

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT
DISPUTES**

ICSID Case No. ARB/23/33

**CYRUS CAPITAL PARTNERS, L.P.
CONTRARIAN CAPITAL MANAGEMENT, LLC**

Claimants

vs.

THE UNITED MEXICAN STATES

Respondent

CLAIMANTS' REQUEST FOR PRODUCTION OF DOCUMENTS

September 12, 2024

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**CLAIMANTS' REDFERN SCHEDULE
FOR THE PRODUCTION OF DOCUMENTS**

I. INTRODUCTION

Pursuant to Section 15 of Procedural Order No. 1, dated April 3, 2024, Claimants request that Respondent provide copies of the documents or categories of documents described below.

Claimants have limited their requests to specific documents or categories of documents that Claimants reasonably believe to exist, and Claimants have narrowly tailored their requests with respect to both subject matter and the time period in which Claimants believe that the documents were generated or obtained. Moreover, as explained further in the attached Redfern Schedule, these documents are relevant and material to the outcome of the case in that they directly relate to the issues raised by the parties in their written submissions and/or accompanying evidentiary materials. Finally, Claimants believe the requested documents are in Respondent's possession, custody, or control (and are not in Claimants' possession, custody, or control).

All documents should be produced together with any attachments, enclosures or annexes. The documents requested should be produced in the manner in which they are maintained. In accordance with Article 15.9 of PO1, please submit responsive documents in electronic file format (PDF) and in searchable form (OCR), whenever possible. If the documents requested are stored electronically, Respondent may produce the electronic versions of such documents, but please maintain the original format of the document without removing or altering the document's "metadata." The documents shall be submitted in their entirety, and, in the case of e-mail correspondence, with any attached files.

To the extent that documents already submitted in this arbitration fall within any of the requests, Claimants do not ask Respondent to produce them. Additionally, to the extent that documents are responsive to multiple requests, Claimants do not ask Respondent to produce the documents more than once.

Where not further specified, the documents should be produced from the relevant government agency of Respondent and shall include any documents prepared by officials, employees, representatives and/or agents of that agency, subdivision, or instrumentality, without regard to whether elected, appointed, or otherwise employed.

II. DEFINITIONS

Unless specified otherwise, any capitalized terms not expressly defined in these Requests shall be intended as defined in the Claimants' Counter-Memorial on Jurisdiction.

“And” and **“or”** mean “and/or.”

“Any” and **“all”** mean “all;”

“Communications” means, without limitation, all formal or informal discussions, conversations, interviews, negotiations, meetings, telephone conversations, correspondence, inter-office or agency memoranda, email, or other forms of oral or written communication transmitted by email, telephone, WhatsApp, iMessage, telegram, or cloud-based messaging application or service.

“Document(s)” means a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means,¹ as well as 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 reports, memoranda, presentations, letters, and electronic correspondence (correspondence (both internal and external; both using corporate/official and personal email accounts) such as letters, faxes, emails, SMS messages, or other messages sent and/or received via any messaging system)), notes, meeting minutes, board resolutions, transcripts, talking points, pitch books, speeches, financial statements, proposals, diagrams, drawings, and charts.

“Including” means “including, but not limited to;”

“Judiciary” means the entirety of the judicial system of the Government of Mexico, including but not limited to: the Tenth Collegiate Court in Civil Matters of the First Circuit (Décimo Tribunal Colegiado en Materia Civil del Primer Circuito); the Third Civil Chamber of the Superior Court of Justice of Mexico City (Tercera Sala Civil del Tribunal Superior de Justicia de la Ciudad de México); the Judicial Discipline Committee of the Judiciary Council of Mexico City (Comisión de Disciplina Judicial del Consejo de la Judicatura de la Ciudad de México); and the Sixty-Third Civil Court of the Superior Court of Justice of Mexico City (Juzgado Sexagésimo Tercero de lo Civil del Tribunal Superior de Justicia de la Ciudad de México);

“Noteholders” means holders of the Notes issued by TV Azteca on August 9, 2017, including but not limited to Claimants in this proceeding and entities who held the Notes at any time since issuance;

“Records” means documentary materials, papers, books, photographs, writings, whether handwritten or electronic or computer-based information or data in any medium.

“The Trustee” means the Bank of New York Mellon.

¹ IBA Rules of Evidence at 7.

III. INSTRUCTIONS

1. All documents responsive to this Request shall be produced in hard copies and native file format in the case of Excel and PowerPoint files.
2. Copies of documents shall conform to the originals.
3. Terms used in the attached schedule should, if not defined above or herein, be understood to have the meanings given to them in Claimant's Counter-Memorial on Jurisdiction (CM), unless the context requires otherwise.
4. Produced documents shall be stamped with unique, consecutive numbers on each page.
5. Documents shall be grouped together for production according to the document request to which they are responsive. Each document production shall be accompanied by a log indicating the beginning and end page number of each such group of documents and the document request to which it is responsive. Where a document is responsive to more than one document request, it should be grouped according to the document request to which it is primarily responsive and please provide a list or index of the documents produced.
6. Claimants would appreciate electronic production of the requested documents, such as through a secure file-transfer server.
7. If any document or categories of documents are confidential under Mexican Law, Claimants and Claimants' counsel offer to enter into a confidentiality agreement with Respondent, whereby they undertake to keep the documentation confidential, only use it for the purposes of this arbitration, and destroy it once the arbitration or related proceedings are over.
8. To the extent Respondent asserts that the whole or a part of any requested document is privileged, Claimants request that Respondent produce the non-privileged portions of the document and a log of documents withheld in full or in part on the basis of an asserted privilege.

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States (ICSID Case No. ARB/23/33)

Respondent’s Objections to Claimants’ Request for Production of Documents

I. INTRODUCTION

1. Pursuant to §15 and Annex C of Procedural Order No. 1 (PO1) dated April 3, 2024, the Respondent presents its Objections to Claimants’ Requests for Production of Documents submitted on September 12, 2024 (Requests).

2. The Requests do not comply with the provisions of ¶15.1 of PO1. In addition, they contravene the provisions of Articles 3(3) and 9 of the IBA Rules on the Taking of Evidence in International Arbitration (IBA Rules).

3. The majority of the Requests are clearly outside the scope of this jurisdictional phase. Section 14.2 of PO1 notes the parties’ agreement and the Tribunal’s decision to bifurcate the proceedings to address the Respondent’s jurisdictional objections. Requests 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 17 and 18 are focused on the merits of the case and have no connection to the jurisdictional objections raised by Mexico.

4. The Requests are contrary to the purpose and language of the IBA Rules.

5. *First*, the Claimants have attempted to compare this stage of document production to the judicial process initiated in the courts of the United States for obtaining documents (“*U.S. pre-trial Discovery practices*”).² The Claimants’ requests constitute a “*discovery*” practice, similar to civil judicial proceedings under common law (“*common law civil litigation procedures*”). This arbitration is not a judicial process of such nature.

6. *Second*, the Requests are speculative since they are based on only the allegations of the Claimants themselves or of their witness. In fact, the Claimants have failed to quote a

² *Tidewater Inc. et al. v. The Bolivarian Republic of Venezuela*, ICSID Case No ARB/10/5, Procedural Order No. 1 on Production of Documents, ¶ 32, March 29, 2011 (“*The Tribunal acknowledges that (absent the express decision of the parties) Common Law-style pre-trial discovery does not belong in international arbitration.*”).

single document to support their Requests. This is just a “*fishing expedition*” from the Claimants.

7. *Third*, §15.4 of PO1 establishes that the documents requested must be “relevant to the dispute and material to the outcome of the case.” The Requests simply do not meet this criterion.

8. Finally, the Respondent objects to the Requests because they are general, non-specific, unlimited, create an unreasonable burden for the Respondent and contain confidential or privileged information, reasons for which they are excluded from the production of documents pursuant to Article 9(2) of the IBA Rules.

9. The Respondent will now develop five general objections that apply to to the Claimants’ Requests in addition to the specific objections to each Request.

II. GENERAL OBJECTIONS

A. Objection No. 1: The Requests are irrelevant to the resolution of Jurisdictional Objections

10. Articles 3(3)(b) and 9(2)(a) of the IBA Rules set forth two standards that requests and decisions on production of documents must meet: they must be relevant to the case and material to its outcome.

11. Article 9.2(a) of the IBA Rules states that “[t]he Arbitral Tribunal shall, at the request of a Party or on its own motion exclude from evidence or production any Document, statement, oral testimony or inspection, in whole or in part, for any of the following reasons:(a) lack of sufficient relevance to the case or materiality to its outcome”.

12. In *Glamis Gold v. United States of America*, the Tribunal emphasized the need for a “*substantial nexus to be articulated between the category of requested documents and the likely materiality of such documents to the outcome of the case*”.³

³ *Glamis Gold Ltd v. United States of America*, UNCITRAL, Decision on Objections to Document Production, ¶ 28, July 20, 2005; see Nigel Blackaby et al., *Redfern and Hunter on International Arbitration*, p. 382 (6th ed. 2015) stating that the IBA Rules: “also enable [...] arbitral tribunals to deny document requests where, although the requested documents would generally be relevant, they consider that their production will not affect the outcome of the proceedings”).

13. The Tribunal in *Aguas del Tunari v. Bolivia* refrained from ordering the production of certain documents during the jurisdictional phase, because said decision required a preliminary analysis of the merits of the case, which the parties, at that moment, had not yet presented.⁴ Although, the Claimants are using a large part of their facts to allege violations of due process before Mexican courts, they cannot expect the Tribunal to allow the production of documents related to their allegations, when not only it is not the appropriate procedural phase, but also since Mexico has not had the opportunity to comment on these events.

14. The Claimants have failed to demonstrate that their Requests are “relevant” to the case and “material” for the outcome of the jurisdictional objections raised by Mexico, which should not be interpreted as acceptance of any fact or argument regarding the merits of this case.

15. *First*. The Claimants have failed to explain how the Requests will help the Tribunal to determine that it has jurisdiction over the dispute, since these only deal with issues related to the merits of the case.

16. For example, in Requests 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 17 and 18, the Claimants argue, in essence, that the documents are relevant and material to the case since, allegedly, they will demonstrate that not being able to find assistance in the Mexican judicial system constitutes a violation of “Mexico’s obligations under NAFTA to provide a minimum standard of treatment to U.S. investors”. It is clear that these Requests are related to the merits of the case, and, this is not the appropriate procedural moment to request them. In accordance

⁵ “By agreement of the Parties, the Tribunal has (i) bifurcated the proceeding and (ii) determined the Procedural Timetable in Annex B only for the phase of this arbitration addressing Respondent’s jurisdictional objections. The Procedural Timetable for the merits phase (if necessary) will be determined in consultation with the Parties following the issuance of the Tribunal’s Decision on Respondent’s jurisdictional objections.”

with §14.2 of PO1, and by agreement of the parties, this production of documents is exclusively on matters related to the jurisdiction of the Tribunal.⁵

17. *Second.* The Requests are ambiguous, speculative, invasive and lack any connection to the jurisdictional objections raised by the Respondent. The Claimants fail to establish a sufficiently substantial connection or nexus between the requested documents and the jurisdictional objections, referring only to speculation that would require the Tribunal to make considerations on the merits of the case prematurely, e.g. the determination of the alleged acts with the aim of favour TV Azteca.

1. Additionally, the reasoning and justifications of the Requests are based solely on the allegations of the Claimants, who fail to take into consideration that “there is an important distinction between requiring documents to be produced as evidence of some fact... and asking for disclosure to trawl through documents to see if they support the applicant’s case.’ Disclosure in international arbitration adopts the former approach over the latter”.⁶

17. The Requests are speculative and lack a “nexus” with the Jurisdictional Objections raised by the Respondent, therefore, they are contrary to Article 9.2(a) of the IBA Rules.

18. For all of the above, Mexico objects to these Requests due to the lack of relevance to the case and materiality to its outcome.

B. Objection No. 2: The Requests are unduly burdensome; their production creates an unreasonable burden on the Respondent.

2. Article 9(2)(c) of the IBA Rules establishes that: “The Arbitral Tribunal shall [...] exclude [the] production [of] any Document [due to]: unreasonable burden to produce the requested evidence.”

⁵ “By agreement of the Parties, the Tribunal has (i) bifurcated the proceeding and (ii) determined the Procedural Timetable in Annex B only for the phase of this arbitration addressing Respondent’s jurisdictional objections. The Procedural Timetable for the merits phase (if necessary) will be determined in consultation with the Parties following the issuance of the Tribunal’s Decision on Respondent’s jurisdictional objections.”

⁶ O’Malley, Nathan D. Rules of Evidence in International Arbitration: An Annotated Guide: Lloyd’s Arbitration Law Library. Taylor and Francis, p. 39.

19. In *Waste Management II v. United Mexican States*, the tribunal considered that the request to produce “copies of all the invoices issued in the period 1994-1998” was *prima facie* too burdensome, since it was likely to include a large number of documents, which all or most of them would not be in dispute as such.⁷

20. A similar conclusion was reached by the tribunal in *Gallo v. Canada*, which rejected and considered extremely onerous a request for the production of the documents received or sent to certain companies between October 2003 and 2004 regarding the investment project, without any other characteristics or additional description.⁸

21. The Claimant’s Requests do not include sufficiently precise references, *inter alia*, on dates or date ranges; on the details about the authorities or administrative areas within these that have the information; on the authors, senders or recipients of the requested communications; on the type of documents requested; on the specificity of the topics addressed in the documents or communications or any other parameters that may allow the Respondent to carry out the research.

22. The Claimants do not even make an attempt to: *i*) detail the issues addressed in the “negotiating documents” or in the requested communications; *ii*) identify the public officials or individuals who supposedly prepared these documents and; *iii*) justifications that demonstrate the reasons why the excessively onerous searches must be carried out, and that also involve unreasonable workloads to locate communications from people who it is not even certain that continue to be part of the governments of Mexico, the United States or Canada.

23. Likewise, the Claimant assumes that the documents within the territory of Mexico are in some way under the power, custody or control of the Respondent. This is incorrect.

⁷ *Waste Management, Inc v. United Mexican States*, ICSID Case No ARB (AF)/00/3, Procedural Order Concerning Disclosure of Documents, ¶ 11, October 1, 2002.

⁸ *Vito G Gallo v. Government of Canada*, UNCITRAL, Procedural Order No 2 [Amended], February 10, 2009, ¶ 13. “No. 68: Documents received or sent to Notre/Enterprise/Gartner Lee/Golder Associates concerning the Project from October 2003 to 5 April 2004 The Arbitral Tribunal considers that the production of these documents would be extremely burdensome for Canada and that the documents, in any case, lack relevance.”

24. For example, in 2018, various structural changes occurred within the Ministry of Economy, therefore various officials —such as Mr. Smith Ramos— ceased to work in this agency.⁹ According to Mexican legislation, when a public servant leaves his position, he is obliged to submit an “Administrative Handover and Reception of Authority Act” in which he must develop a detailed report of the matters that were in his charge, and must transfer all information that had been generated, related to the activities carried out in accordance with his functions. Unfortunately, this was not the case for Mr. Smith. The Respondent has carried out an exhaustive search for Mr. Smith’s Administrative Handover and Reception of Authority Act, however, the Respondent has been unable to locate the documents related to him in its records. Consequently, the Respondent is not in possession of this document.

25. Therefore, and according to the Claimants’ Witness Statement, it is clear that this information is in their possession, and the Claimants have been able to review it.

26. Likewise, contrary to what the Claimants try to make the Tribunal believe in their justifications, the Respondent lacks extensive authority or “omnipotent power” to obtain information from any department, area or administrative unit of any governmental authority or entity. The Claimants fail to recognize the legal impossibility of the Respondent to force other governmental entities or branches of the government (*e.g.* judicial or legislative) to provide information when, to begin with, it is not even possible to determine if it exists.

27. To comply with these information searches, the Respondent would have to carry out a review of all files and information backups in possession of entities such as the Ministry of Economy, the Ministry of Foreign Affairs, the Federal Congress, and the TSJCDMX, all of which are only some entities that the Respondent assumes could be in possession of the required information. The Claimants ignore that each one of these entities and/or authorities have complex administrative structures in which hundreds of public officials work with excessive workloads. Also, the Claimants ignore the fact that some of these authorities are part of an independent branch of the federal government.

⁹ See Witness Statement of Mr. Smith Ramos, ¶1.

28. Therefore, carrying out this task is practically impossible to accomplish. Based on the foregoing, the Respondent objects to these Requests pursuant to Article 9(2)(c) of the IBA Rules.

C. Objection No. 3: The Requests are too general and lack specificity

29. Article 3.3 of the IBA Rules establishes that each request for the production of documents must include a sufficiently detailed description of the documents requested. The Claimants have not met this requirement.

30. The purpose of this requirement is to avoid a “fishing expedition”.¹⁰ This practice is not permitted in international arbitration, nor can it be used as a mechanism to “build” a case on the hopes of discovering facts unknown to the party which is requesting the documents. The tribunal in *Libananco v. Turkey* was emphatic about this:

“The Tribunal, like any other arbitral tribunal in a similar position, could not allow its process to be used as the cover for a mere fishing expedition launched in the hope of uncovering material to serve as the foundation for an argument [...]”.¹¹

31. To prevent these practices, O’Malley points out that:

“[T]he presumption in arbitration is that a party will establish its case based largely (if not entirely) on the documents within its own possession. Thus, a wide-ranging discovery process that allows a party to substantiate a case by “discovering” the primary evidence to support its arguments is not compatible with this threshold concept. Indeed, it is more accurate to view disclosure under [IBA Rules] article 13.3 as a limited process aimed at filling gaps or providing assistance in covering important, but discreet, issues raised by the factual record, for which sufficient evidence has not been voluntarily supplied by the parties”.¹²

¹⁰ See 1999 IBA Working Party, & 2010 IBA Rules of Evidence Review Subcommittee & 2020 IBA Rules of Evidence Review Task Force, Commentary on the revised text of the 2020 IBA Rules on the Taking of Evidence in International Arbitration, January 2021, pp. 9-10. David Caron and Lee Caplan, *The UNCITRAL Arbitration Rules: A Commentary*, p. 567 (2013) OUP. (“[...] the tribunal should not accept non-specific requests or permit so-called “fishing expedition” by granting requests, for example, for “all possibly relevant material”).

¹¹ *Libananco Holdings Co. Limited v. Republic of Turkey*, ICSID Case No. ARB/06/8), Decision on Preliminary Issues ¶70, June 23, 2008.

¹² Nathan D. O’Malley, *Rules of Evidence in International Arbitration*, (2nd ed. 2019), p. 39.

32. Another author echoes O’Malley’s observation, noting that the IBA Rules: “establish the principle [...] that the parties should produce the evidentiary documents on which they rely as the first stage”.¹³

33. In this regard, the Respondent objects to the Requests since they contravene the provisions of Article 3(3)(a)(ii) of the IBA Rules. The Requests shall be made with a sufficiently detailed description to be able to identify them; additionally, they shall be made in a concrete and specific manner, this is, by category of documents to demonstrate that they do exist. With very few exceptions, the Requests lack specificity and concreteness as they use general formulas. The following examples illustrate the lack of specificity of the Requests:

- Request 1: Communications [...] regarding the mercantil proceeding submitted in submitted i September 2022 and the injunction granted on September 27, 2022 [...].
- Request 3: Any formal and informal communications between the Sixty Third Superior Court, including Judge Miguel Angel Robles Villegas, personnel or officials from that Court and representatives from representatives from Grupo Salinas, TV Azteca, or their legal representatives or agents with respect to the Motion to Dismiss suit initiated by the Trustee [...].
- Request 5: All documents [...] related to injunction favoring TV Azteca for refraining to comply its obligations as a publicly-traded Company on the Mexican stock Exchange and obligations to report financial information.
- Request 6: [...] (b) copies of the record of visits received in connection with any matter or case related to TV Azteca.

34. In *Thunderbird v. United Mexican States*, the tribunal interpreted the terms “narrow and specific” as “narrowly tailored”, that is, reasonably limited in time and subject, in accordance with the nature of the claims and defenses raised in the case.¹⁴

¹³ Nigel Blackaby et al., *Redfern and Hunter on International Arbitration*, pp. 382 (6th ed. 2015).

¹⁴ *International Thunderbird Gaming Corporation v. Estados Unidos Mexicanos*, UNCITRAL, Procedural Order No. 2, ¶ 2(ii), July 31, 2003.

35. Just like the Claimants did, in *ADF Group Inc v. United States of America* the investor used very general wording. In this regard, the tribunal rejected the investor’s requests according to the following argument:

“We consider that Category C documents are described in overly broad terms which makes identification of the requested documents very problematical. In addition, the Claimant has not shown how those documents relate to the issues raised, or expected to be raised, in the present case [...] The request for Category C documents simply lacks the necessary particularity and indication of potential relevancy to the present case for us to determine it is sufficiently “necessary” to order production”.¹⁵

36. The aforementioned conclusion is applicable to this case, since the Claimants have drafted their Requests in extremely broad terms. In addition to the examples referred to in previous paragraphs, they have also not identified the docket number to which their request refers, nor the name of the individuals who received or sent the alleged communications or attended the alleged meetings, including, and as explained *supra* they have not even been able to explain how their Requests relate to the jurisdictional objections.

37. For this, it is evident that the Claimants’ Requests do not comply with the requirements provided for in Article 3(3)(1)(ii) of the IBA Rules.

D. Objection No. 4: The documents requested by the Claimants are already in their possession, custody or control

38. Article 3(3)(c)(i) of the IBA Rules states that a Document Request must contain the following:

“(c) (i) a statement that the requested Documents are not in the possession, custody or control of the requesting Party or a statement of the reasons why it would be unreasonably burdensome for the requesting Party to produce such Documents”

[Emphasis added]

39. From the above it follows that the requesting party must comply with one of the following two elements: *i)* declare that the required documentation is not in its possession, custody or control, or; *ii)* declare why, being in possession of it, it would be unreasonably

¹⁵ *ADF Group Inc v United States of America*, ICSID Case No ARB (AF)/00/1, Procedural Order No 3, Concerning the Production of Documents, ¶ 10, October 4, 2001.

burdensome to provide it. In *ADF Group Inc v. United States of America*, the tribunal established the following:

“Where, [...] the documents requested are in the public domain and equally and effectively available to both parties, we believe that there would be no necessity for requiring the other party physically to produce and deliver the documents to the former for inspection and copying. Where, however, the requesting party shows it would sustain undue burden or expense in accessing the publicly available material, the other party should be required to produce the documents for inspection”.¹⁶

40. In this sense, the Claimants fail to comply with Article 3(3)(c)(i) of the IBA Rules, since, at least, Requests 7, 13, 14, 15 and 16, refer to documents that are —or should be—in the power, custody or control of the Claimants or which they have the possibility of obtaining, *inter alia*, through their own witness.

41. The foregoing is due to the fact that: *i*) the information requested is part of Mercantil Lawsuit 995/2022, to which the Claimants should have access; *ii*) the Claimants’ witness must have a copy of the requested documents, *iii*) the Claimants have been advised by various lawyers and are —or were— able to obtain the requested documents through various mechanisms provided for in the Mexican law (*e.g.* requests for access to public information to the agency or entity that apparently has said information) or these are published on various internet portals. However, the Claimants made no effort to explain why they do not have access to those documents.

E. Objection No. 5: Claimants request privileged information

42. Article 9.2 (b) and (f) of the IBA Rules establishes that “The Tribunal shall exclude, at the request of a Party or ex officio, [...] the production of any Document [due to, *inter alia*, the] existence of legal impediment or privilege [and] reasons of special political or institutional sensitivity [...]”.

¹⁶ *ADF Group Inc. v. United States of America*, ICSID Case No. ARB(AF)/00/1, Procedural Order No. 3, ¶ 4, October 4, 2001. See Reto Marghitola, *Document Production in International Arbitration*, p. 69 (2015) Kluwer Law International: (“Document production requests for public documents unnecessarily harass the other party.”).

43. The Claimants minimize the confidential and reserved nature of administrative investigations or judicial procedures in Mexico, and ignore the fact that the investigative and judicial authorities of Mexico are prevented, according to the Mexican legal system, from disclosing information about ongoing procedures or to people who are not a party of these.

44. The above constitutes confidential or privileged information in accordance with article 110, sections VII, IX, X, XI of the Federal Law of Transparency and Access to Public Information¹⁷ and article 113, sections VII, VIII, IX, of the General Law of Transparency and Access to Public Information.¹⁸

¹⁷ Article 110. Pursuant to the provisions of Article 113 of the General Law, reserved information may be classified as that which publication: [...] VII. Obstructs the prevention or prosecution of crimes; [...] IX. Obstructs the proceedings to hold Public Servants accountable, as long as the administrative resolution has not been issued; [...] X. Affect the rights of due process; [...] XI. Violates the conduct of judicial files or administrative proceedings conducted in the form of a trial, as long as they have not yet become final; [...].

¹⁸ Article 113. Reserved information may be classified as information whose publication: [...] VI. Obstructs the prevention or prosecution of crimes; [...] VIII. That which contains the opinions, recommendations or points of view that are part of the deliberative process of public servants, until the final decision is adopted, which must be documented; [...] IX. Obstruct the procedures to hold Public Servants accountable, until the administrative resolution has been issued; [...] X. Affects due process rights; [...] XI. Violates the conduct of judicial files or administrative procedures followed in the form of a trial, as long as they have not caused a state; [...].

CLAIMANTS' GENERAL RESPONSES TO RESPONDENT'S OBJECTIONS:

1. Mexico has submitted 5 (five) general objections to Claimants' request to produce documents. In addition, it raises specific objections to each request. From the outset, it is evident that Mexico (the "Respondent" or the "State") is unwilling to provide, or even formally request, the information requested by Claimant in its request for documents, even where it is clearly within the control of Mexican State entities (the "Requested Documents").

Mexico's general objections affect three groups of Requested Documents: (1) the refusal to produce documents responsive to requests 1 through 14, and which refer among others to the request for documents relating to the actions of the judiciary, including the Sixty-Third Superior Court of Mexico City; the involvement of judicial branch officials in litigation proceedings to favor the interests of TV Azteca or Grupo Salinas; and documents that relate primarily to domestic litigation in Mexico; (ii) the failure to produce responsive documents for requests 14 through 16 and that refer to documents related to the negotiation process of USMCA Chapter 14 and Annex 14-C; and (iii) the refusal to produce documents that respond to requests 17 and 18 related to the judicial reform process in Mexico.

Claimants provide these general responses to Mexico's objections to their request for documents.

Mexico states that Claimants' Requests No. 1 through No. 13 are not relevant or material to the case, are unduly burdensome, and are general and speculative. In doing so, it incorporates *mutatis mutandis* its objections made primarily to the requests 1 and 2. However, Mexico's objections are unsupported. Claimants' requests comply with articles 3(3) and 9(2) of the IBA Rules and Section 15.4 of PO1, as they provide a narrow and specific description of the required documents, explain their relevance and materiality to demonstrate the Tribunal's jurisdiction, and confirm that the documents are in the Respondent's possession. Therefore, the Respondent's argument that characterizes certain Requests as "fishing expeditions" is unfounded.

First, the requests are relevant and material to this phase of the arbitral proceedings as those documents will further demonstrate to the Tribunal the inability of Claimants to adhere to the 90-day period in Article 1119 as a result of the secret proceeding orchestrated between court officials and TV Azteca legal advisors and demonstrate favoritism to the interests of TV Azteca and Grupo Salinas. Those documents are also relevant to the case and material to the outcome of the jurisdictional phase under Rule 3(3) (b) of the IBA Rules,

because the Requested Documents will provide support for the contention that the Mexican local courts unjustifiably favored TV Azteca and prevented Claimants from notification of the injunction in due course purportedly as a result of the COVID -19 pandemic and at the same time prevented Claimants from adhering to a 90 day period under NAFTA Article 1119 as a result of the failure to ensure timely disclosure of the secret proceeding and resulting injunction. Claimants do not dispute that certain of these documents will likely provide support for their claims on the merits, but this support is merely incidental to the underlying facts that can be established for the purposes of the Tribunal’s decision on jurisdiction.

Second, contrary to Mexico’s objections, the Requested Documents contain descriptions in sufficient detail (including the subject matter) of a narrow and specific requested category of documents that are reasonable to believe to exist in the hands of the Respondent in accordance with Rules 3(3) (a) of the IBA Rules.

Mexico suggests, based on a procedural order by a Tribunal in *Waste Management II v. Mexican United States*, that Claimants’ requests for production of documents are “too burdensome”. However, that case is not applicable to the specific facts of the present dispute. In that case, Mexico, as Respondent, requested the “copies of all the invoices issued in the period 1994-1998”¹⁹ without specifying any particular type of invoice or any wording that narrowed the request of such documents, a situation that is entirely different in the present dispute.²⁰ In fact, the Claimants’ requests each contain descriptions, in sufficient detail (including the subject matter), of a narrow and specific requested category of Documents to be produced consistent with Article 3(3)(a) and are not contrary to article 9(2)(c) of the IBA Rules. Specifically, the Requested Documents pertain to communications and records that will reveal the complicity of the Mexican court in conducting a secret proceeding, which had the effect, among other things, of prejudicing Claimants’ ability to adhere to the 90-day period under NAFTA Article 1119.

In its objections to Request No. 14 to Request No.16, Mexico also states that certain documents are not in its possession, custody or control due to staff turnover within the Ministry of Economy. But that cannot be a valid justification from a Sovereign State when it relates to the relevance of the negotiation, discussion and approval process of an international treaty to which it is a Party, such as the USMCA. In fact, Mexico acknowledges that it made an exhaustive search in the *Acta de Entrega Recepción* without finding the

¹⁹ *Waste Management, Inc v. United Mexican States*, ICSID Case No ARB (AF)/00/3, Procedural Order Concerning Disclosure of Documents, ¶ 11, October 1, 2002.

²⁰ *Waste Management, Inc v. United Mexican States*, ICSID Case No ARB (AF)/00/3, Procedural Order Concerning Disclosure of Documents, ¶ 11, October 1, 2002.

requested documents. Again, it is not credible that Mexico, as a Party to the USMCA, does not have a back-up of the complete documents and negotiating history of Chapter 14 and Annex 14-C. It is Respondent's responsibility to preserve the negotiating history of the treaty, and it cannot simply disclaim that responsibility due to normal staffing changes in a federal government agency. As stipulated in Claimants' objections to Mexico's documents requests, Mr. Smith has provided all the information available to him in the preparation of his witness statement. However, it is clear that there are other contemporaneous documents, including from the chief negotiators of the investment chapter, that only Mexico has access to and which it refuses to produce. In fact, Mexican authorities are required under domestic law to preserve such integral documents in accordance with Article 7 of the General Law on Archives which states in Spanish as follows:

Artículo 7. Los sujetos obligados deberán producir, registrar, organizar y conservar los documentos de archivo sobre todo acto que derive del ejercicio de sus facultades, competencias o funciones de acuerdo con lo establecido en las disposiciones jurídicas correspondientes.

Hence, article 7 of the General Law on Archives obliges the relevant Mexican authorities to produce, register, organize and preserve public documents, which include the Requested Documents. Therefore, the objections submitted by the Respondent based on the argument that the Requested Documents do not exist or are extremely onerous cannot be seriously considered and must be dismissed by the Tribunal.

Mexico also argues that it does not have “omnipotent power” to obtain information from any administrative agency or unit. However, as the legal representative of the Mexican State in international investment arbitration proceedings, the Ministry of Economy cannot credibly claim that it does not have the ability to request that the different agencies and bodies of the State, including the judiciary, produce the documents in question.

Mexico argues that Claimants' Requests Nos. 7, 13, 14, 15 and 16 deal with documents that are—or should be—in the possession, custody or control of Claimants or that Claimants have the ability to obtain them, *inter alia*, through their own witness and states that the requested information: (i) is part of the Mercantile Lawsuit 995/2022 to which the Claimants should have access; (ii) the Claimants' witness should have a copy of the requested documents; (iii) the Claimants may request the relevant documents through various mechanisms provided for under Mexican law. This argument makes no logical sense, as Mexico cannot simply disregard its responsibility as a party to this arbitration by pointing out that the documents “are or should be” in the Claimants' possession or suggest that the documents should have been

requested through “mechanisms provided for in Mexican law.” This is precisely why investment arbitration, and the Procedural Order in this case, provides for a document production stage. The Claimants are not in possession of the Requested Documents and are under no obligation to resort to mechanisms under Mexican law to obtain them. The Claimants have submitted in their Counter-Memorial based on the available supporting evidence in good faith and prepared their request for documents in accordance with that principle.

Finally, Mexico objects to Request Nos. 17 and 18 on the basis that they are vague and excessively onerous, or are otherwise offensive to the State. Claimant clarifies that both requests are not, and should not be understood, as offensive to the Respondent.

Redfern Schedule

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
1	Communications between the Sixty-Third Superior Court, including but not limited to Judge Miguel Angel Robles Villegas, Court personnel, or officials from that Court and representatives from Grupo Salinas, TV Azteca, and/or their legal representatives or agents regarding the mercantile proceeding submitted in September 2022 and the injunction granted on	Claimants' Counter-Memorial at ¶¶ 45-48, 141-142	The requested documents are relevant and material to Claimants' claims that TV Azteca initiated a secret proceeding on September 22, 2022, where Claimants, other Noteholders and The Trustee were not served and five days after the complaint was filed, the Sixty-Third Superior Court granted TV Azteca' request for an injunction. The requested records are relevant and material	Respondent objects to Request No. 1 for the following reasons: <ul style="list-style-type: none"> • Because it is not relevant to the case, nor material to its outcome (General Objection 1); • Because it is excessively onerous in terms of its search and production (General Objection 2); and • For being too general, speculative and for lack of 	Records from the Sixty-Third Superior Court It will establish facts relevant to Claimants' jurisdictional arguments, as described in Claimants' General Responses. Contrary to the Respondent's contention, Request No. 1 is relevant and material to the Tribunal's decision and to determine that it has jurisdiction, since such	Granted (in part) as potentially relevant to the Claimants' arguments on Objection 1, but without prejudice to the Respondent's position that the material is irrelevant, and without prejudice to whether the material will ultimately be decided as relevant following

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	September 27, 2022, including emails, WhatsApp, text messages, telegram, iMessage or any other type of correspondence or cloud-based messaging service between August 2022 to October 2022.		<p>to the Judiciary and TV Azteca’s failure to notify Claimants about the Injunction, which materially impacted Claimants ability to file a Notice of Intent no later than April 1, 2023.</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 directly involve Respondent officials, personnel and representatives. Claimants do not</p>	<p>specificity (General Objection 3).</p> <p>The Request is outside the scope of this jurisdictional phase as established in ¶ 14.2 of PO1; it is clear that the Claimants are requesting information that they intend to use at a later stage to strengthen their claims against Mexico. The Claimants suggest that the documents would help explain why they were allegedly not notified of the September 2022 Provisional Measure until April</p>	<p>documents are fundamental to the Claimants’ ability to demonstrate that the Claimants were unable to observe the time limits set forth in NAFTA Article 1119, which is evident from the fact that the Claimants did not receive timely notice of the injunction and were subject to a secret proceeding orchestrated by the Sixty-Third Superior Court and representatives from TV Azteca or Grupo Salinas. In Objection No. 1, Mexico</p>	<p>hearings on jurisdiction and (if jurisdiction is established) on the merits, the court file should be produced insofar as it relates to the injunction granted on September 27, 2022, and including all documents relating to the notification of the injunction. Refused, as regards Objection 5, as irrelevant.</p>

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			<p>have access to, or possession, custody, or control of the requested documents.</p>	<p>1, 2023. However, there is no legal justification for the Claimants’ failure to submit their NOI pursuant to Article 1119. Additionally, Claimants were in fact notified of the September 2022 Injunction before April 1, 2023. The evidence confirms that they were aware of the Injunction since at least early March 2023. (R-0003).</p> <p>Likewise, this Request is a clear fishing expedition, which should not be</p>	<p>argues that Claimants cannot pursue their claim under NAFTA because they did not file a Notice of Intent prior to April 1, 2023. See Memorial on Jurisdiction at ¶¶ 55-61. As Claimants have clarified in their Counter-Memorial on Jurisdiction, Claimants made a good faith effort to adhere to the spirit of Article 1119 after learning – following significant delay – about TV Azteca’s secret proceeding in</p>	

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				<p>allowed by this Tribunal.</p> <p>The Claimants do not even attempt to identify the people who may be in possession of the required documents, omitting that the representatives of the Respondent do not participate in the mercantil lawsuit, so they do not even know who are the legal representatives or lawyers of TV Azteca or its companies are. They also do not explain what specific information they</p>	<p>Mexico well after the events took place. The 90-day period does not pertain to Mexico's consent to arbitrate, and any failure to adhere to the timeline suggested by Article 1119 would not eliminate jurisdiction. The Requested Documents will further demonstrate the reasons why the Claimants were not able to adhere to the 90-day period under Article 1119 due to the secret proceeding orchestrated between the Sixty-Third</p>	

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				<p>think these documents may contain.</p> <p>The scope of this Request is excessive, since requesting all emails and messages from the staff of 63rd Civil Court, including those of Mr. Robles Villegas, is extremely general, ambiguous and invasive.</p> <p>Requiring private text messages from people who are not even participating in this arbitration is against the IBA Rules and, even more so, in the case of an investor-State</p>	<p>Superior Court and TV Azteca. The Requested Documents therefore go directly to Claimants' inability to observe the 90-day period under Article 1119.</p> <p>Furthermore, Claimants submit that the documents requested are relevant to Mexico's Objection No. 5 and its baseless claims that Claimants do not have a valid investment because there is not a sufficient investment risk or territorial nexus with the</p>	

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				<p>arbitration in which similar practices of a “common law style pre trial discovery” are not admissible”.</p> <p>Likewise, the Claimants’ Request, being extremely general and ambiguous, would generate an unreasonable burden for the Respondent, since a search would have to be carried out without any additional parameter or information to narrow the search.</p>	<p>Mexican State. See Memorial on Jurisdiction at ¶¶ 91-106. The Requested Documents, i.e., communications between the Court and TV Azteca representatives may further demonstrate the extent to which these parties considered the Claimants’ investment a risk and that there was a significant territorial nexus with Mexico.</p> <p>Next, Request No. 1 is not vague, speculative or excessively onerous. The Requested</p>	

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					Documents are clearly within the custody of the Respondent’s officials, personnel, and representatives of the Judiciary. As the legal representative of the State, Reposoendent’s counsel can easily request the Requested Documents from the Sixty-Third Superior Court, including a direct request that Judge Miguel Angel Villegas and his staff provide those documents. In fact, the Sixty Third Superior Court – as	

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					any other court in Mexico – should reasonably be expected to maintain records pertaining to meetings or visits from legal representatives, particularly involving pending matters before that court. Furthermore, Mexican officials, including those from the Judiciary, are subject to legal requirements to maintain records, including communications sent by electronic means.	

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					As the Tribunal is aware, and Mexico could not otherwise argue, the Tribunal has considerable flexibility when it comes to a decision as to whether a request to provide evidence is reasonable. The Tribunal should consider the proportionality of the alleged burden and the likely evidential value of the requested evidence. ²¹ As Request No. 1	

²¹ See, Kläsner, Amy, et. At. *GAR The Guide to Evidence in International Arbitration*, Second Edition, 2023, page 120 available at <https://media.baerkarrer.ch/karmarun/image/upload/baer-karrer/rvs06r8disjbgis29fya.pdf>

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					complies with the requirements from Section 15.4 of PO1 and articles 3(3)(a) and (b) and 9(2)(a) of the IBA Rules, the Tribunal should order that Respondent produce the Requested Documents in accordance with the timeline stipulated in Procedural Order No. 3.	
2	Any records, documents, and/or communications from the President Magistrate of the Superior Court of Mexico City, its Judiciary Council, or	Claimants' Counter-Memorial on Jurisdiction at ¶ 51-56,	The requested documents are relevant and material to Claimants' contention that the decision of the Sixty-Third Superior Court to grant the	Respondent objects to Request 2 for the following reasons: • Not relevant to the case, nor material to its outcome (General Objection 1);• Its	Claimants' response to Mexico's objections relevant to Request No. 2 is similar to those referred to Request No. 1 and General Responses. Request	Refused: The Claimants have referred to their introductory section and to the merits of their claim, but have not

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

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	other supervisory bodies or health authorities of Mexico’s government or local government to Magistrates and Judges that are part of the Superior Court of Justice of Mexico City, including the Sixty-Third Superior Court, related guidelines, recommendations, and/or instructions on management of the COVID -19 pandemic, including meeting minutes, notes, reports, memoranda, or assessments related	footnotes 34 and 35	September 2022 Injunction and continue to maintain the Injunction contradicts COVID-19 policies and protocols of the Judiciary and Government of Mexico writ large and is unjustly favorable to TV Azteca. 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 directly involve	search and production is excessively onerous (General Objection 2). • For being too general and speculative and lacking specificity (General Objection 3). This Request is outside the scope of this jurisdictional stage pursuant ¶14.2 of the PO1. By agreement of the parties, this procedure was bifurcated and, at this stage, only those issues related to the jurisdictional	No. 2 is not excessively onerous, nor is it general, unspecific or speculative. Request No. 2 is consistent with 15.4 of PO1 and provides the date or range of dates and the subject matter, and to the greatest extent possible, the identity of the recipients and senders. This request is also specific in terms of the issues it covers and authorities relevant for production of the	demonstrated relevance to jurisdictional objections

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	to or prepared in connection with these records prepared between January 1, 2022 to October 2022.		Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.	<p>objections raised by the Respondent would be addressed. It is evident that requesting documents in order to prove the alleged favorable treatment towards TV Azteca is not a jurisdictional issue, so this request is neither relevant for the case nor material for its outcome.</p> <p>The search for these documents implies an onerous and unreasonable burden for the Respondent, since the Claimants have not even specified the name of the authorities that</p>	<p>Requested Documents.</p> <p>Mexico contends in Objection No. 1 that the Tribunal has no basis to modify or waive the 90-day period under Article 1119. See Memorial on Jurisdiction at ¶ 61. Request No. 2 is relevant and material because Claimants reasonably believe that the information contained within the Requested Documents will contribute to the Tribunal’s legal assessment by providing support for the contention that</p>	

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				<p>may have the requested documents. Likewise, there is not even certainty that these documents exist.</p> <p>This Request is a fishing expedition and is contrary to Article 3(3)(a) and (b) and Article 9(2)(a) and (c) of the IBA Rules.</p>	<p>the Sixty Third Superior Court unjustifiably favored TV Azteca and prevented Claimants from being notified of the injunction in due course.</p> <p>Mexico does not object that this document does not exist but refuses to produce documents on the basis that request is extremely onerous or unreasonable. To be clear, the request is not “fishing expedition” and Mexico’s lead counsel is in a position to request</p>	

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					<p>those documents from the relevant government entity, particularly from the President Magistrate of the Superior Court of Mexico City, its Judiciary Council, Ministry of Health at federal level and from Mexico’s City local government.</p> <p>Claimants do not deny that this request is also relevant to the merits of this case, but it is equally relevant to determine the Tribunal’s jurisdiction over the alleged breach of NAFTA Article 1119, by virtue of having</p>	

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					<p>been affected by the Injunction based unsupported facts that are inconsistent with measures adopted on a contemporaneous bases for the management of the pandemic of COVID-19 by the Mexico City Superior Court of Justice and the Respondent's judicial power in general. The Requested Documents will further demonstrate to the Tribunal the inability of Claimants to adhere to the 90-day period under Article 1119 as a</p>	

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		References to principal documents	Comments			
					result of the secret proceeding orchestrated between the Sixty-Third Superior Court and TV Azteca.	
3	Any formal and informal communications between the Sixty-Third Superior Court, including Judge Miguel Angel Robles Villegas, personnel or officials from that Court and representatives from Grupo Salinas, TV Azteca, or their legal representatives or agents with respect	Claimants' Counter-Memorial at ¶¶ 60-71	The requested documents are relevant and material to Claimants' contention regarding the artificial protection by the Sixty-Third Superior Court and the Third Superior Court of Appeals in favor of TV Azteca by rendering a decision denying The Trustee's Motion to	The Respondent objects to Claimants' Request 3 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1 and 2.	Request No. 3 is not excessively onerous, nor is it general, unspecific, or speculative. For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1 and 2, along with their General Responses,	Refused: not demonstrated to be relevant to jurisdictional objections.

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

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	to the Motion to Dismiss suit initiated by The Trustee, including notes, memorandums, written communications (promociones), formal petitions, emails, WhatsApp, text messages, telegram, iMessage or any other type of correspondence or cloud-based messaging service between March 2023 to July 2024.		<p>Vacate the suit of TV Azteca for lack of jurisdiction. The grounds for the Mexican Court decisions are based on the peculiar argument that there are still cases of COVID-19 and that TV Azteca's obligations under the Notes were suspended until the WHO decrees the extinction of the pandemic.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be</p>		which apply mutatis mutandis.	

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			in the Respondent’s possession, custody, or control because they directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.			
4	<i>Ex parte</i> communications including but not limited to informal correspondence or written communications, <i>ex parte</i> emails, WhatsApp messages, text	Claimants’ Counter-Memorial at ¶ 76	The requested communications are relevant and material to Claimants’ demonstration of Judge Robles apparent track record of unfairly and baselessly favoring TV Azteca and	Respondent objects to Claimants’ Request 4 for the following reasons: • Because it is not relevant to the case, nor material to its outcome (General Objection 1);	Request No. 4 is not excessively onerous, nor is it general, unspecific or speculative. Mexico also suggests that Request No. 4 involves privileged and confidential	Refused: not demonstrated to be relevant to jurisdictional objections.

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		References to principal documents	Comments			
	messages, telegram, iMessage or any other type of correspondence or cloud-based messaging service communications between Grupo Salinas, TV Azteca or their representatives or agents and Judge Robles, including officials from Mexican Court headed by Judge Robles, from January 2020 to August 2020 related TV Azteca contractual dispute with Diamond Films.		companies from Grupo Salinas. 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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.	<ul style="list-style-type: none"> • Because it is excessively onerous in terms of its search and production (General Objection 2); and • For being too general, speculative and for lack of specificity (General Objection3). • For involving privileged and confidential information. <p>The Respondent incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1 and 2.</p>	information. However, Rule 9.5 of the IBA Rules allows the Tribunal to order necessary arrangements for the production of the Requested Documents, or evidence to be otherwise presented or considered, subject to suitable confidentiality protections. Claimants would be in a position to accept a confidentiality agreement and to request the Tribunal to order a prohibition of disclosure to third	

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				<p>Additionally, the Respondent objects to Claimants' Request 4 as it involves an ongoing procedure which contravenes Mexican law.</p> <p>Finally, this Request 4, like many others, inappropriately presumes that members of the Mexican judiciary have engaged in some irregular conduct without presenting any evidence in this regard. In that sense, this Request 4 is not only a fishing expedition, but it is</p>	<p>parties or the appointment of an independent and impartial expert to review the documents in context of Article 3(8) of the IBA Rules.</p> <p>It appears that Mexico refers the General Law on Transparency and Access to Public Information. In particular, Article 113 section XI provides that certain information may be classified as confidential when its publication interferes with the the proceeding or the</p>	

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				<p>an offensive fishing expedition that abuses investor-State arbitration.</p>	<p>regular conduct of the Judicial Files or administrative proceedings followed in the form of trial and may cause harm to proceedings that are ongoing.</p> <p>However, Claimants do not see how the production of the Requested Documents in the context of this arbitration would affect in any way the conduct of such judicial proceedings.</p> <p>Instead, the Requested Documents will</p>	

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					merely confirm that the Mexican Courts unfairly favor TV Azteca and Grupo Salinas in domestic legal proceedings, and potentially conspired to prevent Claimants from receiving due notice of the proceedings, thus preventing them from adhering to the 90-day period under NAFTA Article 1119. This request is not and should not be understood as an offense to the Respondent.	

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					For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1 and 2, along with their General Responses, which apply <i>mutatis mutandis</i> .	
5	All documents, including but not limited to, correspondence, communications, formal or informal petitions or written communications, formal petitions, emails, WhatsApp,	Claimants' Counter-Memorial at ¶ 77	The requested documents are relevant and material to Claimants' argument related Judge Robles' track record of unfairly and baselessly favoring TV Azteca	The Respondent objects to Claimants' Request 5 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1, 2 and 4.	Request No. 5 is not excessively onerous, nor is it general, unspecific, or speculative. For efficiency Claimants incorporate here by reference their	Refused: not demonstrated to be relevant to jurisdictional objections.

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		References to principal documents	Comments			
	text messages, telegram, iMessage or any other type of correspondence or cloud -based messaging service between TV Azteca or Grupo Salinas and Judge Robles, including officials from Mexican Court headed by Judge Robles, from December 2022 to May 2023, related to injunction favoring TV Azteca for refraining to comply its obligations as a publicly-traded company on the Mexican stock exchange and		and companies from Grupo Salinas. 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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.		responses to the objections for Request No. 1 and 2, along with their General Responses, which apply mutatis mutandis.	

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		References to principal documents	Comments			
	obligations to report financial information.					
6	<p>From Judge Miguel Ángel Robles:</p> <p>(a) copies of the record of visits received in connection with case number 995/2022; and</p> <p>(b) copies of the record of visits received in connection with any matter or case related to TV Azteca.</p>	Claimants' Counter-Memorial at ¶¶ 60-71	<p>The requested documents are relevant and material to Claimants' argument related Judge Robles' track record of unfairly and baselessly favoring TV Azteca and companies from Grupo Salinas.</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</p>	<p>The Respondent objects to Claimants' Request 6 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1, 2 and 4.</p> <p>Additionally, Request 6 finds its sole basis in its own assertions; however, the Claimants have failed to explain the importance and relevance of these documents to help strengthen their arguments regarding</p>	<p>Request No. 6 is not excessively onerous, nor is it general, unspecific, or speculative.</p> <p>For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1 and 2, along with their General Responses, which apply <i>mutatis mutandis</i>.</p>	Refused: not demonstrated to be relevant to jurisdictional objections.

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
			<p>they directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.</p>	<p>the Tribunal’s jurisdiction.</p> <p>Evidently, the Claimants have used this procedure solely as a fishing expedition, since they have not even managed to establish a search period for the documents.</p> <p>Likewise, the Claimants are requesting information related to all of the trials followed before 63rd Civil Court and in which TV Azteca is a party, which constitutes privileged information under Mexican law,</p>		

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		References to principal documents	Comments			
				particularly under the Code of Civil Procedures, as well as under the Organic Law of Mexico City’s Judiciary.		
7	<p>From the case file number RC-181/2024 processed before the Tenth Collegiate Court in Civil Matters of the First Circuit:</p> <p>(a) All the drafts of the opinions that circulated among the magistrates prior the ruling dated July 3, 2024.</p> <p>(b) The recorded sessions held on: June 26, 2024, when</p>	<p>Claimants’ Counter-Memorial at ¶¶ 74-75</p>	<p>The requested documents are relevant and material to Claimants’ demonstration that they are unable to find relief in Mexico’s judiciary as a result of an imbalanced process that favors TV Azteca and denies Claimants a minimum standard of treatment. Specifically, these documents will</p>	<p>The Respondent objects to Request 7 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1, 2 and 4.</p> <p>Likewise, the requested documents are available to the Claimants, since the recordings of the hearings held by Collegiate Courts are available on the website of the</p>	<p>Request No. 7 is not excessively onerous, nor is it general, unspecific, or speculative.</p> <p>For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1 and 2, along with their General Responses,</p>	<p>Refused: not demonstrated to be relevant to jurisdictional objections.</p>

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	the case was withdrawn from the discussion list; and July 3, 2024, when the last draft of the judgment was approved by the magistrates deciding to revoke the amparo.		<p>support Claimants’ contention that the judiciary’s decision-making process is flawed and violates Mexico’s obligations under NAFTA to provide a minimum standard of treatment to U.S. investors.</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 directly involve Respondent officials, personnel and representatives.</p>	<p>Judicial Branch of the Federation.</p> <p>However, without prejudice to the objections raised, under the principle of good faith, the Respondent provides the links related to Request 7(b).</p> <p>- 2024-06-26. Ordinary Session of the Tenth Collegiate Court in Civil Matters of the First Circuit.</p> <p>https://apps.cjf.gob.mx/BVS/TransmisionBiblioteca?clave=176082</p> <p>- 2024-07-03. Ordinary Session</p>	which apply mutatis mutandis.	

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
			Claimants do not have access to, or possession, custody, or control of the requested documents.	of the Tenth Collegiate Court in Civil Matters of the First Circuit. https://apps.cjf.gob.mx/BVS/TransmisionBiblioteca?clave=176687		
8	From Magistrate Víctor Hugo Díaz Arellano, President of the Tenth Collegiate Court in Civil Matters of the First Circuit; Magistrate Jaime Aurelio Serret Álvarez, member of	Claimants' Counter-Memorial at ¶¶ 74-75	The requested records are relevant and material to Claimants' inability to find relief at any level or through any avenue of Mexico's judiciary, and of the judiciary's baseless favorable treatment	The Respondent objects to Request 8 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1, 2, 4 and 6.	Request No. 8 is not excessively onerous, nor is it general, unspecific, or speculative. For efficiency Claimants incorporate here by reference their	Refused: not demonstrated to be relevant to jurisdictional objections.

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	<p>the Tenth Collegiate Court in Civil Matters of the First Circuit; and Judge Martha Gabriela Sánchez Alonso, member of the Tenth Collegiate Court in Civil Matters of the First Circuit:</p> <p>(a) copies of the record of visits received in connection with case number RC-181/2024; and</p> <p>(b) copies of the record of visits received in connection with any matter or case</p>		<p>toward TV Azteca, depriving Claimants of their rights to equal treatment.</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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.</p>		<p>responses to the objections for Request No. 1, 2, and 4 along with their General Responses, which apply mutatis mutandis.</p>	

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	related to TV Azteca.					
9	From the case file number 1681/2023 related to the Lack of Jurisdiction Plea processed before the Third Civil Chamber of the Superior Court of Justice of Mexico City, all the drafts of the opinions analyzed by the magistrate prior the ruling dated January 30, 2024 by which the appeal filed by TVA against the motion for reconsideration was decided.	Claimants' Counter-Memorial at ¶ 73	The requested documents are relevant and material to Claimants' demonstration that they are unable to find relief in Mexico's judiciary as a result of an imbalanced process that favors TV Azteca and denies Claimants a minimum standard of treatment. Specifically, these documents will support Claimants' contention that the judiciary's decision-	The Respondent objects to Request 9 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1, 2, 4 and 6.	Request No. 9 is not excessively onerous, nor is it general, unspecific, or speculative. For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1, 2, and 4 along with their General Responses, which apply <i>mutatis mutandis</i> .	Refused: not demonstrated to be relevant to jurisdictional objections.

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
			<p>making process is flawed and violates Mexico’s obligations under NAFTA to provide a minimum standard of treatment to U.S. investors.</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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody,</p>			

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		References to principal documents	Comments			
			or control of the requested documents.			
10	From the case file number 1186/2023 related to appeal filed by The Trustee against the September Injunction processed before the Third Civil Chamber of the Superior Court of Justice of Mexico City, all the drafts of the opinions analyzed by the magistrate prior the ruling dated July 8, 2024, by which the September Injunction was confirmed.	Claimants' Counter-Memorial at ¶ 71	The requested documents are relevant and material to Claimants' demonstration that they are unable to find relief in Mexico's judiciary as a result of an imbalanced process that favors TV Azteca and denies Claimants a minimum standard of treatment. Specifically, these documents will support Claimants' contention that the judiciary's decision-	The Respondent objects to Request 10 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1, 2, 4 and 6.	Request No. 10 is not excessively onerous, nor is it general, unspecific, or speculative. For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1, 2, and 4 along with their General Responses, which apply <i>mutatis mutandis</i> .	Refused: not demonstrated to be relevant to jurisdictional objections.

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
			<p>making process is flawed and violates Mexico’s obligations under NAFTA to provide a minimum standard of treatment to U.S. investors.</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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody,</p>			

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
			or control of the requested documents.			
11	<p>From Magistrate Claudia Díaz Zepeda, member of the Third Civil Chamber of the Superior Court of Justice of Mexico City:</p> <p>(a) copies of the record of visits received in connection with case number 1186/2023 and the case number 1681/2023; and</p> <p>(b) copies of the record of visits received in connection with any</p>	Claimants' Counter-Memorial at ¶ 71	<p>The requested records are relevant and material to Claimants' inability to find relief at any level or through any avenue of Mexico's judiciary, and of the judiciary's baseless favorable treatment toward TV Azteca, depriving Claimants of their rights to equal treatment.</p> <p>This request concerns a narrowly defined category of documents within a specific time period that are or should be</p>	<p>The Respondent objects to Request 11 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1, 2, 4 and 6.</p>	<p>Request No. 11 is not excessively onerous, nor is it general, unspecific, or speculative.</p> <p>For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1, 2, and 4 along with their General Responses, which apply <i>mutatis mutandis</i>.</p>	Refused: not demonstrated to be relevant to jurisdictional objections.

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	matter or case related to TV Azteca.		in the Respondent’s possession, custody, or control because they directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.			
12	From the case file number AD650/2024 related to the administrative complaint filed by The Trustee processed before the Judicial Discipline Committee of the Judiciary Council of	Claimants’ Counter-Memorial at C-0001 (Summary of Mexican Court Proceedings)	The requested documents are relevant and material to Claimants’ demonstration that they are unable to find relief in Mexico’s judiciary at any level or through any meaningful	The Respondent objects to Request 12 and incorporates <i>mutatis mutandis</i> the arguments put forth in the objections to Requests 1 and 2. Additionally, the Respondent objects to this request	Request No. 12 is not excessively onerous, nor is it general, unspecific, or speculative. For efficiency Claimants incorporate here by reference their	Refused: not demonstrated to be relevant to jurisdictional objections.

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	Mexico City: the complete file.		<p>avenue as a result of an imbalanced process that favors TV Azteca and denies Claimants a minimum standard of treatment. Specifically, these documents will support Claimants’ contention that the judiciary’s decision-making process is flawed and violates Mexico’s obligations under NAFTA to provide a minimum standard of treatment to U.S. investors.</p> <p>This request concerns a narrowly defined category of documents within a</p>	<p>because the requested documents are in the possession, custody or control of the Claimants (General Objection 4) and because the information requested is privileged (General Objection No. 5).</p> <p>The Claimants request information about a procedure that was initiated by BNY itself, so they must have access to the file.</p> <p>Notwithstanding the foregoing, assuming without conceding that the Claimants could not have access</p>	<p>responses to the objections for Request No. 1, 2, and 4 along with their General Responses, which apply mutatis mutandis.</p> <p>Moreover, in contrary to the Respondent’s contention, the Claimants do not have direct access to the Requested Documents in the file AD650/2024.</p> <p>In addition, the Respondent argues that such documents are classified as confidential</p>	

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
			<p>specific time period that are or should be in the Respondent’s possession, custody, or control because they directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.</p>	<p>to this file, the object of an administrative complaint is to place some administrative responsibility on the Public Servants, which could even involve the prosecution of a crime. The above constitutes confidential and/or reserved information based on the LFTAIP and LGTAIP.</p> <p>Notably, the Claimants base this Request on Exhibit C-0001; however, the Tribunal may corroborate that this procedure is not mentioned in this</p>	<p>information in accordance with the LGTAI. Nevertheless, Section IX of article 113 of the cited legal authority establishes that the authorities may decline to provide information that “Obstructs the procedures to hold public servants accountable, until the administrative resolution has been issued.” In the case at hand, the production of such documents would not affect or obstruct such a procedure, as the Requested</p>	

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		References to principal documents	Comments			
				<p>exhibit, nor in the Claimants’ Counter-Memorial, therefore, there is no link between the claims and the relevance of the requested documents.</p> <p>The above is a clear example of the way in which the Claimants have attempted to use this procedure as a fishing expedition.</p>	<p>Documents are only requests to demonstrate jurisdictional claims in the present arbitration. Claimants would be in a position to accept a confidentiality agreement and to request the Tribunal to order a prohibition of disclosure to third parties or the appointment of an independent and impartial expert to review the documents in context of Article 3(8) of the IBA Rules.</p>	

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
13	<p>From the case file number 995/2022 processed before the Sixty-Third Civil Court of the Superior Court: The Complete file, including:</p> <p>(a) Copies of all the letters rogatory that TV Azteca received to carry out the service of process on the defendants;</p> <p>(b) the acknowledgement of receipt signed by TV Azteca proving when it received the letters rogatory to carry out the service</p>	Claimants' Counter-Memorial at ¶ 128	<p>This request is relevant and material to Claimants' demonstration of TV Azteca's initiation and maintenance of a secret proceeding via its failure to notify Claimants and Noteholders about the Injunction, along with the Mexican judiciary's exacerbation and collusion in this effort. These documents are also material to Claimants' ability to file a Notice of Intent to arbitrate no</p>	<p>Respondent objects to Claimants' Request 13 and incorporates <i>mutatis mutandis</i> the objections to Requests 1, 2 and 12.</p>	<p>Request No. 13 is not excessively onerous, nor is it general, unspecific, or speculative.</p> <p>For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1, 2, and 4 along with their General Responses, which apply <i>mutatis mutandis</i>.</p>	<p>Refused: not demonstrated to be relevant to jurisdictional objections.</p>

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	of process on the defendants; and (c) copies of the official communications between the Civil Chamber of the Superior Court of Justice of Mexico City and the Sixty-Third Court.		later than April 1, 2023. 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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.			

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
14	All documents and records, including but not limited to negotiating documents, proposals, or positions; explanatory statements, presentations, or other explanatory material; discussion documents; preparatory works; reports; minutes; draft documents; emails and other electronic or non-electronic materials that were prepared, proposed, or exchanged between or among one or	Respondent's Memorial on Jurisdiction at ¶¶ 52, 77, 84; Claimants' Counter Memorial at ¶¶ 107-113, 194-199, 220, 232-237, Witness Statement from Mr. Kenneth Patrick Smith Ramos at ¶¶ 20-28	The requested documents are relevant and material to Respondent's allegations that the Tribunal lacks Jurisdiction <i>ratione voluntatis</i> because the USMCA replaced NAFTA on July 1 st , 2020 and at that time Mexico was not subject to the obligations provided in NAFTA Article 1105. Specifically, Respondent's negotiating positions and understanding of the USMCA's legacy investment provisions contained	Respondent objects to Request 14 for the following reasons: <ul style="list-style-type: none"> • Because it is not relevant to the case, nor material to its outcome (General Objection 1); • Because it is excessively onerous its search and production (General Objection 2); • For being too general and, speculative and for lack of specificity (General Objection 3) 	Mexico argues that this request is not relevant and material to the outcome of the case. However, Mexico's third jurisdictional objection suggests that the Claimants do not have a valid legacy investment under Annex 14-C of the USMCA. See Memorial on Jurisdiction at ¶¶ 70-76. As set forth at length in Claimants' Counter-Memorial, Mexico is advancing an erroneous interpretation of the legacy investment provision under	Refused: The Claimants have not demonstrated a <i>prima facie</i> case that <i>travaux préparatoires</i> will be of assistance to the Tribunal, and the request is unreasonably wide.

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	more of the representatives from Mexico, the United States of America, or Canada (including any of their agencies, officials, or employees) or that otherwise pertain to positions considered or taken by any of them, in connection with the negotiation of the investment chapter of the USMCA, including Chapter 14 of the USMCA, its Annexes and the Negotiating Protocol (including previous iterations of those provisions). This		<p>in Annex 14-C upon the USMCA’s entry into force is material to Claimants’ position that the USMCA Parties intended the legacy investment provision to extend NAFTA’s substantive obligations for the term of the legacy provision, i.e., until July 1, 2023.</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</p>	<p>• Because the requested documents are in the possession, custody or control of the Claimants (General Objection 4).</p> <p>First, Claimants have not established the relevance of the documents they request for the outcome of the dispute. The Claimants have not established that, in this case, it is necessary to resort to complementary means of interpretation under the VCLT. On the</p>	<p>Annex 14-C of the USMCA and which is materially different from Mexico’s understanding of the legacy investment provision at the time it was negotiated and finalized.</p> <p>Request No. 14 is relevant and material to Respondent’s allegations that the Tribunal lacks Jurisdiction <i>ratione voluntatis</i> because it will confirm Respondent’s negotiating positions and understanding of the USMCA’s legacy investment</p>	

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	request is specific to documents in the possession, custody, or control of the Ministry of Economy, Ministry of Foreign Affairs, or the Office of the President the United Mexican States or its legal department, exchanged from May 2017 to the entry into force of the Agreement on July 1 st , 2020, between the Government of Mexico and the United States or the Canadian Government relating to the negotiation of		they directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.	contrary, the Respondent has verified that the general rule of treaty interpretation established in Article 31 of the VCLT is applicable and sufficient in this case. The Claimants justify their Request by considering that it is “relevant and material to Respondent’s allegations that the Tribunal lacks Jurisdiction <i>ratione voluntatis</i> because the USMCA replaced NAFTA on July 1st, 2020 and at that time Mexico was not	provision contained in Annex 14-C upon the USMCA’s entry into force is opposite of the position of Mexico in this proceeding and contrary with the plain text of the USMCA. The Vienna Convention on the Law of Treaties allows recourse to supplementary means of interpretation – i.e., negotiating history, as embodied by the Requested Documents herein – to confirm the meaning of the	

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		References to principal documents	Comments			
	the investment chapter of USMCA, including Chapter 14 of USMCA.			subject to the obligations provided in NAFTA Article 1105”. It is clear that the Claimants’ Request is not limited to the issues it seeks to justify, but rather covers documents “in connection with the negotiation of the investment chapter of the USMCA, including Chapter 14 of the USMCA, its Annexes and the Negotiating Protocol (including previous iterations of those provisions). It is evident that the Claimants’ Request	Treaties as intended by the Parties. See VCLT Article 32; Claimants’ Counter-Memorial at ¶¶ 231-232. Claimants take note of the documents produced by the Respondent to date in good faith. However, based on a preliminary review of those documents, Claimants believe Mexico can produce the complete set of documents that fully responds to our	

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
				<p>is extremely general and ambiguous, which would generate an unreasonable burden for the Respondent since a search would have to be carried out without having any specific parameter or information and is unrelated to.</p> <p>The Claimants do not provide further information regarding who the “representatives from Mexico, the United States of America, or Canada” referred to in this Request are, even though they were</p>	request in this regard.	

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
				<p>able to do so due to the position of their witness. This Request consists of a fishing expedition and is contrary to Article 3(3)(a) and (b) and Article 9(2)(a) and (c) of the IBA Rules.</p> <p>Finally, as noted in General Objection 4, the documents requested by the Claimants are– or should be– in their possession, custody or control, or they have the possibility of obtaining them through their own witness.</p>		

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
				However, the Respondent, in good faith, produces the documents found in the files of the Ministry of Economy related to the negotiation of Chapter 14 of the USMCA.		
15	All documents, including, but not limited to, negotiating documents, proposals, or positions; explanatory statements or other explanatory material; discussion documents; preparatory works;	Respondent's Memorial on Jurisdiction at ¶¶ 52, 77, 84; Claimants' Counter-Memorial at ¶¶ 107-113, 194-199, 220,	The requested documents are relevant and material to Respondent's allegations that the Tribunal lacks Jurisdiction <i>ratione voluntatis</i> because the USMCA replaced NAFTA on July 1 st , 2020 and at that time Mexico was not subject to	Respondent objects to Claimants' Request 15 and incorporates <i>mutatis mutandis</i> the objections to Request 14.	For efficiency the Claimants incorporate here by reference their responses to the objections for Request No. 1, 2, and 4 along with their General Responses, which apply <i>mutatis mutandis</i> .	Refused: The Claimants have not demonstrated a <i>prima facie</i> case that <i>travaux préparatoires</i> will be of assistance to the Tribunal, and the request

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

No.	Documents or categories of documents requested (requested party)	Relevance and Materiality, including references to the brief (requesting party)		Reasoned objections to a request for production of documents (Objecting Party)	Response to the objections to the request for production of documents (Requesting Party)	Decision (Tribunal)
		References to principal documents	Comments			
	reports; minutes; draft documents; emails; and other electronic or non-electronic materials) in the possession, custody, or control of the Ministry of Economy, Ministry of Foreign Affairs or the Office of the President the United Mexican States or its legal department, codifying, reflecting, discussing, or explaining the Government of Mexico’s negotiating position and/or understanding during the negotiation of USMCA re garding	232-237; Witness Statement from Mr. Kenneth Patrick Smith Ramos at ¶¶ 20-28	the obligations provided in NAFTA Article 1105. Specifically, Respondent’s communications that go to its understanding of the USMCA’s legacy investment provisions contained in Annex 14-C upon the USMCA’s entry into force are material to Claimants’ position that the USMCA Parties intended the legacy investment provision to extend NAFTA’s substantive obligations for the			is unreasonably wide.

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	all provisions included in the investment chapter of USMCA, including Chapter 14 of USMCA and its Annexes, and the Negotiating Protocol of the USMCA (including previous iterations of the relevant provisions). The documents referred in this request relate to documents generated from May 2017 to the entry into force of the Agreement July 1 st , 2020, reflecting or discussing the Respondent's		term of the legacy provision, i.e., until July 1, 2023. 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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.			

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	position in the negotiation of the investment chapter of the USMCA, including Chapter 14 of the USMCA and Annex 14-C and explaining the outcomes of that negotiation for purposes of implementing the Agreement.					
16	All documents, including, but not limited to, talking points, briefing materials, testimony, reports, written responses to questions, notes, correspondence	Memorial on Jurisdiction at ¶¶ 52, 77, 84; Counter – Memorial at ¶¶ 107-113, 194-	The requested documents are relevant and material to Respondent’s allegations that the Tribunal lacks Jurisdiction <i>ratione voluntatis</i> because the USMCA	Respondent objects to Claimants’ Request 16 and incorporates <i>mutatis mutandis</i> the objections to Request 14.	Contrary to Respondent’s arguments, the Requested Documents comply with IBA Rules 3(3)(a) and (b), and 9(2)(a) and (b) and Rule 15.4 from PO1.	Refused: The Claimants have not demonstrated that documents internal to the Government of Mexico are relevant to

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	<p>(whether by email, letter, or any other medium), or other documents) used or prepared by or on behalf of any agency, official, or employee of the Executive Branch of Mexico’s Government in connection with any discussion with, presentation to, testimony before, or communications:</p> <p>(a) to or with trade associations or unions, including the “cuarto de a lado” as the private sector advisory group and</p>	<p>199, 220, 232-237, Witness Statement from Mr. Kenneth Patrick Smith Ramos at ¶¶ 20-28</p>	<p>replaced NAFTA on July 1st, 2020 and at that time Mexico was not subject to the obligations provided in NAFTA Article 1105. Specifically, Respondent’s communications regarding its understanding of the USMCA’s legacy investment provisions contained in Annex 14-C upon the USMCA’s entry into force is material to Claimants’ position that the USMCA Parties intended the legacy investment provision</p>	<p>The Claimants do not provide further details regarding who are the “trade associations or unions, including the “cuarto de a lado” as the private sector advisory group and officials or members thereof”, or what they refer to in this Request, although they could have, due to the position of their witness. This Request is a fishing expedition and is contrary to Article 3(3)(a) and (b) and Article 9(2)(a) and (c) of the IBA Rules.</p>	<p>Claimants specifically indicated for this request: (i) the sender, (ii) the recipient, (iii) the subject matter of the documents requested, and (iv) a specific time period or range of dates that is reasonable and relevant with regards to the issues discussed in this case.</p> <p>Mexico, represented by the Ministry of the Economy, is presumably well-</p>	<p>questions of interpretation, or will be of assistance to the Tribunal</p>

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

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	<p>officials or members thereof; or</p> <p>(b) to or with congressional committees, congressional staff, advisory members from the Senate or Senators during the process to report the progress in negotiations and for purposes to submit the Agreement for Senate approval;</p> <p>(c) regarding any or all provisions included in the investment chapter of USMCA, including Chapter 14 of USMCA and its Annexes, and the</p>		<p>to extend NAFTA’s substantive obligations for the term of the legacy provision, i.e., until July 1, 2023.</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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the</p>	<p>In this regard, assuming without conceding that the documents with “trade associations or unions, including the “cuarto de a lado” as the private sector advisory group and officials or members thereof” existed, these will most likely contain sensitive commercial information of said companies, which is protected by Article 9.2(e) of the IBA Rules, as it constitutes privileged information.</p>	<p>aware how private sector advisory group, “Cuarto de A Lado” or “Cuarto de Junto” works in coordination with the government during trade negotiations. They are also aware that trade association of Mexico includes “Consejo Coordinador Empresarial”, “Confederación de Cámaras Industriales de los Estados Unidos Mexicanos, CONCAMIN”, at minimum. What it is evident is that Respondent is unwilling to produce</p>	

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	USMCA Negotiating Protocol (and any previous iterations these provisions). The documents referred in this request relate to documents generated from May 2017 to the entry into force of the Agreement July 1 st , 2020, in possession of Mexico’s government including Mexico’s Congress or Senate, reflecting or discussing the Respondent’s position during the negotiation of the investment chapter		requested documents.		or even search documents that are in Respondent’s possession, custody, or control and that are relevant to the reasonable requests by Claimants that squarely relate to a significant portion of Respondent’s jurisdictional objections in this case.	

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	of USMCA, including Chapter 14 of USMCA and Annex 14-C and explaining the outcomes of that negotiation for purposes of implementing the Agreement.					
17	All documents and records, including, but not limited to, talking points, briefing materials, testimony, reports, written responses to questions, notes, correspondence (whether by email, letter, or any other medium), or other documents) used or	Claimants' Counter-Memorial at ¶ 9	This request is relevant and material to Claimants' demonstration of the deeply embedded corruption within Mexico's judiciary and the Government of Mexico's explicit acknowledgment of this corruption	Respondent objects to Request 17 for the reasons given in the objections to Requests 1 and 2. In plain terms, Request 17 is irrelevant to the outcome of the Jurisdictional Objections raised by Mexico.	Request No. 17 is not excessively onerous, nor is it general, unspecific or speculative. This request is not, and should not be understood, as an offense to the Respondent.	Refused: not demonstrated to be relevant to jurisdictional objections.

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	prepared by or on behalf of any agency, official, or employee of the Executive Branch of Mexico’s Government in connection with recently-passed reforms on the judiciary, insofar as these records and communications relate to deliberations on the corruption of the Mexican judiciary relating to specific cases, including but not limited to TV Azteca or Grupo Salinas cases, or other international		through attempts at recent reforms. 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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.	Furthermore, Request 17 would be onerous, and would create an unreasonable burden on the Respondent. When talking about “Executive Branch of Mexico’s Government”, the Claimants seem to forget that the Executive Branch is made up of thousands of public officials. This clearly demonstrates how generic and ambiguous Request 17 is. Mexico reiterates that this Request 17 constitutes a fishing	The recent actions and initiatives by the former President, the current President of Mexico, and the Congress to amend the Constitution with the objective to address the longstanding corruption practices in the Mexican Judiciary Power is well known globally. For efficiency Claimants incorporate here by reference their responses to the objections for Request No. 1, 2,	

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	investment dispute settlement cases impacted by corruption in the Mexican judiciary.			expedition. Furthermore, Request 17, and the alleged justifications, are offensive to the Mexican State and an abuse of investor-State arbitration.	and 4 along with their General Responses, which apply mutatis mutandis.	
18	All documents and records, including, but not limited to, talking points, briefing materials, testimony, reports, written responses to questions, notes, correspondence (whether by email, letter, or any other	Claimants' Counter-Memorial at ¶ 9	This request is relevant and material to Claimants' demonstration of the deeply embedded corruption within Mexico's judiciary and the Government of Mexico's explicit acknowledgment of this corruption	Respondent objects to Claimants' Request 18 and incorporates <i>mutatis mutandis</i> the objections to Request 17. It cannot go unnoticed that Request 18 is offensive and a	Request No. 18 is not excessively onerous, neither general, unspecific nor speculative as contended by Mexico. This request is not, and should not be understood, as an	Refused: not demonstrated to be relevant to jurisdictional objections.

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

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	medium), or other documents) used or prepared by or on behalf of any member of Congress or congressional staff member in the Senate or lower house of Congress, in connection with recently-passed reforms on the judiciary, insofar as these records and communications relate to deliberations on the corruption of the Mexican judiciary relating to specific cases, including but not limited to TV Azteca or Grupo		through attempts at recent reforms. 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 directly involve Respondent officials, personnel and representatives. Claimants do not have access to, or possession, custody, or control of the requested documents.	document production phase of an investment arbitration cannot be used by apparent plaintiff investors to raise serious accusations against a sovereign State.	offense to the Respondent. The recent actions and initiatives by the former President, the current President of Mexico, and the Congress to amend the Constitution with the objective to address the longstanding corruption practices in the Mexican Judiciary Power is well known globally. For efficiency Claimants incorporate here by reference their responses to the objections for	

Cyrus Capital Partners, L.P. and Contrarian Capital Management, LLC v. United Mexican States
(ICSID Case No. ARB/23/33)

Procedural Order No. 4 – Annex A

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	Salinas cases, or other international investment dispute settlement cases impacted by corruption in the Mexican judiciary.				Request No. 1, 2, and 4 along with their General Responses, which apply mutatis mutandis.	