a su calidad de inversionistas en Oro Negro.</p> <p>Los documentos solicitados son sustanciales para el resultado del caso para saber cómo, cuándo y cuánto debían recibir las Demandantes por concepto de dividendos. Asimismo, las Demandantes no han señalado que no existan los documentos requeridos. Se debe recordar que Integradora Oro Negro era una sociedad anónima promotora de inversión o “SAPI” regulada por la Ley del Mercado de Valores. Esto significa que los accionistas de Integradora Oro Negro seguramente debieron haberse apegado a algún criterio de distribución de dividendos.</p>

	Con base en ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.
Decision del Tribunal:	The Tribunal finds that the Respondent has not demonstrated how its request relates to a relevant issue for the present dispute. The Tribunal rejects the production of the requested evidence.

IV. La reestructura de deuda de Oro Negro y los Tenedores de Bonos

Justificación general

Las Demandantes han realizado una serie de afirmaciones relacionadas con los Tenedores de Bonos que deben ser esclarecidas. Por un lado, las Demandantes reconocen que a partir de 2014 Oro Negro pudo obtener considerables recursos a partir de la emisión de bonos de deuda.⁵⁰ La Demandada tiene conocimiento que desde 2012 Oro Negro ha obtenido financiamiento mediante la emisión de bonos de deuda.⁵¹

Por otro lado, las Demandantes han calificado como “fondos buitre” (“vulture funds”) a algunos de los Tenedores Bonos quienes supuestamente se han coludido con la Demandada para afectar las inversiones de las Demandantes.⁵² Sin embargo, las Demandantes también argumentan que: “*the Bondholders conducted detailed and lengthy audits of Integradora and its subsidiaries' finances and operations. The Bondholders were completely satisfied with Integradora and its subsidiaries' finances and operations and made only minor recommendations, which Integradora and its subsidiaries accepted and implemented*”.⁵³

A partir de 2015, Oro Negro y los Tenedores de Bonos negociaron la reestructura de deuda de Oro Negro, lo que se materializó en:

- El Contrato de Bonos 2016 y las tres modificaciones que se le realizaron.
- El Fideicomiso F/1695 (creado previamente el 20 de junio de 2013) administrado por Deutsche Bank como fiduciario.

⁵⁰ Escrito de Demanda, ¶ 47.

⁵¹ Escrito de Contestación, ¶¶ 78-83.

⁵² Escrito de Demanda, ¶¶ 6-7.

⁵³ Escrito de Demanda, ¶ 56.

- Una serie de garantías otorgadas en favor de Nordic Trustee.⁵⁴

Los testigos de las Demandantes han señalado que las modificaciones a los Contratos Perforadora-PEP negociadas en 2017 ponían en riesgo la solvencia de Oro Negro, incluida su capacidad para pagar sus deudas bajo el Contrato de Bonos.⁵⁵ Contrario a ello, la Demandada busca argumentar que Oro Negro incumplió de forma constante sus obligaciones de pago frente a los Tenedores de Bonos, incluidas las obligaciones adoptadas en la última reestructura de deuda acordada entre ambas partes. Debido a que un grupo de ejecutivos y accionistas de Oro Negro decidieron llevar a concurso mercantil a Oro Negro se generaron eventos de incumplimiento que tuvieron como resultado que Nordic Trustee ejecutara diversos documentos.

Las Demandantes no han explicado con detenimiento las obligaciones adoptadas por Oro Negro frente a los Tenedores de Bonos y las consecuencias legales que podían surgir por incurrir en eventos de incumplimiento (“*events of default*”). Los documentos solicitados en esta categoría son relevantes y sustanciales para el resultado del arbitraje porque permitirán entender: *i*) las obligaciones contractuales adoptadas por Oro Negro; *ii*) los financiamientos recibidos por Oro Negro a partir de la emisión de bonos de deuda; *iii*) la valoración de riesgos realizada por las Demandantes y Oro Negro por incumplimientos a sus obligaciones contractuales y *iv*) las controversias que han surgido entre los Tenedores de Bonos y Oro Negro derivado de incumplimientos contractuales. Estos aspectos son relevantes para la posición de la Demandada respecto a que los problemas de Oro Negro no fueron causados por la Demandada.

Request No.	27.
Document / Category of Documents:	Copia de los documentos elaborados en la auditoría realizada a Oro Negro y a sus subsidiarias, referida en los párrafos 56 y 296 del Escrito de Demanda.
Justifications:	<p>En el párrafo 56 del Escrito de Demanda, las Demandantes señalan lo siguiente: “<i>In connection with the Bond Agreement Amendments, the Bondholders conducted detailed and lengthy audits of Integradora and its subsidiaries' finances and operations. The Bondholders were completely satisfied with Integradora and its subsidiaries' finances and operations and made only minor recommendations, which Integradora and its subsidiaries accepted and implemented</i>”.</p> <p>Asimismo, las Demandantes señalan lo siguiente en el párrafo 296 del Escrito de Demanda: “<i>in August 2015, Oro Negro provided two detailed financial reports to the Bondholders, their financial advisor (Houlihan Lokey) and legal advisor (Paul Weiss), detailing the amount that each Singapore Rig</i></p>

⁵⁴ Escrito de Contestación, ¶¶ 134-144.

⁵⁵ Segunda declaración testimonial del Sr. Gonzalo Gil White, ¶ 60.

	<p><i>Owner owed Perforadora; and (2) in a call on July 20, 2015, Oro Negro walked the Bondholders, Houlihan Lokey and Paul Weiss, through the intercompany transfers, including the Singapore Rig Owners' transfers to Perforadora for capital expenditure reimbursements".</i></p> <p>Las Demandantes se han limitado a exhibir los documentos C-0186 y C-0187 respecto a las extensas auditorías realizadas por los Tenedores de Bonos. Sin embargo, estos documentos no son claros y tampoco pueden considerarse como "<i>detailed and lengthy audits</i>".</p> <p>Los documentos requeridos son relevantes y sustanciales para el resultado del caso porque permitirán entender las obligaciones de Oro Negro frente a los Tenedores de Bonos conforme a los diversos contratos de préstamo, garantías y el Contrato de Bonos 2016, y las expectativas de los Tenedores de Bonos bajo estos instrumentos.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable que los documentos existen y están en posesión, custodia o control de las Demandantes porque se tratan de documentos que tuvieron que haber sido realizados como parte de las operaciones de Oro Negro, además de que su existencia ha sido referida en el Escrito de Demanda. La Demandada considera que documentos adicionales a los anexos C-0186 y C-0187 tuvieron que haber sido preparados como parte de las supuestas "<i>detailed and lengthy audits</i>".</p>
Objections:	<p>Claimants object to this request on the following grounds.</p> <p><i>First</i>, the documents referred to in paragraph 296 of Claimants' Statement of Claim—two detailed financial reports provided by Oro Negro to the Bondholders in August 2015—which Respondent references in its justification have already been provided as Exhibits C-0186 and C-0187 to Claimants' Statement of Claim.</p> <p><i>Second</i>, this request is based on Respondent's assumption that "additional documents to Exhibits C-0186 and C-0187 must have been prepared as part of the alleged 'detailed and lengthy audits.'" However, Respondents are engaging in an unwarranted fishing expedition and do not provide any justification for the assumption they make other than that "these are documents which must have been produced as part of Oro Negro's operations." This statement is overly broad and lacks specificity, and therefore does not comply with Art. 3.3(a)(i) or (ii) of the IBA Rules.</p>

	<p><i>Third</i>, Claimants' reference to 'detailed and lengthy audits' refers to the audits <i>conducted by the Bondholders</i> of Integradora and its subsidiaries' finances and operations, not to the financial reports provided to the Bondholders referenced in paragraph 296 of Claimants' Statement of Claim and which, as stated above, were provided as Exhibits C-0186 and C-0187 to the Statement of Claim. If the requested documents exist, they are not within Claimants' possession, custody or control because the audits referenced in paragraph 56 of Claimants' Statement of Claim were conducted by the Bondholders, not Oro Negro. Thus, the production of the requested documents is not possible for Claimants (IBA Rules, Art. 9 (2)(c)).</p>
Reply:	<p><i>Ver Réplicas Generales No. 3 y 4.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 27 sea una "expedición de pesca", que constituya una carga irrazonable para las Demandantes o que el periodo de búsqueda sea demasiado amplio.</p> <p><i>Primero</i>, resulta inconcebible que "<i>detailed and lengthy audits</i>" en Integradora Oro Negro se vean reflejadas en los anexos C-0186 y C-0187.</p> <p><i>Segundo</i>, el financiamiento recibido por Oro Negro mediante la emisión de bonos de deuda no fue una situación menor. Seguramente fueron elaborados diversos documentos como parte de la auditoría practicada a Oro Negro de 2015. Las propias Demandantes han explicado que prepararon reportes financieros y explicaron con detenimiento a los Tenedores de Bonos y a sus asesores sobre las finanzas de la empresa.</p> <p><i>Tercero</i>, la auditoría practicada a Oro Negro aparentemente fue positiva y permitió que se reestructurara la deuda de Oro Negro. Independientemente de quien haya elaborado las "<i>detailed and lengthy audits</i>", Oro Negro y las Demandantes debieron de tener acceso a las conclusiones de la auditoría.</p> <p>La Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Tribunal's decision:	The Tribunal finds that the Respondent has not sufficiently established the need for additional information on the already provided evidence. The Tribunal rejects the production of the requested evidence.

Documento / Categoría de Documentos:	<p>Documentos Internos y Comunicaciones de la alta dirección de Integradora Oro Negro (e.g., los Sres. Gonzalo Gil White, Luis Ramírez Corzo, Carlos Williamson Nasi, José Antonio Cañedo White, Gilberto Perezalonso Cifuentes, Alonso del Val, Gustavo Armando Mondragón y Miguel Ángel Villegas Vargas, entre otros) que contengan un análisis, opinión o discusión sobre los siguientes temas:</p> <ul style="list-style-type: none"> a. Las consencuencias legales para Oro Negro por incurrir en un evento de incumplimiento bajo el Contrato de Bonos 2016. b. La posible ejecución de diversas garantías o “<i>securities</i>” otorgadas por Oro Negro en favor de Nordic Trustee en caso de incurrir en un evento de incumplimiento bajo el Contrato de Bonos 2016. c. Las consencuencias legales derivadas del inicio de procedimientos concursales, insolvencia, bancarrota o similares por parte de cualquier empresa relacionada con Oro Negro bajo el Contrato de Bonos 2016. d. Las consencuencias legales derivadas del inicio de procedimientos concursales, insolvencia, bancarrota o similares por parte de cualquier empresa relacionada con Oro Negro bajo los Contratos Perforadora-PEP. e. Las consencuencias legales para Oro Negro por incurrir en un evento de incumplimiento bajo el Contrato de Bonos 2016. f. Análisis de riesgos (o documentos equivalentes) sobre la emisión de bonos de deuda por parte de Oro Negro. g. El desempeño de Oro Negro conforme al Contrato de Bonos 2016. h. Pagos pendientes en favor de Nordic Trustee y/o los Tenedores de Bonos conforme el Contrato de Bonos 2016. <p>Esta solicitud se encuentra limitada al periodo entre el 1º de enero de 2015 y el 5 de octubre de 2017, fecha en la que fue admitido el Concurso Mercantil 345/2017.</p>
Justificación:	<i>Ver justificación general de esta sección.</i>

	<p>Las Demandantes afirman que para 2014 Oro Negro pudo obtener recursos por parte de inversionistas extranjeros derivado de la emisión de bonos de deudas por un monto equivalente a US \$ 900 millones.⁵⁶ Sin embargo, la Demandada tiene conocimiento que desde 2012, Integradora Oro Negro ha obtenido préstamos respaldados con la emisión de bonos de deuda y diversas garantías.⁵⁷</p> <p>A partir de 2015, Integradora Oro Negro empezó a contratar expertos financieros y legales para evaluar sus obligaciones crediticias lo cual finalizó con una reestructura de sus pasivos mediante el Contrato de Bonos 2016.⁵⁸ El Contrato de Bonos 2016 estableció una serie de obligaciones para Integradora Oro Negro, Perforadora Oro Negro, Oro Negro Drilling y las Subsidiarias Singapur y en caso de incumplirlas Oro Negro podía incurrir en “eventos de incumplimiento”. El 25 de septiembre de 2017, Nordic Trustee informó a Oro Negro que había incurrido en un evento de incumplimiento, lo que ha permitido que los Tenedores de Bonos actualmente controlen diversas subsidiarias de Oro Negro.</p> <p>En el párrafo 6 del Escrito de Demanda las Demandantes señalan lo siguiente: <i>“The Ad-Hoc Group is compromised of several international vulture funds whose business is to invest at high discounts in debt or equity of distressed companies or governments, and then reap a profit by driving them to bankruptcy and collecting the spare parts”</i>.</p> <p>Resulta razonable pensar que Oro Negro analizó con detenimiento que un amplio público inversionista (incluidos competidores o “fondos buitre”) podían adquirir los bonos de deuda emitidos por Oro Negro.</p> <p>Los documentos requeridos son relevantes y sustanciales para el resultado del caso porque permitirán entender las obligaciones de Oro Negro frente a los Tenedores de Bonos conforme a los diversos contratos de préstamo, garantías y el Contrato de Bonos 2016, y la evaluación realizada al interior de Oro Negro de las consencuencias legales de incurrir en eventos de incumplimiento. Esta documentación es relevante para la posición de la Demandada en lo que respecta a que los problemas de Oro Negro no fueron causados por la Demandada.</p>
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⁵⁶ Escrito de Demanda, ¶¶ 6 y 40.

⁵⁷ Escrito de Contestación, ¶ 78.

⁵⁸ Ver Escrito de Contestación, ¶¶ 134-144.

	<p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido elaborados como parte de un análisis de “<i>due diligence</i>” financiero y jurídico, y como parte de las operaciones comerciales de Oro Negro.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Additionally, Claimants note the following objections:</p> <p><i>First</i>, Claimants object to this request because it is an overly broad fishing expedition that does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks as required under IBA Rules, Art. 3.3(a)(ii). Respondent is seeking documents from a vast number of custodians, for a two and a half year period of time, on eight broad categories. Therefore, the request is overbroad and complying with it would be unreasonably burdensome for Claimants (IBA Rules, Art. 9.2(c)).</p> <p><i>Second</i>, Claimants object to this request to the extent it seeks document not relevant or material to the outcome of this arbitration. Mexico’s stated justification for seeking the requested documents is purportedly that they are “relevant to the Respondent’s position that Oro Negro’s problems were not caused by Respondent.” However, Respondent fails to establish in any specific manner how the documents requested will show that Oro Negro’s “problems” were not caused by Mexico. Respondent’s attempt to provide an overbroad and speculative justification to an already overbroad and unspecific document request should not be allowed to justify what is evidently nothing but a fishing expedition aimed at trying obtain from Claimants any information that may assist Mexico in trying to refute what is clearly contradicted by the evidence in the record: Mexico destroyed Claimants’ investment in Oro Negro, and Oro Negro was not responsible in any way for Mexico’s expropriation of the shareholders’ investment in Oro Negro.</p> <p>Additionally, Respondent improperly seeks to obtain documents from individuals who are not a party to this arbitration, such as, among others, Luis Ramírez Corzo, Gilberto Pérezalonso Cifuentes, Alonso del Val, Gustavo Armando Mondragón and Miguel Ángel Villegas Vargas. It would be unreasonably</p>

	burdensome (IBA Rules, Art. 9.2(c)) for Claimants to produce these documents because the aforementioned individuals are not readily accessible to Claimants as a result of them not being a party to these proceedings.
Réplica:	<p><i>Ver</i> Réplicas Generales No. 3 y 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 28 sea una “expedición de pesca”, constituya una carga irrazonable para las Demandantes o que la Solicitud no sea lo suficientemente específica.</p> <p><i>Primero</i>, la Demandada solicitó Documentos Internos y Comunicaciones de un periodo de tiempo preciso, sustancial para el resultado del caso y de personas específicas que fungieron como ejecutivos y directivos de Oro Negro. De igual forma, la Solicitud precisa los temas que deben estar contenidos en los Documentos Internos y Comunicaciones.</p> <p><i>Segundo</i>, durante el periodo de tiempo de esta Solicitud sucedieron diversos hechos sustanciales para el resultado del caso, <i>inter alia</i>, la Crisis de 2014 y sus efectos en el mercado; las negociaciones entre Oro Negro y el Grupo de Trabajo de Pemex; las modificaciones a los Contratos Perforadora-PEP, y la reestructura de deuda de Oro Negro frente a los Tenedores de Bonos.</p> <p><i>Tercero</i>, las Demandantes han ofrecido la testimonial de tres ejecutivos que formaron parte de la alta dirección de Axis y Oro Negro: los Sres. Gil White, Jose Antonio Cañedo White y Carlos Williamson Nasi. De igual forma, las Demandantes han señalado que otros directivos de Oro Negro potencialmente podrían ser testigos en este arbitraje, <i>e.g.</i>, el Sr. Villegas.⁵⁹ Además, los escasos documentos exhibidos por las Demandantes relacionados con la Solicitud No. 38 incluyen correos electrónicos intercambiados por ejecutivos de Oro Negro, incluidos los Sres. Ramírez Corzo y Miguel Angel Villegas. Esto significa que las Demandantes y sus testigos cuentan con los documentos solicitados.</p> <p>La Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos requeridos.</p>
Decision del Tribunal:	The Tribunal recognizes that the Respondent's request is fairly broad. Yet, the Claimants have not convincingly put forth convincing elements to substantiate their claim that the request would be unduly burdensome. The Respondent's request relates to a relevant in this arbitration. The Tribunal orders the production of the requested evidence concerning Gonzalo Gil White, Carlos Williamson Nasi and José Antonio Cañedo White.

⁵⁹ Ver Solicitud de Medidas Provisionales, ¶ 3.

Solicitud No.	29.
Documento / Categoría de Documentos:	Copia de todos los contratos celebrados entre 2012 y 2016 entre Nordic Trustee y Oro Negro (junto con cualquier convenio modificatorio o re-expresión que haya sido celebrado posterior a la forma del contrato), bajo el cual se haya acordado el otorgamiento de préstamos en favor de Oro Negro y se hayan emitido bonos de deuda.
Justificación:	<p><i>Ver justificación general de esta sección.</i></p> <p>Los documentos solicitados son relevantes y sustanciales para el resultado del caso porque permitirán entender los financiamientos recibidos por Oro Negro y las obligaciones adoptadas por Oro Negro frente a los Tenedores de Bonos conforme a los diversos contratos de préstamo que Oro Negro ha celebrado desde el año 2012.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido elaborados como parte de las operaciones comerciales de Oro Negro y en los mecanismos de financiamiento de Oro Negro.</p>
Objeción:	Claimants object to the relevance of the documents requested; but notwithstanding and without waiving this objection, Claimants produce the requested documents herewith.
Réplica:	<p>La Demandada agradece a las Demandantes la exhibición de ciertos documentos relacionados con la Solicitud No. 29. Sin embargo, esta exhibición no es suficiente. Los documentos exhibidos consisten únicamente en algunos convenios modificatorios y documentos relacionados a los contratos del 24 de enero de 2014 y del 4 de diciembre de 2014.</p> <p>Para mejor precisión y como fue señalado en el Escrito de Contestación⁶⁰:</p> <ul style="list-style-type: none"> • en 2012 Oro Negro emitió bonos por aproximadamente US\$ 220 millones y esto quedó garantizado por dos contratos de garantía del 26 de febrero de 2012. • En octubre de 2013, Oro Negro realizó una emisión por US\$ 175 millones para financiar la adquisición de la plataforma Fortius.

⁶⁰ Escrito de Demanda, ¶¶ 78-81. Ver C-0185, pp. 23.

	<ul style="list-style-type: none"> • El 24 de enero de 2014, Oro Negro realizó una emisión de bonos equivalente a US\$ 725 millones. • El 4 de diciembre de 2014, Oro Negro emitió US\$ 175 millones para financiar la adquisición de la plataforma Impetus. <p>La Demandada solicita al Tribunal que ordene a las Demandantes exhibir los contratos celebrados el 26 de febrero de 2012, en octubre de 2013, el 24 de enero de 2014 y el 4 de diciembre de 2014, junto con todos los convenios modificatorios o de re-expresión celebrados por Oro Negro, a través de los cuales obtuvo préstamos que quedaron respaldados en bonos de deuda.</p>
Decisión del Tribunal:	The Tribunal acknowledges the Claimants' initiative to produce part of the evidence. The Respondent's request relates to a relevant issue in this arbitration. The Tribunal orders the production of the requested evidence.

Solicitud No.	30.
Documento / Categoría de Documentos:	<p>Comunicaciones intercambiadas entre los Tenedores de Bonos, Nordic Trustee o cualquier representante o intermediario designado por los Tenedores de Bonos y Oro Negro y/o las Demandantes, en las que se haya discutido, comentado o analizado:</p> <ol style="list-style-type: none"> a. Los incumplimientos de Oro Negro frente a los Tenedores de Bonos. b. Propuestas y contrapropuestas negociadas entre Oro Negro y los Tenedores de Bonos. c. Las preocupaciones de los Tenedores de Bonos por la administración de Oro Negro y tomas de decisión por parte de ejecutivos y directivos de la empresa. d. El desempeño de los Sres. Gonzalo Gil White, Luis Ramírez Corzo, Carlos Williamson Nasi, José Antonio Cañedo White, Gilberto Perezalonso Cifuentes, Gustavo Armando Mondragón y Miguel Ángel Villegas Vargas como ejecutivos, directivos y miembros del Consejo de Administración de Oro Negro, respectivamente. e. Las modificaciones a los Contratos Perforadora-PEP y las propuestas del Grupo de Trabajo de Negociaciones de Pemex. f. Los pasivos de Oro Negro frente a los Tenedores de Bonos.

	<p>g. Los efectos en la industria energética a partir de la Crisis de 2014.</p> <p>Esta solicitud se encuentra limitada al periodo entre el 1º de enero de 2015 y el Escrito de Demanda (7 de octubre de 2019).</p>
Justificación:	<p><i>Ver</i> justificación general de esta sección.</p> <p>Las Demandantes han exhibido un reducido número de comunicaciones que Oro Negro intercambió con Nordic Trustee en su calidad de representante común de los Tenedores de Bonos.⁶¹ La Demandada ha podido identificar algunas comunicaciones adicionales intercambiadas entre Nordic Trustee y Oro Negro debido a que forman parte de expedientes públicos.⁶²</p> <p>Los documentos requeridos son relevantes y sustanciales para el resultado del caso debido a que permitirán entender el origen de la relación comercial entre Oro Negro y los Tenedores de Bonos, los incumplimientos incurridos por Oro Negro y las razones por las cuales terminó la relación contractual entre ellos, situación que ha dado lugar a un considerable número de controversias entre particulares. Esta documentación es relevante para la posición de la Demandada en lo que respecta a que los problemas de Oro Negro no fueron causados por la Demandada.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos solicitados existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido elaborados como parte de los financiamientos recibidos por Oro Negro desde 2012; las Demandantes ya han ofrecido como anexos documentales algunas Comunicaciones intercambiadas entre Nordic Trustee y Oro Negro, y los documentos solicitados tuvieron que haber sido realizados como parte de las operaciones comerciales de Oro Negro.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Additionally, Claimants note the following objections.</p>

⁶¹ *Ver* C-0039, C-0146 a C-0147.

⁶² *Ver* R-0010, R-0012, R-0116, R-0160 y R-0209.

	<p><i>First</i>, Claimants object to this request because it is overly broad fishing expedition, spanning nearly five years, and does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks. Respondent is seeking communications from a vast number of custodians, for a nearly five year period of time, on seven broad categories. Therefore, the request is overbroad and complying with it would be unreasonably burdensome for Claimants (IBA Rules 9.2(c)).</p> <p><i>Second</i>, Claimants object to this request to the extent it seeks document not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). Mexico's stated justification for seeking the requested documents is purportedly that they are "relevant to the Respondent's position that Oro Negro's problems were not caused by Respondent." However, Respondent fails to establish in any specific manner how the documents requested will show that Oro Negro's "problems" were not caused by Mexico. Respondent's attempt to provide an overbroad and speculative justification to an already overbroad and unspecific document request should not be allowed to justify what is evidently nothing but a fishing expedition aimed at trying obtain from Claimants any information that may assist Mexico in trying to refute what is clearly contradicted by the evidence in the record: Mexico destroyed Claimants' investment in Oro Negro, and Oro Negro was not responsible in any way for Mexico's expropriation of the shareholders' investment in Oro Negro.</p> <p>Additionally, Respondent improperly seeks to obtain documents from individuals who are not a party to this this arbitration, since Respondent's request includes communications from "any representative or agent designated by Oro Negro and/or the Claimants". It would be unreasonably burdensome (IBA Rules, Art. 9.2(c)) for Claimants to produce these documents because the aforementioned individuals are not readily accessible to Claimants as a result of them not being a party to these proceedings.</p>
Réplica:	<p>Ver Réplicas Generales No. 3 y 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 30 sea una "expedición de pesca", constituya una carga irrazonable para las Demandantes o que la Solicitud no sea lo suficientemente específica.</p> <p><i>Primero</i>, la Demandada solicita la exhibición de Comunicaciones intercambiadas entre los Tenedores de Bonos y Oro Negro justamente como algunas que las Demandantes ya han presentado en el arbitraje (ver C-0144 a C-0147). Esta situación demuestra que los documentos solicitados son relevantes y sustanciales para el caso. Asimismo, el financiamiento recibido por Oro Negro a través de la emisión de bonos alcanzó los US\$ 900 millones, lo que hace suponer que toda la documentación</p>

	<p>relacionada con este financiamiento tuvo que haber sido mantenida y almacenada como parte de sus operaciones comerciales.</p> <p><i>Segundo</i>, se debe considerar que existió una estrecha relación comercial y financiera entre Oro Negro y los Tenedores de Bonos. La Demandada supone que Oro Negro mantuvo informada a sus finanziadores/prestamistas sobre cualquier aspecto relevante en las operaciones de Oro Negro, <i>inter alia</i>, los supuestos requerimientos de sobornos por parte de funcionarios de Pemex, la Crisis de 2014 y las modificaciones de los Contratos Perforadora-PEP y de competidores.</p> <p><i>Tercero</i>, Oro Negro Drilling y las Subsidiarias Singapur fueron las emisoras (“<i>issuers</i>”) de los bonos de deuda. La Demandada entiende que estas emisiones se realizaron en el mercado noruego y constantemente se puso a disposición del público información en el sitio denominado www.stamdata.com.⁶³ La Demandada no cuenta con acceso a este portal pero las Demandantes deben de contar con ello o al menos cuentan con la información que cargaron a ese sitio web. La Demandada considera que parte de la información requerida en esta Solicitud se debe de encontrar disponible en la siguiente liga del sitio web de stamdata:</p> <p>https://new.stamdata.com/app/search?q=Oro%20Negro&m=undefined</p> <p><i>Cuarto</i>, las Demandantes han ofrecido la testimonial de tres ejecutivos que formaron parte de la alta dirección de Axis y Oro Negro. Estos señores – junto con otros miembros de la alta dirección de Oro Negro – debieron de estar en constante contacto con los Tenedores de Bonos. Esto significa que las Demandantes y sus testigos cuentan con los documentos solicitados. Más aún si se toma en consideración que algunas comunicaciones de los Tenedores de Bonos están dirigidas directamente al Sr. Gil White (<i>ver C-0145, C-0146, R-0209</i>). Por ello, la Demandada considera futile que las Demandantes argumenten que sería una carga irrazonable para las Demandantes exhibir documentos consistentes en comunicaciones de representantes o agentes designados por Oro Negro y/o las Demandantes.</p> <p>Por todo lo anterior, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal recognizes that the Respondent's request is fairly broad. Yet, the Claimants have not convincingly put forth convincing elements to substantiate their claim that the request would be unduly

⁶³ Ver Orden Procesal No. 7, Anexo A, p. 2.

	burdensome. The Respondent's request relates to a relevant issue in this arbitration. The Tribunal orders the production of the requested evidence.
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Solicitud No.	31.
Documento / Categoría de Documentos:	Minutas, notas, memoranda, presentaciones o Documentos y Comunicaciones sobre cualquier reunión entre Oro Negro y los Tenedores de Bonos, Nordic Trustee o cualquier intermediario o representante designado por los Tenedores de Bonos, que haya sido elaborado entre la primera emisión de bonos por parte de Oro Negro (22 de febrero de 2012) y el Escrito de Demanda (7 de octubre de 2019).
Justificación:	<p><i>Ver</i> justificación general.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos solicitados existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido elaborados como parte de los financiamientos recibidos por Oro Negro desde 2012 y tuvieron que haber sido realizados como parte de las operaciones comerciales de Oro Negro, y como parte de las negociaciones entre Oro Negro y los Tenedores de Bonos después del inicio de los Concursos Mercantiles.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Additionally, Claimants note the following objections.</p> <p><i>First</i>, Claimants object to this request because it is an overly broad fishing expedition that does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks (IBA Rules, Art. 3.3(a)(i) and (ii)). Respondent is seeking six different broad categories of documents (minutes, notes, memoranda, presentations or documents and communications), from a number of different custodians, for a manifestly excessive seven and a half year period of time, with regards to “any meeting between Oro Negro and the Bondholders, Nordic Trustee or any agent or representative designated by the Bondholders.” There were hundreds of meetings between Oro Negro and the Bondholders, Nordic Trustee and agent and/or representatives designated by the Bondholders in the seven year period specified by Respondent. Therefore, the request is overbroad and complying with it would be unreasonably burdensome for Claimants (IBA Rules, Art. 9.2(c)).</p>

	<p><i>Second</i>, Claimants object to this request to the extent it seeks documents not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). Mexico’s stated justification for seeking the requested documents is purportedly that they are “relevant to the Respondent’s position that Oro Negro’s problems were not caused by Respondent.” However, Respondent fails to establish in any specific manner how the documents requested will show that Oro Negro’s “problems” were not caused by Mexico. Respondent’s attempt to provide an overbroad and speculative justification to an already overbroad and unspecific document request should not be allowed to justify what is evidently nothing but a fishing expedition aimed at trying obtain from Claimants any information that may assist Mexico in trying to refute what is clearly contradicted by the evidence in the record: Mexico destroyed Claimants’ investment in Oro Negro, and Oro Negro was not responsible in any way for Mexico’s expropriation of the shareholders’ investment in Oro Negro.</p>
Réplica:	Con la finalidad de evitar repeticiones innecesarias, la Demandada solicita que las réplicas de la Solicitud 30 se tengan reproducidas en esta Solicitud No. 31.
Decisión del Tribunal:	The Tribunal finds that the Respondent’s request is fairly broad and vague. In this context, the Respondent has not established the relevance of the requested evidence. The Tribunal rejects the production of the requested evidence.

Solicitud No.	32.
Documento / Categoría de Documentos:	Documentos Internos y Comunicaciones de Integradora Oro Negro que contengan un análisis, opinión o discusión sobre la creación del Fideicomiso F/1695 y la prelación o “cascada de pagos” establecida en dicho instrumento. Esta solicitud está limitada al periodo comprendido entre el 1º de enero de 2013 al 5 de octubre 2017.
Justificación:	<p><i>Ver</i> justificación general de esta sección.</p> <p>En el párrafo 63 del Escrito de Demanda, las Demandantes señalan “<i>Pursuant to its “waterfall” structure, the Mexican Trust had to first distribute to Perforadora the funds it needed to pay ordinary business expenses, including operating the Rigs, taxes and salaries. As such, Perforadora’s economic survival depended on payments from the Mexican Trust</i>”.</p> <p>Los documentos solicitados son relevantes y sustanciales para el resultado del caso porque permitirán demostrar que la finalidad del Fideicomiso F/1695 era formar parte de la serie de garantías otorgadas a los Tenedores de Bonos. De igual forma, los documentos solicitados permitirán demostrar que Nordic Trustee contaba con una posición preferente en la cascada de pagos establecida en el Fideicomiso</p>

	<p>F/1695. La documentación solicitada también es relevante para la posición de la Demandada debido a que demostrará que los problemas de Oro Negro no fueron causados por la Demandada, y que derivaron de incumplimientos contractuales frente a los Tenedores de Bonos y Nordic Trustee.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera de manera razonable que los documentos existen y están en posesión, custodia o control de las Demandantes porque se tratan de documentos que tuvieron que haber sido elaborados como parte de las operaciones de Oro Negro y como parte de las obligaciones adoptadas por Oro Negro frente a los Tenedores de Bonos.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants object to this request on the basis that it does not identify the requested documents with sufficient specificity (IBA Rules, Art. 3.3(a)(i) and (ii)) and the requested documents are not sufficiently relevant to the case or material to its outcome (IBA Rules, Art. 9.2(a)). The purpose and payment structure of the Mexican Trust—which Respondents cite to as grounds for justification of its request—are all reflected in the agreement governing the Mexican Trust, which was provided as Exhibit C-3 to Claimants’ Application for Interim Measures filed on July 21, 2019. In other words, internal documents and communications reflecting an analysis, opinion or discussion regarding the creation of the Mexican Trust (<i>Fideicomiso F/1695</i>) are not necessary—and are therefore irrelevant—for the purposes of establishing “the purpose of <i>Fideicomiso F/1695</i>” and the “waterfall payment structure established in <i>Fideicomiso F/1695</i>”. The agreement governing the Mexican Trust—Exhibit C-3—already addresses these issues. Therefore, the requested documents are not sufficiently relevant to the case or material to its outcome (IBA Rules, Art. 9.2(a)).</p>
Réplica:	<p>Ver Réplica General No. 3. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 32 sea una “expedición de pesca”, constituya una carga irrazonable para las Demandantes o que la Solicitud no sea lo suficientemente específica.</p> <p>Las posiciones de las partes respecto al Fideicomiso F/1695 son sustancialmente distintas. Por un lado, las Demandantes argumentan que el Fideicomiso F/1695 fue creado a partir de la celebración del Contrato de Bonos 2016 y que Oro Negro disfrutaba una prelación preferente en la cascada de pagos acordada en dicho fideicomiso. Por otra parte, la Demandada argumenta que el Fideicomiso F/1695 fue creado desde 2013 y su finalidad fue constituir una garantía de pago adicional otorgada a los</p>

	<p>Tenedores de Bonos.⁶⁴ Además, la relevancia de los documentos deriva de las propias afirmaciones de las Demandantes en lo que respecta al Fideicomiso F/1695.⁶⁵</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decision del Tribunal:	The Tribunal recognizes that the Respondent's request is fairly broad. The Claimants have not substantiated how the requested elements would not be sufficiently relevant to the case or material to its outcome. The Tribunal orders the production of the requested evidence.

Solicitud No.	33.
Documento / Categoría de Documentos:	<p>Documentos Internos en los que se discuta o analice la última propuesta de modificación a los Contratos Perforadora-PEP en 2017, y la decisión de solicitar el inicio de los Concursos Mercantiles.</p> <p>Esta solicitud está limitada al periodo comprendido entre el 1º de marzo de 2017 y el 3 de octubre de 2017.</p>
Justificación:	<p>Las Demandantes alegan que los Contratos Perforadora-PEP fueron terminados anticipadamente fundamentalmente porque Oro Negro se rehusó a participar en un esquema de corrupción.</p> <p>La Demandada ha alegado, a partir de los pocos documentos disponibles, que la última propuesta de modificación a los contratos celebrados con Pemex no prosperó porque Oro Negro no pudo concretar a tiempo un acuerdo con los Tenedores de Bonos sobre la reestructura de Oro Negro, a pesar de que la propuesta ya había sido tentativamente aceptada por Oro Negro y por los Tenedores de Bonos. (véase Escrito de Contestación, ¶¶ 621-628).</p> <p>La Demandada también ha alegado que “hay evidencia en el expediente de este caso de que la solicitud de concurso de Oro Negro no fue provocada por las modificaciones a los Contratos Perforadora-PEP o por el retraso en los pagos por parte de Pemex, sino por una decisión corporativa y estrategia legal diseñada para impedir la terminación de los contratos y forzar a Pemex a pagar una tarifa mayor.” (Escrito de Contestación, ¶ 629).</p>

⁶⁴ Escrito de Contestación, ¶¶ 99-105.

⁶⁵ Escrito de Demanda, ¶¶ 63-64.

	<p>Los documentos solicitados permitirán: <i>i</i>) confirmar la existencia de un desacuerdo entre los accionistas/directivos de Oro Negro y los Tenedores de Bonos sobre los términos bajo los cuales los Tenedores estarían dispuestos a dar su visto bueno para la modificación de los Contratos Perforadora-PEP; <i>ii</i>) demostrar que la razón fundamental por la que se dieron por terminados los contratos con Pemex no fue la falta de acuerdo con Pemex o la renuencia a sobornar a altos funcionarios de dicha empresa, sino el desacuerdo con los Tenedores de Bonos sobre la reestructuración de la empresa, y <i>iii</i>) que las solicitudes de los Concursos Mercantiles fueron el resultado de la falta de acuerdo con los Tenedores de Bonos y una estrategia para impedir la terminación de los Contratos Perforadora-PEP y forzar a Pemex a pagar una tarifa mayor.</p> <p>La terminación anticipada de los contratos con Pemex es una de las fuentes principales de daños identificadas por las Demandantes y, por lo tanto, los documentos que esclarezcan las razones y circunstancias que dieron lugar a dicha terminación anticipada son relevantes para determinar la causalidad de los daños. Los documentos solicitados son sustanciales para la resolución del caso porque inciden directamente sobre el monto de los daños.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en poder de las Demandantes porque éstos habrían sido elaborados y mantenidos por la empresa en las circunstancias descritas anteriormente. Asimismo, la Demandada considera que las Demandantes tienen acceso a dichos documentos pues han presentado diversos documentos corporativos de Oro Negro en este caso, incluyendo dos documentos directamente relacionados con este tema (<i>e.g.</i>, los Anexos C-0143 y C-0145.)</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants object to this request on the basis that it is an excessively broad fishing expedition and unduly burdensome on Claimants (IBA Rules, Art. 9.2(c)) and it seeks documents that are not sufficiently relevant to the case or material to its outcome.</p> <p><i>First</i>, Claimants object to this request because it is overly broad and does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks (IBA Rules, Art. 3.3(a)(i) and (ii). Respondent states that it seeks “internal documents discussing or</p>

	<p>analyzing the last proposal to modify the Perforadora-PEP Contracts in 2017, and the decision to initiate the <i>Concursos Mercantiles</i>.” However, Respondent fails to indicate from which custodian it is seeking internal documents, whether it is Integradora Oro Negro, Perforadora Oro Negro, Oro Negro, or Claimants generally. Therefore, the request is overbroad and complying with it would be unreasonably burdensome for Claimants (IBA Rules, 9.2(c)).</p> <p><i>Second</i>, the relevance and materiality of these documents to the outcome of the case is questionable given that Respondent’s justification for this request is purely speculative (IBA Rules, Art. 9.2(a)). Respondent states as its justification that “there is also evidence in the record of this case that Oro Negro’s request for <i>concurso</i> was not caused by the modifications to the Perforadora-PEP Contracts or by the delay in payments by Pemex, but by a corporate decision and legal strategy designed to prevent the termination of contracts and force Pemex to pay a higher rate.” However, Respondent does not provide any evidence to support this assertion.</p> <p><i>Third</i>, internal documents discussing the need for a restructuring were largely if not exclusively privileged communications with in-house or outside counsel that are protected from disclosure (IBA Rules, Art. 9.2(b)).</p>
Réplica:	<p>Ver Réplicas Generales No. 1 y 3. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 33 sea una “expedición de pesca”, constituya una carga irrazonable para las Demandantes o que la Solicitud no sea lo suficientemente específica.</p> <p>Las posturas de las partes sobre los Convenios Modificatorios 2017 y el inicio de los Concursos Mercantiles son sustancialmente distintas. La Demandada ha narrado con detenimiento algunos hechos ocurridos en la temporalidad comprendida entre el 1º de marzo de 2017 y el 3º de octubre de 2017, y particularmente lo sucedido entre agosto y septiembre de ese año.⁶⁶ La Demandada no considera apropiado replicar estos argumentos en esta etapa procesal. Sin embargo, los documentos requeridos en esta Solicitud justamente son relevantes y sustanciales para entender las razones por las cuales Oro Negro realmente decidió ser declarada en concurso mercantil y por qué decidió no celebrar los Convenios Modificatorios 2017.</p> <p>Con relación al supuesto impedimento para exhibir los “internal documents discussing the need for restructuring”, la Demandada hace notar que las Demandantes ni siquiera hacen el esfuerzo de</p>

⁶⁶ Escrito de Contestación, ¶¶ 163-187.

	<p>explicar el supuesto impedimento legal que imposibilita la exhibición de los documentos solicitados. A pesar de ello, la Demandada no tiene inconveniente en que las Demandantes presenten un registro de privilegio (“privilege log”) en el que se precisen los Documentos Internos considerados como “privilegiados” y que hayan sido intercambiados entre Oro Negro y sus abogados externos o hayan sido preparados por estos. Los Documentos internos que no caigan en el supuesto anteriormente referido deberán de ser exhibidos por las Demandantes.</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados y el <i>privilege log</i> conducente.</p>
Decisión del Tribunal:	The Tribunal recognizes that the Respondent’s request is fairly broad. The Claimants have not specifically substantiated how the requested elements would be privileged communications. The Tribunal orders the production of the requested evidence together with a detailed <i>privilege log</i> where relevant.

Solicitud No.	34.
Documento / Categoría de Documentos:	<p>Las Comunicaciones entre Oro Negro y los Tenedores de Bonos y Nordic Trustee relacionadas con: <i>i</i>) las modificaciones a los Contratos Perforadora-PEP negociadas en 2017 con Pemex (incluidos los anexos o archivos adjuntos a las Comunicaciones), y <i>ii</i>) cualquier plan de reestructuración de Oro Negro como consecuencia de la aceptación a las modificaciones a los Contratos Perforadora-PEP.</p> <p>Esta solicitud está limitada al periodo comprendido entre el 1º de marzo de 2017 y el 3 de octubre de 2017.</p>
Justificación:	Misma justificación que la solicitud no. 33.
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p><i>First</i>, Claimants object to this request because it is an overly broad fishing expedition that does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks (IBA Rules, 3.3(a)(i) and (ii)). Respondent is seeking documents from a vast number of custodians on two broad categories. Therefore, the request is overbroad and complying with it would be unreasonably burdensome for Claimants (IBA Rules 9.2(c)).</p> <p><i>Second</i>, the relevance and materiality of these documents to the outcome of the case is questionable given that Respondent’s justification for this request is purely speculative (IBA Rules, Art. 9.2(a)).</p>

	<p>Respondent states as its justification that “there is also evidence in the record of this case that Oro Negro’s request for <i>concurso</i> was not caused by the modifications to the Perforadora-PEP Contracts or by the delay in payments by Pemex, but by a corporate decision and legal strategy designed to prevent the termination of contracts and force Pemex to pay a higher rate.” However, Respondent does not provide any evidence to support this assertion. Respondent’s request is the type of fishing expedition that should not be allowed in this proceeding and is designed to impose an unreasonable burden on Claimants (IBA Rules, 9.2(c)).</p>
Réplica:	<p><i>Ver Réplicas Generales No. 3 y 4.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 34 sea una “expedición de pesca”, constituya una carga irrazonable para las Demandantes o que la Solicitud no sea lo suficientemente específica.</p> <p>Contrario a lo que señalen las Demandantes, la Solicitud está limitada a un periodo de tiempo específico y se precisan con detalle los temas contenidos en las Comunicaciones requeridas.</p> <p>Además, los documentos son relevantes y sustanciales para el caso debido a que permitirán entender las razones por las cuales Oro Negro decidió no celebrar los Convenios Modificatorios 2017 y la controversia entre los Tenedores de Bonos y Oro Negro respecto a la reestructuración de la deuda de ésta última. Muestra de ello son las propias pruebas aportadas por las Demandantes que corroboran que los Tenedores de Bonos solicitaron a Oro Negro que firmara los Convenios Modificatorios 2017 (<i>ver C-0145 y R-0209</i>).</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The request relates to a relevant issue in this arbitration. The Tribunal orders the production of the requested evidence .

V. Oportunidades de negocio en los mercados energéticos internacionales y mexicano

Justificación General

Las Demandantes alegan que la Demandada conspiró en contra de Oro Negro para que los Contratos Perforadora-PEP fueran terminados y frustró la posibilidad de que Oro Negro pudiera operar en el mercado mexicano.⁶⁷

A pesar de que la Reforma Energética cambió el mercado energético en México, las Demandantes señalan que Pemex es el único cliente en el mercado mexicano de servicios de perforación en costa afuera u “offshore”.⁶⁸ Adicionalmente, las Demandantes han calificado de arbitrarias e injustas las modificaciones a los Contratos Perforadora-PEP.⁶⁹ Sin embargo, las Demandantes no han explicado si a partir de las primeras modificaciones a los Contratos Perforadora-PEP (ocurridas después de la entrada en vigor de la Reforma Energética) buscaron nuevos clientes en el mercado mexicano o en otros mercados.

Adicional a ello, las Demandantes consideran que México es responsable de que Oro Negro no haya podido adquirir tres nuevas plataformas (Vastus, Animus y Supremus) que, a su consideración, Pemex prometió contratar.⁷⁰

Ningún elemento probatorio ha sido presentado en este arbitraje con relación a estas alegaciones. Los documentos solicitados en esta sección son relevantes y sustanciales para el caso porque permitirán conocer las decisiones de inversión y negocios de las Demandantes, la relación comercial entre PPL y Oro Negro, así como las proyecciones de negocios de las Demandantes en el mercado mexicano.

Solicitud No.	35.
Documento / Categoría de Documentos:	Documentos Internos y Comunicaciones de Integradora Oro Negro que contengan un análisis, opinión o discusión sobre: <ol style="list-style-type: none">a. Los contratos celebrados entre PPL y Oro Negro.b. Propuestas y contrapropuestas para la adquisición de las plataformas Vastus, Animus y Supremus.

⁶⁷ Escrito de Demanda, ¶¶ 151, 433 y 446.

⁶⁸ Escrito de Demanda, ¶ 65.

⁶⁹ Escrito de Demanda, ¶ 82.

⁷⁰ Escrito de Demanda, ¶¶ 70 y 72.

	<p>c. Los incumplimientos contractuales de Oro Negro frente a PPL.</p> <p>d. Cualquier litigio, proceso judicial o arbitraje comercial entre Oro Negro y PPL con relación a la adquisición de Vastus, Animus y Supremus.</p> <p>Esta solicitud de documentos está limitada al periodo comprendido entre el 15 de marzo de 2013 al 3 de octubre de 2017.</p>
Justificación:	<p><i>Ver la justificación general de esta sección.</i></p> <p>Los documentos solicitados son relevantes y sustanciales para el resultado del caso porque permitirán demostrar que la pérdida de estas plataformas no es atribuible a la Demandada. Los documentos requeridos son relevantes y sustanciales para el resultado del caso debido a que permitirán entender la compraventa acordada entre Oro Negro y PPL para la adquisición de Vastus, Animus y Supremus; las razones por las cuales PPL decidió ejercer sus derechos contractuales y vender estas nuevas plataformas a otros compradores; los incumplimientos de Oro Negro frente a PPL y la retención de anticipos de pagos realizados por Oro Negro.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que cualquier empresa en las mismas circunstancias que Oro Negro prepararía y mantendría en el curso ordinario de sus operaciones.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Additionally, Claimants note the following objections.</p> <p><i>First</i>, Claimants object to this request because it does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks (IBA Rules, 3.3(a)(i) and(ii)). Respondent is seeking internal documents and communications for a four and a half year period of time on a number of broad categories and a large number of custodians. Therefore, the request is overbroad and complying with it would be unreasonably burdensome for Claimants (IBA 9.2(c)).</p>

	<p><i>Second</i>, Claimants object to this request to the extent it seeks documents not relevant or material to the outcome of this arbitration (IBA Rules, Art. 9.2(a)). Mexico's stated justification for seeking the requested documents is purportedly that "they will demonstrate that the loss of [the Vastus, Animus, and Supremus] platforms is not attributable to Respondent." However, Respondent fails to establish in any specific manner how the documents requested will show that the loss of the Vastus, Animus, and Supremus platforms was not a result of Mexico's unlawful actions. Respondent's attempt to provide an overbroad and speculative justification to an already overbroad and unspecific document request should not be allowed to justify what is evidently nothing but a fishing expedition aimed at trying obtain from Claimants any information that may assist Mexico in trying to refute what is clearly contradicted by the evidence in the record: Mexico destroyed Claimants' investment in Oro Negro, and Oro Negro was not responsible in any way for Mexico's expropriation of the shareholders' investment in Oro Negro.</p>
Réplica:	<p><i>Ver Réplica General No. 3.</i> La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 35 carezca de especificidad o que consista en una "expedición de pesca".</p> <p>Los documentos son relevantes y sustanciales para el caso porque las Demandantes argumentan que el Estado mexicano es responsable de que Oro Negro haya perdido el anticipo de US\$ 125 millones para la adquisición de las nuevas plataformas (Escrito de Demanda, ¶ 80). Prácticamente la única prueba ofrecida por las Demandantes fue la declaración testimonial del Sr. Gil White.</p> <p>A pesar de ello, resulta razonable suponer que existe documentación, <i>inter alia</i>, sobre las obligaciones de Oro Negro frente a PPL, los riesgos de no liquidar la compraventa de las nuevas plataformas y la posibilidad de que fueran adquiridas por terceras partes durante los "<i>holding periods</i>" pactados conforme a los contratos celebrados entre Oro Negro y PPL.</p> <p>Además, todo lo que respecta a la compraventa de las nuevas plataformas y las obligaciones de Oro Negro son de tal relevancia que fueron reportadas en los estados financieros de Oro Negro (<i>ver C-0191, pp. 27-78 y 79</i>).</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>

Decision del Tribunal:	The Tribunal recognizes that the Respondent's request is fairly broad. The requested evidence relates to a relevant issue in this arbitration. The Tribunal orders the production of the requested evidence referred to in items b), c) and d).
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Solicitud No.	36.
Documento / Categoría de Documentos:	<p>Comunicaciones intercambiadas entre PPL y Oro Negro en las que se hayan discutido, comentado o analizado:</p> <ul style="list-style-type: none"> a. Propuestas y contrapropuestas para la adquisición de las plataformas Vastus, Animus y Supremus. b. Los incumplimientos contractuales de Oro Negro frente a PPL. c. Cualquier litigio, proceso judicial o arbitraje comercial entre Oro Negro y PPL con relación a la adquisición de Vastus, Animus y Supremus. <p>Esta solicitud de documentos está limitada al periodo comprendido entre el 15 de marzo de 2013 al 3 de octubre de 2017.</p>
Justificación:	<p>Misma justificación que la solicitud no. 35.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que cualquier empresa en las mismas circunstancias que Oro Negro prepararía y mantendría en el curso ordinario de sus operaciones.</p>
Objeción:	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Requests 12 and 35 above.
Réplica:	Con la finalidad de evitar repeticiones innecesarias, la Demandada solicita que se tengan por reproducidas las réplicas de la Solicitud No. 35 en esta Solicitud No. 36
Decision del Tribunal:	The Tribunal recognizes that the Respondent's request is fairly broad. The requested evidence relates to a relevant issue in this arbitration. The Tribunal orders the production of the requested evidence.

Solicitud No.	37.
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Documento / Categoría de Documentos:	Documentos Internos y Comunicaciones de Integradora Oro Negro sobre la cena organizada por el Sr. Gonzalo Gil White en el año 2011 en la que estuvieron presentes los Sres. José Antonio Cañedo White, Frederick J. Warren y el Sr. Juan José Suárez Coppel. Esta solicitud de documentos está limitada al periodo comprendido entre el 1º de enero de 2011 al 31 de diciembre de 2011.
Justificación:	<p>Ver la justificación general de esta sección.</p> <p>El Sr. Gonzalo Gil White señala lo siguiente: <i>"In late 2011, as these investors were deciding to invest, I organized a dinner with them and Pemex's then-CEO, Juan José Suárez Coppel. The purpose of the dinner was for Mr. Suarez to explain Pemex's plans and expectations, including its need for foreign investors and for strong and technical service providers such as Oro Negro".⁷¹</i></p> <p>Por su parte, el Sr. Frederick J. Warren afirma lo siguiente: <i>"I would not have invested in Oro Negro, and would not have invited Friends, relatives and business associates to invest, but for Mr. Suarez representations, which were instrumental in my decision to invest and to invite others to invest".⁷²</i></p> <p>Dejando a un lado el hecho de lo inusual que resulta que el Sr. Gil White haya organizado una reunión de esta naturaleza con el ese entonces Director General de Pemex, la Demandada considera relevante y sustancial para el caso conocer lo que se discutió en esa reunión y conocer si el Sr. Warren decidió invertir en Oro Negro con base en lo comentado en una cena organizada por el Sr. Gil White, lo cual no puede ser atribuible a la Demandada.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos relacionados a un hecho aparentemente relevante para las Demandantes y en particular para el Sr. Warren.</p>
Objeción:	Claimants produce documents responsive to this request herewith.
Réplica:	La Demandada agradece los documentos exhibidos por las Demandantes. Sin embargo, los documentos exhibidos no cumplen con la Solicitud.

⁷¹ Segunda declaración testimonial del Sr. Gil White, ¶ 14.

⁷² Declaración testimonial del Sr. Warren, ¶14.

	<p>Las Demandantes han exhibido cinco correos electrónicos en torno a una cena que aparentemente tuvo lugar el 26 de mayo de 2011. Ninguno de estos correos electrónicos menciona al Sr. Warren, ni siquiera el correo que precisa los asistentes a la cena. Esto quiere decir que el Sr. Warren no atendió la cena o existen documentos adicionales que las Demandantes han optado por no exhibir.</p> <p>Además, con base en los correos electrónicos exhibidos, se entiende que ejecutivos de Ares Management, Temasek Holdings atendieron la cena y aparentemente se llegó a esperar la asistencia de la CEO de Temasek Holdings y primera dama de Singapur. Esto hace suponer que diversos documentos tuvieron que haber sido preparados, <i>e.g.</i>, presentaciones, “<i>talking points</i>”, “<i>pitchs</i>” o cualquier Documento Interno preparado para los participantes de la cena realizada en 2011.</p> <p>A pesar de ello, la Demandada toma en consideración la aserción de las Demandantes de que no existen otros documentos relacionados con esta Solicitud, la cena del 26 de mayo de 2011 y documentos sobre las personas que asistieron a ella.</p>
Decisión del Tribunal:	The Tribunal acknowledges the Claimants' produced evidence and the Respondent's comments.

Solicitud No.	38.
Documento / Categoría de Documentos:	<p>Documentos Internos y Comunicaciones de Integradora Oro Negro sobre: <i>i</i>) las promesas de Pemex de contratar las plataformas Vastus, Animus y Supremus, y <i>ii</i>) la intención de Oro Negro de poner en operación estas nuevas plataformas en México.</p> <p>Esta solicitud de documentos comprende el periodo entre el 1º de marzo de 2013 al 5 de octubre de 2017.</p>
Justificación:	<p>Ver la justificación general de esta sección.</p> <p>Las Demandantes solamente han ofrecido dos documentos que consisten en cadenas de correos electrónicos bajo los cuales buscan demostrar que Pemex prometió contratar las nuevas plataformas de Oro Negro. Los documentos no son conclusivos. Inclusive, en uno de los correos electrónicos un funcionario de Pemex señala que la solicitud de información sobre las plataformas Vastus, Animus y Supremus únicamente tiene como finalidad “actualizar una presentación de plataformas”.⁷³</p>

⁷³ Ver C-0126 y C-0127.

	<p>Los documentos solicitados son relevantes y sustanciales para el caso porque permitirán conocer si Oro Negro recibió algún tipo de solicitud de cotización por parte de Pemex sobre las nuevas plataformas; si se llegó a negociar algún tipo de contrato para el arrendamiento de estos equipos y si Oro Negro llegó a participar en algún procedimiento de contratación para poner a disposición de Pemex las nuevas plataformas.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que cualquier empresa en las mismas circunstancias que Oro Negro prepararía y mantendría en el curso ordinario de sus operaciones.</p>
Objeción:	Claimants produce documents responsive to this request herewith.
Réplica:	La Demandada agradece la exhibición de los documentos relacionados con la Solicitud No. 38.
Decisión del Tribunal:	The Tribunal acknowledges the Claimants' produced evidence.

VI. Procedimientos ante autoridades y cortes nacionales

Justificación general

Los Concursos Mercantiles 345/2017 y 395/2017 son procedimientos judiciales complejos, en los que participan una pluralidad de personas y empresas, y de los cuales a su vez han surgido diversos procesos legales (*e.g.*, impugnaciones, apelaciones, juicios de amparo, entre otros). Las Demandantes afirman que México provocó que Integradora y Perforadora Oro Negro solicitaran ser declaradas en concurso mercantil con la finalidad de proteger los accionistas de Oro Negro, sus acreedores y trabajadores.⁷⁴ A consideración de la Demandada, Oro Negro solicitó ser declarada en concurso mercantil con la finalidad, *inter alia*, de obtener medidas cautelares por parte del Juez Concursal.

Adicional a los Concursos Mercantiles seguidos ante las cortes mexicanas, la Demandada ha podido identificar algunos procesos judiciales ante diferentes jurisdicciones relacionadas con las reclamaciones de las Demandantes. Algunos de estos

⁷⁴ Escrito de Demanda, ¶¶ 8, 79 y 113.

procedimientos han sido iniciados por algunos Demandantes, lo cual invalida las renuncias (*waivers*) de tales Demandantes conforme a los artículos 1121 y 1122 del TLCAN.⁷⁵

Estos procesos judiciales se encuentran íntimamente relacionados con este arbitraje y en algunos de ellos se reclaman las mismas medidas que en este arbitraje inversionista-Estado.

De igual forma, los testigos de las Demandantes alegan que Pemex constantemente pagó con retrasos las contraprestaciones en favor de Oro Negro. Esta afirmación es incorrecta debido a que los derechos de cobro bajo los Contratos Perforadora-PEP fueron cedidos al Fideicomiso F/1695.⁷⁶ Independientemente de ello, la Demandada desconoce si Perforadora Oro Negro inició algún procedimiento judicial en contra de Pemex derivado del incumplimiento a sus obligaciones de pago.

Los documentos solicitados en esta sección son relevantes para el caso y sustanciales para su resultado debido a que: *i*) permitirán conocer las causas por las cuales fueron iniciados los Concursos Mercantiles de Integradora y Perforadora Oro Negro y *ii*) las reclamaciones de las Demandantes y Oro Negro iniciadas ante cortes nacionales de distintas jurisdicciones.

Solicitud No.	39.
Documento / Categoría de Documentos:	Documentos Internos y Comunicaciones de Integradora Oro Negro que contengan un análisis, opinión o discusión sobre la decisión de iniciar el Concurso Mercantil 345/2017 para declarar en concurso mercantil a Perforadora Oro Negro y el Concurso Mercantil 395/2017 para declarar en concurso mercantil a Integradora Oro Negro, Oro Negro Drilling y a las Subsidiarias Singapur. Esta solicitud está limitada al periodo comprendido entre el 1º de enero de 2017 al 5 de octubre 2017.
Justificación:	<i>Ver</i> justificación general de esta sección. La Demandada ha podido identificar la resolución adoptada fuera de sesión de Integradora Oro Negro del 4 de septiembre de 2017 en la que algunos Miembros del Consejo de Administración de Oro Negro (<i>i.e.</i> , no los accionistas de Oro Negro) autorizaron la declaración de concurso mercantil de Integradora y/o cualquiera de sus sociedades subsidiarias, incluyendo la contratación de asesores externos y otros consultores.

⁷⁵ Escrito de Demanda, ¶¶ 364-366. Escrito de Contestación, ¶¶ 396, 403, 545-561.

⁷⁶ *Ver* Segunda declaración testimonial del Sr. Gonzalo Gil White, ¶ 67.

	<p>Una decisión de esta naturaleza tuvo que haber estado presidida por un considerable número de análisis y documentación sobre las consecuencias financieras, legales y comerciales de declarar en concurso mercantil a las empresas del grupo Oro Negro.</p> <p>Los documentos solicitados son relevantes y sustanciales para el resultado del caso porque permitirán conocer las razones por las cuales Oro Negro decidió que Integradora Oro Negro y sus subsidiarias fueran declaradas en concurso mercantil. Además, los documentos son relevantes porque demostrarán que los problemas financieros y legales de Oro Negro no son atribuibles a la Demandada.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que cualquier empresa en las mismas circunstancias que Oro Negro prepararía y mantendría en el curso ordinario de sus operaciones.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Additionally, Claimants object to this request on the basis that it does not sufficiently specify the documents sought (IBA Rules, Art. 3.3(a)(i) and (ii)) and it also seeks documents that are privileged under Procedural Order No. 3 and would constitute privileged or commercially confidential information (IBA Rules, Arts. 9.2(b) and (e)) and that the requested documents are not sufficiently relevant to the case or material to its outcome (IBA Rules, Art. 9.2(a)).</p> <p><i>First</i>, Claimants object to this request because the information requested—in the event that any documents responsive to this request were to exist—would be privileged under Procedural Order No. 3 and would constitute commercially confidential information (IBA Rules, Arts. 9.2(b) and (e)). Disclosure of information related to Integradora Oro Negro and Perforadora Oro Negro’s decision to file for <i>concurso mercantil</i> constitutes confidential business communications that “could cause significant business injury” to the parties involved (Procedural Order No. 3, ¶ 4 (i)).</p> <p>In addition, it is indisputable that if any of the documents and/or communications related to Integradora Oro Negro and Perforadora Oro Negro’s decision to file for <i>concurso mercantil</i> were to exist, the parties to such documents and/or communications had an expectation that any documents prepared and/or communications exchanged in relation to these issues would be kept confidential. As such, any</p>

	<p>documents responsive to this request, if they were to exist, are “protected from disclosure” pursuant to paragraph 4(iv) of Procedural Order No. 3.</p> <p><i>Second</i>, Mexico’s stated justification for seeking the requested documents is purportedly that “they will demonstrate that the legal and financial problems of Oro Negro are not attributable to Respondent.” However, Respondent fails to establish in any specific manner how the documents requested will show this. Respondent’s attempt to provide an overbroad and speculative justification to an already overbroad and unspecific document request should not be allowed to justify what is evidently nothing but a fishing expedition aimed at trying obtain from Claimants any information that may assist Mexico in trying to refute what is clearly contradicted by the evidence in the record: Mexico destroyed Claimants’ investment in Oro Negro, and Oro Negro was not responsible in any way for Mexico’s expropriation of the shareholders’ investment in Oro Negro.</p> <p><i>Third</i>, the Claimants object to this request on the basis that it is an overly broad and is unduly burdensome on Claimants (IBA Rules, Art. 9.2(c)) and it seeks documents that are not sufficiently specific and are not sufficiently relevant to the case or material to its outcome (IBA Rules, Art. 9.2(a)).</p>
Réplica:	<p>Ver Réplicas Generales No. 1 y 4. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 39 sea una “expedición de pesca”, sea especulativa y poco específica. Las propias objeciones de las Demandantes confirman la existencia de los Documentos Internos y Comunicaciones requeridas en esta Solicitud.</p> <p>A pesar de ello, la Demandada no tiene inconveniente en que las Demandantes presenten un registro de privilegio (“privilege log”) en el que se precisen los Documentos Internos y Comunicaciones considerados como “privilegiados”. Los Documentos internos y Comunicaciones que no caigan en el supuesto anteriormente referido deberán de ser exhibidos por las Demandantes.</p> <p>Con base en lo anterior, la Demandada solicita al Tribunal que ordene a las Demandantes realizar una búsqueda exhaustiva y exhiba los documentos solicitados y el <i>priviledge log</i> conducente.</p>
Decisión del Tribunal:	The Tribunal recognizes that the Respondent’s request is fairly broad. The Claimants have not specifically substantiated how the requested elements would be privileged communications. The Tribunal orders the production of the requested evidence together with a detailed <i>privilege log</i> where relevant.

Documento / Categoría de Documentos:	Copia de: <i>i)</i> la querella que dio inicio a la carpeta de investigación FED/SEIDF/UEIDFF-CDMX/0000864/2018 presentada el 18 de junio de 2018 por las Subsidiarias Singapur ante la FGR, y cualquier ampliación de querella presentada por las Subsidiarias Singapur bajo esa carpeta de investigación, y <i>ii)</i> la querella que dio inicio a la carpeta de investigación FED/JAL/GDL/0005523/2018 presentada el 18 de octubre de 2018 por la PGR en contra del Sr. Alonso del Val, y cualquier ampliación de querella presentada bajo esa carpeta de investigación.
Justificación:	<p>Las Demandantes hacen mención a la querella presentada el 18 de junio de 2018 por las Subsidiarias Singapur ante la FGR y confirman tener en su posesión una copia del documento.⁷⁷</p> <p>Las Demandantes también hacen mención a la querella presentada el 18 de octubre de 2018 por la PGR aparentemente en contra del Sr. del Val.⁷⁸ La única prueba relacionada con esta carpeta de investigación es el anexo C-0041 el cual consiste en un oficio y no en la querella presentada por la PGR en contra del Sr. del Val.</p> <p>El equipo de defensa de la Demandada no ha tenido acceso los expedientes de estas carpetas de investigaciones, ni tampoco cuentan con una copia de las querellas. Los documentos solicitados son relevantes y sustanciales para el resultado del caso porque permitirán entender los hechos denunciados en tales querellas y posibles conductas delictivas denunciadas en contra de personas relacionadas con Oro Negro.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandante ha confirmado tener posesión de los documentos solicitados razón por la cual no debe existir impedimento alguno para que los exhiban.</p>
Objeción:	Claimants object to this request on the basis that these documents are in Respondent's custody or control. Specifically, the requested documents are under the custody or control of the <i>Fiscalía General de la República</i> and the <i>Procuraduría General de la Rúbrica</i> , both of which are an organ or instrumentality controlled by Respondent (IBA Rules, Art. 3.3(c)(i)). Thus, the production of the requested documents is unreasonably burdensome for Claimants (IBA Rules, Art. 9.2(c) and (g)) because it would require Claimants to produce documents that are already within Mexico's custody or control. Moreover,

⁷⁷ Escrito de Demanda, pie de página 370.

⁷⁸ Escrito de Demanda, pie de página 370.

	<p>Claimants already produced the querella that initiated file FED/JAL/GDL/0005523/2018 as Exhibit C-0041 to Claimants' Application for Interim Measures filed on July 21, 2019.</p> <p>Notwithstanding and without waiving the above objection, Claimants produce the requested documents herewith.</p>
Réplica:	La Demandada agradece la exhibición de los documentos relacionados con la Solicitud No. 40. Como simple observación, la Demandada solicita se tenga por reproducida la Réplica General No. 2 con la finalidad de precisar que la Demandada no tiene acceso a expedientes de carpetas de investigación relacionadas con Oro Negro.
Decisión del Tribunal:	The Tribunal acknowledges the Claimants' produced evidence.

Solicitud No.	41.
Documento / Categoría de Documentos:	<p>Documentos Internos y Comunicaciones de Integradora Oro Negro que contengan información, análisis, opinión o discusión sobre alguno de los siguientes temas:</p> <ul style="list-style-type: none"> a. Procesos judiciales entre las Demandantes, accionistas, ejecutivos y/u Oro Negro y sus subsidiarias en contra de Nordic Trustee y/o los Tenedores de Bonos por los eventos de incumplimiento incurridos por Oro Negro bajo el Contrato de Bonos 2016. b. Procesos judiciales entre las Demandantes, accionistas, ejecutivos y/u Oro Negro y sus subsidiarias en contra de Nordic Trustee y/o los Tenedores de Bonos en los que se reclame el control de Nordic Trustee sobre las Subsidiarias Singapur. c. Procesos judiciales entre Nordic Trustee y/o los Tenedores de Bonos en contra de las Demandantes, accionistas, ejecutivos y/u Oro Negro y sus subsidiarias, en los que se reclamen incumplimientos de pago en favor de Nordic Trustee o los Tenedores de Bonos conforme al Contrato de Bonos 2016 y/o el Fideicomiso F/1695. <p>Esta solicitud está limitada al periodo comprendido entre el 25 de septiembre de 2017 (fecha en la que Nordic Trustee ejecutó diversas garantías por eventos de incumplimiento) al 20 de julio de 2020.</p>
Justificación:	<i>Ver justificación general de esta sección.</i>

	<p>Los documentos solicitados son relevantes y sustanciales para el resultado del caso porque permitirán conocer las causas por las cuales fueron iniciados los Concursos Mercantiles y los procedimientos que derivaron a consecuencia de ello, así como los distintos procesos judiciales iniciados ante distintas jurisdicciones. Además, permitirán demostrar que los problemas legales enfrentados por las Demandantes y Oro Negro no son atribuibles a la Demandada.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes debido a que algunos Demandantes, testigos y representantes de las Demandantes han actuado en tales procedimientos, además de que Oro Negro y las Demandantes han participado de forma activa en distintos procesos judiciales a partir de que Nordic Trustee notificó a Oro Negro los eventos de incumplimiento bajo el Contrato de Bonos 2016.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants object to this request on the basis that it seeks documents that are not sufficiently relevant to the case or material to its outcome (IBA Rules, Art. 9.2(a)).</p> <p>Mexico's stated justification for seeking the requested documents is purportedly that "they will demonstrate that the legal problems of Oro Negro are not attributable to Respondent." However, Respondent fails to establish in any specific manner how the documents requested will show this. Respondent's attempt to provide an overbroad and speculative justification to an already overbroad and unspecific document request should not be allowed to justify what is evidently nothing but a fishing expedition aimed at trying obtain from Claimants any information that may assist Mexico in trying to refute what is clearly contradicted by the evidence in the record: Mexico destroyed Claimants' investment in Oro Negro, and Oro Negro was not responsible in any way for Mexico's expropriation of the shareholders' investment in Oro Negro.</p>
Réplica:	<p>Ver Réplica General No. 3. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 41 no sea relevante y sustancial para el caso y sea una "expedición de pesca".</p>

	<p>La Demandada ha podido identificar diversos juicios seguidos ante distintas jurisdicciones en los que Oro Negro y/o las Demandantes son partes contendientes. Resulta razonable suponer que existen procesos judiciales adicionales a los que la Demandada ha podido identificar.</p> <p>Los documentos solicitados son relevantes y sustanciales para el caso debido a que, <i>inter alia</i>, permitirán entender si las renuncias (“waivers”) bajo los Artículos 1121 y 1122 del TLCAN de las Demandantes se han realizado de forma correcta o si el cúmulo de juicios en los que participan las Demandantes afectan este requisito indispensable establecido en el Capítulo XI del TLCAN.</p> <p>De igual forma, los documentos solicitados permitirán entender que, en paralelo a este arbitraje, existen procesos judiciales relacionados con las Demandantes, Oro Negro, los Tenedores de Bonos y Nordic Trustee en los que el Estado mexicano no es parte.</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal recognizes that the Respondent's request is fairly broad. In light of the Respondent's justification, the Tribunal orders the production of the requested evidence.

Solicitud No.	42.
Documento / Categoría de Documentos:	<p>Documentos Internos y Comunicaciones de Integradora Oro Negro que contengan un análisis, opinión o discusión sobre alguno de los siguientes temas:</p> <ul style="list-style-type: none"> a. Los financiamientos recibidos por las Demandantes para iniciar este arbitraje inversionista-Estado; b. La compra de derechos litigiosos de Oro Negro y/o las Demandantes. c. Ofertas y contra-ofertas para la adquisición de activos de Oro Negro. <p>Esta solicitud está limitada al periodo entre el 5 de octubre de 2017 (admisión de los Concursos Mercantiles) al 20 de julio de 2020.</p>
Justificación:	Algunos documentos dentro del Concurso Mercantil 345/2017 y en el procedimiento “Chapter 15” seguido ante la Cortes de Quiebras de Nueva York (<i>U.S. Bankruptcy Court Southern District of New York 18-11094</i>), así como algunos medios de comunicación han hecho referencia a un contrato de

	<p>compraventa de derechos litigiosos (“<i>Litigation Interest Agreement</i>”), aparentemente celebrado por el Sr. Gonzalo Gil White, Perforadora Oro Negro, Integradora, Quinn Emanuel y CM Squared ON LLC.⁷⁹</p> <p>Los documentos solicitados son relevantes y sustanciales para el resultado del caso debido a que permitirán conocer la fuente del financiamiento recibido por las Demandantes y Oro Negro para participar en diversos procedimientos legales, y determinar si existe algún conflicto de interés que afecte las reclamaciones de las Demandantes en este arbitraje. De igual forma, la documentación solicitada permitirá entender si alguna persona o empresa ha adquirido al día de hoy los derechos litigiosos de las Demandantes o de Oro Negro, lo que podría afectar la legitimidad procesal (“<i>standing</i>”) de las Demandantes.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que las Demandantes tienen bajo su poder, custodia o control los documentos solicitados ya que los propios testigos de las Demandantes y cierta documentación contenida en procedimientos legales seguidos ante las cortes de México y Estados Unidos han hecho mención a los documentos solicitados.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants object to this request on the following grounds.</p> <p><i>First</i>, the information requested—in the event that any documents responsive to this request were to exist—would be privileged under Procedural Order No. 3 and would constitute commercially confidential information (IBA Rules, Arts. 9.2(b) and (e)). Disclosure of information, whether it be internal documents or correspondence from Integradora Oro Negro, related to any purported (i) financing received by the Claimants to initiate the arbitration, (ii) acquisition of Oro Negro and/or Claimants’ litigation rights, and (iii) offers and counter-offers for the acquisition of Oro Negro assets “could cause significant business injury” to the parties involved (Procedural Order No. 3, ¶ 4 (i)).</p>

⁷⁹ Ver R-0004, pp. 28-29.

	<p>In addition, it is indisputable that if any of the documents and/or communications on the issues sought in this request were to exist, the parties to such documents and/or communications had an expectation that any documents prepared and/or communications exchanged in relation to the issues described in this request would be kept confidential. As such, any documents responsive to this request, if they were to exist, are “protected from disclosure” pursuant to paragraph 4(iv) of Procedural Order No. 3.</p> <p><i>Second</i>, the documents are not sufficiently relevant to the case or material to its outcome (IBA Rules, Art. 9.2(a)). Respondent states that the requested documents will (1) show what “the source of financing received by the Claimants and Oro Negro to participate in various legal proceedings is”; (2) “determine if there is any conflict of interest that affects the Claimants’ claims in this arbitration”; and (3) “make it possible to understand whether, to date, any person or company has acquired the litigation rights of the Claimants or Oro Negro, which could affect Claimants’ standing.” However, Respondent has failed to articulate why Integradora’s internal documents and/or correspondence related to the purported (i) financing received by the Claimants to initiate the arbitration, (ii) acquisition of Oro Negro and/or Claimants’ litigation rights, and (iii) offers and counter-offers for the acquisition of Oro Negro is relevant and material to the outcome of the case. Respondent’s only stated justification in this regard is the speculative assertion that the requested documents will help determine whether there is “any conflict of interest that affects the Claimants’ claims in this arbitration” and help “understand whether, to date, any person or company has acquired the litigation rights of the Claimants or Oro Negro, which <i>could</i> affect Claimants’ standing.” But Respondent has failed to—and cannot—explain why the financial situation of Claimants has any bearing on whether Respondent will ultimately prevail in the present proceeding. It should also be noted that Respondent’s justification of this request regarding a potential conflict of interest and standing issue is based on nothing more than rank speculation.</p>
Réplica:	<p>Ver Réplicas Generales No. 1 y 3. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 42 no sea relevante y sustancial para el caso y sea una “expedición de pesca”.</p> <p>Resulta relevante señalar que las Demandantes no han negado la existencia de los documentos solicitados. Todo lo contrario, con base en las objeciones se entiende que los documentos existen y están bajo el poder, custodia o control de las Demandantes.</p> <p>Por otro lado, las Demandantes no explican con detenimiento el supuesto impedimento legal para exhibir los documentos o las razones por las cuales deben ser considerados como confidenciales por</p>

	<p>razones comerciales. La realidad es que los documentos son relevantes y sustanciales para el caso debido a que posiblemente los derechos litigiosos de Oro Negro y/o las Demandantes han sido vendidos y/o cedidos a terceros, y adicionalmente las Demandantes han obtenido un financiamiento para iniciar este arbitraje inversionista-Estado. Al ponderar esta situación y la supuesta confidencialidad de los documentos, la Demandada considera que prevalece la necesidad de que los documentos sean exhibidos. Principalmente se debe tomar en consideración que Oro Negro, un testigo (y anterior Director General de Oro Negro), la firma de abogados que representa a las Demandantes y una tercera parte (que al parecer es un fondo de inversión) aparentemente han celebrado un “<i>Litigation Interest Agreement</i>”.</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the production of evidence related to the financial situation of Claimants cannot be ordered without additional elements from both Parties at this stage. Such disclosure may significantly impact the rights of the Parties. The Tribunal accordingly rejects the request for document production and invites the Respondent, if it so wishes, to formulate a separate request for the Tribunal to order the disclosure of the financial information in question.

VII. Las alegaciones sobre actos de corrupción y los servicios de Black Cube

Las Demandantes han hecho una serie afirmaciones en torno a supuestos requerimientos de sobornos que al día de hoy no han sido demostrados. Estas acusaciones han sido presentadas de distintas maneras.

Sea cual sea la forma en la que las Demandantes busquen exponer sus reclamaciones sobre supuestos actos de corrupción en este arbitraje, las Demandantes únicamente han ofrecido como evidencia las grabaciones de Black Cube y las declaraciones testimoniales de los Sres. Gonzalo Gil White y José Antonio Cañedo White. La Demandada ha refutado la licitud y valor probatorio de estas pruebas.⁸⁰

La documentación solicitada en esta sección es relevante y sustancial para el resultado del caso porque demostrará que desde el 9 de agosto de 2017 Oro Negro aceptó las modificaciones a los Contratos Perforadora-PEP negociadas a lo largo de 2017. Sin embargo, Oro Negro no tuvo la intención de firmar los respectivos convenios modificatorios. En realidad, las Demandantes y Oro

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Ver Escrito de Demanda, ¶¶ 420-460.

Negro preparaban una estrategia en contra de la Demandada y Pemex mientras ésta aguardaba a que Oro Negro firmara los convenios modificatorios de 2017.

De igual forma, los documentos solicitados son relevantes y sustanciales para el resultado del caso porque demostrarán la ilicitud de los servicios prestados por Black Cube.

Solicitud No.	43.
Documento / Categoría de Documentos	<p>Documentos Internos y Comunicaciones de Integradora Oro Negro, incluidas aquellas Comunicaciones intercambiadas con Black Cube, que contengan un análisis, opinión o discusión sobre:</p> <ul style="list-style-type: none">a. La contratación de los servicios de Black Cube.b. Las personas que Black Cube entrevistó.c. Los grupos de “<i>targets</i>” u objetivos que Black Cube investigaría, incluidos funcionarios de Pemex, Tenedores de Bonos y competidores de Oro Negro.d. Los <i>key players</i> o jugadores esenciales que Black Cube investigaría, incluidos familiares, amigos, colaboradores, extrabajadores y socios de los <i>targets</i> así como agentes de investigación o “<i>law enforcement officers</i>”.e. El reporte final preparado por Black Cube señalado en el <i>engagement letter</i> del 30 de agosto de 2017.⁸¹ <p>Esta solicitud está limitada al periodo comprendido entre el 17 de marzo de 2017 (fecha en la que iniciaron las negociaciones entre el Grupo de Trabajo de Pemex y Perforadora Oro Negro) y el 19 de junio de 2018 (fecha de presentación de la Notificación de Arbitraje).</p>
Justificación:	<i>Ver</i> justificación general de esta sección.

⁸¹ La carta compromiso de Black Cube señala “18. The final report for the Project will be provided within 60-90 days from signature of contract [...].” R-0145, p. 7.

	<p>La carta compromiso de Black Cube está fechada al 30 de agosto de 2017. Aparentemente las investigaciones de Black Cube finalizaron en diciembre de 2017.⁸² Sin embargo, la Demandada desconoce a partir de cuándo las Demandantes y Oro Negro decidieron contratar los servicios de Black Cube.</p> <p>Los documentos solicitados son relevantes y sustanciales para el resultado del caso porque las Demandantes han realizado alegaciones basadas en un testimonio e información de Black Cube pero a la fecha no ha sido aportada ninguna información al respecto, ni tampoco han explicado las razones por las cuales decidieron retener esa información y utilizarla exclusivamente en este arbitraje.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos solicitados existen y están en posesión, custodia o control de las Demandantes debido a que tuvieron que haber formado parte de las operaciones realizadas por las Demandantes. De igual forma, los documentos solicitados tuvieron que haber formado parte de las acciones y preparativos de este arbitraje inversionista-Estado realizados por las Demandantes.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the general objections raised in connection with Request 12 above.</p> <p>Claimants further object to this request on the following grounds.</p> <p><i>First</i>, to clarify, Quinn Emanuel retained Black Cube, not Oro Negro. The hiring of Black Cube, the terms, scope, and purpose of the engagement, as well as the investigations that would be conducted under the same, were discussed and agreed to by and between Quinn Emanuel and Black Cube.</p> <p><i>Second</i>, more importantly, the information requested in items (a) through (d) of Mexico's request is privileged (both work product privilege for communications between Black Cube and Quinn Emanuel and attorney-client privilege for communications between Quinn Emanuel and Claimants regarding Black Cube) under Procedural Order No. 3 and constitutes both commercially confidential information and information that is protected by privilege (IBA Rules, Arts. 9.2(b) and (e)).</p>

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Ver declaración testimonial del Sr. Avi Yanus, ¶ 19.

	<p>The information requested in items (a) through (d) of Mexico’s request constitutes confidential business information, as defined in paragraph 4(i) of Procedural Order No. 3 because all of this information falls within the scope of Black Cube’s engagement as defined in the Letter of Engagement between Black Cube and Quinn Emanuel. The information solicited by Mexico includes privileged and commercially sensitive terms of the relationship between Black Cube and Quinn Emanuel, scope of Black Cube’s investigation, intelligence methods, potential targets, and/or key players. Disclosure of information and communications related to Black Cube’s engagement “could cause significant business injury” to Black Cube and Quinn Emanuel (Procedural Order No. 3, ¶ 4 (i)). Because the information related to Black Cube’s engagement is business confidential, information related to Black Cube’s engagement is “protected from disclosure” pursuant to paragraph 4(iv) of Procedural Order No. 3.</p> <p><i>Third</i>, the documents requested are neither sufficiently relevant to the case nor material to its outcome (IBA Rules, Art. 9.2(a)). Respondent justifies this request by stating that “[t]he documents requested are relevant and substantial to the outcome of the case because the Claimants have made allegations based on testimony and information from Black Cube but to date no information has been provided in this regard, nor have they explained the reasons why they decided retain that information and use it exclusively in this arbitration.” However, any Integradora Oro Negro documents or communications, including those with Black Cube, would not provide any insight regarding Claimants’ allegations or why Claimants decided to retain the Black Cube evidence and use it in the present proceedings; the latter which, in addition, is completely irrelevant and immaterial to the outcome of the case. Moreover, the allegations made by Claimants are all based on the evidence provided by Black Cube, which is contained in Dr. Avi Yanus’ witness statement, Appendix A to Dr. Avi Yanus’ witness statement, and Exhibit C-0216 (Black Cube Recordings), all of which were filed with Claimants’ Statement of Claim on October 7, 2019.</p> <p><i>Fourth</i>, with respect to item (e) of this request, Claimants hereby confirm that the “final report prepared by Black Cube referenced in the engagement letter of August 30, 2017” is Dr. Avi Yanus’ witness statement dated October 7, 2019, which was filed by Claimants as a witness statement to Claimants’ Statement of Claim of October 7, 2019.</p>
Réplica:	Ver Réplicas Generales No. 1 y 3. La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la documentación requerida mediante la Solicitud No. 43 sea privilegiada y no sea relevante y sustancial para el caso.

	<p><i>Primero</i>, la Demandada no está de acuerdo en que Black Cube fue contratada únicamente por Quinn Emanuel. Prueba de ello es que el “<i>engagement letter</i>” de Black Cube fue firmado por el Sr. Del Val, anterior “<i>Chief Legal Officer</i>” de Oro Negro (ver R-0145, p. 8). Independientemente de ello, la Demandada toma en consideración la confirmación de las Demandantes de que Black Cube fue contratada y eventualmente se le pagó por actuar como testigo de hechos.</p> <p><i>Segundo</i>, los documentos solicitados son relevantes y sustanciales para entender con precisión qué servicios fueron prestados por Black Cube y cuándo fueron prestados. Lo anterior es de suma relevancia si considera que Pemex aguardaba a que Oro Negro firmara los Convenios Modificatorios de 2017 y mientras tanto Black Cube realizaba servicios de espionaje a petición de Oro Negro, las Demandantes y/o Quinn Emanuel. De igual forma, los documentos requeridos son relevantes y sustanciales para el caso si se toma en consideración las serias acusaciones de las Demandantes respecto a supuestos actos de corrupción cometidos por funcionarios públicos Pemex en contra de Oro Negro. Al respecto, es importante hacer especial énfasis en que el Sr. Avi Yanus ha sido presentado como un testigo de hechos y no como un experto.</p> <p><i>Tercero</i>, lo que al parecer consiste en el contrato a través del cual se contrataron los servicios de Black Cube ya forma parte de este procedimiento (R-0145). Por lo tanto, los métodos de Black Cube y los “<i>targets</i>” iniciales ya han sido revelados. Por ello, la Demandada no tendría objeción si las Demandantes desean redactar/testar aquellos Documentos Internos y Comunicaciones en los que aparezcan los montos específicos del “<i>scheduled fees</i>” acordado con Black Cube.</p> <p>Por lo anterior, la Demandada solicita al Tribunal que ordene a la Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Respondent's request is fairly broad and insufficiently justified. The Tribunal rejects the production of the requested evidence.

Solicitud No.	44.
Documento / Categoría de Documentos:	Toda la documentación utilizada por el Dr. Avi Yanus para preparar su declaración testimonial que le haya sido proporcionada por las Demandantes.
Justificación:	De conformidad con la § 19 de la RP 1 y el artículo 4(5)(b) de las Reglas IBA, las declaraciones testimoniales deberán estar acompañadas de los documentos que los testigos utilizaron para preparar su

	<p>declaración. El Dr. Avi Yanus omitió describir los documentos utilizados para la elaboración de declaración testimonial y acompañarlos junto con su declaración.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada. Conforme al artículo 27 (3) del Reglamento de Arbitraje CNUDMI de 1976, <i>mutatis mutandis</i>, la Demandada tiene el derecho a examinar cualquier documento que los testigos de las Demandantes hayan utilizado para preparar sus declaraciones testimoniales.</p> <p>Resulta razonable suponer que la documentación existe y debió haber sido proporcionada al Dr. Yanus para la elaboración de su declaración testimonial.</p>
Objeción:	<p>Claimants refer to and incorporate by reference as if fully set forth herein the objection made in connection with Request 17 above.</p> <p>Moreover, Claimants object to this request on the basis that while per Procedural Order No. 1, the IBA Rules, and the UNCITRAL Rules, Respondent's right is limited to examining any document on which the witness <i>has relied</i> in his witness statement, Respondent nevertheless requests "<i>all documentation utilized by Dr. Avi Yanus for the preparation of his witness statement provided by the Claimants.</i>" However, Respondent can only request and have access to the documents on which the witness, in this instance Dr. Avi Yanus, relied for the preparation of his witness statement.</p> <p>Claimants hereby confirm that Dr. Avi Yanus relied on information and evidence developed by Black Cube in the course of its investigation, in addition to facts gathered by Black Cube which are publicly available. Claimants have complied with the relevant provisions of Procedural Order No. 1, the IBA Rules, and the UNCITRAL Rules because all of the information and evidence on which Dr. Avi Yanus relied in the preparation of his witness statements is provided as Appendix A to Dr. Avi Yanus' witness statement and as Exhibit C-0216 (Black Cube Recordings) to Claimants' Statement of Claim.</p>
Réplica:	<p>La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 44 no sea relevante y sustancial para el caso.</p> <p>Al igual que en las Solicitudes 17 y 18, las posiciones de las partes son distintas en lo que respecta a la interpretación de las Reglas IBA, el Reglamento de Arbitraje de la CNUDMI y la Resolución Procesal No. 1. Independientemente de ello, la Demandada solicita al Tribunal que tome en consideración que la declaración testimonial del Sr. Avi Yanus simplemente no está acompañada de los documentos que el</p>

	<p>Sr. Yanus utilizó para la preparación de su declaración testimonial, y tampoco se tiene conocimiento si la información recolectada por Black Cube contradice el testimonio del Sr. Yanus.</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos solicitados.</p>
Decisión del Tribunal:	The Tribunal finds that the Claimants have complied with the relevant provisions of Procedural Order No. 1, the IBA Rules, and the UNCITRAL and rejects the Respondent's request.

Solicitud No.	45.
Documento / Categoría de Documentos:	<p>Copia de todos los códigos de conducta y ética, lineamientos, programas, políticas o cualquier documento similar en materia anticorrupción o de cumplimiento (“<i>compliance</i>”) que Oro Negro haya implementado al interior de la empresa.</p> <p>Esta solicitud está limitada al periodo comprendido entre el 19 de diciembre de 2009 al 19 de junio de 2018.</p>
Justificación:	<p>El Sr. José Antonio Cañedo White señala: “le expliqué que el Consejo de Administración de Integradora había determinado, desde su constitución, cumplir con la Ley de Prácticas Corruptas en el Extranjero (Foreign Corrupt Practices Act, o FCPA), la ley anticorrupción de los Estados Unidos. En respuesta a mi afirmación, me dijo que no me preocupara por la FCPA”.⁸³</p> <p>Los documentos son relevantes y sustanciales para el resultado del caso porque permitirán entender la forma de actuar de las Demandantes y de Oro Negro desde que tuvieron conocimiento de los supuestos actos de corrupción cometidos por funcionarios públicos. De igual forma, los documentos solicitados permitirán entender si Oro Negro contó alguna vez con políticas de cumplimiento o <i>compliance</i> y si las Demandantes y Oro Negro acataron lo establecido en estas políticas.</p> <p>Los documentos solicitados no están en posesión, custodia o control de la Demandada.</p> <p>La Demandada considera razonable suponer que los documentos existen y están en posesión, custodia o control de las Demandantes porque se trata de documentos que tuvieron que haber sido elaborados como parte de las operaciones de Oro Negro.</p>

⁸³ Segunda declaración testimonial del Sr. José Antonio Cañedo White, ¶ 20. Ver Escrito de Demanda, ¶ 187.

Objeción:	<p>Claimants object to this document request because the documents it seeks are neither sufficiently relevant to the case nor material to its outcome (IBA Rules, Art. 9.2(a)).</p> <p>Respondent has failed to—and cannot—explain why the requested documents, which according to Respondent would “make it possible to understand the way in which the Claimants and Oro Negro acted since they became aware of the alleged acts of corruption committed by public officials . . . and whether Oro Negro ever had compliance policies and whether the Claimants and Oro Negro complied with the provisions of these policies” are relevant or material to the outcome of the case. The existence or non-existence of these company policies does not have a bearing on the acts of corruption on the part of the Mexican government, of which Oro Negro was a victim, and which ultimately resulted in the destruction of Claimants’ investment in Mexico.</p>
Réplica:	<p>La Demandada no está de acuerdo con las objeciones planteadas por las Demandantes y rechaza que la Solicitud No. 45 no sea relevante y sustancial para el caso.</p> <p>La Demandada toma en consideración que las Demandantes no han señalado que los documentos requeridos no existan. Además, contrario a lo que las Demandantes puedan alegar, los documentos solicitados son relevantes y sustanciales para el caso si se toma en consideración que gran parte de las reclamaciones de las Demandantes están basadas en supuestos actos de corrupción sufridos por Oro Negro.</p> <p>De igual forma, se debe considerar que Oro Negro realizó operaciones bursátiles en México y en el extranjero. Esta situación hace suponer que la empresa puso en práctica mecanismos de “compliance” para mitigar actos de corrupción al interior de la empresa o mecanismos de denuncia en caso de recibir un requerimiento de soborno.</p> <p>Debido a ello, la Demandada solicita al Tribunal que ordene a las Demandantes exhibir los documentos requeridos.</p>
Decisión del Tribunal:	The Tribunal finds the Respondent’s request overly broad. The Respondent has failed to establish the relevance of the requested evidence to the outcome of the case. The Respondent’s request is rejected.

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