
INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT DISPUTES

GRAN COLOMBIA GOLD CORP.

Claimant

v.

REPUBLIC OF COLOMBIA

Respondent

ICSID Case No. ARB/18/23

ANNEX B:

**TRIBUNAL'S RULING ON
RESPONDENT'S REQUEST FOR PRODUCTION OF DOCUMENTS**

Gran Colombia Gold Corp. (Claimant) v. Republic of Colombia (Respondent)

(ICSID Case No. ARB/18/23)

RESPONDENT'S REQUEST FOR PRODUCTION OF DOCUMENTS

1. The Republic of Colombia (“**Colombia**” or the “**Respondent**”) requests that Gran Colombia Gold Corp. (“**GCG**” or the “**Claimant**”) produce the documents or categories of documents identified below.
2. For the purpose of this Request for Production of Documents:
 - (a) “and” and “or” shall be construed conjunctively and disjunctively as necessary to make the requests inclusive rather than exclusive.
 - (b) “any” and “all” mean “all”.
 - (c) “ASMs” means “artisanal and small-scale miners”, and shall include, without limitation, any individual, association, company or other group of individuals that has carried out, is carrying out, or seeking to carry out mining exploitation activities without a mining title within the areas of the mining titles acquired by GCG.
 - (d) “Document” means a writing, communication, picture, drawing, map, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means of storing or recording information.
 - (e) “GCG” shall be understood as GCG, its subsidiaries, affiliates, branches, or any employee, consultant, agent, director, shareholder or authorised representative of GCG.
 - (f) “include” and “including” mean “including but not limited to.”
 - (g) any reference to one or more of the words “address,” “refer to,” “reflect,” “concern,” “constitute,” “discuss,” “evidence,” “demonstrate,” “comprise,” “contain,” or any like word shall be deemed to incorporate all such words and, accordingly, be construed inclusively.
 - (h) date ranges shall be understood as inclusive of the dates stated in the range.

(i) use of the singular includes the plural, and vice versa.

3. For each of the documents or categories of documents requested, GCG is asked to produce all responsive documents within its possession, custody or control. For the avoidance of doubt, such documents include any Document that is in the possession, custody or control of any other person and that GCG is entitled, legally, contractually or otherwise, to obtain upon request, in the original or in copy form.
4. GCG is requested to arrange its production of responsive Documents in an orderly manner. Where practicable, Documents produced are to be grouped according to the numbered Document requests set forth.
5. Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested below are in its possession, custody or control.
6. Colombia reserves the right to request the production of additional Documents at a later date, including, but not limited to, Documents whose existence and/or relevance becomes known to it on the basis of Documents that are produced by GCG.
7. Each document request seeks production of documents in their entirety, without abbreviation, expurgation or redaction, and together with any attachments, enclosures and annexes.
8. These document requests are continuing, such that GCG should produce any additional responsive documents that come to its attention or come into its possession, custody or control after the date of the initial production.
9. Unless otherwise indicated, the defined terms used in the present document have the same meaning as those used in prior submissions made by the Parties in the course of the present arbitration.

**CLAIMANT’S GENERAL OBJECTIONS TO
RESPONDENT’S REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. Claimant objects to Respondent’s use of the term “ASMs” throughout these Requests, to the extent it assumes or suggest that all individuals, associations, companies, or group of individuals “carrying out exploitation activities without a mining title within the areas of the mining titles acquired by GCG” are “artisanal and small-scale miners”. To the contrary, most of these individuals, associations, or companies are not “artisanal” or “small-scale” by any means. Indeed, GCG’s claims in this proceeding refer to many illegal miners who have mechanized and industrial operations. Thus, Claimant understands “ASMs” in this Request as referring broadly to all illegal miners present within the areas of the mining titles at issue.

2. Claimant objects to these Requests under Articles 9.2(b) and 9.2(e) of the 2010 International Bar Association Rules on the Taking of Evidence in International Arbitration (“IBA Rules”), to the extent the Requests calls for privileged or confidential documents. Article 9.2 of the IBA Rules is clear that “[t]he Arbitral Tribunal shall, at the request of a Party or on its own motion, exclude from evidence or production any Document” by reason of “(b) legal ... privilege” and the reasons set forth in Article 9.3.

**RESPONDENT’S RESPONSE TO CLAIMANT’S GENERAL OBJECTIONS TO
RESPONDENT’S REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. For the reasons set out in Colombia’s Counter-Memorial, “ASMs” is the appropriate term to describe the members of the communities living and working within the areas of the titles acquired by GCG for generations. GCG itself uses this term in its corporate literature, including in its most recently published Sustainability Report.¹ Here, GCG appears to object to the use of “ASMs” in Colombia’s document production requests as a matter of terminology, but does not dispute the substantive scope of the term as used in Colombia’s requests. Colombia therefore does not consider it necessary to address this matter further here.
2. GCG’s objection to Colombia’s requests “*to the extent the Requests calls [sic] for privileged or confidential documents*” does not provide a valid blanket basis for GCG to withhold the production of such documents.
3. *First*, GCG’s reliance on Article 9.2(b) and (e) of the IBA Rules does not shield GCG from the obligation to search for responsive documents. In order to allow Colombia and the Tribunal a fair opportunity to assess whether GCG’s claimed exemptions are justified, GCG should be ordered to provide an exemption log. Further, GCG must also disclose any parts of responsive documents to which the claimed exemptions do not apply.
4. *Second*, confidentiality is not, of itself, a valid ground for withholding documents under the IBA Rules. Further, under IBA Rule 9.2(e), a party seeking to invoke confidentiality as a basis for withholding a document or part of a document must establish “*grounds of commercial or technical confidentiality that the Arbitral Tribunal determines to be compelling*”. To the extent GCG wishes to rely on Article 9.2(e) in order to withhold any responsive documents, GCG must identify such

¹ See GCG Sustainability Report 2020, available at https://s27.q4cdn.com/512972177/files/doc_downloads/sustainability/overview/07/Gran-Colombia-Gold-2020-Sustainability-Report.pdf, p. 25, e.g. “19 new ASM contracts were formalized in 2020 for a total of 56 ASM contracts”.

documents in a log and set out the grounds and reasons for which GCG considers such grounds to be compelling. Further, to the extent documents are confidential, the Respondent is willing to protect their confidentiality by giving a reasonable undertaking to keep them confidential.

5. For these reasons, Colombia asks that the Tribunal order that, for any documents that are responsive to requests that are accepted by GCG or granted by the Tribunal, to the extent GCG alleges that (i) documents are privileged under applicable rules, per IBA Rule 9(b), or (ii) “compelling” grounds of commercial or technical confidentiality in accordance with IBA Rule 9(e) apply, GCG should provide an exemption log in sufficient detail (including details of the sender, recipient, time, date, format and general nature of the document and its contents) to enable Colombia to reach an informed view on the appropriateness of the withholding. Where such grounds apply to part of a document only, GCG should be required to disclose the remainder of the document, subject to redactions. Finally, to the extent any document is genuinely subject to compelling grounds of commercial or technical confidentiality, GCG should be ordered to produce them subject to the Respondent agreeing to a reasonable undertaking to protect their confidentiality.

Document Request No.	1
A. Documents or category of documents requested	<p>All agreements entered into between GCG and ASMs, including:</p> <p>(a) the “42 contracts” referenced at ¶ 28 of Mr. Paredes’s witness statement (other than the two agreements exhibited by GCG); and</p> <p>(b) the “four contractual arrangements” at Marmato referenced in Mr. Kennedy’s report at p. 16 but not exhibited.</p> <p>For the avoidance of doubt, this request includes agreements entered into between GCG and ASMs that are no longer in force.</p>
<p>B. Relevance and materiality:</p> <p>(1) para ref to submissions</p> <p>(2) comments</p> <p>(3) statement concerning custody and control</p>	<p>(1) Memorial, ¶ 58; Counter-Memorial, ¶¶ 175-179, 188-199; Witness Statement of Mr. Paredes, ¶ 28; Davis Report, ¶¶ 56-68, 108-111; Kennedy Report, p. 16 (final paragraph)</p> <p>(2) The documents requested are relevant and material to several central issues in dispute, including the following: (a) GCG’s voluntary assumption of the social licensing risk associated with the known presence of ASMs and Colombia’s policy of seeking to foster their formalization, (b) GCG’s responsibility for causing its own losses, and (c) GCG’s failure to mitigate its alleged losses.</p> <p><u>(a) GCG’s voluntary assumption of the risks associated with the known presence of ASMs and Colombia’s formalization policy</u></p> <p>GCG invested at Segovia and Marmato knowing that it would be required to accommodate the interests of the local communities of ASMs in order to obtain GCG’s social license to operate. Specifically, GCG knew that it would need to enter into agreements with the local communities, in accordance with Colombia’s longstanding policy of fostering the formalization of ASMs. GCG recognized this and entered into such agreements with certain groups of ASMs, but ultimately failed to do so with others.</p> <p>The documents requested are relevant and material to the central issue of GCG’s assumption of the risks associated with the longstanding presence of ASMs at Segovia and Marmato, and GCG’s knowledge, from the time it invested, that Colombia would not evict local communities of ASMs from GCG’s title areas, and that GCG would need to enter into agreements on terms acceptable to the local communities. The fact that GCG, like its predecessors at Segovia and Marmato, entered into agreements with certain groups of ASMs demonstrates that GCG did not actually expect, and knew that it could not reasonably expect the Colombian government to carry out mass-evictions through police or military operations, as GCG now claims in this arbitration. In Colombia’s submission, the existence of such contracts also undermines GCG’s central contention that its titles were somehow “invaded” by “illegal miners” after it invested and is fatal to GCG’s claims under the FTA.</p> <p>Despite admitting that GCG, like its predecessors, entered into agreements with ASMs, and stating that for Segovia, GCG entered into “about 42 contracts” (Witness Statement of Mr. Paredes, ¶ 28), GCG has withheld all of them bar two for Segovia (C-0249: Temporary Operations</p>

	<p>Contract between GCG Segovia and Sociedad Minera La Fe S.A.S., dated 15 February 2013, and BK-0042: Temporary Operations Contract between GCG Segovia and Los Cristales Sociedad Minera S.A.S., dated 17 August 2018.), and all of the four “contractual arrangements” for Marmato (referenced in Mr. Kennedy’s report at p. 16). GCG must now be ordered to produce all such agreements in order for the complete set to be on the record.²</p> <p><u>(b) GCG’s failure to resolve the social conflict with ASMs and GCG’s own responsibility for its alleged losses</u></p> <p>The documents requested are also relevant and material to the issue of causation, and to GCG’s own responsibility for its alleged losses. Even if Colombia’s alleged failure to evict the local communities of ASMs from GCG’s title areas amounted to breaches of the FTA, GCG’s own mismanagement of its community relations is the underlying and dominant cause of GCG’s alleged loss, not Colombia’s alleged omissions or conduct. The fact that GCG was able to enter into contracts with certain ASMs shows that GCG knew that it was its responsibility to accommodate the interests of the local communities, not Colombia’s responsibility to carry out mass-evictions.</p> <p><u>(c) GCG’s failure to mitigate its alleged losses by contracting with the remaining ASMs</u></p> <p>Even if Colombia had breached the FTA and GCG could demonstrate that Colombia’s breaches caused it loss, on GCG’s own theory, GCG ought to have been able to mitigate its losses by entering into agreements with the ASMs responsible for the harm GCG seeks to impute on Colombia on terms similar to those GCG entered into with other ASMs. In order to allow Colombia and Professor Davis to assess the quantum of damages that GCG ought to have mitigated, GCG must produce the full suite of agreements.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because Mr. Paredes specifically refers to the requested contracts relating to Segovia (see ¶ 28 of his witness statement). Similarly, for Marmato, Mr. Kennedy states that he was “<i>informed that GCG does have four contractual arrangements with miners groups for the operation of the La Roland and La Rolita mines (on same property description), the Eva and the Marina Mines, all in Zona Alta</i>”, but no such contracts have been exhibited.</p>
<p>C. Summary of objections by disputing party to production of</p>	<p>Claimant objects to this Request on the ground that, as stated, the Request is not “relevant to the case and material to its outcome” (Article 3.3(b) of the IBA Rules). As described in comments B. 2(b) and B. 2(c) above, the documents are not relevant or material to the issue of GCG’s alleged</p>

² Further, Professor Davis has found relevant for assessing social license risk at the Marmato and Segovia projects the terms in the two contracts that were submitted and GCG’s expressed view of these two contracts as risk management tools (see Davis Report, ¶¶ 63 and 64). Social license risk plays directly into project value, and hence damages. GCG acknowledges that the drag on project value of social license risk management may well be the increased project costs reflected in these contracts (see Davis Report, ¶ 63).

<p>requested documents</p>	<p>responsibility for or failure to mitigate its claimed losses in this proceeding. GCG is not seeking damages with respect to such contracts. Moreover, the four contractual arrangements requested in Request 1(b) were terminated in part due to Colombia’s conduct or the conduct of the illegal miners, and are thus not attributable or relevant to any conduct by GCG or the mitigation of GCG’s losses. For instance, the “Marinas” contract produced pursuant to this Request was terminated by the mining authority (“ANM”) due to breach of obligations by the illegal miners. Similarly, the remaining three contracts were terminated by GCG due to the illegal miners’ failure to comply with contractual obligations.</p> <p>Subject to these objections, Claimant will provide responsive documents with respect to Request 1(a) and 1(b).</p>
<p>D. Reply</p>	<p><u>Request maintained.</u></p> <p>While the Claimant has agreed to produce a limited set of responsive documents, the Respondent respectfully seeks an order from the Tribunal that the Claimant produce <u>all</u> documents responsive to this request.</p> <p>In this request, Colombia sought the production of <u>all</u> of GCG’s agreements with ASMs. The production of the full suite of agreements is required in order for Colombia and the Tribunal to have full visibility into the extent to which GCG entered into agreements with ASMs. While GCG has agreed to produce the “42 contracts” referenced at ¶ 28 of Mr. Paredes’s witness statement and the “four contractual arrangements” at Marmato referenced in Mr. Kennedy’s report at p. 16, GCG has provided no basis for withholding its other agreements with ASMs which are not specifically referenced in GCG’s submissions. GCG’s own 2020 Sustainability Report indicates that 19 new ASM contracts were signed in 2020 (and thus after Mr. Paredes made his statement) for a total of 56 ASM contracts.³</p> <p>GCG does not deny that such further agreements exist, nor does GCG claim that it would be unduly burdensome for them to be produced. Rather, GCG claims that the documents requested are not relevant or material. GCG’s objections do not justify GCG’s withholding of its further agreements with ASMs.</p> <p><i>First</i>, GCG has not put forward any specific objection to Colombia’s justification of the relevance and materiality of the documents to the issue of GCG’s voluntary assumption of the risks associated with the known presence of ASMs and Colombia’s formalization policy (<i>i.e.</i>, comment B(2)(a) above). The production of the documents requested is justified on that basis alone.</p> <p><i>Second</i>, GCG’s arguments that the documents are not relevant and material to the issues of GCG’s own responsibility for its alleged losses and GCG’s failure to mitigate its losses are without merit. In particular,</p>

³ See GCG Sustainability Report 2020, available at https://s27.q4cdn.com/512972177/files/doc_downloads/sustainability/overview/07/Gran-Colombia-Gold-2020-Sustainability-Report.pdf, p. 25: “19 new ASM contracts were formalized in 2020 for a total of 56 ASM contracts”.

	<p>it is irrelevant whether GCG is “seeking damages with respect to such contracts”. GCG is seeking damages with respect to losses allegedly caused by the activities of individuals who were or are parties to such contracts, or by individuals with whom GCG failed to enter into such contracts, despite knowing that GCG would need to enter into such contracts in order to earn its social license to operate and carry out projects at Segovia or Marmato.</p> <p><i>Third</i>, GCG’s reliance on the purported basis for the termination of the four contracts entered into at Marmato referenced in Mr. Kennedy’s report provides no basis for withholding other contracts entered into by GCG. It is also irrelevant to the rationale for the requests, and is based on unsubstantiated assertions by GCG, advanced here for the first time.</p> <p><i>Fourth</i>, Professor Davis must rely on said documents to establish possible mitigating measures that could have been undertaken by Claimant, specifically, entering into contracts with ASMs to mine the Affected Areas, at terms that would reflect diminished losses to Claimant compared with their allegation of total loss. The said documents will provide evidence of market-based agreements that were reached, both in the past and contemporaneously, between Claimant and ASMs, and will provide Professor Davis with a guide as to what terms might have been reached, with consequent reduction in damages claimed, had Claimant undertaken appropriate mitigating efforts.</p> <p>For these reasons, the Claimant’s objections to this request are without merit and the Tribunal should order the Claimant to produce all remaining documents responsive to the request.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s agreement to provide the specific agreements referred to in subparagraphs (a) and (b) of the Request.</p> <p>The Claimant shall also produce any other agreements, to the extent they exist, between GCG and miners operating within the GCG areas without a mining title, including any agreements signed in 2020 as referenced in GCG’s 2020 Sustainability Report.</p>

Document Request No.	2
A. Documents or category of documents requested	<p>(a) All agreements entered into between prior holders of the titles acquired by GCG and ASMs.</p> <p>(b) Any memoranda, correspondence or other Documents reflecting any due diligence or analysis by GCG prepared between 2009 and 2011 of the agreements entered into between prior holders of the titles acquired by GCG and ASMs.</p>
<p>B. Relevance and materiality:</p> <p>(1) para ref to submissions</p> <p>(2) comments</p> <p>(3) statement concerning custody and control</p>	<p>(1) Memorial, ¶ 157; Counter-Memorial, ¶¶ 94, 207, 617; Davis Report, ¶¶ 108-111</p> <p>(2) Colombia repeats its comments with respect to Request No. 1 above.</p> <p>When GCG invested at Segovia and Marmato, it knew that its predecessors had entered into agreements with ASMs, that GCG would need to do the same in order to obtain its social licence to operate, and that Colombia would not carry out mass-evictions of the communities of ASMs.</p> <p>For example, when GCG invested at Segovia, its predecessor Frontino Gold Mines Ltd had entered into more than 30 contracts with groups of ASMs from the local community, including a contract with the El Cogote Mining Association (See R-130: “NI 43-101 Technical Report, Frontino Gold Mines Ltd., Antioquia, Colombia”, Scott E. Wilson Consulting, 9 June 2010, pp. 12-14). This contract remained in force with several years left in its term at the time GCG acquired its titles. GCG has not adduced a copy of this contract, which it must have reviewed in connection with its due diligence and negotiations with the El Cogote Mining Association.</p> <p>In the case of Marmato, the ASMs operating the Villonza Mine stated that they had a verbal agreement with Empresa Minera de Caldas’ representative, Dr. Oselia, that allowed them to work in the mine (See C-63, p. 8). Empresa Minera de Caldas also hired a company (CETEC) to negotiate with ASMs operating the San Pedro and El Socorro mines on its behalf (See C-63, pp. 23-24).</p> <p>GCG must be ordered to produce all of the contracts in its possession, and any memoranda or other due diligence materials concerning such contracts. These will further confirm the extent of GCG’s knowledge that it would be required to enter into agreements on similar terms with ASMs, and that GCG did not expect the government to carry out mass-evictions of the local communities as GCG now claims.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because GCG would likely have reviewed the agreements entered into by its predecessors as part of its due diligence and created materials assessing their terms and implications for any potential projects at Marmato and Segovia.</p>

<p>C. Summary of objections by disputing party to production of requested documents</p>	<p>With respect to Request 2(a), Claimant will produce responsive agreements entered into between prior holders of the titles acquired by GCG and illegal miners.</p> <p>With respect to Request 2(b), Claimant will produce the 2010 letter from the <i>Ministerio del Interior y de Justicia</i> confirming that no indigenous communities are present in the relevant regions.</p>
<p>D. Reply</p>	<p><u>Request maintained.</u></p> <p>While GCG has agreed to produce documents responsive to request 2(a), GCG has, without any justification, limited its agreement to produce documents responsive to request 2(b) to a single document. GCG has not disputed that other documents responsive to Request 2(b) exist, nor has GCG objected to the relevance and materiality of such documents. In these circumstances, the Tribunal is respectfully asked to order the Claimant to produce all remaining documents responsive to Request 2(b).</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant's agreement to provide the agreements referred to in subparagraph (a) of the Request, and the 2010 letter from the <i>Ministerio del Interior y de Justicia</i> confirming that no indigenous communities are present in the relevant regions, with respect to subparagraph (b) of the Request.</p> <p>The Claimant shall also produce any analyses or assessments of such agreements that GCG prepared between 2009 and 2011.</p>

Document Request No.	3
A. Documents or category of documents requested	Any reports, maps or other Documents prepared by GCG between 2009 and 2011 assessing the presence and activities of ASMs within the titles acquired by GCG at Marmato and Segovia, including the source of Picture No. 1 included in Mr. Gaviria’s witness statement.
B. Relevance and materiality: (1) para ref to submissions (2) comments (3) statement concerning custody and control	<p>(1) Witness Statement of Mr. Ramirez, ¶ 44; Witness Statement of Mr. Gaviria, ¶ 10.</p> <p>(2) Colombia repeats its comments with respect to Requests No. 1 and 2 above.</p> <p>When GCG invested at Segovia and Marmato, it knew of the longstanding and pervasive presence of ASMs within the title areas it decided to acquire, and knew that it would need to accommodate their interests and activities as part of any large-scale mining projects. The documents requested are relevant and material to the Tribunal’s assessment of the extent of GCG’s knowledge of the presence of ASMs, and the veracity of GCG’s position in this arbitration that GCG expected Colombia to evict the ASMs from the titles areas.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because GCG studied the extent of artisanal and small-scale mining activities within the title areas at the time of its investments and is likely to have created materials assessing their implications for any potential projects at Marmato and Segovia.</p>
C. Summary of objections by disputing party to production of requested documents	<p>Claimant objects to this Request as overly broad as it does not set forth a “description of each requested Document sufficient to identify it” nor a “narrow and specific” category of documents in accordance with Article 3.3(a) of the IBA Rules. The term “any” encompasses a great scope of potential documents.</p> <p>Subject to these objections, and based on a diligent search, Claimant has identified no responsive documents to this Request.</p>
D. Reply	<p><u>No order required, save as with respect to the source of Picture No. 1 included in Mr. Gaviria’s witness statement.</u></p> <p>The Respondent notes the Claimant’s statement that the Claimant has not identified any responsive documents to this request. The Respondent reserves the right to make such submissions as it deems appropriate with respect to the Claimant’s statement, including a request that adverse inferences be drawn against the Claimant.</p> <p>The Claimant’s statement that it has not identified any responsive documents to this request cannot apply to the source of Picture No. 1</p>

	<p>included in Mr. Gaviria’s witness statement given that Mr. Gaviria’s statement was prepared with the assistance of the Claimant’s counsel. Further, the Claimant’s objection to the request on the grounds that it is overly broad, even if it had any merit, would not apply to the requested source of Picture No. 1 included in Mr. Gaviria’s witness statement.</p> <p>As the Claimant has not provided the source of Picture No. 1 in Mr. Gaviria’s witness statement with its voluntary production or raised any applicable objection to it, Colombia respectfully seeks an order from the Tribunal that this source now be produced.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s representation that it has no documents responsive to the request for specified documents prepared between 2009 and 2011.</p> <p>For the avoidance of doubt, the Claimant is invited to clarify whether its response denotes (a) that it has no documents that are the source of Picture No. 1 included in Mr. Gaviria’s witness statement, or (b) that it has the source document but this was not prepared between 2009 and 2011, or (c) that its representation regarding the absence of responsive documents was not intended to cover this aspect of the Respondent’s request. To the extent the Claimant does have the source document, it shall produce such document regardless of the date on which it was prepared.</p>

Document Request No.	4
A. Documents or category of documents requested	<p>Correspondence, minutes of meetings, memoranda or other Documents regarding GCG's assessment of the positions and claimed entitlements of ASMs, and GCG's negotiations with ASMs from 2009 to date, including:</p> <p>(a) negotiations that resulted in contracts with ASMs;</p> <p>(b) negotiations that did not result in contracts with ASMs, including the minutes of the meetings held between GCG and the El Cogote Association at the time the <i>Comodato</i> contract expired on 19 September 2013 referenced in GCG's Request for Administrative Action regarding the El Cogote Mine to the ANM dated 8 October 2013 (Exhibit C-142).</p> <p>This request does not extend to the minutes of meetings between GCG and ASMs brokered by Colombian State entities. For the avoidance of doubt, this request does include GCG's internal correspondence, memoranda or other Documents regarding GCG's negotiations with ASMs, including those negotiations that were facilitated by Colombian State entities.</p>
<p>B. Relevance and materiality:</p> <p>(1) para ref to submissions</p> <p>(2) comments</p> <p>(3) statement concerning custody and control</p>	<p>(1) Memorial, ¶¶ 58, 165, 184, 226; Counter-Memorial, ¶¶ 175-179, 188-199; Davis Report, ¶¶ 108-111; Witness Statement of Mr. Ramirez, ¶ 50; Witness Statement of Mr. Paredes, ¶ 60; Exhibit C-142, p. 5.</p> <p>(2) Colombia repeats its comments with respect to Requests No. 1 and 2 above.</p> <p>When GCG invested at Segovia and Marmato, it knew that its predecessors had entered into agreements with ASMs, that GCG would need to do the same in order to obtain its social licence to operate, and that Colombia would not carry out mass-evictions of the communities of ASMs. GCG also knew, or ought to have known, that ASMs at Segovia and Marmato considered that they were entitled to carry out mining activities at Segovia and Marmato, including in light of the history of such activities there and relationships with GCG's predecessors.</p> <p>GCG ultimately failed to negotiate contracts with all ASMs at Segovia and Marmato, and took steps which exacerbated the social conflict, including seeking the eviction of certain ASMs as part of GCG's negotiating strategy.</p> <p>GCG must now be ordered to produce all Documents concerning its negotiations with ASMs in order to allow the Tribunal to assess the reasonableness of GCG's conduct in such negotiations, and the veracity of GCG's unsubstantiated contentions that certain ASMs (such as the El Cogote Association) did not conduct such negotiations in good faith (see, e.g., Memorial, ¶ 536).</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG's possession, custody or control because GCG has affirmed in its Memorial and witness statements that it negotiated contracts with ASMs, and that, in certain instances, it was ultimately unsuccessful in negotiating such contracts (see, e.g., Memorial, ¶¶ 166,</p>

	<p>184, 226; Witness Statement of Mr. Paredes, ¶ 60). Colombia assumes that for the purposes of its operations, reporting and management, GCG keeps records of its negotiations, including, for example, correspondence with its counterparts, internal memoranda recording its negotiating strategy and positions.</p>
<p>C. Summary of objections by disputing party to production of requested documents</p>	<p>Claimant objects to this Request on the following grounds:</p> <p><i>First</i>, Claimant objects to this Request as overly broad as it does not set forth a “description of each requested Document sufficient to identify it” nor a “narrow and specific” category of documents (Article 3.3(a) of the IBA Rules). The Request encompasses a great scope of potential documents.</p> <p><i>Second</i>, Claimant further objects to this Request as vague and unintelligible. It is not clear what “assessment of the positions and claimed entitlements” that Respondent can possibly be making reference to.</p> <p><i>Third</i>, Claimant objects to this Request on the ground that, as stated, the Request is not “relevant to the case and material to its outcome” (Article 3.3(b) of the IBA Rules). Claimant is producing responsive documents with respect to agreements entered into between GCG and illegal miners pursuant to Request 1(a) and 1(b), as well as agreements entered into between prior holders of the titles acquired by GCG and ASMs pursuant to Request 2(a). It is far from evident how anything more than this is relevant to the outcome of this case.</p> <p>Subject to these objections, to the extent Respondent seeks <i>both</i> “Documents regarding GCG’s assessment of the positions and claimed entitlements of ASMs” <i>and</i> “Documents regarding GCG’s negotiations with ASMs from 2009 to date,” based on a diligent search, Claimant has identified no responsive documents to this Request.</p> <p>Subject to these objections, to the extent Respondent seeks “Documents regarding GCG’s assessment of the positions and claimed entitlements of ASMs,” based on a diligent search, Claimant has identified no responsive documents to this Request.</p> <p>Subject to these objections, and based on a diligent search, Claimant has identified no responsive documents with respect to those requested in 4(a).</p> <p>Subject to these objections, Claimant will produce correspondence and minutes of the meetings between GCG and El Cogote Association with respect to the negotiations as requested in 4(b).</p>
<p>D. Reply</p>	<p><u>Request maintained, as narrowed below.</u></p> <p>The Respondent respectfully seeks an order from the Tribunal that the Claimant produce all correspondence and minutes of the meetings between GCG and groups of ASMs from 2009 to date with respect to negotiations with such ASMs.</p>

In Request 4(b), Colombia sought the production of GCG's documents regarding GCG's negotiations with ASMs from 2009 to date, including documents relating to negotiations that did not result in contracts with ASMs. While GCG has agreed to produce correspondence and minutes of the meetings between GCG and El Cogote Association, it has (a) not agreed to produce all correspondence and minutes of the meetings between GCG and El Cogote Association, and (b) not agreed to produce equivalent correspondence and minutes of the meetings GCG has held with other groups of ASMs.

There is no valid basis for GCG to withhold such further responsive documents. GCG does not deny that such further documents exist, nor does GCG claim that it would be unduly burdensome for them to be produced. Rather, GCG has raised made a series of boilerplate objections to Colombia's request, none of which has any merit.

First, while GCG claims the request is overly broad, the request in fact seeks a defined category of documents relating to GCG's negotiations with ASMs. In any event, Colombia has now agreed to narrow its request to "*correspondence and minutes of the meetings between GCG and groups of ASMs from 2009 to date*". As GCG itself has agreed to produce "*correspondence and minutes of the meetings*" with respect to GCG's negotiations with the El Cogote Association, the request, as narrowed, is now not overly broad, even by GCG's own standards.

Second, GCG asserts that the request is "*vague and unintelligible*". This is not the case. The request is specific and clear, and GCG understands the scope of the request perfectly well, having itself agreed to produce documents responsive to part of it, and confirmed that it has conducted searches for documents that are responsive to other parts of it.

Third, GCG argues that the documents requested are not relevant and material because GCG has agreed to produce certain contracts it and prior title holders entered into with ASMs. GCG's argument misses the point. As explained in the justification for this request and for Requests 1 and 2 above, the documents requested are relevant and material to the assessment of the reasons for GCG's failure to negotiate contracts with all ASMs at Segovia and Marmato, to GCG's conduct which exacerbated the social conflict, including GCG's attempts to seek the eviction of certain ASMs as part of GCG's negotiating strategy, and to a quantum estimate of possible mitigating actions that Claimant could have taken with respect to the loss of materials at the Affected Areas. The fact that GCG entered into some contracts with other ASMs does not mean GCG conducted its negotiations with those or other ASMs reasonably or in good faith. The documents requested are required in order for the Tribunal to assess GCG's conduct of such negotiations. The documents requested, and in particular documents pertaining to failed negotiations, would also inform Professor Davis as to what terms were unsuccessful relative to the terms that were successful, aiding in an estimate of the terms that would have been necessary in a successful effort at mitigating losses.

	<p>For these reasons, Colombia respectfully asks that the Tribunal order GCG to produce all correspondence and minutes of the meetings between GCG and groups of ASMs from 2009 to date with respect to negotiations with such ASMs.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s agreement to produce correspondence and minutes of the meetings between GCG and El Cogote Association with respect to the 2013 negotiations as requested in Request 4(b).</p> <p>To the extent the Claimant has correspondence or minutes of meetings that GCG held with other groups of miners operating within the GCG areas without a mining title, it shall produce such materials as well.</p> <p>The Tribunal notes the Claimant’s representation that it has no documents responsive to the request for “GCG’s assessment of the positions and claimed entitlements of ASMs.”</p>

Document Request No.	5
A. Documents or category of documents requested	Reports, minutes of meeting or other Documents memorializing the activities, strategies or findings of GCG's <i>Departamento de Pequeña Minería</i> with respect to the ASMs at Marmato and Segovia, from 2009 to date.
B. Relevance and materiality: (1) para ref to submissions (2) comments (3) statement concerning custody and control	<p>(1) Memorial, ¶ 58; Counter-Memorial, ¶¶ 175-179, 188-199; Witness Statement of Mr. Paredes, ¶¶ 27-28; Exhibits R-101, C-167 and C-255.</p> <p>(2) Colombia repeats its comments with respect to Requests No. 1 and 4 above.</p> <p>When GCG invested at Segovia and Marmato, it created a special division within the company called the <i>Departamento de Pequeña Minería</i> (the “small-scale mining division”), currently led by GCG’s Director of Small-Scale Mining Operations, Mr. José Luis Roca (see Exhibit R-101). On behalf of GCG, Mr. Roca participated in several negotiations with ASMs (see, e.g., Exhibits C-149, C-150, C-151, C-207). Colombia understands that this division was (and remains) in charge of GCG’s strategy and relations with informal miners, including the negotiation of contracts with ASMs and site visits to mines operated by them (see, e.g., Exhibits C-167 and C-255).</p> <p>The documents generated by this specific division in relation to its activities, strategies or findings with respect to the ASMs at Marmato and Segovia are relevant and material to the assessment of GCG’s knowledge and assumption of the risks associated with the presence of ASMs at Segovia and Marmato, and to GCG’s own responsibility for the breakdown in relations with certain ASMs and loss for which it seeks damages against Colombia in this arbitration.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because such documents are significant to GCG’s strategy and operations and are likely to be kept by GCG as part of its business records.</p>
C. Summary of objections by disputing party to production of requested documents	<p>Claimant objects in part to this Request as overly broad and unduly burdensome as it does not set forth a “description of each requested Document sufficient to identify it” nor a “narrow and specific” category of documents in accordance with Article 3.3(a) of the IBA Rules. The requested reports, minutes of meetings, or other Documents encompass a great scope of potential documents. The Request as stated fails to offer sufficiently narrow descriptions or categories and provides for a time period exceeding a decade in length.</p> <p>Subject to this objection, Claimant will produce annual reports of GCG’s <i>Departamento de Pequeña Minería</i> and other responsive reports from the specified period.</p>

<p>D. Reply</p>	<p><u>Request maintained.</u></p> <p>While GCG has agreed to produce “annual reports of GCG’s <i>Departamento de Pequeña Minería</i>” and “other responsive reports from the specified period”, GCG refuses to produce all responsive documents.</p> <p>There is no valid basis on which GCG can withhold the production of other responsive documents. GCG does not dispute that other responsive documents exist, and that such documents are relevant and material. However, GCG claims that the request is overly broad and unduly burdensome. That is not the case. The request concerns a narrow and specific category of documents recording the activities, strategies or findings of GCG’s <i>Departamento de Pequeña Minería</i> with respect to the ASMs at Marmato and Segovia from 2009 to date.</p> <p>GCG should not be allowed to cherry-pick the documents it produces in response to this request because Colombia is not itself in a position to identify specifically each responsive document within GCG’s custody. As Colombia does not have knowledge of the frequency with which GCG’s activities, strategies or findings were recorded in responsive documents, or the precise type of the documents in which such information is contained, it is reasonable for GCG to carry the limited burden of searching its records for, identifying and producing the relevant documents.</p> <p>For these reasons, Colombia respectfully seeks an order that GCG be required to produce all documents responsive to this request.</p>
<p>E. Decision of the Tribunal</p>	<p>The request for all documents “memorializing the activities ...” of the relevant Department “with respect to the ASMs at Marmato and Segovia, from 2009 to date,” is denied in such terms as overbroad and unduly burdensome.</p> <p>The Tribunal notes the Claimant’s agreement to produce a subset of such documents, namely annual reports “and other responsive reports” of the relevant Department from the specified period. For the avoidance of doubt, in addition to the “annual reports,” the Claimant shall also produce any reports from the Department to GCG’s management or Board of Directors regarding miners operating at Marmato and Segovia without a mining title.</p>

Document Request No.	6
A. Documents or category of documents requested	Documents prepared between 2009 and 2011 recording GCG's assessment the prospects of securing the granting and enforcement of <i>amparos administrativos</i> to evict ASMs at Marmato and Segovia and/or the effectiveness of such orders.
B. Relevance and materiality: (1) para ref to submissions (2) comments (3) statement concerning custody and control	<p>(1) Counter-Memorial, ¶¶ 135-138.</p> <p>(2) The documents requested are relevant and material to the assessment of GCG's knowledge, at the time it invested, that it could not expect to secure the eviction of the communities of ASMs at Segovia and Marmato through the <i>amparo administrativo</i> process, and that any such orders would not be effective in permanently removing all ASMs in any event.</p> <p>GCG must now be ordered to disclose its documents recording its assessment of the prospects of securing the granting or enforcement of <i>amparos administrativos</i> and/or their effectiveness in order to allow the Tribunal to assess GCG's claims that it expected Colombia to grant and enforce such orders, and that this would permanently remove all ASMs from its title areas.</p> <p>In addition, the documents requested are relevant and material to GCG's knowledge, prior to the FTA's entry into force in 2011 and to the cut-off date for claims in 2015, that Colombia would not evict ASMs further to <i>amparo administrativo</i> requests.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG's possession, custody or control because GCG would likely have created such documents as part of its due diligence and investment strategy at Segovia and Marmato in light of its knowledge of the presence of ASMs in the area of the titles it chose to acquire.</p>
C. Summary of objections by disputing party to production of requested documents	<p>Claimant objects to this Request on the following grounds:</p> <p><i>First</i>, Respondent's Request is not "relevant to the case and material to its outcome" (Article 3.3(b) of the IBA Rules). The requested documents have no bearing on any knowledge or lack of knowledge on behalf of GCG. Thus, they are not relevant or material to the outcome of this dispute.</p> <p><i>Second</i>, GCG further objects to this Request as vague and unintelligible. It is not clear what "assessment [of] the prospects" that Respondent can possibly be making reference to.</p> <p>Subject to these objections, and based on a diligent search, Claimant has identified no non-privileged responsive documents.</p>
D. Reply	<u>Request maintained.</u>

	<p>While GCG states that it has conducted a diligent search and identified no non-privileged responsive documents,⁴ for the reasons explained in paragraphs 2 to 5 of Colombia’s response to GCG’s general objections above, GCG should be ordered to produce an exemption log in order to allow Colombia and the Tribunal to assess the validity of GCG’s claims to privilege.</p> <p>For completeness, Colombia notes that GCG has raised two objections to this request, neither of which has any merit.</p> <p><i>First</i>, GCG asserts that the documents requested are not relevant and material because they “<i>have no bearing on any knowledge or lack of knowledge on behalf of GCG</i>”. That is not the case. The Request concerns documents that are, by their nature, directly relevant and material to GCG’s claimed expectations that Colombia would forcefully evict the communities of ASMs at Segovia and Marmato at the time GCG decided to invest, in 2009 and 2011.</p> <p><i>Second</i>, GCG claims that the request is “vague and unintelligible”. That is not the case. The request is specific and clear, and GCG understands the scope of the request full well, having itself confirmed that it was able to conduct a “diligent search” for responsive documents.</p> <p>For these reasons, Colombia respectfully requests that this request be granted and that, to the extent GCG considers that the only responsive documents in GCG’s possession, custody or control are privileged, that GCG provide an exemption log in accordance with paragraphs 2 to 5 of Colombia’s response to GCG’s general objections above.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s representation that no non-privileged responsive documents exist. In these circumstances, no further order is required.</p>

⁴ The Respondent reserves the right to make such submissions as it deems appropriate with respect to the Claimant’s statement, including a request that adverse inferences be drawn against the Claimant.

Document Request No.	7
A. Documents or category of documents requested	Documents recording the quantities of materials received from each ASM pursuant to GCG’s contract(s) with each ASM, payments made by GCG pursuant to such contracts and any analyses of the profits made from such contracts by GCG. To the extent individual accounting by contract is not conducted by GCG, aggregate quantities and payments are requested.
B. Relevance and materiality: (1) para ref to submissions (2) comments (3) statement concerning custody and control	<p>(1) Davis Report, ¶¶ 108-111; Memorial, ¶ 58; Witness Statement of Mr. Paredes, ¶ 28; Counter-Memorial, ¶¶ 175-179.</p> <p>(2) The documents requested are relevant and material to the assessment of the extent to which GCG ought to have mitigated its alleged losses by entering into agreements with the ASMs responsible for the alleged theft of minerals and other damage allegedly sustained by GCG.</p> <p>While GCG acknowledges that it has entered into contracts with other ASMs, it has failed to disclose the quantities of materials received from ASMs, payments made by GCG for such materials pursuant to its contracts and GCG’s analyses of its profits made from such agreements.</p> <p>GCG must now be ordered to produce its documents recording this information in order to allow for an assessment of the mitigating profits which GCG could have obtained by taking reasonable steps to enter into similar contracts with the ASMs allegedly responsible for the losses for which GCG seeks damages in this arbitration. This request supplements Request No. 1 above and seeks the disclosure of documents required for an assessment of the mitigating profits because a reconciliation of quantities received and payments made by GCG with the contract terms allows clarification of the intent and understanding of the parties in practice in relation to the contracts between GCG and ASMs.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because GCG ought to have kept records of its dealings and payments with ASMs in accordance with customary record-keeping and accounting procedures.</p>
C. Summary of objections by disputing party to production of requested documents	Claimant objects to this Request as overly broad and unduly burdensome as it does not set forth a “description of each requested Document sufficient to identify it” nor a “narrow and specific” category of documents in accordance with Article 3.3(a) of the IBA Rules. The term “Documents” and reference to “each” “ASM” or illegal miners encompasses a great scope of potential documents over an unlimited period of time. Documents “recording the quantities of materials received from each ASM” are created virtually every day and every time the “payments” are “made.” The volume of the documents is accordingly unmanageable as it could include over hundreds of thousands of pages. Claimant requests that Respondent narrows its Request to focus on responsive summary documents from Claimant’s database that will show

	<p>the quantities of materials received in the aggregate for the 42 mines and amounts paid per year from such contracts.</p>
<p>D. Reply</p>	<p><u>Request maintained, as narrowed below.</u></p> <p>The Respondent respectfully seeks an order from the Tribunal that the Claimant produce summary documents from Claimant’s database showing, for each contract with an ASM mine at Segovia and Marmato, (a) the quantities of materials received per year, (b) the grade of the materials received, and (c) the payments made in consideration for such materials.</p> <p>GCG does not dispute that the accounting information requested exists within its database, or that such information is relevant and material. While GCG has not shown that producing its records, in electronic form, would be unduly burdensome, Colombia agrees to narrow its request to summary documents from Claimant’s database as proposed by GCG.</p> <p>However, the information contained in such summary documents must be provided in relation to <u>all ASM</u> contracts at Segovia and Marmato, and not the subset of 42 contracts as arbitrarily proposed by GCG.⁵</p> <p>Further, in order for Professor Davis to conduct the reconciliation of quantities received and payments made by GCG with the contract terms and thus clarify the intent and understanding of the parties in practice in relation to the contracts between GCG and ASMs as explained in the rationale for the request, such documents must contain details of the quantities, grades, and payments made by GCG to the ASMs on a per contract basis, and for each year.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s agreement to produce summary documents from Claimant’s database, and the Respondent’s agreement to accept such summary documents from the database in satisfaction of its Request.</p> <p>With regard to such database materials, the Tribunal notes the Claimant’s agreement to produce summaries showing (a) the quantities of materials received in the aggregate and (b) the amounts paid per year, for a total of 42 mines.</p> <p>To the extent the Claimant’s database contains data regarding additional mines that are the subject of contracts with miners operating without a mining title, such as the mines referenced in GCG’s 2020 Sustainability Report as the subject of 19 contracts signed in 2020, the Claimant shall produce comparable data summaries for these mines.</p>

⁵ According to GCG’s 2020 sustainability report, GCG signed 19 new ASM contracts in 2020 (i.e., after Mr. Paredes signed his witness statement stating that GCG had around 42 contracts with ASMs) for a total of 56 ASM contracts. See GCG Sustainability Report 2020, available at https://s27.q4cdn.com/512972177/files/doc_downloads/sustainability/overview/07/Gran-Colombia-Gold-2020-Sustainability-Report.pdf, p. 25: “19 new ASM contracts were formalized in 2020 for a total of 56 ASM contracts”.

Document Request No.	8
A. Documents or category of documents requested	Documents recording any due diligence, research into or assessment of the social, economic, environmental or other circumstances of the communities at Marmato and Segovia (including whether such communities included indigenous or Afrodescendant populations) conducted by GCG between 2010 and 2011, including to establish whether a community consultation process may be required for the development of its projects.
B. Relevance and materiality: (1) para ref to submissions (2) comments (3) statement concerning custody and control	<p>(1) Counter-Memorial, ¶ 158; Exhibit R-147.</p> <p>(2) Colombia repeats its comments with respect to Requests No. 1, 2 and 3 above. In addition, the documents requested are relevant and material to whether GCG acted diligently in seeking to understand the circumstances of the communities at Marmato and Segovia that would be impacted by any projects there, and to ascertain whether a consultation process may be required for the development of its projects at the time GCG invested in its titles.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG's possession, custody or control because GCG would have created such documents as part of any assessment of the social, ethnic and economic conditions in Marmato and Segovia, and Colombia assumes such documents have been retained as part of GCG's record-keeping.</p>
C. Summary of objections by disputing party to production of requested documents	Claimant will produce non-privileged documents recording assessments of the social, economic, environmental or other circumstances of the communities at Marmato and Segovia between 2010 and 2011 and the 2010 letter from the <i>Ministerio del Interior y de Justicia</i> confirming that no indigenous communities are present in the relevant regions.
D. Reply	<p><u>Request maintained.</u></p> <p>GCG has raised no objection to this request, but has, without justification, limited its production to documents reflecting “assessments”. In so doing, GCG has chosen to exclude any “due diligence” or “research” into the social, economic, environmental or other circumstances of the communities at Marmato and Segovia between 2010 to 2011. There is no basis for GCG to withhold such documents, the existence, relevance and materiality of which GCG has not disputed.</p> <p>Further, while GCG states that it has conducted a diligent search and identified no non-privileged responsive documents,⁶ for the reasons</p>

⁶ The Respondent reserves the right to make such submissions as it deems appropriate with respect to the Claimant's statement, including a request that adverse inferences be drawn against the Claimant.

	<p>explained in paragraphs 2 to 5 of Colombia’s response to GCG’s general objections above, GCG should be ordered to produce an exemption log in order to allow Colombia and the Tribunal to assess the validity of GCG’s claims to privilege.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s agreement to produce documents recording assessments of the social, economic, environmental or other circumstances of the communities at Marmato and Segovia between 2010 and 2011 and the 2010 letter from the <i>Ministerio del Interior y de Justicia</i> confirming that no indigenous communities are present in the relevant regions.</p> <p>No further production is required.</p>

Document Request No.	9
A. Documents or category of documents requested	<p>(a) GCG’s internal accounting records or other Documents showing the following annual costs from 2011 onwards:</p> <ol style="list-style-type: none"> i. Operating and sustaining capital mining costs incurred by GCG for the Segovia mining operations that GCG conducted itself (not through contractors), as well as quantities and grades of the material mined and sent to the Maria Dama mill in each year from this activity. ii. Operating and sustaining capital mining costs incurred by GCG for contract mining at its three main Segovia mines, as well as quantities and grades of the material mined and sent to the Maria Dama mill in each year from this activity. iii. Operating and sustaining capital mining costs incurred by GCG to purchase ore from ASMs operating outside its main Segovia mines, as well as quantities and grades of material so purchased. <p>(b) For the Maria Dama mill, the amounts and grades of material received and processed in each year from 2011 from each of the three sources listed above, the operating costs incurred for processing it, and recoveries of gold and silver (if separately recorded).</p>
B. Relevance and materiality: (1) para ref to submissions (2) comments (3) statement concerning custody and control	<p>(1) Alberro Report, ¶ 75; Davis Report, ¶¶ 98-107</p> <p>(2) The documents requested are relevant and material to the assessment of GCG’s damages claimed for lost profits associated with the minerals allegedly stolen by ASMs at Segovia.</p> <p>GCG relies on the calculation of such lost profits by Dr. Alberro, who assumes that GCG would have extracted the additional mineralization at the same “cash cost” per ounce as that incurred from extracting mineralization at its actual Segovia operations. As explained by Professor Davis in his Report, this assumption is flawed and leads Dr. Alberro to understate the costs of the hypothetical extraction of the allegedly stolen minerals, and to overstate the lost profits, if any, resulting from the theft of minerals.</p> <p>The documents requested would provide the information required in order to allow for an assessment of whether the material allegedly stolen by ASMs could have been profitably extracted and processed by GCG, and in any event to correct the errors in Dr. Alberro’s calculation of such lost profits.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because GCG, as the mining operator at Segovia, holds the accounting and other costs</p>

	information pertaining to the costs of mining and processing activities at Segovia.
C. Summary of objections by disputing party to production of requested documents	Claimant objects to this Request as overly broad and unduly burdensome as it does not set forth a “description of each requested Document sufficient to identify it” nor a “narrow and specific” category of documents in accordance with Article 3.3(a) of the IBA Rules. For example, documents reflecting each mining operation’s costs over the 10-year period is accordingly unmanageable as it could include hundreds of thousands of documents. Claimant requests that Respondent narrow its Request to documents that reflect the capital costs incurred by GCG for Segovia, seeking only aggregate costs on an annual basis, without underlying documentation.
D. Reply	<p><u>Request maintained, as narrowed below.</u></p> <p>The Respondent respectfully seeks an order from the Tribunal that the Claimant produce documents that reflect the capital and operating costs incurred by GCG for Segovia on an annual basis, including, for each of GCG’s three sources of ore (GCG own mining, GCG contractor mining, and ASM acquisitions of ore), a breakdown of mining operating costs, processing operating costs and sustaining capital costs.</p> <p>GCG does not dispute that the information requested exists, or that such information is relevant and material for the reasons put forward by Colombia. While GCG has not shown that producing its records as requested, in electronic form, would be unduly burdensome, Colombia agrees to narrow its request to documents showing costs on an annual basis and without underlying documentation.</p> <p>However, in order for Professor Davis to assess whether the material allegedly stolen by ASMs could have been profitably extracted and processed by GCG and to correct the errors in Dr. Alberro’s calculations as per the rationale for this request, GCG must provide (a) information concerning both operating and capital costs (and not merely capital costs as GCG, without justification proposes), (b) the information separately for each of GCG’s three sources of ore (GCG own mining, GCG contractor mining, and ASM acquisitions of ore), and (c) for each of those sources, a breakdown of mining operating costs, processing operating costs and sustaining capital costs.</p>
E. Decision of the Tribunal	<p>The Tribunal notes the Claimant’s agreement to produce documents that reflect the aggregate annual capital costs GCG incurred for Segovia.</p> <p>The Claimant shall also produce documents that reflect the aggregate operating costs for Segovia. To the extent GCG’s records (maintained in the ordinary course of business) distinguish among operating costs sustained in mining operations and those sustained in processing operations, the relevant breakdown should be provided, but the Claimant is under no obligation to analyze or massage its operating cost data especially for this case. The same is true with respect to the Respondent’s request that the capital and operating costs be provided separately for “three sources of ore (GCG own mining, GCG contractor mining, and ASM acquisitions of ore)”: the Claimant should provide such</p>

	breakdowns to the extent they already exist, but is not required to perform new analyses of GCG's data for purposes of this case.
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Document Request No.	10
A. Documents or category of documents requested	<p>Documents recording:</p> <p>(a) the spatial boundaries of the area at Marmato defined by GCG as the “Affected Area”; and</p> <p>(b) the estimated volumes of Measured, Indicated, and Inferred Resources, as outlined in the report issued in 2017 by SRK in relation to Marmato (JA-0044: Marmato 2017 Technical Report), in each of the areas (Alta, Echandía Alta, Lower Echandía, and Baja) within the Affected Area boundaries.</p>
<p>B. Relevance and materiality:</p> <p>(1) para ref to submissions</p> <p>(2) comments</p> <p>(3) statement concerning custody and control</p>	<p>(1) Alberro Report, ¶ 96; Davis Report, ¶ 129 and fn. 152; Alberro Report, ¶¶ 132-136; Davis Report, ¶ 230</p> <p>(2) The documents requested are relevant and material to the assessment of the market value of the “Affected Area” at Marmato, which GCG claims was indirectly expropriated by Colombia and for which GCG claims damages.</p> <p>(3) Despite claiming damages for the market value of an area defined as the “Affected Area” at Marmato, and instructing Dr. Alberro to estimate the market value of the “Affected Area” (Alberro Report, ¶ 86), GCG has failed to provide the specific spatial boundaries of that area or evidence showing specifically which Mineral Resources were estimated to exist within such area by GCG’s consultants, SRK, and which form the basis for Dr. Alberro’s valuation of the “Affected Area”.</p> <p>In order to allow Colombia and Professor Davis an opportunity to assess the market value of the “Affected Area” as defined by GCG, GCG must now be ordered to produce any documents in its possession confirming the delimitation of the spatial boundaries of the “Affected Area” and the estimated Mineral Resources falling within such area.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because GCG’s damages assessment with respect to the alleged lost market value of the “Affected Area” at Marmato ought to be based on the information contained in such documents.</p>
C. Summary of objections by disputing party to production of requested documents	<p>Claimant objects to this request on the following grounds:</p> <p><i>First</i>, with respect to Request 10(a), the “Affected Area” is defined, in part, by the relevant titles, information on which is in Colombia’s possession, custody and control. To the extent the Request is asking for the Documents related to the “Affected Area”, as referenced in the SRK Technical Report, Respondent has failed to show such Documents are within Claimant’s possession, power, control or custody (Article 3.3(c)(ii) IBA Rules). Indeed, the Documents recording the spatial boundaries of the area of Marmato defined as the “Affected Area” are not within the possession, power, control or custody of Claimant but rather</p>

	<p>are in the possession of SRK Consulting as they are underlying documents or information used in the preparation of its Marmato 2017 Technical Report. We confirm that GCG has requested that SRK Consulting provide these documents. SRK Consulting is not a party to the Arbitration and not within the control of GCG.</p> <p>Subject to this objection, if Claimant receives the documents, Claimant will produce them.</p> <p><i>Second</i>, with respect to Request 10(b), the requested information is in Documents already in Respondent’s possession. Namely, the requested information is found on page 120 of Exhibit JA-0044, in Table 14-21, reported in tonnages and grades rather than “volumes”.</p>
<p>D. Reply</p>	<p><u>With respect to Request 10(a), no order required at this stage:</u></p> <p>Colombia notes that GCG has confirmed that the documents requested are not in its possession, custody or control, but has agreed to provide the documents requested subject to receiving them from its contractor, SRK, which was instructed by GCG. Colombia reserves its rights to make a further application to the Tribunal should GCG fail to obtain the relevant documents from SRK.</p> <p>For completeness, Colombia notes that GCG’s objection to this request is without merit. GCG contends that the documents requested are in Colombia’s possession, custody or control because “<i>the “Affected Area” is defined, in part, by the relevant titles, information on which is in Colombia’s possession, custody and control</i>”. As GCG itself recognises in stating that the “Affected Area” is only defined “in part” by relevant titles, GCG and SRK have not defined the “Affected Area” by reference to the areas of titles, nor is Colombia in a position to guess which titles are included within the “Affected Area”. Colombia is not, therefore, in possession of the documents delimiting the “Affected Area”.</p> <p><u>With respect to Request 10(b), request maintained:</u></p> <p>GCG does not dispute the relevance and materiality of Request 10(b), but claims that the requested information is not in Documents already in Respondent’s possession, in Table 14-21 of Exhibit JA-0044 (SRK’s 2017 Report). That is not the case.</p> <p>Table 14-21 breaks down the Resources across three areas: Zona Alta, Echandía (Alta), and Zona Baja. However, SRK does not define what “Echandía (Alta)” means, nor does it state whether any Resources exist in the part of Echandía that is not Alta (Lower Echandía). Nor is there any evidence or information in SRK’s report that would allow one to ascertain whether what SRK meant by Echandía Alta is the same part of Echandía that GCG includes in the Affected Area.</p> <p>Therefore, GCG’s contention that the information requested is in JA-44 is incorrect, and GCG should be ordered to produce the documents requested in Request 10(b).</p>

E. Decision of the Tribunal	<p>The Tribunal notes the Claimant’s representation that it has requested that SRK Consulting provide documents to clarify the spatial boundaries of the area defined as the “Affected Area” at Marmato, and the Claimant’s agreement to produce such documents as SRK Consulting provides in response to this request.</p> <p>The Claimant shall also request that SRK Consulting provide any documents in its possession that clarify, with respect to the SRK report (and particularly Table 14-21 of Exhibit JA-0044), the information said by the Respondent to be unclear (<i>viz</i>, “what ‘Echandía (Alta)’ means, ... whether any Resources exist in the part of Echandía that is not Alta (Lower Echandía) ... [and] whether what SRK meant by Echandía Alta is the same part of Echandía that GCG includes in the Affected Area”). For the avoidance of doubt, SRK Consulting is not being requested to perform any additional analysis for this purpose, but only to provide such documents in its possession (if any) as may confirm its methodology and intent with regard to the referenced passages.</p>
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Document Request No.	11
A. Documents or category of documents requested	Documents confirming that each of the amounts that GCG instructed Dr. Alberro to assume was spent on “the development and maintenance of the Affected Area”, totaling \$45,025,204, was in fact incurred for the purpose that Dr. Alberro stated.
B. Relevance and materiality: (1) para ref to submissions (2) comments (3) statement concerning custody and control	<p>(1) Alberro Report, ¶ 137 and Annex 17; Davis Report ¶ 230, fn. 276</p> <p>(2) The documents requested are relevant and material to Dr. Alberro’s calculation of “restitution damages” which GCG claims as an alternative measure of its alleged loss with respect to Marmato.</p> <p>As part of his calculation of the costs allegedly expended with respect to the “Affected Area”, Dr. Alberro was instructed to assume, without justification, that amounts totaling \$45,025,204 were spent on “the development and maintenance of the Affected Area” (see Alberro Report, ¶ 137).</p> <p>GCG must be ordered to produce any documents demonstrating that each of the amounts forming part of this sum were in fact spent on “the development and maintenance of the Affected Area” in order to allow for an assessment of the appropriateness of the inclusion of such amounts in GCG’s alternative claim for “restitution damages”.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because they are customary records that GCG ought to have kept in connection with its operational expenditure at Marmato, and on which Colombia assumes GCG relied in instructing Dr. Alberro.</p>
C. Summary of objections by disputing party to production of requested documents	There are no responsive documents “confirming that each of the amounts that GCG instructed Dr. Alberro to assume was spent on ‘the development and maintenance of the Affected Area’, totaling \$45,025,204, was in fact incurred for the purpose that Dr. Alberro stated.” GCG does confirm that each such amount was spent on the stated purpose.
D. Reply	<p><u>No order required.</u></p> <p>The Respondent notes the Claimant’s statement that the Claimant has not identified any responsive documents to this request. The Respondent reserves the right to make such submissions as it deems appropriate with respect to the Claimant’s statement, including a request that adverse inferences be drawn against the Claimant.</p>

E. Decision of the Tribunal	The Tribunal notes the Claimant's representation that there are no responsive documents. Accordingly, no Tribunal order is required.
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Document Request No.	12
A. Documents or category of documents requested	<p>The digital files created or otherwise relied on by SRK for the preparation of its 2017 resource model at Marmato (Exhibit JA-0044: Marmato 2017 Technical Report) (the “2017 Resource Model”), including:</p> <ul style="list-style-type: none"> a. The drill hole database used to estimate resources at Marmato, Excel or CSV format, including: <ul style="list-style-type: none"> i. drill hole collar information; ii. drill hole survey and down-the-hole deviation measures; iii. drill hole logged geologic variables; iv. drill hole assay grades for all relevant assays (Gold; Silver); v. underground channel samples and locations, including location, sampled interval, Au and Ag assays, and mapped geology, for all areas within the mine. vi. table with in situ (specific gravity) measurements, to include drill hole ID, From-To (interval definition), and in situ density measurement; vii. complete set of wireframe files (in 3D DXF format) that represent the veins modeled to date. viii. complete set of triangulations (wireframes) in three-dimensional DXF format that represent existing underground workings and drifts completed by GCG and/or others. ix. drill hole interval percent recovery; point load test (PLT); and RQD data, if available. Also as CSV or Excel tables, and including Drill hole ID and intervals (From-To). x. complete Resource block model prepared by SRK to report Marmato’s 2017 Resources in its report, including all variables and sub-cells, in ASCII format (TXT) and Datamine formats, including the geologic model coded into the blocks, including lithology, mineralization, structures, alteration, and/or other mineralization controls, and auxiliary information such as number of drill holes and number of composites used in the estimation, kriging variances, resource classification codes, etc. xi. description of each variable included in the block model and the corresponding coding scheme. b. The DTM file of the topographic surface for the entire Marmato and Echandía areas. <p>All such files should be labelled or organized by zone to which they correspond (Zona Alta; Zona Baja; MDZ; Echandía Alta; and Echandía Baja).</p>

<p>B. Relevance and materiality:</p> <p>(1) para ref to submissions</p> <p>(2) comments</p> <p>(3) statement concerning custody and control</p>	<p>(1) Rossi Report, ¶¶ 312-315; Kennedy Report, pp. 16-25.</p> <p>(2) The documents requested are relevant and material to the assessment of the technical inputs relied upon by GCG in its claim for the market value of the “Affected Area” at Marmato, which GCG claims was indirectly expropriated by Colombia.</p> <p>GCG relies on Dr. Alberro’s valuation of the “Affected Area”, who in turn relies on Mr. Kennedy’s technical inputs and “conceptual mine plan”. Mr. Kennedy, in turn, relies on SRK’s 2017 Resource Model (Section 3, pp. 16-25), but has not adduced the underlying digital files created or relied upon by SRK in order to produce their 2017 resource model.</p> <p>In order to allow Colombia and Mr. Rossi a fair opportunity to evaluate the reliability and relevance of SRK’s Resource Model, as would be done by any prospective purchaser, GCG must now be ordered to produce the complete set of digital files created or relied upon by SRK for the purpose of their 2017 Resource Model, on which GCG, Dr. Alberro and Mr. Kennedy rely.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because such documents were relied upon or created for the purpose of the preparation of SRK’s 2017 Resource Model.</p>
<p>C. Summary of objections by disputing party to production of requested documents</p>	<p>Claimant objects to this Request as Respondent has failed to show such Documents are within Claimant’s possession, power, control or custody (Article 3.3(c)(ii) IBA Rules). The digital files created or otherwise relied on by SRK Consulting in the preparation of its 2017 Resource Model are not within the possession, power, control or custody of Claimant but rather are in the possession of SRK Consulting as they are underlying documents or information used in the preparation of its 2017 Resource Model at Marmato. We confirm that GCG has requested that SRK Consulting provide these documents. SRK Consulting is not a party to the Arbitration and not within the control of GCG.</p> <p>Subject to this objection, if Claimant receives the documents, Claimant will produce them.</p>
<p>D. Reply</p>	<p><u>No order required at this stage.</u></p> <p>Colombia notes that GCG has confirmed that the documents requested are not in its possession, custody or control, but has agreed to provide the documents requested subject to receiving them from its contractor, SRK, which was instructed by GCG. Colombia reserves its rights to make a further application to the Tribunal should GCG fail to obtain the relevant documents from SRK.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s representation that it has requested that SRK Consulting provide documents responsive to this request, and the</p>

	Claimant's agreement to produce such documents as SRK Consulting provides in response. Accordingly, no Tribunal order is required.
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Document Request No.	13
A. Documents or category of documents requested	<p>(a) Report titled ‘Review of Exploration at the Gran Colombia Gold Mine, Municipalities of Segovia and Remedios, Department of Antioquia, Colombia’, prepared by Dr. Stewart D. Redwood, dated 10 July 2011 (referred to in Exhibit C-54, p. 23);</p> <p>(b) Segovia Structural Geology Review Memorandum, prepared by SRK Consulting, dated August 2019; and</p> <p>(c) The most recent technical reports prepared by or for GCG (including by its senior consultant geologist, Dr. Stewart D. Redwood) with respect to the estimation of mineral resources for each of the El Silencio, Providencia and Sandra K mines at Segovia.</p>
<p>B. Relevance and materiality:</p> <p>(1) para ref to submissions</p> <p>(2) comments</p> <p>(3) statement concerning custody and control</p>	<p>(1) Rossi Report, ¶¶ 94-98, Section III.E-O; Kennedy Report, pp. 8-12; Exhibit C-54/BK-23/JA-25, p. 23.</p> <p>(2) The documents requested are relevant and material to the assessment of GCG’s claim, based on the opinion of Mr. Kennedy (who in turn bases his opinions on reports issued by SRK), that GCG would have mined certain areas at Segovia but for the presence of ASMs. These technical documents, which are referenced in Mr. Kennedy’s report and the underlying SRK reports prepared for GCG (including reports on which Mr. Kennedy relies for his opinions with respect to the estimated volumes of stolen minerals at Segovia), must be disclosed in order to allow Mr. Rossi to assess the appropriateness of Mr. Kennedy’s assumptions and the accuracy of his analysis with respect to such estimations.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because such documents are referenced by SRK in its reports (see Exhibit C-54, p. 23; and SRK’s Prefeasibility Study Update dated 13 May 2021, available here: https://sec.report/otc/financial-report/286529, p. 30), and as the operator of the El Silencio, Providencia and Sandra K mines (which are currently in production), GCG carries out technical activities and resource estimation that are regularly recorded in technical reports, including those issued by its senior consultant geologist Dr. Stewart D. Redwood.</p>
C. Summary of objections by disputing party to production of requested documents	<p>Claimant objects to this Request on the following grounds:</p> <p><i>First</i>, with respect to Request 13(b), the Document requested is not relevant to the case and material to its outcome for the reasons proffered by Respondent, and thus must fail in accordance with Article 3.3(b) of the IBA Rules. The requested Document is not relevant or material for the purposes of determining damages or to the assessment of GCG’s claims, as this Document was not relied on by Mr. Kennedy in his opinions with respect to the estimated volumes of stolen materials at Segovia. The Document has nothing to do with the past, current or future damages.</p>

	<p><i>Second</i>, with respect to Request 13(c), Claimant objects as the Document requested is not relevant to the case and material to its outcome in accordance with Article 3.3(b) of the IBA Rules. In any event, the requested Document is in the public domain and can be accessed publically via GCG’s web-site: https://grancolombiagold.com/operations-and-projects/segovia-operations/reserves-and-resources/default.aspx.</p> <p>Subject to these objections, Claimant will produce the documents corresponding to Request Nos. 13(a) and 13(c).</p>
<p>D. Reply</p>	<p><u>Request maintained with respect to Request 13(b)</u></p> <p>Colombia notes GCG’s agreement to produce documents corresponding to Requests 13(a) and (c).</p> <p>Colombia respectfully seeks an order that GCG be ordered to produce the Segovia Structural Geology Review Memorandum, prepared by SRK Consulting, dated August 2019 per Request 13(b).</p> <p>GCG does not deny that it is in possession of this document or that its production would be burdensome in any way. However, GCG claims that the document is not relevant and material because the document “<i>has nothing to do with the past, current or future damages</i>”. That is not the case. The document is relevant and material to the assessment of GCG’s claim for lost profits at Segovia because such claim assumes that allegedly stolen minerals were (and will be) taken from areas that GCG would otherwise have mined. The structural studies carried out by GCG’s consultants would reveal the potential for further exploration and delineation of resources in such areas. Because Dr. Alberro’s damages calculation for lost profits relies on Mr. Kennedy’s assessment that the areas in question were areas with mineralization that GCG could have pursued, the document requested is relevant to the assessment of damages.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s agreement to produce the documents corresponding to Request Nos. 13(a) and 13(c).</p> <p>The Claimant shall also produce the document corresponding to Request No. 13(b).</p>

Document Request No.	14
A. Documents or category of documents requested	<p>The digital files created or otherwise relied on by GCG or its consultants for its modelling of mineralization at the El Silencio; Providencia; Sandra K; San Nicolás; La Rubiela; El Cogote; Los Cristales; La Campana; La Sapa; Apique Ruby; and Jubilados mines, comprising the drill hole database used to estimate resources at each of the above mines, in Excel or CSV format, including any:</p> <ul style="list-style-type: none"> a. drill hole collar information; b. drill hole survey and down-the-hole deviation measures; c. drill hole logged geologic variables; d. drill hole assay grades for all relevant assays (Gold; Silver); e. underground channel samples and locations, including location, sampled interval, Au and Ag assays, and mapped geology, for all areas within the mine. f. table with in situ (specific gravity) measurements, to include drill hole ID, From-To (interval definition), and in situ density measurement; g. complete set of wireframe files (in 3D DXF format) that represent the veins modeled to date; h. complete set of triangulations (wireframes) in three-dimensional DXF format that represent existing underground workings and drifts completed by GCG, Frontino, and/or others; i. drill hole interval percent recovery, point load test (PLT), RQD data (if available) as CSV or Excel tables, including Drill hole ID and intervals (From-To); j. the current Resource block model used by GCG to report resources at each of the above mines on SEDAR (to the extent reported), including all variables and sub-cells, in ASCII format (TXT) and Vulcan formats, and including the geologic model coded into the blocks, including lithology, mineralization, structures, alteration, and/or other mineralization controls. In addition, it should include auxiliary information such as number of drill holes and number of composites used in the estimation, kriging variances, resource classification codes, etc. <p>GCG is also asked to provide a table describing each variable included in the block model and the corresponding coding scheme to allow for the model to be reviewed independently by Mr. Rossi.</p>
B. Relevance and materiality: (1) para ref to submissions (2) comments	<p>(1) Rossi Report, ¶¶ 94-98, Section III.E-O; Kennedy Report, pp. 8-12.</p> <p>(2) The documents requested are relevant and material to the assessment of the technical inputs relied upon by GCG in its claim for lost profits allegedly suffered in connection with the theft of minerals by ASMs at Segovia. Mr. Kennedy’s inputs, relied upon by Dr. Alberro for his damages calculations, are based on technical modelling carried out by GCG or its consultants. GCG has not provided the underlying modelling data in evidence. GCG must now be ordered to disclose such data in order to allow Colombia and Mr. Rossi a fair opportunity to assess the reliability and relevance of the data relied upon by Mr. Kennedy.</p>

<p>(3) statement concerning custody and control</p>	<p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because, as the operator of the El Silencio, Providencia and Sandra K mines (which are currently in production), GCG carries out technical activities and resource estimation that are regularly recorded in technical reports which GCG reports to the Toronto Stock Exchange in its forms NI-43-101. For the mines operated by ASMs, GCG provided these files to Mr. Kennedy for the purposes of his report, as recorded by Mr. Kennedy at pp. 6-7 of his Report.</p>
<p>C. Summary of objections by disputing party to production of requested documents</p>	<p>Claimant objects to this request on the following grounds:</p> <p><i>First</i>, there are no responsive documents or files for the illegal mines referenced in the Request, namely: San Nicolás; El Cogote; La Campana; Los Cristales; La Sapa; Apique Ruby; and Jubilados.</p> <p><i>Second</i>, with respect to El Silencio and Providencia, to the extent the requested files do exist, Claimant objects to this Request as the digital files are not relevant to or part of the damages analysis. Respondent’s Request as stated fails to show that the requested data is “relevant to the case and material to its outcome” (Article 3.3(b) of the IBA Rules), and should be objected outright.</p> <p><i>Third</i>, with respect to Sandra K digital files, to the extent the requested files are relevant, this Request is overly broad as it does not set forth a “description of each requested Document sufficient to identify it” nor a “narrow and specific” category of documents in accordance with Article 3.3(a) of the IBA Rules. The Request appears to call for the entire model and all assay data for the Sandra K mine. The stated damages calculation in the Kennedy report was based on the damages to the Sandra K mine due to invasion of the Techo vein by the La Rubiella mine.</p>
<p>D. Reply</p>	<p><u>Request maintained.</u></p> <p>The Respondent respectfully seeks an order from the Tribunal that the Claimant produce documents responsive to this Request.</p> <p><i>First</i>, with respect to the San Nicolás; El Cogote; La Campana; Los Cristales; La Sapa; Apique Ruby; and Jubilados mines, contrary to GCG’s assertion, responsive files do exist and are in GCG’s possession because provided them to Mr. Kennedy in connection with the preparation of his Report. Specifically:</p> <ul style="list-style-type: none"> • Mr. Kennedy states in his Report that he relied on “<i>data</i>” that was “<i>obtained from maps prepared by Frontino prior to its ceasing operations</i>”, which “<i>were used by GCG to define probable areas where further mining could occur, and to show</i>

	<p><i>that there were sufficient indicated or inferred resources for the mines to be operational at certain projected grades”.</i>⁷</p> <ul style="list-style-type: none"> • For El Cogote and San Nicolas, Mr. Kennedy confirms that the data prepared by Frontino has been “<i>digitized by GCG to reside within the computers used for geologic mapping and mine planning</i>”.⁸ • For Jubilados, Mr. Kennedy states that “<i>GCG had old Frontino maps of workings, which included data on vein thickness and ore grade.</i>”⁹ • For Los Cristales, Mr. Kennedy confirms that “[i]t is a property that was originally developed by Frontino and the Frontino maps were used to define the likely resources”.¹⁰ <p><i>Second, with respect to El Silencio and Providencia, GCG does not deny that the requested files exist, but asserts that they “are not relevant to or part of the damages analysis”. This is incorrect. Mr. Kennedy has relied on the files requested in order to assess the volumes of minerals for each of El Silencio, Sandra K and Providencia which he assumes were mined by ASMs,¹¹ and Dr. Alberro in turn relies on Mr. Kennedy’s inputs as to</i></p>
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⁷ Kennedy Report, Annex 2, Sec. 2.0.3, p. 6: “*For many of the evaluations used to calculate past damages, a lot of the data was obtained from maps prepared by Frontino prior to its ceasing operations. These maps are older and do not reflect what the mines and resources would look like today, after years of illegal mining. The maps were used by GCG to define probable areas where further mining could occur, and to show that there were sufficient indicated or inferred resources for the mines to be operational at certain projected grades.*”

⁸ Kennedy Report, Annex 2, Sec. 2.0.3, p. 4:” *In the case of the Tier 1 mines (set out in Section 2.1 below), there is substantial evidence to justify calculations of thickness and grade information. In the case of two of the mines (El Cogote and San Nicolas), these were previously Frontino mines and the Frontino mine maps and studies included location of channel samples taken as the mine workings advanced.”; and “The Frontino databases are well maintained, as are the maps. This data has now been digitized by GCG to reside within the computers used for geologic mapping and mine planning.*”

⁹ Kennedy Report, Annex 2.4, Sec. 2.4.1, p. 2: “*Jubilados mine was an operation adjacent to and within old Frontino workings associated with the Providencia mine. As such, GCG had old Frontino maps of workings, which included data on vein thickness and ore grade.*”

¹⁰ Kennedy Report, Annex 2.4, Sec. 2.4.4, p. 8: “*Cristales is one of the mines I visited in December 2018. It had only recently (as of around August 17, 2018) been made a contract mine of GCG’s. It is a property that was originally developed by Frontino and the Frontino maps were used to define the likely resources.*”

¹¹ Kennedy Report, Annex 2.4, p. 1; and Figure 1, p. 2: “*In this Annex, I first review the Tier 2 Mines: Los Jubilados-Cogollo, La Sapa, La Campana, Cristales and Apique Ruby, which are also mines with a history that goes back into the times when these veins were being exploited by Frontino. Unlike the Tier 1 Mines, however, these mines, by Colombian standards, generally fall into the “Small” mines category with production under 15,000 tons per year. I confirmed through maps the locations of these mines within RPP-140 and with relationship to GCG mines and other operations. These maps were usually of the type included below in Figure 1. GCG can use its software to model these blocks and the underlying data samples in order to determine the average geological characteristics for the block. For example, in the map in Figure 1, the yellow blocks associated with the mines Cordoba, Jubilados and La Sapa can be seen in their relationship with the Providencia mine.”; see also p. 2 of the same Annex: “*Usually, the Frontino maps or GCG maps also showed areas where additional development was possible and where likely resources were available for future mining. Thus, there can be two sources of the potential mining areas: more recent GCG interpretations and older Frontino interpretations.*”; see further p. 4 of the same Annex: “*The La Sapa property is also associated with the Providencia mine that is being operated by GCG. In this case, the mine portal or mine entry is located outside the boundary of RPP-140, but illegal miners are mining adjacent to the upper workings of the GCG mine in the recovery of pillars left from prior Frontino operations.*”; see further Section 2.4.3, p. 6 of the same Annex: “*The La Campana mine is associated**

	<p>such volumes for his calculation of damages for lost profits. In order for Mr. Rossi to assess Mr. Kennedy’s estimations, he must be provided with copies of the requested files.</p> <p><i>Third</i>, with respect to Sandra K, GCG does not deny that the files requested exist or that they are relevant and material. However, GCG claims that the request does not include a description of each requested Document or a narrow and specific category of documents, and is overly broad. Neither objection has any merit. The Request specifies, in itemized sub-requests, the particular files requested in sufficient detail to allow GCG to identify them. Further, the request is not overly broad because in order for Mr. Rossi to assess Mr. Kennedy’s opinion concerning “<i>the damages to the Sandra K mine due to invasion of the Techo vein by the La Rubiella mine</i>”, Mr. Kennedy requires access to the entire database for the Sandra K area. As Mr. Rossi explains in his Report, GCG’s damages includes alleged losses for workings that GCG was using to target other resources not affected by the interaction with La Rubiella. Therefore, it would not be sufficient for GCG to produce the self-selected subset of the Sandra K data provided to Mr. Kennedy for the purpose of his Report.¹²</p> <p>Finally, GCG has not raised any objection with respect to the documents requested in relation to the La Rubiella mine. GCG holds the documents requested and provided them to Mr. Kennedy for use in his Report. Mr. Kennedy’s Report confirms that he relied on documents prepared by Frontino and refers to “<i>known resource models</i>”.¹³ There is thus no reason why GCG should be permitted to withhold responsive files relating to La Rubiella.</p>
<p>E. Decision of the Tribunal</p>	<p>The Tribunal notes the Claimant’s representation that there are no responsive documents or files for the San Nicolás, El Cogote, La Campana, Los Cristales, La Sapa, Apique Ruby, and Jubilados mines.</p> <p>The Claimant nonetheless is requested to confirm, with respect to the specific quotes from Mr. Kennedy’s report cited at notes 7-10 of the</p>

with the GCG Silencio mine and has been operated between 2014 and 2018. GCG’s maps and geological records were used to define a potential resource within that area where La Campana was known to be mining.”; and Annex 2.4, Sec. 2.4.5, p. 11: “*The Apique Ruby mine is associated with the Silencio mine that GCG operates. It is operating on the same vein. I understand that the information that is available on this mine was taken from available data within the Silencio mine and the known proximity of the two mines due to some incidents where there has been issues with the mines getting too close to each other. The data on the grade and thickness is based on the information from workings inside the Silencio mine adjacent to this mine.*”

¹² See Kennedy Report, Annex 2.3.3, p. 5: “*GCG has generated, with its mine planning systems, the following resource block it determined is being targeted by the Rubiella mine. Table 2 sets out the geological characteristics of that block.*” and “*When GCG’s exploration drill holes entered voids where the vein had been mined out, it was discovered that the Rubiella mine had changed direction of the mine and had mined into the area being drilled. Upon further inquiry, I was informed that the intersecting borehole was SK-IS-015, and that drilling of it had commenced on or about November 6, 2016. At that point only did it become clear the ore body Rubiella that was targeting a promising resource body that GCG was exploring out of the Sandra K mine.*”

¹³ Kennedy Report, Annex 2.4, Sec. 2.4.4, p. 8: “*For my assessment, in the case of the Tier 1 mines [El Cogote, San Nicolas and La Rubiella] (in Section 2.1 below), this means that if only old Frontino maps are used, or the ore-body model developed by drilling is used without consideration of any additional exploration, then it would appear that the mines are near the end of their life. However, I have seen strong evidence indicating that they continue to operate. However, while GCG may have indications of where illegal miners might be expanding beyond the known resource models, this cannot be proven definitely at this time.*”

	<p>Respondent's Reply in support of its Document Request No. 14, whether the data to which Mr. Kennedy refers in those passages already has been produced; if not, the Claimant shall produce the data to which Mr. Kennedy refers.</p> <p>With respect to El Silencio and Providencia, the Claimant shall produce (to the extent not already produced) the data on which Mr. Kennedy relied to assess the volumes of minerals which he assumed were mined by miners without a mining title, operating within the GCG areas.</p> <p>With respect to La Rubiela, the Claimant shall produce responsive documents to the extent they exist.</p> <p>The Request is otherwise denied.</p>
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Document Request No.	15
A. Documents or category of documents requested	<p>The following technical reports prepared by consultants for GCG:</p> <ol style="list-style-type: none"> a. Technical report on the design of El Chocho Tailings Storage Facility prepared by Knight-Piesold, dated July 2012 b. Optimization study prepared by I-Consult in 2016-2017 c. Geotechnical study prepared by Constructive Designs and Foundations dated 2017 d. Design and stability of Dam 1A study prepared by Macaferri Company, dated 2018 e. Study and design report prepared by Wood (previously AMEC Foster Wheeler) for the implementation of filter-pressed sludge dated 2018 f. El Chocho Filtered Tailings Storage Facility Detailed Design Report for Phase 1C and 2A, prepared by Wood dated December 2019 g. <i>Revisión Técnica del Informe de Diseño Final -Depósito de Almacenamiento de Relaves El Chocho, Auditoría de Residuos Sólidos Industriales por Beneficios de Minerales Auríferos, Amec Foster Wheeler, dated November 2016</i> h. <i>Análisis del Sistemas de Manejo Actual de Relaves, Alternativas de Corto, Mediano, y Largo Plazo, Auditoría de Residuos Sólidos Industriales por Beneficios de Minerales Auríferos, Amec Foster Wheeler, dated November 2016</i>
B. Relevance and materiality: (1) para ref to submissions (2) comments (3) statement concerning custody and control	<p>(1) Rossi Report, Section III.P; Kennedy Report, pp. 14-16; Davis Report, ¶¶ 112-114.</p> <p>(2) The documents requested are relevant and material to whether the losses claimed by GCG in relation to the El Chocho Tailings and Storage Facility are the result of GCG’s own technical and operational decisions, as Mr. Rossi explains in his report. Specifically, the technical reports sought are referenced by Mr. Kennedy and GCG’s consultants SRK in their reports investigating GCG’s options with respect to the storage and processing of tailings, but have not been submitted onto the record. GCG should be required to disclose such documents in order to allow the Tribunal and Mr. Rossi to examine the options available to GCG and the advice received from its consultants.</p> <p>(3) As stated at ¶ 5 above, Colombia confirms that, to the best of its knowledge and belief, none of the Documents requested are in its possession, custody or control. Colombia assumes that such documents are within GCG’s possession, custody or control because such reports are specifically mentioned in Mr. Kennedy and SRK’s reports but not produced.</p>
C. Summary of objections by disputing party to production of	Claimant has no objections to this Request and will produce responsive documents.

requested documents	
D. Reply	<p><u>Request maintained with respect to Request 15(e).</u></p> <p>GCG has not objected to this Request but has failed to produce the complete version of the Study and design report prepared by Wood (previously AMEC Foster Wheeler) for the implementation of filter-pressed sludge dated 2018 requested under Request 15(e). The document provided by GCG only contains drawings and contains no associated report (or any text). Colombia therefore respectfully seeks an order that GCG produce the complete version of the report requested under Request 15(e).</p>
E. Decision of the Tribunal	<p>The Tribunal notes the Claimant's agreement to produce responsive documents, as well as the Respondent's statement that the Claimant has not produced the complete version of the report sought under Request 15(e). The Claimant shall produce any more complete version of such report that is in its possession, custody and control.</p>