

PCA Case No. 2018-39

**IN THE MATTER OF AN ARBITRATION UNDER THE TREATY BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF
THE REPUBLIC OF BOLIVIA CONCERNING THE ENCOURAGEMENT AND
RECIPROCAL PROTECTION OF INVESTMENT, SIGNED ON APRIL 17, 1998 AND
ENTERED INTO FORCE ON JUNE 6, 2001**

- and -

**THE ARBITRATION RULES OF THE UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW, AS REVISED IN 2010/2013 (the “UNCITRAL Rules”)**

- between -

**1. THE ESTATE OF JULIO MIGUEL ORLANDINI-AGREDA
2. COMPAÑÍA MINERA ORLANDINI LTDA.**

(the “Claimants”)

- and -

THE PLURINATIONAL STATE OF BOLIVIA

(the “Respondent”, or “Bolivia”, and together with the Claimants, the “Parties”)

PROCEDURAL ORDER NO. 8

Decision on the Parties’ Requests for Document Production

Tribunal

Dr. Stanimir A. Alexandrov (Presiding Arbitrator)
Professor Dr. Guido Santiago Tawil
Dr. José Antonio Moreno Rodríguez

July 27, 2020

I. Background

1. On February 4, 2019, following consultations with the Parties, the Tribunal issued Procedural Order No. 1. Section 6 of Procedural Order No. 1 provides that each Party may request the production of documents from the other Party in accordance with the procedural calendar in force, and establishes a procedure for the Parties to object to production and submit for the Tribunal's decision all requests on which no agreement is reached.
2. On July 13, 2020, pursuant to Sections 6.2.4 and 6.2.5 of Procedural Order No. 1 and Annex 1 to Procedural Order No. 7, dated April 10, 2020, the Parties submitted their outstanding requests for the production of documents in the form of Redfern Schedules (respectively, the "**Claimants' Redfern Schedule**" and the "**Respondent's Redfern Schedule**"). In accordance with the Tribunal's directions, as set out in its letter of May 14, 2020, the Claimants also filed a supplemental request for document production addressing matters raised in the expert report of Mr. Arturo Yáñez Cortes (the "**Claimants' Supplemental Redfern Schedule**").
3. On July 17, 2020, the Claimants requested that the Tribunal (i) reject and not consider certain inter-Party correspondence dated June 29, 2020 filed by the Respondent as exhibit R-425 alongside its Redfern Schedule or, at least, allow the Claimants to respond to such correspondence; and (ii) reject the Respondent's application for fees and costs incurred during the document production phase and instead order the Respondent to pay such fees and costs.
4. On July 22, 2020, the Respondent replied to the Claimants' communication of July 17, 2020, requesting that the Tribunal (i) dismiss the Claimants' claims regarding exhibit R-425; (ii) reject and not consider "the belated submissions by Claimants on the Parties' document requests"; and (iii) award the Respondent the costs of the disclosure phase.

II. Analysis

5. The Tribunal's rulings on the Parties' outstanding requests for production of documents, as reflected in the Parties' Redfern Schedules and in accordance with the relevant standards provided in the UNCITRAL Rules and Procedural Order No. 1, are set forth in **Annexes 1-3** to this Procedural Order.
6. The Tribunal recalls that, as per Articles 17(1) and 27(3) of the UNCITRAL Rules and section 6.2.6 of Procedural Order No. 1, it may exercise wide discretion when deciding on document production. In particular, and as permitted under Section 6.2.6 of Procedural Order No. 1, the Tribunal has taken guidance from the *IBA Rules on the Taking of Evidence in International Arbitration 2010* in reaching its decisions on the Parties' requests for document production.
7. The Tribunal notes that the rulings set out in Annexes 1-3 to this order are based on a *prima facie* assessment of the relevance and materiality of the documents requested by the Parties. The Tribunal does not intend to prejudge the materiality of such documents as far as its final determinations on admissibility and burden of proof are concerned.

III. Decision

8. Having carefully considered the Parties' document production requests and their observations with respect to each of them in light of all relevant circumstances, the Tribunal decides as follows:
- (i) To grant, for the reasons and to the extent set out in the Tribunal's decisions as incorporated in the Parties' Redfern Schedules (enclosed as Annexes 1-3 to this Procedural Order):
 - a) The Claimants' document production requests Nos. 1-8, 10, 12, 15-17, 21, 23, 25-30, 33-37, 39-42 and 45, as set out in the Claimants' Redfern Schedule;
 - b) The Claimants' document production requests Nos. 1-5, as set out in the Claimants' Supplemental Redfern Schedule; and
 - c) The Respondent's document production requests Nos. 2-12, 15-16, 20-23 and 25-32, as set out in the Respondent's Redfern Schedule.
 - (ii) To reject all remaining document production requests submitted by the Parties for the reasons set out in the Tribunal's decisions as incorporated in the Parties' Redfern Schedules.
 - (iii) In accordance with the Amended Procedural Calendar for the Phase on Jurisdiction and Liability set out in Annex 1 of Procedural Order No. 7, each side shall produce all documents as ordered by **Thursday, August 27, 2020**.
 - (iv) Should either side seek to assert either confidentiality or privilege over any document for which production has been ordered, that side should prepare a confidentiality and/or privilege log including the following information: (i) the date of the document; (ii) its author(s); (iii) its recipient(s) (if any); (iv) a very brief description of the document; and (v) the basis for the assertion of privilege or confidentiality.
 - (v) Pursuant to Section 6.2.7 of Procedural Order No. 1, if a Party fails to produce documents as ordered by the Tribunal, the Tribunal shall draw the inferences it deems appropriate, taking into consideration all relevant circumstances.
 - (vi) Pursuant to Section 6.3 of Procedural Order No. 1, the documents produced shall not be considered part of the evidentiary record unless and until a Party subsequently submits them to the Tribunal in accordance with the procedural calendar.

Place of Arbitration: Paris, France



Dr. Stanimir A. Alexandrov
(Presiding Arbitrator)

On behalf of the Tribunal

PERMANENT COURT OF ARBITRATION
PCA Case No. 2018-39

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

Between

**The Estate of Julio Miguel Orlandini-Agreda
and
Compañía Minera Orlandini Ltda.**

Claimants

and

the Plurinational State of Bolivia

Respondent

CLAIMANTS' REQUESTS FOR PRODUCTION OF DOCUMENTS

13 July 2020

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Instructions¹

1. In accordance with the procedural calendar included in Annex 1 to Procedural Order No. 7 dated April 10, 2020, the Estate of Julio Miguel Orlandini-Agreda (“**The Estate of Mr. Orlandini**”) and Compañía Minera Orlandini Ltda. (“**CMO**” and collectively with The Estate of Mr. Orlandini, the “**Claimants**”), hereby submit their Requests for Production of Documents (the “**Requests**”).
2. Pursuant to paragraph 6 of Procedural Order No. 1, Claimants submit their Requests in the form of the Redfern Schedule attached to Procedural Order No. 1 as Annex 2.
3. The term “document” has the meaning attributed to it under the IBA Rules on the Taking of Evidence in International Arbitration, that is: “a writing of any kind, whether recorded on paper, electronic means, audio or visual recordings or any other mechanical or electronic means of storing or recording information.” The term “document” thus includes all writings of any kind, whether in draft or final form, whether recorded on paper, electronic means, audio or visual recordings, or any other mechanical or electronic means of storing or recording information, including, but not limited to, all communications (including letters, e-mails and facsimile correspondence), notes, reports, memoranda, analyses, summaries, presentations, meeting minutes, board resolutions, briefs, official resolutions or decisions, working drafts, records of discussions or deliberations, transcripts, talking points, pitch books, speeches, financial statements, proposals, maps, diagrams, drawings, and charts.
4. The Requests encompass all documents within the possession, custody or control of the Respondent, because the documents requested were created by or for Respondent, and/or provided to Respondent, and/or should be kept and maintained by Respondent in the ordinary course of business. To the extent that documents responsive to any request are located and withheld by Respondent on account of any alleged privilege or for any other reason, please provide together with your response a privilege log, setting forth a description of the responsive document (including its date, its author, and its recipient) and the reason for withholding that document from production.
5. The term “correspondence” means any communication sent or received, in any format and form (soft and/or hard copy), including, but not limited to, letters, emails, faxes, SMS, *oficios*, and handwritten notes.
6. “Any” and “all” mean “all;” “Including” means “including, but not limited to;” “And” and “or” mean “and/or.”
7. Unless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present.

¹ These instructions were included with Claimants’ Redfern as originally sent to Respondent.

8. The documents requested should be produced in the manner in which they are regularly maintained. Please submit responsive documents as one PDF file per document. If the documents requested are stored electronically, Respondent may produce the electronic versions of such documents, but should maintain the original format of the document without removing or altering the document's "metadata." The documents must be submitted in their entirety, and, in the case of e-mail correspondence, with any attached files.
9. All capitalized or previously defined terms shall have the same meaning as detailed in Claimants' Statement of Claim ("SOC") and the Appendix I (Glossary of Terms) thereto.
10. Requests for documents prepared by or related to a government agency, State-owned entity (or its affiliates, subsidiaries or other entity or person controlling, controlled by, or otherwise affiliated with such company or entity), State organ, subdivision or instrumentality of Respondent include any document prepared by officials, employees, representatives and/or agents of that agency, State-owned entity, State organ, subdivision, or instrumentality, without regard to whether elected, appointed, contracted, or otherwise employed.
11. Claimants reserve the right to amend or supplement the Requests in light of the documents produced or not produced by Respondent or any other document or evidence that Respondent may submit in these proceedings, including, without limitation the expert report of Arturo Yáñez Cortes that Respondent submitted today.² Claimants also reserve the right to amend or supplement the Requests should Respondent enact any additional measures affecting Claimants' rights and investments during the course of these proceedings, and/or should Respondent seek to raise any new allegations or produce any additional evidence.

² By its letter of May 14, 2020, the Tribunal has already afforded Claimants the opportunity to submit a supplementary request for document production until June 8, 2020, if necessary, addressing any matters raised in the expert report of Arturo Yáñez Cortes.

Claimants' Redfern Schedule of Requests for Production of Documents

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
1.	<p>All documents related to or prepared in connection with Ministerial Resolution No. 040/85, dated April 2, 1985, and Supreme Decree No. 20768, dated April 18, 1985, including, but not limited to:</p> <p>a) Copies of the complaints allegedly filed by CMO's workers with the Ministry of Labor or the Ministry of Mining and Metallurgy;</p> <p>b) All documents, including internal government correspondence, memoranda, official resolutions, reports, and analyses from the Ministry of Labor, the Ministry of Mining and Metallurgy, or any other agency or instrumentality of Respondent, related to or prepared in connection with Ministerial Resolution No. 040/85 and Supreme Decree No. 20768; and</p> <p>c) All documents related to or prepared in connection with any investigation or administrative proceeding conducted by the Ministry of Labor, the Ministry of Mining and Metallurgy, or any other agency or instrumentality of Respondent after receiving the alleged complaints from CMO's workers and prior to the issuance of Ministerial</p>	<p>Respondent's Statement of Defense ("SOD"), ¶¶ 89, 90; R-143, R-144</p>	<p>The requested documents are relevant and material to Bolivia's allegation that in 1985 the Bolivian government placed CMO under receivership due to complaints filed by CMO workers with the government.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "<u>all documents related to or prepared in connection with Ministerial Resolution No. 040/85, dated April 2, 1985, and Supreme Decree No. 20768, dated April 18, 1958,</u>" without any specificity. For example, Claimants fail to identify (i) the author, recipient or custodian of such documents, (ii) their nature, (iii) their specific subject-matter or (iv) a period of time during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>In the cover letter, Claimants explain that, "[u]nless otherwise specified, the period of time covered by the requests is from</p>	<p>Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants' request is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules.</p> <p>Claimants are asking for documents relating to the specific Ministerial Resolution No. 040/85 issued by the Ministry of Mining and Metallurgy on April 2, 1985 and the Supreme Decree No. 20768 issued by the President of Bolivia on April 18, 1985, which Bolivia submitted on the record (R-143 and R-144). Contrary to Respondent's assertion, the IBA Rules do not require that the request identify the author, recipient or custodian of the</p>	<p>The request is granted only with respect to categories (a), (b) and (c) (excluding the chapeau) and for the period 1985-1986. The rest of the request is denied as too burdensome and lacking specificity.</p> <p>-----</p> <p>Se concede la solicitud solo con respecto a las categorías (a), (b) y (c) (excluyendo el preámbulo) y para el periodo 1985-1986. Se deniega el</p>

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	Resolution No. 040/85 and Supreme Decree No. 20768.			<p><i>1985 to 1986 and from 1997 to the present</i>” (§ 7 <i>supra</i>). Claimants thus seek documents covering a period of more than 24 years.</p> <p>As drafted, the request would cover, for instance, the edition of the official journal in which each of the decrees would have been published, as well as all subsequent legislation referring to such decrees or repealing them. This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p>	<p>documents, but only “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement, as the request refers to specific documents that are mentioned in the same Ministerial Resolution and Supreme Decree at issue, or that should have been prepared as part of the ordinary government functions and operations in connection with the Ministerial Resolution and Supreme Decree. Claimant’s request even identifies some of the government entities involved.</p> <p>In addition, Respondent’s assertion that the request “seek[s] documents covering a period of more than 24 years” is false. Claimants’ request clearly covers a specific period: 1985 and 1986. Respondent attempts</p>	<p>resto de la solicitud por ser demasiado onerosa y carente de especificidad.</p>

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				<p><u>One</u>, Claimants have not submitted any claims arising out of CMO’s receivership and reversion in 1985-1986, as confirmed in footnote 22 of the Notice of Arbitration (“<i>CMO is not making any claim in this proceeding for the earlier 1985 expropriation</i>”) and footnote 45 of the Statement of Claim. Nor could they make such claims, given that the Treaty only entered into force on 6 June 2001.</p> <p>For the avoidance of doubt, Bolivia rejects Claimants’ characterization of the receivership and reversion of CMO in 1985-1986 as an “<i>expropriation</i>.”</p> <p><u>Two</u>, Claimants openly admit seeking documents “<i>relevant and material to Bolivia’s allegation</i>” regarding CMO’s placement under receivership in 1985, not Claimants’ allegations. It is telling that Claimants cite no references to their own submissions, witness</p>	<p>to mislead the Tribunal by referring to the instructions to Claimants’ requests, quoting a statement that does not refer to this specific request, but to Claimants’ requests more broadly.</p> <p>Also, the example provided by Bolivia to argue that the request lacks specificity and amounts to a fishing expedition contradicts its own arguments. According to Bolivia, Claimants’ request would require it to search “the edition of the official journal in which each of the decrees would have been published, as well as all subsequent legislation referring to such decrees or repealing them.” But Bolivia has failed to explain why they cannot conduct a search of a limited number of official journals to look for documents related to one particular Resolution and one</p>	

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				<p>statements, expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of ministries, State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established).</p>	<p>particular Supreme Decree. Without providing any rationale, Bolivia asserts that Claimants’ request amounts to a fishing expedition, and yet, at the same time, Bolivia demonstrates that it knows precisely where to look to locate the requested documents.</p> <p><i>Second</i>, Bolivia’s argument that Claimants’ request does not concern documents relevant or material to the outcome of the case is also baseless.</p> <p>While Claimants are not making claims in the present arbitration for the earlier 1985 expropriation, Claimants did make reference to these events in their SOC to explain that Bolivia has a long standing interest in CMO’s concessions and had already attempted to illegally</p>	

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				<p>Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>dispossess CMO of its mining concession rights for the benefit of COMIBO in 1985/1986 (SOC, ¶¶ 36-37). The request, therefore, seeks documents that are plainly relevant to the claims and defenses at issue in the arbitration.</p> <p>In addition, Respondent’s assertion that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” is unsupported by the IBA Rules or any other authority, and is contrary to arbitral practice.</p> <p>The IBA Rules require the documents be “relevant <u>to the case</u> and material to <u>its outcome</u>”. The IBA Rules do not differentiate between allegations made by the</p>	

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					<p>Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses and allegations made in Respondent's SOD are relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern this and every international arbitration.</p> <p>For reasons explained above, Claimants are clearly entitled to seek documents forming the basis of Bolivia's allegations, and, by Bolivia's</p>	

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					<p>own admission, the requested documents concern Bolivia’s allegation that “in 1985 the Bolivian government placed CMO under receivership due to complaints filed by CMO workers with the government.” Moreover, throughout its SOD, Bolivia repeatedly characterized Mr. Orlandini and CMO as “serial” and “notorious” debtors (e.g., SOD, ¶¶ 9, 886), and argued, based on this characterization, that the judicial auction of CMO’s 48 mining concessions “was the direct and exclusive consequences of Claimants’ wrongful refusal to pay avowed. . . owed to CMO’s mining workers . . . and other debts” (SOD, ¶ 295).</p> <p>Accordingly, both with respect to the 1985 expropriation and the judicial auction in the <i>Martinez</i> case, Bolivia’s central defense is</p>	

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					<p>that its illegal measures were “nothing more than Bolivia’s legitimate response to Claimants’ own prior wrongdoing”(SOD, ¶ 664) and “it was Claimants’ own conduct and wrongdoing that made them lose their investment”(SOD, ¶ 668). The requested documents are clearly relevant to this central defense of Bolivia, as well as to establish Bolivia’s pattern of using CMO’s problems with its workers and alleged creditors as a pretext for harassing CMO and illegally expropriating CMO’s concessions.</p> <p><i>Third</i>, as already explained above, Bolivia’s argument that the production would be unduly burdensome is untenable, as the request is not imprecise and Bolivia can readily access them through means that it has identified and controls.</p>	

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					In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.	
2.	All documents related to or prepared in connection with, Bolivia's intervention and expropriation of CMO's assets in 1985-1986, including all records and documents of any investigations or administrative proceedings conducted by any agency or instrumentality of Respondent in connection with Ministerial Resolution No. 222/85, Supreme Decree No. 20801, Supreme Decree No. 20887 and Presidential Decree No. 201030.	C-124 SOD, ¶ 90; R-145	The requested documents are relevant and material to Bolivia's allegation that the State extended CMO's receivership and declared the reversion of CMO's assets to the State in 1985 due to CMO's alleged obstruction of the State's intervention and its refusal to facilitate investigation. This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or	Bolivia objects to this request, <i>mutatis mutandis</i> , for the reasons explained in connection with request 1 above.	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent's objection to request 1 above. On those grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.	Granted only with respect to documents prepared in 1985-1986. The rest of the request is denied as too burdensome and lacking specificity. ----- Concedida solo con respecto a documentos preparados entre 1985 y

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			control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody or control of, the requested documents.			1986. Se deniega el resto de la solicitud por ser demasiado onerosa y carente de especificidad.
3.	All documents related to or prepared in connection with Letter No. GAD-126/86 sent by COMIBOL to the Minister of Mining and Metallurgy, including all records and documents of any investigations or administrative proceedings conducted by COMIBOL, the Ministry of Mining and Metallurgy, or any other agency or instrumentality of Respondent, in connection with the same.	SOD, ¶ 92; R-146	<p>The requested documents are relevant and material to Bolivia’s allegations that COMIBOL took (or attempted to take) possession of CMO in 1986 and that CMO was abandoned back then.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents related to or prepared in connection with Letter No. GAD-126/86,</i>” without any specificity. For example, Claimants fail to identify (i) the author, recipient or custodian of such documents, (ii) their nature, (iii) their specific subject-matter or (iv) a period of time during which they would have been elaborated. The requested documents are thus</p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 1 above.</p> <p>On those grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	<p>Granted only with respect to documents prepared in 1985-1986.</p> <p>-----</p> <p>Concedida solo con respecto a documentos preparados entre 1985 y 1986.</p>

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			<p>or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would cover, for instance, any administrative paperwork generated in connection with the receipt of this letter by the Ministry of Mining and Metallurgy (e.g.: receipt logs, internal mail distribution logs etc.), as well as any archival records pertaining to its storage. This result would be absurd, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). Claimants thus seek documents covering a period of more than 24 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of</p>		

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				<p><i>documents within a specific time period'</i> flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants' case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, Letter No. GAD-126/86 (R-146) is a communication from COMIBOL to the Ministry of Mining and Metallurgy dated 30 January 1986. The letter describes (i) the circumstances in which COMIBOL was called upon to administer CMO further to the reversion of that company's assets to the State in 1985, (ii) the annulment of such reversion by the Bolivian Supreme Court in December 1985, and (iii) the judicial proceedings in the Netherlands further to the judicial seizure of tin owned by COMIBOL, at the request of Mr. Orlandini. Insofar as it relates to events which took place in 1985-</p>		

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				<p>1986, Letter No. GAD-126/86 is irrelevant to Claimants’ case. As explained in connection with request 1 above, Claimants have not submitted – and could not submit – any claims arising out of CMO’s receivership and reversion in 1985-1986.</p> <p><u>Two</u>, Claimants openly admit seeking documents “<i>relevant and material to Bolivia’s allegations that COMIBOL took (or attempted to take) possession of CMO in 1986 and that CMO was abandoned back then,</i>” not Claimants’ allegations. It is telling that Claimants cite no references to their own submissions, witness statements, expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and</p>		

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				<p>Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of ministries, State agencies and instrumentalities, and the review of many years' worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>		
4.	All documents related to or prepared in connection with the criminal complaints filed by the Ministry of Mining and Metallurgy against Mr. Orlandini in 1986/87, including all records and documents of any investigations or administrative proceedings conducted by the	SOD, ¶ 94; R-148	The requested documents are relevant and material to Bolivia's allegation that the Ministry of Mining and Metallurgy filed a criminal	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it</p>	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent's objection to request 1 above.	Granted with respect to categories (a), (b) and (c), as clarified by Claimants in

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	Ministry of Mining and Metallurgy or any other agency or instrumentality of Respondent in connection with the same.		<p>complaint against Mr. Orlandini in 1987 because “there were sufficient indications of criminal activity within CMO.” SOD, ¶ 94.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>seeks “<i>all documents related to or prepared in connection with the criminal complaints filed by the Ministry of Mining and Metallurgy against Mr. Orlandini in 1986/87,</i>” without any specificity. For example, Claimants fail to identify (i) the author, recipient or custodian of such documents, (ii) their nature, (iii) their specific subject-matter, (iv) the specific “<i>investigations or administrative proceedings</i>” to which the requested documents pertain, (v) the “<i>agency or instrumentality of Respondent</i>” by or before which such “<i>investigations or administrative proceedings</i>” would have been carried out, or (vi) a period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would cover, for instance, all the</p>	<p>In addition, Claimants make the following comments in response to Bolivia’s objections:</p> <p>The requested documents are relevant to the 1985/1986 intervention of CMO and expropriation of CMO’s concessions at that time, which is a relevant factual issue in dispute in these proceedings, as detailed in connection with request 1 above. .</p> <p>In addition, contrary to Respondent’s assertions and as shown by Claimants’ request, Claimants have made no assumption that the requested documents do not exist. If Bolivia’s position is that the requested documents do not exist, Bolivia should say so.</p> <p>Far from being an “abusive” request or a “fishing</p>	<p>their Responses to Respondent’s Objections.</p> <p>-----</p> <p>Concedida con respecto a las categorías (a), (b) y (c), según han aclarado las Demandantes en sus Respuestas a las Objeciones del Demandado.</p>

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				<p>administrative paperwork generated in connection with the receipt of the complaint by the prosecutorial authorities (<i>e.g.</i>, receipt logs), with its distribution to a specific prosecutor or with standard internal communications within the prosecutor’s office regarding case administration. This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). Claimants thus seek documents covering a period of more than 24 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the</p>	<p>expedition,” Claimants’ request is a targeted effort at obtaining relevant specific information from Bolivia, i.e., documents related to a specific criminal complaint that the Ministry of Mining and Metallurgy would have filed against CMO in 1987. In fact, it is Bolivia that has argued that at the time of the intervention of CMO in 1986 “there were sufficient indications of criminal activity within CMO” and that the Minister of Mining and Metallurgy filed a criminal complaint against CMO (SOD ¶ 94; R-148).</p> <p>Since Bolivia and its counsel owe a duty of candor and reasonable investigation to the Tribunal and to Claimants, Bolivia must have already gathered and reviewed the requested documents in order to responsibly support of its</p>	

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				<p>broad and vague language of this request.</p> <p><i>Second</i>, Claimants are requesting documents which they themselves believe do not exist. Claimants’ allegation that the requested documents are “<i>relevant and material to Bolivia’s allegation that the Ministry of Mining and Metallurgy filed a criminal complaint against Mr. Orlandini in 1987 because ‘there were sufficient indications of criminal activity within CMO’</i>” is predicated on the assumption that the requested documents do not exist and that Claimants would subsequently be able to use this fact in their defense. The request does not comply with Article 3.3(a)(ii) of the IBA Guidelines (“<i>a description in sufficient detail [...] of a narrow and specific requested category of Documents that are reasonably believed to exist</i>”). In addition, it is an improper and abusive use of</p>	<p>own argument. Claimants’ request for such documents (and Respondent’s obligation to state if no responsive documents exist), therefore, cannot be unduly burdensome or “abusive”.</p> <p>In any event, in the spirit of cooperation, Claimants clarify that they are requesting copies of the record of the criminal proceedings initiated by the Minister of Mining and Metallurgy, including, without limitation, (a) the complaints filed to initiate the proceedings; (b) the records of investigations conducted by the Ministry of Mining and Metallurgy that led to such criminal complaints; and (c) the records of the investigations conducted by the prosecutorial authorities in response to such complaints.</p>	

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				<p>document production in this arbitration.</p> <p><i>Third</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, Claimants openly admit seeking documents “<i>relevant and material to Bolivia’s allegation that the Ministry of Mining and Metallurgy filed a criminal complaint against Mr. Orlandini in 1987 because ‘there were sufficient indications of criminal activity within CMO’</i>,” not Claimants’ allegations. It is telling that Claimants cite no references to their own submissions, witness statements, expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia</p>	<p>Claimants confirm that they are not in possession of the requested documents and submit that these are documents that should plainly be in Respondent’s possession, custody or control.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	

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				<p>has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Fourth</i>, insofar as the requested documents would have been generated in the framework of investigations or administrative proceedings involving Mr. Orlandini, such documents are already, by definition, in Claimants’ possession, custody or control. It defies credulity that Claimants would assert, instead, that they “do not have access to, or possession, custody, or control of, the requested documents.”</p> <p><i>Fifth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of ministries, State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs</p>		

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				associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines		
5.	All documents, including accounting records, prepared by the government officials who administered CMO during Bolivia’s receivership, intervention, and expropriation of CMO in 1985-1986, regarding CMO’s production and sale of minerals during that period.	SOC, ¶ 37; C-124, C-125, C-126 SOD, ¶¶ 90, 91, 95, 98; R-145, R-149, R-150, R-151	The requested documents are relevant and material to Claimants’ allegations that the Bolivian government expropriated CMO’s mining concessions and took over the company in 1985 and that CMO regained control of the company a year later. The requested documents are also relevant and material to Bolivia’s allegations that: CMO was administered by the State for six months; CMO remained under receivership until	Bolivia objects to this request for the following four reasons: <i>First</i> , the request is far from “ <i>narrow and specific</i> ” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “ <i>all documents[...]</i> regarding CMO’s production and sale of minerals” between 1985 and 1986, without any specificity. As drafted, the request would cover, for example, all employment contracts of CMO’s mining workers concluded in 1985-1986 for the purposes of the production of the minerals in question, all receipts for equipment purchased by CMO for the purposes of such production, all	Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons: <i>First</i> , it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Bolivia’s position to the contrary is untenable. Claimants are seeking documents of “production and sale of minerals during [Bolivia’s intervention and management of CMO in 1985-1986].” Claimants thus seek specific categories of	Granted only with respect to accounting records and records of production and sale of minerals. ----- Concedida solo con respecto a registros contables y registros de producción y venta de minerales.

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			<p>November 1986; the receivership was lifted “due to the undue pressure that Mr. Orlandini exerted over COMIBOL” through the “Rotterdam Proceedings”; and COMIBOL suffered damages as a result of the “Rotterdam Proceedings”.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or</p>	<p>reports of maintenance works carried out on the vehicles used by CMO to transport such minerals to the points of sale, all long and short-term minerals sale contracts CMO may have concluded during that time etc.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, as explained in connection with Request 1 above, Claimants have expressly and repeatedly stated that they do not submit any claims in this arbitration in connection with CMO’s receivership and reversion in 1985-1986 – nor could they, as such claims would fall outside the</p>	<p>documents during a specific timeframe. As with other objections, instead of conducting a reasonable search and producing any responsive documents in its possession, Bolivia relies on boiler plate objections and rank speculation about documents that it <i>thinks</i> it may have to produce, but that, in fact, are not responsive to Claimants’ request. Bolivia utilizes this tactic of coming up with a list of ludicrous and unresponsive documents to allege that Claimants’ request is vague and broad, when it is not. This is a plain and impermissible attempt by Bolivia to avoid producing the requested documents. Claimants reiterate that they are not asking for “employment contracts,” “receipts of equipment purchased,” or “maintenance works...on the vehicles</p>	

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			control of, the requested documents.	<p>scope of the Tribunal’s <i>ratione temporis</i> jurisdiction. Thus, Claimants’ assertion that the requested documents would be relevant and material to their “<i>allegations that the Bolivian government expropriated CMO’s mining concessions and took over the company in 1985 and that CMO regained control of the company a year later</i>” is unavailing.</p> <p><u>Two</u>, even assuming that this request were, <i>par impossible</i>, to be relevant to Claimants’ case and material to a decision of the Tribunal, this could only be at the stage of quantum of damages of this arbitration, and not at the present stage of jurisdiction and liability. Claimants improperly attempt to circumvent the bifurcation of the present arbitration between jurisdiction/liability and quantum – a bifurcation to which they consented (Opposition to</p>	<p>uses...to transport minerals”, as Bolivia disingenuously suggests. As is clear from the plain text of the request, Claimants simply seek records of “production and sale of minerals [of CMO] during that period,” that is, during the period that Bolivia intervened and managed CMO in 1985-1986. Again, Bolivia’s argument that such a narrow request does not meet the requirements of the IBA Rules is without merit.</p> <p>Moreover, Bolivia’s objections also demonstrate that it relies on little more than boilerplate assertions in support of its vagueness and over-breadth objections. For example, Respondent copies and pastes its blanket objection that “identifying a category of documents as imprecise as that sought under this request would require an unduly</p>	

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				<p>Respondent’s Application for Trifurcation, Section III.D).</p> <p><i>Third</i>, the requested documents are already, by definition, in the possession, custody or control of CMO. Indeed, Claimants seek “<u>accounting records</u>” of CMO and “<u>all documents [...] regarding CMO’s production and sale of minerals</u>” between 1985 and 1986. Such documents are available to CMO, as they are part of the company’s records. It defies credulity for Claimants to suggest that they would not have access to, or possession, custody or control of, CMO’s own records. Conversely, the requested documents are not “<i>inherent to government functions part of ordinary operations,</i>” as Claimants suggest.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of ministries, State</p>	<p>burdensome search through the archives of any number of ministries, State agencies and instrumentalities, and the review of many years’ worth of documents” without specifying how that is the case with respect to this particular request.</p> <p>Claimants’ request is by no means imprecise, as it seeks specific, identifiable information (documents of CMO’s production and sale of minerals). Furthermore, contrary to Respondent’s disingenuous assertion, complying with the request would not involve “the review of many years”. There is no doubt that the request involves a specific time period which is no more than a year (in fact, just six months, according to Bolivia’s own statements (SOD, ¶ 91)). Similarly, the request will not involve “any</p>	

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				<p>agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines</p>	<p>number of ministries, State agencies and instrumentalities”, but just those that were in charge of the administration of CMO during the intervention (SOD, ¶¶ 91-92). Therefore, Bolivia’s position that the request would be unduly burdensome is entirely without merit and betrays Bolivia’s true aim: to evade its obligations to produce relevant, responsive documents.</p> <p><i>Second</i>, Claimants’ request is relevant to the case and material to its outcome, in accordance with IBA Rules 3.3(b) and 9.2(a) for the reasons explained in Claimants’ response to Respondent’s objection to request 1 above.</p> <p><i>Third</i>, Bolivia’s allegation that this request could only be relevant at the damages</p>	

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					<p>stage, and not at the present stage of jurisdiction and liability is unavailing. Respondent improperly attacks the integrity of Mr. Orlandini at the present stage of the proceedings, painting an warped and unsubstantiated picture of him as a “serial” and “notorious” debtor and defaulter (SOD, ¶¶ 9, 886), all in a failed attempt to rationalize and justify the illegalities Bolivia committed against Claimants (<i>See, e.g.</i>, SOD, ¶ 105 (“Given Claimants’ history of serial debts and defaults, it was only a matter of time before such debts would be enforced against their assets, as it occurred in the Martínez Case”)).</p> <p>The requested documents are relevant, <i>inter alia</i>, to countering Bolivia’s spurious allegations that Mr. Orlandini</p>	

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					<p>exerted undue pressure over COMIBOL through the “Rotterdam Proceedings” to lift the CMO receivership, and that COMIBOL suffered damages as a result of the “Rotterdam Proceedings”.</p> <p>The requested documents are also relevant to demonstrating that COMIBOL’s proceedings against CMO for alleged damages resulting from the minerals seized in Rotterdam lack any merit (because the minerals that CMO seized in Rotterdam belonged to CMO and not to COMIBOL) and that the subsequent actions of the Office of the Comptroller against CMO were improper, and another attempt by the State to harass CMO and take control of its concessions.</p> <p><i>Fourth</i>, the requested records of production and</p>	

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					<p>commercialization of minerals during the time of the intervention/receivership in 1985-1986 are not in possession, custody or control of CMO, as they were kept by COMIBOL which, as Respondent has acknowledged, administered CMO for six months.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	
6.	Any final judgment convicting Mr. Orlandini for fraud or any other crime and any document related to the appeal(s) of any such judgment.	SOD, p. 6	<p>The requested documents are relevant and material to Bolivia’s allegation that Mr. Orlandini was a “convicted ...fraudster”.</p> <p>This request concerns a narrowly defined</p>	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>any final judgment convicting Mr. Orlandini for fraud</i>”</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, as explained previously, Claimants’</p>	<p>Granted.</p> <p>-----</p> <p>Concedida.</p>

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			<p>category of documents that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p><i>or any other crime and any document related to the appeal(s) of any such judgment,</i>” without specificity. Claimants do not indicate, for instance, (i) the specific court which would have heard such proceedings, (ii) its geographical remit, (iii) the period of time during which the referred proceedings would have been ongoing or (iv) the date of the purported final judgments, appeals or decisions on the appeals.</p> <p>As drafted, this request would cover, this request would require that Bolivia carry out an unduly burdensome search through the records of all of the courts in its territory, at all instances, for a period covering Mr. Orlandini’s life at least from the time he turned 18 years old until the time of his passing (<i>i.e.</i>, from 1963 to 2019).</p>	<p>request is both narrow and specific, in accordance with Article 3.3 (a) of the IBA Rules. The IBA Rules require “a description of [the requested documents] sufficient to identify [them].” Consistent with this, the Commentary on the IBA Rules states that when “[t]he requesting party cannot identify the dates or the authors of such documents, [it] nevertheless can identify with some particularity the nature of the documents sought”³ The concept of specificity “can relate to the identity of the document, <i>its subject matter</i>, its location, and/or the identity of the person in possession or control.”⁴ This is what Claimants have done.</p>	

³ 1999 IBA Working Party & 2010 IBA Rules of Evidence Review Subcommittee, Commentary to the revised text of the 2010 IBA Rules on the Taking of Evidence in International Arbitration , p. 9.

⁴ Jeffrey Waincymer, Procedure and Evidence in International Arbitration (Kluwer Law International, 2012), p. 861.

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				<p>This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). Even under Claimants’ own description, the requested documents cover a period of more than 24 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p>	<p>Claimants’ request describes with precision the subject matter of the requested category of documents as it refers to specific judgements against a particular person, Mr. Orlandini, and related appeals of any such judgement. Respondent did not—and cannot—object to the sufficiency of Claimants’ description of the <i>subject matter</i> of the requested documents and therefore its objection for lack of specificity is baseless.</p> <p>Moreover, contrary to Bolivia’s argument, the requested documents are relevant to the case and material to its outcome. Respondent has made serious allegations that Mr. Orlandini was “a convicted...fraudster” (SOD, Section 3). Such serious accusations cannot be taken lightly (or made without providing all</p>	

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				<p><u>One</u>, Claimants do not submit any claims arising out of any criminal convictions against Mr. Orlandini.</p> <p><u>Two</u>, the request covers documents pertaining to any criminal convictions against Mr. Orlandini, including if they are unrelated to the assets at issue in this arbitration or the claims brought in relation to them.</p> <p><u>Three</u>, Claimants openly admit they seek documents “<i>relevant and material to Bolivia’s allegation</i>” that Mr. Orlandini was a convicted fraudster. It is telling that Claimants cite no references to their own submissions, witness statements, expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and</p>	<p>evidence related to them), as they relate to the honorability and integrity of one of the Claimants and have an impact on the conduct of the Respondent and its counsel that the Tribunal should assess during the present arbitration, as well as on the civil and criminal liabilities that Respondent could be subject to in the U.S. and Bolivia for making such defamatory accusations.</p> <p>Moreover, the requested documents are highly relevant to the case because, as explained in Claimants’ response to Respondent’s objection to request 4, Respondent makes this accusation in an attempt to argue that Claimants were dispossessed of their assets due to Mr. Orlandini’s wrongdoings and therefore that Bolivia’s illegal actions were in fact justified or legal</p>	

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				<p>Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, insofar as the requested documents would have been generated in the framework of criminal proceedings involving Mr. Orlandini, such documents, by definition, are in Claimants’ possession, custody or control. It defies credulity that Claimants would assert, instead, that they “<i>do not have access to, or possession, custody, or control of, the requested documents.</i>”</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of all of the courts in Bolivia, at all instances, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested</p>	<p>(see, e.g., SOD, ¶¶ 105, 663-664). Bolivia further asserts that the present arbitration is an “attempt by a convicted...fraudster to extort and illegal payment...from Bolivia” (SOD, Section 3). After making such serious and irresponsible accusations, Respondent cannot hide behind blanket and contradictory assertions of lack of specificity and relevancy to refuse to produce documents relevant to those allegations.</p> <p>In addition, Respondent’s assertion that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” is unsupported by the IBA Rules or any other authority,</p>	

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				documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines	and is contrary to arbitral practice. The IBA Rules require the documents be “ <u>relevant to the case and material to its outcome</u> ”. The IBA Rules do not differentiate between allegations made by the Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses and allegations made in Respondent’s SOD are relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and	

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					<p>equality of arms that govern this and every international arbitration. Thus, unless Bolivia’s arguments are to be read as implying that its own arguments and defenses are not relevant or material to the outcome of this arbitration, it follows that Claimants’ request is proper and the Tribunal should order Respondent to produce the requested documents.</p> <p>Respondents’ position that the request is unduly burdensome because it would require Respondent to “search through the archives of all of the courts in Bolivia, at all instances, and the review of many years’ worth of documents” is likewise unavailing. Bolivia should have already gathered and analyzed documents responsive to this request in order to make the serious accusations it included in its</p>	

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					<p>SOD against Mr. Orlandini. Thus, the request is far from being unduly burdensome. To the extent that Bolivia has not done that already, this makes its allegations even more egregious, and its conduct in the present arbitration highly questionable.</p> <p>In any event, it is not unduly burdensome for Bolivia to procure final conviction judgements for the following reasons:</p> <p>(i) Bolivia does not need to carry a burdensome search through countless records, as it can easily obtain this information from its own Criminal Registrar’s office (<i>Registro Judicial de Antecedentes Penales – “REJAP”</i>)– the Bolivian government agency that manages the criminal records</p>	

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					<p>of individuals, including criminal convictions.⁵</p> <p>(ii)The Attorney General’s Office (<i>Procuraduría General del Estado –PGE</i>) has ample power to easily procure this information from the REJAP or any other public office or court, as provided by Bolivian law.⁶ In fact, the PGE used this precise, unrestricted authority to procure information to obtain copies of the <i>Martinez</i> case by sending a letter (</p>	

⁵ **Bolivian Code for Criminal Procedure, Article 440** (“*Registro de antecedentes penales*). *El Registro Judicial de Antecedentes Penales, dependiente del Consejo de la Judicatura, tendrá a su cargo el registro centralizado de las siguientes resoluciones: 1. Las Sentencias condenatorias ejecutoriadas; 2. Las que declaren la rebeldía; y, 3. Las que suspendan condicionalmente el proceso. Todo juez o tribunal remitirá al registro, copia autenticada de estas resoluciones. El Consejo de la Judicatura nombrará un director encargado del registro y reglamentará su organización y funcionamiento.*”), **CLA-243**.

⁶ **Article 231 (4) of the Bolivian Constitution** provides that the Office of the Attorney General of the State has unrestricted power to request and access the information it needs from any public servants and individual persons for purposes of exercising its authority (“*Requerir a las servidoras públicas o a los servidores públicos, y a las personas particulares, la información que considere necesaria a los fines del ejercicio de sus atribuciones. Esta información no se le podrá negar por ninguna causa ni motivo; la ley establecerá las sanciones correspondientes.*”), **CLA-244**. See also **Article 18(5) of Law No.064** (Dec. 5, 2010) (providing that the information that the Attorney General of the State seeks from public servants and individuals for purposes of exercising its duties cannot be denied for any reason), **CLA-245**.

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					<p>PGE/SPDRLE/DGD2 N° 071/2018) to the Court of Appeals on March 01, 2018. The Tribunal should not allow Bolivia to avail itself of its ample powers and access to information only when it is convenient; doing so would violate Claimants' due process rights and the keystone principle of equality of arms.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	
7.	<p>All documents related to or prepared in connection with the granting and registration of the Seguridad I concession, including:</p> <p>a) Records and documents of administrative proceedings;</p> <p>b) Internal government correspondence, memoranda, minutes, reports, analyses, and official resolutions;</p>	<p>SOC, ¶¶ 64-66; C-20, C-21, C-132</p> <p>SOD, ¶¶ 170-177, 180; R-239, R-240, R-241, R-242, R-243, R-244</p>	<p>The requested documents are relevant and material to Claimants' allegations regarding the strategic location and importance of the area where CMO's Veneros San Juan and Pretoria concessions are located,</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "all documents related to or prepared in connection with the granting and registration of the</p>	<p>Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Respondent's boilerplate assertions that Claimants' request is not</p>	<p>Granted with respect to the subcategories (but not the chapeau) for the period 1996-2001.</p> <p>-----</p>

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	<p>c) Reports and maps prepared by SETMIN or any predecessor or successor government agency or instrumentality;</p> <p>d) Reports, memoranda, official resolutions, and any other documents regarding any visits and inspections of the site;</p> <p>e) Registration documents of the Seguridad I concession at the SETMIN's (and later SERGEOTECMIN's or any other predecessor or successor government agency or instrumentality) Mining Registry;</p> <p>f) Correspondence between COMSUR and COMIBOL; and</p> <p>g) SERGEOTECMIN's, SETMIN's, Superintendent's and/or AJAM's 1997 records of mining concessions registered in the Oruro/Antequera area.</p>		<p>COMIBOL's/COMSUR's interest in the area, the overlap of COMIBOL's Seguridad I concession with CMO's Veneros San Juan and Pretoria concessions, and the circumstances and regulations under which the Seguridad I concession was granted to COMIBOL.</p> <p>The requested documents are also relevant and material to Bolivia's allegations about how the procedures for the granting and registration of Seguridad I were conducted and the mining rights granted to COMIBOL in the Seguridad I concession.</p>	<p><i>Seguridad I concession,</i>" without specificity. Claimants do not indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) a period of time during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, Claimants' request would even cover, for example, all documents attesting to the payment of the mining tax (<i>patente minera</i>) for the Seguridad I concession between 1997 and 2020 (<i>i.e.</i>, for some 24 years), (ii) all internal correspondence at COMIBOL related to the preparation of the request for the</p>	<p>"narrow and specific" and that amounts to a "fishing expedition" is unavailing. Claimants' request plainly complies with the specificity required under Article 3.3 (a) of the IBA Rules. The IBA Rules require "a description of [the requested documents] sufficient to identify [them]." Consistent with this, the Commentary on the IBA Rules states that when "[t]he requesting party cannot identify the dates or the authors of such documents, [it] nevertheless can identify with some particularity the nature of the documents sought..."⁷ The concept of specificity "can relate to the identity of the document, <i>its subject matter</i>, its location, and/or the</p>	<p>Concedida con respecto a las subcategorías (pero no el preámbulo) para el periodo 1996-2001.</p>

⁷ 1999 IBA Working Party & 2010 IBA Rules of Evidence Review Subcommittee, Commentary to the revised text of the 2010 IBA Rules on the Taking of Evidence in International Arbitration , p. 9.

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			<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody or control of, the requested documents.</p>	<p>concession, and (iii) all administrative paperwork related to the holding of such concession by COMIBOL. This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). Claimants thus seek documents covering a period of some 24 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its</p>	<p>identity of the person in possession or control.”⁸ This is what Claimants have done.</p> <p>Claimants’ request describes with precision the subject matter of the requested category of documents as it seeks documents prepared in connection with the granting and registration of the Seguridad I concession. Contrary to Respondent’s assertion, Claimants did identify the nature and subject matter of the requested documents. Additionally, and for the avoidance of doubt, Claimants’ request even include non-exhaustive lists of the specific types of documents sought, all of which Respondent must have prepared and maintained in the regular course as part of</p>	

⁸ Jeffrey Waincymer, Procedure and Evidence in International Arbitration (Kluwer Law International, 2012), p. 861.

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				<p>outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, the location of the Seguridad I, Veneros San Juan and Pretoria concessions is not in dispute between the Parties, nor is the fact that such concessions overlap. What is in dispute between the Parties is the extent of the rights granted to the holder of the Veneros San Juan concession by the title to such concession (the “1906 Veneros San Juan Title”) (Statement of Defense, Section 3.2.1). Such extent is already precisely defined by the 1906 Veneros San Juan Title itself, on the record as exhibit R-29bis.</p> <p><u>Two</u>, Claimants openly admit they seek documents <i>“relevant and material to Bolivia’s allegations about how the procedures for the granting and registration of Seguridad I were conducted and the mining rights granted to COMIBOL in the Seguridad I concession.”</i></p>	<p>its inherent government functions and ordinary operations.</p> <p><i>Second</i>, the requested documents are plainly relevant and material. As already explained in the relevant columns of this Redfern, the requested documents are relevant and material to “Claimants’ allegations regarding the strategic location and importance of the area where CMO’s Veneros San Juan and Pretoria concessions are located, COMIBOL’s/COMSUR’s interest in the area, the overlap of COMIBOL’s Seguridad I concession with CMO’s Veneros San Juan and Pretoria concessions, and the circumstances and regulations under which the Seguridad I concession was granted to COMIBOL.”</p>	

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				<p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on</p>	<p>In addition, the requested documents are highly relevant and material to the outcome of the case, as they relate to the granting and registration of Seguridad I concession and would reveal relevant information about COMIBOL’s and CMO’s mining rights in the area that is being disputed by the Parties. In this regard, the requested documents would also reveal how CMO’s pre-existing mining rights in the area granted to COMIBOL through Seguridad I concession were assessed by the relevant mining authorities when granting and registering the Seguridad I concession in the name of COMIBOL.</p> <p>Faced with the obvious relevance and materiality of the documents requested, Respondent again argues that it would be improper for</p>	

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				<p>the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>Without prejudice to the above, <u>Bolivia accepts to conduct a reasonable search in COMIBOL's files, and to exhibit the non-privileged documents prepared by COMIBOL in 1997 supporting the granting and registration of the Seguridad I concession</u> (bearing in mind that COMIBOL applied for such concession on 22 July 1997 and obtained it on 15 December 1997; see R-239; C-20).</p>	<p>Claimants to seek documents relevant to Bolivia's allegations. First, as noted above, Claimants have already indicated their relevancy and materiality to Claimants' allegations. But even putting that relevance and materiality aside, Respondent's assertion that the documents production phase "is only open to Claimants to request...documents relevant to their own case, not also documents relevant to Bolivia's case" is egregiously wrong and without merit. On this issue, Claimants hereby refer to and incorporate their response to Respondent's objection to request 1 above.</p> <p>Notwithstanding the above, in the spirit of cooperation (although without waiving any argument), Claimants clarify that they seek</p>	

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					<p>documents for the period between <u>1996 and 2001</u>. This is because the process for the granting of Seguridad I concession to COMIBOL would likely have started one year before it was actually granted, and because in 2001 Seguridad I concession was incorporated into and registered as part of the Bolivar mine project (SOC, ¶¶ 64-65). Thereafter, under the guise of the Seguridad I concession, COMIBOL and COMSUR illegally extracted minerals from CMO’s concessions.</p> <p>While Bolivia has agreed to conduct a reasonable search and to produce responsive non-privileged documents “on a rolling basis”, the narrow subset of documents that Bolivia has purportedly agreed to search for (but has yet to produce despite Claimants’ request the time</p>	

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					<p>limit (June 29, 2020) set by the Tribunal) is insufficient and does not account for the relevance of the documents requested or Claimants' entitlement to them as explained herein.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents, and not only the narrow subset Bolivia has agreed it would search for (and which, in any event, should have been produced to Claimants on June 29, 2020).</p>	
8.	<p>All documents and correspondence, including correspondence between COMIBOL and COMSUR, memoranda, official resolutions, minutes of meetings, analyses, reports, maps and other documents, regarding the Easement Proceedings, including:</p> <p>a) The negotiations with CMO prior to the commencement of the Easements Proceedings and in 2004-2006;</p>	<p>SOC, ¶¶ 72-133; C-25, C-32, C-33</p> <p>SOD, ¶¶ 180, 261</p>	<p>The requested documents are relevant and material to Claimants' allegations of the irregularities in the Easement Proceedings, the expropriation of CMO's mining rights over the Veneros San Juan concession, and the illegal extraction of</p>	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "all documents and correspondence [...] regarding the Easement Proceedings," without any limitation whatsoever.</p>	<p>Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear</p>	<p>Granted as narrowed down by Claimants and with respect to subcategories (a), (b), (c), (e), (f), (g) only.</p>

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	<ul style="list-style-type: none"> b) The preparation and filing of COMIBOL’s request for an easement in the Easements Proceedings; c) COMIBOL’s Clarification Memorial in the Easements Proceedings arguing that the Veneros San Juan concession granted CMO superficial rights; d) The site visits and inspections; e) The annulment of the Easements Proceedings, including of the Superintendent’s 2000 decision; f) The request for “Revalidation” of the Easements Proceedings filed by COMIBOL on May 8, 2007; and g) The Revalidation Decision in the Easements Proceedings of May 9, 2007. 		<p>minerals from CMO’s concessions.</p> <p>The requested documents are also relevant and material to Bolivia’s allegations disputing Claimants’ claims indicated above.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, possession, custody, or control of, the requested documents.</p>	<p>Claimants do not indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their precise subject-matter or (iii) the period of time during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). Claimants thus seek documents covering a period of more than 24 years.</p> <p>As drafted, Claimants’ request would even cover, for instance, (i) documents pertaining to COMIBOL’s legal representation in the Easement Proceedings, (ii) documents recording the travel arrangements for the purposes of the site visit of 30 March 2000 (C-143) or (iii) any documents within</p>	<p>from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants’ request describes in sufficient detail the subject matter of the requested documents (the Easement Proceedings). Claimants’ request even includes non-exhaustive lists of the specific types of documents sought, all of which Respondent must have prepared and maintained in the regular course as part of its inherent government functions and ordinary operations. Contrary to Bolivia’s argument, the IBA Rules do not require the requesting party to identify the author, recipient, or custodian of the documents, as Respondent contends, but only “a description of [the requested documents] sufficient to identify [them].” Claimants have duly</p>	<p>-----</p> <p>Concedida según lo acotado por las Demandantes y solo con respecto a las subcategorías (a), (b), (c), (e), (f), (g).</p>

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				<p>the Mining Superintendent’s office which mention the Easement Proceedings, even if in passing. This result would be absurd, and confirms that this request is nothing more than a fishing expedition.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit they seek documents “<i>relevant and material to Bolivia’s allegations disputing Claimants’ claims.</i>”</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to</p>	<p>complied with this requirement.</p> <p>Respondent introduces its own criteria for a sufficiently “narrow and specific” request as to satisfy the IBA Rules, but the level of detail it seeks is neither (a) required under the IBA Rules; nor likely (b) available to a party that does not have the documents in its possession, custody, or control. Lacking this level of specificity, Respondent surmises, would cause Respondent to reproduce a number of irrelevant documents that it proceeds to list. Rather than constructively engage to avoid the “absurd result” of its own creation such as by providing specific objections to the production of such documents on the basis of relevance, Respondent reads each request to an illogical extremity and objects to</p>	

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				<p>their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, Claimants’ request covers, at least in part, documents which are (or should be) in Claimants’ possession, custody or control (<i>e.g.</i>: documents regarding “<i>negotiations with CMO</i>”). This is further confirmed by the fact that Claimants themselves have placed on the record numerous documents responsive to this request (<i>e.g.</i>: C-25; C-26; C-32; C-33; C-133; C-134; C-135; C-143; C-144).</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents.</p>	<p>producing anything at all, regardless of relevance or responsiveness.</p> <p>Nevertheless, in the spirit of cooperation and for the purpose of assisting Respondent to produce documents for this request, Claimants voluntarily limit the time period applicable to this request from January 1999 (the date on which COMIBOL approached Mr. Orlandini to negotiate an easement through CMO’s Veneros San Juan and Pretoria concessions, SOC, ¶¶ 68) until May 2007 (the date that the Superintendent of Mines issued the illegal Revalidation decision in the Easement Proceedings (SOC, ¶¶ 114-125). Claimants’ request always was far from being a “fishing expedition.” It is a targeted effort to obtain relevant specific information from Bolivia</p>	

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				<p>The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines</p>	<p>concerning the Revalidation Decision and Easement Proceedings. As further narrowed, it leaves absolutely no space for Respondent to reasonably argue the contrary.</p> <p><i>Second</i>, Bolivia’s assertion that the request “does not concern documents relevant to Claimants’ case and material to its outcome” because Claimants refer to Bolivia’s allegations instead of their own is completely without merit.</p> <p>As previously explained, the IBA Rules do not differentiate between allegations made by the Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses</p>	

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					<p>and allegations made in Respondent’s SOD are relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern this and every international arbitration. Thus, unless Bolivia’s arguments are to be read as implying that its own arguments and defenses are not relevant or material to the outcome of this arbitration, it follows that Claimants’ request is proper and the Tribunal should order Respondent to produce the requested documents.</p> <p>Notwithstanding the above, Respondent ignores</p>	

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					<p>Claimants’ explanation of the relevance and materiality of the request to allegations made by Claimants concerning the illegalities in the Easement Proceeding, the illegal extraction of minerals from and expropriation of CMO’s mining rights to Veneros San Juan and Pretoria concessions, all of which are allegations contained in Claimants’ Statement of Claim, as detailed in the relevant column of this Redfern.</p> <p><i>Third</i>, Respondent points to the fact that Claimants <i>some</i> documents that are responsive to this request, as a reason to not produce <i>any</i> documents requested. This supposed rationale for objecting to Claimants’ request has no basis.</p> <p>Unless Respondent is prepared to assert that the</p>	

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					documents Claimants have placed on the record are the <i>only</i> non-privileged, responsive documents in Bolivia's possession, custody or control, Respondent must produce any responsive documents. And to the extent that Bolivia withholds any responsive documents on the grounds of privilege and/or any other legal impediment, it should provide Claimants with a privilege log, as requested by Claimants in paragraph 4 of the cover letter above. The requested documents concern internal government correspondence, memoranda, and other types of documents that are or should be inherent to governmental functions and ordinarily kept by governments in the regular course of their operations, so again, absent Respondent's assurance that no other such documents exist, Respondent	

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					<p>should produce any responsive documents in its possession, custody or control. In any event, Claimants confirm that, except for the documents they have filed in these proceedings that may be responsive to this request, Claimants do not have other responsive documents, all of which are or should be in Bolivia's possession, custody or control.</p> <p><i>Fourth</i>, for the same reasons articulated in response Bolivia's specificity objection, Bolivia's claims of burden are unfounded. Claimants provided a specific and detailed list and Respondent is only requested to search for documents and correspondence relevant and material to the Easement Proceedings as described above in this response.</p>	

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					In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents, as narrowed down herein, within the time limit set forth in Procedural Order No. 7.	
9.	All documents prepared or issued by SETMIN or any predecessor or successor government agency or instrumentality in connection with the Easement Proceedings, including any correspondence between COMIBOL and SETMIN.	SOD, ¶¶ 206, 208	<p>The requested documents are relevant and material to Bolivia’s allegation that it reviewed CMO’s title to the Veneros San Juan concession in April 2000.</p> <p>The requested documents are also relevant to Claimants’ allegation that, among other instrumentalities of the State, COMIBOL acted in concert with different mining agencies to expropriate CMO’s mining rights.</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents prepared or issued by SETMIN or any predecessor or successor government agency or instrumentality in connection with the Easement Proceedings,</i>” without any limitation whatsoever. Claimants do not indicate, for instance, (i) the subject-matter of the requested documents or (ii) the period of time during which they would have been elaborated. The requested documents are thus not described with precision or in</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants’ request describes in sufficient detail the subject matter of the requested documents (the Easement Proceedings) and further specifies that Claimants are</p>	<p>Denied as overly broad and burdensome, and lacking specificity.</p> <p>-----</p> <p>Denegada por ser demasiado amplia y onerosa, y por carecer de especificidad.</p>

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			<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would even cover, for instance, all the administrative paperwork generated at SETMIN in connection with the participation of an expert from this institution in the 30 March 200 site visit (see C-143, R-240 (Art. 147), R-260), <i>i.e.</i>, transport and accommodation reservations and receipts, etc. This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). Claimants thus seek documents covering a period of more than 24 years, “in connection with the Easement Proceedings.”</p>	<p>seeking documents “prepared or issued by SETMIN or any predecessor or successor government agency or instrumentality”. Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with the specificity requirement.</p> <p>In addition, Bolivia’s claim that this request does not contain “any limitation whatsoever” is plainly wrong. The request is necessarily time-limited because it seeks documents prepared or issued “in connection with” the Easement Proceedings, which were initiated in February 2000 (see C-138),</p>	

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				<p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit they seek documents “relevant and material to <u>Bolivia’s</u> allegation that it reviewed CMO’s title to the Veneros San Juan concession in April 2000.” It is telling that Claimants cite no references to their own submissions, witness statements, expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia</p>	<p>were annulled in 2001 and were later “revalidated” in May 2007. Documents prepared or issued in connection with the Easement Proceedings, therefore, necessarily would have been prepared or issued within a reasonable period of time around those dates.</p> <p>In any event, in the spirit of cooperation, Claimants further clarify that this request pertains to documents prepared or issued by SETMIN or any predecessor or successor government agency or instrumentality from 1999 to 2002 and 2007 in related to or in connection with the Easement Proceedings. The request includes, in particular but without limitation, correspondence between COMIBOL and SETMIN related to the Easement Proceedings.</p>	

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				<p>has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p>Claimants’ attempt to conceal this fact by arguing that the requested documents would also be “<i>relevant to Claimants’ allegation that, among other instrumentalities of the State, COMIBOL acted in concert with different mining agencies to expropriate CMO’s mining rights</i>” falls flat.</p> <p><u>One</u>, Claimants assume implicitly that two State agencies reaching the same conclusion in relation to the extent of their mining rights, on the basis of the same 1906 Veneros San Juan Title, would constitute evidence of a conspiracy to expropriate their investment. This is absurd.</p> <p><u>Two</u>, Claimants do not explain how “<i>all documents prepared or issued by SETMIN</i>” or that</p>	<p><i>Second</i>, Respondent’s assertion that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” is unsupported by the IBA Rules or any other authority, and is contrary to arbitral practice.</p> <p>The IBA Rules require the documents be “<u>relevant to the case</u> and material to <u>its outcome</u>”. The IBA Rules do not differentiate between allegations made by the Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses and allegations made in Respondent’s SOD are</p>	

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				<p>agency’s predecessor/successor would show that (i) “<i>COMIBOL acted in concert with <u>different mining agencies</u></i>” (ii) “<i>to expropriate CMO’s mining rights.</i>” Claimants have never argued before that either COMIBOL or SETMIN would have expropriated CMO’s mining rights. On Claimants’ case, the expropriation of their rights in the Veneros San Juan concession would have been effected by the Mining Superintendent’s Revalidation decision of May 2007 (Statement of Claim, Section II.D.1(iii)). The document production phase is not the appropriate opportunity for Claimants to make new arguments.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents.</p>	<p>relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern this and every international arbitration. Thus, unless Bolivia’s arguments are to be read as implying that its own arguments and defenses are not relevant or material to the outcome of this arbitration, it follows that Claimants’ request is proper and the Tribunal should order Respondent to produce the requested documents.</p> <p>Notwithstanding the above, Respondent ignores Claimants’ explanation of the</p>	

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				<p>The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines</p>	<p>relevance and materiality of the request to allegations made by Claimants concerning the irregularities in the Easement Proceeding. In particular, Claimants explicitly state that the request is relevant to Claimants’ allegation that COMIBOL acted in concert with different mining agencies to expropriate CMO’s mining rights (<i>see, e.g., SOC</i>, ¶¶ 99-101, 114-125, 134-144).</p> <p>Bolivia’s argument that Claimants have “never argued before” that COMIBOL or SETMIN would have expropriated CMO’s mining rights beggars belief and underscores Respondent’s cavalier attitude towards its document production obligations. As Bolivia must know, SETMIN was renamed SERGEOTECMIN,</p>	

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					<p>and Claimants’ SOC is replete with allegations concerning the latter. Further, as stated in Claimants’ SOC, COMIBOL took actions that resulted in the expropriation of CMO’s concessions, such as COMIBOL’s request for the Revalidation Decision before the Superintendent (SOC, ¶¶ 114-125) , the filing of the expropriatory Certificate issued on May 16, 2007 by SERGEOTECMIN, with the prosecutor for the dismissal of the criminal proceedings against the Sinchi Wayra executives (SOC, ¶¶ 15, 137-144), and the illegal mining of COMIBOL’s concessions through the Bolivar JV with COMSUR (SOC, ¶¶ 102-111). Both SETMIN/SERGEOTECMIN and COMIBOL, of course, are organs and/or instrumentalities of Bolivia.</p>	

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					In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents, as narrowed down herein, within the time limit set forth in Procedural Order No. 7.	
10.	All documents related to or prepared in connection with the Deputy Prosecutor’s request for information and documents to COMIBOL, issued on June 18, 2007, in the criminal proceedings initiated by CMO against Sinchi Wayra’s executives.	SOC, ¶¶ 169, 172; C-53, C-166 SOD, ¶ 278	The requested documents are relevant and material to Claimants’ allegation that the Deputy Prosecutor dismissed CMO’s criminal complaint against Sinchi Wayra’s executives, in disregard of key evidence and relying exclusively on information provided by COMIBOL. The requested documents are also relevant and material to Bolivia’s allegation that the Deputy Prosecutor requested COMIBOL to	Bolivia objects to this request for the following four reasons: <i>First</i> , the request is far from “ <i>narrow and specific</i> ” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “ <i>all documents related to or prepared in connection with the Deputy Prosecutor’s request for information and documents to COMIBOL, issued on June 18, 2007,</i> ” without any specificity. Claimants do not indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their specific subject-matter or (iii) the period of time during which they would have been elaborated. The requested documents are thus not	Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons: <i>First</i> , Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants’ request describes in sufficient detail the subject matter of the requested documents—that is, “the Deputy Prosecutor’s request for information and	Granted only with respect to documents <u>prepared in connection with</u> the Deputy Prosecutor’s request for information and documents to COMIBOL, issued on June 18, 2007, in the criminal proceedings initiated by CMO against Sinchi

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			<p>provide information and COMIBOL “duly responded to such request.” SOD, ¶ 278.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would even cover, for instance, the administrative documentation generated at COMIBOL upon receipt of communications from other State agencies (e.g.: receipt logs, inter-departmental transmittal letters etc.), as well as any document within the Deputy Prosecutor’s office that mentions, even in passing, the request for information and documents to COMIBOL (e.g.: external mailing logs). This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). Claimants</p>	<p>documents to COMIBOL, issued on June 18, 2007, in the criminal proceedings initiated by CMO against Sinchi Wayra’s executives.”</p> <p>Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p>Respondent introduces its own criteria for a sufficiently “narrow and specific” request as to satisfy the IBA Rules, but the level of detail it seeks is neither (a) required under the IBA Rules; nor likely (b) available to a party that does not have the documents in its possession, custody or control. Lacking</p>	<p>Wayra’s executives.</p> <p>-----</p> <p>Concedida solo con respecto a documentos preparados en conexión con la solicitud de información y documentos del Fiscal Adjunto a COMIBOL, emitida el 18 de junio de 2007, en el procedimiento penal iniciado por CMO contra los ejecutivos de Sinchi Wayra.</p>

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				<p>thus seek documents covering a period of more than 24 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit they seek documents “<i>relevant and material to Bolivia’s allegation that the Deputy Prosecutor requested COMIBOL to provide information and COMIBOL ‘duly responded to this request’.</i>”</p> <p>Claimants’ attempt to conceal this fact by arguing that the requested documents would also be “<i>relevant and material to Claimants’ allegation that the Deputy Prosecutor dismissed CMO’s</i></p>	<p>this level of specificity, Respondent conjectures, would cause Respondent to reproduce a number of irrelevant documents that it proceeds to list. Rather than constructively engage to avoid the “absurd result” it absurdly creates, such as by providing specific objections to the production of such documents on the basis of relevancy, Respondent reads each request to an illogical extremity and objects to producing anything in response to this request.</p> <p>Respondent also contends that this request seeks documents covering a period of more than 24 years, ignoring that this request is limited to documents prepared in connection with the Deputy Prosecutor’s request issued on June 18, 2007. Thus, responsive documents necessarily would</p>	

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				<p><i>complaint against Sinchi Wayra’s executives, in disregard of key evidence and relying exclusively on information provided by Sinchi Wayra” falls flat. Claimants have made no effort to explain how the requested documents, which “relate to” the “Deputy Prosecutor’s request for information and documents,” would demonstrate that such Deputy Prosecutor’s dismissal of Claimants’ complaint would have been wrongful.</i></p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, insofar as the requested documents would have been</p>	<p>have been prepared or exchanged around that date.</p> <p><i>Second</i>, Respondent’s assertion that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” is unsupported by the IBA Rules or any other authority, and is contrary to arbitral practice.</p> <p>The IBA Rules require the documents be “relevant <u>to the case</u> and material to <u>its outcome</u>”. The IBA Rules do not differentiate between allegations made by the Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses</p>	

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				<p>generated in the framework of a criminal proceeding initiated by CMO, such documents, by definition, are in Claimants’ possession, custody or control. It defies credulity for Claimants to assert, instead, that they “<i>do not have access to, or possession, custody, or control of, the requested documents.</i>”</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>and allegations made in Respondent’s SOD are relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern this and every international arbitration. Thus, unless Bolivia’s arguments are to be read as implying that its own arguments and defenses are not relevant or material to the outcome of this arbitration, it follows that Claimants’ request is proper and the Tribunal should order Respondent to produce the requested documents.</p> <p>Notwithstanding the above, Respondent ignores</p>	

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					<p>Claimants’ explanation of the relevance and materiality of the request to allegations made by Claimants concerning the Deputy Prosecutor’s bias when dismissing CMO’s criminal complaint against Sinchi Wayra’s executives, (SOC, ¶¶ 161, 163-65, 169-72). Documents related to or prepared by COMIBOL and the Prosecutor as well as any correspondence between them would provide critical insight into the type of information relied upon by the Deputy Prosecutor when it dismissed CMO’s criminal complaint, which is directly relevant and material to Claimant’s allegations that the dismissal was improper.</p> <p><i>Third</i>, contradicting their earlier objections concerning the relevance of the request to “Claimants’ case”, Respondent asserts that the</p>	

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					<p>“requested documents would have been generated in the framework of a criminal proceeding initiated by CMO” and are thus within CMO’s possession, custody or control. This is simply incorrect, as not all documents related or prepared in connection with the Deputy Prosecutor’s request to COMIBOL for information and documents would or should be part of the criminal proceedings record and therefore they are not in the possession, custody or control of CMO.</p> <p>Respondent’s fourth stated reason to object to Claimants’ request tracks arguments similar to its first stated reason and are, for the same reasons, unfounded.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the</p>	

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					requested documents within the time limit set forth in Procedural Order No. 7.	
11.	<p>Any document including laws, codes (including the Bolivian Mining Code of 1880), decrees, regulations, official resolutions, and <i>travaux préparatoire</i> establishing that:</p> <ul style="list-style-type: none"> a) A <i>venero</i> does not extend underground beyond the bedrock; b) Under the Bolivian Mining Law of 1880 (“Código Campero”), the underground limit of a <i>pertenencia</i> was the bedrock; c) Under the Mining Law of 1880, the depth of a <i>pertenencia</i> was determined by the nature of the mineral deposit where the <i>pertenencia</i> laid; and d) The Mining Law of 1880 distinguished and defined what was a superficial and an underground concession. 	<p>SOD ¶¶ 159, 610; RER-1, ¶¶ 19, 39, 46, 70</p>	<p>The requested documents are relevant and material to Bolivia’s and its expert’s assertions that a <i>venero</i> is superficial and its depth does not extend beyond the bedrock, that under the Mining Law of 1880, a <i>pertenencia</i> did not have an indefinite depth and its depth was determined by the nature of the mineral deposit where it laid, and that the Mining Law of 1880 distinguished between superficial and underground concessions.</p> <p>This request concerns a narrowly defined category of documents within a specific time</p>	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>any document [...] establishing that a) A venero does not extend underground beyond the bedrock; b) Under the Bolivian Mining Law of 1880 (“Código Campero”), the underground limit of a pertenencia was the bedrock; c) Under the Mining Law of 1880, the depth of a pertenencia was determined by the nature of the mineral deposit where the pertenencia laid; and d) The Mining Law of 1880 distinguished and defined what was a superficial and an underground concession,</i>” without any specificity. Claimants do not indicate, for instance, (i) the author, recipient or custodian of</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia grossly mischaracterizes this request. It is evident from the plain language of this request that Claimants are not seeking documents merely “addressing the notion of ‘<i>venero</i>’” or “discussing, however briefly, the notion of ‘<i>pertenencia</i>’” that would require Bolivia to search through “all the literature in the fields of geology and mining . . . in the world.” Rather, this request clearly indicates a narrowly defined category of documents addressing, for example, the</p>	<p>Denied as overly burdensome and seeking documents, most of which should be publicly available. Moreover, the requested documents relate to a legal concept under Bolivian law, the existence, scope, and content of which is Respondent’s burden to prove.</p>

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			<p>period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>the documents requested under items a), b) c) and d), (ii) their specific subject-matter, (iii) their nature (<i>e.g.</i>: legal commentary on the 1880 Mining Code, technical documentation discussing the concept of “<i>venero</i>” etc.) or (iv) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would cover, for instance, (i) any commentary on the 1880 Mining Code to date mentioning the limits of a “<i>pertenencia</i>,” (ii) all the geology and mining literature, in Bolivia and in the world, addressing the concept of “<i>venero</i>” to date, as well as (iii) any case law of any court in Bolivia discussing, even in passing, the difference between a superficial and an underground concession under the 1880 Mining Code. This</p>	<p>definition and notion that Respondent and its expert gave to the terms indicated above and that are within the “possession, custody or control of the Respondent” for reasons that they were “created by or for Respondent, and/or provided to Respondent, and/or should be kept and maintained by Respondent in the ordinary course of business.”</p> <p>Bolivia’s assertion about the time frame spanning over 140 years is unavailing, as Claimants are requesting specific documents and not documents issued during a specific period.</p> <p>Therefore, contrary to Bolivia’s argument, Claimants request is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules.</p>	<p>-----</p> <p>Denegada por ser demasiado onerosa y dirigirse a documentos que deberían ser, en su mayoría, de dominio público. Además, los documentos solicitados están relacionados con un concepto jurídico bajo derecho boliviano, cuya existencia, alcance, y contenido el Demandado tiene la carga de probar.</p>

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				<p>result is absurd, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). Thus, under item a), Claimants are requesting documents covering a period of more than 24 years. Conversely, under items b) through d), which pertain to the 1880 Mining Code, Claimants seek over 140 years’ worth of documents (1880-2020).</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” is simply outrageous.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit they seek documents</p>	<p><i>Second</i>, Respondent’s assertion that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” is unsupported by the IBA Rules or any other authority, and is contrary to arbitral practice.</p> <p>The IBA Rules require the documents be “relevant to the case and material to its outcome”. The IBA Rules do not differentiate between allegations made by the Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses and allegations made in Respondent’s SOD are relevant to that case. To</p>	

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				<p><i>“relevant and material to <u>Bolivia</u> and its expert’s assertions” regarding (i) the concept of “venero” under the 1880 Bolivian Mining Code (specifically, the demonstration that a “venero” is a <u>surficial</u> accumulation of minerals, entirely different from an <u>underground</u> mineral deposit; see Statement of Defense, Section 3.2.1; Expert Report of Jaime Villalobos, RER-1, Section I), (ii) the natural limit of a “<u>pertenencia</u>” under such Mining Code (specifically, the allegation that “<i>a pertenencia did not have an indefinite depth and its depth was determined by the nature of the mineral deposit where it laid</i>”), and (iii) the types of mining concessions recognized by the 1880 Mining Code (specifically, the allegation that “<i>the Mining Law of 1880 distinguished between superficial and underground concessions</i>”). It is telling that Claimants cite no references to their own submissions, witness</i></p>	<p>suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern this and every international arbitration. Thus, unless Bolivia’s arguments are to be read as implying that its own arguments and defenses are not relevant or material to the outcome of this arbitration, it follows that Claimants’ request is proper and the Tribunal should order Respondent to produce the requested documents.</p> <p>Moreover, Claimants are not seeking to have Bolivia carry out legal research under Bolivian law for Claimants, but simply requesting that</p>	

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				<p>statements, expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third, Claimants seek “laws, codes [...] decrees, regulations, official resolutions, and travaux préparatoire [sic]”</i> which are already in the public domain. In other words, Claimants seek to have Bolivia carry out legal research under Bolivian law for them. This is outrageous, all the more so since, in this arbitration, Claimants are represented by counsel from the Bolivian law firm Wayar & Von Borries Abogados S.C.. There is presumably no</p>	<p>Bolivia and its experts produce the documents on which they relied in formulating their allegations and arguments. It is well settled that parties to arbitrations should come to the process with all their evidence and legal authorities. If Respondent does not have any authority to support their arguments regarding “pertenencias” and “veneros”—two legal concepts at the heart of Claimants’ claims and Respondent’s defenses—it should say so. Otherwise, it was under an obligation to submit them with its SOD or, at the latest, in response to this request.</p> <p>Respondent’s fourth stated reason to object to the production of documents tracks arguments similar to its first stated reason and are,</p>	

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				<p>reason why Claimants’ Bolivian counsel could not themselves carry out the legal research necessary to retrieve the requested documents.</p> <p>Similarly, Claimants also seek to have Bolivia carry out technical research for them regarding the concept of “<i>venero</i>.” This is likewise outrageous, especially since Claimants rely, for the purposes of this arbitration, on a geologist and a mining lawyer (Messrs. Cuentas and Aguirre). There is presumably no reason why Claimants’ experts could not carry out such research themselves.</p> <p>As explained in Bolivia’s letter of 29 June, other international tribunals have rejected requests for documents which were already in the public domain.</p> <p><i>Fourth</i>, it would be unduly burdensome, and would pervert the purpose of document production in international arbitration if the Tribunal were to order Bolivia to</p>	<p>for the same reasons, unfounded.</p> <p>In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	

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				<p>carry out Claimants’ legal and technical research for them. Accordingly, Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>In any event, the Bolivian Mining Code of 1880 is already on the record (R-232).</p>		
12.	<p>All documents related to or prepared in connection with the granting of, issuance of the legal title to, and registration of, the Veneros San Juan concession, including but not limited to:</p> <ul style="list-style-type: none"> a) Records and documents of administrative proceedings; b) Internal government correspondence, memoranda, minutes, reports, analyses, and official resolutions; c) Reports and maps prepared by SETMIN or any predecessor or successor government agency or instrumentality; d) Reports, memoranda, and official resolutions regarding any visits and inspections of the site; e) Registration documents of the Veneros San Juan concession with the Notary of 	<p>SOD, ¶ 177; RER-1, Chapters II and V; ¶ 106</p>	<p>The requested documents are relevant and material to Bolivia’s allegation that “CMO registered the Veneros San Juan concession in the mining cadaster only on 31 December 1997” and, as a result, “only when COMIBOL and COMSUR intended to connect the north and south of the Bolívar Mine could they identify that the 1906 Veneros San Juan concession overlapped the Seguridad I concession.” SOD, ¶ 177.</p>	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents related to or prepared in connection with the granting of, issuance of the legal title to, and registration of the Veneros San Juan concession,</i>” without any limitation. Claimants do not indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time during which the requested documents would have been</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants’ request describes in sufficient detail the subject matter of the requested documents (the granting of, issuance of the legal title to,</p>	<p>Granted as voluntarily accepted by Respondent. Otherwise denied as overly broad and lacking specificity.</p> <p>-----</p> <p>Concedida en la medida en que ha sido aceptada voluntariamente por el Demandado.</p>

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	<p>Mines and the Mining Registry since it was granted in 1906; and</p> <p>f) Correspondence between COMSUR and COMIBOL.</p>		<p>This request concerns a narrowly defined category of documents that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, Claimants’ request would even cover, for example, (i) all correspondence exchanged between Antonio Marcó, the original holder of the concession, the Prefect of Oruro and the holder of the neighboring concession in connection with the site visit carried out in 1906 in order to measure the future Veneros San Juan concession and establish its boundaries (R-29bis, p. 22), as well as (ii) all the administrative documents attesting the payment of the mining tax for such concession. This would be an absurd result, and confirms that this request is nothing but a fishing expedition.</p> <p>The absence of any temporal limitation to this request indicates that Claimants are requesting documents spanning between 1906</p>	<p>and registration of, the Veneros San Juan concession). Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants’ request even include non-exhaustive lists of the specific types of documents sought, all of which Respondent must have prepared and maintained in the regular course as part of its inherent government functions and ordinary operations. Therefore, Claimants have duly complied with the specificity requirement.</p> <p>Respondent introduces its own criteria for a sufficiently “narrow and specific”</p>	<p>Denegada en lo demás por ser demasiado amplia y carente de especificidad.</p>

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				<p>(the date of granting of the Veneros San Juan concession) and the present date, <i>i.e.</i>, over some 114 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit they seek documents “<i>relevant and material to Bolivia’s allegation</i>” regarding (i) the date of registration of the Veneros San Juan concession in the mining cadaster and (ii) the date when COMIBOL became aware of the existence of such concession. It is telling that Claimants cite no references to their own submissions, witness statements,</p>	<p>request as to satisfy the IBA Rules, but the level of detail it seeks is neither (a) required under the IBA Rules; nor likely (b) available to a party that does not have the documents in its possession, ownership or control. Lacking this level of specificity, Respondent conjectures, would cause Respondents to reproduce a number of irrelevant documents that it proceeds to list. Rather than constructively engage to avoid the “absurd result” it absurdly creates, such as by providing specific objections to the production of such documents on the basis of relevance, Respondent reads each request to an illogical extremity and objects to producing anything in response to this request. Far from being a “fishing expedition,” Claimants’ request is a targeted effort to</p>	

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				<p>expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, Claimants’ request covers, at least in part, documents which are (or should be) in Claimants’ possession, custody or control, insofar as they relate to (i) the granting of a concession they acquired in the mid-1970s and held until 2007 (one would assume that Claimants performed some due diligence on the granting, issuance of the title and registration of the mining concession before acquiring it), (ii) the title to such concession, and (iii) their</p>	<p>obtain relevant specific information from Bolivia with respect to the Veneros San Juan concession.</p> <p>Bolivia’s assertion about the time frame of the request spanning over 140 is equally unavailing as Claimants are requesting specific documents and not documents issued during certain specific period of time. Bolivia’s position shows the far-fetched logical extremities that Respondent raises in an attempt to avoid producing anything.</p> <p><i>Second</i>, Bolivia’s assertion that the request “does not concern documents relevant to Claimants’ case and material to its outcome” as Claimants refers to Bolivia’s allegations is egregious and completely without merit.</p>	

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				<p>registration of such concession in the Bolivian mining cadaster. This is further confirmed by the fact that Claimants themselves have placed on the record at least one document responsive to this request: Claimants filed a copy of the 1906 Veneros San Juan Title with their Statement of Claim (C-101). It defies credulity for Claimants to assert, instead, that they “<i>do not have access to, or possession, custody, or control of, the requested documents.</i>”</p> <p>Bolivia also directs Claimants’ attention to, at least, the following two documents on the record which are also responsive to this request: R-29bis; R-245.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with</p>	<p>As previously explained, the IBA Rules do not differentiate between allegations made by the Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses and allegations made in Respondent’s SOD are relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern this and every international arbitration. Thus, unless Bolivia’s arguments are to be read as implying that its own</p>	

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				<p>such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>Without prejudice to the above, <u>Bolivia accepts to conduct a reasonable search through COMIBOL's files, and to exhibit non-privileged documents (i) reflecting the granting of the Veneros San Juan concession in 1906 and (ii) reflecting to the registration of the Veneros San Juan concession in the mining cadaster in 1997.</u></p>	<p>arguments and defenses are not relevant or material to the outcome of this arbitration, it follows that Claimants' request is proper and the Tribunal should order Respondent to produce the requested documents.</p> <p>Notwithstanding the above, there is no doubt that the requested documents are also relevant to Claimants' allegations, as the extent of CMO's rights with respect to the Veneros San Juan concession is fundamental to Claimants' allegations of expropriation of those rights. Bolivia's arguments to the contrary are specious.</p> <p><i>Third</i>, that Claimants have access to certain documents that could be covered by this request, such as C-101, does not exempt Respondent from its production obligations, as the documents sought, <i>i.e.</i>,</p>	

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					<p>internal correspondence, report and memoranda or documents prepared in granting the issuance of legal title, are not accessible to Claimants and, are or should be in Bolivia’s possession, custody or control.</p> <p><i>Fourth</i>, for the same reasons as Bolivia’s first stated objection, Bolivia’s claims of burden are unfounded. Claimants provided a specific and detailed list and Respondent is only requested to look through documents in its possession, custody or control for documents and correspondence relevant and material to the granting of the Veneros San Juan concession.</p> <p>While Bolivia has agreed to conduct a reasonable search and to produce responsive non-privileged documents “on a rolling basis”, the</p>	

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					<p>narrow subset of documents that Bolivia has purportedly agreed to search for (but has yet to produce despite Claimants' request the time limit (June 29, 2020) set by the Tribunal) is insufficient and does not account for the relevance of the documents requested or Claimants' entitlement to them as explained herein.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents, and not only the narrow subset Bolivia has agreed it would search for (and which, in any event, should have been produced to Claimants on June 29, 2020).</p>	

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No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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13.	<p>Any law, decree, regulation, and/or official resolution, establishing that:</p> <p>a) The definition of <i>pertenencia</i> under the Mining Code of 1965 and Mining Law 1243 of 1991 is not applicable to the Veneros San Juan concession; and</p> <p>b) The depth limit of the Veneros San Juan concession is the bedrock.</p>	<p>SOD, ¶¶ 129, 159, 162, 610; RER-1, ¶¶ 19, 39, 46, 70, 122-124</p>	<p>The requested documents are relevant and material to Bolivia’s allegations that definition of <i>pertenencia</i> under the Mining Code of 1965 and Mining Law 1243 of 1991 is not applicable to the Veneros San Juan concession and that the depth of this concession does not extend beyond the bedrock.</p> <p>This request concerns a narrowly defined category of documents that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or</p>	<p>Bolivia objects to this request for the following five reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “[a]ny law, decree, regulation and/or official resolution establishing that: a) <i>The definition of pertenencia under the Mining Code of 1965 and Mining Law 1243 of 1991 is not applicable to the Veneros San Juan concession; and b) The depth limit of the Veneros San Juan concession is the bedrock;</i>” without any limitation. Claimants do not indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. In this request, Claimants are seeking a narrow and specific categories of legal documents supporting Respondent’s and its’ legal expert’s assertions regarding the Veneros San Juan concession. Claimants’ request even includes non-exhaustive lists of the specific types of documents sought, all of which Respondent must have prepared and maintained in the regular course as part of</p>	<p>Denied. The requested documents, if they exist, should be publicly accessible. Claimants have not asserted otherwise. Requesting what would be publicly available documents for the purpose of seeking to demonstrate that they might not exist is not the purpose of document production.</p> <p>-----</p>

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			control of, the requested documents.	<p>detail to allow Bolivia to specifically identify them.</p> <p>The absence of any temporal limitation to this request indicates that Claimants are requesting documents spanning, at least, (i) between 1965 and the present date in respect of item a), and (ii) between 1906 and the present date in respect of item b). In other words, Claimants seek anywhere between 56 and 114 years’ worth of documents.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants are requesting documents which they themselves believe do not exist. This is confirmed by the fact that Claimants see “any law, decree, regulation, and/or official resolution, establishing” (i) that</p>	<p>its inherent government functions and ordinary operations. Contrary to Respondent’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p><i>Second</i>, Bolivia rewrites and mischaracterizes Claimants request as pertaining to laws “enacted to govern specifically the Veneros San Juan concession.” Based on this twisted meaning, Bolivia accuses Claimants of requesting laws that Claimants do not believe exist. As shown by the plain text of the request, Claimants have made no assumption that the requested documents do not exist. Claimants are</p>	<p>Denegada. Los documentos solicitados, de existir, deberían ser accesibles públicamente. Las Demandantes no han afirmado lo contrario. Solicitar lo que serían documentos disponibles públicamente con el propósito de intentar demostrar que podrían no existir no es el objeto de la exhibición de documentos.</p>

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				<p>certain provisions of the 1965 Mining Code and the 1991 Mining Law do not apply to a specific concession and/or (ii) the depth of a specific, pre-existing concession. In other words, Claimants seek legislation which would have been enacted to govern specifically the Veneros San Juan concession. In Bolivia, laws are not enacted to govern specific factual situations, as Claimants (and their Bolivian counsel) must surely be aware. This request does not comply with Article 3.3(a)(ii) of the IBA Guidelines (“<i>a description in sufficient detail [...] of a narrow and specific requested category of Documents that are reasonably believed to exist</i>”). In addition, it is an improper and abusive use of document production in this arbitration.</p> <p><i>Third</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit</p>	<p>asking for Bolivia to produce the documents supporting its assertion that such laws do exist, and do not apply to the Veneros San Juan <i>pertenencia</i>. This request clearly indicates a narrowly defined category of documents that should be kept and maintained by Respondent in the ordinary course of business.”</p> <p>If Bolivia’s position is that the requested documents do not exist, it should say so.</p> <p>Moreover, Claimants are not seeking to have Bolivia carry out legal research under Bolivian law for Claimants, but simply have Bolivia and its experts produce the documents in support of their allegations regarding the notion of the terms indicated in the request, for Claimants to adequately exercise their right of defense.</p>	

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				<p>they seek documents “<i>relevant and material to Bolivia’s allegation that definition [sic] of pertenencia under the Mining Code of 1965 and Mining Law 1243 of 1991 is not applicable to the Veneros San Juan concession and that the depth of this concession does not extend beyond the bedrock.</i>” It is telling that Claimants cite no references to their own submissions, witness statements, expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Fourth</i>, Claimants seek “<i>any law, decree, regulation, and/or official resolution,</i>” which are already in</p>	<p><i>Third</i>, Respondent’s assertion that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” is unsupported by the IBA Rules or any other authority, and is contrary to arbitral practice. As previously explained, the IBA Rules do not differentiate between allegations made by the Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses and allegations made in Respondent’s SOD are relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it</p>	

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				<p>the public domain. In other words, Claimants seek to have Bolivia carry out legal research under Bolivian law for them. This is outrageous, all the more so since, in this arbitration, Claimants are represented by counsel from the Bolivian law firm Wayar & Von Borries Abogados S.C.. There is presumably no reason why Claimants' Bolivian counsel could not themselves carry out the legal research necessary to retrieve the requested documents.</p> <p><i>Fifth</i>, it would be unduly burdensome, and would pervert the purpose of document production in international arbitration if the Tribunal were to order Bolivia to carry out Claimants' legal research for them. As explained in Bolivia's letter of 2ç June, other international tribunals have rejected requests for documents which were already in the public domain.</p>	<p>wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern this and every international arbitration. Thus, unless Bolivia's arguments are to be read as implying that its own arguments and defenses are not relevant or material to the outcome of this arbitration, it follows that Claimants' request is proper and the Tribunal should order Respondent to produce the requested documents.</p> <p>Further, the extent of CMO's rights with respect to the Veneros San Juan and Pretoria concessions is fundamental to Claimants' allegations of expropriation. Respondent's arguments to the contrary are spurious.</p>	

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				Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.	As such, the requested documents are relevant to the case and material to its outcome. In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.	
14.	All documents pertaining or related to the Bolívar joint venture's (the "Bolívar JV") mining operations and production in the Bolívar mine from December 15, 1997 to date, including, but not limited to: a) Any correspondence, production reports, sales reports, reserves reports, audits, accounting records, and other documents exchanged between COMIBOL and its joint venture partners (COMSUR, Sinchi Wayra, and Illapa) regarding mineral reserves, production and sales of minerals, since	SOC, ¶¶145-153, 385	The requested documents are relevant and material to Claimants' allegations of illegal mining of CMO's Veneros San Juan and Pretoria concessions and that Bolivia is responsible for these actions. This request concerns a narrowly defined category of documents within a specific time	Bolivia objects to this request for the following four reasons: <i>First</i> , the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "all documents pertaining or related to [...] the mining operations and production [...] in the Bolívar mine," for a period of over 24 years, without any specificity. Claimants do not indicate, for instance, (i) the author, recipient or custodian of	Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons: <i>First</i> , Claimants' request is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Bolivia's position to the contrary is not tenable. Claimants are seeking documents regarding Bolivar	Denied as overly broad. ----- Denegada por ser demasiado amplia.

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	<p>the Seguridad I concession was granted to COMIBOL in 1997;</p> <p>b) Any correspondence, minutes, official resolutions, reports, analyses, notes and any other document related to the mining operations and mineral reserves in, and the quantities and types of minerals extracted from, Seguridad I, Veneros San Juan, and Pretoria concessions, including any documents related to COMIBOL's authorization/instructions to its joint venture partners to conduct mining operations in the area of the Veneros San Juan and Pretoria concessions; and</p> <p>c) Any correspondence, minutes, official resolutions, reports, analyses, notes and any other documents related to mining operations in the Totoral area.</p>		<p>period that are or should be in the Respondent's possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>the requested documents, (ii) their nature or (iii) their specific subject matter. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would even cover, for instance, (i) all of the labor contracts of all of the employees of the Bolívar JV (<i>i.e.</i>, mining workers, administrative personnel, executives etc.), (ii) all of the environmental monitoring records of the Bolívar mine, (iii) the records of every purchase of materials or supplies, (iv) the Bolívar JV's bank records, etc. This result would be absurd, and confirms that this request is nothing more than a fishing expedition.</p> <p>Claimants' boilerplate assertion that "[t]his request concerns a narrowly defined category of documents within a specific time period" flies in the face of the broad and vague language of this</p>	<p>JV's mining operations in the Bolivar mine since December 1997, when Seguirdad I was granted to COMIBOL.</p> <p>Claimants thus seek a specific and narrow category of documents during a specific timeframe. Claimants' request describe with sufficient precision the nature and subject-matter of the requested documents so as to allow Respondent to identify them.</p> <p>As with other objections, Bolivia, instead of conducting a reasonable search and producing responsive documents in its possession, custody, or control, relies on rank speculation based on an absurd and contorted reading of the request to argue that documents it <i>thinks</i> it might have to produce would be</p>	

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				<p>request for some 24 years’ worth of documents.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, the Bolívar mine is not the subject of the present arbitration and its operations are irrelevant for the purposes of any decision that the Tribunal might be called upon to make as to its jurisdiction or Bolivia’s liability.</p> <p><u>Two</u>, even assuming, <i>par impossible</i>, that the mining operations data of the Bolívar mine were relevant to a decision of this Tribunal, this could only be at the stage of quantum of damages of this arbitration, and not at the present stage of jurisdiction and liability. Claimants improperly attempt to circumvent the bifurcation of the present arbitration between jurisdiction/liability and quantum –</p>	<p>overbroad, irrelevant and/or unduly burdensome. The examples of documents that Bolivia alleges it would have to produce under Claimants’ request are unreasonable, inflammatory and, again, not responsive to Claimants’ request. Bolivia does this to argue that Claimants’ request is vague and broad, when it is not, in a plain attempt to avoid producing the requested documents. Claimants are not asking for “labor contracts,” “records of every purchase of materials or supplies” or the Bolívar JV’s “bank records,” as Bolivia disingenuously suggests.</p> <p>Claimants’ request even include non-exhaustive lists of the specific types of documents sought, all of which Respondent must have prepared and maintained in the regular course as part of</p>	

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				<p>a bifurcation to which they consented (Opposition to Respondent’s Application for Trifurcation, ¶ Section III.D).</p> <p><i>Third</i>, insofar as Claimants seek to obtain all the data underpinning the mining operations of the Bolívar mine in the past 24 years, such data is confidential for commercial and technical reasons (IBA Guidelines, Article 9.2(e)). All the information regarding the mining operations undertaken at Bolívar (a mine unrelated to the assets at issue in this arbitration) by Sinchi Wayra, a subsidiary of international mining giant Glencore International S.A. which is not party to these proceedings, cannot lightly be disclosed to a Bolivian mining company such as CMO. Claimants’ hollow assertion that such disclosure would corroborate fictitious allegations of illegal mining is insufficient to disregard such confidentiality concerns.</p>	<p>its inherent government functions and ordinary operations.</p> <p>For the avoidance of doubt and in the spirit of cooperation (although without waiving any argument), Claimants further narrow their request and clarify that by “mining operations” they refer to construction of facilities/tunnels and production/sale/extraction of minerals. In this regard, also for the avoidance of doubt, Claimants reiterate that the documents sought include, without limitation, the maps of mining sites, galleries and mineral reserves.</p> <p><i>Second</i>, the requested documents are clearly relevant to the case and material to its outcome.</p>	

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				<p>Bolivia takes note of Claimants’ request that it provide a privilege log in the event that “<i>documents responsive to any request are located and withheld by Respondent on account of any alleged privilege or for any other reason</i>” (¶ 4 above). However, due to the egregiously overbroad nature of Claimants’ request, Bolivia is not in a position to provide such log in respect of the requested documents.</p> <p><i>Fourth</i>, exhibiting the requested documents would require Bolivia the State to undertake a massive exercise of searching through and reviewing 24 years’ worth of mining operations data from one of the major mines in Bolivia. The time and costs associated with such exercise significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>It is surprising that at this juncture Bolivia asserts that “the Bolívar mine is not the subject of the present arbitration and its operations are irrelevant for the purposes of any decision that the Tribunal might be called upon to make as to its jurisdiction or Bolivia’s liability.” This is plainly wrong. The Bolivar JV’s (COMIBOL/COMSUR-Sinchi Wayra) mining operations in the Bolívar mine are at the center of this dispute. One of the main claims in this arbitration is that COMIBOL, which was part of the JV, illegally extracted minerals from CMO’s concessions under the guise of the Seguridad I concession, which is part of the Bolívar mine and overlaps CMO’s Veneros San Juan and Pretoria concessions. It is precisely for this reason that Claimants</p>	

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				In any event, no responsive documents exist with respect to paragraph (b) of this request, insofar as COMIBOL did not instruct Sinchi Wayra to extract and Sinchi Wayra did not extract minerals from the Veneros San Juan and/or the Pretoria concessions. As the record of this arbitration shows, at least two criminal investigations have already confirmed this conclusion (Statement of Defense, Section 3.2.4).	seek the mining operations data of the Bolívar JV, which is highly relevant to Claimants' claims and factual allegations in this arbitration. While the requested documents might contain certain information also relevant to damages, they also are directly relevant and material for the Tribunal's determinations on liability, as they would show how COMIBOL and COMSUR illegally conducted mining operations in CMO's concessions by building galleries, extracting minerals, and commercializing such minerals, all without Claimants' knowledge or consent. In this regard, reports on mineral reserves are also relevant to demonstrate that COMIBOL and COMSUR considered the mineral reserves in CMO's concessions as	

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					<p>belonging to the Bolívar mine.</p> <p>Therefore, Claimants are not attempting to circumvent the bifurcated nature of the present arbitration. Instead, Respondent’s disingenuous version of the facts and claims at issue in this arbitration is designed to avoid producing documents that are relevant to Bolivia’s liability to Claimants.</p> <p><i>Third</i>, Respondent’s blanket objection that the mining operations data of the Bolivia JV is confidential for commercial and technical reasons does not pass the straight-face test. Respondent cannot withhold documents on such an unproven basis. As Claimants proposed, if there is any concern or impediment, including confidentiality considerations, Respondent</p>	

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					<p>should have provided a privilege log, setting forth a description of the responsive document (including its date, its author, and its recipient) and the reason for withholding that document from production.</p> <p>However, Bolivia again blatantly disregarded this request and claimed that it was “not in a position to provide such log in respect of the requested documents” because Claimants’ request is “overbroad”. As explained above, the request is specific and in accordance with the requirements under the IBA Rules and, in any event, Respondent could have included in a log those documents it considered responsive. Again, Respondent must demonstrate the applicability of any confidentiality obligation on a document-by-</p>	

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					<p>document basis and cannot invoked confidentiality reasons in the abstract as it has done here.</p> <p>In any event, Article 9(4) of the IBA Rules allows the Tribunal to make necessary arrangements to permit evidence to be presented subject to suitable confidentiality protections, which could include an execution of a non-disclosure agreement between the parties. This would address Respondent’s purported concern that the mining operation data cannot “lightly be disclosed”.</p> <p>Given the vague and unsubstantiated nature of Respondent’s objections on confidentiality grounds, however, Claimants respectfully request that the Tribunal order Respondent to produce responsive</p>	

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					<p>documents in its possession, custody or control without further delay.</p> <p><i>Fourth</i>, the probative value of this evidence clearly outweighs any costs incurred by Bolivia in searching for the requested documents. Respondent can easily obtain these documents from its “international mining giant” partner Glencore (Sinchi Wayra), which will have the structure, resources and organization to quickly pull out, organize and produce these documents, in a time and cost-efficient way. This, of course, is without prejudice to Respondent’s obligation to obtain the requested documents from COMIBOL and the relevant mining authorities to whom COMIBOL and COMSUR/Sinchi Wayra report, all of which Bolivia controls.</p>	

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					<p>Respondent also maintains an untenable position that “no responsive documents exist with respect to paragraph (b) of this request” since COMIBOL would have “not instruct[ed] Sinchi Wayra to extract and Sinchi Wayra did not extract minerals from the Veneros San Juan and/or the Pretoria concessions”. Bolivia’s position—which is presumably taken for the sole purpose of avoiding its production obligation—is directly contradicted by the evidence on the record and by Bolivia’s own allegations and admissions in this arbitration. Throughout its SOD, Bolivia did not argue that COMIBOL/Sinchi Wayra had <i>not</i> extracted minerals from CMO’s Veneros San Juan and Pretoria concessions. Instead, Bolivia repeatedly</p>	

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					<p>argued—as one of its central defenses to the present case—that CMO has failed to establish that those mining operations beneath CMO’s concessions were illegal (SOD, ¶275). Bolivia, therefore, has admitted that those mining operations in fact took place.</p> <p>Likewise, the two criminal investigations that Respondent points to in its objection did not conclude that COMIBOL/Sinchi Wayra did not extract minerals from CMO’s concessions, as Respondent disingenuously asserts. Those criminal proceedings concluded, albeit illegally, that CMO had not shown the legitimate right to exploit the subsurface of the Veneros San Juan and Pretoria concessions and ended in dismissals. Nonetheless, the investigations confirmed</p>	

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					that the Bolívar JV was in fact conducting mining operations in the area of the Veneros San Juan and Pretoria concessions (C-52, C-177). As such, Bolivia’s objection to request 14(b) is plainly meritless. In light of the above, Claimants request that the Tribunal order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.	
15.	Any correspondence, minutes, reports, analyses, notes, and other documents exchanged between Sinchi Wayra and COMIBOL regarding the payment of US\$100,000 that Sinchi Wayra made to CMO in connection with the extraction of minerals from CMO’s concessions.	SOC ¶ 110. SOD, ¶¶ 11, 260, 659.	The requested documents are relevant and material to Claimants’ allegations about the Bolívar JV’s illegal extraction of CMO’s minerals. This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s	Bolivia objects to this request for the following five reasons: <i>First</i> , the request is far from “ <i>narrow and specific</i> ” (IBA Guidelines, Art. 3.3(a)(ii)), insofar as it covers <u>any</u> documents which would have been exchanged between Sinchi Wayra and COMIBOL in connection with a US\$ 100,000 payment the former (which is not affiliated with the State) made to CMO, without	Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons: <i>First</i> , Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article	Granted. ----- Concedida.

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			<p>possession, custody or control because they are or should be part or should be inherent to government functions, part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>limitation. Claimants do not indicate, for instance, (i) the author or recipient of the requested “minutes, reports, analyses, notes, and other documents” or (ii) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As the payment in question was allegedly made in September 2006, Claimants seek documents covering a period of some 15 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the</p>	<p>3.3.(a) of the IBA Rules. Claimants’ request describes in sufficient detail the subject matter of the requested documents (the US\$100,000 payment that Sinchi Wayra made to CMO in 2006) and even specifies that Claimants are seeking documents exchanged between Sinchi Wayra and COMIBOL. Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p>Bolivia also circumvents the plain language of the request to conjecture it covers a period of some 15 years. It is necessarily time limited to</p>	

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				<p>broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not made any effort to explain why the requested documents should reasonably be believed to exist (IBA Guidelines, Article 3.3(a)(ii)).</p> <p>In September 2006, CMO received the US\$ 100,000 payment from Sinchi Wayra and not from COMIBOL, which, at that time, was not involved in negotiations with CMO (Statement of Defense, ¶ 258). Claimants have not pointed to any evidence supporting the proposition that COMIBOL would have been involved in the making of the referred payment or even that Sinchi Wayra would have kept COMIBOL apprised of such payment or of negotiations with CMO.</p> <p><i>Third</i>, Claimants have not shown that the request concerns documents which would be relevant to their case and material</p>	<p>the period of time around which the payment was made which was 2006. In any event, as stated above. Claimants seek specific documents related to a specific event.</p> <p><i>Second</i>, Bolivia fabricates requirements under the IBA rules by arguing that Claimants’ supposed failure to explain why it reasonably believes the documents should exist excuses Respondent from producing any responsible documents in its possession, custody or Control, or confirming that no such documents exist.</p> <p>In any event, it is undisputed that COMIBOL was apprised of the criminal complaint against the Sinchi Wayra executives, as it participated in it by submitting evidence to the Prosecutor. It is therefore reasonable to</p>	

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				<p>to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). It is a <i>non sequitur</i> to assert, as Claimants do, that documents related to the US\$ 100,000 payment made by Sinchi Wayra to CMO would be proof of illegal mining at Veneros San Juan.</p> <p><i>Fourth</i>, no responsive documents exist, insofar as Sinchi Wayra did not extract minerals from CMO's concessions. As the record of this arbitration shows, at least two criminal investigations have already confirmed this conclusion (Statement of Defense, Section 3.2.4).</p> <p><i>Fifth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of COMIBOL and/or of Sinchi Wayra (a private company not affiliated with the State), and the review of many years' worth of documents. The time and costs associated with such search and</p>	<p>believe that COMIBOL was also apprised of the payment and thus had access to documents in connection with these payments, all of which COMIBOL would and should have prepared and maintained in the ordinary course of its business.</p> <p>Respondent's position also is contradicted by its own assertions. Despite questioning Claimants' grounds to believe that the documents exist, Bolivia admits that in September 2006, CMO received the US\$ 100,000 payment from Sinchi Wayra. Moreover, Respondent's assertions that it was Sinchi Wayra and not COMIBOL who made the payment, and that COMIBOL was not involved in the negotiations, is unavailing and shows again Respondent's unwillingness to produce responsive</p>	

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				<p>review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>documents. Even if COMIBOL had no responsive documents—which Respondent has not represented—COMIBOL can simply request and obtain them from Sinchi Wayra, its joint venture partner. In this regard, Respondent’s assertion that Sinchi Wayra is a private company not affiliated with the State is disingenuous. Sinchi Wayra was affiliated with the State at all relevant times of the events discussed in this arbitration, as it was COMIBOL’s partner in the Bolivar JV and is currently affiliated with COMIBOL in other projects in Bolivia. Thus, even if the documents were not in Bolivia’s direct possession or custody (again, something Respondent has not argued), they certainly would or should be within its control and easily obtainable from its partner Sinchi</p>	

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					<p>Wayra. To the extent that Respondent argues that Sinchi Wayra is no longer COMIBOL's partner in the Bolivar JV and that its new partner is Illapa S.A. (also a subsidiary of Glencore), COMIBOL can also obtain responsive documents from Illapa or its executives as the management is virtually identical to that of Sinchi Wayra. For example (and most important), the Executive President of Illapa S.A., Mr. Felipe Hartmann, who was also the Executive President of Sinchi Wayra, was one of the people directly involved in the negotiations with CMO and the one who accepted to make the US\$ 100,000 payment (SOC, ¶¶ 108-11; CWS-2, ¶¶ 8-12).</p> <p><i>Third</i>, lacking other reasonable objections to this request, Bolivia appears to</p>	

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					<p>require that Claimants explain—again—the relevance of the \$100,000 payment to its claims. The relevance of that fact (and the events surrounding it) is laid out in this Redfern and in Claimants’ SOC. Suffice it to say that the requested documents related to the payment exchanged between COMIBOL and Sinchi Wayra are relevant to the COMIBOL/Sinchi Wayra’s illegal mining of CMO’s concessions within Claimants’ concessions and to the expropriation of Claimants’ minerals and mining rights. As explained herein, the requested documents are not in Claimants’ possession, custody or control, because they were exchanged between COMIBOL and Sinchi Wayra.</p>	

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					<p><i>Fourth</i>, the probative value of this evidence clearly outweighs any costs resulting from the search of these documents. Respondent could easily obtain these documents from its “international mining giant” partner Glencore (Sinchi Wayra), which will have the structure, resources and organization to quickly pull out, organize and produce these documents, in a time and cost-efficient way. This, of course, is without prejudice of Respondent’s obligation to obtain the requested documents from COMIBOL and other mining authorities, all of which Bolivia controls.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents as narrowed down herein,</p>	

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					within the time limit set forth in Procedural Order No. 7.	
16.	<p>All documents related to or prepared in connection with SERGEOTECMIN's issuance of a certificate on May 16, 2007 concerning CMO's Veneros San Juan concession, including:</p> <p>a) Any correspondence, memoranda, minutes, reports, analyses, notes, transcripts, official resolutions, and other documents prepared or received by SERGEOTECMIN and COMIBOL; and</p> <p>b) Any correspondence between COMIBOL and SERGEOTECMIN prior, during, and after the issuance of the May 16, 2007 certificate.</p>	SOC, ¶¶ 137-143; C-35	<p>The requested documents are relevant and material to Claimants' allegations about the illegality of SERGEOTECMIN's May 16, 2007 Certificate.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be part or should be inherent to government functions, part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or</p>	<p>Bolivia objects to this request for the following two reasons:</p> <p><i>First</i>, the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it covers "all documents related to or prepared in connection with SERGEOTECMIN's issuance of the a certificate on May 16, 2007," without limitation. Claimants do not indicate, for instance, (i) the author of the requested documents, (ii) their specific subject-matter, or (iii) the period of time during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>In addition, on the one hand, there is no time limitation circumscribing paragraph (b) of the request, which seeks correspondence "<i>prior, during and</i></p>	<p>Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants' request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants' request describes in sufficient detail the subject matter of the requested documents (SERGEOTECMIN's May 16, 2007 Certificate). Claimants' request even identifies the relevant government agencies (COMIBOL and SERGEOTECMIN) and includes non-exhaustive lists</p>	<p>Granted only with respect to documents "prepared in connection with" SERGEOTECMIN's issuance of a certificate on May 16, 2007 concerning CMO's Veneros San Juan concession.</p> <p>-----</p> <p>Concedida solo con respecto a documentos "preparados en conexión con" la emisión por</p>

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			control of, the requested documents.	<p><i>after</i>” 16 May 2007, <i>i.e.</i>, without any time limitation.</p> <p>On the other hand, insofar as paragraph (a) does not expressly indicate any time period, Claimants’ statement at ¶ 7 above is applicable to this request: <i>“[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present.”</i> Claimants thus seek, in paragraph a), over 24 years’ worth of documents.</p> <p>The 16 May 2007 SERGEOTECMIN certificate (C-35) confirms (i) that Veneros San Juan is a surficial concession granted over residual accumulations of tin (“<i>veneros</i>” and “<i>relaves</i>”), as indicated by the 1906 Veneros San Juan Title, and that (ii) the Seguridad I concession extends underground, until the center of the earth. For this reason, as drafted, this request would cover, for example, (i) CMO’s request for a certificate</p>	<p>of the specific types of documents sought, all of which Respondent must have prepared and maintained in the regular course as part of its inherent government functions and ordinary operations. Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p>In addition, Bolivia grossly mischaracterizes this request. It introduces its own criteria for a sufficiently “narrow and specific” request as to satisfy the IBA Rules, but the level of detail it seeks is neither (a) required under the IBA Rules; nor likely (b)</p>	<p>parte de SERGEOTECMIN de un certificado sobre la concesión de Veneros San Juan de CMO el 16 de mayo de 2007.</p>

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				<p>(including the administrative paperwork generated in connection with such request – such as receipt logs etc.), and (ii) SERGEOTECMIN’s internal records mentioning, even in passing, the 16 May 2007 certificate (e.g., the database or record of all the certificates issued by this institution). This result would be absurd, and confirms that this request is nothing but a fishing expedition.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p>Second, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of SERGEOTECMIN, and the review of many years’ worth of documents. Bolivia objects to this</p>	<p>available to a party that does not have the documents in its possession, custody or control. Lacking this level of specificity, Bolivia conjectures, the request requires Bolivia to produce a number of irrelevant documents that it proceeds to list. Rather than constructively engage to avoid the “absurd result” it absurdly creates, such as by providing specific objections to the production of such documents on the basis of relevance, Bolivia reads each request to an illogical extremity and objects to producing anything in response to this request.</p> <p>In any event, the examples that Respondent lists for its argument that this would be a “fishing expedition” are (i) CMO’s request for a certificate (which is not being requested) and (ii)</p>	

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				request on the basis of Article 9.2(c) of the IBA Guidelines.	<p>SERGEOTECM’s internal records mentioning the 16 May 2007 certificate. The search for these documents would clearly not be “absurd” nor “unduly burdensome” to Respondent. Far from being a “fishing expedition,” Claimants’ request is a targeted effort at obtaining relevant specific information from Bolivia concerning the SERGEOTECMIN’s May 16, 2007 certificate which is an important evidence in this arbitration. Respondent’s blanket and baseless objection should be rejected.</p> <p>In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Calendar No. 7.</p>	

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17.	<p>All documents related to or prepared in connection with the three certificates SERGEOTECMIN issued on April 29, 2005, September 26, 2005, and March 17, 2006, concerning CMO's Veneros San Juan concession, including but not limited to:</p> <p>a) Any correspondence, memoranda, minutes, reports, analyses, notes, transcripts, official resolutions, and other document prepared or received by SERGEOTECMIN and COMIBOL; and</p> <p>b) Any correspondence between COMIBOL and SERGEOTECMIN prior, during, and after the issuance of these certificates.</p>	<p>SOC, ¶¶ 137-143; C-35, C-36, C-37, C-38</p>	<p>The requested documents are relevant and material to Claimants' allegations about the illegality of SERGEOTECMIN's May 16, 2007 Certificate.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be part or should be inherent to government functions, part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>Bolivia objects to this request, <i>mutatis mutandis</i>, for the reasons described in connection with request 16 above.</p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent's objection to request 16 above.</p> <p>On those grounds, Claimants respectfully request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	<p>Granted only with respect to subcategories (a) and (b) (but not the chapeau) and only with respect to documents "prepared in connection with" the three SERGEOTECMIN certificates.</p> <p>-----</p> <p>Concedida solo con respecto a las subcategorías (a) y (b) (pero no el preámbulo) y solo con respecto a documentos "preparados en</p>

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						conexión con” los tres certificados de SERGEOTEC MIN.
18.	Maps, drawings, and any other documents prepared or received by COMIBOL, SERGEOTECMIN, the Superintendent of Mines and/or the Ministry of Mining and Metallurgy related to underground galleries built and mining operation conducted by COMIBOL and its joint venture partners (COMSUR, Sinchi Wayra, and Illapa) in the subsurface of CMO’s Veneros San Juan and Pretoria concessions since Seguridad I was granted to COMIBOL on December 15, 1997 to date.	SOC ¶¶ 153-160	<p>The requested documents are relevant and material to Claimants’ allegations of illegal mining of CMO’s concessions and the irregularities in the criminal proceedings against the executives of Sinchi Wayra.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or</p>	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>any [...] documents prepared or received by COMIBOL, SERGEOTECMIN, the Superintendent of Mines and/or the Ministry of Mining and Metallurgy related to underground galleries built and mining operation conducted by COMIBOL and its joint venture partners (COMSUR, Sinchi Wayra, and Illapa) in the subsurface of CMO’s Veneros San Juan and Pretoria concessions since [...] December 15, 1997,</i>” without limitation. In other words, Claimants seek documents “<i>prepared or received</i>” by the four State agencies that</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules.</p> <p>Bolivia grossly mischaracterizes this request. It is evident from the plain language of this request that Claimants do not request Bolivia to seek “documents ‘prepared or received’ by four State agencies that have</p>	<p>Denied as overly broad.</p> <p>-----</p> <p>Denegada por ser demasiado amplia.</p>

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			possession, custody, or control of, the requested documents.	<p>have a role in the Bolivian mining sector over a period spanning from 1997 to 2020 (<i>i.e.</i>, some 23 years), related to underground galleries and mining operations in a certain area. Claimants do not indicate, for instance, (i) the author of the requested documents “<i>received</i>” by the four State institutions, (ii) the recipient or custodian of the requested documents “<i>prepared</i>” by such institutions, (iii) their specific subject-matter or (iv) the period of time when they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>Claimants’ boilerplate assertion that “[<i>t</i>]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request, which covers some 23 years’ worth of documents.</p>	<p>a role in the Bolivian mining sector over a period spanning ... some 23 years” that relate to underground galleries in a vacuum. Rather, this request seeks a narrowly defined category of documents—namely, maps or drawings, correspondence that indicate underground galleries and mining operations in the locations it CMO’s concessions. As such, Claimants’ request describes in sufficient detail the nature and subject matter of the requested documents so as to allow Bolivia to identify them. Contrary to Bolivia’s argument, Claimants have duly complied with the specificity requirement.</p> <p><i>Second</i>, Bolivia’s assertions that this request is a “disguised attempt” to seek confidential documents ignores that each request may be limited to exclude</p>	

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				<p><i>Second</i>, this is, at best, a disguised attempt by Claimants to seek documents pertaining to the mining operations conducted by the Bolívar JV in the underground area belonging to the Seguridad I concession (and not in an underground area purportedly belonging to CMO’s Veneros San Juan or Pretoria concessions). To the extent this is so, the requested documents are confidential for commercial and technical reasons (IBA Guidelines, Article 9.2(e)). All the information regarding the mining operations undertaken at Bolívar, a mine unrelated to the assets at issue in this arbitration, by Sinchi Wayra, a subsidiary of international mining giant Glencore International S.A. which is not party to these proceedings, cannot lightly be disclosed to a Bolivian mining company. Claimants’ hollow assertion that the requested documents would be relevant to support fictitious allegations of illegal mining is not</p>	<p>documents subject to “any alleged privilege” and indicated in a privilege log. To the extent Bolivia believes particular responsive documents are covered by privilege, it should have provided a privilege log detailing specific categories of documents it is withholding due to privilege. It has not done so, relying instead on generalized and unsubstantiated assertions of confidentiality. Having failed to substantiate this objection or to provide a particularized privilege log, Respondent should be ordered to produce all responsive documents in its possession, custody or control.</p> <p><i>Third</i>, Bolivia suggests that the documents requested are not relevant and material to Claimants’ case, and at most, relevant only to the quantum</p>	

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				<p>sufficient to disregard such confidentiality concerns.</p> <p>Bolivia takes note of Claimants’ request that it provide a privilege log in the event that “<i>documents responsive to any request are located and withheld by Respondent on account of any alleged privilege or for any other reason</i>” (¶ 4 above). However, due to the egregiously overbroad nature of Claimants’ request, Bolivia is not in a position to provide such log in respect of the requested documents.</p> <p><i>Third</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome as to the jurisdiction of the Tribunal, the admissibility of the claims or the international responsibility of Bolivia (IBA Guidelines, Art. 3.3(b) and 9.2(a)). At most, the requested documents could be relevant to the arguments related to the quantum of compensation which Claimants may bring in the future (<i>quod non</i>). Claimants</p>	<p>phase of the proceedings. The conceded relevance to quantum aspects of the claim contradicts Bolivia’s first reaction that the documents are not relevant at all. In any event, the issues of whether Bolivia created galleries or mined within Claimants’ concessions are relevant and material to Respondent’s liability for Claimants’ claims of expropriation and trespass, and should be produced immediately. <i>Fourth</i>, the probative value of this evidence clearly outweighs any costs resulting from the search of these documents that Bolivia is concerned about. In fact, this allegation is unavailing because Respondent could easily obtain these documents from its “international mining giant” partner Glencore (Sinchi Wayra), which will have the structure, resources and</p>	

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				<p>improperly attempt to circumvent the bifurcation of the present arbitration between jurisdiction/liability and quantum – a bifurcation to which they consented (Opposition to Respondent’s Application for Trifurcation, Section III.D).</p> <p><i>Fourth</i>, searching for and exhibiting documents pertaining to the mining operations conducted by the Bolívar JV in the underground area belonging to the Seguridad I concession since 1997 would be unduly burdensome for the reasons described in connection with request 14 above. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>organization to quickly pull out, organize and produce these documents, in a time and cost-efficient way. This, of course, is without prejudice of Respondent’s obligation to obtain the requested documents from COMIBOL and SERGEOTECMIN.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	

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19.	<p>All documents related to or prepared by COMIBOL. Sinchi Wayra, the Deputy Prosecutor or any other agency or instrumentality of Respondent in connection with the investigations conducted by the Deputy Prosecutor in the criminal proceedings initiated by CMO against the Sinchi Wayra executives, including but not limited to:</p> <p>a) Any correspondence, memoranda, minutes, reports, analyses, notes, transcripts, official resolutions, maps, and other documents prepared or received by COMIBOL, Sinchi Wayra and the Deputy Prosecutor in connection with the Inspection Order, dated March 26, 2007, to conduct an on-site inspection (<i>inspección de visu</i>) at the Veneros San Juan and Pretoria concessions, and in connection with either of the inspections of these concessions that took place in June 2007.</p>	<p>SOC ¶¶ 153-160; C-161, C-163, C-164, C-165; CWS-4, ¶¶ 4-10</p>	<p>The requested documents are relevant and material to Claimants’ allegations of illegal mining of CMO’s Veneros San Juan and Pretoria concessions and irregularities in the inspections of the same, including allowing a team of Sinchi Wayra’s lawyers, engineers and managers to attend while only permitting the attendance of one CMO representative – attorney Saúl Alandía; failing to require the engineer of Sinchi Wayra to present a map accurately describing all blocked tunnels encroaching on CMO’s concessions and observed during the inspection; and issuing an inspection report that failed to properly address any of the issues CMO had set forth.</p>	<p>Bolivia objects to this request for the following five reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents related to or prepared by COMIBOL. Sinchi Wayra, the Deputy Prosecutor or any other agency or instrumentality of Respondent in connection with the investigations conducted by the Deputy Prosecutor in the criminal proceedings initiated by CMO against the Sinchi Wayra executives,</i>” with no limitation. Claimants do not indicate, for instance, (i) the nature of the requested documents, (ii) their specific subject-matter or (iii) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules.</p> <p>Bolivia grossly mischaracterizes this request, caricaturing it to include “some 15 years” worth of administrative documentation generated within the office of the Deputy Prosecutor in connection with the travel and accommodation arrangements” for June 2007 site inspections. Far from being a “fishing expedition,” Claimants’ request is a</p>	<p>Denied as overly broad.</p> <p>-----</p> <p>Denegada por ser demasiado amplia.</p>

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			<p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>As drafted, this request would cover, for instance, the administrative documentation generated within the office of the Deputy Prosecutor in connection with the travel and accommodation arrangements for the purposes of the site inspections of June 2007. This result would be absurd, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). As the investigations were triggered by a criminal complaint filed in December 2006 (C-49), Claimants seek documents covering a period of some 15 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the</p>	<p>targeted effort at obtaining relevant specific information concerning the Deputy Prosecutor’s investigations.</p> <p>In the spirit of cooperation but without waiving any argument, Claimants further clarify that this request refers to documents prepared or received by COMIBOL, Sinchi Wayra, or the Deputy Prosecutor that are within Bolivia’s possession, custody or control related toor prepared in connection with the Deputy Prosecutor’s investigations and inspections of the site. This request excludes purely clerical or administrative documentation and is limited to documents created or exchanged between 2005 to 2007.</p> <p><i>Second</i>, Bolivia makes the unlikely claim that Claimants have not shown how</p>	

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				<p>broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown the requested documents to be relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants have not explained how “documents related to or prepared [...] in connection with” the criminal investigation triggered by CMO against Sinchi Wayra senior executives would corroborate Claimants’ allegations of illegal mining at Veneros San Juan and Pretoria. Nor have Claimants shown how the requested documents even relate to – much less corroborate – their allegations that (i) only counsel for CMO would have been permitted to attend the Bolívar mine inspection visit, (ii) Sinchi Wayra personnel would not have been required to present a certain map during such visit, or (iii) the police report prepared further to the inspection would have been deficient.</p>	<p>documents related to a criminal investigation concerning allegations of illegal mining in Veneros San Juan and Pretoria – key events and measures that are at the center of the discussions in this arbitration – are relevant and material to this case. In response to Bolivia’s specific areas of confusion (yet without waiving any of the relevance and materiality arguments articulated in this Redfern), the requested documents would (i) indicate restrictions on CMO personnel’s attendance at the inspection visit, (ii) confirm whether Sinchi Wayra personnel would have been required to provide a certain map; and (iii) reveal illegal mining operations in the Veneros San Juan concession and the deficiency of the inspection and the resulting police report. All of these</p>	

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				<p><i>Third</i>, insofar as the requested documents would have been generated in the framework of a criminal investigation triggered by a complaint filed by CMO, and to which CMO was a party, such documents, by definition, are in the possession, custody or control of Claimants.</p> <p><i>Fourth</i>, insofar as the request seeks documents prepared by Sinchi Wayra, Claimants have not explained why it should be assumed that such documents would be in Bolivia’s possession, custody or control. Sinchi Wayra is a private company which the State neither owns nor controls, and which is not a party to this arbitration.</p> <p><i>Fifth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of at least four State agencies and instrumentalities, and the review of many years’ worth of documents.</p>	<p>issues are directly relevant to the factual and legal issues in dispute as explained in this Redfern and the parties’ submissions.</p> <p><i>Third</i>, Bolivia suggests that as Claimants brought a criminal complaint against Sinchi Wayra executives, they must somehow be automatically privy to all documents prepared for, investigated or relied on by the Deputy Prosecutor. As Bolivia should well know, a party bringing a criminal complaint in Bolivia is not provided such broad access to records of criminal investigations. Neither do Claimants have access to any documents prepared by COMIBOL/Sinchi Wayra on the events at issue, which is the reason for this request.</p> <p><i>Fourth</i>, Respondent’s requirement that Claimants</p>	

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				<p>The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>In any event, without prejudice to the above, as Bolivia already explained, it has been unable to locate the case file of the criminal investigation (Statement of Defense, ¶ 263). In response to the <i>Procuraduría General del Estado</i>'s request for copies of the file, the Oruro office of the Prosecutor explained that, "<i>por el tiempo transcurrido [i.e., 11 years at the time of the request], no se ha logrado encontrar físicamente</i>" a copy of such file (R-262). This is consistent with the account provided by Claimants' witness, Saúl Alandía, who was informed by the Prosecutor's office that "<i>el expediente había sido extraviado</i>"</p>	<p>now explain why it should be assumed that such documents are in Bolivia's possession, custody or control represents an about-face from its objection to request 18 above, in which it claims that documents belonging to Sinchi Wayra are "confidential for commercial and technical reasons" and "cannot lightly be disclosed to a Bolivian mining company." This objection, along with the fact that Sinchi Wayra was COMIBOL's mining partner in the Bolívar JV for the exploitation of the Bolívar mine, confirms Claimants's contention that the requested documents are within Respondent's possession, custody or control.</p> <p>In light of the above, Claimants request that the Tribunal order Bolivia to produce the requested</p>	

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				(CWS-4, ¶ 8). Thus, insofar as they include the record of the referred criminal investigation, the requested documents do not exist.	documents within the time limit set forth in Procedural Order No. 7.	
20.	Any document provided to or correspondence with Alvaros Rejas Villarroel; Jose Walfre Pastor Cuevas; Luis Vera Palenque; and Jose Fernando Cordova Eguivar in connection with their testimony provided to the Deputy Prosecutor in his second investigation prior to the September 21, 2007 dismissal of CMO’s criminal complaint against the Sinchi Wayra executives.	SOC ¶¶ 169-172; C-53, C-173, C-174, C-175, C-176	<p>The requested documents are relevant and material to Claimants’ allegations about irregularities in the criminal proceedings against Sinchi Wayra executives.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>Bolivia objects to this request for the following five reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>any document provided to or correspondence with [four private individuals not linked to the State, in connection with their testimony provided to the Deputy Prosecutor in his second investigation prior to the September 21, 2007 dismissal of CMO’s criminal complaint against the Sinchi Wayra executives,</i>” without limitation. Claimants do not indicate, for instance, (i) the author/recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time during which they would have been elaborated. The requested</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants’ request describes in sufficient detail the subject matter of the requested documents (testimony of four COMIBOL executives and employees—Jose Walfre Pastor Cuevas, Luis Vera Palenque, and Jose Fernando Cordova Eguivar—provided to the Deputy</p>	<p>Declined as overly broad and lacking sufficient showing of materiality. The Tribunal also takes note of Respondent’s statement that: “it has been unable to locate the case file of the criminal investigation (Statement of Defense, ¶ 263). Thus, insofar as they include the record of the referred</p>

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				<p>documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would cover, for instance, any private correspondence from any of these individuals to any individual, whether or not affiliated with the State, in connection with their testimony (e.g., communications with their families or their employers). This would be an absurd result, and it confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). Given that the four individuals in question provided their testimony to the Deputy Prosecutor in September 2007, Claimants seek documents</p>	<p>Prosecutor). Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p>Bolivia grossly mischaracterizes this request. It introduces its own criteria for a sufficiently “narrow and specific” request as to satisfy the IBA Rules, but the level of detail it seeks is neither (a) required under the IBA Rules; nor likely (b) available to a party that does not have the documents in its possession, custody or control. Lacking this level of specificity, Bolivia conjectures, the request requires Bolivia to produce</p>	<p>criminal investigation, the requested documents do not exist.”</p> <p>-----</p> <p>Rechazada por ser demasiado amplia y no evidenciarse de modo suficiente su carácter sustancial. El Tribunal toma nota también de la declaración del Demandado de que: “no ha podido localizar el expediente de la investigación criminal</p>

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				<p>covering a period of some 13 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown the requested documents to be relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants have not explained how the requested documents would corroborate any purported irregularities affecting the criminal investigation commenced further to CMO’s complaint against Sinchi Wayra’s senior executives. Claimants did not levy any allegations of wrongdoing against Messrs. Rejas Villaroel, Pastor Cuevas, Vera Palenque or Córdova Eguivar in any of their prior submissions (Statement of Defense, ¶¶ 285-287). The</p>	<p>“for instance, any private correspondence from any of these individuals to any individual, whether or not affiliated with the State, in connection with their testimony”. Rather than constructively engage to avoid the “absurd result” it absurdly creates, such as by providing specific objections to the production of such documents on the basis of relevance, Bolivia reads each request to an illogical extremity and objects to producing anything in response to this request.</p> <p>It is evident from the plain language of this request that Claimants are seeking documents provided to or exchanged with the stated individuals in connection with their testimony to the Deputy Prosecutor within a reasonable time period around the visit. Far from</p>	<p>(Escrito de Contestación, ¶ 263). Por tanto, en la medida en que incluye el expediente de la investigación criminal mencionada, los documentos solicitados no existen” (traducción del Tribunal).</p>

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				<p>document production phase is not the opportunity for Claimants to raise new allegations.</p> <p><i>Third</i>, insofar as the requested documents would have been generated in the framework of a criminal investigation triggered by a complaint filed by CMO, and to which CMO was a party, such documents, by definition, are in the possession, custody or control of Claimants.</p> <p><i>Fourth</i>, insofar as the request seeks documents provided to and correspondence with these four individuals, without identifying the specific author of the requested documents, Claimants have not explained why it should be assumed that such documents would be in Bolivia’s possession, custody or control. Messrs. Rejas Villaroel, Pastor Cuevas, Vera Palenque and Córdova Eguivar are individuals with no involvement in the present dispute, to which they</p>	<p>being a “fishing expedition,” Claimants’ request is a targeted effort at obtaining relevant specific documents concerning the testimony that these individuals provided to the Deputy Prosecutor and the context under which they did so.</p> <p><i>Second</i>, Bolivia suggests that as Claimants brought a criminal complaint against Sinchi Wayra executives, they must somehow be automatically privy to all documents prepared for, investigated or relied on by the Deputy Prosecutor and those exchanged with the individuals relevant to this request. As Bolivia should well know, a party bringing a criminal complaint is not provided such broad access to records of criminal investigations. Neither do Claimants have access to the communications that the</p>	

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				<p>are not parties, and no affiliation with the State.</p> <p><i>Fifth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years' worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>In any event, without prejudice to the above, as Bolivia already explained in connection with request 19 above, it has been unable to locate the case file of the criminal investigation (Statement of Defense, ¶ 263). Thus, insofar as they include the record of the</p>	<p>Deputy Prosecutor or COMIBOL would have exchanged with such individuals.</p> <p>In addition, Claimants are requesting documents provided to and correspondence with the listed individuals, each of whom were employees or executives of COMIBOL and therefore Bolivia should be in possession, custody or control of the documents.</p> <p>In the spirit of cooperation (but without waiving any argument), Claimants further clarify that this request refers to documents provided in 2006 and 2007 to prepare or advise the individuals in connection with the Deputy Prosecutor's investigation and their testimony to the same.</p>	

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				referred criminal investigation, the requested documents do not exist.	In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents as narrowed down herein, within the time limit set forth in Procedural Order No. 7.	
21.	All documents related to or prepared in connection with the investigation conducted by COMIBOL to prepare Report No. GDSC-1034/2004, dated 16 December 2004.	SOC ¶¶ 153-160 SOD, ¶ 257; R-260	<p>The requested documents are relevant and material to Claimants’ allegations of illegal mining in its Pretoria and Veneros San Juan Concessions and irregularities in the inspection of these concessions.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be part of ordinary operations, and</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents related to or prepared in connection with the investigation conducted by COMIBOL to prepare Report No. GDSC-1034/2004, dated 16 December 2004,</i>” without limitation. Claimants do not indicate, for instance, (i) the author/recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time during which the requested documents would have been</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants’ request describes in sufficient detail the subject matter of the requested documents (COMIBOL’s investigation conducted to prepare Report No. GDSC-</p>	<p>Granted only with respect to documents “prepared in connection with” the investigation conducted by COMIBOL to prepare Report No. GDSC-1034/2004, dated 16 December 2004.</p> <p>-----</p> <p>Concedida solo con</p>

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			<p>kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, this request would the request would even cover, for example, any documents within COMIBOL that makes reference, even in passing, to the referred report, including, for instance, the internal communication logs attesting its transmittal from the <i>Supervisión técnica de contratos</i> division to the <i>Gerente Técnico de Proyectos</i>. This result would be absurd, and confirms that this request is nothing but a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As the aforementioned COMIBOL report is dated 16 December 2004,</p>	<p>1034/2004). Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p>Bolivia mischaracterizes this request, suggesting it includes “any documents within COMIBOL that makes reference, even in passing, to the referred report, including, for instance, the internal communication logs” over some 16 years.</p> <p>To provide additional clarity, while Claimant cannot pinpoint the precise date it started, the documents presumably were prepared</p>	<p>respecto a documentos “preparados en conexión con” la investigación dirigida por COMIBOL para preparar el Informe No. GDSC-1034/2004, de fecha 16 de diciembre de 2004.</p>

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				<p>Claimants seek some 16 years' worth of documents.</p> <p>Claimants' boilerplate assertion that "[t]his request concerns a narrowly defined category of documents within a specific time period" flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown the requested documents to be relevant to Claimants' case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants have not explained how the requested documents would corroborate their allegations of illegal mining at Veneros San Juan or of irregularities in the inspection of such concession (Claimants have not even indicated to which inspections they refer). To the contrary, the requested documents would seem to disprove Claimants' allegations.</p> <p>As Bolivia explained in the Statement of Defense and</p>	<p>between 2000 and 2005. Far from being a "fishing expedition," Claimants' request is a targeted effort at obtaining relevant specific information relating to a specific report.</p> <p><i>Second</i>, Bolivia claims that Claimants have not shown the requested documents to be relevant and material to the case and its outcome and that, contradictorily, they could even disprove Claimants' allegations. Taken at face value, Respondent's position that the requested documents supposedly may disprove Claimants' allegations confirms that they are material. If in fact the requested documents are beneficial to Respondent, it should have no qualms with producing them. As explained in the relevant column of this Redfern, the</p>	

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				<p>Preliminary Objections, after various years of silence following the Mining Superintendent’s April 2000 dismissal of COMIBOL’s Easement Request, CMO reached out to Sinchi Wayra to extort payment. CMO sought to profit from the fact that Sinchi Wayra was under new management, having been acquired by Glencore International A.G., and falsely asserted that (i) it held rights beneath the Veneros San Juan concession, and (ii) the operations of the Bolívar mine would have infringed upon such rights. This prompted COMIBOL to carry out an internal investigation, which concluded with Report No. GDSC-1034/2004 (R-260). This report indicated that <i>“este problema ya fue solucionado en la gestión 2000, entonces se hizo presente en Mina Bolívar, una comisión conformada por representantes de COMIBOL, Cia. Minera Orlandini Ltda., SETMIN y Sindicato Mixto de Trabajadores de Totoral, la que por instrucciones de la</i></p>	<p>requested documents will provide insight into the methods used in the investigation and the basis for the conclusions drawn in the report. The report touches on key issues in this case and thus it and the methods and documents used to create it are relevant and material to the outcome of this case. The relevance and materiality of the evidence requested is further highlighted by Bolivia’s own response, acknowledging that COMIBOL and Sinchi Wayra conducted mining operations in CMO’s concessions (see R-260, pp. 3-11; R-251).</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents as narrowed down herein, within the time limit set forth in Procedural Order No. 7.</p>	

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				<p><i>Superintendencia de Minas de Oruro, realizaron la inspección de Visu de las concesiones observadas. Como resultado de dicha inspección, el Ing. Luis Vera Palenque, Perito de COMIBOL, elabora un informe al Dr. Felix W. Lafuente A. Superintendente de Mina Oruro, con las conclusiones técnicas precisas, demostrando que las labores mineras del Proyecto Mina Bolívar no afectan en absoluto a las concesiones de la Cia. Orlandini Ltda” (R-260, p. 1). The report appended a copy of Eng. Vera Palenque’s report (R-260, pp. 3-11; R-251), and concluded that “las labores mineras que atraviesan la zona del cause [sic] del Rio Chapana, se ubican más de 80 metros de profundidad de la quebrada y considerando que una concesión de Veneros solo tiene influencia hasta la altura del Bedrock, definitivamente no se afecta en absoluto a las concesiones mencionadas.” Claimants have not explained why they would</i></p>		

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				<p>require the full case file of COMIBOL’s internal investigation to corroborate the allegations of illegal mining which the report itself refutes.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>		
22.	All internal directives, practice guidelines, policies, memoranda, regulations, and other documents prepared, used, or considered by SERGEOTECMIN in connection with its issuance of administrative certificates	SOC ¶¶ 137-143; C-35, C-36, C-37, C-38	The requested documents are relevant and material to Claimants’ allegations about irregularities in SERGEOTECMIN’s	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA</p>	Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:	<p>Denied as overly broad.</p> <p>-----</p>

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	concerning concessions, including the type SERGEOTECMIN issued on April 29, 2005, September 26, 2005, March 17, 2006 and May 17, 2006, concerning CMO's Veneros San Juan concession.		<p>issuance of the May 16, 2007 Certificate.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>Guidelines, Art. 3.3(a)(ii), as it seeks not only "[a]ll [...] documents prepared, used, or considered by SERGEOTECMIN in connection with its issuance of administrative certificates concerning concessions," without limitation. Claimants do not indicate, for instance, (i) the author/recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would even cover, for instance, all of the administrative files of all of the concessions in Bolivia registered at SERGEOTECMIN, which the institution would have "considered" when issued certificates pertaining to those concessions. This would be an</p>	<p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants' request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants' requests identify specific subject matters that have been carefully tailored to issues that are relevant and material to the Tribunal's determination on liability.</p> <p>To further clarify, this request does not seek purely clerical documents and is not seeking "administrative files of all of the concessions in Bolivia" as Respondent disingenuously asserts. Far from launching into a "fishing expedition," Claimants are only requesting that Bolivia search documents within its possession, custody or</p>	Denegada por ser demasiado amplia.

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				<p>absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As drafted, it is unclear from the request whether Claimants seek documents (i) going back to 2005 (the date of the four certificates given as examples in the request), (ii) covering the periods of time 1985-1986 and 1997-2020 or (iii) covering some other period of time (<i>e.g.</i>: going back to the first certificates SERGEOTECMIN issued).</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” is simply outrageous.</p> <p><i>Second</i>, Claimants have not shown that the requested documents would be relevant to Claimants’</p>	<p>control that would have served as relevant guidance or protocols for the issuance of certificates at issue (C-35, C-36, C-37, C-38) in 2005 and 2006. This does not impose an undue burden to Respondent.</p> <p><i>Second</i>, Bolivia states that Claimants have not shown how documents, such as “directives or practice guidelines relevant to the activity of SERGEOTECMIN” could be relevant to Claimants’ allegations of irregularities. The answer is simple. The requested documents go to whether SERGEOTECMIN followed its own internal directives, procedures and guidance when issuing the certificates, and are therefore relevant to Claimants’ allegations of irregularities in that process.</p>	

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				<p>case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Specifically, Claimants have not made the effort to explain how directives or practice guidelines relevant to the activity of SERGEOTECMIN, generally, could corroborate their allegations of purported irregularities in the issuance of a specific certificate dated 16 May 2007 (C-35). This is all the more so since Claimants’ key criticism of such certificate is that it did not adopt the particular view of Bolivian mining law which they present in this arbitration (<i>i.e.</i>, that a concession over surficial deposits such as “<i>veneros</i>” and “<i>relaves</i>” would somehow grant its holder underground exploration and exploitation rights; it does not).</p> <p><i>Third</i>, Claimants have not shown that the requested documents would not be readily available in the public domain. Claimants have been represented by counsel from the Bolivian law firm Wayar</p>	<p><i>Third</i>, Respondent’s request that Claimants prove the documents are not in the public domain is untenable. Claimant reasonably believes that such documents, particularly internal protocols and guidelines for the issuance of certificates, exist as it is standard for agencies such as SERGEOTECMIN to have such protocols. The IBA Rules and arbitral practice require no more, and certainly do not require that Claimants prove a negative. In any event, if the requested documents in fact are in the public domain, Claimants respectfully ask that Respondent, which has superior knowledge of the location of documents created by its organs and instrumentalities, point them to their location.</p> <p>In light of the above, the Tribunal should order</p>	

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				<p>& Von Borries Abogados S.C. from the outset of these proceedings. There is presumably no reason why Claimants' Bolivian counsel could not themselves carry out the legal research necessary to retrieve the requested documents. Conversely, it would be unduly burdensome, and would pervert the purpose of document production in international arbitration if the Tribunal were to order Bolivia to carry out Claimants' legal research for them. As explained in Bolivia's letter of 29 June, other international tribunals have rejected requests for documents which were already in the public domain.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years' worth of documents.</p>	<p>Bolivia to produce the requested documents as narrowed down herein, within the time limit set forth in Procedural Order No. 7.</p>	

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				The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.		
23.	<p>All documents or files held at SERGEOTECMIN in connection with its preparation and issuance of certificates relating to CMO's Veneros San Juan concession, CMO's Pretoria concession, and COMIBOL's Seguridad I concession, including but not limited to:</p> <p>a) Any document reviewed or prepared by SERGEOTECMIN; and</p> <p>b) SERGEOTECMIN's internal correspondence and its correspondence with prosecutorial authorities, COMIBOL, Sinchi Wayra, or their employees or agents from March 1, 2007 until October 1, 2007.</p>	SOC ¶¶ 137-143	<p>The requested documents are relevant and material to Claimants' allegations about irregularities in SERGEOTECMIN's issuance of the May 16, 2007 Certificate.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be part of ordinary operations, and kept in the regular course</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "[a]ll documents held at SERGEOTECMIN in connection with its preparation and issuance of certificates relating to CMO's Veneros San Juan concession, CMO's Pretoria concession, and COMIBOL's Seguridad I concession," without limitation. Claimants do not indicate, for instance, (i) the author/recipient of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time</p>	<p>Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Bolivia again makes a boilerplate and unsubstantiated objection on specificity, while it is clear from Claimants' request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Claimants' request describes in sufficient detail the subject matter of the requested documents (SERGEOTECMIN's</p>	<p>Granted with respect to subcategory (b). Otherwise denied as overly broad.</p> <p>-----</p> <p>Concedida con respecto a la subcategoría (b). Denegada en lo demás por ser demasiado amplia.</p>

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			<p>of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would even cover, for instance, all of the requests for the issuance of a certificate filed by each of the successive holders of the Veneros San Juan and Pretoria concessions from the date they each were granted until the present date. This result would be absurd, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As drafted, it is unclear from the request whether Claimants seek documents (i) covering the periods of time 1985-1986 and 1997-2020 or (ii) going</p>	<p>preparation and issuance of certificates concerning CMO’s Veneros San Juan Pretoria concessions and COMIBOL’s Seguridad I concession). Claimants’ request even specifies the relevant government agency (SERGEOTECMIN) and includes non-exhaustive lists of the specific types of documents sought, all of which Respondent must have prepared and maintained in the regular course as part of its inherent government functions and ordinary operations. Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p>	

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				<p>back to 1906, when the Veneros San Juan concessions was granted.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” is simply outrageous.</p> <p>Second, as drafted, the request is disconnected from the asserted reasons why the requested documents would be relevant to Claimants’ case and material to its outcome. Specifically, Claimants seek “all documents [...] in connection with its preparation and issuance of certificates relating to CMO’s Veneros San Juan concession, CMO’s Pretoria concession, and COMIBOL’s Seguridad I concession.” Such documents, however, are said to be relevant to “Claimants’ allegations about irregularities in SERGEOTECMIN’s issuance of the May 16, 2007 certificate.” Claimants do not explain why “all documents or files held at SERGEOTECMIN” in connection</p>	<p>In addition, Bolivia grossly mischaracterizes this request. It introduces its own criteria for a sufficiently “narrow and specific” request as to satisfy the IBA Rules, but the level of detail it seeks is neither (a) required under the IBA Rules; nor likely (b) available to a party that does not have the documents in its possession, ownership or control. Lacking this level of specificity, Bolivia conjectures, the request covers “for instance, all of the requests for the issuance of a certificate filed by each of the successive holders of the Veneros San Juan and Pretoria concessions from the date they each were granted until the present date. Rather than constructively engage to avoid the “absurd result” it absurdly creates, Bolivia flatly objects to producing</p>	

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				<p>with three different concessions held by two different entities – COMIBOL and CMO – would be specifically relevant to such allegations. Bolivia thus objects to this request on the basis of art. 3.3(b) and 9.2(a) of the IBA Guidelines.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>anything in response to this request.</p> <p>For further clarity, Claimants note that they are requesting documents or files reviewed and/or prepared and/or relied upon by SERGEOTECMIN for the issuance of certificates related to the mining rights granted by the concessions (i) Veneros San Juan, (ii) Pretoria and (iii) Seguridad I, and the certificates themselves. The period covered is 1997 (the year when Seguridad I was granted to COMIBOL) to the present. This is no “fishing expedition,” but rather a targeted effort to obtain relevant specific information from Bolivia on certificates issued in connection with three specific concessions. The request is therefore specific and does not constitute a “fishing</p>	

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					<p>expedition,” as Claimants attempt to argue .</p> <p><i>Second</i>, Bolivia suggests that the request is “disconnected” from the asserted relevance of the documents sought. This is not the case. Claimants have sought documents related to the three concessions whose extent and scope of rights is being disputed in this arbitration: (i) Veneros San Juan, (ii) Pretoria and (iii) Seguridad I. There is no disconnection in Claimants’ request. The requested documents are relevant to understand the process conducted and the underlying documents relied upon by SERGEOTECMIN for the issuance of those certificates and the propriety of the determinations made in those certificates.</p>	

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					In light of the above, the Tribunal should order Bolivia to produce the requested documents as narrowed down herein, within the time limit set forth in Procedural Order No. 7.	
24.	All documents exchanged between COMIBOL, the Ministry of Mining and Metallurgy, Sinchi Wayra/Illapa and/or Empresa San Lucas, discussing the <i>Martínez</i> case and/or the judicial auction of CMO’s concessions.	SOC, ¶¶ 221, 429. SOD, ¶¶ 823-829.	The requested documents are relevant and material to Claimants’ allegations about irregularities in the judicial auction of CMO’s mining concessions in the <i>Martínez</i> case. This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be part of ordinary operations, and kept in the regular course of business. Claimants do	Bolivia objects to this request for the following five reasons: <i>First</i> , the request is far from “ <i>narrow and specific</i> ” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “[a]ll documents exchanged between COMIBOL, the Ministry of Mining and Metallurgy, Sinchi Wayra/Illapa and/or Empresa San Lucas, discussing the <i>Martínez</i> case and/or the judicial auction of CMO’s concessions,” without limitation. In other words, Claimants seek (i) <u>all</u> documents (ii) exchanged between two State agencies and two private companies (iii) in connection with a proceeding commenced in 1988 and which is still ongoing, (iv) and/or a judicial auction which	Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons: <i>First</i> , Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules. Contrary to Bolivia’s suggestion, Claimants’ request identifies the relevant parties (COMIBOL, the Ministry of Mining and Metallurgy, Sinchi Wayra, Illapa, Empresa San Lucas)—two of which are Respondent’s State agencies—and is limited to a particular subject (discussion	Denied as overly broad. ----- Denegada por ser demasiado amplia.

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			<p>not have access to, or possession, custody, or control of, the requested documents.</p>	<p>took place 13 years ago. Claimants make no effort to indicate (i) the specific subject matter of the requested documents, (ii) the custodian of such documents or (iii) the time period during which they would have been generated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). In other words, Claimants seek over 24 years’ worth of documents related to the Martínez case and/or some 13 years’ worth of documents related to the judicial auction of the Grupo Minero Totoral Concessions.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of</p>	<p>of the <i>Martinez</i> case and/or the judicial auction of CMO’s concessions). The IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p><i>Second</i>, Bolivia’s claim that Claimants’ request fails to reasonably establish the existence of the requested documents is entirely without merit. As described throughout Claimants’ SOC, since 1985, Bolivia tried to dispossess CMO of its mining concession rights. In particular, at least from late 2001, COMIBOL and its joint venture partners in the Bolívar mine project, including Sinchi Wayra,</p>	

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				<p><i>documents within a specific time period</i>’ is simply outrageous.</p> <p><i>Second</i>, Claimants have not made any effort to explain why the requested documents should reasonably be believed to exist (IBA Guidelines, Article 3.3(a)(ii)). The Ministry of Mining and Metallurgy and COMIBOL are agencies of the Bolivian State, whilst Sinchi Wayra and Empresa Minera San Lucas are private companies outside the control of either these agencies or the Bolivian State more generally. The Martínez Case is a judicial enforcement proceeding regarding a labor judgment obtained by former workers of CMO against that company, in connection with unpaid social benefits. Neither the Ministry of Mining and Metallurgy, COMIBOL nor Sinchi Wayra are parties to the Martínez Case. Empresa Minera San Lucas is also not a party to the Martínez Case, and its only connection</p>	<p>engaged in the systematic trespass and pilfering of CMO’s mining concessions. As a result, when the enforcement proceedings of the <i>Martínez</i> case were ongoing, COMIBOL and its joint venture partners, including Sinchi Wayra, were involved in a series of legal battles with CMO, including 1) the Easement Proceedings before Superintendent of Mines, which is a Bolivian administrative agency within Ministry of Mining and Metallurgy; and 2) criminal proceedings that CMO brought against Sinchi Wayra’s executives and that COMIBOL also participated in to present “evidence regarding its interest in the Veneros San Juan and Pretoria concessions” which overlap with Seguridad I concession of the Bolívar mine project (SOC, ¶ 161).</p>	

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				<p>thereto was its successful participation in the judicial auction organized in the framework of such proceedings in 2007. Claimants have not pointed to any evidence supporting the proposition that the Ministry of Mining and Metallurgy, Sinchi Wayra, Empresa Minera San Lucas and/or COMIBOL would ever have exchanged documents “discussing” a legal proceeding to which they were not parties or a judicial auction in which only one of them participated.</p> <p><i>Third</i>, Claimants have not shown that the requested documents would be relevant to their case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants have not made any effort to explain how documents exchanged between the Ministry of Mining and Metallurgy, COMIBOL, Sinchi Wayra and Empresa Minera San Lucas</p>	<p>In the midst of this long-standing and ongoing conflict between CMO and COMIBOL/Sinchi Wayra⁹, Empresa San Lucas, also a subsidiary of Glencore and the alter ego of Sinchi Wayra, appeared as the sole bidder in the judicial auction in the <i>Martínez</i> case and won the auction of a plot of land that the judge presiding on the case (Judge Nemer) illegally and retroactively changed to appear as if the subject of the auction were CMO’s concessions (including the Veneros San Juan and Pretoria concessions). Empresa San Lucas paid a pittance for this. Therefore, for Sinchi Wayra and its partner, COMIBOL, the <i>Martínez</i> case provided “the perfect opportunity to cover up their crimes and to</p>	

⁹ In 2013, Sinchi Wayra assigned its rights in the Bolívar JV to Illapa S.A., another subsidiary of Glencore.

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				<p>(assuming, <i>quod non</i>, that they existed) would corroborate their “<i>allegations about irregularities in the judicial auction of CMO’s concessions.</i>” Assuming that it had taken place (<i>quod non</i>), a simple discussion of the Martínez Case and/or the judicial auction of CMO’s concessions between these parties is hardly evidence of “<i>irregularities</i>” in the judicial proceedings themselves. If that had been the case, surely CMO could have complained to the corresponding Bolivian authorities on this basis. Claimants point to no evidence that CMO would have raised such complaint at any time.</p> <p><i>Fourth</i>, Claimants have not explained why documents exchanged by and/or between Sinchi Wayra and Empresa Minera San Lucas – two private companies outside of Bolivia’s control – should be considered to be in the State’s possession, custody or control. There is no basis to assume, as Claimants do,</p>	<p>completely drive out CMO from their Bolívar mine project and the much-needed and valuable Antequera concessions” (SOC, ¶ 519). Moreover, as described throughout the Statement of Claim, various state organs of Bolivia, including the Ministry of Mining and Metallurgy, not only facilitated the illegal mining of CMO’s concessions by COMIBOL and its joint venture partners, but also partook in the systematic denial of CMO’s petitions and complaints to seek redress for the illegal registration of the CMO’s concessions in the name of Empresa San Lucas, all to favor the state-owned mining company and its partner in the Bolívar mine, Sinchi Wayra..</p> <p>In light of the above and especially given what was at</p>	

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				<p>that the requested documents would be “<i>part of ordinary operations</i>” of either the Ministry of Mining and Metallurgy or COMIBOL.</p> <p><i>Fifth</i>, identifying a category of documents as imprecise as that sought, which, furthermore, have not been reasonably shown to exist, would require an unduly burdensome search through the archives of at least one ministry and one State agency, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>stake in the <i>Martinez</i> case—that is, CMO’s mining concessions that COMIBOL and Sinchi Wayra coveted for so long—and the joint venture relationship between COMIBOL and Sinchi Wayra, it strains credulity that COMIBOL and the Ministry of Mining and Metallurgy would not have been aware of the <i>Martínez</i> case¹⁰, and would not have exchanged <i>any</i> documents “discussing the <i>Martínez</i> case and/or the judicial auction of CMO’s concessions” between them and with Sinchi Wayra, Illapa, and Empresa San Lucas. The mere fact that “they were not parties” to the <i>Martinez</i> case does not justify Bolivia’s objection.</p>	

¹⁰ It should be noted that the Ministry of Mining and Metallurgy had ordered the intervention of CMO and initiated criminal actions against it in 1985/1986 because of the alleged problems that CMO has with the workers.

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					<p><i>Third</i>, the requested documents are relevant to the case and material to its outcome, in accordance with IBA Rules 3.3(b) and 9.2(a). Claimants claims that the circumstances surrounding the illegal judicial auction of CMO’s concessions point to the existence of collusion and conspiracy among Judge Nemer, Ms. Wanderley, and COMIBOL/Sinchi Wayra. For instance, Judge Nemer illegally included CMO’s Veneros San Juan and Pretoria concessions for the third auction even though these two concessions that were of particular interest to COMBIOL and Sinchi Wayra/Empress San Lucas were not even mentioned in her 2004 attachment minute (SOC, ¶ 216; C-189). This itself is one of many illegalities in the <i>Martinez</i> case, and this was done upon request of Ms. Wanderley,</p>	

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					<p>who was cognizant of the long-standing dispute between CMO and COMIBOL/Sinchi Wayra. Even after the auction, Judge Nemer, upon request of Empresa San Lucas, retroactively modified the subject of the auction to include CMO's mining concessions, another serious illegality. Afterwards, various organs of the State systematically denied Claimants' efforts to seek redress. Therefore, the requested documents are relevant to assessing: (i) the degree and level of COMIBOL/Sinchi Wayra's involvement in and contribution to irregularities and illegalities in the <i>Martinez</i> case and (ii) the Bolivian government's (including the Ministry of Mining and Metallurgy's) response to Claimants' repeated requests for redress.</p>	

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					<p><i>Fourth</i>, Bolivia’s position that Claimants’ request covers documents that are solely exchanged between Sinchi Wayra and Empresa San Lucas and that are not in the State’s possession, custody, or control is demonstrably false. As indicated in paragraph 4 of the instructions sent to Respondent in connection with Claimants’ document requests, Claimants’ requests concern “documents within the possession, custody or control of the Respondent” for reasons that they were “created by or for Respondent, and/or provided to Respondent, and/or should be kept and maintained by Respondent in the ordinary course of business.” In light of Claimants’ requests, all that Bolivia needs to do is to conduct a reasonable and</p>	

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					<p>diligent search of documents within its possession, custody, or control” to see if there are any responsive documents. Bolivia could also easily obtain the documents from its joint venture partner, Sinchi Wayra/Illapa.</p> <p><i>Fifth</i>, it is disingenuous for Bolivia to suggest that Claimants’ request would require an unduly burdensome search. Bolivia fails to establish why “search[ing] through the archives of at least one ministry and one State agency” and locating responsive documents to this specific request would be unduly burdensome, as it can easily be done through the use of appropriate search terms. Claimants also note that the relationship between COMIBOL and Sinchi Wayra only began in</p>	

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					<p>2004/2005 when Glencore, after acquiring COMSUR, renamed it to Sinchi Wayra. The documents exchanged between COMIBOL and the Ministry of Mining and Metallurgy on one hand, and Sinchi Wayra and other Glencore subsidiaries (i.e., Illapa and Empresa San Lucas) on the other hand, would not certainly cover the period of “24 years” as Bolivia suggests.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	
25.	<p>All documents related to or prepared by the Judicial Council (<i>Consejo de la Judicatura</i>) in response to CMO’s request that an investigation be conducted against the Property Registrar of Oruro, including but not limited to:</p> <p>a) Any correspondence, memoranda, analyses, notes, transcripts, official resolutions, and other documents</p>	SOC, ¶ 250; C-218, C-219	<p>The requested documents are relevant and material to Claimants’ allegations that, despite the conclusions and recommendations of the Office of Inspection of the Judicial Council</p>	<p>Bolivia objects to this request for the following five reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents related to [...] CMO’s request that an</i></p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants’ request is both narrow and specific, in</p>	<p>Granted.</p> <p>-----</p> <p>Concedida.</p>

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	<p>prepared or received by the Judicial Council in relation to CMO’s request; and</p> <p>b) Any correspondence between the Judicial Council and the Property Registrar of Oruro in relation to CMO’s request.</p>		<p>contained in the Judicial Council Report regarding the illegalities committed in the <i>Martinez</i> case and in the registration of CMO’s 48 mining concessions in the name of Empresa San Lucas, neither the Judicial Council nor its President has, to date, taken any further action, thus ignoring the conclusions and recommendations prepared by its investigators.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in</p>	<p><i>investigation be conducted against the Property Registrar of Oruro,”</i> without limitation. Claimants do not indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their specific subject matter or (iii) the period of time during which the requested documents were elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, this request would cover, for instance, the administrative paperwork generated in connection with the receipt of CMO’s request for investigation (e.g.: receipt logs, internal transmittal logs, records of the process by which such request was attributed for consideration to a specific SERGEOTECMIN employee etc.). This result would be absurd, and confirms that this request is nothing more than a fishing expedition.</p>	<p>accordance with Article 3.3(a) of the IBA Rules. Contrary to Bolivia’s suggestion, Claimants’ request identifies in sufficient detail the subject-matter of the categories of documents they request (documents in response to CMO’s request that the Judicial Council conduct an investigation against the Property Registrar of Oruro) and is limited to a defined timeframe (from the time of CMO’s request in January 2010 to the present). The IBA Rules do not require to identify the author, recipient or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p>	

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			<p>the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). CMO’s request for an investigation of the Property Registrar of Oruro was filed in 2010. Thus, Claimants seek some 10 years’ worth of documents under this request.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” is simply outrageous.</p> <p><i>Second</i>, Claimants are requesting documents which they themselves believe do not exist. Indeed, Claimants assert that the requested documents will corroborate their “allegations that [...] neither the Judicial Council nor its President has, to date, taken any further action” in connection to purported illegalities in the registration of the Grupo Minero Totoral Concessions further to the judicial</p>	<p>In addition, in order to argue that Claimants’ request lacks specificity, Bolivia provides examples of “the administrative paperwork generated in connection with the receipt of CMO’s request for investigation” such as “receipt logs, internal transmittal logs, records of the process by which such request was attributed for consideration to a specific SERGEOTECMIN employee etc.”—the reference to SERGEOTECMIN is misplaced here as Claimants do not seek documents related to SERGEOTECMIN, and shows that this is a boilerplate and unsubstantiated objection by Bolivia.</p> <p>In any event, with these extremist and absurd examples, Bolivia essentially challenges the very definition</p>	

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				<p>auction in the Martínez Case. Claimants’ allegation is predicated on the assumption that the requested documents do not exist (Statement of Claim, Section II.D.2(ii)(a)). Thus, the request does not comply with Article 3.3(a)(ii) of the IBA Guidelines (“<i>a description in sufficient detail [...] of a narrow and specific requested category of Documents that are reasonably believed to exist</i>”). In addition, it is an improper and abusive use of the document production phase.</p> <p><i>Third</i>, Claimants have not shown that the requested documents would be relevant to their case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants have not made any effort to explain how documents (i) prepared by the Judicial Council in response to CMO’s investigation request or (ii) related to such request would show that</p>	<p>of a Document under the IBA Rules. A “Document” under the IBA Rules is defined as “a writing, communication, picture, drawing or data <i>of any kind</i>, whether recorded or maintained on paper or by electronic, audio, visual or <i>any other means</i>.”¹¹ Accordingly, the IBA Rules’ definition of a “Document” is broad and, consequently, inconsistent with Bolivia’s argument.</p> <p>In any event, in the spirit of cooperation, Claimants clarify that the documents sought through this request do not include the administrative paperwork that might have been generated indistinctively by the mere fact of the receipt of</p>	

¹¹ IBA Rules, Definitions (emphasis added).

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				<p>the Judicial Council has <u>not</u> taken any action in this regard. The requested documents would rather support the opposite proposition.</p> <p><i>Fourth</i>, Claimants’ own conduct is inconsistent with their representation that they would “<i>not have access to, or possession, custody or control of, the requested documents.</i>” Claimants have submitted into the record the investigation report prepared by the inspection division of the Judicial Council (C-69), a document which, they assert, would contain “<i>the conclusions and recommendations of the Office of Inspection of the Judicial Council contained in the Judicial Council Report regarding the illegalities committed in the Martinez case and in the registration of CMO’s 48 mining concessions in the name of Empresa San Lucas</i>” (conclusions which the Judicial Council’s purported inaction would have contradicted). Yet Claimants are</p>	<p>CMO’s request for investigation.</p> <p><i>Second</i>, contrary to Respondent’s assertions and as shown by Claimants’ request, Claimants have made no assumption that the requested documents do not exist. If Bolivia’s position is that the requested documents do not exist, Bolivia should say so. As a matter of fact, evidence on record contradicts Bolivia’s assertions because Claimants already submitted the Judicial Council Report as Exhibit C-69, which clearly constitutes a document “prepared by the Judicial Council (<i>Consejo de la Judicatura</i>) in response to CMO’s request that an investigation be conducted against the Property Registrar of Oruro”.</p>	

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				<p>not the recipients of such report nor are in copy of it, and have failed to explain the source of such documents. Absent such explanation, the fact that Claimants are in possession of this document confirms that they have possession, custody or control over the requested documents.</p> <p><i>Fifth</i>, identifying a category of documents as imprecise as that sought, which, furthermore, have not been reasonably shown to exist, would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years' worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>Claimants reasonably believe that in preparation and/or following the issuance of the Judicial Council Report, more documents would have been generated in relation to "CMO's request that an investigation be conducted against the Property Registrar of Oruro", including documents assessing whether to continue with the investigation or not. Indeed, in response to Claimants' request 27 below, Bolivia has already agreed to conduct a search and provide certain documents generated in connection with CMO's request for investigation and mentioned in the Judicial Council Report. As such, Bolivia's objection contradicts its own positions.</p> <p>Relatedly, Bolivia makes a meritless assertion that Claimants' possession of the</p>	

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					<p>Judicial Council Report “confirms that they have possession, custody or control over the requested documents.” This is inaccurate. Claimants confirm that, other than the Judicial Council Report itself, they do not have possession, custody, or control of the requested documents.</p> <p><i>Third</i>, the requested documents are relevant to the case and material to its outcome, in accordance with IBA Rules 3.3(b) and 9.2(a). Claimants claims that despite the Judicial Council Report’s conclusions and recommendations, neither the Judicial Council nor its President has, to date, taken any further action. As noted above, the fact that no further action was taken does not lead to the conclusion that no documents were generated</p>	

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					<p>after the issuance of the Judicial Council Report, including, for example, documents determining whether to proceed with the recommendations made by the Judicial Council Report or not. Therefore, the requested documents are relevant to understanding and assessing the reasons behind Respondent's (including the Judicial Council or its President's) lack of action following the issuance of the Judicial Council Report, as well as the evidence and records considered in preparing the Judicial Council Report.</p> <p><i>Fifth</i>, as already explained above, Bolivia's attempt to argue that the production would be unduly burdensome is not tenable and should not be credited, as the request is not imprecise and it involves</p>	

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					documents related to a specific subject matter—that is, CMO’s request to Judicial Council that an investigation be conducted against the Property Registrar of Oruro—within a specific time period. In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.	
26.	All documents related, or prepared by the Judicial Council in response, to CMO’s complaint regarding the illegality of Judge Nemer’s “complementation order,” including but not limited to: a) Any correspondence, memoranda, analyses, minutes, notes, transcripts, official resolutions, and any other documents prepared or received by the Judicial Council in relation to this matter; and b) Any correspondence between the Judicial Council, or any other government agency or instrumentality,	SOC, ¶ 250; C-218, C-219	The requested documents are relevant and material to Claimants’ allegations that, despite the Judicial Council Report’s conclusion that Judge Nemer’s “complementation” order was vitiated by strong anomalies and its recommendation that the Judicial Council and Public Ministry should pursue disciplinary and	Bolivia objects to this request for, <i>mutatis mutandis</i> , the same reasons described in connection with request 25 above.	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 25 above and request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.	Granted only with respect to subcategories (a) and (b) but not the chapeau. ----- Concedida solo con respecto a las subcategorías (a) y (b) pero

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	and Judge Nemer in relation to this matter.		<p>criminal investigations against Judge Nemer, neither the Judicial Council nor its President has, to date, taken any further action, thus ignoring the recommendations prepared by its investigators.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or</p>			no con respecto al preámbulo.

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			control of, the requested documents.			
27.	<p>All documents related to, or prepared by the Judicial Council in connection with, the Judicial Council Report, including but not limited to:</p> <p>a) Copies of the documents listed under “SEGUNDA PARTE (CASO ORLANDINI)” on page 4 of the Report;</p> <p>b) Copies of the transcripts of the interviews listed under “ENTREVISTAS REALIZADAS” on page 7 of the Report; and</p> <p>c) The legal-technical opinion referenced as “OPINIÓN TÉCNICO LEGAL EMITIDA POR LA GERENTE DE DD.RR.” on page 11 of the Report.</p>	SOC, ¶¶ 251-254; C-69	<p>The requested documents are relevant and material to Claimants’ allegations that, despite the Judicial Council Report’s conclusions and recommendations with respect to the illegalities committed in the <i>Martinez</i> case and in the registration of CMO’s 48 mining concessions in the name of Empresa San Lucas, neither the Judicial Council nor its President has, to date, taken any further action, thus ignoring the recommendations prepared by its investigators.</p> <p>This request concerns a narrowly defined category of documents</p>	<p>Bolivia objects to this request for, <i>mutatis mutandis</i>, the same reasons described in connection with request 25 above.</p> <p>Without prejudice to the above, <u>Bolivia accepts to conduct a reasonable search in the Judicial Council’s files, and to exhibit the non-privileged documents requested under paragraphs a), b) and c) of the request.</u></p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 25 above.</p> <p>On these grounds, Claimants request that the Tribunal order Respondent to produce the requested documents and not only the narrow subset Bolivia has agreed it would search for (and which, in any event, should have been produced to Claimants on June 29, 2020) without further delay.</p> <p>To the extent Bolivia withholds any responsive documents on grounds of privilege or confidentiality, Claimants respectfully request that the Tribunal</p>	<p>Granted only with respect to subcategories (a), (b) and (c) but not the chapeau.</p> <p>-----</p> <p>Concedida solo con respecto a las subcategorías (a), (b) y (c) pero no con respecto al preámbulo.</p>

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			within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.		order Respondent to produce a particularized privilege log of the documents withheld.	
28.	All documents related to or prepared in connection with the recommendation in the Judicial Council Report that disciplinary and criminal investigations be pursued against Judge Nemer and the Property Registrar of Oruro.	SOC, ¶ 255; C-69	The requested documents are relevant and material to Claimants’ allegations that, despite the Judicial Council Report’s recommendation that the Judicial Council and Public Ministry should pursue disciplinary and criminal investigations against Judge Nemer and the Property Registrar of	Bolivia objects to this request for, <i>mutatis mutandis</i> , the same reasons described in connection with request 25 above.	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 25 above. Accordingly, Claimants request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.	Granted only with respect to documents “prepared in connection with” the recommendation in the Judicial Council Report that disciplinary

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			<p>Oruro, neither the Judicial Council nor its President has, to date, taken any further action, thus ignoring the recommendations prepared by its investigators.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>			<p>and criminal investigations be pursued against Judge Nemer and the Property Registrar of Oruro.</p> <p>-----</p> <p>Concedida solo con respecto a documentos “preparados en conexión con” la recomendación en el Informe del Consejo de la Judicatura de que se emprendieran investigaciones disciplinarias y criminales contra el juez</p>

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						Nemer y el Registro de Derechos Reales de Oruro.
29.	All documents related to or prepared in connection with <i>Resolución de Rechazo de Denuncia</i> No. 04-09 dated September 18, 2009.	SOD, ¶¶ 441, 727, 819; R-370	<p>The requested documents are relevant and material to Respondent’s allegation that CMO’s March 23, 2009 complaint against Judge Nemer and others was “baseless.” SOD, ¶ 441.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do</p>	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “[a]ll documents related to or prepared in connection with <i>Resolución de Rechazo de Denuncia No. 04-09 dated September 18, 2009</i>,” without limitation. Claimants do not indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject matter or (iv) the period of time during which they would have been prepared. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants’ request is narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules.</p> <p>Claimants seek documents relating to the specific <i>Resolución de Rechazo de Denuncia</i> No. 04-09 dated September 18, 2009, which Bolivia submitted on the record (R-370). Contrary to Respondents’ assertion, the requested documents are described with sufficient precision to allow Bolivia to identify them. The IBA</p>	<p>Granted as narrowed down by Claimants, i.e., only with respect to the record of the criminal investigation that led to the issuance of <i>Resolución de Rechazo de Denuncia</i> No. 04-09.</p> <p>-----</p> <p>Concedida según lo acotado por las Demandantes,</p>

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No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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			not have access to, or possession, custody, or control of, the requested documents.	<p>As drafted, the request would even cover, for instance, (i) the documents generated for the purposes of the notification of the <i>Resolución de Rechazo de Denuncia</i> No. 04-09 to the parties to the investigation (e.g.: transmittal logs, postal records, etc.), and (ii) the administrative documents generated in connection with the subsequent archiving of the case file. This result would be absurd, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). Given that the dismissal decision is dated September 2009, Claimants seek documents covering a period of some 12 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of</p>	<p>Rules do not require to identify the author, recipient or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p>In addition, in order to argue that Claimants’ request lacks specificity, Bolivia provides examples of documents that it <i>believes</i> to fall within the scope of Claimants’ request: “(i) the documents generated for the purposes of the notification of the <i>Resolución de Rechazo de Denuncia</i> No. 04-09 to the parties to the investigation (e.g.: transmittal logs, postal records, etc.), and (ii) the administrative documents generated in connection with the subsequent archiving of the case file.” By doing so,</p>	es decir, solo con respecto al expediente de la investigación criminal que condujo a la emisión de la Resolución de Rechazo de Denuncia 04-09.

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				<p><i>documents within a specific time period</i>” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit they seek documents “<i>relevant and material to Respondent’s allegation</i>” that CMO had submitted a baseless criminal complaint, which the prosecutorial authorities dismissed accordingly (Statement of Defense, footnote 555 and ¶¶ 727 and 819). It is telling that Claimants cite no references to their own submissions, witness statements, expert reports or evidence in support of this request.</p> <p>As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document</p>	<p>Bolivia essentially challenges the very definition of a Document under the IBA Rules. A “Document” under the IBA Rules is defined as “a writing, communication, picture, drawing or data of <i>any kind</i>, whether recorded or maintained on paper or by electronic, audio, visual or <i>any other means</i>.”¹² Accordingly, the IBA Rules’ definition of a “Document” is broad and, consequently, inconsistent with Bolivia’s argument.</p> <p>In any event, in the spirit of cooperation (but without waiving any argument), Claimants clarify that they are requesting copies of the record of criminal investigation that led to the issuance of <i>Resolución de</i></p>	

¹² IBA Rules, Definitions (emphasis added).

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				<p>production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, insofar as the requested documents would have been generated in the framework of a criminal investigation triggered by a complaint filed by CMO, and to which CMO was a party, such documents, by definition are in Claimants’ possession, custody or control.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought would require an unduly burdensome search through the archives of any number of ministries, State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review</p>	<p><i>Rechazo de Denuncia</i> No. 04-09.</p> <p>Claimants confirm that they are not in possession, custody or control of the requested documents, which are or should be Respondent’s possession, custody or control given their nature.</p> <p><i>Second</i>, the requested documents are relevant to the case and material to its outcome, in accordance with IBA Rules 3.3(b) and 9.2(a). Claimants claim that the Bolivian prosecutorial authorities wrongfully denied them justice when CMO attempted to enforce its lawful rights in connection with Judge Nemer’s criminal conduct in the illegal and corrupt auction and sale of CMO’s 48 concessions. Bolivia argues that CMO’s “campaign against Judge</p>	

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				<p>significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>Nemer” was “baseless” and that the Bolivian prosecutorial authorities correctly dismissed CMO’s claims against Judge Nemer for lack of evidence regarding Judge Nemer’s corruption (SOD, ¶¶ 411, 727). As such, there is a clear dispute between the Parties, and the requested documents are relevant to assessing whether Respondent’s (including the Bolivian prosecutorial authorities’) response to CMO’s complaints against Judge Nemer was proper, as Bolivia argues.</p> <p>Moreover, Respondent’s assertion that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” is unsupported by the IBA</p>	

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					<p>Rules or any other authority, and is contrary to arbitral practice.</p> <p>As previously explained, the IBA Rules do not differentiate between allegations made by the Claimant and defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses and allegations made in Respondent's SOD are relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern</p>	

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					<p>this and every international arbitration. Thus, unless Bolivia’s arguments are to be read as implying that its own arguments and defenses are not relevant or material to the outcome of this arbitration, it follows that Claimants’ request is proper and the Tribunal should order Respondent to produce the requested documents.</p> <p><i>Third</i>, as already explained above, Bolivia’s attempt to argue that the production would be unduly burdensome is not tenable and should not be heeded to, as the request is not imprecise and it involves documents related to a specific subject matter—that is, <i>Resolución de Rechazo de Denuncia</i> No. 04-09—within a specific time period. In fact, it is disingenuous for Bolivia to suggest that</p>	

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					<p>Claimants’ request would require them to search through the documents scattered across “the archives of any number of ministries, State agencies and instrumentalities.” Bolivia has already argued that CMO’s March 23, 2009 complaint against Judge Nemer and others was “baseless” (SOD, ¶¶ 411, 727, 819 and footnote 555). It follows that Bolivia should have already gathered and reviewed the requested documents in support of its own argument. Claimants’ request for such documents cannot, therefore, be unduly burdensome.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	

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30.	All documents related to or prepared in connection with the disciplinary proceedings initiated by CMO against Judge Nemer before the Judicial Council involving Disciplinary Resolution No. 026/2010, dated March 20, 2010	SOC, ¶ 264; C-222	<p>The requested documents are relevant and material to Claimants’ allegations with respect to Judge Nemer’s illegal actions in the <i>Martínez</i> case.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>Bolivia objects to this request for, <i>mutatis mutandis</i>, the same reasons described in connection with request 29 above. In addition, Bolivia makes the following clarification and comment:</p> <p><i>First</i>, as regards the requirement that the requested documents be relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)), Claimants have not shown it to be fulfilled in the present case.</p> <p><u>One</u>, Claimants have made no effort to identify Judge Nemer’s “<i>illegal actions in the Martínez case</i>” which the requested documents are intended to corroborate. General references to non-specific allegations (aimed at supporting a clear fishing expedition) are not sufficient for the purposes of the relevance and materiality test under the IBA Guidelines.</p> <p><u>Two</u>, Claimants have made no effort to explain why, beyond</p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 29 above.</p> <p>In addition, Claimants notes the following:</p> <p><i>First</i>, contrary to Bolivia’s argument, in their Statement of Claim Claimants have meticulously identified and described Judge Nemer’s illegal actions in the <i>Martínez</i> case that relate to Disciplinary Resolution No. 026/2010. As noted in SOC, footnote 421, this disciplinary resolution was issued in response to a complaint that CMO had filed on March 19, 2007 “in connection with Judge Nemer’s illegal actions in the third auction.” And Claimants have already described in sufficient detail</p>	<p>Granted with respect to documents “prepared” in connection with the disciplinary proceedings initiated by CMO against Judge Nemer before the Judicial Council involving Disciplinary Resolution No. 026/2010, dated March 20, 2010. Otherwise, denied as overly broad.</p> <p>-----</p> <p>Concedida con respecto a documentos</p>

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				<p>Resolution No. 026/2010 (C-222), the entire case file of the disciplinary proceedings which ended with such resolution would be relevant to their allegations. This request is nothing more than a fishing expedition.</p> <p><i>Second</i>, Claimants’ own conduct is inconsistent with their representation that they would “<i>not have access to, or possession, custody or control of, the requested documents.</i>” Claimants have submitted into the record Disciplinary Resolution No. 026/2010 handed down by the Judicial Council in the framework of the disciplinary proceedings against Judge Nemer (C-222). Yet Claimants are not the recipients of such Resolution nor are in copy of it, and have failed to explain the source of such document. Absent such explanation, the fact that Claimants are in possession of a copy of this document confirms that Claimants have possession,</p>	<p>a series of illegalities and irregularities that occurred in the third auction, including, <i>inter alia</i>, Judge Nemer’s illegal listing of the Veneros San Juan and Pretoria concessions for auction.</p> <p>Claimants further note that it took <i>three years</i> for Disciplinary Resolution No. 026/2010 to be issued following CMO’s complaint in 2007 and that, as a result of such resolution, Judge Nemer was temporarily suspended (SOC, ¶ 264).</p> <p>Claimants reasonably believe that more documents would have been generated in regard to Judge Nemer’s illegal actions in the third auction and/or the disciplinary proceedings at issue in connection with the disciplinary proceedings that led to the issuance of Disciplinary Resolution No.</p>	<p>“preparados” en conexión con el procedimiento disciplinario iniciado por CMO contra el juez Nemer ante el Consejo de la Judicatura en relación con la Resolución Disciplinaria No. 026/2010, de fecha 20 de marzo de 2010. En lo demás, denegada por ser demasiado amplia.</p>

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				<p>custody or control over the requested documents.</p>	<p>026/2010, as well as following the issuance of that resolution.</p> <p>Hence, the requested documents are directly relevant to one of the disputed issues between the Parties, which is whether the judicial auction of CMO’s concessions involved Judge Nemer’s illegal actions, or was “nothing more than Bolivia’s legitimate response to Claimants’ own prior wrongdoing.” (SOD, ¶ 664).</p> <p>Additionally, Bolivia makes a meritless assertion that Claimants’ possession of the Judicial Council Report “confirms that they have possession, custody or control over the requested documents.” Having <i>one</i> document does not imply possession, custody or control of <i>every</i> document. In any event, Claimants</p>	

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					<p>confirm that they are not in possession of the requested documents other than those submitted in the present proceedings and submit that these are documents that should plainly be in possession, custody or control of Respondent.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	
31.	All records and documents of disciplinary and/or criminal actions against Judge Nemer before the Judicial Council and/or Bolivian courts.	SOC, ¶¶ 223-231, 243-249	<p>The requested documents are relevant and material to Claimants’ allegations about Judge Nemer’s background and illegal actions in the <i>Martínez</i> case.</p> <p>This request concerns a narrowly defined category of documents</p>	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “[a]ll records and documents of disciplinary and/or criminal actions against Judge Nemer before the Judicial Council and/or Bolivian courts,” regardless</p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objections to requests 29 and 30 above.</p> <p>Moreover, Bolivia’s objections to Claimants’ request are without merit and</p>	<p>Denied as overly broad.</p> <p>-----</p> <p>Denegada por ser demasiado amplia.</p>

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			<p>within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>of the rationale, case or nature, and without limitation. Claimants do not indicate (i) the specific disciplinary and/or criminal actions covered by their request, (ii) the courts or administrative institutions before which the complaints triggering such actions would have been submitted or (ii) the period of time during which they would presumably have taken place. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As Claimants provide no specific dates concerning the disciplinary and/or criminal actions underpinning their request, they seek documents covering a period of some 24 years (which, however,</p>	<p>should be denied for the following additional reasons:</p> <p><i>First</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Contrary to Bolivia’s suggestion, Claimants’ request identifies in sufficient detail the subject-matter of the categories of documents they request (i.e., disciplinary proceedings and/or criminal actions brought against Judge Nemer). From this, Bolivia can certainly identify the requested documents, and it is disingenuous for Bolivia to suggest that it cannot do so because Claimants fails to identify “(i) the specific disciplinary and/or criminal actions covered by their request, (ii) the courts or administrative institutions before which the complaints triggering such actions would</p>	

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				<p>does not necessarily entirely overlap with Judge Nemer’s tenure).</p> <p>As drafted, this request would cover, for instance, any complaint that would have been filed against Judge Nemer and would have triggered an investigation, even if such complaint had subsequently been dismissed as baseless. This result would be absurd, and it confirms that this request is nothing more than a fishing expedition.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not explained why the requested documents should reasonably be believed to exist (IBA Guidelines, Article 3.3(a)(ii)). Claimants have not shown that Judge Nemer</p>	<p>have been submitted or (iii) the period of time during which they would presumably have taken place.”</p> <p>Additionally while contending that “Claimants seek documents covering a period of some 24 years”, Bolivia also acknowledges that this period “does not necessarily entirely overlap with Judge Nemer’s tenure”. Based on Bolivia’s own words, Bolivia is aware of the exact time period during which the relevant documents would have been generated, i.e., the tenure of Judge Nemer.</p> <p><i>Second</i>, contrary to Respondent’s assertions and as shown by Claimants’ request, Claimants have made no assumption that the requested documents do not exist. If Bolivia’s position is</p>	

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				<p>would have ever been the object of any disciplinary or criminal complaints aside from the ones filed by CMO in connection with the Martínez Case (which were dismissed as baseless, as explained in the Statement of Defense and Preliminary Objections, Section 7.6.2).</p> <p><i>Third</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Assuming that multiple disciplinary and/or criminal proceedings would have been tried in Bolivia against Judge Nemer (though Claimants have brought no proof in support of such assumption), Claimants have made no effort to explain how those proceedings would be related to Judge Nemer’s purportedly inappropriate conduct in the Martínez Case. General references to non-specific allegations (aimed at supporting a clear fishing expedition) are not sufficient for</p>	<p>that the requested documents do not exist, Bolivia should say so. Moreover, it is disingenuous for Bolivia to suggest that Claimants have failed to establish that the requested documents are reasonably believed to exist. Indeed, according to Bolivia’s own words, Judge Nemer had been the object of disciplinary proceedings and criminal actions as a result of the complaints filed by CMO in connection with the <i>Martinez</i> Case. As such, Bolivia is aware that the requested documents do exist, but, as indicated in its objections to Claimants’ requests 29 and 30, Bolivia has not produced a single document in responses to such requests. This also shows that Bolivia’s specificity objection is merely a pretext to avoid producing any responsive documents.</p>	

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				<p>the purposes of the relevance and materiality test under the IBA Guidelines.</p> <p>Claimants’ request appears to be motivated by the desperate hope that reviewing the case files of such proceedings (were they to exist) could assist them in locating <u>some</u> evidence of general wrongdoing by Judge Nemer, which they could extrapolate into alleged evidence of her purported wrongdoing in the Martínez Case. It is worth stressing that Claimants have not produced even a single shred of evidence in support of the extremely grave accusations of corruption they levy against Judge Nemer. This request is nothing more than a fishing expedition.</p> <p>Further, this request is the first time that Claimants refer to “<i>Judge Nemer’s background</i>.” Claimants have not made arguments predicated on or involving such “<i>background</i>” in their prior pleadings. The document production phase is not the</p>	<p><i>Third</i>, the requested documents are relevant to the case and material to its outcome, in accordance with IBA Rules 3.3(b) and 9.2(a). Claimants allege that the illegal auction of CMO’s concessions was, in part, a result of Judge Nemer’s corruption. The requested documents are relevant to assessing Judge Nemer’s susceptibility to illegal and corrupt conduct, such as receipt of illegal kickbacks and bribes. Moreover, the requested documents are relevant to assessing Bolivia’s knowledge of Judge Nemer’s corrupt acts and its efforts, if any, to prevent corruption and protect the judicial integrity in the cases involving Claimants. As noted in the Statement of Claim, Bolivia has made numerous commitments and assurances</p>	

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				<p>appropriate opportunity for Claimants to raise new arguments</p> <p><i>Fourth</i>, identifying a category of documents as broad as that sought under this request would require an unduly burdensome search through the archives of all the criminal courts in Bolivia and all the administrative bodies with jurisdiction over disciplinary complaints against judges (<i>e.g.</i>, the Judicial Council). The time and costs associated with such search significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>regarding anti-corruption and good-governance, at both domestic and international levels, creating legitimate expectations on the part of Claimants that the judicial proceedings would be conducted on an impartial and independent basis and in good faith (SOC, ¶¶ 448, 507). Whether Bolivia allowed a judge it knew or should have known was corrupt to continue serving her role in connection with Claimants’ cases is directly relevant to Bolivia’s breach of those legitimate expectations. Therefore, the requested documents will be relevant to assessing Bolivia’s conduct in light of customary international norm against corruption (SOC, ¶¶ 483-487). Importantly, Bolivia’s assertion that “Claimants have not produced even a single shred of evidence in support of the</p>	

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					<p>extremely grave accusations of corruption they levy against Judge Nemer” is simply not true. Claimants have filed a key document, which is a complaint by Mr. Mendoza (C-87) against Judge Nemer for her solicitation and receipt of bribes. Claimants have sufficiently established that Judge Nemer committed a series of illegalities and irregularities in the <i>Martinez</i> case driven by her corrupt motive.</p> <p><i>Fourth</i>, as already explained above, Bolivia’s attempt to argue that the production would be unduly burdensome is not tenable and should not be heeded to, as the request is not imprecise, but it is specific, as it involves documents related to a specific subject matter—that is, disciplinary proceedings and criminal actions brought</p>	

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					<p>against Judge Nemer— within a specific time period. Moreover, pursuant to the authority granted under the Bolivian Constitution and Law No. 064, the Bolivian <i>Procuraduría General del Estado</i> can easily obtain requested documents from relevant public officials, and even directly from Judge Nemer, without any possibility of denial.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7</p>	
32.	All records and documents of bank accounts held at the <i>Banco Nacional de Bolivia</i> , or any other bank or financial institution, in the name or under the signature authority of Ms. Milagros Nemer Chaloup, Mr. Trifón Mendoza Villalobos, Ms. Duviesa Zuleta Mendoza, and Ms. Edda S. Fiorilo Barrios, either jointly or separately, from July 2006 and February 2010, including, but not limited to:	<p>SOC, ¶¶ 247-248; C-213, C-214, C-215</p> <p>SOD, ¶¶ 813-822</p>	The requested documents are relevant to this case and material to its outcome because they pertain to Claimants’ allegations that the Judicial Council made illegal judicial payments to private bank accounts	<p>Bolivia objects to this request for the following five reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all records and documents of bank accounts held at the Banco Nacional de Bolivia, or any other</i></p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants’ request is both narrow and specific, in accordance with Article</p>	Denied as overly broad and lacking a showing that the documents are in the custody, possession or

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	a) Complete copies of bank statements reflecting any deposits made to and/or withdrawals made from such accounts during the relevant period.		<p>of Mr. Mendoza and that Judge Nemer solicited and received bribes from the proceeds of the auction of CMO's mining concessions.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p><i>bank or financial institution, in the name or under the signature authority of Ms. Milagros Nemer Chaloup, Mr. Trifón Mendoza Villalobos, Ms. Duviesa Zuleta Mendoza, and Ms. Edda S. Fiorilo Barrios, either jointly or separately, from July 2006 and February 2010,"</i> without limitation. In other words, Claimants seek banking records from (i) bank or financial institution, (ii) public or private, (iii) in Bolivia or abroad, related to the bank accounts of four private individuals who are not parties to this arbitration nor affiliated with the State.</p> <p>As drafted, the request would cover, for instance, any account over which the four individuals have signature authority (such as accounts opened in the name of their family members). This result would be absurd, and it confirms that this request is nothing more than a fishing expedition.</p>	<p>3.3(a) of the IBA Rules. Contrary to Bolivia's suggestion, Claimants' request identifies the relevant parties (Ms. Milagros Nemer Chaloup, Mr. Trifón Mendoza Villalobos, Ms. Duviesa Zuleta Mendoza, and Ms. Edda S. Fiorilo Barrios, two of whom served as judges of state courts) and is limited to a particular subject (bank accounts by the relevant parties) and to a defined timeframe (July 2006 and February 2010). It therefore satisfies the requirements of Article 3.3(a) of the IBA Rules.</p> <p>In addition, contrary to Bolivia's argument, Claimants' request does not require Bolivia to search through the bank records and documents of all banks and financial institutions in the world. Bolivia simply needs to conduct a search of</p>	<p>control of Respondent.</p> <p>-----</p> <p>Denegada por ser demasiado amplia y no reflejar que los documentos están bajo custodia, posesión o control del Demandado.</p>

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				<p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not made any effort to explain why the requested documents should reasonably be believed to exist (IBA Guidelines, Article 3.3(a)(ii)). Under Bolivian law, banks are obligated to preserve records for a period of, at most, 10 years.¹³ However, Claimants seek documents from 2006-2010, <i>i.e.</i>, more than 10 years ago.</p> <p><i>Third</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). As drafted, the request is disconnected from the purported reasons why the</p>	<p>documents in its possession, custody, or control.</p> <p><i>Second</i>, contrary to Respondent’s assertions and as shown by Claimants’ request, Claimants have made no assumption that the requested documents do not exist. If Bolivia’s position is that the requested documents do not exist, Bolivia should say so. Moreover, it is disingenuous for Bolivia to suggest that Claimants have failed to establish that the requested documents are reasonably believed to exist. Indeed, according to Bolivia’s own words, Judge Nemer had been the object of disciplinary proceedings and criminal actions as a result of the complaints filed by CMO in connection with the <i>Martinez Case</i>. As such,</p>	

¹³ Law 393 (Financial Services), dated 21 August 2013, **R-421**, Article 34(III).

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				<p>requested documents would be relevant and material. Claimants made no effort to explain how the banking information of four private individuals would corroborate the purported illegality of judicial payments ordered by the Judicial Council. In fact, two of the four individuals, Ms. Duviesa Zuleta Mendoza and Ms. Edda S. Fiorilo Barrios, are not even mentioned in Claimants' comments.</p> <p>Likewise, Claimants carefully avoided providing even a single line of reasoning as to how such banking information would corroborate the very serious allegation that Judge Nemer would have "<i>solicited and received bribes from the proceeds of the auction</i>" of the Grupo Minero Totoral Concessions. Claimants' request appears to be motivated by the desperate hope that trawling through private banking information could assist them in locating <u>some</u> evidence in support</p>	<p>Bolivia is aware that the requested documents do exist, but, as indicated in its objections to Claimants' requests 29 and 30, Bolivia has not produced a single document in responses to such requests. This also shows that Bolivia's specificity objection is merely a pretext that Bolivia is using to avoid producing any responsive documents.</p> <p><i>Third</i>, the requested documents are relevant to the case and material to its outcome, in accordance with IBA Rules 3.3(b) and 9.2(a). It is in fact disingenuous and inaccurate for Bolivia to argue that Claimants' request "is disconnected from the purported reasons why the requested documents would be relevant and material." Among many illegalities and irregularities that occurred in the <i>Martinez</i> case, Claimants</p>	

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				<p>of the extremely grave accusations of corruption they levy against Judge Nemer. It is worth stressing that, to date, Claimants have not produced even a single shred of evidence in support of such allegations. This request is nothing more than an abusive fishing expedition.</p> <p><i>Fourth</i>, Claimants have not explained why it should be assumed that the requested documents would be in Bolivia’s possession, custody or control.</p> <p><u>One</u>, the requested banking records are allegedly held, at least in part, by the <i>Banco Nacional de Bolivia</i> – a private bank – and/or by “<i>any other bank or financial institution</i>” in the world. Such banks and financial institutions are not within Bolivia’s control, nor are the holders of the accounts themselves. It defies credulity, in the circumstances, for Claimants to assert that the requested banking records “<i>are or should be inherent to government functions part of</i></p>	<p>pointed out that contrary to Bolivia’s own law, Judge Fiorilo authorized the opening of <i>personal</i> accounts in her name and in the names of Mr. Mendoza and the union worker’s lawyer, Ms. Duviesa Zuleta Mendoza (SOC, ¶ 247). Then, certain proceeds (more than Bs. 6 million) from the auction in the <i>Martinez</i> case were transferred to the <i>personal</i> accounts of Mr. Mendoza and Ms. Duviesa Zuleta Mendoza, again in plain violation of Bolivian law (SOC, ¶ 248; C-215). As plainly stated in Mr. Mendoza’s letter to the Bolivian Ministry of Institutional Transparency and Fight Against Corruption (C-87), some money from this illegal transfer flowed back to Judge Nemer as illegal kickbacks. As such, all four identified individuals, Judge Nemer,</p>	

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				<p><i>ordinary operations, and kept in the regular course of business” by Bolivia.</i></p> <p><u>Two</u>, Law 393 of 21 August 2013 provides, in its Article 472, that “[l]as operaciones financieras realizadas por personas naturales o jurídicas, bolivianas o extranjeras, con entidades financieras gozarán del <u>derecho de reserva y confidencialidad</u>.”¹⁴ As a result, under Bolivian law, such information may only be communicated to (i) the account holder, (ii) their legal representative, and/or (iii) third parties, exceptionally, in one of the cases provided under Article 473 of such Law: “[l]a reserva y confidencialidad de la información a que se refiere el Artículo 472 precedente no rige cuando ésta sea requerida por: a) Las autoridades judiciales o fiscales competentes, mediante orden judicial o requerimiento fiscal motivados</p>	<p>Judge Fiorilo, Mr. Mendoza, and Ms. Duviesa Zuleta Mendoza were involved in this corrupt and illegal scheme. Accordingly, the requested banking information of the four individuals during the relevant time period is clearly relevant and material to assessing Claimant’s allegations about the corruption and illegalities in the judicial auction of CMO’s concessions as well as Bolivia’s allegations that Claimants’ accusation of corruption is “baseless” and without any evidence. The requested documents are also relevant to assessing Bolivia’s allegations that Mr. Mendoza’s admission is unreliable (SOD, ¶ 821) and that the Ministry of Institutional Transparency</p>	

¹⁴

Law 393 (Financial Services), dated 21 August 2013, **R-421**, Articles 472 and 473.

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				<p><i>dentro de un proceso formal. b) Las autoridades públicas encargadas de realizar investigaciones en los casos en que se presume comisión de delitos financieros, actos de corrupción, origen de fortunas y delitos que den lugar a la legitimación de ganancias ilícitas [...] c) Las autoridades de la administración tributaria, dentro de una verificación impositiva en curso, sobre un responsable determinado. d) Los directivos y ejecutivos de entidades de intermediación financiera dentro de las informaciones que intercambian estas entidades entre sí [...]. e) La unidad de investigaciones financieras en el ámbito de su competencia. f) La Directora Ejecutiva o Director Ejecutivo de la Autoridad de Supervisión del Sistema Financiero - ASFI, en el ejercicio de sus funciones de supervisión, y para proporcionar información a otras instituciones de supervisión y regulación u órganos internacionales análogos,</i></p>	<p>and Fight Against Corruption as well as the Bolivian prosecutorial authorities conducted proper investigations into and rightfully dismissed accusation of corruption brought by CMO and Mr. Mendoza against Judge Nemer.</p> <p><i>Fourth</i>, the requested banking records are or should be at least within Bolivia's control. As explained above, Bolivia's position that Claimants' request implies searching through <i>all</i> banking records in the world is absurd. Instead, Bolivia just has to search what is within its possession, custody, or control. This would include a search of the banking records of the identified individuals within the possession or custody of the Ministry of Institutional Transparency and Fight</p>	

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				<p><i>así como a instituciones del orden y autoridades judiciales extranjeras o internacionales, en el marco de lo previsto en el Artículo 491 de la presente Ley.”</i> Claimants’ request does not fall within the scope of any of these exceptional cases.</p> <p>Claimants’ request is surprising since Claimants have had Bolivian counsel from the law firm Wayar & Von Borries Abogados S.C. from the very beginning of this arbitration. Bolivia does not doubt that counsel is familiar with the provisions of Law 393 of 21 August 2013, even though Claimants make no mention of it.</p> <p><i>Fifth</i>, identifying a category of documents as broad as that sought under this request would require an unduly burdensome search through the archives of all banks and financial institutions in Bolivia (at least). The time and costs associated with such search significantly outweigh the probatory value of the requested</p>	<p>Against Corruption, the Bolivian prosecutorial authorities, and any other agency or dependency of the State that conducted a proper investigation into the charges against Judge Nemer, as Bolivia argues.</p> <p>Moreover, in any event and even if Bolivia does not already have the requested banking records, such records exist within the State’s control, as Bolivia has the ability to obtain such records pursuant to its own constitution and other relevant laws. As explained above, Article 231(4) of the Bolivian Constitution establishes that the <i>Procuraduría General del Estado</i> has the ability to request from public officials and private individuals the information it deems necessary for the purposes of exercising its functions. The</p>	

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				documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.	requested information cannot be denied under any grounds or for any reasons. ¹⁵ The same unlimited and unrestricted right for the <i>Procuraduría General del Estado</i> to procure documents from public officials and private individuals are also specified in the Law No. 064. ¹⁶ Claimants further note that the <i>Procuraduría General del Estado</i> had already exercised this unrestricted right to access documents to procure the case file of the <i>Martinez</i> Case then pending before the Court of Appeals. In the letter sent by the <i>Procuraduría General del</i>	

¹⁵ **Article 231 (4) of the Bolivian Constitution** provides that the Office of the Attorney General of the State has unrestricted power to request and access the information it needs from any public servants and individual persons for purposes of exercising its authority (“*Requerir a las servidoras públicas o a los servidores públicos, y a las personas particulares, la información que considere necesaria a los fines del ejercicio de sus atribuciones. Esta información no se le podrá negar por ninguna causa ni motivo; la ley establecerá las sanciones correspondientes.*”), **CLA-244**; see also Law No. 393, **CLA-246**.

¹⁶ **Article 18(5) of Law No.064** (Dec. 5, 2010) (providing that the information that the Attorney General of the State seeks from public servants and individuals for purposes of exercising its duties cannot be denied for any reason), **CLA-245**.

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					<p><i>Estado</i> to the Court of Appeals on March 1, 2018, the <i>Procuraduría General del Estado</i> clearly recognized that preparing “legal international defense of the State” is one of its functions that justifies its invocation of Article 231(4) of the Bolivian Constitution to request the case file of the <i>Martinez</i> case.¹⁷ As such, Bolivia clearly has the ability to obtain the requested documents from private banking institutions, such as <i>Banco Nacional de Bolivia</i>, and Bolivia’s claim that the requested documents are beyond its control is untrue.</p> <p><i>Fifth</i>, there is no legal impediment for Bolivia to obtain and produce the requested documents. Again, as explained above, the <i>Procuraduría General del</i></p>	

¹⁷ Annex C to Claimants’ Letter to Tribunal, dated October 24, 2019.

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					<p><i>Estado</i> can request the needed information from any public officials and private individuals for purposes of preparing and defending itself in this arbitration. The principles of banking secrecy and confidentiality that Bolivia invokes do not trump the <i>Procuraduría General del Estado</i>'s constitutional power. In addition to the <i>Procuraduría General del Estado</i>, Bolivia can obtain the requested documents—again with no legal impediments and without any domestic court order—through its various organs, including the Financial Investigations Unit and the Ministry of Institutional Transparency and Fight Against Corruption.¹⁸ As</p>	

¹⁸ Law No. 004, Article 19 (“*Exención de Secreto o Confidencialidad*). I. *No se podrá invocar secreto o confidencialidad en materia de valores y seguros, comercial, tributario y económico cuando la Unidad de Investigaciones Financieras, Ministerio de Transparencia Institucional y Lucha Contra la Corrupción,*

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					<p>such, Bolivia’s reliance on the provisions of Law of 21 August 2013 is misplaced.</p> <p><i>Sixth</i>, and as already explained above, Bolivia’s attempt to argue that the production would be unduly burdensome is not tenable and should not be credited, as the request is not imprecise and it involves the banking records of specified individuals within a specific time period</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	
33.	All documents related to or prepared in connection with the Letter from Trifón Mendoza to Bolivian Ministry of Institutional	SOC, ¶ 246; C-87	The requested documents are relevant to the case and material to its	Bolivia objects to this request for the following four reasons:	Claimants refer to and incorporate by reference as if fully set forth herein their	Granted with respect to documents

Ministerio Público y la Procuraduría General del Estado requieran información para el cumplimiento de sus funciones; esta información será obtenida sin necesidad de orden judicial, requerimiento fiscal ni trámite previo alguno.”), CLA-247.

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	<p>Transparency and Fight Against Corruption (“Ministry of Transparency and Anticorruption”), dated February 10, 2010, including, but not limited to:</p> <p>a) Correspondence, memoranda, reports, analyses, notes, transcripts, official resolutions <i>oficios</i>, and all other document prepared by the Ministry of Transparency and Anticorruption and/or any other ministry, agency, or instrumentality of Respondent, after the Ministry of Transparency and Anticorruption received the letter from Mr. Trifón Mendoza indicated above; and</p> <p>b) Records and documents of any investigation and/or administrative and/or criminal proceedings initiated or conducted by the Ministry of Transparency and Anticorruption, or any other agency, instrumentality or prosecutorial or judicial authority of Respondent.</p>	<p>SOD, ¶¶ 818, 821</p>	<p>outcome because they pertain to Claimants’ allegations about Judge Nemer’s wrongdoings and corruption and Respondent’s failure to take appropriate measures in response to the claims of corruption against Judge Nemer.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or</p>	<p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents related to or prepared in connection with the Letter from Trifón Mendoza to Bolivian Ministry of Institutional Transparency and Fight Against Corruption</i> (‘<i>Ministry of Transparency and Anticorruption</i>’), dated February 10, 2010,” without limitation. Claimants do not indicate, for instance, (i) the author or recipient of the requested documents, (ii) their nature, (iii) their specific subject matter or (iv) the period of time during which such documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, Claimants’ request would even cover, for instance, any administrative records generated in connection with correspondence received at the</p>	<p>response to Respondent’s objection to request 32 above. Additionally, Claimants submit the following supplementary arguments that support production:</p> <p><i>First</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules. Contrary to Bolivia’s suggestion, Claimants’ request identifies in sufficient detail the subject-matter of the categories of documents they request (Letter from Mr. Mendoza to Bolivian Ministry of Institutional Transparency and Fight Against Corruption) and is limited to a defined timeframe (from the time that Mr. Mendoza sent the letter in February 2010 to the present). The IBA Rules do not require to identify the author, recipient or custodian</p>	<p>reflecting any investigation of Judge Nemer initiated as a consequence of Mr. Mendoza’s 10 February 2010 letter. Otherwise denied.</p> <p>-----</p> <p>Concedida con respecto a documentos que reflejen cualquier investigación del juez Nemer iniciada como consecuencia de la carta del Sr. Mendoza del 10 de febrero de</p>

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			control of, the requested documents.	<p>Ministry (such as receipt logs, mail distribution logs etc.). This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). As Mr. Mendoza’s letter underpinning this request is dated 10 February 2010, Claimants seek documents covering a period of some 10 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown that the requested documents are relevant to their case or material to</p>	<p>of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement, and Respondent fails to explain why seeking “documents covering a period of some 10 years” would be difficult, especially when the subject matter of the requested documents is described in sufficient detail to allow Respondent to identify the requested documents.</p> <p>In addition, in order to argue that Claimants’ request lacks specificity, Bolivia provides examples of “administrative records generated in connection with correspondence received at the Ministry” such as “receipt log [and] mail distribution logs”. By doing</p>	2010. Denegada en lo demás.

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				<p>its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p>Claimants have not provided any evidence in support of their very serious allegations against Judge Nemer, and rely solely on Mr. Mendoza’s letter in this regard. However, at the time he wrote such letter to the Ministry of Transparency, Mr. Mendoza was already the subject of legal action by the <i>Sindicato Mixto de Trabajadores Mineros</i> for having withheld part of the amounts that the <i>Sindicato</i> had sought to recover from CMO on account of certain debts the company had with its workers. It is in this context that Mr. Mendoza asserted that he would have withheld such monies as a result of a purported request for a bribe by Judge Nemer. Mr. Mendoza’s letter did not provide a single shred of evidence in support of his very serious accusation, and Claimants cannot cite to any</p>	<p>so, Bolivia essentially challenges the very definition of a Document under the IBA Rules. A “Document” under the IBA Rules is defined as “a writing, communication, picture, drawing or data <i>of any kind</i>, whether recorded or maintained on paper or by electronic, audio, visual or <i>any other means</i>.”¹⁹ Accordingly, the IBA Rules’ definition of a “Document” is broad and, consequently, inconsistent with Bolivia’s argument.</p> <p>In any event, in the spirit of cooperation (but without waiving any arguments), Claimants clarify that the documents they seek through this request do not include the administrative paperwork that might have been generated indistinctively by</p>	

¹⁹ IBA Rules, Definitions (emphasis added).

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				<p>evidence subsequently corroborating Mr. Mendoza’s allegations. Thus, Claimants have not shown that the “<i>documents related to or prepared in connection with</i>” Mr. Mendoza’s letter would corroborate their allegations “<i>allegations about Judge Nemer’s wrongdoings and corruption and Respondent’s failure to take appropriate measures in response to the claims of corruption against Judge Nemer.</i>”</p> <p>Without prejudice to the above, <u>Bolivia accepts to conduct a reasonable search in the files of the Ministry of Transparency, and to exhibit the non-privileged documents reflecting any investigation of Judge Nemer initiated as a consequence of Mr. Mendoza’s 10 February 2010 letter.</u></p>	<p>the mere fact of the receipt of Mr. Mendoza’s letter by Ministry of Institutional Transparency and Fight Against Corruption.</p> <p><i>Second</i>, the requested documents are relevant to the case and material to its outcome, in accordance with IBA Rules 3.3(b) and 9.2(a). Bolivia contends that Mr. Mendoza’s admission that he made illegal payments to Judge Nemer is unreliable and that the accusation of corruption Claimants (and Mr. Mendoza) levied against Judge Nemer was “baseless” and properly addressed by various organs of the State, including the Ministry of Institutional Transparency and Fight Against Corruption and the Bolivian prosecutorial authorities. On the other hand, Claimants contend that various organs of the State partook in the</p>	

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					<p>systematic denial of justice to Claimants in order to benefit the Bolivian State (through COMIBOL) and its private joint venture partners; and that Claimants' and Mr. Mendoza's claims of corruption against Judge Nemer were not properly addressed by the relevant Bolivian authorities. As such, there is a disputed issue between the Parties, and the requested documents will be relevant to assessing their respective allegations.</p> <p>In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents and not only the narrow subset Bolivia has agreed it would search for (and which, in any event, should have been produced to Claimants on June 29, 2020).</p>	

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34.	All internal government correspondence, communications, <i>oficios</i> , notes, reports, memoranda or official resolutions from ARJAM, AGJAM and/or SERGEOTECMIN (or any predecessor or successor government agency or instrumentality) related to CMO's October 3, 2011 complaint before ARJAM and CMO's February 9, 2012 complaint before SERGEOTECMIN.	SOC, ¶¶ 278-289; C-238, C-233, C-237	<p>The requested documents are relevant and material to Claimants' allegations that SERGEOTECMIN, ARJAM, and AGJAM adopted the same arguments in rejecting CMO's complaints requesting the nullity of the mining notations registering the illegal judicial transfer of CMO's 48 mining concessions to Empresa San Lucas: that CMO was challenging a judicial act and not an administrative one, and therefore they did not have competence to review or to question the same.</p> <p>The requested documents are also relevant and material to Claimants' allegations that these decisions from SERGEOTECMIN,</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "all internal government correspondence, communications, <i>oficios</i>, notes, reports, memoranda or official resolutions from ARJAM, AGJAM and/or SERGEOTECMIN [...] related to CMO's October 3, 2011 complaint before ARJAM and CMO's February 9, 2012 complaint before SERGEOTECMIN," without limitation. Claimants do not indicate, for instance, (i) the recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (ii) the period of time during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p>	<p>Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants' request is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules.</p> <p>Claimants are asking for documents prepared by ARJAM, AGJAM and/or SERGEOTECMIN, including correspondence, notes, reports and memoranda, in connection with two specific complaints: CMO's October 3, 2011 complaint before ARJAM and CMO's February 9, 2012 complaint before SERGEOTECMIN. Contrary to Respondents' assertion, the requested documents are described with the sufficient precision to allow Bolivia to identify</p>	<p>Granted with respect to ARJAM, AGJAM and SERGEOTECMIN.</p> <p>-----</p> <p>Concedida con respecto a ARJAM, AGJAM y SERGEOTECMIN.</p>

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			<p>ARJAM, and AGJAM were contrary to the recommendations in internal reports prepared by the legal team of these same entities.</p> <p>The requested documents are also relevant and material to Respondent’s allegations that CMO’s petitions were correctly dismissed because neither of these administrative bodies have the power or jurisdiction to alter or to annul the effects of a judicial decision, and that therefore Claimants were always granted due process and a fair hearing by all of the Bolivian courts and administrative institutions before which they appeared</p> <p>This request concerns a narrowly defined</p>	<p>As drafted, this request would cover, for instance, the administrative paperwork generated (i) when a complaint is filed with each of SERGEOTECMIN, ARJAM and AGJAM (e.g.: receipt logs), (ii) by the distribution of the cases amongst the public servants employed by each of these institutions, (iii) when a case file is archived at the end of a case, etc. This would be an absurd result, and it confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As the two aforementioned complaints were filed by CMO in 2011 and 2012, respectively, Claimants thus seek documents covering a period of some 9 years.</p>	<p>them. The IBA Rules do not require to identify the author—which, in any event, Claimants have identified—recipient or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement, even identifying the author, the nature and subject matter of the requested documents. Therefore, Claimants’ request is not a fishing expedition and the mere fact that Bolivia has to “search through the archives of SERGEOTECMIN, ARJAM and AGJAM” and produce “administrative paperwork” does not make this request unduly burdensome. In fact, this is what Respondent has to do: look for and produce responsive documents that are</p>	

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			category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.	<p>Claimants' boilerplate assertion that "[t]his request concerns a narrowly defined category of documents within a specific time period" flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, it is not in dispute between the Parties that SERGEOTECMIN, ARJAM, and AGJAM all dismissed CMO's request for the annulment of the judicial auction of the Grupo Minero Totoral Concessions for the same reason: "that CMO was challenging a judicial act and not an administrative one, and therefore they did not have competence to review or to question the same" (see also, Statement of Defense, Section 3.3.5; C-234, C-236, C-237, C-</p>	<p>in its possession, custody or control.</p> <p><i>Second</i>, Respondent's assertion that Claimants have not shown the relevancy and materiality of the requested documents is unavailing. Claimants have already explained the relevancy and materiality of the requested documents in the relevant columns of this Redfern.</p> <p>As a preliminary matter, Respondent's objection as to relevancy is based on the false factual premise that "SERGEOTECMIN, ARJAM, and AGJAM all dismissed CMO's request for the annulment of the judicial auction..." Respondent makes the same mistake that ARJAM, AGJAM and SERGEOTECMIN made in the relevant proceedings: Claimants did not request before these agencies the</p>	

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				<p>241, C-243). Thus, it is unclear why, beyond the decisions of those administrative authorities themselves, “<i>all documents [...] related to</i>” the complaints which were resolved by such decisions would be relevant to Claimants’ case or material to any decision of this Tribunal. This request is nothing more than a fishing expedition.</p> <p><u>Two</u>, Claimants have never argued before that the decisions of either ARJAM or AGJAM would have been “<i>contrary to the recommendations in internal reports prepared by the legal team of these same entities,</i>” as they do now (only to create support for their abusive request).</p> <p>The document production phase is not the appropriate time for Claimants to make new arguments.</p> <p><u>Three</u>, Claimants openly admit they seek documents “<i>relevant and material to Respondent’s allegation that CMO’s petitions</i></p>	<p>annulment of the auction, which CMO challenged before the judicial authorities. Instead, these agencies were asked to annul the illegal <i>registration</i> (an administrative act) of CMO’s concessions in the name of Empresa San Lucas. This is a completely different claim than the one that Respondent incorrectly mentions. The requested documents are relevant to this issue, and to the other irregularities committed during these proceedings that Claimants raised in SOC, ¶¶ 277-347.</p> <p>Moreover, it is simply not true that Claimants have never argued before that the decisions of either ARJAM or AGJAM were contrary to the recommendations in internal reports prepared by the legal team of these same entities. Respondent makes</p>	

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				<p><i>were correctly dismissed because neither of these administrative bodies have the power or jurisdiction to alter or to annul the effects of a judicial decision, and that therefore Claimants were always granted due process and a fair hearing by all of the Bolivian courts and administrative institutions before which they appeared.</i>” As explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p>In any event, Bolivia draws Claimants’ attention to, at least, the following responsive documents already in the record:</p>	<p>this disingenuous and baseless assertion to support its argument that Claimants request would be “abusive.”</p> <p>In addition, Respondent’s assertions that Claimants seek documents relevant to Respondent’s allegations and that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” are egregiously wrong and without merit. As previously explained, Bolivia misunderstands the concept of relevancy and materiality. There are no two separate cases that are currently before the Tribunal and Article 3.3(b) of the IBA Rules explains the concept of relevancy and materiality in terms of “<i>the case</i>” and “its outcome” and not either</p>	

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				<p>C-234, C-236 to 237, C-240 to C-243, C-245, R-404 to R-407.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of SERGEOTECMIN, ARJAM and AGJAM, and the review of many years' worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>	<p>Party's respective claims or defenses. Claimants do not think that Bolivia considers its own allegations as having no bearing on the outcome of <i>the</i> case. Bolivia argument that Claimants are not entitled to seek documents from Bolivia that are relevant and material to its allegations is ludicrous as it would lead to the absurd situation of allowing Respondent to make any allegations and submit documents in support thereof, while preventing Claimants from requesting documents in possession of Respondent to adequately exercise their right of defense in connection with Bolivia's allegations. Bolivia's position is outrageous and it is against basic principles of due process and equality of arms that should govern any arbitration proceeding.</p>	

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					In light of the above, the Tribunal should order Bolivia to produce the requested documents, within the time limit set forth in Procedural Order No. 7.	
35.	All documents related to or prepared in connection with the Oruro’s Property Registry’s statement that <i>Escritura Pública</i> No. 297/2007 was “of impossible registration” (<i>de imposible registro</i>).	SOC, ¶¶ 291-297; C-238	<p>The requested documents are relevant and material to Claimants’ allegations of illegalities committed in the <i>Martinez</i> case and the registration of CMO’s 48 mining concessions in the name of Empresa San Lucas.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in</p>	<p>Bolivia objects to this request for the following five reasons:</p> <p><i>In limine</i>, there is no evidence that the Oruro Property Registry would have made the statement which Claimants attribute to it. Instead, Carlos Julio de Lemoine Agreda, the legal representative of CMO as at February 2012, suggested that such statement would have been made by the Property Registry (C-238, p. 4), without either providing documentary evidence thereof or having himself witnessed such statement.</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “[a]ll documents related to or prepared in connection with the Oruro’s Property Registry’s</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, contrary to Bolivia’s assertion, there is evidence on the record that the Oruro’s Property Registry made the statement at issue. While the Oruro Property Registry did not use the exact words that were used by CMO’s legal representative (“of impossible registration”), its statement meant to say the same. The Oruro Property Registrar (Dra. Aminda Paniagua Rodriguez) made this statement in a communication (<i>oficio</i>) that</p>	<p>Granted only with respect to documents “prepared in connection with” the Oruro’s Property Registry’s statement that <i>Escritura Pública</i> No. 297/2007 was “of impossible registration” (<i>de imposible registro</i>).</p> <p>-----</p> <p>Concedida solo con</p>

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			<p>the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p><i>statement that Escritura Pública No. 297/2007 was ‘of impossible registration’,</i>” without limitation. Claimants do not indicate, for instance, (i) the documentary source or context of such purported statement, (ii) the author, recipient or custodian of the requested documents or (iii) the period of time during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). As the <i>Escritura Pública</i> No. 297/2007 underpinning this request was elaborated in 2007, Claimants seek documents covering a period of some 13 years (2007-2020).</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a</p>	<p>she sent to Judge Nemer on June 4, 2007 rejecting the registration of CMO’s concessions in the name of Empresa San Lucas, where she unequivocally said: “The registration of E.P. No., 297 is rejected...due to an irremediable insufficiency” (“<i>Se ha rechazado la inscripción de la E.P. No. 297...por existir falta insubsanable</i>”) (SOC ¶ 224; C-69, p. 9, 10). Therefore, Bolivia cannot withhold documents with the unreasonable excuse that there is no evidence of such statement.</p> <p><i>Second</i>, it is clear from Claimants’ request that it is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Bolivia’s position to the contrary is not tenable. Claimants are seeking documents related or</p>	<p>respecto a documentos “preparados en conexión con” la afirmación del Registro de Derechos Reales de Oruro de que la <i>Escritura Pública</i> No. 297/2007 era “de imposible registro”.</p>

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				<p><i>narrowly defined category of documents within a specific time period</i>’ flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not explained why the requested documents should reasonably be believed to exist (IBA Guidelines, Article 3.3(a)(ii)). As explained above, there is no evidence that the Oruro Property Registry would have made the statement attributed to it by Claimants. Consequently, there is no evidence that any documents relate or were prepared in connection to such statement.</p> <p><i>Third</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants have not explained how documents “<i>related to</i>” a statement allegedly made by the Oruro Property Registry regarding the registration of the Grupo Minero Totoral Concessions in the name of their</p>	<p>prepared to a specific statement made by the Oruro’s Property Registry in June 2007. Claimants thus seek specific documents and therefore the search would not be unduly burdensome to Respondent. In any event, in the spirit of cooperation (but without waiving any argument), Claimants further clarify that they seek documents related to or prepared in connection with this statement that were generated or received by (i) the Oruro Property Registry, (ii) the Registry of Property of La Paz, (iii) the Labor Court hearing the <i>Martinez</i> case and any personnel of the Court, including Judge Nemer, (iv) SERGEOTECMIN, (v) ARJAM, (vi) the Ministry of Mining and Metallurgy, and, (vii) COMIBOL.</p>	

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				<p>new holder, further to the judicial auction in the Martínez Case, would corroborate their allegations of illegalities in such judicial proceedings. Even assuming that the Oruro Property Registry would have made the statement Claimants attribute to it (<i>quod non</i>), the Registry has neither the competence nor the authority to investigate or pronounce on the existence of illegal conduct in a judicial proceeding.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request, and which have furthermore not been reasonably shown to exist, would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years' worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event,</p>	<p><i>Third</i>, as explained above, there is evidence on the record that the statement at issue was made, so the requested documents are believed to exist and to be in possession, custody, and control of Respondent as they are or should be inherent to government functions and part of its ordinary operations.</p> <p><i>Fourth</i>, Claimants have already explained the relevancy and materiality of the requested documents in the relevant columns of this Redfern. In brief, the requested documents are relevant to Claimants' allegations of illegalities committed in the <i>Martinez</i> case and in the registration of CMO's 48 mining concessions in the name of Empresa San Lucas, including the preparation of an illegal minute of judicial</p>	

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				Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.	<p>auction by Judge Nemer (<i>Escritura Pública</i> No. 297/2007 (C-199)) in which she tried to change the subject of the auction (which was a plot of land registered under folio registration number 4.06.2.05. 0000001) to include CMO's concessions.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents as narrowed down herein, within the time limit set forth in Procedural Order No. 7.</p>	
36.	All documents (including internal government correspondence, communications, <i>oficios</i> , notes, minutes, official resolutions, reports or memoranda) from SERGEOTECMIN, SERGEOTECMIN's Audit Department, or any other Bolivian governmental agency or instrumentality, regarding or related to SERGEOTECMIN's Legal Department report of March 12, 2012 and any action taken by SERGEOTECMIN or any other agency or	SOC, ¶¶ 311-312, 319; C-241	The requested documents are relevant and material to Claimants' allegation that, despite the recommendation in SERGEOTECMIN's Legal Department report of March 12, 2012 that the case file be sent to the Audit Department in	Bolivia objects to this request for the following four reasons: <i>First</i> , the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "all documents [...] from SERGEOTECMIN, SERGEOTECMIN's Audit Department, or any other Bolivian	Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons: <i>First</i> , Claimants' request is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules.	<p>Granted as accepted by Respondent.</p> <p>-----</p> <p>Concedida en los términos aceptados por</p>

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	instrumentality of Respondent in relation to this report..		<p>order to conduct a Special Audit regarding the irregularities in the registration of <i>Escritura Pública</i> No. 297/2007, the Special Audit was not conducted and SERGEOTECMIN inexplicably archived the case file.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or</p>	<p><i>governmental agency or instrumentality regarding or related to SERGEOTECMIN’s Legal Department report of March 12, 2012 and any action taken by SERGEOTECMIN or any other agency or instrumentality of Respondent in relation to this report,”</i> without limitation. Claimants do not indicate, for instance, (i) the recipient of such documents from SERGEOTECMIN or its Audit Department, (ii) the “<i>other</i>” agency or instrumentality to which they refer or the recipient of the requested documents from such agency or instrumentality, (iii) the precise subject-matter of the requested documents or (iv) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p>	<p>Bolivia’s position to the contrary is untenable. Claimants seek documents prepared by SERGEOTECMIN and SERGEOTECMIN’s Audit Department in connection with a specific report: SERGEOTECMIN’s Legal Department report of March 12, 2012. The request also includes specific documents related to any actions taken by SERGEOTECMIN or any other government entity as a result of that report. Contrary to Respondent’s assertion, therefore, the nature and subject matter of the requested documents are described with sufficient specificity to allow Bolivia to identify them.</p> <p><i>Second</i>, Claimants have already explained the relevancy and materiality of the requested documents in the relevant columns of this</p>	el Demandado.

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			control of, the requested documents.	<p>As drafted, this request would cover, for instance, (i) any communication transmitting the aforementioned SERGEOTECMIN request from the <i>Unidad de Asesoría Jurídica</i> to the office of the <i>Director General Ejecutivo</i>, (ii) any administrative paperwork generated in connection with such transmittal (e.g.: receipt logs), (iii) any administrative paperwork generated in connection with the subsequent archival of the report once the case had been concluded, etc. This would be an absurd result, and it confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As the SERGEOTECMIN report underpinning this request was elaborated in 2012, Claimants seek</p>	Redfern. In short, the requested documents are relevant to Claimants’ allegations of serious irregularities, lack of transparency and inconsistencies within the agency during the relevant proceedings, including the SERGEOTECMIN’s inaction towards different legal reports and recommendations made by its own legal department. With this request, Claimants seek documents that would illuminate the context under which the legal report at issue was prepared, how it was assessed by SERGEOTECMIN (or any other government agency), and the reasons for the file being archived despite the legal department’s recommendation that the case file be sent to the Audit Department in order to conduct a Special Audit.	

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				<p>documents covering a period of some 8 years (2012-2020).</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, it is not in dispute that the SERGEOTECMIN internal report at C-241 recommended “[que] se remitan antecedentes a la Unidad de Auditoría Interna a fin de que se efectuó Auditoría Especial al respecto.” This recommendation did not materialize. It is unclear why the documents requested would be necessary for Claimants to discharge their burden of proving that no special audit was</p>	<p>Claimants do not have copies of the entire record of the SERGEOTECMIN proceedings, nor do they have access to that full record. Most importantly, they are not in possession, custody or control of the internal correspondence, notes, minutes or memoranda prepared by SERGEOTECMIN, its different internal departments and/or other government agencies in connection with the relevant report.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents, and not only the narrow subset Bolivia has agreed it would search and produce. On June 29, 2020, Respondent produced three documents purportedly responsive to this request, and stated that it</p>	

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				<p>conducted. This request is nothing more than a fishing expedition.</p> <p><u>Two</u>, the SERGEOTECMIN report also recommended “<i>que la empresa Compañía Minera Orlandini Ltda., efectúe su reclamo respecto a defectos procedimentales y jurisdiccionales ante la instancia legal competente, no pudiendo la Institución referirse a los mismos por no ser de su competencia.</i>” This conclusion was later echoed in other internal reports by SERGEOTECMIN (see, for example, C-243, R-404; see also Statement of Defense, Section 3.3.5.2). Thus, Claimants’ assertion that “<i>SERGEOTECMIN inexplicably archived the case file</i>” is belied by SERGEOTECMIN’s own conclusions, as set out in the documents on record and communicated to CMO at the time. Claimants’ request appears to be prompted by the desperate hope that “<i>all documents [...] from any other Bolivian governmental</i></p>	<p>would continue to conduct a reasonable search for responsive documents and that it would “make every effort to disclose such documents to Claimants on a rolling basis.” Respondent has not produced any additional documents to date despite Claimants’ follow-up request.</p> <p>Claimants therefore request that the Tribunal order Respondent to produce responsive documents as soon as practicable and within the time limit set forth in Procedural Order No. 7.</p>	

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				<p><i>agency or instrumentality”</i> might, somehow, contradict the documents that Claimants themselves have placed in the record (C-241, C-243) and support the presently baseless suggestion that SERGEOTECMIN would have acted improperly. It bears recalling that the only support for such suggestion comes from former SERGEOTECMIN employee Miguel Medrano, who, as Bolivia explained in the Statement of Defense and Preliminary Objections (¶¶ 483-484), lacks any credibility. Mr. Medrano most notably omitted to mention that, immediately after resigning from SERGEOTECMIN, he went on to serve as counsel for CMO before this same institution in the same proceedings on which he had reported while employed by SERGEOTECMIN (see, for instance, R-402, R-403).</p> <p><i>Third</i>, insofar as they seek to obtain documents from SERGEOTECMIN or the Audit</p>		

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				<p>Department of that institution, Claimants are in fact requesting documents which are or should be in their possession, custody or control. Claimants themselves have placed on the record documents pertaining to the category requested (<i>e.g.</i>: C-241, C-243), even though they are not the recipients of such documents not are they in copy of them, and have failed to explain the source of such documents. Absent such explanation, the fact that Claimants are in possession of these documents confirms that they also have possession, custody or control over the requested documents.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request, would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years' worth of documents. The time and costs associated with</p>		

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				<p>such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>Without prejudice to the above, <u>Bolivia accepts to conduct a reasonable search in SERGEOTECMIN’s files, and to exhibit the non-privileged contemporaneous SERGEOTECMIN reports which refer to the SERGEOTECMIN Report at C-241.</u></p>		
37.	<p>All documents (including internal government correspondence, communications, <i>oficios</i>, notes, minutes, official resolutions, reports or memoranda) related to or prepared in connection with Mr. Medrano’s legal report of May 8, 2013 addressed to the attention of SERGEOTECMIN’s Executive Director, Mr. Burgos, including, but not limited to:</p> <p>a) All documents related to any action taken by SERGEOTECMIN,</p>	<p>SOC, ¶¶ 323-324; C-92; CWS-5, ¶¶ 11-12</p>	<p>The requested documents are relevant and material to Claimants’ allegations regarding Mr. Burgos’ and SERGEOTECMIN’s reactions to Mr. Medrano’s report, and the actions undertaken by Mr. Burgos and SERGEOTECMIN to</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents [...] related to or prepared in connection with Mr. Medrano’s legal report,</i>” without limitation. Claimants do</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Respondent’s boilerplate assertion that Claimants’ request is not “<i>narrow and specific</i>” and</p>	<p>Granted only with respect to documents covered by subsection (a) and only with respect to documents “<i>prepared in connection</i></p>

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	COMIBOL, the Ministry of Mining and Metallurgy or any other agency or instrumentality of the Respondent, in relation to Mr. Medrano’s legal report of May 8, 2013.		<p>disregard Mr. Medrano’s report, which included the appointment of a new Legal Director and the declaration of Mr. Medrano’s report null and void.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or</p>	<p>not indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, this request would cover, for instance, (i) any communication transmitting the aforementioned report from the office of the <i>Jefe Unidad Asesoría Jurídica</i> to the office of the <i>Director General Ejecutivo</i>, (ii) any administrative paperwork generated in connection with such transmittal (e.g.: receipt logs), (iii) any administrative paperwork generated in connection with the</p>	<p>that it amounts to a “fishing expedition” is unavailing. Claimants’ request complies with the specificity required under Article 3.3 (a) of the IBA Rules. The IBA Rules require “a description of [the requested documents] sufficient to identify [them].” Consistent with this, the Commentary on the IBA Rules states that when “[t]he requesting party cannot identify the dates or the authors of such documents, [it] nevertheless can identify with some particularity the nature of the documents sought...”²⁰ The concept of specificity “can relate to the identity of the document, its <i>subject matter</i>, its location, and/or the identity of the person in possession or</p>	<p>with” Mr. Medrano’s legal report of May 8, 2013.</p> <p>-----</p> <p>Concedida solo con respecto a documentos abarcados por la subsección (a) y solo con respecto a documentos “preparados en conexión con” el informe jurídico del Sr. Medrano del 8 de mayo de 2013.</p>

²⁰ 1999 IBA Working Party & 2010 IBA Rules of Evidence Review Subcommittee, Commentary to the revised text of the 2010 IBA Rules on the Taking of Evidence in International Arbitration , p. 9.

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			control of, the requested documents.	<p>subsequent archival of the report once the case had been concluded, etc. This would be an absurd result, and it confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). As the SERGEOTECMIN report underpinning this request was elaborated in 2013, Claimants seek documents covering a period of some 7 years (2013-2020).</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p>	control.” ²¹ This is what Claimants have done. Claimants’ request describes with sufficient precision the nature and subject matter of the requested documents as it seeks documents prepared in connection with a specific report: Mr. Medrano’s legal report of May 8, 2013. For the avoidance of doubt, Claimants refer to documents prepared or received by SERGEOTECMIN, the Ministry of Mining and Metallurgy, COMIBOL, and any government official of these institutions, in connection with said report. Claimants’ request also includes documents related to any action taken by SERGEOTECMIN, COMIBOL, the Ministry of Mining and Metallurgy or any other agency in relation	

²¹ Jeffrey Waincymer, Procedure and Evidence in International Arbitration (Kluwer Law International, 2012), p. 861.

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				<p><i>Second</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p>Claimants assert that the requested documents would be relevant and material to “<i>Claimants’ allegations regarding Mr. Burgos’ and SERGEOTECMIN’s reactions to Mr. Medrano’s report, and the actions undertaken by Mr. Burgos and SERGEOTECMIN to disregard Mr. Medrano’s report, which included the appointment of a new Legal Director and the declaration of Mr. Medrano’s report null and void.</i>” But it is not in dispute that, further to Mr. Medrano’s resignation from SERGEOTECMIN, a new Legal Director was appointed to replace him. Likewise, it is not in dispute that the SERGEOTECMIN Report dated 7 April 2014 contradicted some of the conclusions reached by Mr. Medrano in his own report dated 8 May 2013. Thus, it is</p>	<p>to Mr. Medrano’s report of May 8, 2013.</p> <p>The requested documents are therefore described with sufficient specificity to allow Bolivia to identify them.</p> <p>Contrary to Bolivia’s assertion, “communications” within SERGEOTECMIN transmitting the report and the “administrative paperwork” related to such transmittal and the archival of the report squarely fall within the scope of Claimants’ request and by no means constitute a “fishing expedition”, as they would relate to the specific report at issue. In addition, these documents are or should be in possession, control and custody of Respondent because they are or should be inherent to government functions and part of its ordinary operations.</p>	

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				<p>unclear why “<i>all documents [...] related to or prepared in connection with Mr. Medrano’s legal report of May 8, 2013</i>” would be necessary to Claimants in order to discharge their burden of proving their case. This request is nothing more than a fishing expedition.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>Without prejudice to the above, <u>Bolivia accepts to conduct a</u></p>	<p>Claimants have already explained and shown the relevancy and materiality of the requested documents in the relevant columns of this Redfern. In short, while it is undisputed that a new Legal Director replaced Mr. Medrano, Respondent omits to mention that Mr. Medrano resigned after the Executive Director of SERGEOTECMIN pressured him to change the legal report Mr. Medrano had prepared outlining all the egregious irregularities in the registration of CMO’s concessions in the name of Empresa San Lucas and recommending SERGEOTECMIN to cancel the registration. (SOC, ¶326, 327, 332; CWS-5). In addition, contrary to Respondent’s assertion, the new Legal Director’s report not only “contradicted <u>some</u></p>	

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				<p><u>reasonable search in SERGEOTECMIN’s files, and to exhibit the non-privileged contemporaneous SERGEOTECMIN reports which refer to the SERGEOTECMIN Report at C-92.</u></p>	<p>of the conclusions reached by Mr. Medrano in his own report...”, but it declared Mr. Medrano’s report null and void (SOC, ¶¶ 331, 332.) The requested documents are therefore highly relevant to these facts and to understanding the context under which the new Legal Director of SERGEOTECMIN was appointed and Mr. Medrano’s report was assessed and disregarded. The requested documents are also relevant to whether any further political or other influence was exerted within SERGEOTECMIN or by other government agencies or instrumentalities, like the Ministry of Mining and Metallurgy (CWS-5) in connection with Mr. Medrano’s report and the SERGEOTECMIN proceedings to leave in place the illegal registration of</p>	

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					<p>CMO’s concessions in favor of Empresa San Lucas, the subsidiary of COMIBOL’s partner, Glencore.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents and not only the narrow subset Bolivia has agreed it would search and produce. On June 29, 2020, Respondent produced four responsive documents and stated that it would continue to conduct a reasonable search for responsive documents and that it would “make every effort to disclose such documents to Claimants on a rolling basis.” Respondent has not produced any additional document to date despite Claimants follow-up request. Claimants therefore request that the Tribunal order Respondent to produce responsive documents as</p>	

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					soon as practicable and within the time limit set forth in Procedural Order No. 7.	
38.	All documents (including internal government correspondence, communications, <i>oficios</i> , notes, minutes, official resolutions, reports or memoranda) related to or prepared in connection with the designation of SERGEOTECMIN’s new Legal Director, Mr. J. Jaime Jiménez Muriel, following Mr. Medrano’s resignation as SERGEOTECMIN’s Legal Director.	SOC, ¶ 331	<p>The requested documents are relevant and material to Claimants’ allegations regarding Mr. Burgos’ and SERGEOTECMIN’s reactions to Mr. Medrano’s report, and the actions undertaken by Mr. Burgos and SERGEOTECMIN, or any other instrumentality of Respondent, to cover up Mr. Medrano’s report, which included the appointment of a new Legal Director and the declaration of Mr. Medrano’s report null and void.</p> <p>This request concerns a narrowly defined category of documents within a specific time</p>	<p>Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents related to or prepared in connection with the designation of SERGEOTECMIN’s new Legal Director,</i>” without limitation. Claimants notably fail to indicate (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p>	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 37 above and request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.	<p>Denied as overly broad and lacking a sufficient showing of materiality.</p> <p>-----</p> <p>Denegada por ser demasiado amplia y no evidenciarse de modo suficiente su carácter sustancial.</p>

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			<p>period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>As drafted, Claimants’ request would even cover, for instance, (i) the CV of the new Legal Director, Mr. J. Jaime Jiménez Muriel, (ii) any letters recommending Mr. Jiménez for the position, (iii) the employment offer made to Mr. Jiménez, (iv) Mr. Jiménez’s contract etc. This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As Mr. Medrano’s replacement as Legal Director of SERGEOTECMIN was appointed in 2013, Claimants seek documents covering a period of some 7 years (2013-2020).</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the</p>		

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				<p>broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, it is not in dispute that Mr. Medrano resigned and, subsequently, a new Legal Director was appointed to replace him at SERGEOTECMIN. Claimants have not explained why “<i>all documents [...] related to or prepared in connection with</i>” the appointment of such replacement would be necessary for them to discharge their burden of proving this undisputed fact.</p> <p><u>Two</u>, Claimants’ attempt to justify the relevance and materiality of the requested documents is incoherent with the request itself. Claimants fail to explain why documents related to the appointment of Mr. Medrano’s successor would corroborate their allegations that</p>		

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				<p><i>“Mr. Burgos and SERGEOTECMIN, or any other instrumentality of Respondent, [...] cover[ed] up Mr. Medrano’s report,”</i> as they assert would be the case. Mr. Medrano’s resignation is a fact. The appointment of a successor is its logical consequence. It does not follow from these facts that SERGEOTECMIN would have acted improperly towards CMO. This request is nothing more than a fishing expedition.</p> <p><i>Third</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established).</p>		

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				Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.		
39.	All documents (including internal government correspondence, communications, <i>oficios</i> , notes, minutes, official resolutions, reports or memoranda from SERGEOTECMIN, or any other Bolivian governmental agency) related to or prepared in connection with SERGEOTECMIN’s SGTM.UAJ. 240/2013 Legal Clarification of Reports (<i>Aclaración Legal de Informes</i>) dated May 22, 2013.	SOC, ¶ 331; C-243	<p>The requested documents are relevant and material to Claimants’ allegations regarding Mr. Burgos’ and SERGEOTECMIN’s reactions to Mr. Medrano’s report, and the actions undertaken by Mr. Burgos and SERGEOTECMIN, or any other instrumentality of Respondent to cover up Mr. Medrano’s report, which included the appointment of a new Legal Director, who declared Mr. Medrano’s report null and void.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s</p>	<p>Bolivia objects to this request for, <i>mutatis mutandis</i>, the same reasons described in connection with request 36 above.</p> <p>Without prejudice to the above, <u>Bolivia accepts to conduct a reasonable search in SERGEOTECMIN’s files, and to exhibit the non-privileged contemporaneous SERGEOTECMIN reports which refer to the SERGEOTECMIN Report at C-243.</u></p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to Request 38 above.</p> <p>In light of the above, the Tribunal should order Bolivia to produce the requested documents and not only the narrow subset Bolivia has agreed it would search and produce. On June 29, 2020, Respondent produced two responsive documents and stated that it would continue to conduct a reasonable search for responsive documents and that it would “make every effort to disclose such documents to Claimants on a rolling basis.” Respondent has not produced any</p>	<p>Granted as accepted by Respondent. Otherwise denied.</p> <p>-----</p> <p>Concedida en los términos aceptados por el Demandado. Denegada en lo demás.</p>

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			possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.		additional document to date despite Claimants follow-up request. Claimants therefore request that the Tribunal order Respondent to produce responsive documents as soon as practicable and within the time limit set forth in the Procedural Order No. 7.	
40.	All documents (including internal government correspondence, communications, <i>oficios</i> , notes, minutes, official resolutions, reports or memoranda prepared by SERGEOTECMIN or any other Bolivian governmental agency) related to or prepared in connection with SERGEOTECMIN Resolution No. 09/2013, dated May 22, 2013.	SOC, ¶ 335; C-242	The requested documents are relevant and material to Claimants’ allegations regarding Mr. Burgos’ and SERGEOTECMIN’s reactions to Mr. Medrano’s report, and the actions undertaken by Mr. Burgos and SERGEOTECMIN, or any other instrumentality of Respondent, to cover up Mr. Medrano’s report, including the issuance of a resolution by	Bolivia objects to this request for the following four reasons: <i>First</i> , the request is far from “ <i>narrow and specific</i> ” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “ <i>all documents [...] related to or prepared in connection with SERGEOTECMIN Resolution No. 09/2013, dated May 22, 2013,</i> ” without limitation. Claimants notably fail to indicate (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to Request 38 above. Claimants make the following additional comments in response to Bolivia’s objections: The requested documents are relevant to to Claimants’ allegations that	Granted only with respect to documents “prepared in connection with” SERGEOTECMIN Resolution No. 09/2013, dated May 22, 2013. -----

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			<p>SERGEOTECMIN’s Summary Department (<i>Unidad de Sumario</i>) rejecting claims of administrative liability against Dr. Huallpa, on the grounds that the statute of limitations for such administrative liability had expired.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or</p>	<p>matter or (iv) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, this request would cover, for instance, all legislation mentioned in SERGEOTECMIN Resolution No. 09/2013 (<i>e.g.</i>: Law No. 1178 of 20 July 1990 regarding Governmental Administration and Control, Law No. 2027 of 27 October 1999 regarding the Status of the Civil Servant, etc.). This would be an absurd result, and it confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). As the SEREGOTECMIN report</p>	<p>SERGEOTECMIN and government officials within the agency took improper measures and conducted an irregular administrative proceeding to leave in place the illegal registration of CMO’s concessions in the name of Empresa San Lucas and to consummate the expropriation of CMO’s concessions. Such improper measures and irregularities included, <i>inter alia</i>, (i) pressuring Mr. Medrano to change his report where he reported all the egregious irregularities in the registration and recommended the authorities to cancel it; (ii) declaring Mr. Medrano’s report null and void after Mr. Medrano’s refused to change his report and resigned as a result of undue pressure; and (iii) dismissing, on dubious grounds, the administrative proceeding initiated against</p>	<p>Concedida solo con respecto a documentos “preparados en conexión con” la Resolución No. 09/2013 de SERGEOTECMIN, de fecha 22 de mayo de 2013.</p>

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No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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			control of, the requested documents.	<p>underpinning Claimants request is dated 22 May 2013, Claimants thus seek documents covering a period of some 7 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Instead, the document underpinning Claimants’ request contradicts the assertions made by Claimants in support of this request. Indeed, the SERGEOTECMIN resolution at C-242 is a “<i>resolución final en etapa sumarial [del] proceso administrativo interno instaurado contra el abg. Rene Siles Corani Huallpa, ex-registrador de minas del SERGEOTECMIN.</i>” This resolution dismissed the internal</p>	<p>the Registrar, Dr. Huallpa, for his illegal actions in the process of registration Nullification of Mr. Medrano’s report and dismissal of the administrative proceeding against Dr. Huallpa occurred on the same date, May 22, 2013, once the new Legal Director had been appointed (SOC, ¶ 335, C-242).</p> <p>Notwithstanding the above, in the spirit of cooperation and for the avoidance of doubt (but without waiving any argument), Claimants clarify that they do not request the legislation mentioned in SERGEOTECMIN Resolution No. 09/2013, but they do request all the reports and notes mentioned in the same, as well as the record of the investigation and administrative proceeding (<i>sumario</i>) against Dr.</p>	

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				<p>administrative proceedings commenced at SERGEOTECMIN against Mr. Corani Huallpa, in connection with his registration, in SERGEOTECMIN’s Mining Registry, of the Grupo Minero Totoral Concessions further to their acquisition by Empresa Minera San Lucas in the judicial auction in the Martínez Case. The dismissal was grounded in the fact that, under Bolivian law, “<i>el Decreto Supremo N° 26237 de 29 de junio de 2001, señala: [l]a responsabilidad administrativa prescribe a los dos años de cometida la contravención, [...] el Reglamento Interno de Personal del Servicio Nacional de Geología y Técnico de Minas ‘SERGEOTECMIN’ aprobado por Resolución Ministerial N° 81 de fecha 28 de marzo de 2012, en su Art. 55 parágrafo III señala: [l]as sanciones por responsabilidad administrativa [...] prescriben a los dos años” (C-242, p. 4).</i> Because Mr. Corani Huallpa had carried out the registration of the</p>	<p>Huallpa and any other correspondence, minutes, reports or memoranda prepared by SERGEOTECMIN or any other government agency in connection with SERGEOTECMIN Resolution No. 09/2013 that are not part of the record.</p> <p>Accordingly, Claimants request the Tribunal to order Respondent to produce the requested documents, as clarified herein, within the time limit set forth in Procedural Order No. 7.</p>	

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				<p>Grupo Minero Totoral Concessions in May 2007, the time-limit for the administrative responsibility action arising in connection with such registration had lapsed in 2009. Thus, the internal administrative process against Mr. Corani Huallpa in 2013 was time-barred, and dismissed accordingly.</p> <p>Claimants have not explained how this SERGEOTECMIN resolution or “<i>all documents [...] related to or prepared in connection with</i>” it would corroborate their allegations of a cover-up of Mr. Medrano’s report. Nor do Claimants dispute the fact that, as the date of such resolution, more than two years – six, in fact – had passed since the registration of the Grupo Minero Totoral Concessions. In fact, CMO’s own complaint against Mr. Corani Huallpa was dated 2013 (C-242), and thus fell under the scope of the aforementioned time-bar rule.</p>		

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				<p>Thus, Claimants fail to show that the cited SERGEOTECMIN resolution would corroborate their allegation of any inappropriate conduct at or by SERGEOTECMIN.</p> <p><i>Third</i>, Claimants’ own conduct is inconsistent with their representation that they would “<i>not have access to, or possession, custody or control of, the requested documents.</i>” Claimants themselves have submitted into the record the SERGEOTECMIN resolution underpinning this request (C-242), as well as numerous other SERGEOTECMIN documents (<i>e.g.</i>: C-240 to C-244). Yet Claimants are not the recipients of such resolution (or of the other SERGEOTECMIN documents they filed) nor are they in copy of it (or of the other SERGEOTECIN documents they filed). Claimants have failed to explain the source of such documents. Absent such explanation, the fact that</p>		

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				<p>Claimants are in possession of these documents confirms that Claimants have possession, custody or control over the requested documents.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies and instrumentalities, and the review of many years’ worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>		
41.	All documents (including internal government correspondence, communications, <i>oficios</i> , notes, minutes, official resolutions, reports or memoranda prepared by SERGEOTECMIN or any other Bolivian governmental agency)	SOC, ¶ 338	The requested documents are relevant and material to Claimants’ allegations that in an attempt to cover up the illegality of	<p>Bolivia objects to this request for the following four reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA</p>	Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:	Granted with respect to SERGEOTECMIN Legal Report

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	related to or prepared in connection with SERGEOTECMIN Legal Report SGTM.UAJ.INF.41/2014 of March 10, 2014, including the March 10, 2014 report itself.		<p>the registration of CMO’s 48 mining concessions in the name of Empresa San Lucas, prior to the issuance of Administrative Resolution No. 23/2014 rejecting CMO’s nullity petition, SERGEOTECMIN requested Empresa San Lucas to provide documents related to the Registration.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions</p>	<p>Guidelines, Art. 3.3(a)(ii), as it seeks “<i>all documents [...] related to or prepared in connection with SERGEOTECMIN Legal Report SGTM.UAJ.INF. 41/2014 of March 10, 2014,</i>” without limitation. Claimants notably fail to indicate (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter, or (iv) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, Claimants’ request would even cover, for example, (i) any communication transmitting the aforementioned report from the office of the <i>Jefe Unidad Asesoría Jurídica</i> to the office of the <i>Director General Ejecutivo</i>, (ii)</p>	<p>First, Respondent’s boilerplate assertion that Claimants’ request is not “narrow and specific” and that it amounts to a “fishing expedition” is unavailing. Claimants’ request complies with the specificity required under Article 3.3 (a) of the IBA Rules. The IBA Rules require “a description of [the requested documents] sufficient to identify [them].” Consistent with this, the Commentary on the IBA Rules states that when “[t]he requesting party cannot identify the dates or the authors of such documents, [it] nevertheless can identify with some particularity the nature of the documents sought...”²² The concept of specificity “can relate to the</p>	<p>SGTM.UAJ.I NF.41/2014 of March 10, 2014, and documents “prepared in connection with” it.</p> <p>-----</p> <p>Concedida con respecto al Informe Jurídico SGTM.UAJ.I NF.41/2014 de SERGEOTECMIN del 10 de marzo de 2014, y documentos “preparados en conexión con” él.</p>

²² 1999 IBA Working Party & 2010 IBA Rules of Evidence Review Subcommittee, Commentary to the revised text of the 2010 IBA Rules on the Taking of Evidence in International Arbitration , p. 9.

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			<p>part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>any administrative paperwork generated in connection with such transmittal (e.g.: receipt logs), (iii) any administrative paperwork generated in connection with the subsequent archival of the report once the case had been concluded, etc. This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (¶ 7 <i>supra</i>). As the SERGEOTECMIN report underpinning this request is dated 10 March 2014, Claimants seek documents covering a period of some 6 years (2014-2020).</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of</p>	<p>identity of the document, <i>its subject matter</i>, its location, and/or the identity of the person in possession or control.”²³ This is what Claimants have done. Claimants’ request describes with sufficient precision the nature and subject matter of the requested documents as it seeks documents prepared in connection with a specific report: SERGEOTECMIN Legal Report SGTM.UAJ.INF.41/2014 of March 10, 2014.</p> <p>The requested documents are therefore described with sufficient specificity to allow Bolivia to identify them. Contrary to Bolivia’s assertion, “communications” within SERGEOTECMIN transmitting the report and the “administrative</p>	

²³ Jeffrey Waincymer, Procedure and Evidence in International Arbitration (Kluwer Law International, 2012), p. 861.

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				<p><i>documents within a specific time period</i>” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, the very allegation for which Claimants purportedly seek support is nonsensical. Claimants do not explain how SERGEOTECMIN’s request, in March 2014, that Empresa Minera San Lucas provide certain documentation could amount to a cover-up of Mr. Medrano’s report of May 2013.</p> <p><u>Two</u>, Claimants do not explain why “<i>all documents [...] related to or prepared in connection with</i>” the 10 March 2014 report would corroborate their allegations of wrongdoing at or by SERGEOTECMIN. This request</p>	<p>paperwork” related to such transmittal and the archival of the report fall squarely within the scope of Claimants’ request and by no means constitute a “fishing expedition”, as they would relate to the specific report at issue. In addition, these documents are or should be in possession, control and custody of Respondent because they are or should be inherent to government functions and part of its ordinary operations.</p> <p><i>Second</i>, Claimants have already explained the relevancy and materiality of the requested documents in the relevant columns of this Redfern. The requested documents are relevant to Claimants’ allegations that the registration of CMO’s concessions was illegal; that SERGEOTECMIN attempted to cover it up by</p>	

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				<p>is nothing more than a fishing expedition.</p> <p><i>Third</i>, Claimants’ own conduct is inconsistent with their representation that they would “<i>not have access to, or possession, custody or control of, the requested documents.</i>” Claimants themselves have submitted into the record the SERGEOTECMIN resolution underpinning this request (C-242), as well as numerous other SERGEOTECMIN documents (e.g.: C-240 to C-244). Yet Claimants are not the recipients of such resolution (or of the other SERGEOTECMIN documents they filed) nor are in copy of it (or of the other SERGEOTECIN documents they filed). Claimants have failed to explain the source of such document. Absent such explanation, the fact that Claimants are in possession of these documents confirms that Claimants have possession,</p>	<p>requesting from Empresa San Lucas documents that SERGEOTECMIN itself should have had; and that the registration of CMO’s concessions in the name of Empresa San Lucas was done based exclusively on <i>Escritura Pública</i> No. 297/2007, which was completely defective.</p> <p>Claimants do not have copies of the entire record of the SERGEOTECMIN proceedings, nor do they have access to the record. Most importantly, Claimants are not in possession and do not have access to the internal correspondence, notes, minutes or memoranda prepared by SERGEOTECMIN or any other government agency, in connection with the relevant report.</p>	

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				<p>custody or control over the requested documents.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number of State agencies or instrumentalities, and the review of many years' worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>Without prejudice to the above, <u>Bolivia accepts to conduct a reasonable search of SERGEOTECMIN's files and exhibit the SERGEOTECMIN Legal Report SGT.M.UAJ.INF.41/2014 dated 10 March 2014.</u></p>	<p>In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents, and not only the narrow subset Bolivia has agreed it would search and produce. On June 29, 2020, Respondent produced two responsive documents and stated that it would continue to conduct a reasonable search for responsive documents and that it would "make every effort to disclose such documents to Claimants on a rolling basis." Respondent has not produced any additional document to date despite Claimants follow-up request. Claimants therefore request that the Tribunal order Respondent to produce responsive documents as soon as practicable and within the time limit set forth in Procedural Order No. 7.</p>	

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42.	All documents related to or prepared in connection with Dr. Huallpa's registration of CMO's concessions in the name of Empresa San Lucas, including all records and documents of any investigation or administrative proceeding initiated against him by SERGEOTECMIN, or any other agency or instrumentality of Respondent.	SOC, ¶¶ 297-308	<p>The requested documents are relevant and material to Claimants' allegations regarding wrongdoings committed by Bolivian government officials, including by Dr. Huallpa, in the registration of CMO's concessions in the name of Empresa San Lucas and Respondent's failure to address these wrongdoings.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent's possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or</p>	<p>Bolivia objects to this request for the following five reasons:</p> <p><i>First</i>, the request is far from "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "all documents related to or prepared in connection with the registration of Dr. Huallpa's registration of CMO's concessions in the name of Empresa San Lucas," without limitation. Claimants notably fail to indicate (i) the author, recipient or custodian of the requested documents, (ii) the institution or authority which would have carried out the investigation, (iii) the institution or authority which would have heard the administrative proceedings brought against Mr. Corani Huallpa, (iv) the nature of the requested documents, (v) their specific subject-matter or (iv) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described</p>	<p>Bolivia's objections to Claimants' request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants' request is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Bolivia's position to the contrary is not tenable. Claimants are seeking documents related to the registration of CMO's concessions in the name of Empresa San Lucas that Dr. Huallpa made in SERGEOTECMIN's Registry. Contrary to Respondents' assertion, the documents are described with the sufficient precision in their nature and subject-matter so as to allow Bolivia to identify them.</p> <p>For the avoidance of doubt (but without waiving any</p>	<p>Granted only with respect to: (i) documents that Empresa San Lucas filed with Dr. Huallpa or any other government official for the purposes of the registration of CMO's concessions in its name, (ii) records of the registration, (iii) documents prepared by Dr. Huallpa in connection with such registration, (iv) correspondence between Dr. Huallpa and</p>

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			possession, custody, or control of, the requested documents.	<p>with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, this request would cover, for instance, (i) the request for registration of the Grupo Minero Totoral Concessions filed by Empresa Minera San Lucas, (ii) SERGEOTECMIN’s Mining Registry, where such concessions were registered by Mr. Corani Huallpa, (iii) as well as all of CMO’s submissions to SERGEOTECMIN criticizing such registration. This would be an absurd result, and it confirms that this request is nothing more than a fishing expedition.</p> <p>In the cover letter, Claimants explain that, “[u]nless otherwise specified, the period of time covered by the requests is from 1985 to 1986 and from 1997 to the present” (§ 7 <i>supra</i>). As the registration underpinning this request took place in May 2007, Claimants seek documents</p>	<p>argument), Claimants do not seek with this request documents relating to CMO’s complaints filed with SERGEOTECMIN. But Claimants <i>do</i> seek (i) documents that Empresa San Lucas filed with Dr. Huallpa or any other government official for the purposes of the registration of CMO’s concessions in its name, (ii) records of the registration, (iii) documents prepared by Dr. Huallpa in connection with such registration, (iv) correspondence between Dr. Huallpa and Empresa San Lucas, and/or between Dr. Huallpa and other government officials (including, but not limited, officials of COMIBOL) in relation to such registration, and (v) records of any investigation and administrative proceeding initiated against Dr. Huallpa in relation to the same.</p>	<p>Empresa San Lucas, and/or between Dr. Huallpa and other government officials in relation to such registration, and (v) records of any investigation and administrative proceeding initiated against Dr. Huallpa in relation to such registration.</p> <p>-----</p> <p>Concedida solo con respecto a: (i) documentos</p>

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				<p>covering a period of some 13 years.</p> <p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, Claimants have not explained why the requested documents should reasonably be believed to exist (IBA Guidelines, Article 3.3(a)(ii)). As Claimants know full well, the 2013 internal administrative proceedings against Mr. Huallpa at SERGEOTECMIN were dismissed (C-242). Claimants have not made any effort to explain why it should be reasonably believed that other investigations or administrative proceedings would have been initiated against Dr. Huallpa, in connection with the registration of the Grupo Minero Totoral Concessions or for any other</p>	<p>Given the illegalities committed in the registration, and the existence of an administrative proceeding against Dr. Huallpa for his wrongdoing during such registration, it is not unreasonable to believe that other proceedings could have been initiated against Dr. Huallpa. If there were no such other proceedings, Respondent should simply say so.</p> <p><i>Second</i>, Claimants have already explained the relevancy and materiality of the requested documents in the relevant columns of this Redfern. There is no doubt that the requested documents are relevant to Claimants’ allegations of wrongdoings committed by the Bolivian government officials, including by Dr. Huallpa, in the registration of CMO’s concessions in the name of</p>	<p>que la Empresa San Lucas presentara ante el Dr. Huallpa o cualquier otro funcionario del gobierno con el objeto de registrar las concesiones de CMO en su nombre;</p> <p>(ii) los expedientes del registro;</p> <p>(iii) documentos preparados por el Dr. Huallpa en conexión con dicho registro, (iv) correspondencia entre el Dr. Huallpa y la Empresa San Lucas y/o</p>

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				<p>reason related to his professional activity.</p> <p><i>Third</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p>Claimants have not explained how “<i>all records and documents of any investigation or administrative proceeding initiated against [Dr. Huallpa]</i>” would demonstrate “<i>Respondent’s failure to address these wrongdoings.</i>” The requested documents would rather support the opposite proposition, all the more so since an administrative proceeding internal to SERGEOTECMIN was carried out against Mr. Huallpa and dismissed.</p> <p><i>Fourth</i>, Claimants themselves filed into the record the corresponding SERGEOTECMIN Resolution No. 09/2013 (C-242) (despite not being either the recipients of such resolution or in copy of this</p>	<p>Empresa San Lucas and Respondent’s failure to address these wrongdoings. These wrongdoings by Dr. Huallpa were reported by the Legal Director of SERGEOTECMIN, Dr. Medrano, and triggered at least one known administrative proceeding against Dr. Huallpa.</p> <p>In light of the above, Claimants request that the Tribunal order Bolivia to produce the requested documents within the time limit set forth in Procedural Order No. 7.</p>	<p>entre el Dr. Huallpa y otros funcionarios del gobierno en relación con dicho registro, y (v) expedientes de cualquier investigación y procedimiento administrativo iniciados contra el Dr. Huallpa en relación con dicho registro.</p>

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				<p>document). Claimants have failed to explain the source of such documents. Absent such explanation, the fact that Claimants are in possession of such document confirms that Claimants have possession, custody or control over the requested documents.</p> <p><i>Fifth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of anu number of State agencies and instrumentalities, and the review of many years' worth of documents. The time and costs associated with such search and review significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p>		

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43.	All documents obtained (or that may be obtained in the future) by Bolivia in or through the 28 U.S.C. § 1782 discovery proceedings brought by Bolivia against Gonzalo Sánchez de Lozada (Case No. 1:17-mc-00030-AJT-MSN), including transcripts of any deposition testimony.	SOC, ¶¶ 33-35, 62, 65, 145-152; C-110, C-116 SOD, ¶¶ 251-261, 673, 674, 824	<p>The requested documents are relevant and material to Claimants’ allegations regarding COMIBOL’s and its joint venture partners’ interest in, and illegal mining of, CMO’s Veneros San Juan and Pretoria concessions.</p> <p>Bolivia’s 1782 proceedings against Gonzalo Sánchez de Lozada seek documents and information pertaining to the transaction in which Gonzalo Sánchez de Lozada sold all the assets owned by COMSUR, including its rights as operator of the Bolívar JV and thereby the Seguridad I concession.</p> <p>This request concerns a narrowly defined category of documents within a specific time</p>	<p>Bolivia objects to this request for the reasons set out in its letter of 29 June 2020.</p> <p>In addition, Bolivia objects to this request for the following three reasons:</p> <p><i>First</i>, the request is far from “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks not only “<i>all documents [...] obtained by Bolivia</i>,” but also those documents which Bolivia may obtain “<i>in the future</i>” in the framework of the 1782 proceedings it commenced against Mr. Sánchez de Lozada, without limitation. Notably, the request indicates neither (i) the type of documents sought nor (ii) the subject-matter covered thereby, much less (iii) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient</p>	<p>Bolivia’s objections to Claimants’ request are without merit and should be denied for the following reasons:</p> <p><i>First</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules. Contrary to Bolivia’s suggestion, Claimants’ request identifies in sufficient detail the subject-matter of the categories of documents they request (discovery materials obtained by Bolivia through its 1782 proceedings against Gonzalo Sánchez de Lozada). The IBA Rules do not require to identify the author, recipient or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants</p>	<p>Denied as overly broad and lacking sufficient showing of relevance.</p> <p>-----</p> <p>Denegada por ser demasiado amplia y no evidenciarse de modo suficiente su relevancia.</p>

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			<p>period that are or will be in the Respondent’s possession, custody or control because they would have been or will be obtained by Bolivia via its 1782 proceedings against Gonzalo Sánchez de Lozada. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p>detail to allow Bolivia to specifically identify them.</p> <p><i>Second</i>, Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One</u>, Bolivia commenced the referred 1782 proceedings against Mr. Sánchez de Lozada in connection with the arbitration brought against the State by Glencore Finance (Bermuda) Ltd. (PCA Case No. 2016-39). In that arbitration, the claimant argues that Bolivia would have carried out a direct expropriation of its three assets: the Vinto tin smelter near Oruro, an antimony smelter at the same site and the lease over the Colquiri mine. The Grupo Minero Totoral Concessions are not at issue in that arbitration, nor is the Bolívar mine. Also, the smelters and the Colquiri mine are not at issue in the present arbitration.</p>	<p>have duly complied with this requirement.</p> <p><i>Second</i>, the requested documents are relevant to the case and material to its outcome, in accordance with IBA Rules 3.3(b) and 9.2(a).</p> <p>Bolivia claims that the requested documents “concern, by definition the smelters and Colquiri mine” and “are irrelevant to the present arbitration.” In sum, Bolivia argues that there is no commonality between the present case and <i>Glencore Finance (Bermuda) Ltd. v. Bolivia</i> (PCA Case No. 2016-39) (the “Glencore Case”); and that discovery materials obtained by Bolivia in its 1782 proceedings against Sánchez de Lozada do not concern CMO’s concessions under any circumstances.</p>	

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				<p>The documents that Bolivia “<i>obtained</i>” or may obtain “<i>in the future</i>” from the 1782 proceedings against Mr. Sánchez de Lozada concern, by definition, the smelters and the Colquiri mine, and not the Grupo Minero Totoral Concessions. They are thus irrelevant to the present arbitration, and can have no bearing on any decision by the Tribunal.</p> <p><u>Two</u>, Claimants assert that, in the 1782 proceedings, Bolivia seeks “<i>documents and information pertaining to the transaction in which Gonzalo Sánchez de Lozada sold all the assets owned by COMSUR.</i>” Claimants have not explained how such documents would be relevant to their “<i>allegations regarding COMIBOL’s and its joint venture partners’ interest in, and illegal</i></p>	<p>However, Bolivia’s contentions are contradicted by its own words and conduct in the Glencore Case and the related 1782 proceedings. As an initial matter, Sánchez de Lozada and the transaction in which COMSUR was sold to Glencore are one of the key issues in the Glencore Case. Precisely for this reason, Bolivia initiated its 1782 proceedings against Sánchez de Lozada, arguing: “Because of the mysterious surrounding Gonzalo Sánchez de Lozada’s transaction with Glencore International . . . Bolivia has sought further information in the possession of Sánchez de Lozada through a 28 U.S. Code § 1782 action before the U.S. federal courts.”²⁴</p>	

²⁴ Glencore Finance (Bermuda) Ltd. v. Plurinational State of Bolivia, PCA Case No. 2016-39, Respondent’s Preliminary Objections, Statement of Defence, and Reply on Bifurcation (Dec. 18, 2017), ¶ 127.

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				<p><i>mining of, the Veneros San Juan and Pretoria concessions.”</i></p> <p>On the one hand, COMIBOL was not a party to the transaction through which Mr. Sánchez de Lozada sold his Bolivian assets.</p> <p>On the other hand, the proposition that transactional documents would corroborate purported illegal mining at Veneros San Juan is a <i>non sequitur</i>.</p> <p><i>Three</i>, the requested documents are confidential for commercial and technical reasons (IBA Guidelines, Article 9.2(e)), and are the object of a protective order issued by the United States District Court for the Eastern District of Virginia, as explained in Bolivia’s letter of 29 June 2020.</p>	<p>Accordingly, in its 1782 proceedings, Bolivia’s discovery was not limited to particular assets that Bolivia refer to, but was for the transaction at issue in general, whose underlying assets obviously included the Bolivar mine project (in particular, Seguridad I concession) that directly overlapped with CMO’s Veneros San Juan and Pretoria concessions.</p> <p>Similarly in the Glencore Case, Bolivia sought and obtained documents from Glenore that concern the overall transaction itself and that were not specifically limited to the three particular assets that Bolivia lists: “the Vinto tin smelter near Oruro, an antimony smelter at the same site and the lease over the Colquiri mine.” For instance, Bolivia requested and obtained “the sale</p>	

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					<p>purchase agreements executed between Glencore . . . and the seller(s) . . . and any drafts thereof.”²⁵</p> <p>More notably, during the document production phase in the Glencore Case, upon Glencore’s request, Bolivia voluntarily agreed to share with Glencore documents Bolivia could obtain via Claimants’ own 1782 proceeding against Sánchez de Lozada.²⁶ Bolivia indicated that this was done “in the spirit of cooperation” and explicitly promised that “Bolivia will not oppose Glencore’s requests to participate in Mr. Sánchez de Lozada’s deposition in both the Bolivia and Orlandini</p>	

²⁵ Glencore Finance (Bermuda) Ltd. v. Plurinational State of Bolivia, PCA Case No. 2016-39, Bolivia’s Replies to Claimants’ Objections to Bolivia’s Request for Production of Documents (Mar. 16, 2018), request 3, available at <https://www.italaw.com/sites/default/files/case-documents/italaw9684.pdf>.

²⁶ *Glencore Finance (Bermuda) Ltd. v. Plurinational State of Bolivia*, PCA Case No. 2016-39, Claimants’ request for the Production of Documents (Feb. 9, 2018), request 2, available at: <https://www.italaw.com/sites/default/files/case-documents/italaw9684.pdf>.

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					<p>discovery proceedings, or to any request to access the evidence produced in those proceedings.”</p> <p>In making such voluntary agreement and promises, Bolivia explicitly acknowledged the commonality between the Glencore Case and the present arbitration, and that documents pertaining to Glencore’s acquisition of COMSUR—which, again, is precisely what Bolivia seeks to discover via its 1782 proceedings—is relevant to both the Glencore Case and the present arbitration.</p> <p>Bolivia further argues that Claimants have not explained how the requested documents would be relevant to their “<i>allegations regarding COMIBOL’s and its joint venture partners’ interest in,</i></p>	

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					<p><i>and illegal mining of, the Veneros San Juan and Pretoria concessions.”</i></p> <p>However, contrary to Bolivia’s argument, the requested documents are directly relevant to assessing Bolivia’s liability for illegal trespassing and mining of CMO’s concessions.</p> <p>As explained above, the transaction at issue occurred in the midst of continued trespass and illegal mining of CMO’s concessions by COMIBOL and COMSUR under the guise of the Seguridad I concession and the dispute with CMO arising from this. The transaction would have generated significant documentation regarding COMSUR’s mining operations and mining rights, including those concerning Seguridad I concession. Moreover, Sánchez de Lozada, the</p>	

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					<p>producing party in Bolivia’s 1782 proceedings, would have been the person privy to the information concerning COMIBOL’s and COMSUR’s long-standing interests in CMO’s concessions and the ongoing conflict with CMO. As described in the SOC, ¶¶ 64-65, COMMIBOL applied for the Seguridad I concession and incorporated it into the Bolivar mine project at the behest of COMSUR (and thus Sánchez de Lozada— founder and ultimate owner of COMSUR), for the explicit purposes of “securing” the area of the Bolivar mine project. During the relevant time period, Sánchez de Lozada was the President of Bolivia and COMSUR was responsible for operating the Seguridad I concession from at least 2001 to 2004, during which COMSUR, in concert with</p>	

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					<p>COMIBOL, engaged in illegal trespassing and mining of CMO's concessions.</p> <p>Therefore, the discovery materials obtained by Bolivia in its 1782 proceedings are directly relevant to assessing the circumstances under which Bolivia, COMIBOL and COMSUR engaged in illegal mining activities and the degree and purpose of such activities.</p> <p>Bolivia also contends that it cannot find any discernible reason why Claimants could not request directly from Sánchez de Lozada relevant information through Claimants' own 1782 proceedings against him. However, Bolivia's position is disingenuous, at best. With Claimants' consent, Bolivia intervened in the 1782 proceedings that Claimants brought against</p>	

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					<p>Sánchez de Lozada and Bolivia is fully aware that, despite Claimants’ persistent request since the commencement of that proceeding in November 2017, Sánchez de Lozada has not produced a single document to this date. Given the history of Sánchez de Lozada’s stubborn refusal to cooperate, it is impossible to predict when, if ever, Sánchez de Lozada will turn over documents responsive to Claimants’ subpoena in Claimants’ 1782 proceedings.</p> <p>In any event, Bolivia is under an obligation to provide Claimants with all responsive documents in its possession, custody or control.</p> <p>Bolivia’s alleged confidentiality concerns are equally unavailing. While the Court hearing Bolivia’s</p>	

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					1782 proceedings denied Claimant’s motion to intervene in the proceedings, it also explicitly noted that its decision does not impair or impede Claimants’ interests in the materials that Bolivia may obtain from Mr. Sánchez de Lozada, since “[w]hatever discovery is or is not obtained by Bolivia in this proceeding will not limit, enhance, or otherwise affect Movants’ ability to obtain discovery for use in their own arbitration—through . . . the UNCITRAL Rules—or affect the admissibility of evidence in the <i>CMO</i> Arbitration.” ²⁷ As such, the Court fully recognized that the matters related to the document production in the present arbitration, including any documents obtained by	

²⁷ In Re Application of the Plurinational State of Bolivia for an Order Directing Discovery from Gonzalo Sánchez de Lozada y Sánchez de Bustamante Pursuant to 28 U.S.C. § 1782, Order, dated 23 February 2018, p. 7 (citing to UNCITRAL Rules, Article 27, Sections 3 and 4).

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					<p>Bolivia from Sánchez de Lozada in Bolivia’s 1782 proceedings, are subject to <i>this</i> Tribunal’s determination and not that of the Court.</p> <p>Furthermore, despite Bolivia’s suggestion, the Stipulated Protective Order (the “Protective Order”) entered into by the parties in Bolivia’s 1782 proceedings is <i>not</i> a blanket or umbrella order covering <i>all</i> materials produced by Sánchez de Lozada in Bolivia’s 1782 proceedings. Instead, the Protective Order is limited in its scope to materials designated by the parties as “Confidential” or “Attorneys’ Eyes Only.” Claimants do not believe that every document produced by Sánchez de Lozada, or every portion of his deposition transcript, has been designated as “Confidential” or “Attorneys’ Eyes Only” to</p>	

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					<p>fall within the scope of the Protective Order. And, in any event, confidentiality orders are routinely subject to and limited by another court or tribunal’s authority to order production of confidential documents subject to appropriate protections. To the extent Bolivia is in possession, custody or control of responsive documents that have been designated as confidential or attorneys’ eyes only, Claimants would not object to the Tribunal ordering their production subject to whatever additional measures to safeguard their confidentiality the Tribunal finds necessary or appropriate.</p> <p>Indeed, while using the Protective Order as the grounds for objecting to Claimants’ request, Bolivia</p>	

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					<p>omits to mention its most relevant passage (¶ 20) for purposes of the present arbitration, which provides: <u>“Nothing in this Stipulated Protective Order will prevent any Party from producing any Confidential or Attorneys’ Eyes Only Discovery Material (1) in its possession in response to a lawful subpoena or other compulsory process, or (2) if required to produce such material by law or by any court, arbitral tribunal, or government agency”</u>²⁸(emphasis added)</p> <p>Accordingly, there is no legal impediment under the Protective Order for Bolivia to produce the requested documents and pursuant to paragraph 20 of the Protective Order, should the Tribunal</p>	

²⁸ In Re Application of the Plurinational State of Bolivia for an Order Directing Discovery from Gonzalo Sánchez de Lozada y Sánchez de Bustamante Pursuant to 28 U.S.C. § 1782, Stipulated Protective Order, dated May 29, 2018, ¶ 20.

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					<p>grant Claimants’ request and order Bolivia to produce documents, Bolivia only needs to give written notice to Sánchez de Lozada. Moreover, to the extent that the produced documents have not already been designated as “Confidential” or “Attorney’s Eyes Only,” Bolivia does not even need to notify Sánchez de Lozada.</p> <p>In light of the above, Bolivia’s alleged concerns about confidentiality are baseless and Bolivia should be ordered to produce responsive documents within the time limit set forth in Procedural Order No. 7.</p>	
44.	All documents related to the transaction by which Glencore acquired COMSUR’s assets and rights in the Bolívar JV that Bolivia obtained (or may obtain in the future) through its document requests in the matter of <i>Glencore</i>	SOC, ¶¶ 33-35, 62, 65, 145-152; C-110, C-116	The requested documents are relevant and material to Claimants’ allegations regarding COMIBOL’s and its joint venture	Bolivia objects to this request for the reasons set out in its letter of 29 June 2020.	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s	Denied as overly broad. -----

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	<i>Finance (Bermuda) Limited v. The Plurinational State of Bolivia</i> , PCA Case No. 2016-39.	SOD, ¶¶ 251-261, 673, 674, 824	<p>partners' operations in the Bolívar mine and illegal mining of, CMO's Veneros San Juan and Pretoria concessions.</p> <p>Bolivia requested documents from Glencore pertaining to the transaction in which the entities owned and controlled by Gonzalo Sánchez de Lozada sold all the assets owned by COMSUR, including its rights as operator of the Bolívar JV and thereby the Seguridad I concession. Among other documents, Bolivia requested Glencore due diligence documents regarding COMSUR's operation of the assets sold to Glencore.</p> <p>This request concerns a narrowly defined category of documents</p>	In addition, Bolivia objects to this request for, <i>mutatis mutandis</i> , the reasons described in connection with request 43 above.	<p>objection to request 43 above.</p> <p>Additionally, Claimants note that Bolivia's purported confidentiality concerns is baseless for the following reasons:</p> <p>Bolivia suggests that due to the procedural order in place for the Glencore Case, Bolivia is barred from disclosure of discovery materials that Bolivia obtained in the Glencore Case through its document requests.</p> <p>Contrary to Bolivia's suggestion, the Tribunal in the Glencore Case merely invited the parties to conclude a non-disclosure agreement in respect of confidential documents. Bolivia, however, has not referenced (much less produced) any non-disclosure agreement, nor</p>	Denegada por ser demasiado amplia.

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			<p>within a specific time period that are or will be in the Respondent's possession, custody or control because they would have been or will be obtained by Bolivia from Glencore. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>		<p>does has it specified which responsive documents or categories of documents it is withholding on account of that non-disclosure agreement.</p> <p>To the extent Bolivia has withheld responsive documents on the grounds of privilege or confidentiality, it has failed to produce a particularized logparagraph, setting forth a description of the responsive document (including its date, its author, and its recipient) and the reason for withholding that document from production. Furthermore, as noted in connection with request 43, Bolivia already obtained documents that fall within the scope of Claimants' request, such as the sale purchase agreements executed between the parties to the transaction in which COMSUR was sold to</p>	

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					Glencore. There is no indication in the parties' submissions that such documents are covered under the non-disclosure agreements. ²⁹ In light of the above, Claimants request that the Tribunal order Respondent to produce responsive documents within the time limit set forth in Procedural Order No. 7.	
45.	All documents (including correspondence exchanged between COMIBOL, the Ministry of Mining and Metallurgy, and/or any other agency or instrumentality of Respondent and COMSUR, Glencore, Argent Partners, Minera, Andean Resources, and/or any other third parties) regarding or related to the transaction in which COMSUR was sold to Glencore, including, but not limited to:	SOC, ¶¶ 33-35, 516.	The requested documents are relevant and material to Claimants' allegation that Bolivia, in conspiracy and collusion with COMSUR, Gonzalo Sánchez de Lozada, and later Glencore, engaged	Bolivia objects to this request for the following three reasons: <i>First</i> , the request is far from " <i>narrow and specific</i> " (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks " <i>all documents [...] regarding or related to the transaction through which</i>	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent's objection to request 43 above. Additionally, Claimants further make the following	Granted only with respect to subcategory (a) (but not the chapeau). -----

²⁹ Glencore Finance (Bermuda) Ltd. v. Plurinational State of Bolivia, PCA Case No. 2016-39, Bolivia's Replies to Claimants' Objections to Bolivia's Request for Production of Documents (Mar. 16, 2018), request 3, available at <https://www.italaw.com/sites/default/files/case-documents/italaw9684.pdf>.

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	<p>a) Any records, notes and minutes of meetings held between 2004 and 2005 where COMIBOL, the Ministry of Mining and Metallurgy or any other agency or instrumentality of Respondent discussed the sale of COMSUR with Glencore, COMSUR, Argent Partners, Minera, Andean Resources, and/or any representative, officer, agent, or employee of these companies or any other third parties, and any documents related to or prepared in connection with such meetings.</p>		<p>in the illegal mining of CMO’s concessions.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions part of ordinary operations, and kept in the regular course of business. Claimants do not have access to, or possession, custody, or control of, the requested documents.</p>	<p><i>COMSUR was sold to Glencore,</i>” without limitation. Notably, the request does not indicate either (i) the author, recipient or custodian of the requested documents, (ii) their nature, (iii) their specific subject-matter or (iv) the period of time during which they were elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p><i>Second,</i> Claimants have not shown that the requested documents are relevant to their case or material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)).</p> <p><u>One,</u> Claimants have not explained why “<i>all documents related to the transaction through which COMSUR was sold to Glencore</i>” would corroborate their allegation of “<i>illegal mining of CMO’s concessions.</i>” Claimants’ position is a <i>non sequitur</i>.</p>	<p>comments to Bolivia’s objections:</p> <p><i>First,</i> Claimants’ request is both narrow and specific, in accordance with Article 3.3(a) of the IBA Rules. Contrary to Bolivia’s suggestion, Claimants’ request identifies in sufficient detail a particular subject of the requested documents (the transaction in which COMSUR was sold to Glencore and meetings held in connection with this transaction). The IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p>	<p>Concedida solo con respecto a la subcategoría (a) (pero no el preámbulo).</p>

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				<p><u>Two</u>, Claimants have not explained why “<i>all documents related to the transaction through which COMSUR was sold to Glencore</i>” would corroborate their allegation that Bolivia would have conspired and colluded “<i>with COMSUR, Gonzalo Sánchez de Lozada, and later Glencore.</i>” It is worth emphasizing that, to date, Claimants have not brought a single shred of evidence that would support the existence of such a conspiracy or collusion.</p> <p><i>Third</i>, Claimants have not made any effort to explain why the requested documents should reasonably be believed to exist (IBA Guidelines, Article 3.3(a)(ii)).</p> <p><u>One</u>, Claimants have not shown why it should be assumed that “<i>COMIBOL, the Ministry of Mining and Metallurgy or any other agency or instrumentality of Respondent</i>” would have “<i>discussed the sale of COMSUR with Glencore, COMSUR, Argent</i></p>	<p>Second, Claimants have amply established why the requested documents are reasonably believed to exist in Respondent’s possession, custody or control. Bolivia argues that the transaction at issue was between two private parties. However, it fails to mention that the transaction at issue involved COMSUR’s mining rights as the operator of the Bolivar mine project (including Seguridad I concession). As such, it is disingenuous for Bolivia to suggest that the transaction was not at all related to the State and that no documents and correspondence were ever exchanged, and no meetings were ever held, at least between COMIBOL (and the relevant Bolivian mining authorities) on one hand and COMSUR/Glencore on the other hand. The joint venture agreement between</p>	

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				<p><i>Partners</i>” or any representative of these private parties “<i>between 2004 and 2005.</i>” The sale of Mr. Sánchez de Lozada’s Bolivian assets to Glencore International A.G. was a private deal between private parties unrelated to the State, and in which the latter was not involved.</p> <p>Mr. Sánchez de Lozada’s sale of his Bolivian assets was carried out further to his resignation as Bolivia’s President, in the midst of the violent unrest and social turmoil known as the “Gas War” (<i>la Guerra del Gas</i>). Mr. Sánchez de Lozada fled to the United States following those events, and is being prosecuted in connection therewith in Bolivia (see Bolivia’s Rejoinder in PCA Case No. 2016-39, footnote 227, available at https://pcacases.com/web/sendAttach/2495).</p> <p>In the circumstances, there is no reason to assume that any agencies or instrumentalities of the Bolivian State would have been privy, in</p>	<p>COMIBOL and COMSUR entered in 1993 for the development and exploitation of the Bolívar mine specifically provided that any change of control of COMSUR should be notified and approved by the State (C-113). In addition, from Bolivia’s perspective, the transaction at issue, although between private parties, directly concerned the operation and management of the mining concessions of its state-owned mining company COMIBOL.</p> <p>Bolivia also posits that at the time of the transaction, Sánchez de Lozada was no longer the President of Bolivia. From this, Bolivia concludes that “there is no reason to assume that any agencies or instrumentalities of the Bolivian State would have been privy, in 2004-2005, to any information or</p>	

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				<p>2004-2005, to any information or details regarding the referred transaction. To the contrary, as Bolivia explained in its Rejoinder in PCA Case No. 2016-39, the State was not involved in such transaction in any way (see ¶¶ 178-181, https://pcacases.com/web/sendAttach/2495).</p>	<p>details regarding the transaction in which COMSUR was sold to Glencore.” This is false. Claimants point again to the same terms of the joint venture agreement between COMIBOL and COMSUR that is has described previously.</p> <p>Again, regardless of Sánchez de Lozada’s resignation, the implication of the transaction at issue was that a new company would become a joint venture partner of COMIBOL, which would be operating the valuable mining assets of the State for the benefit of the State. In such context, Bolivia’s position that no state organ, including COMIBOL or the relevant Bolivian mining authorities, would have been apprised of the transaction at issue strains credulity.</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
					In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.	

PERMANENT COURT OF ARBITRATION
PCA Case No. 2018-39

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

Between

**The Estate of Julio Miguel Orlandini-Agreda
and
Compañía Minera Orlandini Ltda.**

Claimants

and

the Plurinational State of Bolivia

Respondent

CLAIMANTS' SUPPLEMENTARY REQUEST FOR PRODUCTION OF DOCUMENTS

13 July 2020

QUINN EMANUEL URQUHART & SULLIVAN LLP
1300 I STREET NW'S, 9TH FLOOR
WASHINGTON, D.C., UNITED STATES 20005

WAYAR & VON BORRIES ABOGADOS S.C.
AV. BALLIVIAN NRO. 555 EDIFICIO EL DORIAL, PISO 10
CALACOTO, LA PAZ, BOLIVIA

Instructions¹

1. In accordance with the Tribunal’s instruction in its letter of May 14, 2020, the Estate of Julio Miguel Orlandini-Agreda (“**The Estate of Mr. Orlandini**”) and Compañía Minera Orlandini Ltda. (“**CMO**” and collectively with The Estate of Mr. Orlandini, the “**Claimants**”), hereby submit their Supplementary Requests for Production of Documents (the “**Supplementary Requests**”) addressing matters raised in the expert report of Arturo Yáñez Cortes (“**Yáñez Expert Report**”) that Respondent submitted on May 27, 2020.
2. Pursuant to paragraph 6 of Procedural Order No. 1, Claimants submit their Supplementary Requests in the form of the Redfern Schedule attached to Procedural Order No. 1 as Annex 2.
3. The term “document” has the meaning attributed to it under the IBA Rules on the Taking of Evidence in International Arbitration, that is: “a writing of any kind, whether recorded on paper, electronic means, audio or visual recordings or any other mechanical or electronic means of storing or recording information.” The term “document” thus includes all writings of any kind, whether in draft or final form, whether recorded on paper, electronic means, audio or visual recordings, or any other mechanical or electronic means of storing or recording information, including, but not limited to, all communications (including letters, e-mails and facsimile correspondence), notes, reports, memoranda, analyses, summaries, presentations, meeting minutes, board resolutions, briefs, official resolutions or decisions, working drafts, records of discussions or deliberations, transcripts, talking points, pitch books, speeches, financial statements, proposals, maps, diagrams, drawings, and charts.
4. The Supplementary Requests encompass all documents within the possession, custody or control of the Respondent or its expert, Arturo Yáñez Cortes (“**Mr. Yáñez**”). To the extent that documents responsive to any request are located and withheld by Respondent on account of any alleged privilege or for any other reason, please provide together with your response a privilege log, setting forth a description of the responsive document (including its date, its author, and its recipient) and the reason for withholding that document from production.
5. The term “correspondence” means any communication sent or received, in any format and form (soft and/or hard copy), including, but not limited to, letters, emails, faxes, SMS, *oficios*, and handwritten notes.
6. “Any” and “all” mean “all;” “Including” means “including, but not limited to;” “And” and “or” mean “and/or.”

¹ These instructions were included with Claimants’ Redfern as originally sent to Respondent

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7. The documents requested should be produced in the manner in which they are regularly maintained. Please submit responsive documents as one PDF file per document. If the documents requested are stored electronically, Respondent may produce the electronic versions of such documents, but should maintain the original format of the document without removing or altering the document's "metadata." The documents must be submitted in their entirety, and, in the case of e-mail correspondence, with any attached files.
8. All capitalized or previously defined terms shall have the same meaning as detailed in Claimants' Statement of Claim ("SOC") and the Appendix I (Glossary of Terms) thereto.
9. Requests for documents prepared by or related to a government agency, State-owned entity (or its affiliates, subsidiaries or other entity or person controlling, controlled by, or otherwise affiliated with such company or entity), State organ, subdivision or instrumentality of Respondent include any document prepared by officials, employees, representatives and/or agents of that agency, State-owned entity, State organ, subdivision, or instrumentality, without regard to whether elected, appointed, contracted, or otherwise employed.
10. Claimants reserve the right to amend or supplement the Supplementary Requests in light of the documents produced or not produced by Respondent or any other document or evidence that Respondent may submit in these proceedings. Claimants also reserve the right to amend or supplement the Supplementary Requests should Respondent enact any additional measures affecting Claimants' rights and investments during the course of these proceedings, and/or should Respondent seek to raise any new allegations or produce any additional evidence.

Claimants' Redfern Schedule of Supplementary Requests for Production of Documents

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
1.	<p>All documents, including laws, codes, decrees, regulations, and official resolutions, establishing that:</p> <p>a) Conduct of an individual, including its failure to raise a timely challenge, can legitimize or validate acts and decisions of the Bolivian administrative authorities and/or judiciary that are deemed null and void.</p>	<p>SOC, ¶¶ 86, 93, 97, 99, 116, 121, 124, 125, 128, 188; CER-3, Expert Report I of José Antonio Rivera ¶¶ 24, 24.1, 25; CER-3, Expert Report II of José Antonio Rivera, ¶¶ 14, 23, 26, 28-31.2, 43, 44, 54, 55, 59, 67, 69, 81.</p> <p>Yáñez Expert Report, ¶¶ 10, 39, 95, 99, 136.</p>	<p>The requested documents are relevant and material to Mr. Yáñez's allegations that "[b]ajo derecho boliviano... la no impugnación de un acto administrativo o una decisión judicial equivale a su convalidación"; that CMO "jamás interpuso un recurso de Amparo Administrativo Minero, convalidando la legalidad de las actuaciones de la Superintendencia de Minas"; that CMO "convali[dó] la legalidad de las actuaciones [del proceso laboral Martínez]criticadas al no presentar los recursos de ley"; and that "en ninguno de los procedimientos criticados por las demandantes en este</p>	<p>Bolivia objects to this request for, at least, the following four reasons:</p> <p><i>First</i>, the request is not "narrow and specific" (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks "all documents [...] establishing that: a) Conduct of an individual, including its failure to raise a timely challenge, can legitimize or validate acts and decisions of the Bolivian administrative authorities and/or judiciary that are deemed null and void," without limitation. Claimants fail to indicate, for instance, (i) the author, recipient or custodian of the requested documents, (ii) their specific subject-matter (including the type of individual conduct which would "legitimize or validate acts and decisions of the Bolivian</p>	<p>As an initial matter, Claimants should not have had to submit any of these requests because expert reports must be submitted with all supporting documents if they are not already on the record. Paragraph 9.2 of Procedural Order No. 1 provides "[e]xpert reports shall be accompanied by any documents or information upon which they rely, unless such documents or information have already been submitted with the Parties' written submissions, in which case the reference to the number of the exhibit will be enough." This is consistent with Article 5.2(e) of the IBA Rules for the Taking of Evidence in International Arbitration (the "IBA Rules"), stating an expert report shall enclose "[d]ocuments on which the Party-Appointed Expert relies that have not already been submitted."</p> <p>Notwithstanding the above, each of Bolivia's objections should be rejected for the following reasons.</p>	<p>Granted only with respect to documents specifically referred to in Mr. Yáñez's report. Otherwise denied: First, the documents should be publicly available. Second, if Mr. Yáñez has not referred to documents in his report, the Tribunal assumes that he has not relied on such documents.</p>

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No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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			<p><i>arbitraje, CMO hizo uso de todos los mecanismos impugnaticios ordinarios y constitucionales que le confería el derecho boliviano, con lo que consintió implícitamente su legalidad.”</i></p> <p>Contrary to Mr. Yáñez’s allegations, Claimants and their expert, José Antonio Rivera de Santiváñez, claim not only that CMO duly challenged the illegal decisions and actions that resulted in the expropriation of its mining concessions before the relevant Bolivian administrative authorities and courts to no avail, but also that, under Bolivian law, the actions of the Bolivian administrative authorities and judicial courts that violated</p>	<p><i>administrative authorities and/or judiciary that are deemed null and void”</i> or the specific circumstances surrounding such conduct) or (iii) the period of time during which the requested documents would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>Instead, Claimants appear to be requesting Bolivian legislation and norms throughout the entire history of the Bolivian State (<i>i.e.</i>, from 1825 to the present date) related to an unspecific type of individual conduct in imprecise circumstances.</p> <p>Claimants’ assertion that “[t]his request concerns a narrowly defined category of documents within a</p>	<p><i>First</i>, Claimants’ request is both narrow and specific, in accordance with Article 3.3.(a) of the IBA Rules. Contrary to Bolivia’s argument, the IBA Rules do not require to identify the author, recipient, or custodian of the documents, as Respondent contends. They require “a description of [the requested documents] sufficient to identify [them].” Claimants have duly complied with this requirement.</p> <p>As referenced in the columns “Comments” and “References” of this Redfern Schedule, the requested documents relate to specific assertions and conclusions made in the Yáñez Report regarding the implication of the conduct of an individual not raising a timely challenge on the validity and legitimacy of administrative and/or judicial acts or decisions that are deemed null and void. Claimants even quoted the relevant language from the Yáñez Report to allow Respondent and its expert to understand the precise nature and subject matter of the requested</p>	<p>-----</p> <p>Concedida solo con respecto a documentos a los que el informe del Sr. Yáñez se hayan referido específicamente.</p> <p>Denegada en lo demás: primero, los documentos deberían estar en el dominio público. Segundo, si el Sr. Yáñez no se ha referido a documentos en su informe, el</p>

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			<p>CMO’s fundamental rights to due process and fair procedure are deemed null and void.</p> <p>The requested documents are thus also relevant and material to the aforementioned allegations by Claimants and their expert.</p> <p>This request concerns a narrowly defined category of documents that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions, part of ordinary operations and/or kept in the regular course of business and/or have been consulted by Mr. Yáñez in the preparation of his expert report.</p>	<p><i>specific time period</i>” flies in the face of the broad and vague language of this request.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit they seek documents “<i>relevant and material to</i>” certain allegations made by <u>Bolivia’s legal expert</u>, Arturo Yáñez. Claimants’ request in fact reads as a cross-examination of Mr. Yáñez as regards the support for certain statements made in his report. Claimants’ request is abusive.</p> <p>On the one hand, the document production stage is not the proper place to examine an expert.</p>	<p>documents and identify them. Bolivia’s objection on specificity is thus disingenuous and without merit.</p> <p>In any event, in the spirit of cooperation and for avoidance of doubt, Claimants clarify that they seek documents that Mr. Yáñez relied upon to reach and support the specific assertions and conclusions referenced in the columns “Comments” and “References” of this Redfern Schedule.</p> <p><i>Second</i>, Claimants have already explained the relevancy and materiality of the requested documents in the columns “Comments” and “References” of this Redfern Schedule. Bolivia completely ignores this and maintains the untenable position that the requested documents are not relevant to Claimants’ case and material to its outcome because Claimants refer to allegations made by Bolivia’s expert Arturo Yáñez and “it is only open to Claimants to request, in document production, documents relevant to</p>	<p>Tribunal asume que no se ha apoyado en esos documentos.</p>

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				<p>On the other hand, as explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p>Claimants attempt to conceal this fact by</p>	<p>their own case, not also documents relevant to Bolivia’s case.” Notwithstanding that Claimants clearly explained the relevancy of the requested documents not only with respect to Mr. Yáñez’s allegations but also with respect to Claimants’ and its constitutional law expert’s allegations,² Respondent’s assertion that “it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case” is unsupported by the IBA Rules or any other authority, and is contrary to arbitral practice. As previously explained, the IBA Rules do not differentiate between allegations made by the Claimant and</p>	

² It should be noted that the allegations from the Statement of Claim that Claimants referred to in order to explain the relevancy and materiality of the requested documents do not pertain exclusively to matters of fact as Respondent disingenuously asserts, but also to matters of law. In the column “Comments” in this Redfern Schedule Claimants specifically stated that “Contrary to Mr. Yáñez’s allegations, Claimants and their expert, José Antonio Rivera de Santiváñez, claim...that, under Bolivian law, the actions of the Bolivian administrative authorities and judicial courts that violated CMO’s fundamental rights to due process and fair procedure are deemed null and void.” (emphasis added). Claimants regret that Respondent continues to employ, as it did in the SOD, such a reproachable bad faith tactic of cutting words from and misquoting Claimants’ statements to mislead the Tribunal—Respondent deleted from Claimants’ statement above the reference to their legal expert and the words “under Bolivian law” and “violated CMO’s fundamental rights to due process and fair procedure” to make it seem as if Claimants were merely referring to a fact.

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				<p>asserting that the requested document would also be relevant and material to the arguments “[c]ontrary to <i>Mr. Yáñez</i>” that they submit. This is incorrect. Whilst the requested documents pertain to matters of Bolivian law, the assertions by Claimants which they would allegedly corroborate pertain exclusively to matters of fact (“<i>CMO duly challenged the illegal decisions and actions [...] before the relevant Bolivian administrative authorities</i>” and “<i>the [criticized] actions of the Bolivian administrative authorities and judicial courts [...] are deemed null and void</i>”).</p> <p><i>Third</i>, in marked contrast with the 45 document requests submitted on 27 May (including other similar requestes for</p>	<p>defenses or counter-allegations put forth by Respondent. Rather, the language explicitly states the self-evident concept that there is one case and, correlatively, the defenses and allegations made in Respondent’s SOD are relevant to that case. To suggest otherwise would allow Bolivia to make any unsupported allegation it wishes but deprive Claimants the possibility of seeking discovery with respect to those allegations in violation of their right of defense and contrary to the basic principles of due process and equality of arms that govern this and every international arbitration. Being consistent with the elemental principles, the Tribunal in its letter of May 14, 2020 where it granted Bolivia an extension to file the Yáñez Report, also granted additional time to Claimants “to submit a <u>supplemental request for document production solely addressing matters raised in Mr. Yáñez report</u>” (emphasis added). But Respondent ignores the Tribunal’s order and the elemental principles of due process and equality of arms that</p>	

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				<p>Bolivian legislation), Claimants do not assert that the requested documents would not be in their possession, custody or control.</p> <p>In any event, the requested documents are all, by definition, readily available in the public domain, and Claimants have not even attempted to suggest the contrary. Claimants have been represented by counsel from the Bolivian law firm Wayar & Von Borries Abogados S.C. from the outset of these proceedings. There is presumably no reason why Claimants' Bolivian counsel could not themselves carry out the legal research necessary to retrieve the requested documents.</p> <p><i>Fourth</i>, it would be unduly burdensome, and would pervert the purpose of</p>	<p>should govern every arbitration proceeding.</p> <p>Bolivia should therefore be ordered to produce documents responsive to Claimants' request (which, in any event, should have been produced to Claimants already in accordance with the Tribunal's instruction that expert reports be accompanied by supporting documents).</p>	

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				document production in international arbitration if the Tribunal were to order Bolivia to carry out Claimants’ legal research for them. As explained in Bolivia’s letter of 29 June, other international tribunals have rejected requests for documents which were already in the public domain. Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.		
2.	All laws, codes, decrees, regulations, and/or official resolutions regarding “ <i>Amparo Administrativo Minero</i> ,” including those discussing or referring to: <ul style="list-style-type: none"> a) The nature of <i>Amparo Administrativo Minero</i>; b) The time period within which the <i>Amparo Administrativo Minero</i> has to be filed; and c) The type of acts and decisions that can be challenged through an <i>Amparo Administrativo Minero</i>. 	Yáñez Expert Report, ¶¶ 38, 39	The requested documents are relevant and material to Mr. Yáñez’s allegation that CMO “ <i>jamás interpuso un recurso de Amparo Administrativo Minero, convalidando la legalidad de las actuaciones de la Superintendencia de Minas.</i> ”	Bolivia objects to this request, <i>mutatis mutandis</i> , for the same reasons described in connection with request 1 above.	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 1 above, and request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.	Granted only with respect to documents specifically referred to in Mr. Yáñez’s report. Otherwise denied: First, the documents

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			<p>This request concerns a narrowly defined category of documents that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions, part of ordinary operations and/or kept in the regular course of business and/or were consulted by Mr. Yáñez in the preparation of his expert report.</p>			<p>should be publicly available. Second, if Mr. Yáñez has not referred to documents in his report, the Tribunal assumes that he has not relied on such documents.</p> <p>-----</p> <p>Concedida solo con respecto a documentos a los que el informe del Sr. Yáñez se haya referido específicamente.</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
						Denegada en lo demás: primero, los documentos deberían estar en el dominio público. Segundo, si el Sr. Yáñez no se ha referido a documentos en su informe, el Tribunal asume que no se ha apoyado en esos documentos.
3.	All documents that Mr. Yáñez relied upon for the preparation of his expert report, including those related to: <ul style="list-style-type: none"> a) The Easement Proceedings; b) CMO’s criminal proceedings against Sinchi Wayra executives, including proceedings initiated by Mr. John 	Yáñez Expert Report, ¶¶ 7, 55-136.	The requested documents are relevant and material to Mr. Yáñez’s descriptions of the different proceedings involving Claimants in Bolivia and Mr. Yáñez’s	Bolivia objects to this request for, at least, the following four reasons: <i>First</i> , the request is not “ <i>narrow and specific</i> ” (IBA Guidelines, Art. 3.3(a)(ii)),	Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 1 above, and request that the Tribunal order Respondent to produce the requested	Granted with respect to documents relied on by Mr. Yáñez in reaching

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	<p>Frido Arispe and Fanny Teresa Yaksic Torre and the respective investigation records (<i>cuadernos de investigación</i>) of these proceedings;</p> <p>c) The <i>Martínez</i> case, including its nullity and appeal proceedings;</p> <p>d) CMO’s criminal proceedings against Judge Nemer and others and the investigation record (<i>cuaderno de investigación</i>) of these proceedings;</p> <p>e) Nullity proceedings before ARJAM; and</p> <p>f) Nullity proceedings before SERGEOTECMIN.</p>		<p>allegations that “<i>en ninguno de ellos, las Demandantes hicieron uso de todos los recursos que tenían a su disposición</i>” and that “<i>las Demandantes decidieron no presentar los recursos disponibles o los presentaron de manera deficiente o extemporánea</i>”.</p> <p>The requested documents are also relevant and material to Mr. Yáñez’s allegation that the Prosecutorial authorities validly dismissed CMO’s criminal complaints against the executives of Sinchi Wayra and against Judge Nemer after performing a series of investigative actions, including by conducting witness interviews, obtaining documentary evidence, and</p>	<p>as it seeks “[a]ll documents that Mr. Yáñez relied upon for the preparation of his expert report, including those related to: a) <i>The Easement Proceedings</i>; b) <i>CMO’s criminal proceedings against Sinchi Wayra executives [...]</i>; c) <i>The Martínez case [...]</i>; d) <i>CMO’s criminal proceedings against Judge Nemer and others [...]</i>; e) <i>Nullity proceedings before ARJAM</i>; and f) <i>Nullity proceedings before SERGEOTECMIN</i>,” without limitation. Claimants do not indicate, for instance, (i) the author or recipient of the requested documents, (ii) their nature (<i>e.g.</i>: written submissions of the parties, procedural decisions of the courts or administrative agencies, decisions on the merits etc.), (iii) their specific subject-matter or (iv) the period of time</p>	<p>documents within the time limit set forth in Procedural Order No. 7.</p>	<p>his conclusions.</p> <p>-----</p> <p>Concedida con respecto a documentos en los que el Sr. Yáñez se haya apoyado para alcanzar sus conclusiones.</p>

PCA Case No. 2018-39
Procedural Order No. 8 – Annex 2

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			<p>considering all the evidence in the record.</p> <p>This request concerns a narrowly defined category of documents that are or should be in the Respondent's possession, custody or control because they are or should be inherent to government functions, part of ordinary operations and/or kept in the regular course of business and/or have been consulted by Mr. Yáñez in the preparation of his expert report.</p>	<p>during which they would have been elaborated. The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p>As drafted, the request would cover, for instance, every notification to the parties of every decision taken in each of these proceedings and every submission by every party filed in each of these proceedings (including, in the Martínez Case, all the requests to be recognized as registered creditors of CMO which were filed by the numerous individuals and companies towards whom CMO had incurred debt). This would be an absurd result, and confirms that this request is nothing more than a fishing expedition.</p>		

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				<p>Claimants’ boilerplate assertion that “[t]his request concerns a narrowly defined category of documents within a specific time period” flies in the face of the broad and vague language of this request (which indicates no temporal limitation in respect of the documents sought).</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants’ case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants openly admit they seek documents “<i>relevant and material to Mr. Yáñez’s descriptions of the different proceedings involving Claimants in Bolivia and Mr. Yáñez’s allegations that ‘en ninguno de ellos, las Demandantes hicieron uso de todos los recursos que</i></p>		

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				<p><i>tenían a su disposición’ and that ‘las Demandantes decidieron no presentar los recursos disponibles o los presentaron de manera deficiente o extemporánea’.</i>”</p> <p>Claimants’ request in fact reads as a cross-examination of Mr. Yáñez as regards such statements and conclusions. Claimants’ request is abusive.</p> <p>On the one hand, the document production stage is not the proper place to examine an expert.</p> <p>On the other hand as explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in the</p>		

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
				<p>Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, the requested documents are all, by definition, in the possession, custody or control of Claimants, insofar as they pertain to six administrative, criminal and judicial proceedings which CMO commenced or to which CMO was a party. Claimants do not even seek to suggest the contrary.</p> <p><i>Fourth</i>, in order to exhibit documents responsive to this request, Bolivia would have to undertake an unduly burdensome search through the archives of different courts at various instances and administrative authorities, and a review of many years' worth of</p>		

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
				<p>documents. The time and costs associated with such search and reviewed significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.</p> <p>In any event, as regards the file of the criminal proceedings commenced by CMO against Sinchi Wayra’s executives (paragraph b)), Bolivia reiterates that it has been unable to locate a copy of such file (Statement of Defense, ¶ 263; R-262; Bolivia’s Objections to Claimants’ Request 19 of 27 May 2020).</p>		
4.	All laws, codes, decrees, regulations, and/or official resolutions establishing that an	SOC , ¶¶ 201-210	There is a dispute between the Parties as to	Bolivia objects to this request, <i>mutatis mutandis</i> ,	Claimants refer to and incorporate by reference as if fully set forth herein	Granted only with

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	attachment (<i>embargo</i>) is not a legal requirement for property to be sold at auction in labor proceedings.	Yáñez Expert Report, ¶ 100	<p>whether the judicial auction of CMO’s mining concessions in the <i>Martínez</i> case could have taken place without the proper attachment of the same.</p> <p>Specifically, it is the position of Respondent’s expert Mr. Yáñez that: “<i>El embargo es una medida preventiva que opera a favor de los acreedores. No es una condición ni un paso previo para el remate.</i>”</p> <p>On the other hand, Claimants claim that the lack of a proper attachment over CMO’s concessions was precisely one of the egregious illegalities committed in the <i>Martínez</i> case and the auction of CMO’s mining concessions.</p>	for the reasons described in connection with request 1 above.	their response to Respondent’s objection to request 1 above, and request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No. 7.	respect to documents specifically referred to in Mr. Yáñez’s report. Otherwise denied: First, the documents should be publicly available. Second, if Mr. Yáñez has not referred to documents in his report, the Tribunal assumes that he has not relied on such documents. -----

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No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			<p>The requested documents are relevant and material because they pertain to the dispute described above.</p> <p>This request concerns a narrowly defined category of documents that are or should be in the Respondent's possession, custody or control because they are or should be inherent to government functions, part of ordinary operations and/or kept in the regular course of business and/or were consulted by Mr. Yáñez in the preparation of his expert report.</p>			<p>Concedida solo con respecto a documentos a los que el informe del Sr. Yáñez se haya referido específicamente.</p> <p>Denegada en lo demás: primero, los documentos deberían estar en el dominio público. Segundo, si el Sr. Yáñez no se ha referido a documentos en su informe, el Tribunal asume que no se ha</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
						apoyado en esos documentos.
5.	All documents, including copies of witness interviews and investigation record (<i>cuaderno de investigación</i>), and copies of any documentary evidence gathered in connection with the investigation conducted by the Deputy Prosecutor, evidencing that “ <i>el rechazo de la denuncia formulada en contra de la Jueza Nemer se fundamentó en que la Fiscalía no pudo encontrar en la fase de investigación la evidencia suficiente que acreditara la comisión de los delitos denunciados</i> ” and/or that “ <i>CMO no tuvo interés de participar en el proceso de investigación.</i> ”	Yáñez Expert Report, ¶ 120	<p>The requested documents are relevant and material to the quoted assertions and conclusions by Mr. Yáñez.</p> <p>This request concerns a narrowly defined category of documents that are or should be in the Respondent’s possession, custody or control because they are or should be inherent to government functions, part of ordinary operations and/or kept in the regular course of business and/or were consulted by Mr. Yáñez in the preparation of his expert report.</p>	<p>Bolivia objects to this request for, at least, the following four reasons:</p> <p><i>First</i>, the request is not “<i>narrow and specific</i>” (IBA Guidelines, Art. 3.3(a)(ii)), as it seeks “<i>all documents [...] evidencing that ‘el rechazo de la denuncia formulada en contra de la Jueza Nemer se fundamentó en que la Fiscalía no pudo encontrar en la fase de investigación la evidencia suficiente que acreditara la comisión de los delitos denunciados’ and/or that ‘CMO no tuvo interés de participar en el proceso de investigación’,</i>” without limitation. Claimants do not indicate, for instance (i) the author, recipient or custodian of the requested</p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein their response to Respondent’s objection to request 1 above.</p> <p>Additionally, Claimants make the following comments in response to Bolivia’s objections:</p> <p><i>First</i>, contrary to Bolivia’s argument, the mere fact that the criminal investigation against Judge Nemer is referenced in both Respondent’s SOD and Mr. Yáñez’s report does not lead to the conclusion that the criminal investigation at issue is “not . . . related” to Mr. Yáñez’s report. In his report Mr. Yáñez discusses and draws specific conclusions regarding the criminal investigation record at issue, as quoted in Claimants’ request. Moreover, the length and specificity of Mr. Yáñez’s discussion of the criminal investigation against Judge Nemer (Yáñez Report, ¶¶105-120) far</p>	<p>Granted with respect to documents relied on by Mr. Yáñez in reaching his conclusions.</p> <p>-----</p> <p>Concedida con respecto a documentos en los que el Sr. Yáñez se haya apoyado para alcanzar sus conclusiones.</p>

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				<p>documents, (ii) their specific subject-matter or (iii) the period of time during which the requested documents would have been elaborated. Claimants do not even make the effort of identifying the investigation to which they refer or providing a time period covering the documents they seek.</p> <p>The requested documents are thus not described with precision or in sufficient detail to allow Bolivia to specifically identify them.</p> <p><i>Second</i>, the request does not concern documents relevant to Claimants' case and material to its outcome (IBA Guidelines, Art. 3.3(b) and 9.2(a)). Claimants assert they seek documents "<i>relevant and material to the quoted assertions and</i></p>	<p>surpass that of Respondent's discussion, which merely repeats that CMO's criminal complaint against Judge Nemer was dismissed for lack of evidence (SOD, ¶¶ 411, 727). As such, Respondent's position is untenable and Claimants' request is not "belated".</p> <p><i>Second</i>, Bolivia suggests that as Claimants brought a criminal complaint against Judge Nemer, they must somehow be privy to all documents prepared or considered by the prosecutor in connection with the criminal investigation against Judge Nemer. As Bolivia should well know, a party bringing a criminal complaint is not provided such broad access to the record of criminal investigation. Claimants confirm that they are not in possession of the requested documents and submit that these are documents that should plainly be in possession, custody or control of Respondent.</p>	

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				<p><i>conclusions by Mr. Yáñez,”</i> Bolivia’s legal expert.</p> <p><u>One</u>, this request is, in fact, not a request related to Mr. Yáñez’s report. Instead, it relates to the facts of the criminal investigation carried out against Judge Nemer, in respect of which Claimants seek “<i>witness interviews</i>” and “<i>documentary evidence.</i>” As such, the request is belated (as it should have been made on 27 May).</p> <p><u>Two</u>, even if the request were relevant to certain assertions and conclusions by Mr. Yáñez (<i>quod non</i>), as explained in Bolivia’s letter of 29 June, it is only open to Claimants to request, in document production, documents relevant to their own case, not also documents relevant to Bolivia’s case. Bolivia has made out such case in</p>	<p><i>Third</i>, the request should not present an undue burden as these are documents that should have already been gathered and reviewed for the preparation of Mr. Yáñez’s report.</p> <p>In light of the above, Claimants request that the Tribunal order Respondent to produce the requested documents within the time limit set forth in Procedural Order No.7.</p>	

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				<p>the Statement of Defense and Preliminary Objections, and the burden is now on Claimants to rebut it, and not on Bolivia to further prove it.</p> <p><i>Third</i>, the requested documents are, by definition, in the possession, custody or control of Claimants, insofar as they pertain to a criminal investigation commenced in response to a complaint filed by CMO, and to which CMO was a party. Indeed, Claimants do not even seek to argue that the requested documents would not be in their possession, custody or control.</p> <p><i>Fourth</i>, identifying a category of documents as imprecise as that sought under this request would require an unduly burdensome search through the archives of any number</p>		

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				of State agencies and instrumentalities, and the review of many years' worth of documents. The time and costs associated with such search and reviewed significantly outweigh the probatory value of the requested documents (which, in any event, Claimants have not established). Bolivia objects to this request on the basis of Article 9.2(c) of the IBA Guidelines.		

PERMANENT COURT OF ARBITRATION

In the Proceeding Between

The Estate of Julio Miguel Orlandini-Agreda
Compañía Minera Orlandini Ltda.
(Claimants)

- VS -

The Plurinational State of Bolivia
(Respondent)

**BOLIVIA'S RESPONSE TO CLAIMANTS' OBJECTIONS TO
BOLIVIA'S REQUEST FOR DOCUMENTS**

13 July 2020

Members of the Tribunal:

Dr. Stanimir A. Alexandrov

Prof. Guido Santiago Tawil

Dr. José Antonio Moreno Rodríguez

Dechert (Paris) LLP

32 rue de Monceau
75008 Paris, France

PERMANENT COURT OF ARBITRATION

In the Proceeding Between

The Estate of Julio Miguel Orlandini-Agreda
Compañía Minera Orlandini Ltda.
(Claimants)

- VS -

The Plurinational State of Bolivia
(Respondent)

BOLIVIA'S REQUEST FOR DOCUMENTS

27 May 2020

Members of the Tribunal:

Dr. Stanimir A. Alexandrov

Prof. Guido Santiago Tawil

Dr. José Antonio Moreno Rodríguez

Dechert (Paris) LLP

32 rue de Monceau
75008 Paris, France

1. In accordance with the procedural calendar enclosed with Procedural Order No. 7 of 10 April 2020, the Plurinational State of Bolivia (“**Bolivia**”) hereby requests the Estate of Julio Miguel Orlandini Agreda and Compañía Minera Orlandini (“**CMO**”) (hereinafter, jointly “**Claimants**”) to produce the documents and categories of documents described below (the “**Requested Documents**” and the “**Request**”).
2. Pursuant to paragraph 6.2.5 of Procedural Order No. 1 amended as of 27 March 2019, Bolivia submits its request in tabular form, using the template provided by the Tribunal at Annex 2 to Procedural Order No. 1.
3. Bolivia confirms that the Requested Documents are not in its possession, custody or control.
4. Should the native files (e.g., Microsoft Excel or Outlook files) of any of the Requested Documents be available, Bolivia requests that Claimants produce the Requested Documents in such native format.
5. Should Claimants assert privilege over any of the Requested Documents, Bolivia requests that Claimants provide, together with Claimants’ objections to the production of such Requested Documents, a privilege log identifying such Requested Documents and the grounds on which privilege is invoked over them.
6. The following definitions are used in Bolivia’s Request:¹
 - **1906 Veneros San Juan Title:** title over the Veneros San Juan concession granted in 1906 by the Prefect of Oruro to Antonio Marcó, in the record as **R-29bis**.
 - **24 July 1990 Court of Appeal Ruling:** decision rendered by the Labor Court of Appeal of La Paz on 24 July 1990, dismissing the appeal filed by CMO on 5 February 1990 (**R-286**) against the Judgment, in the record as **R-289**.
 - **Aguirre Report:** Expert Report of Rodolfo B. Aguirre dated 13 November 2019, in the record as **CER-1**.
 - **Banco de Crédito:** the Oruro-based lending institution named Banco de Crédito, one of CMO’s creditors (as described in Section 3.1.3.2 of the Statement of Defense and Preliminary Objections).

¹ Capitalized terms not expressly defined shall have the same meaning as in Bolivia’s Statement of Defense and Preliminary Objections.

- **Blanco Statement:** Witness Statement of Gonzalo Emilio Blanco Román dated 11 November 2019, in the record as **CWS-2**.
- **CMO Representatives:** any person through whom CMO acts and/or exercises its rights and/or duties, including (but not limited to) those persons at the highest levels of decision-making of CMO. CMO's Representatives include, but are not limited to (i) Mr. Orlandini, (ii) Gina Orlandini, (iii) Jorge Orlandini, (iv) Vinka Orlandini, (v) Jorge Orlandini Ordenes, (vi) Gonzalo Blanco Roman.
- **COMIBOL:** *Corporación Minera de Bolivia*.
- **CONES:** *Consejo Nacional de Edificaciones Escolares*.
- **Correspondence:** any communication sent or received, in any format and form (soft and/or hard copy), including, but not limited to letters, emails, faxes, memoranda, SMS, WhatsApp messages, handwritten notes, communiqués and drafts of the same.
- **Cuentas Report:** Expert Report of Teddy Cuentas Bascope dated 13 November 2019, in the record as **CER-2**.
- **Daroca Valuation:** valuation report submitted on 20 April 2006 by the Court-appointed expert Eng. Dante Daroca Morales in relation to the Grupo Minero Totoral Concessions, in the record as **C-61**.
- **Depository:** the frozen bank account designated by the Probate Division of the Circuit Court of the Eleventh Judicial Circuit, in and for the Miami-Dade County, Florida (U.S.), for the deposit of all liquid assets by the personal representative of the Estate of Julio Miguel Orlandini Agreda, as defined in paragraph 2 of that Court's order of 21 March 2019, in the record as **R-17**.
- **Document(s):** all forms of written communications and Correspondence, including, but not limited to emails, letters, notes, minutes of meetings, memoranda, surveys, audits, assessments, internal analyses, reports, contracts, agreements, drawings, graphs, charts, photographs, phono records, and data compilations.
- **Easement Proceedings:** the administrative easement proceedings commenced by COMIBOL against CMO on 17 February 2000, before the Oruro Mining Superintendent.
- **Estate:** the Estate of Julio Miguel Orlandini Agreda.

- **Financial Statements:** the financial and accounting records that commercial companies usually keep, including, but not limited to the *Libro Diario*, *Libro Mayor* and *Libro de Inventario y Balances* mandated by Article 37 of the Bolivian Commercial Code of 25 February 1977.
- **FONEM:** *Fondo Nacional de Exploración Minera*.
- **Florida Probate Court:** Probate Division of the Circuit Court of the Eleventh Judicial Circuit, in and for the Miami-Dade County, Florida (U.S.).
- **Grupo Minero Totoral Concessions:** the 48 mining concessions previously held by CMO, granted this denomination by Supreme Decree No. 87.7668, Resolution No. 015 regarding the Grupo Minero Totoral denomination, dated 21 October 1966 (**R-119**) and by Resolution No. 273/77 of Ministry of Mining and Metallurgy, dated 19 January 1977 (**R-122**).
- **Judgment:** decision rendered on 22 December 1989 by the Third Labor Court of La Paz in the proceedings commenced by Carlos Martínez Miranda, Fabian Fuertes Caceres and Martin Choque Jaurequi, complemented by a judgment of that same Court of 1 February 1990, in the record as **C-55** and **R-282**.
- **Martínez Case:** proceedings comprising (i) the labor law suit commenced against CMO on 6 December 1988 by Carlos Martínez Miranda, Fabian Fuertes Caceres and Martin Choque Jaurequi, and subsequently joined by other former workers of CMO in connection with unpaid social benefits, and (ii) the ensuing proceedings for the enforcement of the Judgment rendered by the Third Labor Court against CMO's assets.
- **Medrano Statement:** Witness Statement of Miguel Medrano Montes dated 13 November 2019, in the record as **CWS-4**.
- **Mining Superintendent:** *Superintendente Departamental de Minas*.
- **November 1982 Purchase Agreement:** share purchase agreement concluded in November 1982 between the Orlandini Minority Shareholders and Mr. Orlandini and Gina Orlandini, for the acquisition by the latter of the CMO shares held by the former.
- **Opposition to Trifurcation:** Claimants' Opposition To Application for Termination, Trifurcation and Security for Costs of 24 May 2019.

- **Orlandini Minority Shareholders:** Jorge Orlandini and Vinka Orlandini (as minority shareholders of CMO, holding each 10%, and together 20% of that company's shares).
- **Request for Trifurcation:** Bolivia's Request for Termination, Suspension, Trifurcation and Security for Costs dated 24 April 2019.
- **SERGEOTECMIN:** *Servicio Nacional de Geología y Técnico de Minas.*
- **Sinchi Wayra's Representatives:** any person through whom Sinchi Wayra acts or exercises its rights and/or duties, including (but not limited to) those persons at the highest levels of decision-making of Sinchi Wayra, including, but not limited to (i) Eduardo Capriles, (ii) Felipe Hartman.
- **Statement of Defense and Preliminary Objections:** Bolivia's Statement of Defense and Preliminary Objections dated 6 May 2020.
- **Treaty:** Treaty between the Government of the United States of America and the Government of the Republic of Bolivia concerning the encouragement and reciprocal protection of investment concluded on 17 April 1998, in the record as **C-1**.
- **U.S.:** United States of America.
- **Villalobos Report:** Expert Report of Eng. Jaime Villalobos Sanjinés dated 6 May 2020, in the record as **RER-1**.
- **Wanderley Statement:** Witness Statement of Cristina Wanderley da Silva dated 6 May 2020, in the record as **RWS-1**.
- **Will:** the Last Will and Testament of Julio Miguel Orlandini Agreda dated 21 March 2018, in the record as **R-23**.
- **Workers:** 14 former mining workers of CMO who initiated the labor proceedings against CMO and the proceedings for the enforcement of the Judgment against CMO's assets, jointly known as the Martínez Case.

The Plurinational State of Bolivia’s Requests for Document Production

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
I. Julio Miguel Orlandini Agreda						
1.	(i) The Document(s) containing Mr. Orlandini’s application for U.S. nationality by way of naturalization and (ii) the Document(s) granting Mr. Orlandini U.S. nationality.	C-2; RLA-83; Statement of Defense and Preliminary Objections, Sections 5.1.1.1 and 5.3.	Claimants assert that Mr. Orlandini would have been a U.S. national by virtue of the fact that he was born in Washington D.C. to Bolivian parents. In support of this assertion, Claimants only submitted Mr. Orlandini’s birth certificate (C-2). In the Statement of Defense and Preliminary Objections, Bolivia explained that Mr. Orlandini could not have been a U.S. national <u>by birth</u> , insofar as his father was a Bolivian diplomatic officer with the	The documents requested do not exist because Mr. Orlandini became a U.S. national by virtue of his birth in Washington, D.C. and not by naturalization. Claimants already produced Mr. Orlandini’s birth certificate which was filed with the Request for Arbitration as Exhibit C-2 and is responsive to Request 1(ii). Mr. Orlandini, therefore, was a U.S. national at all relevant moments for jurisdiction.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request.</u> In addition, Bolivia submits the following comment: Claimants’ objection is ill-fated in that it presumes (<i>i.e.</i> , without having conducted a diligent and reasonable search) that responsive documents “ <i>do not exist because Mr. Orlandini became a U.S. national by virtue of his birth in Washington D.C.</i> ” (emphasis	The Tribunal takes note of Claimants’ statement that the requested documents do not exist. ----- El Tribunal toma nota de la declaración de las Demandantes de que los documentos solicitados no existen.

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			<p>Bolivian embassy in Washington D.C. Under U.S. law, “[a] person born in the United States to a foreign diplomatic officer accredited to the United States, as a matter of international law, is not subject to the jurisdiction of the United States. That person is not a United States citizen under the Fourteenth Amendment to the Constitution. Such a person may be considered a lawful permanent resident at birth” (RLA-83, Section 101.3(a)(1)). Thus, Mr. Orlandini could only have been a U.S. national if he had acquired U.S. nationality through <u>naturalization</u>. In turn,</p>		<p>added). This is a <i>non sequitur</i>: as demonstrated by Bolivia in Section 5.1.1.1 of its Statement of Defense and Preliminary Objections, Mr. Orlandini was born to a foreign diplomatic officer on post in the U.S., a fact which excludes the application of the Fourteenth Amendment to the U.S. Constitution (providing that U.S. nationality is acquired by birth) to Mr. Orlandini. Accordingly, Claimants should be ordered to conduct a reasonable and diligent search for responsive Documents in their custody, possession and control, and to exhibit such Documents.</p>	

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			<p>the date at which such purported naturalization occurred is relevant because, if Mr. Orlandini acquired his alleged U.S. nationality after his purported investments in Bolivia or after the date of the Treaty breaches alleged by Claimants, the investment, the investor and the overarching dispute would fall outside the scope of the Treaty's protection. The Requested Documents are thus relevant to Bolivia's jurisdictional objections and material to the Tribunal's decision on jurisdiction.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or</p>		<p>For the avoidance of doubt, Bolivia does not accept that Mr. Orlandini "<i>was a U.S. national at all relevant moments for jurisdiction.</i>"</p>	

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			control of Claimants, as they pertain to Mr. Orlandini's alleged U.S. nationality.			
2.	In relation to the bankruptcy proceedings initiated by Mr. Orlandini before the U.S. Bankruptcy Court for the Southern District of Florida under Chapter 11 of the U.S. Bankruptcy Code, and terminated on 10 March 1993 (R-1): (i) The voluntary petition filed under Chapter 11 of the U.S. Bankruptcy Code by	R-1; R-190; Statement of Defense and Preliminary Objections, Sections 3.1.3.2.a and 5.1.3.2.	In the Statement of Defense and Preliminary Objections, Bolivia explained that Claimants contributed to the occurrence of the harm for which they claim compensation. Claimants incurred debts which they failed to honor, leading to countless proceedings for the collection of such debts against their assets, and culminating with the judicial auction of the Grupo Minero Totoral Concessions in the Martínez Case.	Claimants object to this document request because (1) it is irrelevant to the outcome of the case (Article 9.2(a) of the IBA Rules on the Taking of Evidence in International Arbitration (2010)(“IBA Rules”)) and (2) Claimants are not in possession, custody, or control of at least some of the requested documents. <u>First</u> , the requested documents, which date back 30 years, are irrelevant to the outcome of this case, as they are unrelated to, and	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the following two reasons: <i>First</i> , Claimants argue that the requested Documents would be “ <i>irrelevant to the outcome of the case.</i> ” As explained in Bolivia’s letter of 13 July 2020, this objection misstates and conflates two separate matters: the relevance of the requested Documents to the case <u>of the requesting Party</u> and their materiality to a	Granted. ----- Concedida.

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	<p>Mr. Orlandini on 21 November 1991;</p> <p>(ii) Documents identifying all of Mr. Orlandini’s creditors; and</p> <p>(iii) Any orders and decisions rendered by the U.S. Bankruptcy Court for the Southern District of Florida between 1991 and 1993.</p>		<p>The Requested Documents are relevant, <i>first</i>, insofar as they will show that Mr. Orlandini had a substantial list of unpaid creditors, and that, even after the reorganization he underwent in the bankruptcy proceedings before the U.S. Bankruptcy Court for the Southern District of Florida, he continued to incur additional substantial debt. <i>Second</i>, the Requested Documents will show that Mr. Orlandini made incorrect representations <i>ex parte</i> to the Court in the framework of such proceedings in order to obtain letters rogatory affecting the management and control of CMO in Bolivia so as to avoid</p>	<p>have no bearing on, the <i>Martínez</i> case or Bolivia’s illegal auction and transfer of CMO’s concessions to Empresa San Lucas.</p> <p>Respondent does not—and cannot—articulate why the reorganization proceeding filed by Mr. Orlandini (and not by CMO or by Mr. Orlandini’s creditor(s)) before the U.S. Bankruptcy Court for the Southern District of Florida in 1991 had any implication on the illegal judicial auction of CMO’s mining concessions that occurred at almost 17 years later in the <i>Martínez</i> case. Nor does Respondent explain how the</p>	<p>decision of the Tribunal in the arbitration.</p> <p><u>One</u>, Claimants’ relevance objection is based on the premise that the requested Documents would be irrelevant to Claimants’ claims. This is not the test. The requested Documents must be relevant to an argument raised by Bolivia in support of its jurisdictional and/or merits defenses. As explained in Bolivia’s Comments, this is the case of the requested Documents: they are relevant to Bolivia’s argument that Claimants’ own <i>modus operandi</i> of incurring and defaulting on numerous and</p>	

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			<p>attachments of assets in Bolivia (Statement of Defense and Preliminary Objections, ¶ 116; R-190).</p> <p>The Requested Documents are thus relevant to Bolivia’s defense and material to the Tribunal’s decision on the merits of Claimants’ claims.</p> <p>Bolivia confirms that it has been unable to retrieve the full record of these proceedings from those State entities which registered as creditors of Mr. Orlandini in the proceedings.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they were generated in the</p>	<p>reorganization proceeding relates to Bolivia’s illegal actions in the <i>Martínez</i> case, which are some of the main issues before the Tribunal. Respondent merely speculates that “Claimants contributed to the occurrence of the harm for which they claim compensation” and that “Claimants incurred debts which they failed to honor . . . culminating with the judicial auction” of CMO’s concessions in the <i>Martínez</i> case.</p> <p>However, as Respondent does not dispute, the <i>Martínez</i> case was a legal action in Bolivia (not the</p>	<p>substantial debts contributed to the occurrence of the purported harm (see Statement of Defense and Preliminary Objections, Section 7.10). The request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p><u>Two</u>, Claimants’ materiality objection is similarly based on the premise that the requested Documents would be <u>immaterial to the Tribunal’s decision on their claims</u> related to the judicial auction in the <i>Martínez</i> Case. This is not the test either. The requested documents must be <u>material to a decision by the Tribunal</u> in</p>	

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			<p>framework of Mr. Orlandini’s bankruptcy proceedings. Given that Mr. Orlandini was a party to such proceedings, it will not be unduly burdensome for Claimants to locate, compile and produce the Requested Documents.</p>	<p>Southern District of Florida) against CMO (as the sole defendant and not against Mr. Orlandini) and had no discernible relation whatsoever with CMO’s assets in Bolivia. Thus, contrary to Respondent’s suggestion, “[d]ocuments identifying all of Mr. Orlandini’s creditors” at the time of the bankruptcy proceedings filed by Mr. Orlandini 30 years ago in Florida have no relevance to the illegal judicial auction of <u>CMO’s</u> concessions in the <i>Martínez</i> case, which, as noted above, did not involve Mr. Orlandini or his creditors (if any).</p>	<p>this arbitration, whether on a claim submitted by Claimants or on an argument or defense raised by Bolivia. As explained in Bolivia’s Comments, this is the case of the requested Documents (see Statement of Defense and Preliminary Objections, Section 7.10).</p> <p><i>Second</i>, Claimants assert that “<i>they have not identified documents responsive to this request in their possession, custody, or control</i>” in the course of a search <u>conducted previously</u> (not in response to Bolivia’s request). This objection cannot stand. Claimants should be ordered to conduct a reasonable and</p>	

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				Respondent also claims that the requested documents are relevant, insofar as they will show that, “even after the reorganization [Mr. Orlandini] underwent in the bankruptcy proceedings before the U.S. Bankruptcy Court for the Southern District of Florida, he continued to incur additional substantial debt.” However, Respondent fails to establish how the documents filed with the reorganization proceeding in Florida can show the existence of Mr. Orlandini’s debts, if any, following the termination of the reorganization proceeding	diligent search for responsive Documents in their custody, possession and control, and to exhibit such Documents.	

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				<p>on March 10, 1993 (R-1). In any event, Mr. Orlandini's debts (if any) did not contribute to any of the illegalities and irregularities in the <i>Martínez</i> case that culminated in the judicial auction of CMO's concessions.</p> <p>Equally speculative and baseless is Respondent's assertion that the requested documents are relevant insofar as they supposedly "will show that Mr. Orlandini made incorrect representations <i>ex parte</i> to the Court in the framework of such proceedings in order to obtain letters rogatory</p>		

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				<p>affecting the management and control of CMO in Bolivia so as to avoid attachments of assets in Bolivia.” Bolivia’s allegation is contradicted by its own statements confirming that the issuance of the Letters Rogatory was vacated by the Court’s order. (Statement of Defense and Preliminary Objections, ¶ 115; R-189). Respondent again fails to—and cannot—articulate how the reorganization proceeding that was terminated almost 30 years ago had any implication on CMO’s mining concessions that were the subject of the</p>		

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				<p>illegal judicial auction in the <i>Maritnez</i> case.</p> <p><u>Second</u>, notwithstanding and without prejudice to the above, Claimants confirm that they have not identified documents responsive to this request in their possession, custody, or control. Claimants had previously attempted to obtain records of the reorganization proceeding directly from the U.S. Bankruptcy Court for the Southern District of Florida, but the court did not have copies of the case file. In any event, if the requested documents would exist, Respondent would be able</p>		

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				to access such documents through those Bolivian State entities which allegedly appeared as creditors of Mr. Orlandini in the reorganization proceeding.		
II. The Estate						
3.	In connection with the Estate: (i) The Document(s) distributing the Estate to the heir(s) of Mr. Orlandini and identifying the beneficiary/ies of such distribution; (ii) If the Estate has not been distributed	R-17; R-23; Request for Trifurcation, Sections 2.1.1 and 3; Statement of Defense and Preliminary Objections, Sections 3.1.3, 3.3 and 5.1.2.	According to Claimants, after Mr. Orlandini’s passing, the claims he submitted in this arbitration fell to be prosecuted by the Estate. Pursuant to the order of the Florida Probate Court of 21 March 2019, the “ <i>Estate must be closed within 12 months, unless it is contested or its closing date is extended by court order</i> ” (R-17). Thus, the Estate should	Claimants object to this document request because (1) it is based on a false factual premise; and (2) the documents it seeks are irrelevant to the outcome of the case (IBA Rules, Article 9.2(a)). <u>First</u> , Respondent’s request is based on a false factual premise that “the Estate	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the following three reasons: <i>First</i> , Claimants object to this request insofar as, they argue, it would be “ <i>based on a false factual premise.</i> ” Even assuming this were correct (<i>quod non</i>), this is	Granted with respect to subcategories (i), (ii), and (iii). Declined with respect to subcategory (iv) for lack of specificity and sufficient showing of materiality. -----

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	<p>yet, the (1) Document(s) indicating the current status of the proceedings before the Florida Probate Court; and the (2) Documents showing the indicative date when the distribution of the Estate is expected to occur;</p> <p>(iii) Documents sufficient to establish the solvency of the Estate at the present date, including, but not limited to (1) Documents listing all the assets and liabilities of the Estate</p>		<p>have been closed by 21 March 2020.</p> <p>The Requested Documents are relevant to Bolivia’s case and material to the Tribunal’s decision on jurisdiction and on the costs of this arbitration:</p> <p><i>First</i>, the distribution of the Estate and the identity of its beneficiary/ies – the heir(s) of Mr. Orlandini – are material to the jurisdiction of this Tribunal. As Bolivia explained in the Request for Trifurcation and Statement of Defense and Preliminary Objections, assuming that Mr. Orlandini had been a U.S. national (<i>quod non</i>), the nationality of his putative heirs must also be American, in</p>	<p>should have been closed by 21 March 2020.” While Respondent cites to the order of the Florida Probate Court of 21 March 2019, it conveniently omits to mention that the same order provides that the closing date of the Estate may be “extended.” (R-17). Claimants confirm that Mr. Orlandini’s probate proceeding remains open and reiterate that, as explained in Claimants’ Opposition to Application for Termination, Trifurcation and Security for Costs, ¶ 33, and as attested by Ms. Kimberly Martinez-Lejarza, CWS-1,</p>	<p>not a valid objection for the purposes of the IBA Rules.</p> <p>Moreover, the premise of the request cannot be false, insofar as the Florida Probate Court’s order clearly indicates that the Estate is to be closed within 12 months (see R-17), a fact which Claimants themselves admit. Claimants suggest that the closing date of the Estate would have been extended, as the probate proceedings remain open. There is no evidence of this purported extension on the record. Such extension, if indeed granted by the Florida Probate Court, would have been recorded in an order of</p>	<p>Concedida con respecto a las subcategorías (i), (ii), y (iii). Rechazada con respecto a la subcategoría (iv) por falta de especificidad y no evidenciar suficientemente su carácter sustancial.</p>

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	<p>and (2) Documents detailing the current balance of the Depository; and</p> <p>(iv) Documents sufficient to establish that the Estate has paid and continues to pay for the costs of this arbitration.</p>		<p>accordance with the public international law principle of continuity of nationality. If, as Claimants asserted in the Opposition to Trifurcation, the sole heir and ultimate beneficiary of Mr. Orlandini’s Estate is Francees Rosario de la Vía de Orlandini, the continuity of nationality rule operates to deprive this Tribunal of jurisdiction. It is not in dispute that Mrs. Orlandini is a Bolivian national who does not have U.S. nationality.</p> <p><i>Second</i>, the Requested Documents are relevant for the Tribunal’s decision on costs because, as Bolivia explained in the Request for Trifurcation, it has a right to recover the</p>	<p>¶ 11, the probate proceeding will not close until this arbitration proceeding concludes. Accordingly, Request 3(i) is based on this false factual premise, and the documents identified in Request 3(ii) have already been produced or are already in Respondent’s possession, custody or control (Article 3.3(c) of the IBA Rules). In addition, with respect to Request 3(ii), it is worth noting that Respondent does not even attempt to articulate why the current state of the probate proceeding or the prospective distribution date of Mr. Orlandini’s estate is</p>	<p>that Court. This, at the very least, confirms that responsive Documents exist for item (ii) of Bolivia’s request.</p> <p><i>Second</i>, Claimants argue that the Requested Documents would not be “<i>relevant or material to the outcome of the case.</i>” As explained in Bolivia’s letter of 13 July 2020, Claimants’ objection misstates and conflates two separate matters: the relevance of the requested Documents to the case of <u>the requesting Party</u> and their materiality to a decision of the Tribunal in the arbitration.</p>	

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			<p>costs it will have incurred in connection with this arbitration. At the time of that submission, Bolivia expressed its concern regarding the solvency of the Estate and its ability to satisfy an adverse award on costs in the future, for two reasons. <u>One</u>, Mr. Orlandini bequeathed “[the estate left after paying all pre-residuary gifts in the Will and all expenses and charges (other than estate taxes)] to the then serving trustee of the Julio Miguel Orlandini-Agreda Trust, created today prior to the execution of [the] Will” (R-23, Clause 3). It is unclear what funds the Estate will be left with once “all pre-</p>	<p>relevant or material to the outcome of this case.</p> <p><u>Second</u>, the requested documents are not relevant or material to the outcome of the case. Respondent seeks to justify its request on two grounds: (1) it is relevant to “the jurisdiction of the Tribunal”; and (2) it is relevant to “the Tribunal’s decision on costs.”</p> <p>However, contrary to Respondent’s assertion, “the distribution of the Estate and the identity of its beneficiary/ies – the heir(s) of Mr. Orlandini” are <u>not</u> relevant to “the jurisdiction</p>	<p><u>One</u>, Claimants’ relevance objection is based on the premise that the requested Documents would be irrelevant to <u>Claimants’ claims</u>. This is not the test. The requested Documents must be relevant to <u>an argument raised by Bolivia</u> in support of its jurisdictional and/or merits defenses. As explained in Bolivia’s Comments, this is the case of the requested Documents: they are relevant to Bolivia’s argument that (i) Mr. Orlandini’s heirs, much like himself, are not U.S. nationals, and (ii) serious concerns exist as to the solvency of the Estate and its</p>	

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			<p><i>residuary gifts in the Will and all expenses and charges</i>” are paid, especially given Mr. Orlandini’s track record of unpaid debts. <u>Two</u>, no information is publicly available on the financial situation of the Estate, and Bolivia is not a party to the proceedings before the Florida Probate Court.</p> <p>Bolivia’s concern is compounded by the facts described in the Statement of Defense and Preliminary Objections. Claimants are serial debtors and defaulters, whose <i>modus operandi</i> included recognizing their debts, voluntarily committing to satisfy them (including</p>	<p>of this Tribunal.” Respondent’s only stated justification in this regard is that the identity of Mr. Orlandini’s heir(s) is relevant to the Tribunal’s jurisdiction in the unlikely event that the Tribunal concludes that the requirement of a continuous nationality is applicable to the present case.</p> <p>In addition, as Claimants already argued in the Opposition to Bolivia’s Request for Trifurcation, the identity and nationality of Mr. Orlandini’s heirs is irrelevant to the Tribunal’s jurisdiction, because Mr. Orlandini was a U.S.</p>	<p>ability to satisfy a potential adverse costs award, which jeopardizes the State’s right to recover the costs it will have incurred in connection with this arbitration (Request for Trifurcation, Sections 2.1.1 and 3; Statement of Defense and Preliminary Objections, Sections 3.1.3, 3.3 and 5.1.2). Claimants’ statement that “<i>Respondent does not even attempt to articulate why the current state of the probate proceedings or the prospective distribution date of Mr. Orlandini’s estate is relevant or material to the outcome of this case</i>” is clearly incorrect. The</p>	

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			<p>executing agreements and payment plans with their creditors), and subsequently defaulting on such debts, leaving creditors with no choice but to commence judicial proceedings (Statement of Defense and Preliminary Objections, Section 3.1).</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to the Estate.</p>	<p>national from birth until his passing early in 2019 and, accordingly, all nationality requirements have been satisfied, as any time period beyond submission to arbitration could not be relevant.</p> <p>In any event and even assuming <i>arguendo</i> that the requirement of a continuous nationality applies, there is no uncertainty towards the identity of Mr. Orlandini's heir(s). As Claimants unequivocally and repeatedly explained to Respondent, Mrs. Orlandini is the sole heir of Mr. Orlandini, and all relevant documents on this issue</p>	<p>request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p><u>Two</u>, Claimants' materiality objection is based on the premise that the requested Documents would be immaterial to the Tribunal's decision on Claimants' claims or, worse, on Bolivia's jurisdictional objections and defenses, as if the Tribunal had already pre-judged them. This is not the test either. The requested documents must be <u>material to a decision by the Tribunal</u> in this arbitration, whether on a claim submitted by Claimants or on an argument or defense raised by Bolivia.</p>	

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				<p>have been already produced (Claimants' Opposition to Application for Termination, Trifurcation and Security for Costs, ¶¶ 14, 31; CWS-1, ¶ 5; R-23; Audio recording of First Procedural Conference, January 29, 2019, 38:44-39:00; R-23). Respondent's alleged doubt about the identity of Mr. Orlandini's heir(s) is baseless and Respondent has done nothing to substantiate it.</p> <p>Moreover, how the estate of Mr. Orlandini is to be distributed (and, as further explained below, the identity of Mr. Orlandini's heirs/beneficiaries) has</p>	<p>As explained in Bolivia's Comments, this is the case of the requested Documents: they are material to the Tribunal's jurisdiction <i>ratione personae</i> and to its decision on costs. In this latter regard, Claimants' assertion that "<i>Respondent has failed to articulate why its 'concern' about the solvency of Mr. Orlandini's estate is relevant and material to the outcome of the case</i>" is belied by Bolivia's Comments. Insofar as Bolivia has a claim for costs against Claimants, this is a matter which the Tribunal is called upon to decide. Bolivia's</p>	

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				<p>already been proven by the evidence in the record (CWS-1; R-23), making production of additional documents related to those issues duplicative, unnecessary and, therefore, unduly burdensome (IBA Rules, Art. 9(2)(c)).</p> <p>Equally unavailing is Respondent’s attempt to justify this request based the alleged relevance of the requested documents to the Tribunal’s decision on costs.</p> <p>Notably, Respondent has failed to articulate why its “concern” about the solvency of Mr. Orlandini’s</p>	<p>claim will be meaningless if the Estate is insolvent.</p> <p><i>Third</i>, Claimants assert that production of the requested Documents would be “<i>duplicative, unnecessary and, therefore, unduly burdensome,</i>” insofar as evidence on the record would already have laid to rest the argument in support of which Bolivia seeks Documents. This self-serving and incorrect assertion misses the point of Bolivia’s request. There is, for instance, no evidence on the record showing that the proceedings before the Florida Probate Court would indeed have been extended</p>	

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				<p>estate is relevant and material to the outcome of the case. Respondent’s only stated justification in this regard is that Respondent might not be able to recover costs at the conclusion of the proceeding. But Respondent has failed to—and cannot—explain why the financial situation of Claimants have any bearing on whether Respondent will ultimately prevail in the present proceeding and the Tribunal’s decision on costs. Nor can Respondent point to any disputed issues between the Parties, the resolution of which will</p>	<p>past the 21 March 2020 date. Neither that Court’s order of 21 March <u>2019</u> nor the statement of Ms. Martinez-Lejarza of 22 May <u>2019</u> attest to the status of the proceedings before the Florida Probate Court as at July <u>2020</u>. Thus, there is still no clarity as to the distribution of the Estate and the identity of Mr. Orlandini’s heir(s) nor as to the solvency of the Estate.</p> <p>Finally, for the avoidance of doubt, Bolivia disputes Claimants’ assertion that the Tribunal would have “<i>confirmed</i>” that Bolivia’s concern regarding the solvency of the Estate would</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
				<p>determine the outcome of the case and affect the Tribunal’s allocation of the costs.</p> <p>It should also be noted that Respondent’s alleged “concern” about the solvency of Mr. Orlandini’s estate is based on nothing more than rank speculation and has already been rejected by the Tribunal when it considered Bolivia’s application for security for costs. After the Mr. Orlandini’s unfortunate passing, Respondent applied for security for costs, expressing the exact same “concern” that Respondent now uses to</p>	<p>be “<i>based on unfounded speculation.</i>” Such characterization of the Tribunal’s finding that it was not “<i>necessary, at [that] stage, to engage in further analysis of the Claimants’ financial situation</i>” is false and misleading.</p>	

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				<p>justify its document request. As it has done with this request, Respondent then invoked certain events that involved Mr. Orlandini more than 20 years ago to cast doubt on the Claimant’s ability and willingness to pay the costs of this arbitration if required to do so. The Tribunal squarely rejected Respondent’s application for security for costs, explicitly finding that (i) “financial distress, in and of itself, does not provide a sufficient basis for ordering security for costs; (ii) “the Claimants have demonstrated their</p>		

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				<p>willingness and ability to cover their share of the costs of these proceedings”; and (iii) “the Claimants have not engaged in any abuse, serious misconduct, inappropriate behavior, dilatory tactics or bad faith actions during the course of these proceedings” (Decision on the Respondent’s Application for Termination, Trifurcation and Security for Costs, ¶¶ 146, 147).</p> <p>As confirmed by the Tribunal, Respondent’s alleged “concern” is based on unfounded speculation, rendering Respondent’s document request an</p>		

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				improper attempt to achieve through it what Respondent was unable to get through their application for security and, ultimately, irrelevant to the case.		
III. CMO's shareholding						
4.	In relation to the CMO shares held by the Orlandini Minority Shareholders, which Mr. Orlandini sought to acquire by virtue of the share purchase agreement of 3 February 1983 (R-100):	R-100; R-101; R-125; R-126; Statement of Defense and Preliminary Objections, Sections 3.1.3.2.a and 5.1.3.2.	In the Statement of Defense and Preliminary Objections, Bolivia explained that there is evidence calling into question whether Mr. Orlandini really owned 95% of CMO's shares and/or controlled the company immediately before the occurrence of the facts giving rise to this arbitration (contrary to Claimants' assertions) (R-	Claimants object to this request for the following reasons: (a)The documents requested are irrelevant to the outcome of this arbitration (Article 9.2(a) of the IBA Rules). Bolivia's stated justification for seeking these documents is	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the following three reasons: <i>First</i> , Claimants argue that the requested Documents would be " <i>irrelevant to the outcome of the case.</i> " As explained in Bolivia's letter of 13 July 2020, this	Granted. ----- Concedida.

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	<p>(i) Documents pursuant to which any of the shares of the Orlandini Minority Shareholders were transferred to Mr. Orlandini;</p> <p>(ii) Documents identifying the purchase price of any shares of the Orlandini Minority Shareholders acquired by Mr. Orlandini;</p> <p>(iii) Documents establishing the payment made by Mr. Orlandini to the Orlandini Minority Shareholders for the</p>		<p>106; R-126; R-141). In particular, the shareholding of the Orlandini Minority Shareholders – representing as much as 20% of CMO’s shares – was not finally transferred to Mr. Orlandini, as agreed in the November 1982 Purchase Agreement (R-100). Mr. Orlandini failed to comply with the payment mechanism provided under that Agreement, which led the Orlandini Minority Shareholders to seek restitution of their shares in CMO before the Ninth Civil Court of La Paz (R-106). Such restitution was ordered by that Court in 1999 (R-126). As at 7 January 2002, the Oruro Registry of</p>	<p>purportedly that “there is evidence calling into question whether Mr. Orlandini really owned 95% of CMO’s shares and/or controlled the company immediately before the occurrence of the facts giving rise to this arbitration” because of the lawsuits that existed between Mr. Orlandini and his siblings. Also, in the paragraphs of Bolivia’s Statement of Defense and Preliminary Objections cited as references to this request, Bolivia states that the “outcome of such proceedings is unclear”;</p>	<p>objection misstates and conflates two separate matters: the relevance of the requested Documents <u>to the case of the requesting Party</u> and their materiality to a decision of the Tribunal in the arbitration.</p> <p><u>One</u>, Claimants’ relevance objection is based on the premise that the requested Documents would be irrelevant <u>to Claimants’ claims</u>. This is not the test. The requested Documents must be relevant <u>to an argument raised by Bolivia</u> in support of its jurisdictional and/or merits defenses. As explained in Bolivia’s Comments, this is</p>	

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	<p>acquisition of any shares of the Orlandini Minority Shareholders; and</p> <p>(iv) Documents sufficient to establish the date on which the transfer to Mr. Orlandini of any shares acquired from the Orlandini Minority Shareholders became effective.</p>		<p>Property Rights still showed the Orlandini Minority Shareholders as CMO’s shareholders (R-141).</p> <p>The Requested Documents are relevant to Bolivia’s case insofar as they will show whether (and, if so, when) the Orlandini Minority Shareholders’ CMO shares were purportedly transferred to Mr. Orlandini, and what (if any) consideration was paid for such shares by Mr. Orlandini. The Requested Documents are thus material to the Tribunal’s decision on jurisdiction.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control</p>	<p>that it “calls into question, at the very least, Claimants’ bald-faced assertion that ‘Mr. Orlandini owned and controlled CMO immediately before Bolivia’s illegal measures’”; and that there is “uncertainty as to who controlled CMO throughout, at the very least, the 1980s and 1990s”. The only possible relevance of these justifications is to potential jurisdictional arguments. Even through that lens, however, the documents sought are</p>	<p>the case of the requested Documents: they are relevant to Bolivia’s argument relating to the purported foreign (U.S.) control of CMO immediately before the facts giving rise to this arbitration (see Statement of Defense and Preliminary Objections, Sections 3.1.3.2.a, 5.1.3.2). Claimants’ assertion that “<i>who controlled CMO in the 1980s and the 1990s as well as the legal proceedings involving Mr. Orlandini’s siblings that occurred at that time (almost 30 years ago) are irrelevant as they took place well before the relevant moments for</i></p>	

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			of Claimants, as they pertain to Mr. Orlandini’s acquisition of the Orlandini Minority Shareholders’ shares of CMO and proceedings to which Mr. Orlandini was a party.	<p>irrelevant to the outcome of the case.</p> <p><i>First</i>, who controlled CMO in the 1980s and the 1990s as well as the legal proceedings involving Mr. Orlandini’s siblings that occurred at that time (almost 30 years ago) are irrelevant as they took place well before the relevant moments for determining jurisdiction here—that is, from 2001 to 2007, the period during which the measures affecting Claimants’ investments in violation of the Treaty occurred, and 2018, when the</p>	<p><i>determining jurisdiction here</i>” is disingenuous. Though these legal proceedings may have taken place in the 1980s and 1990s, their legal consequences on the shareholding and control of CMO would have extended past that period of time, including all the way to the first decade of the 2000s (which, on Claimants’ case, is the relevant period of time for the purposes of ascertaining the Tribunal’s jurisdiction in this case).</p> <p>In sum, the request satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p>	

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				<p>Request for Arbitration was filed.</p> <p><i>Second</i>, Bolivia’s assertions regarding Mr. Orlandini’s ownership of CMO are based on mere speculation and are contradicted by the evidence in the record. As the public documents registered in Bolivia’s own Registry of Commerce (<i>Fundempresa</i>)—all of which Bolivia has access to and Claimants already have produced in this arbitration—show, Mr. Orlandini was (until his death) the majority shareholder of the</p>	<p><u>Two</u>, Claimants’ materiality objection is similarly based on the premise that the requested Documents would be immaterial to the Tribunal’s decision on their claims related to Bolivia’s alleged unlawful acts between 2001 and 2007 or, worse, that they would be immaterial to the Tribunal’s decision on Bolivia’s jurisdictional objections and defenses, as if the Tribunal had already pre-judged them. This is not the test either. The requested Documents must be <u>material to a decision by the Tribunal</u> in this arbitration, whether on a claim submitted by</p>	

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				<p>company since 1992 and was its primary controller until Bolivia illegally expropriated its mining concessions (C-6 and C-7). The deed filed in this proceeding as exhibit C-7, which was duly registered in <i>Fundempresa</i>, and the <i>Fundempresa</i> Certificate filed in this proceeding as exhibit C-6 establish the transactions and capitalizations by which Mr. Orlandini became the majority owner of CMO and the dates by which that happened.</p> <p><i>Fundempresa's</i> records have full legal validity</p>	<p>Claimants or on an argument or defense raised by Bolivia. As explained in Bolivia's Comments, this is the case of the requested Documents: they are material to the Tribunal's decision on its jurisdiction (see Statement of Defense and Preliminary Objections, Section 5.1.3.2).</p> <p><i>Second</i>, Claimants assert that "<i>Bolivia's assertions regarding Mr. Orlandini's ownership of CMO are based on mere speculation and are contradicted by the evidence in the record.</i>" Even assuming this were correct (<i>quod non</i>), this is not a valid objection for the purposes of the IBA Rules.</p>	

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				<p>and effect throughout the territory of Bolivia, and are deemed to be valid and binding unless the records are modified or revoked by a subsequent act that is duly recorded with <i>Fundempresa</i>. Bolivia has not produced any such subsequent act and therefore cannot dispute the validity of these documents and records.² The documents requested, therefore, are irrelevant to the outcome of the case, and the request seeks duplicative and unnecessary evidence</p>	<p>To the extent Claimants intend this as an objection to the relevance and/or materiality of the requested Documents, Bolivia refers to the comments above. In any event, this assertion is factually incorrect.</p> <p><u>One</u>, the <i>Fundempresa</i> certificate and deed to which Claimants refer do not address the matter of the timing and circumstances under which the CMO shares of the Orlandini Minority Shareholders would have been transferred to Mr. Orlandini or the</p>	

² Law 2196, May 4, 2001, Article 18; Supreme Decree 26215; Supreme Judgment 795/2017, July 25, 2017.

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				and is, therefore, unduly burdensome on Claimants (IBA Rules, Art. 9(2)(c)).	consideration that Mr. Orlandini would have paid in exchange for such shares. Two, Claimants assert that <i>“Fundempresa’s records have full legal validity and effect throughout the territory of Bolivia, and are deemed to be valid and binding unless the records are modified or revoked by a subsequent act that is duly recorded with Fundempresa.”</i> Such validity, however, is based on declarations made by the interested party to Fundempresa and may be further clarified or rebutted by evidence. This purpose	

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					<p>would be served by the requested Documents.</p> <p><u>Three</u>, Claimants’ allegation that “<i>Bolivia has not produced any such subsequent act [revoking the Fundempresa certificate at C-6] and therefore cannot dispute the validity of these documents and records</i>” is a <i>non sequitur</i>.</p> <p><i>Third</i>, Claimants assert that Bolivia would “<i>seek[] duplicative and unnecessary evidence,</i>” which would render this request “<i>unduly burdensome on Claimants,</i>” insofar as evidence on the record would already have laid to rest the argument in</p>	

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					support of which Bolivia seeks Documents (<i>i.e.</i> , the shareholding of CMO). This self-serving and incorrect assertion misses the point of Bolivia’s request. There is no evidence on the record showing whether (and, if so, when) the Orlandini Minority Shareholders’ CMO shares would have been transferred to Mr. Orlandini, and what (if any) consideration would have been paid for such shares by Mr. Orlandini.	
5.	In connection with the judicial proceedings commenced by the Orlandini Minority	R-100; R-101; R-125; R-126; Statement of Defense and	Bolivia refers to the comments made in connection with Request 4 above.	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the	Granted only with respect to documents that are currently within Claimants’

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	<p>Shareholders against Mr. Orlandini in March 1991 before the Ninth Civil Court of La Paz (seeking restitution of the shares allegedly transferred to Mr. Orlandini and Gina Orlandini pursuant to the November 1982 Purchase Agreement):</p> <p>(i) Documents reflecting any measures ordered by the Ninth Civil Court of La Paz affecting Mr. Orlandini’s purported control of CMO, including, but not limited to any</p>	<p>Preliminary Objections, Sections 3.1.3.2.a and 5.1.3.2.</p>	<p>Bolivia confirms that it has been unable to locate the full record of these proceedings in the relevant court archives. Given that Mr. Orlandini was a party to such proceedings, it will not be unduly burdensome for Claimants to locate, compile and produce the Requested Documents.</p>	<p>connection with Request 4 above.</p> <p>Additionally, it would be unreasonably burdensome (IBA Rules, Art. 9(2)(c)) for Claimants to produce these documents as they are publicly available to Respondent, which has or should have access to them. Claimants understand that this lawsuit was abandoned and dismissed, so it would require Claimants to appear before the court to retrieve the case file and obtain full copies of the records, which would be unreasonably burdensome and costly, especially when Bolivia can do it itself through a request</p>	<p>same reasons described in connection with request 4 above. Additionally, Bolivia submits the following additional comment:</p> <p>Claimants assert that it would be unreasonably burdensome to produce the requested Documents as <i>“they are publicly available to Respondent, which has or should have access to them.”</i></p> <p><u>One</u>, Claimants’ objection is based on a deliberate misconstruction of Bolivia’s request. Such request is not limited to Documents on the record of the proceedings before the Ninth Civil Court of La Paz between the</p>	<p>possession, custody or control.</p> <p>-----</p> <p>Concedida solo con respecto a documentos que estén actualmente bajo la posesión, custodia o control de las Demandantes.</p>

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	orders of receivership over CMO, seizures of CMO's assets, and/or judicial auctions of CMO's assets; and (ii) The Document(s) ordering the closure of the proceedings and/or reflecting the reasons that justified such closure.			by the Office of the Attorney General of the State. ³	Orlandini Minority Shareholders and Mr. Orlandini. Instead, the request also covers Documents internal to Claimants “ <i>reflecting he measures ordered by the Ninth Civil Court affecting Mr. Orlandini’s purported control of CMO.</i> ” Such Documents, by definition, are not “ <i>publicly available to Respondent.</i> ” <u>Two</u> , this objection is a prime illustration of the double standards that	

³ Article 231 of the Bolivian Constitution provides that the Office of the Attorney General of the State has unrestricted power to request and access the information it needs from any public servants and individual persons for purposes of exercising its authority. *See also* Article 18(5) of Law No.064 (Dec. 5, 2010) (providing that the information that the Attorney General of the State seeks from public servants and individuals for purposes of exercising its duties cannot be denied for any reason).

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					<p>Claimants seek to have applied in the disclosure phase. On the one hand, Claimants assert that it would be unreasonably burdensome for them to search for and exhibit documents that Bolivia could access through other means (e.g., “through a request by the Office of the Attorney General of the State”). On the other hand, Claimants request that Bolivia disclose to them the full case file of at least six sets of legal proceedings to which CMO was a party (including proceedings commenced on the basis of a complaint or petition by CMO) (see</p>	

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					<p>Claimants' Request for Production of Documents dated 8 June 2020, Request 4). On Claimants' case, Claimants' own request would not be unreasonably burdensome to Bolivia, but Bolivia's request to Claimants should be dismissed as unreasonably burdensome. Such double standards are inadmissible. In any event, Claimants should have the responsive documents readily available as they pertain to legal proceedings (i) to which Mr. Orlandini and other shareholders of CMO and members of Mr. Orlandini's family were parties, and (ii)</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
					which involve CMO's shareholding, management and operations.	
6.	In relation to Gina Orlandini's shareholding of CMO, purportedly acquired by Mr. Orlandini pursuant to the share purchase agreement recorded in Public Deed No. 21/84 of 20 December 1984 (R-103) and the transactional document concluded between Gina Orlandini and Mr. Orlandini recorded in Public Deed No.	R-102; R-103; R-25; R-130; R-133; R-134; R-132; R-141; Statement of Defense and Preliminary Objections, Sections 3.1.3.2.b and 5.1.3.2.	In the Statement of Defense and Preliminary Objections, Bolivia explained that it is unclear whether Mr. Orlandini indeed owned 95% of CMO's shares and/or controlled the company immediately before the occurrence of the facts giving rise to this arbitration. In particular, Gina Orlandini's shareholding – representing as much as 50% of CMO's shares in 1983– was not finally transferred to Mr. Orlandini, as agreed between them in 1984 (R-102, R-103). This was because Mr. Orlandini failed to	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Request 4 above.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 4 above.	Denied with respect to subcategories (i), (ii), and (iii) for lack of sufficient showing of materiality. Granted with respect to subcategory (iv) to the extent that such documents exist in addition to Exhibits R-102 and R-103. ----- Denegada con respecto a las subcategorías (i),

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	<p>22/84 of 20 December 1984 (R-102):</p> <p>(i) Documents sufficient to establish that Mr. Orlandini appointed an expert to value Gina Orlandini's shareholding, pursuant to Clause 2 of the share purchase agreement recorded in Public Deed No. 21/84 and Clauses 7.A.4 and 7.B.2 of the transactional agreement recorded in Public Deed No. 22/84;</p> <p>(ii) Documents reflecting the valuation</p>		<p>appoint an expert to value such shareholding (as was mandated by the agreements governing such transfer) and failed to pay the purchase price of the shares to Gina Orlandini, who commenced judicial proceedings against him before the Fifth Civil Court of La Paz. As at 7 January 2002, the Oruro Registry of Property Rights had not been modified to eliminate Gina Orlandini's registration as a shareholder of CMO (R-141). Further, Gina Orlandini has disputed Mr. Orlandini's purported majority shareholding in CMO on several occasions (R-134, R-132).</p>			<p>(ii), y (iii) por no evidenciar suficientemente su carácter sustancial. Concedida con respecto a la subcategoría (iv) en la medida en que tales documentos existan además de los Anexos R-102 y R-103.</p>

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	<p>that such expert made of Gina Orlandini’s shareholding in CMO, including, but not limited to Documents showing the recommended purchase price;</p> <p>(iii) Documents establishing the payment made by Mr. Orlandini to Gina Orlandini for the acquisition of any CMO shares; and</p> <p>(iv) Documents sufficient to establish (1) that Gina Orlandini transferred her shareholding in CMO</p>		<p>The Requested Documents are relevant to Bolivia’s case insofar as they will show whether and when Gina Orlandini’s shareholding was purportedly transferred to Mr. Orlandini, and what consideration was paid for such shares. The Requested Documents are material to the Tribunal’s decision on jurisdiction.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to Mr. Orlandini’s acquisition of Gina Orlandini’s shareholding in CMO.</p>			

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	to Mr. Orlandini, and (2) the date on which such transfer became effective.					
7.	<p>In relation to the judicial proceedings commenced by Gina Orlandini against Mr. Orlandini in December 1988 before the Fifth Civil Court of La Paz (in connection with the agreements contained in Public Deeds No. 21/84 and 22/84):</p> <p>(i) Documents reflecting any measures ordered by the Fifth Civil Court of La Paz affecting Mr.</p>	<p>R-102; R-103; R-25; R-130; Statement of Defense and Preliminary Objections, Sections 3.1.3.2.b and 5.1.3.2.</p>	<p>Bolivia refers to the comments made in connection with Request 6 above.</p> <p>Bolivia confirms that it has been unable to locate the full record of these proceedings in the relevant court archives. Given that Mr. Orlandini was a party to such proceedings, it will not be unduly burdensome for Claimants to locate, compile and produce the Requested Documents.</p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein the objections made in connection with Requests 4 and 5 above.</p>	<p><u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u>, for the same reasons described in connection with requests 4 and 5 above.</p>	<p>Granted only with respect to documents that are currently within Claimants' possession, custody or control.</p> <p>-----</p> <p>Concedida solo con respecto a documentos que estén actualmente bajo la posesión,</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	<p>Orlandini’s purported control of CMO, including, but not limited to any orders of receivership over CMO, seizures of CMO’s assets and/or judicial auctions of CMO’s assets (other than exhibit R-130);</p> <p>(ii) The final decision rendered by the Fifth Civil Court of La Paz in such proceedings; and</p> <p>(iii) Any decisions rendered by a Bolivian Court of Appeal and/or by the Bolivian Supreme Court in</p>					<p>custodia o control de las Demandantes.</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	relation to any challenges levied against the decision referred to in item (ii) above.					
8.	In relation to the enforcement proceedings commenced by Banco de Crédito against CMO in April 1992 before the Sixth Civil Court of La Paz: (i) Documents reflecting any measures ordered by the Sixth Civil Court of La Paz affecting Mr. Orlandini’s purported control of	R-179; R-180; R-180; Statement of Defense and Preliminary Objections, Sections 3.1.3.2.b and 5.1.3.2.	The Requested Documents are relevant insofar as they will confirm the following two points made in the Statement of Defense and Preliminary Objections: <i>First</i> , CMO did not hold the Grupo Minero Totoral Concessions immediately before the occurrence of the facts giving rise to this arbitration (contrary to what Claimants assert). This is because, as early as 1992, CMO’s concessions were	Claimant object to this request as it seeks documents that are not relevant or material to the outcome of this arbitration (Article 9.2(a) of the IBA Rules). Bolivia’s stated justification for seeking the requested documents is that they are relevant because CMO presumably would have not held its concessions “immediately before the occurrence of the facts	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request.</u> In addition, Bolivia submits the following three comments: <i>First</i> , Claimants argue that the requested Documents would not be “ <i>relevant or material to the outcome of this arbitration.</i> ” As explained in Bolivia’s letter of 13 July 2020, this objection misstates and conflates two separate	Granted. ----- Concedida.

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	<p>CMO, including, but not limited to any orders of receivership over CMO, seizures of CMO’s assets and/or judicial auctions of CMO’s assets (other than exhibits R-191 to R-194); and</p> <p>(ii) Pages 196-400 and 602-800 of the record of these proceedings.</p>		<p>seized and put up for judicial auction by one of CMO’s creditors, Banco de Crédito, to collect the amounts owed by CMO (R-191; R-192; R-193; R-194).</p> <p><i>Second</i>, the fact that Banco de Crédito would have had to commence judicial proceedings in order to collect a debt that CMO recognized as owed (R-148; R-178) is evidence that, far from making any kind of contribution to the economic development of Bolivia, Claimants’ purported investment left Banco de Crédito – as many of its other creditors (including its own workers) – unpaid.</p>	<p>giving rise to this arbitration” as those concessions “were seized and put for judicial auction” by Banco de Crédito “to collect amounts owed by CMO”, and that the alleged debt that CMO had with Banco de Crédito would be evidence that CMO would have made no economic contribution to the economic development of Bolivia.” Bolivia argues that this is relevant to the Tribunal’s jurisdiction. It is not.</p> <p><i>First</i>, contrary to Respondent’s assertion, an economic contribution to</p>	<p>matters: the relevance of the requested Documents <u>to the case of the requesting Party</u> and their materiality to a decision of the Tribunal in the arbitration.</p> <p><u>One</u>, Claimants’ relevance objection is based on the premise that the requested Documents would be irrelevant <u>to Claimants’ claim</u> that “<i>an economic contribution to the economic development of the country is not a requirement for an investment to qualify as such under the U.S.-Bolivia BIT and international law.</i>” This is not the test. The requested Documents must be relevant <u>to an argument raised by</u></p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			<p>The Requested Documents are thus material to the Tribunal’s decision on jurisdiction.</p> <p>Bolivia confirms that it has been unable to locate the full record of these proceedings in the relevant court archives.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to proceedings to which CMO was a party. Because of this, it will not be unduly burdensome for Claimants to locate, compile and produce the Requested Documents.</p>	<p>the economic development of the country is not a requirement for an investment to qualify as such under the U.S.-Bolivia BIT and international law, as Claimants will demonstrate during the course of the proceedings. Notwithstanding the above, that CMO may have had a debt with Banco de Crédito 30 years ago does not mean that CMO did not make and did not have a qualifying investment in Bolivia under the Treaty.</p> <p><i>Second</i>, Bolivia’s request is based on a false premise that is contradicted by the</p>	<p><u>Bolivia</u> in support of its jurisdictional and/or merits defenses. As explained in Bolivia’s Comments, this is the case of the requested Documents: they are relevant to Bolivia’s argument that (i) CMO did not hold the Grupo Minero Totoral Concessions immediately prior to the occurrence of the facts giving rise to this arbitration, and, (ii) far from making any kind of contribution to the economic development of Bolivia, Claimants’ purported investment left Banco de Crédito – as many of its other creditors (including its own workers) – unpaid. The request thus</p>	

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				<p>record evidence and acknowledge by Bolivia. CMO's mining concessions were never auctioned prior to the illegal auction in the <i>Martínez</i> case. CMO did hold its concessions immediately before the measures enacted by Bolivia that expropriated CMO's concessions; otherwise, the Superintendent would not have (illegally) decided, regarding CMO's mining rights, and the mining concessions illegally auctioned by Judge Nemer would have belonged, at the time of the measures, to someone else. In addition</p>	<p>satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p><u>Two</u>, Claimants' materiality objection is similarly based on the premise that the requested Documents would be immaterial to the Tribunal's decision on Bolivia's jurisdictional objections and defenses, as if the Tribunal had already pre-judged them. This is not the test either. The requested documents must be material to a decision by the Tribunal in this arbitration, and, as explained in Bolivia's Comments, this is the case of the requested Documents. The requested Documents</p>	

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				<p>to the legal titles (C-101) and all the other evidence submitted by Claimants showing CMO’s ownership of the mining concessions, such as registration, certificates of inscriptions and payments of mining patents (C-3, C-4, C-64; C-150), all the evidence submitted by Claimants and Bolivia in connection with the proceedings where the main measures expropriating CMO’s concessions were taken, i.e., the Easement proceedings and the <i>Martinez</i> case, shows that the concessions belonged to CMO. Bolivia makes a significant and</p>	<p>are material to the Tribunal’s decision on jurisdiction (see Statement of Defense and Preliminary Objections, Section 5.1.3.2). The request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p><i>Second</i>, Claimants assert that the request would be “<i>based on a false premise.</i>” Even assuming this were correct (<i>quod non</i>), this is not a valid objection for the purposes of the IBA Rules. To the extent Claimants intend this as an objection to the relevance and/or materiality of the requested Documents,</p>	

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				<p>baseless logical leap in its argument as it does not dispute that what was illegally auctioned were CMO’s concessions. Bolivia even argues that, at the time of the illegal auction, “all that left in the country to CMO’s creditors were the Group Minero Totoral Concessions” (Statement of Defense and Preliminary Objections, ¶ 299).</p> <p>As such, Respondent’s assertion that “CMO did not hold its concessions immediately before the occurrence of the facts giving rise to this</p>	<p>Bolivia refers to its response above.</p> <p><i>Third</i>, as explained in Bolivia’s letter of 13 July 2020, Claimants’ cynicism in characterizing this request as a “fishing expedition” is shocking in light of Claimants’ own, numerous overbroad requests for documents to Bolivia (see Claimants’ Request for Production of Documents dated 27 May 2020, Requests 11, 14). In any event, Claimants provide no explanation as to why this request would amount to a “fishing expedition.” This is</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
				<p>arbitration” is unfounded and contradicted by the record evidence, rendering this request irrelevant to the case.</p> <p>Additionally, Respondent’s request is the type of fishing expedition that should not be allowed in this proceeding and is designed to impose an unreasonable burden on Claimants. Additionally, the case file is within Respondent’s custody or control as it is a judicial proceeding before an organ or instrumentality that Respondent controls, and is publicly available</p>	telling of Claimants’ lack of faith in their own argument.	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
				(IBA Rules, Article 3.3.(c)(i)).		
9.	In relation to the proceedings commenced by FONEM against CMO in 1991 before the Office of the Comptroller General: (i) Documents reflecting any measures ordered by the Office of the Comptroller General affecting Mr. Orlandini’s purported control of CMO, including, but not	R-166; Statement of Defense and Preliminary Objections, ¶ 114 and footnote 118.	The Requested Documents are relevant insofar as they will confirm the following two points made in the Statement of Defense and Preliminary Objections: <i>First</i> , CMO was placed under receivership at least in the 1980s, a measure which deprived its shareholders of control over the company. CMO also underwent two attempted judicial auctions of the Grupo Minero Totoral Concessions in 1992 and 2002 (Statement of Defense and	Claimants refer to and incorporate by reference as if fully set forth herein the objections made in connection with Request 8 above. In any event, these documents are in Respondent’s custody or control because Respondent was a party to the relevant—FONEM is an agency of the State—and because the documents sought are publicly available and under the custody or control of an	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 8 above. In addition, Bolivia submits the following comment: Claimants assert that it would be unreasonably burdensome to produce the requested Documents as “ <i>these documents are in Respondent’s custody or control because Respondent</i>	Granted. ----- Concedida.

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	<p>limited to any orders of receivership over CMO, seizures of CMO’s assets and/or judicial auctions of CMO’s assets; and</p> <p>(ii) Documents reflecting the reasons for the closure of such proceedings, including the corresponding closure order.</p>		<p>Preliminary Objections, Section 3.1.3). In such circumstances, Mr. Orlandini did not own and/or control 95% of CMO’s shares at the time of Bolivia’s allegedly unlawful conduct (2001-2007).</p> <p><i>Second</i>, the fact that FONEM would have had to commence judicial proceedings in order to collect from CMO (R-166) is evidence that, far from making any kind of contribution to the economic development of Bolivia, Claimants’ purported investment left FONEM – as many of its other creditors (including its own workers) – unpaid.</p>	<p>organ or instrumentality controlled by Respondent. (IBA Rules, Article 3.3.(c)(i)). Thus, the production of the requested documents would be unduly burdensome for Claimants (IBA Rules, Article 9 (2) (c)).</p>	<p><i>was a party to the relevant [proceedings].” Further, Claimants assert the requested Documents “are publicly available to Respondent, which has or should have access to them.” This is misleading.</i></p> <p><u>One</u>, Claimants’ objection is based on a deliberate misconstruction of Bolivia’s request. Such request is not limited to Documents on the record of the proceedings before the Office of the Comptroller General between FONEM and CMO. Instead, the request also covers Documents internal to Claimants “<i>reflecting he measures ordered by the</i></p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			<p>The Requested Documents are thus material to the Tribunal’s decision on jurisdiction.</p> <p>Bolivia confirms that it has been unable to locate the full record of these proceedings in the relevant court archives.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to proceedings to which CMO was a party. Because of this, it will not be unduly burdensome for Claimants to locate, compile and produce the Requested Documents.</p>		<p><i>Office of the Comptroller General affecting Mr. Orlandini’s purported control of CMO.”</i> Such documents, by definition, are not “<i>publicly available to Respondent</i>” nor in Bolivia’s possession, custody or control.</p> <p><u>Two</u>, this objection is a prime illustration of the double standards that Claimants seek to have applied in the disclosure phase. On the one hand, Claimants assert that it would be unreasonably burdensome for them to search for and exhibit documents that Bolivia could access through other means (e.g.: via FONEM, “<i>an organ</i></p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
					<p><i>or instrumentality controlled by Respondent</i>”). On the other hand, Claimants request that Bolivia disclose to them the full case file of at least six sets of legal proceedings to which CMO was a party (including proceedings commenced on the basis of a complaint or petition by CMO) (see Claimants’ Request for Production of Documents dated 8 June 2020, Request 4). On Claimants’ case, Claimants’ own request would not be unreasonably burdensome to Bolivia, but Bolivia’s request to Claimants should be dismissed as unreasonably burdensome. Such double</p>	

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					standards are inadmissible. In any event, Claimants should have the responsive documents readily available as they pertain to legal proceedings (i) to which Mr. Orlandini and other shareholders of CMO and members of Mr. Orlandini's family were parties, and (ii) which involve CMO's shareholding and management.	
10.	In relation to the proceedings commenced by CONES against CMO, pending in January 1992:	R-166; Statement of Defense and Preliminary Objections, ¶ 114.	Bolivia refers to the comments made in connection with Request 9 above. Bolivia confirms that it has been unable to locate the full record of these proceedings. Given that CMO was a party to	Claimants refer to and incorporate by reference as if fully set forth herein the objections made in connection with Request 9 above.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 9 above.	Granted. ----- Concedida.

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	<p>(i) Documents reflecting any measures ordered by the adjudicator before which the proceedings were pending affecting Mr. Orlandini's purported control of CMO, including, but not limited to any orders of receivership over CMO, seizures of CMO's assets and/or judicial auctions of CMO's assets; and</p> <p>(ii) The Document(s) ordering the closure of the proceedings and/or reflecting the reasons</p>		<p>such proceedings, it will not be unduly burdensome for Claimants to locate, compile and produce the Requested Documents.</p>			

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	that justified such closure.					
11.	<p>For the period during which Dante Daroca Morales was the receiver of CMO (1988-1992), Correspondence between Mr. Orlandini and Mr. Daroca that refers to one or more of:</p> <p>(i) The financial performance of CMO;</p> <p>(ii) The cash available at CMO; and/or</p> <p>(iii) The transfer of funds from CMO to Mr. Orlandini.</p>	<p>Wanderley Statement, ¶¶ 9-12; C-58; Statement of Defense and Preliminary Objections, ¶ 391 and Section 3.3.3.3.</p>	<p>The Requested Documents are relevant insofar as they will confirm that Mr. Orlandini flouted the receiverships ordered by the Bolivian courts to preserve the activity of CMO, and instead funneled money out of the company with the help of its receivers (Wanderley Statement, ¶ 12). In other words, far from making an investment in the company, Mr. Orlandini extracted from it as much money as he could, disregarding the debts that CMO had outstanding. As Bolivia explained in the</p>	<p>Claimants object to this request because (1) it is based on a false and unproven factual premise; and (2) the requested documents are not relevant or material to the outcome of the case (IBA Rules, Article 9.2(a)).</p> <p>Respondent’s only specific stated justification for the requested documents is that Mr. Orlandini would have “flouted the receiverships ordered by the Bolivian courts...and instead funneled money out of the company with the help of</p>	<p><u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u>, for the following three reasons:</p> <p><i>First</i>, Claimants argue that the requested Documents would not be relevant or material to the outcome of the case. As explained in Bolivia’s letter of 13 July 2020, this objection misstates and conflates two separate matters: the relevance of the requested Documents to the case of <u>the requesting Party</u> and their materiality to a decision of</p>	<p>Granted.</p> <p>-----</p> <p>Concedida.</p>

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			<p>Statement of Defense and Preliminary Objections, Claimants did not make an investment in Bolivia for purposes of the Treaty.</p> <p>The Requested Documents are thus material to the Tribunal’s decision on jurisdiction.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they are Correspondence to which Mr. Orlandini was a party.</p>	<p>receivers”, suggesting that he did not make an investment and therefore that the requested documents are material to the Tribunal’s jurisdiction. Respondent and its witness Ms. Wanderley, however, have no basis to argue that Mr. Orlandini “funneled money out of the company with the help of the receivers.” In fact, Respondent has failed to submit a single document to substantiate this allegation, other than Ms. Wanderley’s uncorroborated and self-serving statement. Additionally, Ms. Wanderley’s testimony is</p>	<p>the Tribunal in the arbitration.</p> <p><u>One</u>, Claimants’ relevance objection is based on the premise that the requested Documents would be irrelevant to <u>Claimants’ claims</u>. This is not the test. The requested Documents must be relevant to an argument raised by Bolivia in support of its jurisdictional and/or merits defenses. As explained in Bolivia’s Comments, this is the case of the requested Documents: they are relevant to Bolivia’s argument that Mr. Orlandini flouted the receiverships ordered by the Bolivian courts to preserve</p>	

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				<p>unreliable since, as Claimants will demonstrate during the proceedings, it is plagued with inconsistencies and bias. Quite simply, Respondent cannot manufacture the relevance of immaterial documents by submitting baseless and unsupported testimony from a biased and unreliable witness.</p> <p>In any event, even putting aside the above, these allegations are irrelevant to the existence of “covered investments” for purposes of the Treaty, since Claimants’ investments consist of, among other things, Mr. Orlanini’s</p>	<p>the activity of CMO, and instead funneled money out of the company. The request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p><u>Two</u>, Claimants’ materiality objection is similarly based on the premise that the requested Documents would be immaterial to the Tribunal’s decision on their claims or, worse, that they would be immaterial to the Tribunal’s decision on Bolivia’s jurisdictional objections and defenses, as if the Tribunal had already pre-judged them. This is not the test either. The requested Documents must be material</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
				<p>shares in CMO and CMO’s mining rights and assets in Bolivia (Statement of Claim, ¶ 365; Article 1(d) of the Treaty), the latter of which were expropriated and transferred to COMIBOL’s partner by and through Bolivia’s illegal measures leading to the total destruction of the value of CMO’s shares.</p> <p>Notwithstanding the above and without waiving any objection, Claimants are not aware of correspondence exchanged between Mr. Orlandini and Mr. Daroca that are responsive to this request, and any information regarding the</p>	<p>to a decision by the Tribunal <u>in this arbitration</u>, whether on a claim submitted by Claimants or on an argument or defense raised by Bolivia. As explained in Bolivia’s Comments, this is the case of the requested Documents: they are material to the Tribunal’s jurisdiction <i>ratione materiae</i> (see Statement of Defense and Preliminary Objections, Section 5.2).</p> <p><u>Three</u>, Claimants object to this request on the basis that Bolivia would be “<i>manufactur[ing] the relevance of immaterial documents by submitting testimony from a biased and</i></p>	

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				<p>issues referenced in Bolivia’s request should be part of the <i>Martinez</i> case record, to which Respondent has full (and in fact better) access, and which is or should be within Respondent’s possession, custody or control.</p>	<p><i>unreliable witness.</i>” This absurd proposition must be rejected, if only insofar as it would require the Tribunal to prejudge the probative value of Ms. Wanderley’s testimony at this stage of the proceedings.</p> <p><i>Second</i>, Claimants assert that the request would be “<i>based on a false and unproven factual premise.</i>” Even assuming this were correct (<i>quod non</i>), this is not a valid objection for the purposes of the IBA Rules. To the extent Claimants intend this as an objection to the relevance and/or materiality of the requested Documents,</p>	

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					<p>Bolivia refers to its response above.</p> <p><i>Third</i>, Claimants assert they are “<i>not aware of correspondence exchanged between Mr. Orlandini and Mr. Daroca.</i>” As explained in Bolivia’s letter of 13 July 2020, even assuming this were correct (<i>quod non</i>), this is not a valid objection for the purposes of the IBA Rules. The test is whether the requested Documents are in the Claimants’ custody, possession and/or control after conducting a reasonable and diligent search for them, not whether Claimants are “<i>aware</i>” of such Documents existing prior to conducting</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
					such search. Notably, Claimants have not asserted that no responsive Documents exist. Claimants must therefore conduct a reasonable search for the requested Documents, and either exhibit the responsive Documents located or, if appropriate, confirm that no responsive Documents exist in their possession, custody and control.	
12.	For the period during which Edgar Zubieta was the receiver of CMO (1990-1998), Correspondence between Mr. Orlandini and Mr. Zubieta that	Wanderley Statement, ¶¶ 9-12; C-59; Statement of Defense and Preliminary	Bolivia refers to the comments made in connection with Request 11 above.	Claimants refer to and incorporate by reference as if fully set forth herein the objections made in connection with Request 11 above.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 11 above.	Granted. ----- Concedida.

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	refers to one or more of: (i) The financial performance of CMO; (ii) The cash available in CMO; and/or (iii) The transfer of funds from CMO to Mr. Orlandini.	Objections, Section 3.3.3.3.				
IV. Claimants' purported investment in Bolivia						
13.	In relation to CMO's activity in Bolivia between 1976 and 2001: (i) CMO's Financial Statements;	R-143; R-146; R-147; Wanderley Statement, ¶¶ 11-12; Request for Trifurcation, Section 2.1.3; Statement of	The Requested Documents are relevant insofar as they will confirm that neither CMO itself nor Mr. Orlandini's shareholding therein constitute "investments" under Article I(d) of the Treaty or the inherent meaning of that term.	Claimants refer to and incorporate by reference as if fully set forth herein the objection made in connection with Request 11, and in particular those made in relation to Claimants'	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 11 above. In addition, Bolivia	Denied as overly broad and burdensome. -----

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	<p>(ii) Documents sufficient to establish the monetary contributions made to CMO by Mr. Orlandini;</p> <p>(iii) Documents sufficient to establish CMO’s investments in the Grupo Minero Totoral Concessions;</p> <p>(iv) CMO’s statements of the mineral reserves and resources in the Grupo Minero Totoral Concessions;</p> <p>(v) Documents reflecting the exploration works carried out by and/or</p>	<p>Defense and Preliminary Objections, Section 5.2.</p>	<p>Claimants’ alleged investment does not satisfy the requirement of a substantial economic contribution or allocation of resources in Bolivia (Statement of Defense and Preliminary Objections, Section 5.2):</p> <p><i>First</i>, already from the mid-1980s, CMO was severely underfunded and mismanaged, to the extent that equipment and security installations were missing, workers went unpaid, and mining activities were paralyzed (R-143). At the very least in the mid-1980s, Mr. Orlandini neglected CMO, which became “<i>una empresa vacía y abandonada, donde los trabajadores no tenían</i></p>	<p>qualifying investments under the Treaty.</p> <p>Moreover, this request is not relevant or material to the present phase of the proceeding. The requested documents might be relevant to the damages phase of the proceeding, which has been bifurcated and which will have its own document production phase.</p> <p>As for Request 13(viii), Claimants have already submitted all the supporting documents of CMO’s ownership of its 48 mining concessions and all their attendant rights to exploit and commercialize the</p>	<p>submits the following two comments:</p> <p><i>First</i>, Claimants’ assertion that the requested Documents are not “<i>relevant and material to the present phase of the proceeding</i>” and “<i>might be relevant to the damages phase of the proceeding</i>” is incorrect. By way of example, the requested Documents are relevant to the matter of whether Mr. Orlandini made an investment in CMO (point (ii)), whether CMO made an investment in Bolivia (points (i) and (iii)), and whether Claimants made any contribution to the economic development of Bolivia,</p>	<p>Denegada por ser demasiado amplia y onerosa.</p>

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	<p>for CMO in the Grupo Minero Totoral Concessions;</p> <p>(vi) Documents identifying both or either of (1) the km of exploratory drilling carried out by and/or for CMO in the Grupo Minero Totoral Concessions and (2) the dates of the corresponding exploration campaigns;</p> <p>(vii) Documents listing CMO’s employees; and</p>		<p><i>ninguna actividad y tampoco había [sic] recibido salarios desde el mes de abril de 1985” (R-146).</i></p> <p><i>Second</i>, over time, CMO accumulated significant overdue debts, leaving its creditors no option but to seek judicial collection. Mr. Orlandini would also flout the court-ordered receiverships and measures aimed at preserving CMO’s activity, taking money out of CMO’s accounts and out of Bolivia, while leaving the company’s debts unpaid (Wanderley Statement, ¶¶ 12-13).</p> <p><i>Third</i>, Claimants failed to exploit the Veneros San Juan</p>	<p>minerals in them (C-101 and C-3). To the extent the request seeks additional documents, it does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks. Therefore, the request is overbroad and complying with it would be unreasonably burdensome for Claimants.</p>	<p>which is a requirement under the objective definition of investment (see Statement of Defense, Section 5.2) (points (i) through (viii)).</p> <p><i>Second</i>, Claimants argue that Bolivia “does not provide sufficient specificity, nor does it identify with any reasonable degree of precision the specific documents it seeks.” As explained in Bolivia’s letter of 13 July 2020, Claimants’ suggestion that Bolivia’s request would be overbroad is, to say the least, surprising. Claimants themselves have requested that Bolivia exhibit (i) 22 years’ worth of mining</p>	

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	(viii) Documents identifying CMO's assets.		<p>concession, even though they now claim that such concession holds valuable mineral reserves (Aguirre Report, ¶ 37).</p> <p><i>Fourth</i>, Claimants failed to develop the Totoral mine, and left it to function in improper conditions. As indicated by the <i>Sindicato Mixto de Trabajadores de Totoral</i> in a March 2006 letter to the Bolivian President, “<i>los trabajadores de Totoral siguen [...] viviendo en tinieblas, sin luz, sin agua, ni educación, con el trabajo infrahumano como en la época de piedra, desde que el irresponsable concesionario, Miguel</i></p>		<p>operations and production data from the Bolívar mine, (ii) over 140 years' worth of documents discussing, however briefly, the notion of “<i>pertenencia</i>” under the 1880 Mining Code, and even (iii) all the literature in the fields of geology and mining in Bolivia and in the world, with no limitation, addressing the notion of “<i>venero</i>” (see Claimants' Request for Production of Documents dated 27 May 2020, Requests 11, 14; R-425). Bolivia's request can hardly be described as insufficiently specific or precise in comparison. In any event, as drafted, this</p>	

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			<p><i>Orlandini abandonó nuestro distrito minero” (R-147).</i></p> <p>These circumstances hardly qualify as the making of an investment, as required by the Treaty.</p> <p>Accordingly, the Requested Documents are material to the Tribunal’s decision on jurisdiction.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to the purported making of their investment in Bolivia.</p>		request provides “a description in sufficient detail (including subject matter) of a narrow and specific requested category of Documents”, as evidenced by the wording of the request itself.	
14.	Documents sufficient to establish that CMO	Request for Trifurcation,	The Requested Documents are relevant insofar as they will	Claimants refer to and incorporate by reference as	<u>Bolivia moves to compel production of all the</u>	Denied for lack of specificity and

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	has paid and continues to pay for the costs of this arbitration.	Sections 2.1.1 and 3.	<p>confirm the concerns that Bolivia raised in the Request for Trifurcation with respect to CMO’s solvency and ability to satisfy a potentially adverse award on costs.</p> <p>Bolivia has a right to recover the costs it incurs in connection with this arbitration, as explained in the Request for Trifurcation. However, per Claimants’ own case, “<i>CMO’s principal asset was its 48 mining concessions, with their attendant rights and property. CMO has no other meaningful assets, with the exception of the claims in this proceeding</i>” (Notice of Arbitration, ¶ 149). The concerns sparked by this</p>	<p>if fully set forth herein the objection made in connection with Request 3.</p> <p>Additionally, Claimants reiterate that, in denying Bolivia’s “Request for Trifurcation,” the Tribunal already explicitly found that “the Claimants have paid their share of the advance payment” and that “the Claimants have demonstrated their willingness and ability to cover their share of the costs of these proceedings (Decision on the Respondent’s Application for Termination,</p>	<p><u>Documents falling within the scope of this request</u>, for the same reasons described in connection with request 3 above.</p>	<p>sufficient showing of materiality.</p> <p>-----</p> <p>Denegada por falta de especificidad y por no evidenciar suficientemente su carácter sustancial.</p>

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			<p>statement are compounded by the fact that Claimants are serial debtors and defaulters, whose <i>modus operandi</i> is to recognize their debts, voluntarily commit to satisfy them (including by executing agreements and payment plans with their creditors), and subsequently default on such debts, leaving their creditors with no choice but to commence judicial proceedings to collect (Statement of Defense and Preliminary Objections, Sections 2 and 3).</p> <p>The Requested Documents are thus material to the Tribunal's decision on costs.</p>	Trifurcation and Security for Costs, ¶¶ 146, 147).		

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to the financing of this arbitration.			
V. The Veneros San Juan concession						
15.	In relation to the acquisition of the Veneros San Juan concession by CMO from José Quintana Flores on 12 March 1975: (i) Documents reflecting the due diligence carried out by and/or for CMO for such acquisition,	R-29bis; Statement of Defense and Preliminary Objections, Sections 3.1.2 and 5.2.2.2.	The Requested Documents will confirm that CMO knew – or should have known – from the due diligence carried out in connection with the acquisition of the Veneros San Juan concession that the 1906 Veneros San Juan Title only granted its holder rights over the surficial tin deposits (“veneros” and “relaves”) accumulated in the Antequera riverbed (Statement of Defense	Claimants hereby voluntarily produce the following documents in their possession, which are responsive to this request: <ul style="list-style-type: none"> • Deed 8/75, February 4, 2000; • Deed 202, September 23, 1988; • Certificate of Veneros San Juan, February 24, 1997. 	Bolivia notes that Claimants have not objected to this request. However, Claimants’ production is incomplete. For instance, Claimants have not disclosed any “ <i>Documents reflecting the due diligence carried out by and/or for CMO</i> ” in the framework of the acquisition of the Veneros San Juan concession from José Quintana Flores on 12 March	Granted. ----- Concedida.

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	including (but not limited to) those addressing both or either of (1) the ownership chain through which the Veneros San Juan concession was transferred from Antonio Marcó to José Quintana Flores and (2) the scope of the concession rights; and (ii) The agreement concluded between CMO and José Quintana Flores for the transfer of the Veneros San Juan concession.		and Preliminary Objections, Section 3.2.1; Villalobos Report, Chapters I and II.4). Neither the 1906 Veneros San Juan Title nor the Bolivian mining legislation under which it was granted vested the holder of such Title with underground rights. Nor could the former holder of the Veneros San Juan concession, José Quintana Flores, transfer to CMO, together with such concession, rights which he did not hold. The Requested Documents are material to the Tribunal's decision on jurisdiction and on the merits of Claimants' claims, insofar as the absence of underground rights at the	Claimants also refer to the 1906 Veneros San Juan Title that Claimants have submitted as Exhibit C-101 .	1975. Accordingly, <u>Bolivia requests that Claimants disclose all Documents responsive to this request.</u>	

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			<p>Veneros San Juan concession means that Claimants did not have the investment at Veneros San Juan which they claim Bolivia would have expropriated.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to CMO's acquisition of its purported investment.</p>			
16.	Documents prepared by and/or for CMO prior to 16 January 1999 (date of COMIBOL's letter to CMO requesting an easement at Veneros San Juan (C-23)),	C-23; Villalobos Report, Chapters I and II.4; Request for Trifurcation, Section 2.1.2; Statement of	Bolivia refers to the comments made in connection with Request 15 above.	Notwithstanding that the request is excessively broad and lacks the specificity required by the IBA Rules, and that all the documents produced and submitted by Claimants in this proceeding in connection	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the following three reasons: <i>In limine</i> , Bolivia notes that the Document produced by Claimants is not responsive.	Granted. ----- Concedida.

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	describing the scope of the rights granted by the 1906 Veneros San Juan Title to its holder, including (but not limited to) Documents discussing whether such Title granted its holder rights extending beneath the surface.	Defense and Preliminary Objections, Sections 3.2.1, 3.2.3, 5.2.2.2 and 7.5.1 and ¶ 781.		with the Veneros San Juan concession as well as all applicable Bolivian mining law (including at the time the title was granted and thereafter) establish that the Veneros San Juan concession granted its holder underground rights, Claimants hereby voluntarily produce the following documents in their possession, which are responsive to this request: <ul style="list-style-type: none"> • Certificate issued by the Notary of Mines of Oruro, Mrs. Carmen Rosa Franciso Moro, February 24, 1997. 	Thus, Claimants have failed to produce responsive Documents under this request. <i>First</i> , Claimants argue that this request “ <i>is excessively broad and lacks the specificity required by the IBA Rules.</i> ” As explained in Bolivia’s letter of 13 July 2020, Claimants’ suggestion that Bolivia’s request would be overbroad is, to say the least, surprising. Claimants themselves have requested that Bolivia exhibit (i) 22 years’ worth of mining operations and production data from the Bolívar mine, (ii) over 140 years’ worth of documents discussing,	

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					<p>however briefly, the notion of “<i>pertenencia</i>” under the 1880 Mining Code, and even (iii) all the literature in the fields of geology and mining in Bolivia and in the world, with no limitation, addressing the notion of “<i>venero</i>” (see Claimants’ Request for Production of Documents dated 27 May 2020, Requests 11, 14)</p> <p>Bolivia’s request can hardly be described as insufficiently specific or precise in comparison. In any event, as drafted, this request provides “<i>a description in sufficient detail (including subject matter) of a narrow and specific requested category</i>”</p>	

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					<p><i>of Documents,” as evidenced by the wording of the request itself.</i></p> <p><i>Second, Claimants indicate that “all the documents produced and submitted by Claimants in this proceeding in connection with the Veneros San Juan concession as well as all applicable Bolivian mining law [...] establish that the Veneros San Juan concession granted its holder underground rights.”</i></p> <p>Though they offer no further comment on this matter nor any context for this statement, Bolivia understands that Claimants are implying this request</p>	

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					would be based on a false or unproven factual premise. Even assuming this were correct (<i>quod non</i>), this is not a valid objection for the purposes of the IBA Rules.	
17.	The Documents listed in the “ <i>Referencias</i> ” section on page 17 of the Aguirre Report, except insofar as they correspond to exhibit C-3.	Statement of Defense and Preliminary Objections, Section 3.2.1; Villalobos Report, Chapter II.	Claimants assert that the Veneros San Juan concession would grant its holder underground rights. This is because such concession was granted over “ <i>veneros</i> ”, a term allegedly covering underground mineralization (Aguirre Report, Section VIII). In support of these assertions, Claimants rely on the Aguirre Report, yet they do not submit the documents listed in such Report as “ <i>Referencias</i> .”	Claimants have no objection to Bolivia’s request and produce the requested documents herewith.	Bolivia takes note of Claimants’ voluntary production.	No decision required. ----- No se precisa decisión.

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			<p>Under paragraph 9.2 of Procedural Order No. 1, “[e]xpert reports shall be accompanied by any documents or information upon which they rely, unless such documents or information have already been submitted with the Parties’ written submissions, in which case the reference to the number of the exhibit will be enough.”</p> <p>Likewise, pursuant to Article 5.2(e) of the IBA Guidelines for the Taking of Evidence, an expert report shall enclose “Documents on which the Party-Appointed Expert relies that have not already been submitted.” The documents listed in the “Referencias”</p>			

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			<p>section on page 17 of the Aguirre Report were not submitted as annexes to such Report, and are not identified with exhibit references.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they were consulted by Claimants' expert, Rodolfo Aguirre, in the preparation of his expert report.</p>			
18.	The Documents listed in Annex 2 (" <i>Bibliografía</i> ") to the Cuentas Report.	Statement of Defense and Preliminary Objections, Section 3.2.1; Villalobos	Claimants assert that the Veneros San Juan concession would grant its holder underground rights. This is because such concession was granted in the form of " <i>pertenencias</i> ", a term	Claimants have no objection to Bolivia's request and produces the requested documents herewith.	Bolivia takes note of Claimants' voluntary production.	<p>No decision required.</p> <p>-----</p> <p>No se precisa decisión.</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
		Report, Chapter II.3	<p>allegedly designating an inverted pyramid extending from its vertex at the center of the earth up to the surface, where its base is a square with sides of 100 meters (Statement of Claim, ¶ 49; Cuentas Report, Section III.a). In support of these assertions, Claimants rely on the Cuentas Report, yet they do not submit the documents listed in Annex 2 to such Report as “<i>Bibliografía.</i>”</p> <p>Under paragraph 9.2 of Procedural Order No. 1, “[e]xpert reports shall be accompanied by any documents or information upon which they rely, unless such documents or information</p>			

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			<p><i>have already been submitted with the Parties’ written submissions, in which case the reference to the number of the exhibit will be enough.”</i></p> <p>Likewise, pursuant to Article 5.2(e) of the IBA Guidelines for the Taking of Evidence, an expert report shall enclose “<i>Documents on which the Party-Appointed Expert relies that have not already been submitted.</i>” The documents listed in Annex 3 (“<i>Bibliografía</i>”) to the Aguirre Report were not submitted as annexes to such Report, and are not identified with exhibit references.</p> <p>The Requested Documents are reasonably believed to be in</p>			

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			the possession, custody or control of Claimants, as they were consulted by Claimants' expert, Teddy Cuentas, in the preparation of his expert report.			
VI. The Easement Proceedings						
19.	Correspondence between (1) Mr. Orlandini and/or CMO and/or CMO Representatives, and (2) Felix Lafuente, between March 2001 (date of appointment of a new Mining Superintendent replacing Mr. Lafuente (R-254)) and May 2007 (date of the	R-253; R-254; C-33; Statement of Defense and Preliminary Objections, ¶ 236.	The Requested Documents are relevant to Bolivia's case insofar as they will confirm that CMO's rights were protected in the Easement Proceedings, and that the Mining Superintendent, Felix Lafuente, conducted such proceedings regularly (Statement of Defense and Preliminary Objections, Section 3.2.3). Mr. Lafuente's professionalism and know-how	CMO does not have and is not aware of any documents exchanged between its representatives or Mr. Orlandini and Mr. Lafuente.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the following reason: Claimants assert they are " <i>not aware of</i> " Documents responsive to the request. As explained in Bolivia's letter of 13 July 2020, even assuming this were correct (<i>quod non</i>), this is not a valid	The Tribunal takes note of Claimants' statement that "CMO does not have ... any documents exchanged between its representatives or Mr. Orlandini and Mr. Lafuente." -----

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	<p>decision closing the Easement Proceedings (C-33)), discussing both or either of:</p> <p>(i) The scope of the rights granted to the holder of the Veneros San Juan concession under the 1906 Veneros San Juan Title; and</p> <p>(ii) The Easement Proceedings.</p>		<p>were the reason why, starting in March 2001 (after a new Mining Superintendent had been appointed to replace him), he was retained to represent CMO in the Easement Proceedings over which he had presided until then (Statement of Defense and Preliminary Objections, ¶ 236; R-253; R-254).</p> <p>Given that they will show that Mr. Lafuente conducted the Easement Proceedings regularly (a fact of which CMO was fully aware), the Requested Documents are material to the Tribunal’s decision on the merits of the</p>		<p>objection for the purposes of the IBA Rules. The test is whether the requested Documents are in the Claimants’ custody, possession and/or control after conduction a reasonable and diligent search for them, not whether Claimants are “aware” of such Documents existing prior to conducting such search. Notably, Claimants have not asserted that no responsive Documents exist. Claimants must therefore conduct a reasonable search for the requested Documents, and either exhibit the responsive Documents located or, if appropriate, confirm that no</p>	<p>El Tribunal toma nota de la declaración de las Demandantes de que “CMO no tiene ... ningún documento intercambiado entre sus representantes o el Sr. Orlandini y el Sr. Lafuente” (traducción del Tribunal).</p>

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			claims brought by Claimants in relation to such Proceedings. The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as parties to such Correspondence.		responsive Documents exist in their possession, custody and control.	
VII. Negotiations between CMO and Sinchi Wayra						
20.	Correspondence between (1) Mr. Orlandini and/or CMO and/or CMO Representatives and/or Gonzalo Blanco Román, and (2) Sinchi Wayra's Representatives, prior to 11 September 2006 (the date of Sinchi	Blanco Statement, ¶ 14; Statement of Defense and Preliminary Objections, Sections 3.2.4 and 6.2.	The Requested Documents are relevant to Bolivia's case, insofar as they will show that CMO knowingly misrepresented its rights over Veneros San Juan to Sinchi Wayra's Representatives. CMO never held any rights over the underground area beneath Veneros San Juan, as the 1906 Veneros San Juan	Claimants object to this request on the following grounds. <i>First</i> , this request is excessively broad as Bolivia does not establish a temporal limit as required by the IBA Rules. <i>Second</i> , if the requested documents exist, they are or	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the following four reasons: <i>In limine</i> , Bolivia takes note of Claimants' voluntary disclosure of "further correspondence exchanged with executives of Sinchi Wayra." Bolivia	Granted. ----- Concedida.

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	<p>Wayra’s US\$ 100,000 payment to Mr. Blanco (Blanco Statement, ¶ 14):</p> <p>(i) Discussing the rights over the underground area beneath the Veneros San Juan concession;</p> <p>(ii) Setting out the claims by Mr. Orlandini and/or CMO and/or CMO Representatives for payment by Sinchi Wayra for its mining activities involving Veneros San Juan; and/or</p>		<p>Title only granted its holder rights over the superficial tin deposits accumulated in the Antequera riverbed (Statement of Defense and Preliminary Objections, Section 3.2.1; Villalobos Report, Chapters I and II.4). Instead, COMIBOL held the right to explore and exploit such underground area, as the holder of the Seguridad I concession. CMO took advantage of the change in ownership of Sinchi Wayra in 2004-2005, and knowingly misrepresented to Sinchi Wayra’s Representatives the extent of the rights granted by the 1906 Veneros San Juan Title. CMO managed to extort an allegedly compensatory</p>	<p>should be within Respondents’ custody or control as they involve, and could be obtained from, Sinchi Wayra.</p> <p><i>Third</i>, this request t is based on the false factual premise that CMO’s might have misrepresented to Sinchi Wayra the extent of its mining rights to the Veneros San Juan concession in order to extort a compensatory payment from Sinchi Wayra. This is all part of Bolivia’s unjustified attempt to raise a baseless argument of “unclean hands”. CMO has been consistent and has claimed its underground</p>	<p>understands that such “<i>further</i>” correspondence does not comprise <u>all</u> Documents responsive to this request. Accordingly, <u>Bolivia reiterates its request for the production of all Documents responsive to this request.</u></p> <p><i>First</i>, Claimants argue that “<i>this request is excessively broad as it does not establish a temporal limit.</i>” This, despite the fact that (i) the change in Sinchi Wayra’s ownership took place between 2004 and 2005 (as noted in Bolivia’s Comments), and (ii) the request explicitly seeks Documents prior to 2006.</p>	

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	(iii) Setting out the legal and technical support for such claims for payment.		<p>payment of US\$ 100,000 from Sinchi Wayra (for minerals purportedly taken by the latter from the underground area beneath Veneros San Juan), and, in December 2006, even filed a criminal complaint against the company’s executives as a means of pressuring them, to extort additional amounts. The complaint was duly investigated and dismissed for lack of evidence (Statement of Defense and Preliminary Objections, Section 3.2.4.2).</p> <p>The Requested Documents are material to the Tribunal’s decision on (i) the admissibility of Claimants’ claims, which were brought</p>	<p>mining rights to the Veneros San Juan concession at all times, including when COMIBOL first requested an easement in 1999 and thereafter when COMIBOL and COMSUR (then Sinchi Wayra) started to illegally mine its concessions, as the evidence in the record shows (C-39, C-40, C-42, C-43, C-44).</p> <p><i>Finally</i>, as Mr. Blanco states in his witness statement, certain of the communications requested by Bolivia were verbal communications that took place during the meeting</p>	<p>Contrary to Claimants’ argument, this request provides “<i>a description in sufficient detail (including subject matter) of a narrow and specific requested category of Documents.</i>”</p> <p>In any event, as explained in Bolivia’s letter of 13 July 2020, Claimants’ suggestion that Bolivia’s request would be overbroad is, to say the least, surprising. Claimants themselves have requested that Bolivia exhibit (i) 22 years’ worth of mining operations and production data from the Bolívar mine, (ii) over 140 years’ worth of documents discussing, however briefly, the notion</p>	

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			<p>with unclean hands, and (ii) the merits of such claims, insofar as they will show that the criminal complaint filed by CMO was duly investigated and dismissed.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as CMO negotiated with Sinchi Wayra's Representatives.</p>	<p>described in CWS-2, ¶¶ 12-14.</p> <p>Notwithstanding and without waiving any of the above objections, Claimants hereby voluntarily produce further correspondence exchanged with executives of Sinchi Wayra.</p>	<p>of "<i>pertenencia</i>" under the 1880 Mining Code, and even (iii) all the literature in the fields of geology and mining in Bolivia and in the world, with no limitation, addressing the notion of "<i>venero</i>" (see Claimants' Request for Production of Documents dated 27 May 2020, Requests 11, 14). Bolivia's request can hardly be described as insufficiently specific or precise in comparison.</p> <p><i>Second</i>, Claimants assert that the request would be "<i>based on [a] false factual premise.</i>" Even assuming this were correct (<i>quod non</i>), this is not a valid objection for the</p>	

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					<p>purposes of the IBA Rules. To the extent Claimants intend this as an objection to the relevance and/or materiality of the requested Documents, as explained in Bolivia’s letter of 13 July 2020, this objection misstates and conflates two separate matters: the relevance of the requested Documents <u>to the case of the requesting Party</u> and their materiality to a decision of the Tribunal in the arbitration.</p> <p><u>One</u>, Claimants’ relevance objection is based on the premise that the requested Documents would be irrelevant <u>to Claimants’</u></p>	

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					<p><u>claims</u>. This is not the test. The requested Documents must be relevant to an argument raised by Bolivia in support of its jurisdictional and/or merits defenses. As explained in Bolivia's Comments, this is the case of the requested Documents: they are material to Bolivia's argument that Claimants knowingly misrepresented the extent of their rights under the 1906 Veneros San Juan Title to Sinchi Wayra's new management in 2004-2005, with the purpose of extorting an undue payment (see Statement of Defense and Preliminary Objections,</p>	

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					<p>Section 3.2.4). The request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p><u>Two</u>, Claimants’ materiality objection is similarly based on the premise that the requested Documents would be immaterial to the Tribunal’s decision on their claims or, worse, that they would be immaterial to the Tribunal’s decision on Bolivia’s jurisdictional objections and defenses, as if the Tribunal had already pre-judged them. This is not the test either. The requested Documents must be material to a decision by the Tribunal in this arbitration, whether</p>	

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					<p>on a claim submitted by Claimants or on an argument or defense raised by Bolivia. As explained in Bolivia’s Comments, this is the case of the requested Documents: they are material to the Tribunal’s decision on Bolivia’s “<i>clean hands</i>” jurisdictional objection (see Statement of Defense and Preliminary Objections, Section 6.2).</p> <p><i>Third</i>, Claimants assert that the requested Documents “<i>are or should be within Respondent’s possession, custody or control as they involve, and could be</i></p>	

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					<p><i>obtained from Sinchi Wayra.”</i></p> <p><u>One</u>, Sinchi Wayra is a private company, not affiliated with the State and not a party to this arbitration. There is no basis for the assumption that Documents which Sinchi Wayra may have (if any) would be in the possession, custody or control of Bolivia. Indeed, Claimants do not even provide any justification for the assumption they make. It is, in addition, nonsensical to assume that it would be less burdensome for Bolivia to secure the Documents from a third party than for Claimants to disclose</p>	

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					<p>Documents which are in their possession, custody or control because they addressed them to Sinchi Wayra directly.</p> <p><u>Two</u>, this objection is a prime illustration of the double standards that Claimants seek to have applied in the disclosure phase. On the one hand, Claimants assert that it would be unreasonably burdensome for them to search for and exhibit documents that Bolivia could access through other means. On the other hand, Claimants request that Bolivia disclose to them the full case file of at least six sets of legal</p>	

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					<p>proceedings to which CMO was a party (including proceedings commenced on the basis of a complaint or petition by CMO) (see Claimants' Request for Production of Documents dated 8 June 2020, Request 4). On Claimants' case, Claimants' own request would not be unreasonably burdensome to Bolivia, but Bolivia's request to Claimants should be dismissed as unreasonably burdensome. Such double standards are inadmissible. In any event, Claimants should have the responsive Documents readily available, as they constitute</p>	

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					correspondence sent or received by CMO and/or its Representatives and/or Claimants’ witness, Gonzalo Blanco. Indeed, Claimants themselves confirm this to be the case: Claimants’ indication that “ <i>certain of the communications requested by Bolivia were verbal communications</i> ” implies that other Correspondence was exchanged in writing.	
21.	In relation to the meetings which took place between, at least, (1) CMO and/or CMO Representatives, and/or (2) Gonzalo Blanco Román, and	Blanco Statement, ¶¶ 11-13; Statement of Defense and Preliminary Objections,	Bolivia refers to the comments made in connection with Request 20 above.	Claimants refer to and incorporate by reference as if fully set forth herein the objections made in connection with Request 20 above.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 20 above.	Granted. ----- Concedida.

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	<p>(3) Sinchi Wayra’s Representatives, (A) “<i>hacia mediados del 2006</i>,” as described in paragraph 11 of the Blanco Statement, and (B) in “<i>agosto de 2006</i>,” as described in paragraph 12 of the Blanco Statement:</p> <p>(i) Documents convening such meetings;</p> <p>(ii) Documents prepared and/or reviewed by and/or for CMO and/or CMO Representatives, and/or Mr. Blanco to prepare such meetings;</p>	Sections 3.2.4 and 6.2.		<p>Additionally, Claimants object to this request because (1) it is based on a false factual premise and (2) most of the documents requested, if they exist, are or should be within Respondents’ custody or control and/or have already been produced.</p> <p><i>First</i>, Respondent portrays CMO as an extortionist without any factual basis or evidentiary support to do so, and speculates that Claimants “bring claims with unclean hands,” notwithstanding that Respondent has no basis to suggest that the good-faith payment, voluntarily and</p>	<p>Bolivia takes note of Claimants’ reference to the Documents voluntarily disclosed in response to request 20 above (<i>i.e.</i>, “<i>further correspondence exchanged with executives of Sinchi Wayra</i>”). Bolivia understands that such “<i>further</i>” correspondence does not comprise <u>all</u> Documents responsive to this request (or to request 20 above). Accordingly, <u>Bolivia reiterates its request for the production of all Documents responsive to this request.</u></p>	

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	<p>(iii) Documents reflecting the content of such meetings; and/or</p> <p>(iv) Documents prepared by and/or for CMO and/or CMO Representatives, and/or Mr. Blanco as a result of such meetings.</p>			<p>openly made by Sinchi Wayra executives for minerals extracted from CMO's mines, was an undue payment and thus evidence of unclean hands. Respondent may not manufacture relevance arguments by making unsupported allegations that are based solely on rank speculation and are devoid of any evidentiary support.</p> <p><i>Second</i>, the documents identified in this request (in particular, in Requests 21(i) and 21(iii)), are or should be in Respondent's possession, custody or control because Sinchi Wayra is COMIBOL's</p>		

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				<p>partner in the Bolívar mine project. Accordingly, any documents or written communications Mr. Blanco or CMO had with Sinchi Wayra should be in the latter's possession and, therefore, are accessible to Respondent directly (Statement of Defense and Preliminary Objections, ¶¶ 11, 128).</p> <p>Notwithstanding and without prejudice to the above, Claimants refer to documents produced in response to Request 20 above, which are also responsive to this request.</p>		

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22.	<p>In relation to the US\$ 100,000 payment made by Sinchi Wayra to the personal account of Gonzalo Blanco Román in September 2006 (as described in paragraph 14 of the Blanco Statement):</p> <p>(i) Documents through which “<i>Miguel [Orlandini] les pidió [i.e., Sinchi Wayra’s Representatives] como señal de buena fe, de que iban a proponer una suma razonable por los minerales extraídos de la</i></p>	<p>Blanco Statement, ¶ 14; Statement of Defense and Preliminary Objections, Section 3.2.4.</p>	<p>Claimants contend that CMO’s purported underground rights over the Veneros San Juan concession would have been infringed by Sinchi Wayra’s mining operations in that area (Statement of Claim, ¶¶ 104-105). After negotiations with Sinchi Wayra’s Representatives, Mr. Blanco indicates that “<i>Miguel [Orlandini] les pidió como señal de buena fe, de que iban a proponer una suma razonable por los minerales extraídos de la profundidad de Veneros San Juan, que nos adelantaran USD 100,000 (CIEN MIL DÓLARES</i></p>	<p>Claimants object to this document request because (1) it is based on a false factual premise; (2) it is not relevant or material to the outcome of the case; and (3) most of the requested documents, if they exist, are or should be within Respondent’s possession, custody or control.</p> <p><i>First</i>, Respondent’s only specific stated justification for the relevance of the requested documents is that “[t]he US\$ 100,000 payment received by Mr. Blanco could have been used to extinguish [] debts”</p>	<p><u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u>, for the following three reasons:</p> <p><i>In limine</i>, Bolivia takes note of Claimants’ voluntary production of “<i>the power of attorney CMO granted to Mr. Blanco.</i>” Bolivia understands that such “<i>power of attorney</i>” does not comprise <u>all Documents responsive to this request</u>. Accordingly, <u>Bolivia reiterates its request for the production of all Documents responsive to this request</u>.</p>	<p>Denied with respect to subcategory (ii) for lack of specificity. The rest of the request is granted.</p> <p>-----</p> <p>Denegada con respecto a la subcategoría (ii) por falta de especificidad. Se concede el resto de la solicitud.</p>

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	<p><i>profundidad de Veneros San Juan, que nos adelantaran USD 100,000 (CIEN MIL DÓLARES AMERICANOS 00/100), requerimiento aceptado por los ejecutivos de Sinchi Wayra</i>” (Blanco Statement, ¶ 14);</p> <p>(ii) Documents reflecting the legal and/or technical justification for such payment request;</p> <p>(iii) Documents reflecting the acceptance by Sinchi Wayra’s</p>		<p><i>AMERICANOS 00/100), requerimiento aceptado por los ejecutivos de Sinchi Wayra y que fue efectivamente pagado a mi cuenta personal en fecha 11 de septiembre del 2006</i>” (Blanco Statement, ¶ 14). Neither Mr. Blanco nor Claimants indicate that such funds would have been transferred subsequently to CMO’s accounts. It bears recalling that, at the time, CMO was involved in various judicial proceedings commenced by unpaid creditors, including its own Workers. The US\$ 100,000 payment received by Mr. Blanco could have been used to extinguish such debts or, at</p>	<p>arising from “judicial proceedings commenced by unpaid creditors, including its own Workers.” Respondent speculates that Claimants “bring claims with unclean hands” and/or that they “contributed to the occurrence of the harm they allegedly suffered.” However, Respondent has submitted no evidence to suggest that a good-faith payment, voluntarily and openly made by Sinchi Wayra executives for minerals extracted from CMO’s mines, was an “undue payment” and proves unclean hands. Respondent has also failed</p>	<p><i>First</i>, Claimants assert that the request would be “<i>based on [a] false factual premise.</i>” Even assuming this were correct (<i>quod non</i>), this is not a valid objection for the purposes of the IBA Rules. To the extent Claimants intend this as an objection to the relevance and/or materiality of the requested Documents, as explained in Bolivia’s letter of 13 July 2020, this objection misstates and conflates two separate matters: the relevance of the requested Documents <u>to the case of the requesting Party</u> and their materiality to a decision of</p>	

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	<p>Representatives, described in paragraph 14 of the Blanco Statement;</p> <p>(iv) Documents reflecting the basis on which the US\$ 100,000 amount was calculated;</p> <p>(v) Documents signed by Mr. Orlandini and/or CMO and/or CMO Representatives and/or Mr. Blanco with Sinchi Wayra's Representatives for the US\$ 100,000 payment;</p> <p>(vi) Documents reflecting the reason why the US\$ 100,000</p>		<p>least, part of such debts, and to put an end to some of the enforcement proceedings pending against CMO, including the Martínez Case prior to the judicial auction of the Grupo Minero Totoral Concessions.</p> <p>The Requested Documents are relevant to Bolivia's case, insofar as they will show that, having secured an undue payment (as compensation for rights they never held), Claimants funneled such funds through the personal account of Mr. Blanco, instead of transferring it to the accounts of CMO, where they could</p>	<p>to articulate why the payment or its receipt has contributed to or caused the illegal actions taken by Bolivia that resulted in the expropriation of CMO's concessions. As such, this request is based on mere speculation and unfounded. Again, Respondent may not manufacture relevance arguments by making unsupported allegations that are based solely on rank speculation and are devoid of any evidentiary support.</p> <p><i>Second</i>, Respondent makes a significant logical leap when it suggests that the documents sought through this request could indicate</p>	<p>the Tribunal in the arbitration.</p> <p><u>One</u>, Claimants' relevance objection is based on the premise that the requested Documents would be irrelevant to <u>Claimants' claims</u>. This is not the test. The requested Documents must be relevant to an argument raised by Bolivia in support of its jurisdictional and/or merits defenses. As explained in Bolivia's Comments, this is the case of the requested Documents: they are material to Bolivia's argument that Claimants secured an undue payment (as compensation for rights they never held),</p>	

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	<p>payment was made to Mr. Blanco’s personal account;</p> <p>(vii) Documents reflecting the reason why the US\$ 100,000 payment was not made to CMO’s account;</p> <p>(viii) Documents reflecting any agreement between (1) Mr. Orlandini and/or CMO and/or CMO Representatives and/or Mr. Blanco, and (2) Sinchi Wayra’s Representatives as to how the US\$ 100,000 would be used by Mr. Blanco; and</p>		<p>have been used to pay the Workers.</p> <p>The Requested Documents are material to the Tribunal’s decision on the admissibility and on the merits of Claimants’ claim, insofar as they will show that Claimants (i) bring their claims with unclean hands, and (ii) contributed to the occurrence of the harm they allegedly suffered (by not using the amounts received from Sinchi Wayra to pay CMO’s debts, including the debt with the Workers, which would eventually lead to the judicial auction of CMO’s Grupo Minero Totoral Concessions in</p>	<p>the use of the payment. While Respondent alleges that Claimants brought harm upon themselves, Respondent hasn’t established any causal connection between its allegation regarding “unclean hands” and the fact that the payment received from Sinchi Wayra was not used to pay the plaintiffs in the <i>Martinez</i> case. Specifically, Respondent fails to articulate why the US\$100,000 payment should have been used to pay the <i>Martinez</i> plaintiffs, rather than for other purposes, like paying CMO</p>	<p>and funneled such funds through the personal account of Mr. Blanco, instead of transferring the funds to the accounts of CMO, where they could have been used to pay the Workers (see Statement of Defense and Preliminary Objections, Section 3.2.4). The request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p>Claimants attempt to divert attention from this fact by mischaracterizing the Bolivia’s explanation as to the relevance of the requested Documents and by misleadingly arguing that “Respondent fails to</p>	

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	(ix) Documents showing where the US\$ 100,000 were transferred to from Mr. Blanco's personal account.		<p>the framework of the Martínez Case).</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as the US\$ 100,000 was paid into the account of Claimants' witness, Mr. Blanco.</p>	<p>expenses, or how Claimants could have foreseen an unprecedented judicial auction that led to the illegal expropriation of Claimants' 48 mining concessions. Again, Respondent's assertions about "unclean hands" are unfounded and have no bearing on any of the illegalities and irregularities that occurred in the enforcement proceeding of the <i>Martinez</i> case, rendering this request irrelevant and immaterial to the outcome of the case.</p> <p><i>Third</i>, Claimants object to this request on the grounds that the documents are or</p>	<p><i>articulate why the US\$ 100,000 payment should have been used to pay the Matrinez plaintiffs, rather than for other purposes, like paying CMO expenses.</i>"</p> <p>This argument misses the point. There is <u>no</u> evidence on the record that the US\$ 100,000 was <u>ever</u> transferred to CMO by Mr. Blanco. The requested Documents would assist with this verification.</p> <p><u>Two</u>, Claimants' materiality objection is similarly based on the premise that the requested Documents would be immaterial to the Tribunal's decision on their claims or, worse, that they would be immaterial to the</p>	

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				<p>should be in Respondent’s possession, custody or control because Sinchi Wayra is COMIBOL’s partner in the Bolívar mining project. Accordingly, any documents or written communications Mr. Blanco or CMO may have had with Sinchi Wayra should be in the latter’s possession, custody or control, and therefore are directly available to Respondent (Statement of Defense and Preliminary Objections, ¶¶11, 128). In any event, as stated by Mr. Blanco in his witness statement, the request for</p>	<p>Tribunal’s decision on Bolivia’s jurisdictional objections and defenses, as if the Tribunal had already pre-judged them. This is not the test either. The requested documents must be material to a decision by the Tribunal in this arbitration, whether on a claim submitted by Claimants or on an argument or defense raised by Bolivia. As explained in Bolivia’s Comments, this is the case of the requested Documents: they are material to the Tribunal’s decision on Bolivia’s “<i>clean hands</i>” jurisdictional objection (see Statement of Defense and</p>	

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				<p>the payment and Sinchi Wayra’s acceptance to make such payment happened during the in-person meeting described in CWS-2, ¶¶ 12-14. Mr, Blanco acted and received the payment in his capacity as legal representative of CMO.</p> <p>Notwithstanding and without prejudice to the above, Claimants hereby voluntarily produce the power of attorney CMO granted to Mr. Blanco.</p>	<p>Preliminary Objections, Section 6.2).</p> <p><i>Second</i>, Claimants assert that the requested Documents “<i>are or should be within Respondent’s possession, custody or control because Sinchi Wayra is COMIBOL’s partner in the Bolívar project. Accordingly, any documents or written communications [...] should be in [Sinchi Wayra’s] possession, custody or control, and therefore are directly available to Respondent.</i>” This proposition should be disregarded.</p>	

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					<p><u>One</u>, this proposition is a <i>non sequitur</i>. Sinchi Wayra is a private company, not affiliated with the State and not a party to this arbitration. There is no basis for the assumption that Documents which Sinchi Wayra may have (if any) would be in the possession, custody or control of Bolivia. It is, in addition, nonsensical to assume that it would be less burdensome for Bolivia to secure the requested Documents from a third party than for Claimants to disclose Documents which are in their possession, custody or control. In any event, Claimants should have</p>	

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					<p>the responsive Documents readily available as they relate to (i) the justification submitted by Claimants and their witness, Mr. Blanco, to Sinchi Wayra, in support of their claim, (ii) the receipt of the amount of US\$ 100,000 by Mr. Blanco in his personal account, and (iii) Mr. Blanco’s use of such amount.</p> <p><u>Two</u>, this objection is a prime illustration of the double standards that Claimants seek to have applied in the disclosure phase. On the one hand, Claimants assert that it would be unreasonably burdensome for them to</p>	

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					<p>search for and exhibit documents that Bolivia could access through other means. On the other hand, Claimants request that Bolivia disclose to them the full case file of at least six sets of legal proceedings to which CMO was a party (including proceedings commenced on the basis of a complaint or petition by CMO) (see Claimants' Request for Production of Documents dated 8 June 2020, Request 4). On Claimants' case, Claimants' own request would not be unreasonably burdensome to Bolivia, but Bolivia's request to Claimants should be</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
					dismissed as unreasonably burdensome. Such double standards are inadmissible.	
23.	Documents reflecting the conversations and messages exchanged through “ <i>terceras personas</i> ,” as described in paragraph 15 of the Blanco Statement, between (1) Mr. Orlandini and/or CMO and/or CMO Representatives and/or Gonzalo Blanco Román, and (2) Sinchi Wayra’s Representatives, after 11 September 2006.	Blanco Statement, ¶ 15; Statement of Defense and Preliminary Objections, Section 3.2.4.	Bolivia refers to the comments made in connection with Request 20 above.	Claimants refer to and incorporate by reference as if fully set forth herein the objections made in connection with Request 20 above.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 20 above.	Granted. ----- Concedida.

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
VIII. The Martínez Case						
24.	(A) Correspondence between (1) Mr. Orlandini and/or CMO Representatives, and (2) any one or more of the Workers (other than exhibits R-270 to R-273 , R-280), between September 1986 (when CMO recognized its debt to the Workers) and September 1990 (when the Judgment became <i>res judicata</i>), discussing all or either of:	R-270; R-273; R-280; Statement of Defense and Preliminary Objections, Sections 3.3 and 7.10.	The Requested Documents are relevant to Bolivia’s case, insofar as they will show that Claimants’ own negligence contributed to the occurrence of any purported harm that CMO incurred in the Martínez Case (<i>quod non</i>). Far from a judicial expropriation, the Martínez Case was merely the consequence of CMO’s failure to honor the debt it owed to the Workers – a debt which CMO recognized and repeatedly undertook to pay (Statement of Defense and Preliminary Objections, Section 3.3). The Requested Documents are thus material to the Tribunal’s	Claimants object to this document request because it seeks documents that are not relevant or material to the outcome of the case (IBA Rules, Article 9.2(a)). Respondent’s only specific stated justification for the relevance of the requested documents is that “Claimants’ own negligence contributed to the occurrence of any purported harm that CMO incurred in the Martínez Case” because “the Martínez Case was merely the consequence of CMO’s failure to honor the debt it owed to the	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the following reason: Claimants argue that the requested Documents would be “ <i>not relevant or material to the outcome of the case.</i> ” As explained in Bolivia’s letter of 13 July 2020, this objection misstates and conflates two separate matters: the relevance of the requested Documents <u>to the case of the requesting Party</u> and their materiality to a	Denied for lack of sufficient showing of materiality. ----- Denegada por no evidenciar suficientemente su carácter sustancial.

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	<p>(i) The existence of such debt;</p> <p>(ii) The amount of such debt;</p> <p>(iii) The payment of such debt; and/or</p> <p>(iv) The upcoming claim by the Workers against CMO in connection with such debt.</p>		<p>decision on the merits of Claimants' claims.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they are Correspondence that Claimants exchanged with the Workers.</p>	<p>Workers". Contrary to Respondent's justification, the facts leading to the initiation of the <i>Martinez Case</i>—and whether or not it was "the consequence of CMO's failure to honor the debt it owed to the Workers"—are not at issue in these proceedings and are not relevant or material to Claimants' allegations. Claimants are not contesting that in 1989, the Workers in the <i>Martínez</i> case obtained a judgment against CMO for payment of Bs. 124,623 (then equivalent to USD 47,000). Claimants are disputing a series of events and</p>	<p>decision of the Tribunal in the arbitration.</p> <p><u>One</u>, Claimants' relevance objection is based on the premise that the requested Documents would be irrelevant to <u>Claimants' claims</u>. This is not the test. The requested Documents must be relevant to an argument raised by Bolivia in support of its jurisdictional and/or merits defenses. As explained in Bolivia's Comments, this is the case of the requested Documents: they are relevant to Bolivia's argument that the <i>Martínez Case</i> was the natural consequence of CMO's failure to honor the</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
				<p>illegalities that took place in the enforcement proceedings of the <i>Martínez</i> case, specifically after 2005, and not the facts that led to the filing of the <i>Martínez</i> case. Moreover, whether or not the <i>Martínez</i> case arose as a result of CMO's actions or inactions is irrelevant to—and does not justify or excuse—Bolivia's illegal actions and omissions in the <i>Martínez</i> case, which resulted in the judicial expropriation of CMO's Totoral and Veneros San Juan and Pretoria Concessions, among other violations of</p>	<p>debt it owed to the Workers, a debt which it recognized and repeatedly undertook to pay (see Statement of Defense and Preliminary Objections, Section 3.3). The request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p><u>Two</u>, Claimants' materiality objection is similarly based on the premise that the requested Documents would be immaterial to the Tribunal's decision on their claims. This is not the test either. The requested Documents must be material to a decision by the Tribunal in this arbitration, whether on a claim submitted by</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
				Bolivia's obligations under the Treaty.	Claimants or on an argument or defense raised by Bolivia. As explained in Bolivia's Comments, this is the case of the requested Documents (see Statement of Defense and Preliminary Objections, Section 7.10).	
25.	Correspondence between (1) Mr. Orlandini and/or CMO Representatives, and (2) any one or more of the Workers between September 1990 (when the Judgment became <i>res judicata</i>) and October 2007 (when the Workers were paid under the Judgment)	R-371; R-372; R-373; R-374; Statement of Defense and Preliminary Objections, Sections 3.3 and 7.10.	Bolivia refers to the comments made in connection with Request 24 above.	Claimants refer to and incorporate by reference as if fully set forth herein the objections made in connection with Request 24 above.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 24 above.	Granted. ----- Concedida.

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality, incl. references to submission (requesting Party)		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	discussing any settlement of CMO's debt to the Workers.					
26.	<p>(i) Documents prepared by and/or for CMO and/or CMO Representatives reflecting the contemporaneous analysis of the remedies available to CMO against the 24 July 1990 Court of Appeal Ruling (R-289); and</p> <p>(ii) Documents prepared by and/or for CMO and/or CMO Representatives reflecting the</p>	R-290; R-291; R-278; Statement of Defense and Preliminary Objections, Section 3.3.2.	The Requested Documents are relevant to Bolivia's case, insofar as they will show that, far from being the victim of a denial of justice, CMO failed to make use of all the remedies available to it under Bolivian law to challenge the decisions it considered violated its rights. In particular, though CMO sought the annulment of the 24 July 1990 Court of Appeal Ruling (R-290), it chose not to post the security required under Bolivian law for the Labor Superior Court to hear the case. Consequently,	<p>Claimants object to this request on the following grounds:</p> <p>As framed, the request seeks materials and documents that would be covered and protected by the attorney-client privilege and other applicable privileges.</p> <p>Additionally, the requested documents are not relevant or material to the outcome of the case (IBA Rules, Article 9.2(a)). Respondent's only specific stated justification for the</p>	<p><u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u>, for the following three reasons:</p> <p><i>In limine</i>, Bolivia takes note of Claimants' assertion that the requested Documents "would be covered and protected by the attorney-client privilege and other applicable privileges."</p> <p>Bolivia notes, however, that Claimants have not disclosed any non-privileged Documents in response to this request. Nor have</p>	<p>Granted. To the extent that documents responsive to this request may be privileged, Claimants are invited to prepare a privilege log as directed in the main text of the Procedural Order.</p> <p>-----</p> <p>Concedida. En la medida en que los documentos</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	contemporaneous analysis of the requirement, under Article 210 of the Labor Procedure Code, that CMO post security for the Labor Superior Court to hear its request for annulment (R-290).		<p>CMO’s request for annulment was dismissed (R-291) (Statement of Defense and Preliminary Objections, Section 3.3.2).</p> <p>Insofar as they show that CMO’s rights were not infringed in the framework of the Martínez Case, and thus that no violations of Bolivia’s Treaty obligations occurred in those proceedings, the Requested Documents are material to the Tribunal’s decision on the merits of Claimants’ claims regarding the Martínez Case.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or</p>	<p>requested documents is that CMO “failed to make use of the remedies available to it under Bolivian law to challenge the decisions it considered violated its rights.” This justification is unfounded and incorrect, since the evidence submitted by Claimants in this proceeding clearly shows the challenges CMO filed during the <i>Martínez</i> case. Moreover, in this arbitration Claimants challenge the egregious illegalities committed by Bolivia in and through the enforcement proceedings of the <i>Martínez</i> case, specifically after 2005, and</p>	<p>Claimants submitted a privilege log, despite Bolivia’s request that they do so, at paragraph 5 above (Claimants have not objected to the submission of such a log). Accordingly, <u>Bolivia reiterates its request for (i) the disclosure of all Documents responsive to this request, as well as (ii) a privilege log identifying all responsive Documents over which Claimants assert privilege (if any).</u></p> <p><i>First</i>, Claimants argue that the requested Documents would be “<i>not relevant and material to the outcome of the case.</i>” As explained in Bolivia’s letter of 13 July</p>	<p>pertinentes para esta solicitud estén sujetos a privilegio, se invita a las Demandantes a preparar un registro de documentos sujetos a privilegio según lo indicado en el texto principal de la Orden Procesal.</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			control of Claimants, as they pertain to CMO’s analysis of remedies which it failed to pursue in the Martínez Case.	<p>not previous decisions in that proceeding.</p> <p>In any event, the issues raised by Bolivia will be determined based on records of the <i>Martínez</i> case and the evidence submitted by the Parties in this proceeding, including the expert opinions on Bolivian law that both Parties have submitted, and not on “contemporaneous analysis” prepared by Claimants or their attorneys regarding the 24 July 1990 Court of Appeal Ruling and the remedies available against it. Contrary to Respondent’s suggestion, any “contemporaneous</p>	<p>2020, this objection misstates and conflates two separate matters: the relevance of the requested Documents <u>to the case of the requesting Party</u> and their materiality to a decision of the Tribunal in the arbitration.</p> <p><u>One</u>, Claimants’ relevance objection is based on the premise that the requested Documents would be irrelevant <u>to Claimants’ claims</u>. This is not the test. The requested Documents must be relevant to an argument raised by Bolivia in support of its jurisdictional and/or merits defenses. As explained in</p>	

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				<p>analysis”, which in any case will likely be privileged, will not change and will have no relevance on what CMO did or did not do in the <i>Martínez</i> case, rendering this request immaterial to the outcome of the case.</p> <p>Finally, the documents sought are irrelevant and immaterial insofar as Claimants claims are made exclusively under the Treaty, which does not impose an obligation to exhaust local remedies. Whether (or the extent to which) Claimants “failed to make use of the remedies available to it under Bolivian law to challenge</p>	<p>Bolivia’s Comments, this is the case of the requested Documents: they are relevant to Bolivia’s argument that, far from being a victim of a denial of justice, CMO failed to make use of all the remedies available to it under Bolivian law to challenge the decisions it considered violated its rights (see Statement of Defense and Preliminary Objections, Section 3.3.2). The request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules.</p> <p><u>Two</u>, Claimants’ materiality objection is similarly based on the premise that the requested Documents would</p>	

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				the decisions it considered violated its rights,” therefore, has no bearing on Claimants’ claims or Bolivia’s liability under the Treaty.	be immaterial to the Tribunal’s decision on their claims related to the judicial auction in the Martínez Case. This is not the test either. The requested Documents must be material to a decision by the Tribunal in this arbitration, whether on a claim submitted by Claimants or on an argument or defense raised by Bolivia. As explained in Bolivia’s Comments, this is the case of the requested Documents: they are material to the Tribunal’s decision on the matter of Bolivia’s observance of its Treaty and international law obligations (and, implicitly, the merits of	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
					<p>Claimants' claims) (see Statement of Defense and Preliminary Objections, Section 7).</p> <p>Claimants attempt to divert attention from these facts by arguing that "<i>any 'contemporaneous analysis', which in any case will likely be privileged, will not change and will have no relevance on what CMO did or did not do in the Martínez case, rendering this request immaterial to the outcome of the case.</i>" This is incorrect. At the very least, "<i>what CMO did or did not do in the Martínez Case</i>" is relevant to Bolivia's argument that Claimants' negligence</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
					<p>contributed to the occurrence of the harm for which they seek relief in this arbitration (see Statement of Defense and Preliminary Objections, Section 7.10).</p> <p><i>Second</i>, Claimants assert that the request would be based on an “<i>unfounded and incorrect</i>” justification, since “<i>the evidence submitted by Claimants in this proceeding clearly shows the challenges CMO filed during the Martínez case.</i>” Even assuming this were correct (<i>quod non</i>), this is not a valid objection for the purposes of the IBA Rules. To the extent Claimants intend this as an objection to the relevance</p>	

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
					and/or materiality of the requested Documents, Bolivia refers to its response above.	
27.	(i) Documents prepared by and/or for CMO and/or CMO Representatives reflecting the contemporaneous analysis of Ms. Wanderley’s request to be admitted as “ <i>coadyuvante de los trabajadores beneficiarios</i> ” (C-56) in the Martínez Case; and (ii) Documents prepared by and/or for	C-56; C-78 C-181; R-279; R-339; Statement of Defense and Preliminary Objections, Section 3.3.3.2.	The Requested Documents are relevant to Bolivia’s case, insofar as they will show that, far from being the victim of a denial of justice, CMO failed to make use of the remedies available to it under Bolivian law to challenge the decisions it considered violated its rights. In particular, CMO neither commented on nor opposed Ms. Wanderley’s request to be admitted as a <i>coadyuvante</i> in the Martínez Case, even though it had the opportunity to do so under Bolivian law	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Request 26.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 26 above.	Granted. To the extent that documents responsive to this request may be privileged, Claimants are invited to prepare a privilege log as directed in the main text of the Procedural Order. ----- Concedida. En la medida en que los

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	CMO and/or CMO Representatives reflecting the contemporaneous analysis of the remedies at CMO's disposal under Bolivian law to oppose Ms. Wanderley's request.		<p>(pursuant to Article 220 of the Civil Procedure Code, R-279). CMO only challenged Ms. Wanderley's participation in the case on 6 October 2006 – over a year after Ms. Wanderley's admission as "<i>coadyuvante</i>," by which time the deadline for such challenge had long lapsed (C-78; R-339) (Statement of Defense and Preliminary Objections, Section 3.3.3.2).</p> <p>Insofar as they show that CMO's rights were not infringed in the framework of the Martínez Case, and thus that no violations of Bolivia's Treaty obligations occurred in those proceedings, the Requested Documents are</p>			documentos pertinentes para esta solicitud estén sujetos a privilegio, se invita a las Demandantes a preparar un registro de documentos sujetos a privilegio según lo indicado en el texto principal de la Orden Procesal.

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			<p>material to the Tribunal’s decision on the merits of Claimants’ claims regarding the Martínez Case.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to CMO’s analysis of remedies which it failed to pursue in the Martínez Case.</p>			
28.	<p>Documents reflecting the contemporaneous analysis prepared by and/or for CMO and/or CMO Representatives on both or either of:</p> <p>(i) The validity of the liens placed on CMO’s assets by the Third</p>	<p>R-274; C-188; R-279; R-235; Statement of Defense and Preliminary Objections, Section 3.3.3.3.</p>	<p>The Requested Documents are relevant to Bolivia’s case, insofar as they will show that, far from being the victim of a denial of justice, CMO failed to make use of the remedies available to it under Bolivian law to challenge the decisions it considered violated its rights.</p>	<p>Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Requests 26-27.</p> <p>More specifically with respect to this request, the evidence submitted by</p>	<p><u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u>, for the same reasons described in connection with request 26 above. In addition, Bolivia submits the following comment:</p>	<p>Granted. To the extent that documents responsive to this request may be privileged, Claimants are invited to prepare a privilege log as directed in the main</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	<p>Labor Court (1) in December 1988 (R-274) and/or (2) in February 2004 (C-188) in the framework of the Martínez Case; and/or</p> <p>(ii) The remedies at CMO’s disposal under Bolivian law to challenge such liens.</p>		<p>In particular, contrary to Claimants’ assertions, the Third Labor Court did place CMO’s assets under judicial lien prior to putting such assets up for auction. CMO neither commented on such lien nor opposed it, though it had the opportunity to do so in accordance with Article 216 of the Bolivian Code of Civil Procedure and Article 19 of the Bolivian Constitution (Statement of Defense and Preliminary Objections, Section 3.3.3.3).</p> <p>Insofar as they show that CMO’s rights were not infringed in the framework of the Martínez Case, and thus that no violations of Bolivia’s</p>	<p>Claimants in this proceeding clearly shows the challenges CMO filed during the <i>Martínez</i> case, including those challenging the validity of the auction for lack of a valid lien over CMO’s concessions (C-74, C-75, C-76; C-77, C-78, C-79, C-80, C-81; CER-3, Expert Report II of José Antonio Rivera, ¶¶ 163, 167, 168; Statement of Claim, ¶¶ 201-210).</p>	<p>Claimants assert that “<i>the evidence submitted by Claimants in this proceeding clearly shows the challenges CMO filed during the Martínez case.</i>” Claimants appear to suggest that the evidence on the record would render the requested Documents irrelevant and Bolivia’s request unnecessary. This suggestion is misleading, insofar as it is premised on the Tribunal pre-judging Bolivia’s argument that CMO failed to make use of the remedies available to it under Bolivian law to challenge the decisions it considered violated its rights.</p>	<p>text of the Procedural Order.</p> <p>-----</p> <p>Concedida. En la medida en que los documentos pertinentes para esta solicitud estén sujetos a privilegio, se invita a las Demandantes a preparar un registro de documentos sujetos a privilegio según lo indicado en el texto principal de la Orden Procesal.</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			<p>Treaty obligations occurred in those proceedings, the Requested Documents are material to the Tribunal's decision on the merits of Claimants' claims regarding the Martínez Case.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to CMO's analysis of remedies which it failed to pursue in the Martínez Case.</p>			
29.	(i) Documents reflecting the contemporaneous analysis prepared by and/or for CMO and/or CMO Representatives	R-279; C-61; C-76; R-337; Statement of Defense and Preliminary	The Requested Documents are relevant to Bolivia's case, insofar as they will show that, far from being the victim of a denial of justice, CMO failed to make use of the remedies	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Requests 26-28.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in	Granted with respect to subsections (i) and (ii). To the extent that documents responsive to these subsections may be privileged,

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
	<p>of the Daroca Valuation (C-61);</p> <p>(ii) Documents reflecting the contemporaneous analysis prepared by and/or for CMO and/or CMO Representatives on the remedies available to CMO under Bolivian law to challenge the Daroca Valuation; and</p> <p>(ii) Correspondence between Claimants and Mr. Daroca in connection with the present arbitration.</p>	<p>Objections, Section 3.3.3.3.</p>	<p>available to it under Bolivian law to challenge the decisions it considered violated its rights. In particular, when the Daroca Valuation was submitted into the record of the Martínez Case on 20 April 2006 (C-61), CMO neither commented on nor opposed such valuation, even though it had the opportunity to do so pursuant to Article 535 of the Bolivian Code of Civil Procedure. CMO only challenged this valuation four months after its submission, by which time the deadline for such challenge had long lapsed (C-76; R-337) (Statement of Defense and Preliminary Objections, Section 3.3.3.3).</p>	<p>More specifically with respect to this request, the evidence submitted by Claimants in this proceeding clearly shows the challenges CMO filed during the <i>Martínez</i> case, including those challenging the validity of the Daroca Valuation (C-74, C-75, C-76; C-77, C-78, C-79, C-80, C-81; CER-3, Expert Report II of José Antonio Rivera, ¶¶ 109.2.1, 109.3, 109.4.1, 109.4.2; Statement of Claim, ¶¶ 189-200).</p> <p>Additionally, Respondent assertion that there is “no merit” for Claimants’ allegation that the Daroca Valuation was deficient, is</p>	<p>connection with requests 26 to 28 above.</p>	<p>Claimants are invited to prepare a privilege log as directed in the main text of the Procedural Order.</p> <p>Denied with respect to subsection (iii) as overly broad and lacking specificity.</p> <p>For the avoidance of doubt, the Tribunal understands subsection “(ii) Correspondence between Claimants and Mr. Daroca in connection with the present arbitration” to be the third subsection and refers to it as “subsection (iii).”</p>

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			<p>If indeed the Daroca Valuation was deficient, as Claimants presently assert, they could have filed a witness statement by Eng. Daroca to that effect. They did not do so because there is no merit to such claim, as confirmed by the exchanges between Claimants and Eng. Daroca in connection with this arbitration.</p> <p>Insofar as they show that CMO's rights were not infringed in the framework of the Martínez Case, and thus that no violations of Bolivia's Treaty obligations occurred in those proceedings, the Requested Documents are material to the Tribunal's decision on the merits of</p>	<p>unsupported and contradicted by the evidence in records, including the declaration by Mr. Daroca himself (C-60) admitting that his report provided no valuation of CMO's concessions or its dumps and tailings; that he had never conducted the work required for such a valuation; and that Ms. Wanderley submitted the report in the Martínez case without his knowledge or consent (C-60; Statement of Claim, ¶¶ 191,192).</p>		<p>-----</p> <p>Concedida con respecto a las subsecciones (i) y (ii). En la medida en que los documentos pertinentes para estas subsecciones estén sujetos a privilegio, se invita a las Demandantes a preparar un registro de documentos sujetos a privilegio según lo indicado en el texto principal de la Orden Procesal.</p>

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			<p>Claimants' claims regarding the Martínez Case.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to CMO's analysis of remedies which it failed to pursue in the Martínez Case.</p>			<p>Denegada con respecto a la subsección (iii) por ser demasiado amplia y carente de especificidad.</p> <p>A fin de evitar cualquier duda, el Tribunal entiende a la subsección "(ii) <i>Correspondence between Claimants and Mr. Daroca in connection with the present arbitration</i>" como la tercera subsección y se refiere a ella como "subsección (iii)".</p>
30.	Documents reflecting the contemporaneous	R-365; R-366; C-71; R-339;	The Requested Documents are relevant to Bolivia's case,	Claimants refer to and incorporate by reference as	<u>Bolivia moves to compel production of all the</u>	Granted. To the extent that documents

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	<p>analysis prepared by and/or for CMO and/or CMO Representatives of one or more of:</p> <p>(i) The orders issued by the Third Labor Court for the judicial auction of the Grupo Minero Totoral Concession on 18 May 2006 (R-365), 31 August 2006 (C-71), and 21 October (R-366);</p> <p>(ii) The Third Labor Court’s decision of 19 October 2006 (R-339) dismissing CMO’s request for the</p>	<p>C-78; R-375; C-80; Statement of Defense and Preliminary Objections, Section 3.3.3.4.</p>	<p>insofar as they will show that, far from being the victim of a denial of justice, CMO failed to make use of the remedies available to it under Bolivian law to challenge the decisions it considered violated its rights. In particular, whilst CMO criticizes the auction orders of the Third Labor Court (Statement of Claim, Section II.D.2(i)d), it filed for the annulment of the proceedings (C-78), but failed to make use of any remedy against the decision dismissing its request (R-339). Likewise, it requested the suspension of the auction (C-80), but failed to exercise any remedies against the decision dismissing such</p>	<p>if fully set forth herein the objections raised in connection with Requests 26-29.</p>	<p><u>Documents falling within the scope of this request</u>, for the same reasons described in connection with requests 26 and 28 above.</p>	<p>responsive to this request may be privileged, Claimants are invited to prepare a privilege log as directed in the main text of the Procedural Order.</p> <p>-----</p> <p>Concedida. En la medida en que los documentos pertinentes para esta solicitud estén sujetos a privilegio, se invita a las Demandantes a preparar un registro de documentos sujetos a</p>

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	<p>annulment of the proceedings (C-78);</p> <p>(iii) The Third Labor Court’s decision of 28 April 2007 (R-375) rejecting CMO’s request for the suspension of the auction (C-80); and</p> <p>(iv) The remedies available to CMO under Bolivian law against such orders and decisions.</p>		<p>request (R-375) (Statement of Defense and Preliminary Objections, Section 3.3.3.4).</p> <p>Insofar as they show that CMO’s rights were not infringed in the framework of the Martínez Case, and thus that no violations of Bolivia’s Treaty obligations occurred in those proceedings, the Requested Documents are material to the Tribunal’s decision on the merits of Claimants’ claims regarding the Martínez Case.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or control of Claimants, as they pertain to CMO’s analysis of</p>			<p>privilegio según lo indicado en el texto principal de la Orden Procesal.</p>

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		References to Submissions, Exhibits, Witness Statements or Expert Reports	Comments			
			remedies which it failed to pursue in the Martínez Case.			
31.	In relation to the issuance by the Third Labor Court of Public Deed No. 446/2007 of 12 June 2007 (R-379), correcting Public Deed No. 297/2007 of 14 May 2007 (C-199), Documents reflecting the contemporaneous analysis prepared by and/or for CMO and/or CMO Representatives of one or more of: (i) Public Deed No. 297/2007 of 14 May 2007 (C-199);	C-199; R-379; Statement of Defense and Preliminary Objections, Section 3.3.3.4.	The Requested Documents are relevant to Bolivia’s case insofar as they show that, far from being the victim of a denial of justice, CMO failed to make use of the remedies available to it under Bolivian law to challenge the decisions it considered violated its rights. In particular, CMO neither commented on nor opposed the Third Labor Court’s correction of Public Deed No. 297/2007 by way of Public Deed No. 446/2007 at the time of such correction (Statement of Defense and Preliminary Objections, Section 3.3.3.4),	Claimants refer to the objections made in connection with Requests 26-30 above.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with requests 26 to 30 above.	Granted. To the extent that documents responsive to this request may be privileged, Claimants are invited to prepare a privilege log as directed in the main text of the Procedural Order. ----- Concedida. En la medida en que los documentos pertinentes para esta

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	<p>(ii) Public Deed No. 446/2007 of 12 June 2007 (R-379); and</p> <p>(iii) The remedies available to CMO under Bolivian law to challenge Public Deed No. 446/2007 of 12 June 2007 (R-379).</p>		<p>while CMO now argues that such correction would have been illegal (Statement of Claim, Section II.D.2.(i)(d)(2)).</p> <p>Insofar as they show that CMO’s rights were not infringed in the framework of the Martínez Case, and thus that no violations of Bolivia’s Treaty obligations occurred in those proceedings, the Requested Documents are material to the Tribunal’s decision on the merits of Claimants’ claims regarding the Martínez Case.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or</p>			<p>solicitud estén sujetos a privilegio, se invita a las Demandantes a preparar un registro de documentos sujetos a privilegio según lo indicado en el texto principal de la Orden Procesal.</p>

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			control of Claimants, as they pertain to CMO’s analysis of remedies which it failed to pursue in the Martínez Case.			
IX. The proceedings commenced by CMO before SERGEOTECMIN						
32.	Correspondence between (i) CMO and/or CMO Representatives, and (ii) Miguel Medrano Montes, prior to the date on which Mr. Medrano became counsel for CMO following his resignation from SERGEOTECMIN on 9 May 2013 (Medrano	Medrano Statement, ¶ 20; C-238; C-240; C-241; C-90; C-92; C-242; R-402; R-403; Statement of Defense and Preliminary Objections, Section 3.3.5.2.	In February 2012, CMO commenced nullity proceedings against the registration of the transfer of property over the Grupo Minero Totoral Concessions to Empresa Minera San Lucas before SERGEOTECMIN. SERGEOTECMIN lacked powers or authority to annul the judicial decision pursuant to which such registration had been effected, and dismissed CMO’s petition accordingly (Statement of Defense and	Claimants object to this request because it is (1) based on a false and unproven factual premise; and (2) not relevant or material to the outcome of the case (IBA Rules, Article 9.2(a)). Respondent’s only specific stated justification for the relevance of the requested documents is that “Mr. Medrano’s testimony is unreliable” because “Mr.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the following two reasons: <i>First</i> , Claimants assert that the request would be “ <i>based on a false and unproven factual premise.</i> ” Even if this were correct (<i>quod non</i>), this is not a valid objection for the purposes of the IBA Rules. To the extent Claimants intend this as an	Granted. ----- Concedida.

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	<p>Statement, ¶ 20), on one or more of:</p> <p>(i) The merits of CMO’s nullity petition before SERGEOTECMIN dated 9 February 2012 (C-238);</p> <p>(ii) The report sent by the Director of Mines and Services of SERGEOTECMIN’s Mining Registry of 13 February 2012 (C-240);</p> <p>(ii) The report issued by the Legal Department of SERGEOTECMIN on</p>		<p>Preliminary Objections, Section 3.3.5.2). On the basis of the testimony of Miguel Medrano Montes, a former Legal Director of SERGEOTECMIN, Claimants assert that such dismissal would have been irregular and politically motivated (Statement of Claim, Section II.D.2.(ii)(c)(2)(2)).</p> <p>Bolivia explained, in the Statement of Defense and Preliminary Objections, that Mr. Medrano’s testimony is unreliable. Mr. Medrano omitted to disclose that, as soon as he resigned from SERGEOTECMIN, he began acting as CMO’s attorney in</p>	<p>Medrano omitted to disclose that, as soon as he resigned from SERGEOTECMIN, he began acting as CMO’s attorney in the proceedings before that institution.” From this, Respondent concludes that the “Requested Documents are relevant to Bolivia’s case that CMO’s rights were not infringed in the framework of the proceedings before SERGEOTECMIN, and thus that no violations of Bolivia’s Treaty obligations occurred in those proceedings”.</p> <p>First, Respondent has no basis to suggest that Mr.</p>	<p>objection to the relevance and/or materiality of the requested Documents, Bolivia refers to its response below.</p> <p><i>Second</i>, Claimants argue that the requested Documents would be “<i>not relevant and material to the outcome of the case.</i>” As explained in Bolivia’s letter of 13 July 2020, this objection misstates and conflates two separate matters: the relevance of the requested Documents to the case of <u>the requesting Party</u> and their materiality to a decision of the Tribunal in the arbitration.</p>	

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	<p>12 March 2012 (C-241);</p> <p>(iii) The report issued by the Audit Department of SERGEOTECMIN on 22 April 2013 (C-90);</p> <p>(iv) The report issued by Mr. Medrano on 8 May 2013 (C-92); and</p> <p>(v) The report issued by the Summary Department of SERGEOTECMIN on 22 May 2013 (C-242).</p>		<p>the proceedings before that institution (R-402, R-403).</p> <p>The Requested Documents are relevant to Bolivia's case that CMO's rights were not infringed in the framework of the proceedings before SERGEOTECMIN, and thus that no violations of Bolivia's Treaty obligations occurred in those proceedings. The Requested Documents are material to the Tribunal's decision on the merits of Claimants' claims regarding the proceedings before SERGEOTECMIN.</p> <p>The Requested Documents are reasonably believed to be in the possession, custody or</p>	<p>Medrano's testimony is unreliable simply because Mr. Medrano began acting as CMO's attorney after he resigned from SERGEOTECMIN. CMO has not formally hired Mr. Medrano as its attorney in the SERGEOTECMIN proceedings and has not exchanged correspondence with him. In any event, Respondent will be entitled to cross-examine Mr. Medrano, and test his reliability, at the hearing. None of the documents sought through this request, however, have any bearing on the reliability of Mr. Medrano's testimony.</p>	<p><u>One</u>, Claimants' relevance objection is based on the premise that the requested Documents would be irrelevant to Claimants' claims. This is not the test. The requested Documents must be relevant to an argument raised by Bolivia in support of its jurisdictional and/or merits defenses. As explained in Bolivia's Comments, this is the case of the requested Documents: they are relevant to Bolivia's argument that, as CMO itself was fully aware, CMO's petition before SERGEOTECMIN improperly sought the annulment of a judicial</p>	

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			control of Claimants, as they are Correspondence to which CMO or CMO Representatives were party.	Second, Respondent makes a significant logical leap when it argues that the documents comprising this request could indicate that CMO's rights were not infringed in the framework of the proceedings before SERGEOTECMIN. The requested documents do not alter or have an effect over the numerous irregularities present in the nullity proceedings before SERGEOTECMIN. Moreover, Mr. Medrano's testimony is totally consistent with the record of the SERGEOTECMIN proceedings and other documents that show the	decision and was rightfully dismissed for this reason, without CMO's rights being infringed in the process (see Statement of Defense and Preliminary Objections, Section 3.3.5). The request thus satisfies the standard set out in Article 3.3(b) of the IBA Rules. <u>Two</u> , Claimants' materiality objection is similarly based on the premise that the requested Documents would be <u>immaterial to the Tribunal's decision on their claims</u> . This is not the test either. The requested Documents must be material to a decision by the Tribunal in this arbitration, whether	

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				<p>motivation behind the numerous irregularities in the SERGEOTECMIN proceedings.</p>	<p>on a claim submitted by Claimants or on an argument or defense raised by Bolivia. As explained in Bolivia's Comments, this is the case of the requested Documents: they are material to the Tribunal's decision on Bolivia's argument that the dismissal of CMO's petition in the SERGEOTECMIN proceedings was lawful (see Statement of Defense and Preliminary Objections, Sections 3.3.5, 7).</p> <p>Finally, Bolivia takes note of Claimants' statement that "<i>Respondent will be entitled to cross-examine Mr. Medrano.</i>" This presupposes that the requested</p>	

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					Documents be disclosed, so that Mr. Medrano’s examination can take such Documents into account. Moreover, this statement is an admission by Claimants as to the relevance of the requested Documents.	
33.	In connection with CMO’s representation in the proceedings before SERGEOTECMIN (2012-2014): (i) The retainer agreement concluded by CMO and/or CMO Representatives with Miguel Medrano Montes;	R-402; R-403; Statement of Defense and Preliminary Objections, Section 3.3.5.2.	Bolivia refers to the comments made in connection with Request 32 above.	Claimants refer to and incorporate by reference as if fully set forth herein the objections raised in connection with Request 32 above.	<u>Bolivia moves to compel production of all the Documents falling within the scope of this request</u> , for the same reasons described in connection with request 32 above.	Denied for lack of sufficient showing of relevance or materiality. ----- Denegada por falta de suficiente prueba de

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	(ii) The power of attorney granted to Miguel Medrano Montes to represent CMO.					relevancia o materialidad.