

ANNEX A

IN THE MATTER OF AN ARBITRATION UNDER THE RULES OF THE
INTERNATIONAL CENTRE FOR SETTLEMENT OF
INVESTMENT DISPUTES

ICSID Case No. ARB/23/24

BETWEEN:

SILVER BULL RESOURCES, INC.

-and-

THE UNITED MEXICAN STATES

**CLAIMANT'S REQUESTS FOR
DOCUMENT PRODUCTION**

10 February 2025

BSF

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1. INTRODUCTION

1. In accordance with the schedule established by the Tribunal in its Procedural Order No. 1 dated 26 February 2024, as amended by agreement of the Parties and affirmed by the Tribunal's email to the Parties dated 28 October 2024, Silver Bull Resources, Inc. ("**SVB**" or the "**Claimant**") hereby submits its document requests ("**Requests**") and requests that the United Mexican States ("**Mexico**" or the "**Respondent**") produce copies of the documents identified in Section II below. Unless otherwise indicated, capitalized terms in this Redfern have the meaning set forth in the Claimant's Memorial dated 17 June 2024.
2. The terms used in these Requests are defined as follows:
 - (a) "*Document(s)*" has the meaning set out in the 2020 IBA Rules on the Taking of Evidence in International Arbitration (the "**IBA Rules**") and in this paragraph. The IBA Rules define "Document" as "a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means". Consequently, the term "Document" means any writings of any kind and includes, without limitation, any letter, email, WhatsApp message, facsimile, note (handwritten or otherwise), memorandum, correspondence, minutes of meetings (as defined below), report (internal or other), record, list, data, email, and drafts of all the foregoing.
 - (b) "*Meeting*" refers to the contemporaneous presence of natural persons, including in person or by telephone or videoconference, whether such presence was by chance or prearranged, whether the meeting was formal or informal, and whether it occurred in connection with some other activity.
 - (c) "*Minutes*", when relating to a Meeting, include, without limitation, any formal or informal Document referring to information conveyed in, or recording discussions or decisions taken at, such Meeting, as well as resolutions, recitations, or other material, whether or not adopted by written consent.
 - (d) "*Relating to*" means concerning, referring to, reflecting, evidencing, regarding, prepared in connection with, used in preparation for, or being in any way legally, logically, or factually concerned with the matter or document described, referred to, or discussed.
 - (e) "And" and "or" mean "and/or".

(f) “Any” means “all”.

3. The Claimant makes these Requests with the following understandings:

- (a) Each Request requires the production of all responsive documents, wherever located, that are in the Respondent’s possession, custody, or control.
- (b) The use of the singular form of any word shall also include the plural and vice versa.
- (c) The Claimant proposes that, when producing responsive Documents, the Parties specify which Documents are responsive to which Requests and, if applicable, state that there are no documents responsive to a particular Request. Claimant also proposes that the Parties produce responsive documents in the form of one PDF file per document (other than documents not suitable for production in PDF format, such as Excel files, which should be produced in their original file format).
- (d) If any portion of any Document is responsive to a Request, the entire Document shall be produced.
- (e) Documents shall be produced in the same fashion as they are kept in the normal course of business. Documents that are stapled, clipped, or otherwise physically attached shall be produced intact and shall not be separated, even if a part of the Document appears not to be responsive. Emails and letters shall be produced with all attachments and/or enclosures.
- (f) Documents shall be produced together with any amendments thereto, any attachments and exhibits thereto, and any annotations thereon.
- (g) To the extent any Documents responsive to any Request are located and withheld by the Respondent on account of any alleged privilege or for any other reason, the Respondent shall provide together with your response a privilege log containing a description of the responsive Document (including its date, its author, and its recipient) and the reason for withholding that document from production.
- (h) The Claimant reserves the right to request that originals of Documents produced be made available for inspection.
- (i) Unless otherwise specified, the period of time covered by the Requests is from 3 September 2019 (the date on which, to the best of the Claimant’s knowledge, Mineros

Norteños solidified its plan to initiate the Continuing Blockade)¹ through 31 August 2022 (the date of Termination Agreement of the Option Agreement between Minera Metalín, SVB, and South32).²

- (j) The Requests are continuing in nature and call upon the Respondent to produce responsive Documents that the Respondent may locate or obtain possession, custody, or control of at any time during the course of this arbitration.
- (k) Any Request relating to the Respondent’s Counter-Memorial does not imply and shall not be construed as an admission by SVB of the accuracy, veracity, or relevance of any matter.

4. The terms used in these Requests are defined as follows:

- (a) The “Respondent” or “Mexico” means the United Mexican States, as well as all of its organs, instrumentalities, entities, agents, and officials at a municipal, state, or federal level, and any of their staff, employees, or representatives, who, during the relevant period, acted or purported to act on behalf of the Respondent. For the avoidance of doubt, this definition encompasses, but is not limited to, the Mexican Government entities and officials listed in 1.4(h)-(l), *infra*.
- (b) The “Claimant” means Silver Bull Resources, Inc.
- (c) “Minera Metalín” means Minera Metalín S.A., de C.V.
- (d) The “Sierra Mojada Project” or the “Project” means the property located in the northwestern part of Coahuila adjacent to the municipalities of La Esmeralda and Sierra Mojada, comprising the 20 registered mining concessions granting mining rights over a total area of 9,530.4 hectares. It further refers to the Shallow Silver Zone and Zinc zones located within two of the 20 mining concessions, as defined in the Claimant’s Memorial.³

¹ See Claimant’s Memorial, at ¶ 2.113; See Juan Manuel López Ramírez First Witness Statement, at ¶ 8.2.

² See Claimant’s Memorial, at ¶ 2.208; See Termination Agreement between SVB Resources, Inc., Minera Metalín, S.A. de C.V. and South 32 International Investment Holding Pty Ltd., 31 August 2022, **C-0048**.

³ Claimant’s Memorial, Section 2(B); See also S-K1300 Summary Technical Report on the Resources of the Silver-zinc Sierra Mojada Project Coahuila, Mexico, 24 January 2023, **C-051**, pp. 32 - 33.

- (e) “Mineros Norteños” means the *Mineros Norteños Sociedad Cooperativa* and includes, without limitation, its members Lorenzo Fraire Hernández, José Flores Anguiano, Miguel Enriquez, Silvia Antonia García Guevara, José Merced Alfaro, Oscar Carrillo Ramírez, Andrés García Nájera, and any other members identified in Exhibit C-0027.
- (f) “Initial Blockade” means the blockade of the Project site imposed by Mineros Norteños on 4 February 2016 and lifted by Public Prosecutors Sergio Lopez Reyna and Anayanci Serrano Regalado of the Ocampo municipality of the State of Coahuila that same day.
- (g) “Continuing Blockade” means the blockade of the Project site imposed by Mineros Norteños on 8 September 2019 and continuing until today. SVB notes in this regard that the Respondent’s argument in its Counter-Memorial that the Initial Blockade and the Continuing Blockade are allegedly not “blockades” is erroneous and without basis and in any event does not excuse the Respondent from producing responsive documents related to these Blockades.
- (h) “Sierra Mojada Municipality” means the *Presidencia Municipal de Sierra Mojada*, as well as its elected mayor and any other agents or officials, and any of their staff, employees, or representatives, who, during the relevant period, acted or purported to act on behalf of the Sierra Mojada Municipality.
- (i) “Sierra Mojada Police” means the *Dirección de Policía y Tránsito* of the Sierra Mojada Municipality, including its Chief of Police and its police officers, agents, and staff.
- (j) “Governor of Coahuila” means the *Gobernación del Estado de Coahuila*, its elected governor, and any other agents or officials, and any of their staff, employees, or representatives, who, during the relevant period, acted or purported to act on behalf of the Governor of Coahuila.
- (k) “Economía” means the *Secretaría de Economía*, including: the *Dirección General de Minas (DGM)*; the Undersecretariat of Mining (whose responsibilities and functions transferred to the DGM when the Andrés Manuel López Obrador (AMLO) administration eliminated the Undersecretariat in September 2020); the *Registro Público de Minería*; the *Registro Público de Comercio*; and any agents or officials,

and any of their staff, employees, or representatives, of the foregoing, who, during the relevant period, acted or purported to act on behalf of Economía.

- (l) “SEGOB” means the *Secretaría de Gobernación*, which the Respondent submits is “responsible for dealing with social conflicts at the national level”.⁴
- (m) “MORENA” means the *Movimiento de Regeneración Nacional*, the political party founded by Mr. Andrés Manuel López Obrador in 2011; Mr. López Obrador was elected the President of Mexico in July 2018, which office he held from 1 December 2018 to 30 September 2024.

⁴ Counter-Memorial ¶ 200.

Objections of the United Mexican States to Claimant’s Request for Production of Documents

INTRODUCTION

1. The Claimant’s requests for production of documents (Requests) do not comply with section 15 of Procedural Order 1 (PR1) and are contrary to Article 3(3) of the IBA Rules on the Taking of Evidence in International Arbitration (IBA Rules).

2. Pursuant to Section 15.2 of MOP 1, *“each party may request the other party to produce documents or categories of documents in the possession, custody or control of the other party. Such request for production shall precisely identify each specific document or category of documents requested, [...] specifying why the requested document is relevant to the dispute and material to the outcome of the case.”* Furthermore, pursuant to Section 15.1 of MOP1 *“[t]he Tribunal shall be guided by Articles 3 and 9 of the IBA 2020 Rules on the Taking of Evidence in International Arbitration.”*

3. The Respondent objects to the Applications on the grounds that they are general, unspecific, unlimited, create an unreasonable burden on the Respondent and contain confidential or privileged information, reasons for which they are excluded from production under Article 9(2) of the IBA Rules.

4. The Requests constitute a *“discovery”* practice, similar to that followed in civil judicial proceedings under common *law civil litigation procedures*, which is contrary to the purpose and language of the IBA Rules. Such practices are not permitted in investor-state arbitration. As O’Malley points out:

[T]he presumption in arbitration is that a party will establish its case based largely (if not entirely) on the documents within its own possession. Thus, a wide-ranging discovery process that allows a party to substantiate a case by “discovering” the primary evidence to support its arguments is not compatible with this threshold concept. Indeed, it is more accurate to view disclosure under [IBA Rules] article 3.3 as a limited process aimed at filling gaps or providing assistance in covering important, but discreet, issues raised by the factual record, for which sufficient evidence has not been voluntarily supplied by the parties.⁵

5. In this regard, Claimant has the burden of proof on its own claims and cannot use the document production phase to shift the burden of proof to Respondent with respect to vague and speculative allegations, as it intends to do with most of its Requests.

⁵ Nathan D. O’Malley, *Rules of Evidence in International Arbitration*, 2nd ed. (2019), p. 39. Commentary on the revised text of the 2020 IBA Rules on the Taking of Evidence in International Arbitration prepared by the 2020 IBA Rules of Evidence Review Task Force, January, 2021, p. 8. (“Expansive American- or English-style discovery is generally inappropriate in international arbitration. Rather, requests for documents to be produced should be carefully tailored to issues that are relevant and material to the determination of the case.”).

6. In addition, several of the Claimant's Requests require the production of documents related to criminal investigations, which would imply the illegal disclosure of confidential information.

7. Respondent submits four General Objections, followed by specific objections to each of Claimant's Requests. Nothing in its general and/or specific objections should be construed as prejudicing the arguments presented by Respondent in its Counter-Memorial or as an admission of the facts presented by Claimant.

8. The Respondent shall submit the response documents in PDF format or in their original format (e.g. Excel), without password protection. For ease of reference, the title of the file shall include a number that relates to the request to which it corresponds.

General Objection No. 1: Unreasonable hardship resulting in an unreasonable burden on Respondent

9. Article 9.2 (c) of the IBA Rules provides as follows:

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

(c) excessive onerousness of the requested test;

10. Some of the Claimant's Requests are objected to because they do not have sufficiently precise references (e.g., they do not establish a date range to carry out the search, they do not indicate the identity of the relevant officials, entities or agencies), which prevents the Respondent from carrying out the search. For example, they do not have sufficiently precise references to search for and produce the documents, e.g., the authorities or administrative areas within them that have the information; the authors, senders or addressees of the requested communications; type of documents requested; sufficient specificity on the topics contained in the documents Claimant requests documents from Mexican courts, the entire Ministry of Economy, the entire Presidency of the Republic, the Ministry of the Interior, the Coahuila State Attorney's Office and the Government of Coahuila. These entities have complex administrative structures with thousands of employees from different agencies.

11. On the other hand, Claimant wrongly assumes that Respondent has unlimited powers to request and obtain information from the entire Mexican government or any department, office, area or administrative unit.⁶ This is incorrect. The authorities in charge of defending this type of claims cannot

⁶ See Requests No. 1, 3, 8, 11, 12, 16, 17, 18, 19, 21, 25 and 29. The Mexican State has three branches of government: Executive, Legislative and Judicial. It also has three levels of government, Federal, State and Municipal. This makes the search requested by the Claimants even more complex.

compel other governmental entities to provide information requested by a claimant, as they do not exercise any control over them.⁷

12. Arbitral tribunals such as *Waste Management* and *Bilcon* have often found these types of requests to be excessively burdensome, as they often include a considerable number of documents, involving a very significant investment resources, time, and effort. Furthermore, these documents are often not relevant and their production is too burdensome given their limited usefulness.⁸ In this regard, it is important that requests indicate precisely what their purpose is for arbitration purposes and that they indicate references to the materials in the file that establish this relevance (e.g., memorials, documentary evidence or witness statements and expert reports).

13. Finally, there are other requests that refer to public documents that are available to anyone who requests them through the mechanisms established in the Mexican legal system.⁹ Respondent objects to requests that refer to public documents or information as too burdensome and unnecessary. It is recalled that one of the requirements under Rule 3(c)(i) of the IBA Rules is a statement that the requested documents “are not in the possession, custody or control of the Party or under the control of the requesting party”. For the Respondent, this requirement would preclude requesting documents that the requesting party could have obtained through public information requests. The objection stems not only from the failure to comply with the above requirement, but also from the onerous burden sought to be imposed on the Respondent to produce documents that the Claimant could well have obtained directly, even before initiating the arbitration.

General Objection No. 2: Lack of specificity

14. Article 3.3(a) of the IBA Rules provides as follows:

“3. A Request for Production of Documents shall contain:

(a) (i) a description of each Document requested to be exhibited that is sufficient to identify the Document, or

⁷ See Noah Rubins, *Particularities when Dealing with State Entities*, in “Guerrilla Tactics in International Arbitration”, eds. Günther Horvath & Stephan Wilske (2013), p. 4 (“two useful exceptions to production, including a lack of “control” over “departments, ministries, agencies, and state-owned companies” “other than the one responsible for the arbitration”)

⁸ *Waste Management, Inc v United Mexican States*, ICSID Case No ARB (AF)/00/3, Procedural Order Concerning Disclosure of Documents, October 1, 2002, ¶ 11. In *Waste Management*, the tribunal found that the request to produce “copies of all invoices issued in the period 1994-1998” was *prima facie* too burdensome. See also, *William Ralph Clayton, William Richard Clayton, Douglas Clayton, Daniel Clayton and Bilcon Delaware Inc. v. Government of Canada*, PCA Case No. 2009-04, Procedural Order No. 8, Nov. 25, 2009, ¶ 1(d) (“The issue of whether a request should be rejected as unduly burdensome must, in the Tribunal’s view, take into account both the time and effort required to produce the requested documents and the prospect that these documents will have probative value.”). See *The Renco Group v. The Republic of Peru*, CPA Case No. 2019-46, Procedural Order No. 7 August 25, 2022 (rejecting requests made to all Peruvian state entities).

⁹ Article 123 of the Federal Law on Transparency and Access to Public Information (LFTAIP) (“Any person by himself or through his representative, may submit a request for access to information before the Transparency Unit, through the National Platform, in the office or offices designated for such purpose, via email, mail, courier, telegraph, verbally or any means approved by the National System.”). See also Article 122 of the General Law on Transparency and Access to Public Information (LGTAIP) (“Any person by himself or through his representative, may submit a request for access to information to the Transparency Unit, through the National Platform, at the office or offices designated for such purpose, via email, postal mail, courier, telegraph, verbally or any means approved by the National System.”).

(ii) a sufficiently detailed description (including the subject matter) of the particular and specific category of requested Documents reasonably believed to exist. In the case of Documents held in electronic format, the requesting Party may - or the Arbitral Tribunal may require it to proceed to - identify specific files, search terms, individuals or any other means of searching for such Documents in an efficient and economical manner." [Emphasis added]

15. As recognized in the Commentary to the IBA Rules, the purpose of requirements such as this is to avoid what is commonly referred to as a "*fishing expedition*"..¹⁰

16. A number of commentators have pointed out that a distinction should be drawn between the approach used in Anglo-American *discovery* practice *vis-à-vis* that used in investment arbitration. As O'Malley points out document production in arbitration aims at "'filling the gaps', as opposed to building a factual record", and "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".¹¹

17. Document production cannot be used as a mechanism to "build" a case, as the court in *Libananco v. Turkey* noted at the time:

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 argument¹²

18. Many of Claimant's requests are drafted in overly broad, unlimited or general terms, thereby failing to comply with the specificity requirement. In this sense, it has been observed that "[t]he requirement of specificity is crucial with regard to the efficiency of the proceedings, since it excludes requests for broad categories."¹³

19. It should also be noted that, in investor-State arbitration practice, requests are limited to documents that are "reasonably believed to exist", as stated in Rule 3(a)(ii) of the IBA Rules. It is not appropriate, therefore, to request documents about which there is no reasonable expectation of their existence. A mere statement to the effect that the Claimant considers that the document exists is insufficient to justify a request. For these purposes, it is also relevant to refer to material in the file that would establish the existence of these documents or a reasonable belief to the same effect

¹⁰ *Commentary on the revised text of the 2020 IBA Rules on the Taking of Evidence in International Arbitration* prepared by the 2020 IBA Rules of Evidence Review Task Force, January, 2021, pp. 9-10 ("Article 3.3 is designed to prevent a broad "fishing expedition", while at the same time permitting parties to request documents that can be identified with reasonable specificity and which can be shown to be relevant to the case and material to its outcome.").

¹¹ O'Malley, Nathan D. *Rules of Evidence in International Arbitration: An Annotated Guide: Lloyd's Arbitration Law Library*. Taylor and Francis, p. 38.

¹² *Libananco Holdings Co. Limited v Republic of Turkey*, ICSID Case No. ARB/06/8), Decision on Preliminary Issues ⁷⁰, 23 June 2008.

20. Claimant’s requests that are objected to under this section are not sufficiently “concrete and specific” and therefore fail to meet the requirement set forth in Article 3.3(a) of the IBA Rules. These requests use indeterminate terms such as (e.g., “*all Documents*”, “*any Documents*”, “*any internal Documents*”, even the Claimant defines “any” as “all”).¹⁴

21. The IBA Rules define “document” as “writing, communication, photograph, design, program or data of any kind, whether on paper, electronic, audio, visual or any other medium”. However, it is not appropriate to expand this already very broad definition, with extensions such as “*any writings of any kind* and includes, without limitation, *any* letter, email, WhatsApp message, facsimile, note (handwritten or otherwise), memorandum, correspondence, minutes of meetings (as defined below), report (internal or other), record, list, data, email, and drafts of all the foregoing”.¹⁵ The Respondent does not have access (nor can it obtain access) to personal documents of a public official, such as WhatsApp messages or personal notes. Expanding the definition of the term “document” in this way would not only detract from the specificity of the request, but would make it unduly burdensome for the Respondent.

22. Claimant’s Requests are the antithesis of the requirement to identify a concrete and specific category of documents reasonably believed to exist under Article 3.3(a)(ii) of the IBA Rules. In *Thunderbird v. United Mexican States*, the tribunal interpreted the terms “*narrow and specific*” as “*narrowly tailored*” in accordance with the nature of the claims and defenses asserted in the case. The Applications therefore fail to meet the requirements of Article 3(3)(a) of the IBA Rules.

General Objection No. 3: Lack of Relevance and/or Materiality

23. Article 3(3)(b) and 9(2)(a) of the IBA Rules provide as follows:

3. A Request for Production of Documents must contain:

(b) a statement of why the Requested Documents are relevant to the case and material to its resolution;

[...]

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

(a) lack of sufficient relevance or usefulness for the resolution of the case;

[Emphasis added]

¹⁴ See Requests No. 6, 7, 10 and 12. The tribunal in *ADF* rejected the investor’s requests for using overly broad language and stated that “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.” *ADF Group Inc v United States of America*, ICSID Case No ARB (AF)/00/1, Procedural Order No 3, Concerning the Production of Documents, 4 October 2001, ¶ 10.

¹⁵ Claimant’s Requests for Production of Documents, ¶ 1.2 (a).

24. Many of the Complainant’s applications do not meet these requirements

25. In *Glamis Gold v. United States*, the tribunal emphasized the importance of the parties clearly articulating the relevance of the requested documents in any request, which requires establishing a “substantial nexus [...] between the category of requested documents and the likely materiality of such documents to the outcome of the case”.¹⁶ Claimant fails to establish a sufficiently substantial relationship or nexus between the requested documents and the claims raised in the case, referring only to speculation.

26. In *Tidewater v. Venezuela*, in deciding whether it was necessary to order the production of certain documents, the tribunal determined that it should be guided by the “test” of relevance or utility set out in the IBA Rules. This allowed it to conclude that the *relevance* of a document consists in demonstrating convincingly the reasons why the requested document is expected to support a specific fact in dispute, and to enable the requesting party to meet the applicable evidentiary burden.¹⁷

General Objection No. 4: Confidentiality or estoppel or privilege

27. Article 9.2(e) of the IBA Rules states the following:

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

[...]

(b) existence of estoppel or privilege under the legal or ethical rules determined to be applicable by the Arbitral Tribunal

[...]

(e) confidentiality for commercial or technical reasons deemed sufficiently relevant by the Arbitral Tribunal

[Emphasis added]

28. Many of Claimant’s requests involve the production of documents that are confidential or subject to legal estoppel or privilege. For this reason, they should be rejected.

29. In this regard, the Arbitral Tribunal determined, in section 8 of Procedural Resolution No. 2, that the information that is protected by the legislation of the State party to the dispute must be considered as confidential information.

¹⁶ *Glamis Gold Ltd v United States of America*, UNCITRAL, Decision on Objections to Document Production, July 20, 2005, ¶ 28.

¹⁷ *Tidewater, Inc. et. al. v. The Bolivarian Republic of Venezuela*, ICSID Case No. ARB/10/5, Procedural Order No. 1 on Production of Documents, ¶ 14 (March 29, 2011). Bernard Hanotiau, *Document Production in International Arbitration: A Tentative Definition of “Best Practices*, ICC Bulletin (2006), p. 116 (“[W]hen a party alleges that its opponent has failed to provide the evidence for a submission it has made and requests that party to produce the relevant evidence, this request should in most cases be dismissed.”).

30. In this sense, Article 218 of the National Code of Criminal Procedure establishes that “[t]he records of the investigation, as well as all documents, regardless of their content or nature, objects, voice and image records or things related to them, are strictly confidential, so that only the parties may have access to them [...]”.¹⁸

31. Similarly, Sections VII to XII of Article 113 of the General Law of Transparency and Access to Public Information give the character of “reserved” (*i.e.*, “confidential”) to the documentation in the files of investigations of facts that the law indicates as crimes and that are processed before the Public Prosecutor’s Office.

32. These two provisions would preclude the production of documents related to ongoing investigations, which includes the files opened by the Mexican authorities, as well as the records related to them. Respondent cannot produce this kind of information given the existence of a legal impediment to do so within the meaning of Rule 9(e)(b).

¹⁸ Article 218 of the National Code of Criminal Procedures, **R-0037**.

The Claimant's Response to the Respondent's Introduction and General Objections

1. INTRODUCTION

1. In accordance with the schedule established by the Tribunal in its Procedural Order No. 1 dated 26 February 2024, as amended by agreement of the Parties and affirmed by the Tribunal's email to the Parties dated 28 October 2024,¹⁹ the Claimant hereby submits its replies to the Respondent's responses and objections to the Claimant's Document Requests and reiterates its request that the Respondent produce copies of the documents identified in Section 2 below. In its replies to the Respondent's responses and objections, the Claimant applies the same terms and adopts the same understandings stated in its Introduction above.²⁰
2. As reflected below, Mexico has objected in full to 25 of the Claimant's 29 Requests. Although Mexico purports to have conducted a reasonable search for documents in response to the Claimant's remaining four Requests, it has produced *no* responsive documents to date. As is evident from its responses and objections, Mexico has not engaged in the document production phase in good faith and instead resists production of the documents at the heart of this arbitration, including documents reflecting Mexico's contemporaneous response to Minera Metalín's repeated requests for assistance and intervention to resolve the Continuing Blockade and to permit access to the Project site, as well as the criminal files prepared by Mexico's own prosecutorial authorities in response to Minera Metalín's criminal complaints.
3. In so doing, Mexico advances a number of baseless relevance, materiality, and overbreadth arguments, and complains that the Claimant's Requests allegedly constitute a "*discovery*" practice that is "*contrary to the purpose and language of the IBA Rules*".²¹ Mexico's assertions are misguided and wrong.

¹⁹ Email from ICSID to the Parties, attaching the Parties' revised procedural timetable, 28 October 2024.

²⁰ The Claimant notes that, on 3 February 2025, Mexico provided its Responses and Objections to the Claimant's Document Requests in Spanish only, without providing an English translation. The Claimant therefore created a machine translation (using DeepL), and the quotes herein are taken from that machine translation. At 2:39pm on 10 February 2025, Mexico belatedly provided a "courtesy translation" of its Responses and Objections in English. Given that this translation was provided only on the afternoon that the Parties were due to file their Redfern with the Tribunal (and the Claimant had already prepared its replies), the Claimant quotes in this Redfern from its machine translation. The Claimant attaches hereto the Spanish original and Mexico's belated translation for the Tribunal's reference as **C-0171**.

²¹ Objections of the United Mexican States to Claimant's Request for Production of Documents, para. 4.

4. The Claimant's Requests seek documents that are directly relevant and material to the issues in dispute, consistent with the principles set out in the IBA Rules. The requested documents are not in the Claimant's possession, custody, or control, but rather are solely in Mexico's possession, custody, or control. That Mexico chose to submit virtually no contemporaneous documentary evidence with its Counter-Memorial does not make the requested documents any less relevant or material to this dispute.
5. Furthermore, rather than engaging with the substance of the Claimant's Requests, Mexico relies upon a series of baseless "*General Objections*", to which it cross-refers in its responses and objections. As explained below, each of those General Objections lacks foundation and is simply a bad faith attempt by Mexico to evade its document production obligations and to prevent the Claimant from making its case in full. Mexico has also failed to produce a privilege log in relation to the documents over which it seeks to assert legal privilege or confidentiality.
6. As for the remaining four Requests, Mexico contends that it has conducted a "*good faith*" search for responsive documents, but it has failed to produce a single responsive document. Mexico seeks to justify such failure on the basis that the individuals who would have held the requested documents have left the Government, or that the requested documents do not exist because of their age. Neither of these assertions is credible.
7. There can be no dispute that Mexico is required to retain and preserve the official documents and records of its own Government officials, even after those officials have left Government service; it is therefore not credible that the requested documents do not exist simply because certain officials have left the Government, as Mexico repeatedly asserts. Nor is it credible that Mexico is unable to locate documents from 2019 until the present, which is the date range applying to the Claimant's Requests.²² That date range is not unreasonable or unduly burdensome, and Mexico notably fails to produce any official document retention policy in support of its assertion that five-year-old documents would not exist because of their age.
8. The Claimant further observes that Mexico's approach to document production in this case appears to reflect its *modus operandi* in investment treaty arbitrations. For example, in *PACC v. Mexico* and *Odyssey v. Mexico*, Mexico similarly objected to the vast majority of the

²² See *supra* Claimant's Introduction, para. (i) ("*Unless otherwise specified, the period of time covered by the Requests is from 3 September 2019 (the date on which, to the best of the Claimant's knowledge, Mineros Norteños solidified its plan to initiate the Continuing Blockade) through 31 August 2022 (the date of Termination Agreement of the Option Agreement between Minera Metalin, SVB, and South32).*").

claimant's document requests on spurious grounds and/or failed to produce responsive documents.²³ The Claimant respectfully submits that the Tribunal should not countenance Mexico's similar bad faith effort in this case to prevent the Claimant from making its case. As commentators have observed, a party's ability to access and use information through the process of discovery is "*related with the right to present one's case and opportunity to be heard,*" a right which "*appears to be the most fundamental due process rule*".²⁴

9. Mexico's approach also stands in marked contrast to the Claimant's good faith approach to document production in this case. As reflected in Mexico's Redfern, the Claimant has agreed in good faith to conduct reasonable searches for and to produce documents in response to 10 of Mexico's 26 requests. On 3 February 2025, in accordance with paragraph 15.1 of Procedural Order No. 1, the Claimant produced the responsive, non-privileged documents it had located to date. The Claimant also provided to Mexico a privilege log and a redaction log, identifying the legal basis on which the Claimant had withheld privileged and/or confidential documents or information from production. The Claimant will produce additional responsive, non-privileged documents on a rolling basis, if and when located.

2. MEXICO'S GENERAL OBJECTIONS ARE UNFOUNDED

2.1 Response to General Objection No. 1: Unreasonable Hardship

10. Mexico's first general objection is that the Claimant's Requests would allegedly give rise to "unreasonable hardship" and an "unreasonable burden" on Mexico. Mexico advances three main arguments in this regard, each of which lacks foundation.
11. *First*, Mexico incorrectly asserts that "*some of the Claimant's Requests are objected to because they do not have sufficiently precise references (e.g. they do not establish a date range to carry out the search)*".²⁵ However, as its Document Requests reflect, the Claimant included both a

²³ See *PACC Offshore Services Holdings Ltd v. The United Mexican States*, ICSID Case No. UNCT/18/5, Procedural Order No. 4, 7 November 2019, **CL-0143**; *Odyssey Marine Exploration, Inc. (USA) v. the United Mexican States*, ICSID Case No. UNCT/20/1, Procedural Order No. 3 Production of Documents, 23 April 2021, **CL-0142**.

²⁴ Matti Kurkela & Hannes Snellman, *DUE PROCESS IN INTERNATIONAL COMMERCIAL ARBITRATION* (Oxford University Press, 2010), **CL-0141**, pp. 38, 161.

²⁵ Objections of the United Mexican States to Claimant's Request for Production of Documents, para. 10.

general date range for its Requests at paragraph 1.3(i) of its Introduction,²⁶ and narrow and specific date ranges, where appropriate.²⁷

12. *Second*, Mexico argues without support that the agency responsible for defending Mexico in this arbitration does not exercise control over other Government entities, departments, offices, areas, or administrative units.²⁸ Such assertion is without merit and incompatible with international law more broadly. It is well established that a State is unitary for purposes of international law.²⁹ This is reflected, for example, in the ILC Articles on the Responsibility of States for Internationally Wrongful Acts, which provide at Article 4 that the conduct of any State organ is considered an act of the State, whatever its functions within that State.³⁰
13. Accordingly, any document in the possession, custody, or control of any Mexican State organ is deemed to be in the possession, custody, or control of Mexico, the Respondent in this arbitration. Mexico's assertion that it allegedly cannot "*compel other governmental entities to provide information*" is therefore unavailing.³¹ Such information is in the Respondent's possession, custody, or control, and is subject to production in response to the Claimant's Requests. Mexico cannot be permitted to use purported domestic law limitations to avoid its document production obligations in this case.
14. Moreover, while Mexico relies upon the views of one commentator in support of its assertion that it cannot compel its own agencies to produce documents, such commentary confirms only that States *sometimes* make the argument that Mexico is raising here; it does *not* opine on the merits of that argument.³² The commentary also goes on to note that, where, as here, a State

²⁶ Claimant's Requests for Document Production, para. 1.3(i).

²⁷ See, e.g., Claimant's Requests Nos. 2, 3, 9, 23.

²⁸ Objections of the United Mexican States to Claimant's Request for Production of Documents, para. 12.

²⁹ Georgios Petrochilos, 'Attribution: State Organs and Entities Exercising Elements of Governmental Authority', in Katia Yannaca-Small (ed.), ARBITRATION UNDER INTERNATIONAL INVESTMENT AGREEMENTS: A GUIDE TO THE KEY ISSUES (2nd ed.), (Oxford University Press 2018), **CL-0144**, paras. 14.21-14.22, pp. 332 – 369.

³⁰ ILC Articles on State Responsibility, Art. 4, **CL-0081**. See also, *PACC Offshore Services Holdings Ltd v. The United Mexican States*, ICSID Case No. UNCT/18/5, Procedural Order No. 4, 7 November 2019, **CL-0143**, p. 12.

³¹ Objections of the United Mexican States to Claimant's Request for Production of Documents, para. 12.

³² Noah Rubins, 'Particularities when Dealing with State Entities', in Günther J. Horvath and Stephan Wilske (eds), GUERRILLA TACTICS IN INTERNATIONAL ARBITRATION, (Wolters Kluwer, 2013), **CL-0145**, (See on p. 84 "Given that documents relevant to a dispute with a state are often created and held by different departments, ministries, agencies, and state-owned companies, governments often argue that, under their internal regulations, they do not have 'control' over divisions other than the one responsible for the arbitration.").

fails to produce documents without satisfactory explanation, a tribunal is empowered to draw adverse inferences.³³ As will be further elaborated in the Claimant’s Reply, the Tribunal should exercise this power with respect to Mexico’s numerous document production failures.

15. Mexico also attempts to draw parallels with other cases to assert that production here would be unduly burdensome.³⁴ The cases on which Mexico relies, however, are inapposite: in *Waste Management v. Mexico*, the tribunal rejected a request for all invoices over a four-year period,³⁵ while in *Bilcon v. Canada*, the tribunal rejected a request for negotiation documents that had been confidential for two decades.³⁶ There are no analogous circumstances here. As reflected below, the Claimant’s Requests call for the production of narrow and specific categories of documents over a limited time period; they are not unduly burdensome.
16. *Third*, Mexico asserts that there are “*other requests*” that “*refer to public documents that are available to anyone who requests them through the mechanisms established in the Mexican legal system*”.³⁷ This argument too is misplaced. The fact that a document could theoretically be subject to a domestic freedom-of-information request does not mean that that document is in the public domain for purposes of Article 3(1) of the IBA Rules. Indeed, if a claimant were precluded from seeking the production of documents that could theoretically be obtained via domestic freedom-of-information requests, this would make the document production process almost entirely one-sided in violation of the principle of equal treatment of the parties.
17. Moreover, Mexico has not even attempted to establish that the specific documents sought by the Claimant in this arbitration would be made available to the Claimant via freedom-of-information requests, that Mexico would not object to such requests (as it is doing wholesale in this arbitration), or how long it would take for the Claimant to obtain documents in such a manner. Mexico’s reliance on Articles 122 of its Federal Law on Transparency and Access to Public Information and 123 of its General Law on Transparency and Access to Public Information is therefore yet another attempt by Mexico to evade its document production

³³ Noah Rubins, ‘Particularities when Dealing with State Entities’, in Günther J. Horvath and Stephan Wilske (eds), *Guerrilla Tactics in International Arbitration*, (Wolters Kluwer, 2013), **CL-0145**, p.85.

³⁴ Objections of the United Mexican States to Claimant’s Request for Production of Documents, para. 13.

³⁵ *Waste Management, Inc v. United Mexican States*, ICSID Case No ARB (AF)/00/3, Procedural Order Concerning Disclosure of Documents, 1 October 2001, **CL-0146**, para. 11.

³⁶ *William Ralph Clayton, William Richard Clayton, Douglas Clayton, Daniel Clayton and Bilcon Delaware Inc. v. Government of Canada*, PCA Case No. 2009-04, Procedural Order No. 8, 25 November 2009, **CL-0147**.

³⁷ Objections of the United Mexican States to Claimant’s Request for Production of Documents, para. 14.

obligations to which it freely consented via the USMCA, the NAFTA, the ICSID Convention, and Procedural Order No. 1.

18. Mexico's stance is also obstructive. In *Gabriel Resources v. Romania*, the tribunal considered that when a party submits that it cannot access a document that the other party believes to be in the public domain, both parties should cooperate to address any difficulties in this regard.³⁸ Mexico's refusal to produce allegedly public documents that are not accessible to the Claimant is contrary to this approach and further demonstrates Mexico's intention to evade its document production obligations. In any event, as explained below, the requested documents are not, in fact, publicly available.
19. For all of these reasons, Mexico's General Objection No.1 should be rejected.

2.2 General Objection No. 2: Lack of Specificity

20. In its second General Objection, Mexico asserts that “[m]any of the Claimant’s requests are drafted in overly broad, unlimited or general terms”.³⁹ This is not the case. In accordance with paragraph 15.2 of Procedural Order No. 1 and Article 3.3(a) of the IBA Rules, the Claimant’s Requests call for the production of specific documents, or narrow and specific categories of documents, and has included sufficient detail to identify and locate such documents. Mexico’s broad contention that the Claimant’s Requests lack specificity is therefore unfounded.
21. Mexico further asserts that the Claimant’s Requests are “*fishing expeditions*”⁴⁰ or seek to “*build its case*”.⁴¹ Again, this assertion is baseless. The Claimant’s Requests are specifically targeted at documents that are relevant and material to the issues in dispute, as articulated in the Parties’ pleadings. Moreover, they all fall within the description of disclosure provided by O’Malley and misquoted by Mexico in the introduction to its responses and objections.⁴²

“Indeed, it is more accurate to view disclosure under [IBA Rules] article 3.3 as a limited process aimed at filling gaps or providing assistance in covering

³⁸ *Gabriel Resources Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10, 8 June 2018, **CL-0148**, para. 39.

³⁹ Objections of the United Mexican States to Claimant’s Request for Production of Documents, para. 19.

⁴⁰ See Respondent’s Objections to Claimant’s Requests 2, 3, 4, 8, 12, 18, 19 and 28.

⁴¹ See Respondent’s Objections to Claimant’s Requests 3, 18, 19, 20 and 25.

⁴² Objections of the United Mexican States to Claimant’s Request for Production of Documents, para. 4.

important, but identifiable, issues raised by the factual record, for which sufficient evidence has not been voluntarily supplied by the parties".⁴³

22. As explained below, many of the documents the Claimant seeks are relevant to evaluate the contemporaneous response of Mexico's ministries, agencies, and prosecutorial authorities to the Continuing Blockade, as well as the reasons for their inaction to resolve that Blockade, which is the central issue in this case.⁴⁴ While Mexico has advanced a series of generic arguments regarding the alleged authority of such ministries and agencies,⁴⁵ it has failed to provide any contemporaneous documents recording their assessment of and decisions regarding the Continuing Blockade and whether to intervene. Such evidence is uniquely in Mexico's possession, custody and control. By objecting to these Requests, Mexico seeks to deny the Claimant access to the evidence required to establish the factual record in this case and to test Mexico's unsupported assertions against that evidence.
23. Mexico also asserts that "*a mere statement to the effect that the Claimant considers that the document exists is insufficient to justify a request*".⁴⁶ This assertion is equally unavailing. The Claimant has set out the factual predicate for each of its Request, with references to the record. Moreover, it is simply not credible that documents and records would not be kept by the relevant ministries and agencies regarding the Continuing Blockade and their recommended response thereto, as Mexico would like this Tribunal to believe.⁴⁷
24. Finally, Mexico contests the Claimant's definition of "*Document*" in its Introduction. Specifically, Mexico asserts that the Claimant has sought to expand the definition of a document under the IBA Rules. But the Claimant has done no such thing. As set forth above, the Claimant has adopted the IBA Rules' definition and then simply listed examples that would fall within that definition.⁴⁸
25. Mexico takes issue in particular with the Claimant's assertion that WhatsApp messages and personal notes are encompassed by the definition of "*document*" under the IBA Rules. Mexico

⁴³ Nathan O'Malley, 'Rules of Evidence in International Arbitration: An Annotated Guide' (Informa Law, 2019), **CL-0149**, para. 3.31 (emphasis added).

⁴⁴ See Claimant's document requests 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 24, 25.

⁴⁵ See, e.g., Claimant's document requests 1, 9, 21.

⁴⁶ Objections of the United Mexican States to Claimant's Request for Production of Documents, para. 20.

⁴⁷ See, e.g., Claimant's document requests 7 and 8.

⁴⁸ Claimant's document requests, ¶ 1.2.

argues that it allegedly does not have access to the personal documents of a public official, such as WhatsApp messages or personal notes.⁴⁹ That objection is without merit. To the extent WhatsApp messages or personal notes are responsive to the Claimant’s requests, they should be disclosed. The tribunal in *Amerra Capital Management LLC et al v. Mexico* came to precisely this determination when addressing a similar objection by Mexico, ruling that it “[did] not consider such communications [i.e., text messages, communications by message applications like WhatsApp, Skype, or telegram, audio recordings] to be excluded under the definition of Document under the IBA Rules”.⁵⁰ That same determination applies here.

26. For all of these reasons, Mexico’s General Objection No. 2 should be rejected.

2.3 General Objection No. 3: Lack of Relevance and/or Materiality

27. In its third General Objection, Mexico asserts that the Claimant has not established a sufficient relationship or nexus between the requested documents and the claims it raises, referring only to “speculation”. Again, such assertion is misplaced.

28. *First*, as noted above and as reflected below in response to Mexico’s objections, the Claimant has explained in detail how each of its Requests is relevant and material to this dispute, as required by Articles 3 and 9 of the IBA Rules.

29. *Second*, Mexico’s argument is based on the notion that the Claimant cannot use document production to shift the burden of proof to Mexico,⁵¹ but this assertion is flawed. While the burden of proof remains on the party making the claim or defense, in the face of uncontradicted evidence, the onus of proof, and therefore the requirement to provide rebuttal evidence, shifts to the other party.⁵²

30. For example, in *Apotex v. United States*, the tribunal underscored that, without such a shift, “the claimant would be left to prove its case from whatever incomplete documentary evidence

⁴⁹ Objections of the United Mexican States to Claimant’s Request for Production of Documents, para. 22.

⁵⁰ *Amerra Capital Management LLC et al v. United Mexican States*, ICSID Case No. UNCT/23/1, Procedural Order No. 5, 13 March 2024, **CL-0150**, para. 9, p. 4.

⁵¹ Objections of the United Mexican States to Claimant’s Request for Production of Documents, para. 5.

⁵² Jeffrey Maurice Waincymer, ‘Procedure and Evidence in International Arbitration’ (Kluwer Law International, 2012), **CL-0151**, pp. 825 – 884.

*and witness testimony the respondent State may choose to present. That burden would be, invariably, an almost impossible task”.*⁵³ This is precisely what Mexico seeks to do here.

31. The Claimant has put forward extensive contemporaneous documentary evidence and witness testimony from four fact witnesses regarding the events of the Continuing Blockade and the actions and inactions of the Mexican authorities. By contrast, Mexico has failed put forward a single Government witness and rather than adducing contemporaneous documentary evidence showing the reasons for its inaction, has simply relied on recitations of its own domestic law.⁵⁴ In such circumstances, document production reflecting the Mexican authorities’ actual contemporaneous approach to the Continuing Blockade is essential to the Claimant’s ability to present its case in full and to test Mexico’s defense in this case.
32. *Third*, Mexico’s related argument that the Claimant may not seek documents in relation to assertions made by Mexico is equally flawed. While Mexico relies on the views of one commentator,⁵⁵ this approach has been roundly rejected by other commentators and tribunals alike. As Jeffrey Waincymer aptly concludes:

*“It has also been suggested that a document needs to be material to an issue as to which the requesting party carries the burden of proof. There would be problems in applying this as a blanket rule. It is certainly the case that in many instances, a tribunal can rely on the party with the burden of proof having to produce documents, otherwise they will fail. But to deny the opposing party the opportunity to make targeted requests, removes an ability to easily identify selective presentation by the party with the burden and makes it harder for adverse inferences to be drawn where this has occurred”.*⁵⁶

⁵³ *Apotex Holdings Inc. and Apotex Inc. v. United States of America*, ICSID Case No. ARB(AF)/12/1, Award, 25 August 2014, **CL-0152**, Part VIII, p. 19 *et seq.* (para. 8.68).

⁵⁴ See Respondent’s Counter-Memorial, 23 December 2024, section J, Actions of the authorities in the face of the Second Blockade.

⁵⁵ Bernard R. Hanotiau, *Document Production in International Arbitration: A Tentative Definition of “Best Practices”*, (ICC Bulletin, 2006), **CL-0153**, p. 116: (“When a party alleges that its opponent has failed to provide the evidence for a submission it has made and requests that party to produce the relevant evidence, this request should in most cases be dismissed.”); see also Respondent’s Objections to Claimant’s document requests 1 and 4.

⁵⁶ Jeffrey Maurice Waincymer, *Procedure and Evidence in International Arbitration* (Kluwer Law International, 2012), pp. 825 – 884, **CL-0151**, p. 833.

33. Such conclusion was endorsed by the tribunal in *Gabriel Resources*, which correctly recognized that “while each Party bears the burden to prove its own case, a Party should also have access to documents that will permit it to develop such case, whether that is in the form of a claim or a defence or both”.⁵⁷ For the same reasons, Mexico’s misconceived arguments regarding the burden of proof should not be countenanced.

34. For all of these reasons, Mexico’s General Objection No. 3 should be rejected.

2.4 General Objection No. 4: Confidentiality or Estoppel or Privilege

35. Finally, in its fourth General Objection, Mexico objects to various of the Claimant’s Requests on the ground that they would involve production of documents that are allegedly confidential or subject to estoppel or privilege. This objection too is misguided and unsupported.

36. ICSID Convention Article 43 confers upon the Tribunal broad power to order a party to produce documents.⁵⁸ Such power is not restricted by domestic laws, including legal privilege as claimed by Mexico. Arbitral tribunals have consistently found that claims of legal privilege must be determined by reference to international law, not to the laws of the respondent state.⁵⁹

37. Likewise, under Article 27 of the Vienna Convention on the Law of Treaties, a State may not invoke its own domestic laws as justification for its failure to perform an international treaty.⁶⁰ This rule would also apply to Mexico’s document production obligations, as Mexico has consented to arbitration pursuant to the USMCA, the NAFTA, and the ICSID Convention, and its document production obligations form an integral part of that consent. The conclusion of the tribunal in *Biwater Gauff v. Tanzania* is instructive.

38. In *Biwater*, the tribunal rejected Tanzania’s invocation of domestic notions of public interest and policy relating to the operations of its own Government to avoid its document production

⁵⁷ *Gabriel Resources Ltd. And Gabriel Resources (Jersey) Ltd. v. Romania*, ICSID Case No. ARB/15/31, Procedural Order No. 10, 8 June 2018, **CL-0148**, para. 28, p. 6.

⁵⁸ ICSID Convention, Art. 43, **CL-002**.

⁵⁹ *See, e.g., Apotex v. United States*, ICSID Case No. ARB(AF)/12/1, Procedural Order On Document Production, **CL-0159** (noting in the context of assessing legal privilege that, “as an international arbitration tribunal, the Tribunal bases its decision directly upon the exercise of its discretionary powers under the IBA Rules and the ICSID Arbitration (Additional Facility) Rules, rather than national rules of law”); *Biwater Gauff (Tanzania) Limited v. United Republic of Tanzania*, ICSID Case No. ARB/05/22, Procedural Order No. 2, 24 May 2006, **CL-0154**, p. 8.

⁶⁰ United Nations, Vienna Convention on the Law of Treaties, 23 May 1969, Art. 27, **CL-0155**.

obligations, finding that Tanzania, like Mexico, was attempting to “*stifle the evaluation of its own conduct and responsibility*”:

“*[I]f a State were permitted to deploy its own national law in this way, it would, in effect, be avoiding its obligation to produce documents in so far as called upon to do so by this Tribunal. This, in itself, is an international legal obligation arising from the State’s consent by way of the BIT to ICSID arbitration. It may also thereby stifle the evaluation of its own conduct and responsibility. As such, this would be to undermine the well established rule that no State may have recourse to its own internal law as a means of avoiding its international responsibilities.*”⁶¹

39. Similarly, tribunals have found that domestic criminal procedure laws – like those that Mexico invokes here – are not decisive when determining a respondent’s disclosure obligations under international law.⁶²
40. In the present case, Mexico cannot be permitted to withhold responsive documents on the basis of its own domestic laws. This is particularly the case here, where Mexico has obtained certain criminal files relating to this case, has made various assertions regarding those criminal files in its Counter-Memorial, but refuses categorically to produce those documents to the Claimant on the pretense that they are confidential. The Claimant has a fundamental due process right to be heard, to confront the evidence against it, and to present its case in full.⁶³ Mexico’s transparent attempt to deny the Claimant its fundamental due process rights and to prevent the Claimant from making its case in full should not be countenanced by this Tribunal.
41. Moreover, even if Mexico could rely on principles of Mexican law and criminal procedure to withhold responsive documents (*quod non*), the relevant principles Mexico relies upon do *not* apply in this case. Specifically, Mexico invokes Article 218 of the National Code of Criminal

⁶¹ *Biwater Gauff (Tanzania) Limited v. United Republic of Tanzania*, ICSID Case No. ARB/05/22, Procedural Order No. 2, 24 May 2006, **CL-0154**, p. 8 et seq.

⁶² *See, e.g., Mason Capital L.P., Mason Management LLC v. Republic of Korea*, PCA Case No.2018-55, Procedural Order No. 6, 2 March 2021, **CL-0156**, para. 4 (“*The Tribunal continues to be of the view that Korean laws and regulations, such as the Korean Criminal Procedure Act, are not decisive for Respondent’s disclosure obligations under international law.*”).

⁶³ *Wena Hotels Limited v. Arab Republic of Egypt*, ICSID Case No. ARB/98/4, Decision on the Application by the Arab Republic of Egypt for Annulment of the Arbitral Award dated 8 December 2000, 5 February 2002, **CL-0157**, para. 57; *Fraport AG Frankfurt Airport Services Worldwide v. Republic of the Philippines*, ICSID Case No. ARB/03/25, Decision on the Application for Annulment of Fraport AG Frankfurt Airport Services Worldwide, 23 December 2010, **CL-0158**, para. 197.

Procedure to justify withholding documents relating to criminal investigations. Article 218, however, expressly provides that “*the parties may have access*” to such files.⁶⁴ Here, the criminal investigations at issue were initiated by Minera Metalín’s own criminal complaint,⁶⁵ making Minera Metalín a “*party*” such that it “*may have access*” to the criminal files.⁶⁶ Mexico has also failed to establish that disclosure of the requested documents in this arbitration would impede law enforcement in any way, particularly because Mexico contends that its prosecutorial authorities have *closed* their criminal investigations.⁶⁷

42. Mexico also relies on Article 113 (VII-XII) of the General Act of Transparency and Access to Public Information, but again such reliance is misplaced.⁶⁸ Article 113 of the Transparency Act provides in relevant part that “*information may be classified as privileged if its publication*” “[o]bstructs the prevention or prosecution of crime”, “*contains the opinions, recommendations or views that are part of the deliberative process of Public Servants, while a final decision is made, which must be documented*”, “*obstructs the procedures for holding Public Servants liable, while the administrative decision has not been issued*”, “*affects the rights of due process*”, “*violates the management of judicial Records or administrative procedures carried out in the form of trials, while they become final and conclusive*”, or “*is contained within the investigations of facts established by law as crimes and dealt with the Public Prosecutor*”.⁶⁹
43. But Mexico has not even attempted to establish that Article 113 prohibits production of the requested documents in this case. Nor could it. As noted above, *the parties* have access to criminal files, which includes Minera Metalín. And, even if that were not the case, there is no evidence here that Mexico has classified any of the requested documents as privileged under the Transparency Act. Article 113 of the Transparency Act provides that information *may* be classified as privileged, and other provisions of the same Act set forth the relevant procedures

⁶⁴ Art. 218, National Code of Criminal Procedure, **R-0037**.

⁶⁵ Criminal Complaint concerning the Continuing Blockade, dated 12 September 2019, **C-0034**.

⁶⁶ As noted in its Memorial, the Claimant brings its claims in this arbitration both on its own behalf and on behalf of Minera Metalín. See Claimant’s Memorial, para. 1.1.

⁶⁷ See Counter-Memorial para. 218; Communication from the Public Prosecutor’s Office of Coahuila dated December 18, 2024, **R-0041**.

⁶⁸ See Art. 113, General Act of Transparency and Access to Public Information, last accessed 10 Feb. 2025, available at <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGTAIP.pdf>.

⁶⁹ See Art. 113, General Act of Transparency and Access to Public Information, last accessed 10 Feb. 2025, available at <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGTAIP.pdf>.

to carry out such classification.⁷⁰ Mexico has not provided any evidence that the requested documents have been classified as privileged by the relevant authorities prior to this arbitration.

44. The Transparency Act further provides that regulated entities “*shall have the burden of proof in justifying any denial of access to information*”.⁷¹ This burden would be met only in the case of particularly serious or sensitive crimes, such as drug-trafficking or crimes that implicate national security, none of which is present here. Indeed, the events of the Continuing Blockade have been widely reported in the Mexican press, which further undermines Mexico’s baseless plea of confidentiality.⁷²
45. In addition, none of the enumerated circumstances in Article 113 applies in this case. Plainly, the production of documents in the context of a confidential arbitration would not obstruct the prosecution of crime or procedures for holding public servants liable, affect due process rights, or interfere with the management of judicial records. This is particularly so where, as here, the relevant criminal investigations have been closed.
46. Likewise, regarding the deliberative process privilege noted in Article 113, there is no evidence that the documents the Claimant seeks in this case implicate such privilege. Indeed, there is no evidence that Mexico or its prosecutorial authorities even adopted any final decision with respect to the Continuing Blockade. Moreover, even if the Tribunal were to find that the Claimant’s Requests implicate the deliberative process privilege, which they do not, such privilege should be overridden by the need for disclosure in this case given the absence of other documents and proof available to the Claimant.⁷³

⁷⁰ See Art. 113, General Act of Transparency and Access to Public Information, last accessed 10 Feb. 2025, available at <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGTAIP.pdf>.

⁷¹ See Art. 113, General Act of Transparency and Access to Public Information, last accessed 10 Feb. 2025, available at <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGTAIP.pdf>.

⁷² See *infra* n.76.

⁷³ *Glamis Gold v. United States of America*, Decision on Parties’ Requests for Production of Documents Withheld on Grounds of Privilege, 21 April 2006, **CL-0165**, para. 14: (“A litigant may obtain deliberative materials if his or her need for the materials and the need for accurate fact-finding override the government’s interest in non-disclosure. In this situation, although the Tribunal recognizes the assertion of and interests in the deliberative process privilege, it finds the statement of Claimant’s need, particularly given the apparent absence of other documents or other means of proof available to the Claimant, to be sufficiently great to override those interests”).

47. Finally, the Claimant notes that the Parties are bound by Procedural Order No. 2 on Transparency and Confidentiality.⁷⁴ To the extent that the requested documents are confidential (which Mexico has failed to prove), such documents are already protected from publication. These safeguards are more than sufficient to address Mexico's purported confidentiality concerns. And in any event, the Parties could enter into a specific confidentiality agreement addressing such documents and limiting their use to the arbitration, as parties routinely do as part of the document production process.
48. For all of these reasons, Mexico's General Objection No. 4 should be rejected and Mexico should be ordered to produce the documents it resists on grounds of purported criminal secrecy.

⁷⁴ *Silver Bull Resources, Inc. v. United Mexican States*, ICSID Case No. ARB/23/24, Procedural Order No. 2 on Transparency and Confidentiality, 11 March 2024, **CL-0166**.

3. THE CLAIMANT’S DOCUMENT REQUESTS

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References	Comments			
1	All Documents from 8 September 2019 to 31 August 2022 reflecting Economía’s or DGM’s discussion of or recommended response to the Continuing Blockade, including all Documents prepared by or on behalf of Economía or DGM relating to the 13 December 2019 meeting with Minera Metalín, at which the Undersecretary of Mining, Francisco Quiroga, promised to take action to resolve	Memorial ¶¶ 2.160-2.162 López Ramírez ¶ 9.12-9.13 Barry ¶ 7.7 Counter-Memorial ¶ 201	Relevance and Materiality The requested Documents are relevant to this dispute and material to its outcome. As the Claimant explained in its Memorial, on 13 December 2019, Messrs. Barry, Sánchez and López Ramírez attended a meeting at the DGM’s offices in Mexico City to discuss the Continuing Blockade with Messrs. Francisco Quiroga (the Undersecretary of Mining), his colleague Antonio Leonardo Suárez Mejía (also from the Undersecretariat of Mining), and José Rafael Jabalera Batista (Director General of Mining Development) (Memorial ¶ 2.160). As Mr. Barry testifies, during that meeting, Undersecretary Quiroga “promised to end the Continuing	See General Objections 1, 2 and 3. On the other hand, the request is based on a questionable factual basis. The DGM does not have the power to investigate, manage or resolve conflicts between private, social, commercial or involving the investigation of possible crimes. Nor is it the authority in charge of deploying the police or the use of public force (Counter-Memorial ¶ 201). Thus, Respondent disputes that Undersecretary Francisco Quiroga “promised” to take action to resolve the Second Blockade, as Respondent asserts, based solely on one of its witnesses. Finally, Claimant’s justifications demonstrate that it intends to shift the burden of proof of its claims to	The Claimant maintains Request No. 1 in its entirety. <i>See</i> the Claimant’s Responses to Mexico’s General Objection Nos. 1, 2, and 3. Reasonably Believed to Exist: Mexico appears to argue that the requested documents do not exist because the DGM allegedly lacks authority to resolve “conflicts”, such as the Continuing Blockade, and therefore could not have promised to intervene in or take any action to resolve the Continuing Blockade. Specifically, Mexico contends that the DGM “does not have the power to investigate, manage or resolve conflicts between private, social, commercial or involving the investigation of possible crimes”.	Granted in respect of Documents in the possession, custody or control of Economía or DGM (for the avoidance of doubt, in this and in all subsequent Decisions granting requests in whole or in part, excluding personal Documents of any of their officials or agents)

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	the Continuing Blockade.		<p><i>Blockade</i>” (Barry ¶ 7.7). Shortly after the meeting, Mr. Suárez Mejía promised Mr. Barry by email dated 21 December 2019 that he would “<i>get in touch with [Mr. Barry’s] team in Mexico to outline a work plan</i>” and “<i>set up a communications channel with the municipal- and state-level authorities in Coahuila, as well as with other local stakeholders, to get a better understanding of the situation</i>” (C-0037).</p> <p>As the Claimant further explained, the DGM failed to follow through on its promises (Memorial ¶ 2.162). The DGM did not take any action to end the Continuing Blockade, nor did Mr. Suárez Mejía get in touch with Mr. Barry’s team in Mexico to outline a work plan (Barry ¶ 7.7). To the Claimant’s knowledge, Mr. Suárez Mejía likewise did not create a “<i>communications channel with the</i></p>	Respondent by stating that “Mexico does not address the 13 December 2019 meeting between Minera Metalín and the DGM, nor does Mexico produce any documents relating to this meeting.” As noted by a distinguished international arbitrator, “[W]hen a party alleges that its opponent has failed to provide the evidence for a submission it has made and requests that party to produce the relevant evidence, this request should in most cases be dismissed.” (Hanotiau Bernard, <i>Document Production in International Arbitration: A Tentative Definition of “Best Practices</i> , ICC Bulletin (2006), p. 116).	That refrain mirrors Mexico’s equally unsupported assertion in its Counter-Memorial that the DGM allegedly “ <i>has no authority or powers to resolve social, mercantile or criminal conflicts</i> ”, which, according to Mexico, “ <i>explains why the officials of this agency could not intervene</i> ” (Counter-Memorial ¶ 201). Mexico’s objection on this basis is wrong for two reasons. <p><i>First</i>, as the Claimant explained in its Memorial, SVB met with the DGM on 13 December 2019 to discuss “<i>an end to the blockade</i>” (Memorial ¶ 2.160; López Ramírez ¶ 9.12). Following that meeting, the DGM’s Antonio Leonardo Suárez Mejía expressly proposed by email dated 21 December 2019 to “<i>outline a work plan that can address the issues that [SVB] brought forward in our recent meeting</i>” and to “<i>set up a communications channel with the</i></p>	created, sent or received during the period 8 September 2019 to 31 January 2020. The meeting of 13 December 2019 appears to have taken place and documents relating to it from shortly before and shortly after seem likely to exist and if so may well be relevant and material.

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			<p><i>municipal- and state-level authorities in Coahuila</i>” to assist in lifting the Continuing Blockade (See Barry ¶ 7.7; C-0037).</p> <p>In its Counter Memorial, Mexico does not address the 13 December 2019 meeting between Minera Metalín and the DGM, nor does Mexico produce any documents relating to this meeting. Mexico also fails to address Mr. Suárez Mejía’s promises to assist Minera Metalín in lifting the Continuing Blockade. Instead, Mexico asserts without any witness or contemporaneous documentary support that the DGM “has no authority or powers to resolve social, mercantile or criminal conflicts” and that “[t]his explains why the officials of this agency could not intervene” (Counter-Memorial ¶ 201).</p>		<p><i>municipal- and state-level authorities in Coahuila, as well as with other local stakeholders, to get a better understanding of the situation</i>” (Exhibit C-0037 at 2). As the record establishes, the DGM <i>itself</i> offered to assist SVB in resolving the Continuing Blockade. The requested documents relate directly to the DGM’s own promise of assistance, and will show what, if anything, the DGM actually did to resolve the Continuing Blockade, including whether it ever outlined a work plan, as promised.</p> <p>Moreover, none of the DGM’s actions – including organizing a meeting with SVB concerning the Continuing Blockade and then offering to provide assistance – would make any sense if the DGM lacked authority to assist in resolving the Continuing Blockade, as Mexico would like this Tribunal to believe.</p>	Here and below “personal Documents” include such materials as personal WhatsApp, personal text or email messages, personal diary entries and suchlike.

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			<p>The requested Documents are relevant to evaluate the Respondent’s assertions regarding Economía’s and the DGM’s failure to intervene in or take action to end the Continuing Blockade. The requested Documents are also relevant to assess Economía’s and the DGM’s actual contemporaneous views regarding the Continuing Blockade, Economía’s and the DGM’s recommended response to that Blockade, and any actions that Economía or the DGM took to assist Minera Metalín in lifting that Blockade, as promised.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are internal, governmental documents of</p>		<p><i>Second</i>, even if the DGM lacked the authority to intervene, which it did not, the fact remains that the DGM <i>did</i> meet with the Claimant to discuss a resolution to the Continuing Blockade and <i>did</i> promise to take action to that end following the meeting (Exhibit C-0037 at 2). Accordingly, it is not credible that no contemporaneous communications exist at the DGM or Economía concerning the December 2019 meeting and the DGM’s subsequent promises to take action. Yet Mexico, in a display of bad faith, has refused even to search for such documents, asserting that “<i>the request is based on a questionable factual basis</i>”.</p> <p>This stonewalling is particularly notable given that Mexico has agreed in Request Nos. 12 and 16 to search for similar documents from the DGM, without raising any objection</p>	

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			<p>Economía or the DGM, a Department within Economía, to which the Claimant has no access. The Claimant notes in this regard that President Andrés Manuel López Obrador eliminated the Undersecretariat of Mining in September 2020 and transferred the Undersecretariat's responsibilities and functions to the DGM. The requested Documents are therefore reasonably believed to be in the Respondent's possession, custody, or control.</p>		<p>as to its alleged lack of authority. As the record shows, the DGM was involved in discussions to resolve the Continuing Blockade, and, equally clearly, Mexico is able (and, when it suits Mexico, willing) to search for such documents. Mexico's objection to the existence of the requested documents is therefore without merit.</p> <p>Finally, the Claimant refers to its General Response No. 3, in which the Claimant explains why Mexico's reliance on the Hanotiau commentary regarding the burden of proof is unfounded and has been roundly rejected by commentators and tribunals alike. In addition, the proposition Mexico cites, namely, that <i>"when a party alleges that its opponent has failed to provide the evidence for a submission it has made and requests that party to produce the relevant evidence, this request should in most cases be</i></p>	

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					<p><i>dismissed</i>’, finds no application here.</p> <p>The documents the Claimant seeks do not go to the Respondent’s burden of proof, as Mexico erroneously suggests; rather, the requested documents – which are uniquely in Mexico’s possession, custody, or control – are directly relevant and material to assessing Mexico’s liability under the NAFTA, including, among other things, why Mexico and its DGM failed to take any action to resolve the Continuing Blockade and to permit the Claimant to access its Project site, despite promising to do so.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	

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2	All Documents from 1 August 2019 to 8 September 2019 prepared by or on behalf of Deputy Borrego and/or his staff reflecting his involvement in Mineros Norteños's imposition of the Continuing Blockade, including all Minutes of the 3 September 2019 meeting between Deputy Borrego and Mineros Norteños, at which Deputy Borrego encouraged a second illegal blockade of the Project.	Memorial ¶¶ 2.114, 2.115, 2.120 López Ramírez ¶¶ 8.5-8.6, 8.9 Counter-Memorial ¶ 190 Fraire ¶¶ 44-45	Relevance and Materiality The requested Documents are relevant to this dispute and material to its outcome. In its Memorial, the Claimant demonstrated that Deputy Francisco Javier Borrego Adame, a Federal Congressman and member of the MORENA political party elected to represent the Second District of Coahuila State, encouraged Mineros Norteños to impose the Continuing Blockade on the Project and promised Mineros Norteños that he would support them by speaking at the Blockade and inviting television and newspaper reporters to provide coverage (Memorial ¶ 2.114). Deputy Borrego further promised Mineros Norteños that he would be on their side and that he had good lawyers who would be their allies, assuring Mineros Norteños that it	See General Objections 1, 2 and 3. Claimant's Request lacks the necessary specificity and constitutes a "fishing expedition". Claimant has failed to demonstrate why it is reasonable to assume that the requested documents exist and are in Respondent's possession. Contrary to Claimant's assertion, Claimant has not demonstrated that the meeting referred to in this request took place or that Deputy Borrego promoted the blocking of the Project. Claimant's request on this point is based solely on its own arguments in the Memorial, where no reference is cited other than a one-sided account by one of its own witnesses. On the contrary, Respondent has stated that all the facts related by Mr. López Ramírez about the	The Claimant maintains Request No. 2 in its entirety. <i>See</i> the Claimant's Responses to Mexico's General Objection Nos. 1, 2, and 3. Reasonably Believed to Exist: Contrary to Mexico's contentions, this Request does not lack the necessary specificity and does not constitute a purported "fishing expedition". Rather, the requested documents are reasonably believed to exist and to be in Mexico's possession, custody, or control. As set out in the Claimant's Memorial, Federal Deputy Borrego, a member of AMLO's MORENA party, encouraged and supported the Continuing Blockade (Memorial ¶¶ 2.112-2.117). Specifically, as the contemporaneous record shows, Deputy Borrego met with Mineros	Granted, but only as regards any Minutes of, or other Document recording, any meeting held on or about 3 September 2019 between Deputy Borrego and Mineros Norteños. The existence of such Documents appears to be likely and if so they may well be

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			<p>was okay to “<i>take the camp</i>” (Memorial ¶¶ 2.115, 2.120).</p> <p>In its Counter-Memorial, neither Mexico nor its sole fact witness, Mr. Lorenzo Fraire Hernández, denies that Deputy Borrego held meetings with Mineros Norteños to discuss the Continuing Blockade (Counter-Memorial ¶ 190; Fraire ¶ 44). Indeed, Mr. Fraire testifies that it was Deputy Borrego who first reached out to Mineros Norteños in 2019 “<i>to know more about the situation of the community</i>” and to say that he was “<i>interested in [their] plight to obtain the royalties</i>”, which Mineros Norteños had been unable to obtain lawfully through the Mexican courts (Fraire ¶¶ 44-45). Instead, Mexico asserts without support that Mr. López Ramírez’s testimony is “<i>inaccurate or erroneous</i>” or “<i>hearsay</i>” (Counter-Memorial ¶ 190).</p>	<p>alleged meetings between Mineros Norteños and Deputy Borrego are <i>hearsay</i>. (Counter-Memorial, ¶¶ 190). The foregoing casts doubt on the existence of the documents and thus the basis for the request. According to Rule 3(a)(ii) of the IBA Rules, each request must include “a sufficiently detailed description (including the subject matter at issue) of the particular and specific category of Documents requested <u>that are reasonably believed to exist</u>”. This request does not comply with this condition. It is reiterated that it is not Respondent’s responsibility to satisfy Claimant’s burden of proof on facts that have not even been established.</p>	<p>Norteños before and after the start of the Continuing Blockade (¶¶ 2.113, 2.166); delivered political speeches in support of the Continuing Blockade, including on the day it commenced (¶ 2.127); summoned television and news reporters to cover the Continuing Blockade and his political speeches in support thereof (¶ 2.127); offered legal support for Mineros Norteños (¶ 2.115); and provided food and other support to Mineros Norteños while it maintained the Continuing Blockade (¶ 2.166).</p> <p>Mexico objects to this Request on the alleged basis that the Claimant’s sole evidence of Deputy Borrego’s encouragement of and support for the Continuing Blockade is hearsay. That objection is wrong and misguided.</p> <p><i>First</i>, contrary to Mexico’s assertion, the Claimant’s evidence of Deputy</p>	<p>relevant and material.</p>

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			<p>The requested Documents are relevant to evaluate the Respondent's and Mr. Fraire's assertions regarding Deputy Borrego, and to shed light on Deputy Borrego, and consequently, Mexico's actual role and involvement in inciting or encouraging the Continuing Blockade. The requested Documents are therefore also relevant to assess issues of attribution and Mexico's responsibility for the Continuing Blockade as a matter of international law.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are documents prepared</p>		<p>Borrego's encouragement of and support for the Continuing Blockade is not limited to the Claimant's witness testimony. Rather, as the record reflects, the Claimant has proffered supporting documentary evidence, including photographs of Deputy Borrego at the Project site speaking in front of the news reporters that he summoned to cover the Continuing Blockade (Memorial ¶ 2.127; López Ramírez ¶ 8.23). The Claimant has also proffered contemporaneous communications between Messrs. López Ramírez and Barry regarding, <i>inter alia</i>, Deputy Borrego's meetings with Mineros Norteños (JMLR-014); his statement to Mineros Norteños that it was okay to "take the camp" (JMLR-017); his plan to summon television and newspaper reporters to the blockade (JMLR-017); his knowledge that the Continuing Blockade was illegal (JMLR-017); and his provision of</p>	

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			by or on behalf of Deputy Borrego, an elected Federal official. The requested Documents are therefore reasonably believed to be in the Respondent's possession, custody, or control.		<p>food so that Mineros Norteños could maintain the Continuing Blockade (JMLR-022).</p> <p>Furthermore, Mexico's sole fact witness, Mr. Lorenzo Fraire Hernández, affirms in his statement that Deputy Borrego was "<i>interested in [Mineros Norteños's] plight to obtain the royalties</i>" and that he "<i>contacted [Mineros Norteños] to know more about the situation</i>" and held "<i>meetings</i>" with Mineros Norteños concerning the same (Fraire ¶¶ 44-45). Mexico's assertion that the meetings between Mineros Norteños and Deputy Borrego are mere "<i>hearsay</i>" is thus belied by the statement of its own witness.</p> <p>In addition, based on the evidence and testimony proffered by the Claimant with its Memorial, the Claimant has raised at the very least <i>prima facie</i> evidence regarding the</p>	

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					<p>involvement of Deputy Borrego in encouraging and supporting the Continuing Blockade. As explained in the Claimant's response to General Objection No. 3, the burden therefore shifts to Mexico. Mexico, however, has failed to proffer a statement from Deputy Borrego or from any other Government official regarding the events of the Continuing Blockade. The Claimant is entitled to the production of documents to establish the factual record and to test Mexico's unsupported assertions regarding Deputy Borrego, particularly where its sole witness has affirmed his direct involvement in the Continuing Blockade.</p> <p>Finally, given Deputy Borrego's involvement in the Continuing Blockade, as affirmed by Mr. Fraire, it is reasonable to believe that there are responsive documents in his possession, custody, or control, or in</p>	

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					<p>the possession, custody, or control of other Government agencies, discussing his involvement in the Continuing Blockade. Mexico's submission that the Claimant has failed to establish that the documents are reasonably believed to exist is therefore unfounded.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
3	All Documents from 1 August 2019 to 1 August 2020 exchanged between Deputy Borrego and his staff, on the one hand, and the Office of the President, SEGOB, the DGM,	Memorial ¶¶ 2.127, 2.128, 2.166 López Ramírez ¶¶ 8.5,	<p>Relevance and Materiality</p> <p>For the same reasons set out above in Request No. 2, the requested Documents are relevant to this dispute and material to its outcome.</p> <p>Moreover, in addition to Deputy Borrego's encouragement of the</p>	See General Objections 1, 2 and 3. Claimant's Request lacks specificity and constitutes a "fishing expedition". Claimant has not demonstrated why it believes it is reasonable to assume that the requested documents exist and are in Respondent's possession. There	The Claimant maintains Request No. 3 in its entirety. <i>See</i> the Claimant's Responses to Mexico's General Objection Nos. 1, 2, and 3. In addition, the Claimant reiterates its response to Mexico's objection to Request No. 2 <i>mutatis mutandis</i> .	Granted, but only as regards Documents exchanged between Deputy Borrego and his staff, on

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	the Mayor of Sierra Mojada, the Sierra Mojada Police, the Coahuila Public Prosecutor's Office, and/or the Governor of Coahuila, on the other hand, regarding the Continuing Blockade or discussions with the Canadian Embassy regarding the Continuing Blockade.	8.23, 8.40, 10.2 Counter-Memorial ¶ 190	Continuing Blockade, Deputy Borrego also participated in its commencement on 8 September 2019 and repeatedly returned to the Blockade to brief Mineros Nortesños (Memorial ¶¶ 2.127, 2.166; López Ramírez ¶ 8.23, 8.40). As the Claimant demonstrated, Deputy Borrego summoned television and news reporters to ensure that the Blockade garnered media coverage (Memorial ¶ 2.127; see López Ramírez ¶¶ 8.5, 8.23). He then delivered a speech to Mineros Nortesños, in which he railed against Minera Metalín as an example of a foreign mining company exploiting Mexican natural resources (Memorial ¶ 2.128; Ramírez ¶ 8.23). Deputy Borrego then advised Mineros Nortesños to keep blockading until Minera Metalín paid them (Memorial ¶ 2.128; López Ramírez ¶ 8.23).	is no indication that Deputy Borrego exchanged documents with such authorities or that the events transpired in the manner described by Claimant (i.e., that "Deputy Borrego then advised Mineros Nortesños to keep blockading until Minera Metalín paid them). It is reiterated that, pursuant to Rule 3(a)(ii) of the IBA Rules, each request must include "a sufficiently detailed description (including the subject matter) of the particular and specific category of Documents requested <u>that are reasonably believed to exist</u> ". This request does not comply with this condition. The request does not provide reasonable justification for assuming that the exchanges of communications with the Canadian Embassy and the various authorities noted occurred. Finally,	Reasonably Believed to Exist: Mexico's assertion that the Claimant " <i>has not demonstrated why it believes it is reasonable to assume that the requested documents exist and are in Respondent's possession</i> " is erroneous. Likewise, its assertion that " <i>there is no indication that Deputy Borrego exchanged documents with such authorities or that the events transpired in the manner described by Claimant</i> " is wrong. The Claimant's Memorial sets out in detail Deputy Borrego's involvement in encouraging and supporting the Continuing Blockade, his power as a Federal Congressman, and his political interest as a member of AMLO's political party, MORENA, which opposes foreign investment in the mining sector (Memorial ¶¶ 1.6, 2.109, 2.110, 2.113).	the one hand, and SEGOB on the other hand. The existence of such Documents appears to be likely and if so they may well be relevant and material.

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			<p>Deputy Borrego returned to the Continuing Blockade several times to meet with Mineros Norteños. On 30 December 2019, for example, he returned to brief Mineros Norteños regarding Mexico’s negotiations with the Canadian Embassy, stating that the negotiations were “<i>very advanced</i>” and that he would have a meeting with them in one to two weeks (Memorial ¶ 2.163; López Ramírez ¶ 10.2).</p> <p>As noted above in Request No. 2, Mexico does not engage with this evidence or testimony in its Counter-Memorial, but simply asserts without support that Mr. López Ramírez’s testimony is “<i>inaccurate or erroneous</i>” or “<i>hearsay</i>” (Counter-Memorial ¶ 190).</p> <p>In addition to the reasons set out in Request No. 2, the requested</p>	<p>the Respondent wishes to reiterate that the production of documents cannot be used as a mechanism to “build” a case. On this point, it is reiterated that the only evidence submitted by Claimant in this arbitration in relation to this point is the unilateral narrative of one of its witnesses.</p>	<p>Among his actions in support of the Continuing Blockade, Deputy Borrego delivered a speech to Mineros Norteños in which he echoed the AMLO administration’s policy position against the alleged “<i>foreign mining compan[ies] exploiting Mexican natural resources</i>” (Memorial ¶¶ 2.128, 2.103-2.110). As Mr. Fraire testifies, in furtherance of that policy position, Deputy Borrego showed “<i>interest[]</i>” in Mineros Norteños’s “<i>plight to obtain royalties</i>” from Minera Metalín; met with Mineros Norteños to discuss the Continuing Blockade; and also met with the Canadian embassy to discuss the Continuing Blockade (Fraire ¶¶ 44-45). Taken together, this evidence and testimony establish the factual predicate for the Claimant’s Request No. 3.</p> <p>Specifically, it is reasonable to</p>	

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			<p>Documents are relevant to understand Deputy Borrego’s interactions with other Mexican officials before and after Mineros Norteños imposed the Continuing Blockade in September 2019, as well as the content of any discussions with the Canadian Embassy.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are documents prepared by or on behalf of Deputy Borrego, an elected Federal official, and exchanged with other Mexican officials and authorities. The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.</p>		<p>believe that Deputy Borrego – as a Federal Congressman, member of AMLO’s political party, and liaison between the blockaders and the Canadian Embassy – would have communicated with other Governmental officials regarding the Continuing Blockade and his support thereof. For instance, in its Counter-Memorial, Mexico identifies SEGOB as the agency that is “<i>responsible for dealing with social conflicts at the national level</i>” and that “<i>was aware of the [Continuing Blockade] and sought a solution to the social conflicts</i>” (Counter-Memorial ¶ 200). Yet Mexico has failed to produce any documents prepared or received by SEGOB, including any communications exchanged between SEGOB and Deputy Borrego regarding the Continuing Blockade.</p> <p>Moreover, Mexico’s assertion that</p>	

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					<p>“the only evidence submitted by the Claimant in this arbitration in relation to this point is the unilateral narrative of one of its witnesses” is wrong, and, in any event, immaterial, as explained above in Request No. 2.</p> <p>Finally, the Claimant reiterates its objection to Mexico’s reliance on the O’Malley commentary to justify its total refusal to search for responsive documents, as set out above in the Claimant’s General Response No. 3.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
4	All Documents from 8 September 2019 to 31 August 2022 prepared or received	López Ramírez, ¶¶ 8.4-8.9;	Relevance and Materiality	See General Objections 1, 2 and 3. The objections of Request No. 2 are incorporated <i>mutatis mutandis</i>	The Claimant maintains Request No. 4 in its entirety. <i>See</i> the Claimant’s Responses to	Refused. Fishing.

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	by or on behalf of Deputy Borrego regarding his continued support for Mineros Norteños and the Continuing Blockade, including payments, goods, or services.	10.1-10.3; 11.1-11.2 JMLR-022 Counter-Memorial ¶ 190	<p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>As noted above in Request No. 3, although Deputy Borrego left the blockade on 8 September 2019, he returned several times to meet with Mineros Norteños. As Mr. López Ramírez testifies, moreover, Deputy Borrego also provided food to the blockaders (C-0115; JMLR-022).</p> <p>As noted above in Request No. 2, Mexico does not engage with this evidence or testimony in its Counter-Memorial but rather asserts without support that Mr. López Ramírez’s testimony is “<i>inaccurate or erroneous</i>” or “<i>hearsay</i>” (Counter-Memorial ¶ 190).</p> <p>The requested Documents are relevant to evaluate the Respondent’s and Mr. Fraire’s</p>	<p>into this Request. Additionally, it is noted that the Claimant does not specify what type of documents it is requesting, nor their possible author. In this regard, Claimant contends that the Request lacks the necessary specificity and is too broad and burdensome for Respondent.</p> <p>Nor does Claimant explain why the requested documents are relevant to the case or material to its resolution. The justification focuses on Mexico’s failure to rule on certain evidence that Claimant considers relevant. This cannot serve as justification for a document request. As noted above, “[W]hen a party alleges that its opponent has failed to provide the evidence for a submission it has made and requests that party to produce the relevant evidence, this request should in most cases be</p>	<p>Mexico’s General Objection Nos. 1, 2, and 3. In addition, the Claimant reiterates its responses to Request Nos. 2 and 3 <i>mutatis mutandis</i>.</p> <p>Relevance and Materiality: Mexico argues that the Claimant fails to “<i>explain why the requested documents are relevant to the case or material to its resolution</i>”. But the Claimant has explained in its justification that “<i>the requested Documents are relevant to evaluate the Respondent’s and Mr. Fraire’s assertions regarding Deputy Borrego</i>”.</p> <p>As noted, Mexico asserts in its Counter-Memorial that “<i>all the facts that Mr. Lopez narrates about the internal meetings of the Mineros Norteños associates or the meetings between the Mineros Norteños and Deputy Borrego are inaccurate or erroneous</i>” (Counter-Memorial</p>	

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			<p>assertions regarding Deputy Borrego, and to shed light on Deputy Borrego, and consequently, Mexico’s actual role and involvement in inciting or encouraging the Continuing Blockade. The requested Documents are therefore also relevant to assess issues of attribution and Mexico’s responsibility for the Continuing Blockade as a matter of international law.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are documents prepared by or on behalf of Deputy Borrego, an elected Federal official. The requested Documents are therefore reasonably believed to be in the</p>	<p>dismissed.” (Hanotiau Bernard, <i>Document Production in International Arbitration: A Tentative Definition of “Best Practices</i>, ICC Bulletin (2006), p. 116).</p> <p>Clearly, the Complainant’s request is a fishing expedition.</p>	<p>¶ 190). But Mexico does not cite any documentary or witness evidence in support of its assertion. Accordingly, and as discussed in response to Mexico’s General Objection No. 3, the requested documents are relevant to test this assertion by Mexico.</p> <p>Likewise, the requested documents are relevant to evaluate the assertions of Mr. Fraire – Mexico’s sole fact witness – who states that Deputy Borrego in 2019 “<i>contacted [Mineros Norteños] to know more about the situation</i>”, attended meetings with Mineros Norteños concerning “<i>the lack of payment of royalties by Minera Metalín</i>”, and “<i>was interested in [Mineros Norteños’s] plight to obtain the royalties</i>” (Fraire ¶¶ 44, 45). The requested documents are therefore relevant and material to assess Deputy Borrego’s support for Mineros Norteños in carrying out the</p>	

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			Respondent's possession, custody, or control.		<p>Continuing Blockade, a core issue in this arbitration.</p> <p>Finally, the Claimant refers to its General Response No. 3, which explains why Mexico's reliance on the Hanotiau commentary to justify its total refusal to produce is wrong and misguided.</p> <p>Narrowly Tailored and Specific: Mexico erroneously asserts that "<i>the Claimant does not specify what type of documents it is requesting, nor their possible author</i>" and that the Request "<i>lacks the necessary specificity and is too broad and burdensome for Respondent</i>".</p> <p>The Claimant defines "<i>Documents</i>" in its Introduction and identifies one specific custodian for this Request: the office of Deputy Borrego.</p>	

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					<p>Moreover, the Claimant’s Memorial sets out a specific and detailed account of Deputy Borrego’s support for the Continuing Blockade, to which the responsive documents relate. Specifically, as explained above and in the Memorial, Deputy Borrego met various times with Mineros Norteños (¶¶ 2.113, 2.166); delivered speeches in support of their blockade (¶ 2.127); summoned television and news reporters to attend the blockade and his speeches (¶ 2.127); offered legal support for their cause (¶ 2.115); and provided food so that the Blockade could continue (¶ 2.166). This Request calls for documents related to such support. The Request is therefore narrowly tailored and specific.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents</p>	

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					responsive to this Request in its possession, custody, or control.	
5	All Documents prepared by or on behalf of (i) the Citizen Attention Service for the State of Coahuila, (ii) the Public Prosecutor in Química del Rey, and (iii) the Fuerza Coahuila regarding Minera Metalín’s 3 September 2019 requests for intervention to prevent a second illegal blockade planned by Mineros Nortesños, including all Documents reflecting their assessment of and recommended	Memorial ¶¶ 2.113 López Ramírez ¶¶ 8.2, 8.3 Counter-Memorial ¶ 194	Relevance and Materiality The requested Documents are relevant to this dispute and material to its outcome. As the Claimant explained in its Memorial, on 3 September 2019, Mr. López Ramírez learned that Mineros Nortesños had met that day and planned a second illegal blockade of the Project to commence on 8 September 2019 (Memorial ¶ 2.113; López Ramírez ¶ 8.2). As Mr. López Ramírez testifies, he contacted the Citizen Attention Service for the State of Coahuila, the Public Prosecutor in Química del Rey, and Fuerza Coahuila—a special state police force—to alert these authorities to the planned blockade and to request	See General Objections 1, 2, 3 and 4. Claimant’s Request lacks the necessary specificity and granting it would create an unreasonable burden on Respondent. For example, neither the Claimant nor its witnesses provide further details about the office referred to as “ <i>Citizen Attention Service for the State of Coahuila</i> ”. It is common for federal and state agencies to have citizen attention offices. Likewise, there are citizen attention offices at the municipal level (another level of government), for example, the municipality of Saltillo, Coahuila, has a citizen attention area:	The Claimant maintains Request No. 5 in its entirety. <i>See</i> the Claimant’s Responses to Mexico’s General Objection Nos. 1, 2, 3, and 4. Possession, Custody, or Control: Mexico’s objection is that the Claimant has allegedly not shown that the requested documents are in Mexico’s possession, custody, or control, either because the Claimant has allegedly not supplied sufficient details to determine which Mexican agency has the requested documents or because the documents are allegedly in the Claimant’s own possession, custody, or control. For instance, Mexico asserts that because “ <i>it was Mr. López Ramírez . . . who contacted the authorities . . . [,] the</i>	Granted, but only in relation to the period 3 September 2019 to 31 December 2019, and excluding personal documents of any of the officials concerned.. Those likely to have created relevant Documents are sufficiently identified

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	response to Minera Metalín’s requests.		<p>police assistance (López Ramírez ¶ 8.3).</p> <p>Mexico has not produced with its Counter-Memorial any documents from the Citizen Attention Service for the State of Coahuila, the Public Prosecutor in Química del Rey, or Fuerza Coahuila, whose assistance Mr. López Ramírez requested. Instead, Mexico asserts that the Continuing Blockade did not present any “<i>crime or situation of extreme urgency that merited the intervention of the municipal police</i>” (Counter-Memorial ¶ 194).</p> <p>The requested Documents are relevant to evaluate Mexico’s assertions regarding the nature of the Continuing Blockade and to assess the actual contemporaneous views of (i) the Citizen Attention Service for the State of Coahuila, (ii) the</p>	<p>https://saltillo.gob.mx/dependencias/atencion-ciudadana/</p> <p>On the other hand, neither the Claimant nor its witnesses provide further identification data of the “<i>Public Prosecutor in Química del Rey</i>”. It is critical to keep in mind that in its request Claimant says that it was Mr. López Ramírez, its own witness, who contacted the authorities it mentions. Therefore, the requested documents should be in the possession, custody or control of the Claimant and it is not appropriate to request them through this procedural instance. In any event, if it is true that Mr. López Ramírez contacted these authorities, he should be able to indicate to Respondent the identity of the specific officials and agencies he contacted in order to conduct a narrow and realistic search.</p>	<p><i>requested documents should be in the possession, custody or control of the Claimant</i>”. Mexico fundamentally misunderstands this Request.</p> <p>The Claimant is not requesting the production of documents filed by the Claimant with the Mexican authorities, but rather the production of contemporaneous documents <i>prepared by or on behalf of</i> the Mexican authorities discussing their response to the specific requests for assistance made by Minera Metalín on 3 September 2019.</p> <p>Mexico also argues that “<i>if it is true that Mr. López Ramírez contacted these authorities, he should be able to indicate to Respondent the identity of the specific officials and agencies he contacted</i>”. Yet the Claimant has already identified the specific agencies that Minera Metalín contacted, namely: (i) the Citizen</p>	and such Documents are likely to exist and if so may well be relevant and material. Any relevant criminal investigation is, or is likely to be, over.

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			<p>Public Prosecutor in Química del Rey, and (iii) Fuerza Coahuila regarding the planned Continuing Blockade and their recommended response to Minera Metalín’s requests for intervention.</p> <p>The requested Documents are also relevant to assess the nature of the Public Prosecutors’ intervention and to compare the Respondent’s response to the Initial Blockade under the Enrique Peña Nieto administration with its response to the Continuing Blockade under the Andrés Manuel López Obrador administration.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are internal,</p>	<p>The fact that the Respondent has not referred to the documents now requested by the Claimant does not serve as a basis for a request for documents. Each party is free to present its case as it sees fit. Claimant’s request assumes not only the existence of the requested documents, but their relevance and materiality to the case at hand.</p> <p>Additionally, once a request, complaint or requirement is made to the Mexican authorities (<i>i.e.</i>, public prosecutor’s office, public attention or police), it is very common that the agencies or offices in charge give a folio number to follow up any procedure or requirement, so that, knowing this information is essential to carry out the search.</p>	<p>Attention Service for the State of Coahuila, (ii) the Public Prosecutor in Química del Rey, and (iii) the Fuerza Coahuila.</p> <p>Mexico further asserts without any basis that the Claimant must present the name of the individual officer at that agency, as well as the “<i>folio number</i>” associated with the request for assistance. This position is unreasonable, and Mexico has proffered no legal basis for it.</p> <p>There can be no dispute that it is the specific <i>agency</i> that is material for purposes of a document request: individual officials come and go from Government service, but the agency remains in place. No doubt Mexico would prefer that the Claimant name specific individuals so that it could recite its baseless objection that the official is no longer employed and thus there are no</p>	

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			<p>Government documents prepared by or on behalf of Mexican authorities in connection with Minera Metalín’s requests for intervention. The Claimant therefore reasonably believes that the requested Documents are in the Respondent’s possession, custody, or control.</p>	<p>It is impossible for the Respondent to conduct a document search under such general conditions.</p> <p>Criminal law only prosecutes conducts, that is to say, facts that have occurred and not mere speculations, therefore, actions could not have been taken against something that had not happened and that it was uncertain if it would happen. (See Article 28 of the Penal Code of Coahuila, R-0066. “Delito is the typical, antijudicial and guilty <u>conduct</u>, to which one or more penalties are legally attributed.”). Thus, Claimant has also failed to establish a reasonable belief that these documents exist.</p> <p>Finally, if such information were to exist, it could be classified as confidential information pursuant to General Objection 4, since they are documents of criminal</p>	<p>documents to search (<i>see, e.g.</i>, Mexico’s Responses to Request Nos. 12 and 16). But the Claimant has supplied sufficient information for Mexico to conduct a reasonable search for responsive documents, including the agency contacted, the date of the request, and the nature of the correspondence.</p> <p>It bears emphasis that this Request relates to documents uniquely in the possession, custody, or control of Mexico’s own State agencies. As such, to argue that it is not possible for Mexico to search for such documents without a folio number or the precise names of the officials involved is simply bad faith.</p> <p>Indeed, with respect to folio numbers, Mexico itself admits that requests for governmental assistance do not necessarily generate folio numbers. Specifically, Mexico states</p>	

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				<p>proceedings subject to confidentiality under Mexican law</p>	<p>in its response that “<i>once a request, complaint or requirement is made to the Mexican authorities (i.e., public prosecutor’s office, public attention or police), it is very common that the agencies or offices in charge give a folio number to follow up any procedure or requirement</i>”. Mexico cannot refuse to conduct a reasonable, good faith search for responsive documents on the ground that this Request lacks a folio number when a folio number is not even generated in all instances.</p> <p>Next, Mexico appears to argue that the requested documents do not exist because “[c]riminal law only prosecutes . . . facts that have occurred and not mere speculations”, so “actions could not have been taken against something that had not happened and that it was uncertain if it would happen”. This assertion misses the point entirely:</p>	

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					<p>this Request calls for the production of Government documents related to Minera Metalín's requests for assistance. If the Government lacked the authority to address or intervene in response to those requests, or if the Government concluded that the relevant events did not happen, as Mexico seems to assert, that would be reflected in the responsive documents. But rather than let the documents speak for themselves, Mexico has refused outright to even conduct a reasonable search. That is contrary to Mexico's document-production obligations and indicates that Mexico is not approaching the document production process in this arbitration in good faith.</p> <p>Finally, the Claimant refers to Mexico's General Objection 4, in which Mexico asserts without basis that it cannot disclose any records of criminal investigations. For the</p>	

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					<p>reasons set out in the Claimant’s General Response No. 4, that objection is spurious.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
6	All Documents prepared by or on behalf of the Public Prosecutor of Química del Rey recording or memorializing his 5 September 2019 meeting with Minera Metalín, at which he promised to assist Minera Metalín in the event of a second	<p>Memorial ¶ 2.119</p> <p>López Ramírez ¶¶ 8.8-8.9, 8.21, 8.27-8.28, 8.33</p> <p>Counter-Memorial ¶¶ 192, 193, 218-219, 221</p>	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In its Memorial, the Claimant demonstrated that on 5 September 2019, Mr. López Ramírez traveled to Química del Rey to speak with the Public Prosecutor about the impending second blockade (Memorial ¶ 2.119; López Ramírez ¶ 8.8). At that meeting, the Public</p>	<p>The objections of Request No. 5 are incorporated <i>mutatis mutandis</i> into this Request.</p> <p>Neither the Claimant nor its witnesses provide further identification data of the “<i>Public Prosecutor in Química del Rey</i>”, despite the fact that it is they themselves who claim to have contacted the respective authorities and it would be presumed that they have, at least, sufficient information to identify them.</p>	<p>The Claimant maintains Request No. 6 in its entirety.</p> <p>Reasonably Believed to Exist: As with Request No. 5 above, the Claimant has identified the agency to which this Request is directed, namely, the Public Prosecutor of Química del Rey. The Claimant also has identified the date on which the request for assistance was made. Plainly, this is sufficient information for Mexico to carry out a reasonable, good faith search for responsive</p>	<p>Granted, but only in relation to the period 5 September 2019 to 31 December 2019 and excluding personal documents of any of the officials concerned.</p>

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	illegal blockade by Mineros Norteños.		<p>Prosecutor assured Mr. López Ramírez that he would speak with Mineros Norteños and attempt to dissuade them from initiating the threatened blockade (López Ramírez ¶ 8.8).</p> <p>Mexico has not provided any documentation from the Public Prosecutor of Química del Rey in relation to the meeting with Mr. López Ramírez on 5 September 2019 or the preventative actions he promised to take during that meeting. In fact, Mexico has not provided any documentation regarding any of Mexico’s prosecutorial agencies’ assessment of the Continuing Blockade, the illegal activity perpetrated by Mineros Norteños, and the recommended action to take in response thereto. Instead, Mexico merely states (without citing to any evidence) that “[t]he actions of the</p>	<p>Furthermore, Claimant’s justifications are based on its own understanding of the dispute. Claimant alleges that “Mexico has not provided any contemporaneous documentary evidence or any witness testimony to corroborate such assertion.” Such allegation is incorrect. As can be seen in the Counter-Memorial, Respondent provided a Communication from the Public Prosecutor’s Office that corroborates its allegations (Counter-Memorial, ¶ 219 and R-0041). As noted in the general objections, an allegation that a party has failed to prove a fact is not a sufficient basis for requesting documents. It is stressed that the document production stage in international arbitration is not equivalent to the practice of “discovery” in the Anglo-Saxon tradition. In any event,</p>	<p>documents.</p> <p>Relevance and Materiality: Mexico’s objection to this Request is that any failure by the Mexican authorities to investigate the Continuing Blockade or to prosecute those responsible is allegedly attributable to the Claimant and therefore the requested documents relating to Mexico’s failure to prosecute are not relevant or material to the issues in dispute. Mexico’s objection is baseless and wrong. <i>First</i>, the communication on which Mexico relies (R-0041) is dated 18 December 2024 and was generated in response to a request from Mexico in the context of this arbitration. It does not constitute contemporaneous evidence of the deliberations of Mexico’s prosecutorial authorities at the time, which is the subject matter of this Request. In any event, according to this 18 December 2024</p>	<p>Those likely to have created relevant Documents are sufficiently identified and such Documents are likely to exist and if so may well be relevant and material. Any relevant criminal investigation is, or is likely to be, over.</p>

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			<p><i>Mexican authorities were in accordance with the legal framework of their competence and in conformity with the requests actually made by the Claimant, taking into account the facts known to each authority at the time</i>" (Counter-Memorial ¶ 192). Mexico also alleges that the Public Prosecutor only became aware of the Continuing Blockade four days after it was imposed (Counter-Memorial ¶ 193), an assertion that is entirely contradicted by Mr. Lopez Ramírez's testimony (<i>See, e.g.,</i> López Ramírez ¶¶ 8.8-8.9, 8.21, 8.27-8.28, 8.33).</p> <p>Mexico also advances a <i>post hoc</i> justification for the Public Prosecutor's failure to take action with respect to the Continuing Blockade, alleging that "[t]o the best of Respondent's knowledge", the Claimant failed to respond to a</p>	<p>Respondent emphasizes that it is not the purpose of the document production stage to make substantive allegations about the dispute and such assertions should be disregarded by the Tribunal.</p> <p>Finally, if such information were to exist, it could be classified as confidential information in accordance with General Objection 4.</p>	<p>communication, the Public Prosecutor allegedly requested additional information nearly <i>four years</i> after the Continuing Blockade began and <i>after</i> the Claimant filed its Notice of Arbitration in this case. The Claimant never received that purported request (and notably Mexico has not produced it in this arbitration).</p> <p><i>Second</i>, even if the Claimant failed to respond to the Public Prosecutor's request for additional information, which it did not, that does not render the documents that the Claimant seeks irrelevant or immaterial to the issues in dispute in this case: this Request calls for the production of contemporaneous documents related to Minera Metalín's 5 September 2019 request for assistance. The fact that the resulting criminal investigation languished for five years after the Continuing Blockade</p>	

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			<p>request from the Public Ministry for certain information (Counter-Memorial ¶¶ 218-219; R-0041). From that tentative assertion, Mexico extrapolates to argue that <i>“the Claimant’s failure to cooperate with the Mexican authorities has had a direct impact on the ability of the Public Prosecutor’s Office to continue with the investigation in order to clarify the facts that Metalín claims in arbitration”</i> (Counter-Memorial ¶ 221). But Mexico has not provided any contemporaneous documentary evidence or any witness testimony to corroborate such assertion.</p> <p>The requested Documents are relevant to evaluate the response of Mexico’s prosecutorial authorities to the Continuing Blockade and to test Mexico’s assertions regarding when its prosecutorial authorities became aware of the Continuing</p>		<p>began only underscores the relevance and materiality of this Request, as it goes to Mexico’s total inaction in response to Minera Metalín’s repeated pleas for intervention.</p> <p>As for Mexico’s baseless assertion that this Request somehow evinces an <i>“Anglo-Saxon”</i> understanding of discovery, the Claimant refers to its General Response No. 2. The Claimant is not seeking purported <i>“Anglo-Saxon”</i> discovery, but rather has propounded targeted and specific requests for relevant and material documents in Mexico’s possession, custody, or control.</p> <p>Finally, the Claimant refers to Mexico’s General Objection 4, in which Mexico asserts that it cannot disclose any records of criminal investigations. For the reasons set out in the Claimant’s General Response No. 4, that objection is spurious.</p>	

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			<p>Blockade, and the reasons for their inaction. Such documents are relevant and material to the assessment of Mexico's actions in response to the Continuing Blockade, an issue that is at the heart of the present dispute.</p> <p>Finally, the requested Documents are relevant to compare the Respondent's response to the Initial Blockade under the Enrique Peña Nieto administration with its response to the Continuing Blockade under the Andrés Manuel López Obrador administration.</p>		<p>Reasonably Believed to Exist: As for Mexico's assertion that "<i>the Public Prosecutor in Química del Rey</i>" is not sufficiently specific to show that the documents exist and are in Mexico's possession, custody, or control, the Claimant refers to its response in Request No. 5.</p> <p>It bears restating the absurdity of Mexico's position: that to justify a reasonable document search, the Claimant would need to supply the names of individual officers, rather than the agency from which that individual officer hails. Mexico has proffered no legal support for that view, and it is an unreasonable basis for Mexico's refusal to produce.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents</p>	

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		References	Comments			
			<p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are documents prepared by or on behalf of the Public Prosecutor of Química del Rey, a Government official, and are therefore reasonably believed to be in the Respondent's possession, custody, or control.</p>		responsive to this Request in its possession, custody, or control.	

7	<p>All Documents prepared or received by or on behalf of Licenciado Irágu (the Coordinator of all Public Prosecutors in Coahuila State) or the Coahuila Public Prosecutor’s Offices in Química del Rey, Torreón, and San Pedro de las Colonias in response to Minera Metalín’s 8 and 9 September 2019 requests for assistance in removing the Continuing Blockade.</p>	<p>Memorial ¶¶ 2.126, 2.129, 2.132</p> <p>López Ramírez ¶¶ 8.21, 8.28, 8.49, 9.3, 9.4, 9.5</p> <p>Counter-Memorial ¶¶ 192, 193, 218-221</p>	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In its Memorial, the Claimant demonstrated that from the outset of the Continuing Blockade, Mr. López Ramírez requested assistance from numerous Mexican authorities in lifting the Blockade, but that none of those authorities took action to lift the Continuing Blockade to allow the Claimant and its employees to access the Project site (or to permit the employees trapped inside the camp site to leave) (Memorial ¶¶ 2.126, 2.129-2.132). As Mr. López Ramírez testifies, on 8 September 2019, he contacted the Public Prosecutor in Química del Rey, seeking his assistance in removing the Continuing Blockade, because the police “<i>could not manage the situation</i>” (López Ramírez ¶ 8.21). The Public Prosecutor connected Mr. López Ramírez with the Coordinator of all Prosecutors in Coahuila State, Licenciado Irágu, who promised to summon a public prosecutor to the Project site (López Ramírez ¶ 8.21).</p>	<p>See General Objections 1, 2, 3 and 4.</p> <p>Additionally, the request lacks specificity as it does not identify a time period for the request. It is also noted that neither the Claimant nor its witnesses provide further identification data of “Licenciado Irágu (the Coordinator of all Public Prosecutors in Coahuila State)”, despite the fact that they themselves claim to have contacted the respective authorities and presumably have related documentation.</p> <p>Nor does the Claimant provide details as to who might be the authors of the documents it requests. In its Statement of Claim, Claimant expresses itself in vague terms such as: “<i>every Prosecutor’s Office that he could reach</i>” and “<i>any Prosecutor’s Office</i>” (Statement of Claim, ¶¶ 2.126, 2.130). Mr. López Ramírez does likewise, stating: “<i>the Public Prosecutor in Química del Rey</i>” and “<i>another person gave me the phone of a Public Prosecutor based in Torreón</i>” (Witness Statement of Mr. López Ramírez, ¶¶ 8.21, 8.28).</p>	<p>The Claimant maintains Request No. 7 in its entirety.</p> <p>See the Claimant’s General Response Nos. 1, 2, 3, and 4.</p> <p>Narrowly Tailored and Specific: Contrary to Mexico’s assertion, this Request is narrow and specific. The requested documents relate to two specific requests for assistance made by Minera Metalín on 8 and 9 September 2019, respectively. The Request calls for contemporaneous documents related to those specific requests for assistance.</p> <p>Moreover, Mexico complains that the Claimant fails to provide “<i>further identification of ‘Licenciado Irágu’</i>”. Mexico’s complaint not only is absurd, but demonstrates the entirely baseless nature of Mexico’s objections to Request Nos. 5 and 6: here, the Claimant has provided Mr. Irágu’s name and exact title, as well as the specific dates on which Minera Metalín contacted Mr. Irágu and the specific statements made, but Mexico still complains that further identification is needed. No further identification of Mr. Irágu is required for Mexico to conduct a reasonable, good faith search for responsive documents.</p>	<p>Granted, but only in relation to the period 8 September 2019 to 31 December 2019 and excluding personal documents of any of the officials concerned. Those likely to have created relevant Documents are sufficiently identified and such Documents are likely to exist and if so may well be relevant and material. Any relevant criminal investigation is, or is likely to be, over.</p>
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			<p>On 9 September 2019, Mr. López Ramírez reiterated his request to Licenciado Irágu, who then promised that a Public Prosecutor in Torreón would contact Mr. López Ramírez (López Ramírez ¶ 8.28). That same day, Mr. López Ramírez also contacted the municipal police, who advised that the blockaders were still refusing to leave, despite police warnings (López Ramírez ¶ 8.28). On 19 September 2019, Mr. López Ramírez learned that two prosecutors—named Socorro and Acosta, of the Coahuila Public Prosecutor’s Office in San Pedro de las Colonias—would be prosecuting the case (López Ramírez ¶¶ 8.49, 9.3; C-0034).</p> <p>On 9 October 2019, Mr. López Ramírez met in San Pedro de las Colonias with the Public Prosecutor, who promised to send police to the Project site and summon Mineros Norteños one more time (López Ramírez ¶ 9.4). Although the police came to the site on 11 October 2019 to order Mineros Norteños to appear before the Public Prosecutor, they “never left the gates of the Sierra Mojada Project or showed up to the meeting” (López Ramírez ¶ 9.5). Mr. López Ramírez tried to contact the same Public Prosecutor several</p>	<p>The Claimant also failed to provide a folio number or any similar information that would allow the Respondent to follow up on a complaint or injunction filed with the public prosecutor’s office. Knowing this information is essential to carry out the respective search.</p> <p>Furthermore, the documents requested by Claimant are neither relevant nor material to the resolution of the case. Respondent has shown that it was not until September 12, 2019 that Minera Metalín filed a complaint with the public prosecutor’s office, which is why Claimant’s request, seeking documentation on dates prior to when it first filed a complaint, is prima facie not relevant to the resolution of this arbitration</p> <p>For this same reason, it is also unreasonable to assume the existence of the documents that the Claimant requests, which are prior to the filing of its complaint. For this request to be admissible, Claimant would have to present some evidence that, it had advanced any complaint before these authorities prior to</p>	<p>As for the identity of the other “authors”, the Claimant has provided the names of each Government agency with whom Mr. Irágu spoke, and the Claimant has explained in Request No. 5 that the agency, rather than the names of any individual officers, is sufficient to support a reasonable search.</p> <p>Moreover, Mexico again cites a lack of a “folio number” to justify its total refusal to conduct a reasonable search for responsive documents. For the reasons set out in Request No. 5, that objection is meritless.</p> <p>Relevance and Materiality: The Claimant also rejects Mexico’s absurd suggestion that because Minera Metalín filed its criminal complaint on 12 September 2019, any requests “seeking documentation on dates prior to when it first filed a complaint, is prima facie not relevant to the resolution of this arbitration”.</p> <p>As the Claimant explained in its Memorial, “[t]his dispute arises from Mexico’s arbitrary and unreasonable failure to protect the Claimant’s investment in the Sierra Mojada [Project]” from the Continuing Blockade that deprived</p>	
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			<p>times but did not receive any answer (López Ramírez ¶ 9.5).</p> <p>In its Counter-Memorial, Mexico makes no mention of these repeated requests for assistance, nor does it produce any documents in connection with the investigation undertaken by the Coahuila Public Prosecutor’s Office in San Pedro de las Colonias with respect to the Continuing Blockade. Instead, as set out above in Request No. 6, Mexico asserts without support that (i) “[t]he actions of the Mexican authorities were in accordance with the legal framework of their competence and in conformity with the requests actually made by the Claimant, taking into account the facts known to each authority at the time” (Counter-Memorial, ¶ 192), (ii) the Public Prosecutor only became aware of the Continuing Blockade four days after it was imposed (Counter-Memorial ¶ 193), and (iii) the Public Prosecutor’s actions were hindered by the Claimant’s failure to respond to a request from the Public Prosecutor (Counter-Memorial ¶¶ 218-221).</p> <p>The requested Documents are relevant to evaluate the Respondent’s assertions regarding</p>	<p>September 12, 2019. Otherwise, it is unreasonable to assume that this documentation even exists.</p> <p>Similarly, Respondent has shown that due to Claimant’s own omissions, the authorities were unable to proceed with the investigation (Counter-Memorial, ¶¶ 194, 213-224). There is no evidence in the record to refute this assertion and it is not Respondent’s duty to exhibit documents that it not only does not know exist but that <i>de facto</i> lead Respondent to assume the burden of proof to show that Metalín did take actions that it has clearly failed to prove.</p> <p>Finally, if such information were to exist, it could be classified as confidential information in accordance with General Objection 4.</p>	<p>the Claimant of its entire investment in Mexico (Memorial ¶ 1.2). The Claimant learned of the impending Continuing Blockade on 3 September 2019, and, starting on that date, Minera Metalín made numerous requests for assistance to the Mexican authorities, which all went unheeded (Memorial ¶¶ 2.118-2.130).</p> <p>Mexico’s response to Minera Metalín’s repeated requests for assistance <i>before</i> it filed its 12 September 2019 criminal complaint is plainly relevant and material to the issues in dispute, particularly given that the Continuing Blockade began on 8 September 2019.</p> <p>Finally, Mexico appears to reiterate its objection that the requested documents are not relevant or material because any prosecutorial failure to act stems from the “<i>Claimant’s own omissions</i>” which rendered “<i>the authorities . . . unable to proceed with the investigation</i>”. As explained above in Request No. 6, this objection is meritless and should be rejected.</p> <p>Possession, Custody or Control: Likewise, Mexico asserts that it is “<i>unreasonable to assume the</i></p>	
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No.	Documents or category of documents requested (requesting Party)	Relevance and materiality		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References	Comments			
			<p>Minera Metalín’s efforts to secure Mexico’s assistance, as well as the Respondent’s <i>post hoc</i> justifications for failing to end the Continuing Blockade. The requested Documents are also relevant to assess the contemporaneous views of Licenciado Irágu and the Coahuila Public Prosecutors in Química del Rey, Torreón, and San Pedro de las Colonias regarding the nature of the Continuing Blockade and their recommended response thereto.</p> <p>In addition, the requested Documents are relevant to compare the Respondent’s response to the Initial Blockade under the Enrique Peña Nieto administration with its response to the Continuing Blockade under the Andrés Manuel López Obrador administration.</p>		<p><i>existence”</i> of the requested documents because they predate the 12 September 2019 criminal complaint. For the same reasons explained above, this argument too is meritless. It is reasonable to believe that, following the repeated requests for assistance made by Minera Metalín, documents would have been generated by the Mexican authorities in response to those requests before 12 September 2019.</p> <p>Mexico further argues that, “[f]or this request to be admissible, Claimant would have to present some evidence that, it had advanced any complaint before these authorities prior to September 12, 2019”. But again, the Claimant <i>has</i> presented evidence of complaints to authorities made before 12 September 2019 (<i>See, e.g.</i>, Memorial ¶¶ 2.118-2.130; JMLR-018; JMLR-019; JMLR-020; JMLR-021). Mexico’s objection to</p>	

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			<p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents, moreover, are Government records of the Public Prosecutor’s Office. The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.</p>		<p>the existence of the requested documents is therefore meritless. For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
8	All Documents prepared by the Coahuila Public Prosecutor’s Office in response to Minera Metalín’s 10 September 2019 request for assistance in removing the Continuing Blockade.	López Ramírez ¶ 8.33 Counter-Memorial ¶¶ 192, 193, 218-221	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>On 10 September 2019, having not yet heard from the Public Prosecutor in Torreón, Mr. López Ramírez contacted the Coahuila Public Prosecutor’s Office (López Ramírez</p>	<p>The objections of Request No. 7 are incorporated <i>mutatis mutandis</i> into this Request.</p> <p>Claimant’s Request constitutes a “<i>fishing expedition</i>”. Claimant has not demonstrated why it considers it reasonable to assume the existence of the documents requested. On the contrary, according to Claimant’s</p>	<p>The Claimant maintains Request No. 8 in its entirety.</p> <p>The Claimant also reiterates its response in Request No. 7 <i>mutatis mutandis</i>.</p> <p>Relevance and Materiality: Mexico reiterates its baseless objection that any failure to prosecute is attributable to the Claimant and that</p>	<p>Refused. Mr. Ramirez gives his account of the conversation and it seems doubtful whether his interlocutor would have</p>

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			<p>¶ 8.33). In that call, the Public Prosecutor advised Mr. López Ramírez that “<i>he could not come to the site to intervene unless Mineros Nortesños did something violent</i>” and that “<i>he would not come to the site just to tell Mineros Nortesños that its conduct was improper</i>” (López Ramírez ¶ 8.33). The Prosecutor then advised that if Mr. López Ramírez wanted to discuss further, he would have to drive 232 kilometers away to meet the Public Prosecutor in person (López Ramírez ¶ 8.33).</p> <p>In its Counter-Memorial, Mexico does not address the Coahuila Public Prosecutor’s Office’s consideration of Minera Metalín’s 10 September 2019 request for assistance. Instead, as set out above in Request No. 6, Mexico asserts without support that (i) “[t]he actions of the Mexican authorities were in accordance with</p>	<p>allegations, the public prosecutor’s agent stated that: “<i>he could not come to the site to intervene unless Mineros Nortesños did something violent</i>” (Witness Statement of Mr. López Ramírez, ¶ 8.33). In that sense, that was the response provided to Claimant’s alleged request.</p> <p>The Claimant did not provide a folio number to follow up on a complaint or request to the prosecutor’s office. Knowing this information makes the search more precise, and not just a speculative search.</p> <p>Likewise, Respondent has shown that it was not until September 12 that Minera Metalín filed a complaint. Likewise, it has shown that, due to Claimant’s own omissions, the authorities were unable to proceed with the</p>	<p>documents evidencing Mexico’s failure to prosecute are therefore not relevant or material to any issues in dispute. For the reasons set out in Request No. 7, this objection is spurious.</p> <p>Reasonably Believed to Exist: Mexico appears to suggest that the Public Prosecutor’s statement that “<i>he could not come to the site to intervene unless Mineros Nortesños did something violent</i>” means that the Public Prosecutor would not have any documents discussing Minera Metalín’s 10 September 2019 request for assistance. But Mexico could not possibly make such a determination without conducting a reasonable search for responsive documents. In any event, it is reasonable to believe that the Public Prosecutor has documents related to his response – which response Mexico does not dispute – that “<i>he could not come to</i></p>	<p>kept a written record of the conversation or, if he did, that it would advance matters.</p>

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			<p><i>the legal framework of their competence and in conformity with the requests actually made by the Claimant, taking into account the facts known to each authority at the time</i>" (Counter-Memorial ¶ 192), (ii) the Public Prosecutor only became aware of the Continuing Blockade four days after it was imposed (Counter-Memorial ¶ 193), and (iii) the Public Prosecutor's actions were hindered by the Claimant's failure to respond to a request from the Public Ministry (Counter-Memorial ¶¶ 218-221).</p> <p>The requested Documents are relevant to evaluate the Respondent's assessment of and response to Minera Metalín's 10 September 2019 request for assistance to the Coahuila Public Prosecutor's Office, and more broadly to evaluate the Respondent's assertions regarding</p>	<p>investigation (Counter-Memorial, ¶¶ 194, 213-224).</p> <p>Finally, if such information were to exist, it could be classified as confidential information in accordance with General Objection 4, since it would be records of investigations that are not publicly available under Mexican law.</p>	<p><i>the site to intervene unless Mineros Norteños did something violent</i>".</p> <p>In addition, Mexico again cites a lack of a "folio number" to justify its refusal to search for responsive documents. For the reasons set out in Request No. 5, that objection is meritless.</p> <p>Finally, the Claimant refers to Mexico's General Objection 4, in which Mexico asserts that it cannot disclose any records of criminal investigations. For the reasons set out in the Claimant's General Response No. 4, that objection is spurious.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	

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			<p>Minera Metalín’s efforts to secure Mexico’s assistance, as well as the Respondent’s <i>post hoc</i> justifications for failing to end the Continuing Blockade. The requested Documents are also relevant to assess the contemporaneous views of the Coahuila Public Prosecutor’s Office regarding the nature of the Continuing Blockade and their recommended response thereto. Such documents are relevant and material to the assessment of Mexico’s actions in response to the Continuing Blockade, an issue that is at the heart of the present dispute.</p> <p>Finally, the requested Documents are also relevant to compare the Respondent’s response to the Initial Blockade under the Enrique Peña Nieto administration with its response to the Continuing Blockade under the Andrés Manuel López Obrador administration.</p>			

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			<p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are internal, governmental documents prepared by the Coahuila Public Prosecutor's Office. The requested Documents are therefore reasonably believed to be in the Respondent's possession, custody, or control.</p>			
9	All Documents from 8 September 2019 to 8 November prepared by or on behalf of Licenciados Socorro or Acosta of the Coahuila Public Prosecutor's Office in San Pedro de las Colonias regarding	Memorial ¶ 2.150 López Ramírez ¶ 8.48 Counter-Memorial ¶ 192	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>As the Claimant explained in its Memorial, and as Mr. López Ramírez has testified, on 18 September 2019 the Public</p>	See General Objection No. 4 In addition, the information requested by the Complainant on the responsibilities of the Public Ministry agents is public information and can be found at articles 127 to 131 of the National Code of Criminal Procedures (R-0037).	The Claimant maintains Request No. 9 in its entirety. <i>See</i> the Claimant's Response to Mexico's General Objection No. 4. Relevance and Materiality: Mexico reiterates its baseless objection that its failure to prosecute is attributable to the Claimant and that documents	Granted, but excluding the personal Documents of the officials concerned. The Documents seem likely

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	their appointment and duties in relation to the Continuing Blockade.		<p>Prosecutor’s Office informed Mr. López Ramírez that Licenciados Socorro and Acosta would prosecute the case in relation to the Continuing Blockade (Memorial ¶ 2.150; López Ramírez ¶ 8.48). Given their appointment, Licenciados Socorro and Acosta would have received instructions and briefing regarding the Continuing Blockade and the actions to be taken regarding the prosecution of the case.</p> <p>However, in its Counter-Memorial, Mexico has not disclosed any documents provided to Licenciados Socorro and Acosta with respect to their appointment and duties. In fact, Mexico does not even mention Licenciados Socorro and Acosta in its Counter-Memorial. Instead, Mexico merely states (without citing to evidence) that “[t]he actions of the Mexican authorities were in accordance with the legal</p>	<p>The Complainant did not provide a folio number to follow up on a complaint or request to the prosecutor’s office. Knowing that information makes the search more precise, and not just a speculative search. Likewise, it has shown that, due to Claimant’s own omissions, the authorities were unable to continue with the investigation (Counter-Memorial, ¶¶ 194, 213-224).</p>	<p>evidencing Mexico’s failure to prosecute are therefore not relevant or material to issues in dispute. For the reasons set out in Request No. 7, this objection is spurious.</p> <p>Possession, Custody, or Control: Mexico wrongly asserts that all responsive documents can be located publicly in Articles 127 to 131 of the National Code of Criminal Procedure. But Mexico’s objection misunderstands the Claimant’s Request by eliding critical language contained therein: “<i>in relation to the Continuing Blockade</i>”.</p> <p>The Claimant is not asking for documents showing the general duties of public prosecutors, but rather documents showing the specific mandates of two named prosecutors assigned to the Continuing Blockade. The requested documents would evince the specific</p>	<p>to exist and if so may well be relevant and material. If they can be requested under some other legal procedure that is not sufficient reason why they should not be searched for and produced in these proceedings.</p>

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			<p><i>framework of their competence and in conformity with the requests actually made by the Claimant, taking into account the facts known to each authority at the time</i>" (Counter-Memorial ¶ 192). The requested Documents are relevant to evaluate the actions taken by Licenciados Socorro and Acosta in relation to the Continuing Blockade. They are therefore relevant and material to assess Mexico's actions in response to the Continuing Blockade, an issue at the heart of the present dispute.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are internal, governmental documents prepared by Mexico's prosecutorial agencies.</p>		<p>directives given to Prosecutors Socorro and Acosta with respect to the Continuing Blockade, which would be internal and non-public.</p> <p>In addition, Mexico again cites a lack of a "<i>folio number</i>" to justify its refusal to search for responsive documents. For the reasons set out in Request No. 5, that objection is meritless.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	

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		References	Comments			
			The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.			
10	Any Documents, including reports, prepared or received by the Sierra Mojada Police or the Coahuila State Police from 8 September 2019 to 31 August 2022 regarding the Continuing Blockade and the appropriate action to be taken in relation to the same.	Memorial ¶¶ 2.118-2.190 Counter-Memorial ¶¶ 192, 194, 196	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In its Memorial, the Claimant demonstrates that, despite clear evidence of criminal actions by Mineros Norteños, the Sierra Mojada Police and Coahuila State Police failed to take any concrete actions to resolve the Continuing Blockade (Memorial ¶¶ 2.118-2.190).</p> <p>Mexico has not provided any documentation regarding the consideration by its police forces of the appropriate response to the</p>	<p>See General Objections 1, 2, 3, and 4.</p> <p>In addition, Claimant’s Request is neither relevant nor material to the resolution of the dispute since it is based on its own incorrect allegations.</p> <p>Finally, in the event that such information does not exist, it would be classified as confidential information in accordance with General Objection 4.</p>	<p>The Claimant maintains Request No. 10 in its entirety.</p> <p>See the Claimant’s Responses to Mexico’s General Objection Nos. 1, 2, 3, and 4.</p> <p>Relevance and Materiality: Mexico refuses to produce responsive documents on the ground that this Request “<i>is based on [the Claimant’s] own incorrect allegations</i>” and that, therefore, the Request is neither relevant nor material to the issues in dispute. That objection is meritless.</p> <p><i>First</i>, Mexico fails to explain how the Claimant’s allegations are incorrect or to proffer any documentary or</p>	<p>Granted limited to reports, prepared or received by the Sierra Mojada Police or the Coahuila State Police from 8 September 2019 to 31 August 2022 regarding the Continuing Blockade and the appropriate action to be</p>

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			<p>Continuing Blockade and the illegal activity perpetrated by Mineros Norteños. Instead, Mexico merely states (without citing to evidence) that “[t]he actions of the Mexican authorities were in accordance with the legal framework of their competence and in conformity with the requests actually made by the Claimant, taking into account the facts known to each authority at the time” (Counter-Memorial ¶ 192). With respect to Sierra Mojada Police specifically, Mexico acknowledges that they are “in charge of maintaining public order in Sierra Mojada, that is, to protect the life, integrity and patrimony of the people within the municipality and to provide protection and assistance to anyone who requests it”, but justifies the Sierra Mojada Police’s failure to take action to prevent the Continuing Blockade on the basis that “during the Mineros Norteños</p>		<p>witness evidence showing the same.</p> <p><i>Second</i>, and as explained in the Claimant’s Response to Mexico’s General Objection No. 3, this objection evinces a lack of understanding of the document production process. Regardless of which party makes a particular assertion, document production is necessary for a party to develop and present its case in full or to test the other party’s assertions.</p> <p>Not Privileged or Confidential: Finally, the Claimant refers to Mexico’s General Objection 4, in which Mexico asserts that it cannot disclose any records of criminal investigations. For the reasons set out in the Claimant’s General Response No. 4, that objection is spurious.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to</p>	<p>taken in relation to the same. Such Documents appear likely to exist and if so may well be relevant and material. Any relevant criminal investigation is, or is likely to be, over.</p>

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			<p><i>demonstration in 2019 there was no crime or situation of extreme urgency that merited the intervention of the municipal police</i>” and that “[t]he demonstration was peaceful” (Counter-Memorial ¶¶ 194, 196). Mexico has provided no documentary or witness testimony to corroborate its <i>post hoc</i> characterizations of the Continuing Blockade and the reasons for the Sierra Mojada Police’s inaction with respect to the same.</p> <p>Contemporaneous documents evidencing the assessment by the Sierra Mojada Police and the Coahuila State Police regarding the nature of the Blockade, whether or not <i>Mineros Nortesños</i>’s actions were criminal, and the appropriate police response to the Continuing Blockade are relevant to test the <i>post hoc</i> justifications made by Mexico in its Counter-Memorial.</p>		order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.	

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			<p>The requested Documents are relevant and material to issues that are at the heart of the present dispute, namely the responsibilities of Mexico's police with respect to the Continuing Blockade and Mexico's actions in relation thereto.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are internal documents prepared or received by Mexico's police forces. The requested Documents are therefore reasonably believed to be in the Respondent's possession, custody, or control.</p>			
11	All Documents prepared or received by or on behalf of the	Memorial ¶¶ 2.118-2.190	Relevance and Materiality	See General Objections 1, 2 and 4.	The Claimant maintains Request No. 11 in its entirety.	Granted as regards Documents

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	Coahuila Public Prosecutor's Office from 8 September 2019 to 31 August 2022 regarding the Continuing Blockade and the appropriate action to be taken in relation to the same.	Counter-Memorial ¶¶ 192, 193, 218-221	In its Memorial, the Claimant demonstrated that, despite clear evidence of criminal actions by Mineros Nortesños, the Mexican prosecutorial agencies failed to take any actions to address the Continuing Blockade or sanction those responsible for it (Memorial ¶¶ 2.118-2.190). As the Claimant explained, no criminal charges have ever been brought against Mineros Nortesños (Memorial ¶ 2.150). Moreover, Mineros Nortesños have repeatedly been summoned to appear before the Public Prosecutor, but have failed to attend (Memorial ¶¶ 2.152, 2.154). Mexico has not provided any documentation regarding the prosecutorial agencies' assessment of the Continuing Blockade, the illegal activity perpetrated by Mineros Nortesños, and the appropriate action to take in response thereto. Instead, as set out above in Request No. 6,	Nor does the Claimant provide details as to the authors of the documents it requests, nor does it provide further parameters as to the office of the Coahuila Attorney General's Office in which the documents could be found. In this regard, Respondent contends that the request lacks the necessary specificity. Finally, in the event that such information does not exist, it would be classified as confidential information in accordance with General Objection 4.	See the Claimant's Responses to Mexico's General Objection Nos. 1, 2, and 4. Narrowly Tailored and Specific: Mexico objects to this Request on the ground that the Claimant allegedly does not " <i>provide details as to the authors</i> " of the requested documents or " <i>further parameters as to the office</i> " of the Coahuila Public Prosecutor. Mexico's demand for " <i>further parameters as to the office</i> " is too vague to constitute a valid objection, nor does such an objection have any basis. The Claimant reiterates <i>mutatis mutandis</i> its Response in Request No. 5, in which the Claimant explains why the <i>agency</i> , rather than any individual officer thereof, is sufficiently narrow and specific for Mexico to conduct a reasonable, good faith search for responsive documents.	(excluding the personal Documents of the officials concerned) prepared or received by the Coahuila Public Prosecutor's Office from 8 September 2019 to 31 August 2022 regarding the Continuing Blockade and the appropriate action to be taken in relation to the same. Such Documents

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			<p>Mexico asserts without support that (i) “[t]he actions of the Mexican authorities were in accordance with the legal framework of their competence and in conformity with the requests actually made by the Claimant, taking into account the facts known to each authority at the time” (Counter-Memorial ¶ 192), (ii) the Public Prosecutor only became aware of the Continuing Blockade four days after it was imposed (Counter-Memorial ¶ 193), and (iii) the Public Prosecutor’s actions were hindered by the Claimant’s failure to respond to a request from the Public Ministry (Counter-Memorial ¶¶ 218-221).</p> <p>Documents recording or reflecting the prosecutorial agencies’ assessment of the Continuing Blockade and the reasons for their inaction are relevant to evaluate Mexico’s actions with respect to the</p>		<p>Moreover, the Coahuila Public Prosecutor’s Office is the agency responsible for prosecuting crimes within the State of Coahuila (<i>See Fiscalía General del Estado Coahuila de Zaragoza, ¿Quiénes somos?</i>, last accessed 9 February 2025, available at https://www.fiscaliageneralcoahuila.gob.mx/quienessomos.html).</p> <p>Although the Office has municipal branches, all branches fall under the umbrella of the Coahuila Public Prosecutor (<i>See Fiscal General del Estado</i>, last accessed 9 February 2025, available at https://www.fiscaliageneralcoahuila.gob.mx/organigramainstitucional.html).</p> <p>Here, the Claimant has (i) identified the agency that Minera Metalín contacted for assistance, which is responsible for prosecuting alleged</p>	<p>appear likely to exist and if so may well be relevant and material. Any relevant criminal investigation is, or is likely to be, over.</p> <p>In this context, the words “or on behalf of” in the Request are too vague.</p> <p>Claims to withhold Documents on the ground that they are legally</p>

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			<p>Continuing Blockade, which is one of the central issues in this case. Such Documents are therefore relevant to the case and material to its outcome.</p> <p>Finally, the requested Documents are also relevant to compare the Respondent's response to the Initial Blockade under the Enrique Peña Nieto administration with its response to the Continuing Blockade under the Andrés Manuel López Obrador administration.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are internal, governmental documents prepared by Mexico's prosecutorial agencies. The requested Documents are</p>		<p>crimes in the State, and (ii) called for the production of documents related to the Continuing Blockade over a time period that Mexico does not dispute is reasonable. The Request is narrowly tailored and specific, and does not impose an undue burden on Mexico.</p> <p>Not Privileged or Confidential: The Claimant refers to Mexico's General Objection 4, in which Mexico asserts that it cannot disclose any records of criminal investigations. For the reasons set out in the Claimant's Response to Mexico's General Objection No. 4, that objection is spurious.</p> <p>Likewise, as explained in its response to General Objection No. 4, Mexico's assertions of confidentiality are equally unavailing. The documents the Claimant seeks relate to requests for</p>	<p>privileged (or any like ground) must be supported by a privilege log.</p>

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			therefore reasonably believed to be in the Respondent's possession, custody, or control.		<p>assistance made by the Claimant's own Mexican enterprise, Minera Metalín. Mexico fails to explain how the requested documents would be confidential vis-à-vis the Claimant and Minera Metalín, which are "<i>parties</i>" to any investigation initiated as a result of Minera Metalín's requests. Nor has Mexico explained how, as required under IBA Rule 9.2(e), such alleged confidentiality is "<i>compelling</i>" so as to permit Mexico to withhold responsive documents from production. To the extent Mexico is concerned about the disclosure of documents outside of this arbitration, such concern can be addressed by a confidentiality agreement requiring the Parties to maintain certain designated documents confidential, as noted above in the Claimant's response to General Objection No. 4.</p> <p>Finally, the Claimant notes that</p>	

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					<p>Mexico has not produced a privilege log. If Mexico intends to rely on legal privilege or confidentiality to withhold responsive documents from production, it should be ordered to produce a privilege log setting out (i) the Request(s) to which the withheld document is responsive; (ii) the type of document; (iii) the date or date range associated with the document; (iv) the author(s) of the document; (v) the recipient(s), (vii) the subject matter; and (viii) the basis of the legal privilege or confidentiality asserted.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	

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12	All Documents from 21 December 2019 to 31 August 2022 prepared or received by or on behalf of Economía or its DGM, on the one hand, and the Sierra Mojada Municipality, the Governor of Coahuila, the Sierra Mojada Police, and/or the Coahuila Public Prosecutor's Office, on the other, regarding the Continuing Blockade and the potential response thereto in furtherance of the "communications channel" referred to by Mr. Suárez Mejía of the	Memorial ¶¶ 2.160-2.162 Counter-Memorial ¶ 201	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In an email dated 21 December 2019, Mr. Suárez Mejía stated that <i>"we will need to set up a communications channel with the municipal-and state-level authorities in Coahuila, as well as with other local stakeholders, to get a better understanding of the situation"</i> regarding the Continuing Blockade (C-0037). However, Mexico did not provide any documents exchanged between the relevant State agencies pursuant to the above-referenced communication channel with its Counter-Memorial.</p> <p>The requested Documents are relevant to evaluate Mexico's</p>	See General Objections 1, 2 and 3. Claimant's Request constitutes a "fishing expedition". Claimant has not demonstrated that it has a reasonable expectation that the documents are in the possession of the authorities it refers to. the Respondent conducted a good faith search applying the parameters indicated by the Claimant and no documents were located that would respond to the present request. Likewise, there is no backup of the e-mails of Mr. Francisco Quiroga, Mr. Leonardo Suárez or Mr. Rafael Jabalera Batista, who are no longer working at DGM.	The Claimant maintains Request No. 12 in its entirety. <i>See</i> the Claimant's Responses to Mexico's General Objection Nos. 1, 2, and 3. Reasonably Believed to Exist: Mexico asserts without any basis that the <i>"Claimant has not demonstrated that it has a reasonable expectation that the documents are in the possession of the authorities it refers to"</i> . But, as its justification reflects, the Claimant does set out a specific factual basis for this Request tethered to the documentary and witness evidence: in December 2019, the DGM's representatives – whom the Claimant identifies by name – promised to create a "communications channel" with Mexican State and municipal authorities to help resolve the Continuing Blockade (Exhibit C-	Refused. The Respondent denies such Documents exist. If evidence emerges to contradict this denial the Claimant may, if so advised, make a further application. In any event, any relevant Documents received by the Coahuila Public Prosecutor's Office should

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	Undersecretariat of Mining on 21 December 2019 (C-0037).		<p>actions in relation to the Continuing Blockade and the considerations of the relevant State agencies regarding such blockade and the recommended response in relation thereto.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are internal government documents exchanged between Mexico’s State agencies. The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.</p>		<p>0037 at 2). Although the DGM never fulfilled that promise, it is nonetheless reasonable to believe that it would have exchanged communications and documents related to the December 2019 meeting, the promise made pursuant to that meeting, and any attempt to fulfill its promise.</p> <p>Mexico’s further assertion, namely, that it has conducted a “<i>good faith search</i>” and no documents were located, does not withstand scrutiny. In support of this assertion, Mexico contends that “<i>there is no backup of the e-mails of Mr. Francisco Quiroga, Mr. Leonardo Suárez or Mr. Rafael Jabalera Batista, who are no longer working at DGM</i>”. This assertion strains credulity and again suggests that Mexico is not engaging in the document production process in good faith. It is simply not credible that the Government of Mexico does</p>	be produced pursuant to Request 11.

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					<p>not preserve emails to and from high-ranking Government officials that are as recent as two-to-five years old; indeed, Mexico presents no evidence in support of its assertion, such as its official document retention policy.</p> <p>Moreover, each of the above-listed individuals who are no longer at DGM would have communicated with <i>other</i> officials at DGM and Economía, who remain in Government service. Undoubtedly at least <i>some</i> of the requested documents exist and a reasonable search would uncover them.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	

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13	The complete criminal file No. 0902/SP/UISO/2019, opened by the Coahuila Public Prosecutor's Office in San Pedro de las Colonias in response to Minera Metalín's criminal complaint filed 12 September 2019, including all Documents reflecting the current status of that criminal investigation and the alleged request for information from the Coahuila Public Prosecutor's Office in San Pedro de las Colonias to Minera Metalín on 26 June 2023 through the	Memorial ¶ 2.176 Barry ¶¶ 7.1-7.3 Counter-Memorial ¶¶ 196, 213, 217, 224	Relevance and Materiality The requested Documents are relevant to this dispute and material to its outcome. As the Claimant explained in its Memorial, on 12 September 2019, Minera Metalín filed a criminal complaint concerning the criminal acts taken by Mineros Nortesños during the Continuing Blockade with the San Pedro de las Colonias Public Prosecutor's Office, including Messrs. Lorenzo Fraire Hernández, José Merced Aguilar Alfaro, and Oscar Carrillo Ramírez (Memorial ¶ 2.176; C-0034; Barry ¶ 7.1; Counter-Memorial ¶ 213). It then supplemented that complaint, as additional facts arose, on 24 September 2019 and 9 October 2019 (R-0040; TB-0011).	See General Objection 4.	The Claimant maintains Request No. 13 in its entirety. <i>See</i> the Claimant's Response to Mexico's General Objection No. 4. The Claimant reiterates that Mexico has not produced a privilege log. If Mexico intends to rely on legal privilege or confidentiality to withhold responsive documents from production, it should be ordered to produce a privilege log, as explained above in Request No. 11. For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.	Granted. The file clearly exists and its contents may well be relevant and material. Any relevant criminal investigation is, or is likely to be, over. The Respondent cannot simply rely on its own domestic laws to resist requests to

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	<i>acuerdo</i> referenced in R-0041.		<p>Mexico acknowledges the filing of the complaint and identifies it as criminal file No. 0902/SP/UISO/2019 (Counter-Memorial ¶ 214). However, Mexico fails to produce the actual criminal file, despite asserting in its Counter-Memorial that “<i>there was no evidence of an illegal act or crime</i>” associated with the Continuing Blockade (Counter-Memorial ¶ 196) and that “<i>the investigation carried out by the Public Prosecutor’s Office did not prove that Mineros Norteños had committed any criminal conduct</i>” (Counter-Memorial ¶ 224).</p> <p>Mexico also asserts in the Counter-Memorial that the prosecutors closed that criminal file after they allegedly received no answer to a 26 June 2023 request to Minera Metalín for additional information (Counter-Memorial ¶ 218; R-0041). Mexico</p>			<p>search and produce.</p> <p>Any claim to withhold Documents on the ground that they are legally privileged (or any like ground) shall be supported by a privilege log.</p>

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			<p>likewise fails to produce the purported request for additional information.</p> <p>Mexico further asserts in its Counter-Memorial that (i) the “<i>Public Prosecutor’s Office acted correctly . . . in the face of Metalín’s complaint</i>” and (ii) that any failure to advance the investigation came from Minera Metalín’s alleged failure to respond to the request for additional information (Counter-Memorial ¶ 224).</p> <p>The requested Documents are relevant to assess Mexico’s <i>ipse dixit</i> assertions that “<i>there was no evidence of an illegal act or crime</i>” (Counter-Memorial ¶ 196) associated with the Continuing Blockade and that “<i>the investigation carried out by the Public Prosecutor’s Office did not prove that Mineros Norteños had</i></p>			

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			<p><i>committed any criminal conduct</i>” (Counter-Memorial ¶ 224). They are also relevant to assess Mexico’s assertion that the Public Prosecutor “<i>acted correctly</i>” in responding to Minera Metalín’s criminal complaint. Indeed, the requested Documents will clarify what investigative work, if any, the Coahuila Public Prosecutor’s Office in San Pedro de las Colonias undertook during the four years that the criminal file languished, as well as the actual basis on which the criminal file was closed.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are criminal files related to an archived prosecutorial investigation initiated by the</p>			

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			<p>Coahuila Public Prosecutor’s Office in San Pedro de las Colonias. The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.</p> <p>To justify withholding the production of the criminal file, Mexico invokes “<i>sigilo</i>”, a Mexican legal principle that allegedly limits access to criminal investigative files to “<i>the parties</i>” (Counter-Memorial ¶ 217). The Respondent fails to explain why this principle applies here, particularly given that the criminal file was initiated at Minera Metalín’s own request, making Minera Metalín an interested party.</p>			
14	To the extent not produced in response to Request No. 13, the complete criminal file No.	Memorial ¶ 2.176 Barry ¶¶ 7.1-7.3	<p>Relevance and Materiality</p> <p>For the reasons set forth in Request No. 13, the requested Documents are</p>	<p>See General Objection 4</p> <p>The Respondent does not have access to the investigation file due to confidentiality issues and, to its</p>	<p>The Claimant maintains Request No. 14 in its entirety.</p> <p>See the Claimant’s Response to Mexico’s General Objection No. 4.</p>	As 13.

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	650/2019, opened by the Coahuila Public Prosecutor's Office in San Pedro de las Colonias in response to Minera Metalín's criminal complaint of 12 September 2019, as supplemented on 24 September 2019 and 9 October 2019.	Counter-Memorial ¶¶ 196, 213, 217, 224	<p>relevant to this dispute and material to its outcome.</p> <p>In addition, in its Memorial, the Claimant explained that Minera Metalín filed a criminal complaint on 12 September 2019 concerning the Continuing Blockade (Memorial ¶ 2.176; C-0034; Barry ¶ 7.1; Counter-Memorial ¶ 213). As new facts arose during the weeks that followed, Minera Metalín twice supplemented that initial complaint (R-0040; TB-0011). In those supplemental filings, Minera Metalín identified the relevant criminal file by the number "650/2019" (R-0040).</p> <p>This Request seeks to obtain any Documents from the criminal file No. 650/2019 to the extent it differs from the file identified in Request No. 13.</p>	best knowledge, the information requested does not differ from the file referred to in Request No. 12.	<p>The Claimant reiterates that Mexico has not produced a privilege log. If Mexico intends to rely on legal privilege or confidentiality to withhold responsive documents from production, it should be ordered to produce a privilege log, as explained above in Request No. 11.</p> <p>Not Privileged or Confidential /Possession, Custody, or Control: In addition, Mexico's assertion that "[t]he Respondent" lacks access to the investigatory file is as absurd as it is false.</p> <p>In its General Objection No. 4, Mexico asserts that, because Mexican law designates as confidential documents related to criminal proceedings, the "Respondent cannot produce" "records of [criminal] investigation[s]" or related documents (¶¶ 30, 31, 33). But in</p>	

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			<p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are criminal files kept by the Coahuila Public Prosecutor's Office in San Pedro de las Colonias and are therefore reasonably believed to be in the Respondent's possession, custody, or control.</p>		<p>response to this Request, Mexico appears to go one step further, stating that not only can Mexico not produce such documents due to confidentiality, but <i>Mexico itself</i> cannot access these documents. That position is untenable.</p> <p>It is incontrovertible that a State is unitary for purposes of international law. The State of Mexico is the Respondent in this arbitration, and includes all of its agencies and instrumentalities, including its prosecutorial authorities. It is therefore incorrect that <i>Mexico</i> does not have access to the documents of its own prosecutorial authorities. Mexico's baseless objection represents yet another attempt to evade its document production obligations and to shield relevant and material documents from production.</p>	

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					<p>Finally, for the avoidance of doubt, the Claimant does not concede that Criminal File No. 650/2019 is the same as Criminal File No. 0902/SP/UISO/2019, and cannot do so until Mexico produces documents responsive to Request Nos. 13 and 14, which are in Mexico's possession, custody, and control.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
15	All Documents, including investigative reports, prepared by or on behalf of the Coahuila Public Prosecutor's Office in San Pedro de las	Memorial ¶¶ 2.145-2.146 López Ramírez ¶¶ 8.44-8.45	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In its Memorial, the Claimant demonstrated that on 18 September</p>	See General Objection 4	<p>The Claimant maintains Request No. 15 in its entirety.</p> <p><i>See</i> the Claimant's Response to Mexico's General Objection No. 4.</p> <p>The Claimant reiterates that Mexico has not produced a privilege log. If</p>	Granted as regards Documents (excluding personal Documents) prepared by or for the

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	Colonias relating to the Public Prosecutor's visit to the Project on 18 September 2019 and any reports or communications and evidence attached thereto reflecting the Public Prosecutors' observations regarding the Continuing Blockade.	Counter-Memorial ¶¶ 214, 224	<p>2019, Mr. López Ramírez called the Coahuila Public Prosecutor and implored her to come to the Project site to intervene during the Continuing Blockade (Memorial ¶ 2.145). As Mr. López Ramírez testified, the Public Prosecutor came to the Project site, walked around, took photographs, and interviewed Mr. López Ramírez and his assistant (Memorial ¶ 2.146; López Ramírez ¶ 8.44). Mr. López Ramírez testified to the Public Prosecutor's visit, stating that "<i>she had obtained sufficient proof to be able to prosecute the case</i>" (López Ramírez ¶ 8.44).</p> <p>In its Counter-Memorial, the Respondent fails to mention the 18 September 2019 Public Prosecutor's visit to the Project site and references criminal file No. 0902/SP/UISO/2019 as containing the only criminal investigation with</p>		<p>Mexico intends to rely on legal privilege or confidentiality to withhold responsive documents from production, it should be ordered to produce a privilege log, as explained above in Request No. 11.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	<p>Public Prosecutor during the period 18 September to 31 December 2019.</p> <p>Such Documents appear likely to exist and may well be relevant and material.</p> <p>Claims to withhold Documents on the ground that they are legally privileged (or any like ground) must</p>

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			<p>respect to the Continuing Blockade (Counter-Memorial ¶ 214). Mexico, however, failed to produce any documents related to a criminal investigation related to the Continuing Blockade. Even without producing any supporting evidence, Mexico ventures saying that “<i>there was no evidence of an illegal act or crime</i>” associated with the Continuing Blockade (Counter-Memorial ¶ 196) and that “<i>the investigation carried out by the Public Prosecutor’s Office did not prove that Mineros Norteños had committed any criminal conduct</i>” (Counter-Memorial ¶ 224).</p> <p>The requested Documents are relevant to evaluate the Respondent’s assertions about the conclusions of the investigation conducted by the Coahuila Public Prosecutor’s Office in San Pedro de las Colonias. They are relevant and</p>			be supported by a privilege log.

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			<p>material to assess Mexico’s assertions that “<i>there was no evidence of an illegal act or crime</i>” associated with the Continuing Blockade.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are criminal files related to an investigation followed by the Coahuila Public Prosecutor’s Office in San Pedro de las Colonias in relation to her visit to the Project site on 18 September 2019. The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.</p>			
16	All Documents prepared by	Memorial ¶¶ 2.160-	Relevance and Materiality	Respondent conducted a good faith search following the parameters	The Claimant maintains Request No. 16 in its entirety.	Refused. The Respondent

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	Economía or its DGM regarding the 23 August 2021 and 26 August 2021 emails from Minera Metalín to Messrs. Francisco Quiroga, Leonardo Suárez, and Rafael Jabalera Batista of the DGM, explaining that two years had passed since the Continuing Blockade began and that still Mexico had taken no actions to lift the blockade, including all Documents reflecting Economía's or the DGM's assessment of or recommended response to these emails.	2.162, 2.182 López Ramírez ¶¶ 9.12-9.13 Barry ¶¶ 7.12-7.13 Counter-Memorial ¶ 201	The requested Documents are relevant to this dispute and material to its outcome. As the Claimant explained in its Memorial, on 23 August 2021, believing that the Continuing Blockade could still be resolved, Mr. Barry emailed the Director General of Mining Development, Mr. Jose Rafael Jabalera Batista, following up on Mr. Jabalera's earlier promise to arrange a meeting with Mineros Nortesños (Memorial ¶ 2.182; C-0043). Receiving no response to that email, Mr. Barry followed up again by email on 26 August 2021 (C-0044). Neither Mr. Jabalera nor any of his colleagues at the DGM ever responded to either email, and the DGM never made good on its promise to help resolve the blockade (Barry ¶ 7.13).	indicated by Claimant and no documents responding to this request were located. Likewise, there is no backup of the e-mails of Mr. Francisco Quiroga, Mr. Leonardo Suárez and Mr. Rafael Jabalera Batista, who no longer work at DGM.	The Claimant reiterates <i>mutatis mutandis</i> its response in Request No. 12: for the reasons explained in that response, it is simply not credible that <i>no</i> responsive documents of Messrs. Quiroga, Suárez, or Jabalera remain in Mexico's possession, custody, or control, even if these officials have now left Government service, particularly where, as here, those documents would have been created less than four years ago. Mexico's assertion that it has conducted a " <i>good faith search</i> " for responsive documents therefore does not withstand scrutiny. For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.	denies that any such Documents exist and there seems little reason why officials who have since left DGM should have personally kept copies of any emails created for official purposes. If evidence emerges to contradict the Respondent's denial the Claimant may, if so

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			<p>In its Counter-Memorial, Mexico does not address the 23 and 26 August 2021 emails from Mr. Barry to Mr. Jabalera. Nor does Mexico produce any documents relating to these discussions and Mr. Jabalera's offer to assist. Rather, as noted above in connection with Request No. 1, Mexico simply argues that the DGM "<i>has no authority or powers to resolve social, mercantile or criminal conflicts</i>" (Counter-Memorial ¶ 201).</p> <p>The requested Documents are relevant to evaluate the Respondent's assertions regarding the DGM's failure to intervene in or take action to remove the Continuing Blockade. The requested Documents are also relevant to assess the DGM's actual contemporaneous views regarding the Continuing Blockade, the DGM's recommended response to</p>			advised, make a further application

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			<p>that Blockade, and any actions that the DGM took to assist Minera Metalín in lifting that Blockade, as promised.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are documents prepared by Economía or its DGM, which are Federal Government agencies. The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.</p>			
17	All Documents reflecting SEGOB’s internal discussions, reports, and Communications concerning its 25	Counter-Memorial ¶ 452	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p>	<p>See General Objections 1, 2 and 3.</p> <p>There is no evidence that the requested documents exist. Moreover, it is important to remember that Respondent has no</p>	<p>The Claimant maintains Request No. 17 in its entirety.</p> <p>See the Claimant’s Responses to Mexico’s General Objection Nos. 1, 2, and 3.</p>	<p>It seems that, at least in January 2024, SEGOB had in its</p>

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	January 2024 email to Minera Metalín, including but not limited to any discussion of the “ <i>exploration contract and unilateral promise of sale</i> ” referenced therein.		In its Counter-Memorial, Mexico asserts that the Claimant failed to accept the support of SEGOB (the federal agency responsible for dealing with social conflicts at the national level) to intervene in the conflict with Mineros Norteños (Counter-Memorial ¶ 452 third bullet). As the record reflects, SEGOB contacted Mr. López Ramírez by email, apparently at the request of Mineros Norteños, to arrange a meeting between Mineros Norteños and Minera Metalín regarding the Continuing Blockade (<i>See</i> R-0036). That email is dated 25 January 2024—more than four years after the Continuing Blockade began. Apart from that email, Mexico has not produced any Documents reflecting efforts by SEGOB to intervene in the Continuing Blockade (R-0036). Indeed, Mexico has not even produced the correspondence from	control over Mineros Norteños, which is an independent cooperative, so Claimant’s assertions that “Mexico has not even produced the correspondence from Mineros Norteños” are illogical. However, Respondent conducted a good faith search for the requested documents under the parameters established by Claimant and found no information other than the emails exchanged between SEGOB and Minera Metalín, documents that are in Claimant’s possession.	Reasonably Believed to Exist: This Request calls for “[a]ll Documents reflecting SEGOB’s internal discussions, reports, and Communications concerning its 25 January 2024 email to Minera Metalín”. Mexico’s assertion that “[t]here is no evidence that the requested documents exist” is baseless. Mexico itself produced the 25 January 2024 email from SEGOB to Mr. López Ramírez, apparently at the request of Mineros Norteños, to arrange a meeting between Mineros Norteños and Minera Metalín regarding the Continuing Blockade (R-0036). It is reasonable to believe that SEGOB had contemporaneous discussions concerning the circumstances described, particularly given that SEGOB itself indicates in its email that it “[would] take the	possession correspondence from Mineros Norteños which was referenced in, and/or which prompted, the 25 January 2024 email: see the reference to “petitions” in Exhibit R-0036. Accordingly, the Respondent is directed to make a further search for this and to

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			<p>Mineros Norteños that was referenced in and apparently prompted the 25 January 2024 email.</p> <p>The requested Documents are relevant to assess the reasons why SEGOB attempted to intervene in the dispute between Mineros Norteños and Minera Metalín four years after the Continuing Blockade began.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. These Documents are internal, governmental Documents and correspondence between SEGOB and Mineros Norteños, a non-party, to which the Claimant has no access. The Documents therefore would</p>		<p><i>necessary steps before the different competent institutions of the federal government in order to find alternatives for the resolution of the conflict</i>”. (R-0036) Given that express statement, Mexico’s assertion that “<i>there is no evidence that the requested documents exist</i>” is disingenuous and wrong.</p> <p>Mexico’s further assertion, namely, that it “<i>has no control over Mineros Norteños, which is an independent cooperative</i>” and therefore cannot “<i>produce[] the correspondence from Mineros Norteños</i>” referenced in SEGOB’s 25 January 2024 email, is equally disingenuous and without any merit. As noted, SEGOB’s 25 January 2024 email expressly “<i>refer[s] to the petitions made by . . . Mineros Norteños . . . on October 9, 2023 to this Ministry of the Interior, by means of which they request intervention in order to provide</i></p>	<p>produce any correspondence found.</p> <p>Otherwise refused as speculative.</p>

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			remain exclusively within the possession, custody, or control of the Respondent.		<p><i>support in the solution of the conflicts generated by the signing of the exploration contract and unilateral promise of sale of the mines known as ‘Mineros Norteños’ and ‘Vulcano’” (R-0036 at 2). These petitions exist, and there is no valid reason why Mexico should not produce such petitions, which were made by Mineros Norteños to SEGOB and would therefore be in SEGOB’s own possession, custody, and control.</i></p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
18	All reports prepared by the DGM or SEGOB between 3 September 2019 and	Memorial ¶¶ 2.103-2.110	Relevance and Materiality	See General Objections 1, 2 and 3. Claimant’s Request constitutes a “ <i>fishing expedition</i> ”. Claimant has	The Claimant maintains Request No. 18 in its entirety. <i>See</i> the Claimant’s Responses to	Granted as regards reports or other

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	31 August 2022 regarding the Continuing Blockade, including all reports or communications sent to the President's Office regarding the Continuing Blockade.	Counter-Memorial ¶ 369	<p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>As the Claimant explains in its Memorial, a key objective of the AMLO administration was to reformulate the public policy with respect to the extractive industries, including the role of foreign investment in these sectors (Memorial ¶¶ 2.103-2.110). The AMLO administration labelled foreign investment “<i>neo-colonialism</i>” and touted policies of “<i>energy sovereignty</i>” and “<i>taking back Mexico’s energy</i>” via State monopolies in the oil-and-gas and mining sectors (Memorial ¶ 2.105). Consistent with that policy directive, Mexico refused to issue a single new mining concession during AMLO’s six-year term in office (Memorial ¶ 2.108).</p>	<p>not explained why it has a reasonable expectation that the documents exchanged with the authorities to which it refers exist. Neither in the Claimant’s Memorial nor in the Declaration of Mr. López Ramírez is there any indication that reports were sent to the Office of the President of the Republic.</p> <p>Therefore, Claimant’s Request is neither relevant nor material to the resolution of the dispute.</p> <p>Moreover, Respondent has demonstrated that it was Claimant who expressly requested SEGOB not to get involved (Counter-Memorial, ¶ 200 and R-0036).</p> <p>The Respondent wishes to reiterate that the production of documents cannot be used as a mechanism to “build” a case.</p>	<p>Mexico’s General Objection Nos. 1, 2, and 3.</p> <p>Relevance and Materiality: Mexico appears to argue that the requested documents are not relevant or material to the issues in dispute because the Claimant has not supplied “<i>any indication</i>” that reports of the Continuing Blockade “<i>were sent</i>” to the President’s Office and that, therefore, the requested documents do not go to an actual issue in dispute in this case.</p> <p>Both the premise and the conclusion of Mexico’s objection are wrong: as explained in the Claimant’s justification, there is ample evidence that AMLO would have been briefed on the Continuing Blockade via reports or communications. In any event, the requested documents go to an issue in dispute here: namely, the role of the AMLO administration in</p>	<p>communications prepared by the DGM or SEGOB and sent to the President’s Office regarding the Continuing Blockade between 3 September 2019 and 31 August 2022.</p> <p>For the reasons given by the Claimant it seems likely there were such Documents and if so they</p>

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			<p>In its Counter-Memorial, Mexico denies the existence or relevance of its “<i>nationalist policy</i>” for this arbitration (Counter Memorial ¶ 369). Yet Mexico fails to produce any evidence concerning the Mexican Federal Government’s internal discussions about the causes and significance of the Continuing Blockade and its relationship with the AMLO administration’s agenda.</p> <p>The requested Documents are relevant to assess Mexico’s assertion that its “<i>nationalist policy</i>” bears no relevance to this arbitration, as well as its <i>post hoc</i> justifications for failing to end the Continuing Blockade. Contemporaneous briefings and discussions within the federal government on the Continuing Blockade, including the federal government’s assessment of and response to the Continuing Blockade and any motivations for</p>		<p>the Continuing Blockade.</p> <p>As the Claimant has explained, given AMLO’s stated political agenda, the fact that the Continuing Blockade made national news, and the fact that two other federal agencies (the DGM and SEGOB) were aware of – and involved in negotiations regarding – the Continuing Blockade, any assertion that the President’s Office would not have been briefed on the blockade is simply not credible.</p> <p>Moreover, as the Claimant has explained, Mexico’s inaction in the face of the Continuing Blockade was consistent with AMLO’s nationalistic policy objectives against foreign mining. Mexico, for its part, denies the existence or relevance of its “<i>nationalist policy</i>” and its application in this case (Counter Memorial ¶ 369). The relationship between the AMLO</p>	<p>may well be relevant and material.</p> <p>Otherwise refused as too vague.</p>

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			<p>that response, are relevant to assess whether there was any connection between AMLO’s nationalist policy in the mining industry and its failure to intervene in the Continuing Blockade.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. For two main reasons, the Claimant believes that the DGM or SEGOB exchanged reports or communications regarding the Continuing Blockade. <i>First</i>, for the reasons set out above, and given AMLO’s agenda, the President’s Office would have been briefed on the Sierra Mojada blockade. Foreign investments in the mining space represented a key policy issue for MORENA and AMLO’s administration, and both</p>		<p>administration and the Continuing Blockade is therefore plainly a disputed issue in this arbitration; the requested documents are relevant and material to assess the Parties’ competing assertions.</p> <p>Mexico also objects on the basis that “<i>it was Claimant who expressly requested SEGOB not to get involved</i>”. This assertion not only is baseless, but has nothing to do with this Request. Mexico seems to argue that if its own failure to act is attributable to the Claimant, then evidence of Mexico’s inaction is not relevant or material to any issue in dispute. That objection is wrong and, in any event, immaterial to this Request.</p> <p>The SEGOB email chain that Mexico cites as support is dated March 2024 – nearly five years after the Continuing Blockade began, more</p>	

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			<p>the DGM and SEGOB were aware of, and contacted Minera Metalín concerning, the Continuing Blockade (C-0037; R-0036), even if they ultimately took no action to resolve it. <i>Second</i>, the Continuing Blockade made national news.⁷⁵ This further suggests that AMLO’s Office would have been aware of the blockade and thus would have given directives or sought or received briefings concerning the same. The requested Documents are documents prepared by the DGM or SEGOB, which are federal governmental agencies. The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.</p>		<p>than 18 months after the Claimant’s investment was expropriated, and more than seven months after the Claimant filed its Request for Arbitration in this case. It has nothing to do with communications or reports that would have been exchanged within the Federal Government “<i>between 3 September 2019 and 31 August 2022</i>” – the time period set out in the Claimant’s Request. This objection is therefore baseless.</p> <p>Reasonably Believed to Exist: For the same reasons set out above, Mexico also challenges the existence of the requested documents. As also set out above, those arguments are baseless and untenable.</p>	

⁷⁵ Reuters, *Mining firm Silver Bull says its Mexico Sierra Mojada project ‘illegally’ blockaded*, 20 September 2019, **C-0164**; Axel Sanchez, *Bloqueos a minas opacan extracción de oro y plata en México*, El Financiero, 21 February 2021, **C-0165**.

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					<p>Finally, as for Mexico’s assertion that the Claimant cannot use document production to “<i>build a case</i>”, the Claimant refers to its General Response No. 3, which explains why Mexico’s view on the scope and purpose of document production is misguided and wrong.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
19	All Documents reflecting Economía’s (including its DGM’s) and SEGOB’s assessment of and actions taken to resolve any of the	Memorial ¶¶ 2.193, 4.21 Counter-Memorial ¶¶ 201, 498-499, 500	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>As the Claimant demonstrated in its Memorial, in or around the time period of the Continuing Blockade,</p>	<p>See General Objections 1, 2, 3 and 4.</p> <p>Claimant’s Request constitutes a “<i>fishing expedition</i>”. Claimant has not explained why it considers that the documents it seeks exist and are in Respondent’s possession.</p>	<p>The Claimant maintains Request No. 19 in its entirety.</p> <p>See the Claimant’s Responses to Mexico’s General Objections Nos. 1, 2, 3, and 4.</p> <p>Relevance and Materiality: Mexico appears to argue that (i) the</p>	<p>Refused. It is for the Respondent to explain why (if it be so) it intervened in other cases</p>

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	<p>following mining-related blockades:</p> <p>(1) the blockades enumerated at paragraph 2.193 of the Claimant's Memorial, (2) the blockade of the Newmont Corporation's Peñasquito mine, located in Zacatecas, which was lifted on 9 October 2019, or (3) the blockade of the Torex Gold Resources' Limón-Guajes mine, located in the state of Guerrero, which was</p>		<p>Mexico intervened to resolve similar mining blockades throughout the country, proving that it had the ability to remove the Continuing Blockade here but failed to do so (Memorial ¶ 2.193). As the Claimant explained in its Memorial, Mexico's swift action in response to similar blockades, when compared with its inaction with respect to the Continuing Blockade, shows that Mexico acted in a discriminatory manner (Memorial ¶ 4.21).</p> <p>Specifically, as the Claimant noted, Mexico acted swiftly to remove Minera Penmont's mining operation at La Herradura located in Sonora in 2023, the Los Filos mine in Guerrero in 2021, the Americas Gold and Silver's San Rafael mine in Sinaloa in 2021, and Pan American Silver's La Colorada mine in Zacatecas in 2023 (Memorial ¶ 2.193; C-0122; C-0123; C-0136).</p>	<p>Respondent has demonstrated that the events related to the allegedly comparable projects identified by Claimant in its Brief relate to: i) labor disputes resolved through proceedings before federal labor courts; ii) a dispute arising from a social contract resolved through negotiation; iii) the ownership of a collective bargaining agreement; and iv) a temporary suspension by the mining company itself. (Counter-Memorial, ¶¶ 479, 484, 486 and 488).</p> <p>On the other hand, the IBA Rules themselves provide for the exclusion of documents requested at the discovery stage on the grounds of "confidentiality for business or technical reasons, which the Arbitral Tribunal deems sufficiently relevant". As O'Malley points out: [A]s a general rule, it is customary within</p>	<p>analogous blockades that Mexico intervened in to resolve are not actually analogous and therefore (ii) the requested documents are not relevant or material to this dispute. Mexico is mistaken.</p> <p>Despite Mexico's baseless attempts to distinguish the analogous blockades from the Continuing Blockade, the fact remains that these other blockades are contemporaneous mining blockades that the Mexican Government intervened in to resolve. The fact that the <i>specific cause</i> of the blockades may differ from the one here is immaterial. In each instance, the imposed blockade was met with Government intervention, which Mexico does not appear to dispute.</p> <p>Mexico's ability and willingness to intervene in these analogous blockades stand in stark contrast to</p>	<p>but not in this one.</p> <p>Any explanation unsupported by documents that the Tribunal would expect to exist runs the inevitable risk of being challenged or failing.</p> <p>In addition, the Tribunal will not direct the production of Documents likely to contain</p>

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	lifted on 17 January 2018. ⁷⁶		<p>In addition to these examples, Mexico also intervened to resolve the blockade of the Newmont Corporation's Peñasquito mine on 9 October 2019 and the blockade of Torex Gold Resources' El Limón-Guajes mine on or around 17 January 2018 (<i>See</i> n.6).</p> <p>In its Counter-Memorial, Mexico argues that the comparators that the Claimant supplied in its Memorial (Memorial ¶ 2.193) are not analogous (Counter-Memorial ¶¶ 498-99) and, in any event, not relevant because the blockade removals took place after the NAFTA was no longer in force (Counter-Memorial ¶ 500). The Respondent also argues that the</p>	<p>international arbitration for consideration to be given to the legitimate need to keep sensitive business or technical information secret. (O'Malley, Nathan D. <i>Rules of Evidence in International Arbitration: An Annotated Guide: Lloyd's Arbitration Law Library</i>. Taylor and Francis, p. 313).</p> <p>In the same vein, another commentator notes: "[Companies] cannot be expected to produce [their secrets] even in a confidential arbitration procedure and independently from confidentiality measures that would be taken." (Marghitola, <i>supra</i>, pp. 93-94.)</p> <p>The kind of information that the Claimant requests through its</p>	<p>its inaction in the face of the Continuing Blockade and is relevant and material to assess, among other things, the Claimant's discrimination claim. The requested documents are also relevant to evaluate Mexico's unsupported assertions that various agencies of the Government had no power or authority to do anything to resolve the Continuing Blockade in this case.</p> <p>Moreover, the fact that Mexico disputes the similarity between the different blockades underscores the need for production in this case, <i>i.e.</i>, the requested documents are required to evaluate the Parties' positions on this disputed issue and are therefore relevant and material to whether Mexico discriminated against the</p>	<p>confidential information about third parties unless it is clearly necessary.</p>

⁷⁶ Cecilia Jamasmie, *Peñasquito blockade lifted, operations still suspended*, Mining.com, 9 October 2019, C-0169; Valentina Ruiz Leotaud, *Torex restarts operations in Mexico despite blockade*, Mining.com, 17 January 2018, C-0170.

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			<p>DGM has no “<i>authority or powers to resolve social</i>” conflicts (Counter Memorial ¶ 201). Not only are Mexico’s arguments without legal basis, but Mexico produces no documents to distinguish its response to the comparator cases from its response to the Continuing Blockade.</p> <p>The requested Documents are relevant to assess Mexico’s assertions that the comparator cases presented by the Claimant are not analogous here. Consequently, they are relevant to assess whether Mexico acted in a discriminatory fashion when it failed to take action to end the Continuing Blockade (Memorial ¶ 4.21). The requested Documents are also relevant to assess the Respondent’s assertions that the DGM had no ability or power to intervene and assist in lifting of these blockades.</p>	<p>Request No. 19 (information related to blockades to other mines) could include information of other mining companies considered as confidential.</p> <p>In this regard, a tribunal constituted under NAFTA Chapter 11 and Annex 14-C of the MEFTA-as well as this Tribunal-in addressing the issue of confidential business information determined: “For the sake of clarity, “confidential business information” shall include (i) information relating to past, present or contemplated business activities, or financial or business affairs, of a disputing party or its affiliates, (ii) business trade secrets or any information which is proprietary, (iii) financial, commercial, scientific or technical information of a disputing party that has been consistently treated as confidential by the disputing</p>	<p>Claimant in violation of its obligations under the NAFTA.</p> <p>Not Confidential: Mexico further asserts without any basis that it cannot produce any responsive documents because to do so would violate the confidentiality of the third-party mining companies involved in the analogous blockades. That position has no basis in law and is wrong for two reasons.</p> <p><i>First</i>, Mexico misunderstands the Claimant’s Request, which calls for “[d]ocuments reflecting Economía’s (including its DGM’s) and SEGOB’s assessment of and actions taken to resolve” the analogous blockades. It does not call for any internal information from the mining companies that were the victims of the analogous blockades. Nor does the Claimant even request correspondence between Mexico and</p>	

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			<p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are documents prepared by SEGOB or Economía, which are Federal Government agencies. The requested Documents are therefore reasonably believed to be in the Respondent’s possession, custody, or control.</p>	<p>party, including but not limited to pricing, cost, strategic and marketing plans, market share data, and accounting or financial records that have not been disclosed to the public, (iv) information the disclosure of which would be reasonably likely to result in material financial loss or gain, or which would be reasonably likely to prejudice the competitive position of the disputing party to which it relates, and (v) information the disclosure of which would interfere with contractual or other negotiations of the disputing party to which it relates (“Confidential Business Information”).” [Emphasis added] (<i>Coeur Mining, Inc. v. United Mexican States</i>, ICSID Case No. UNCT/22/1, Procedural Order No. 3, February 23, 2024, ¶ 7.)</p> <p>Assuming that the documents requested by the Claimant do exist,</p>	<p>those mining companies; rather, it requests the Government’s <i>own</i> internal documents concerning <i>its</i> decision about whether and how to intervene. Indeed, it is unclear how the requested documents would implicate any commercially confidential information. Mexico makes no attempt to explain this, much less show that such confidentiality is compelling so as to permit Mexico to withhold directly relevant and material documents from production.</p> <p><i>Second</i>, Mexico’s objection is entirely speculative. Mexico asserts that the requested documents “<i>could include information of other mining companies considered as confidential</i>”. There is nothing in the IBA Rules, the NAFTA, or arbitral practice more broadly that would allow a party to refuse to search for documents because <i>some</i> of those</p>	

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				<p>it is quite possible that the Respondent would not be able to exhibit this kind of documents because they surely contain confidential commercial information such as details of the dispute that caused the blockade, estimates of its economic impact, wage increase proposals, among other confidential information.</p> <p>The Respondent wishes to reiterate that the production of documents cannot be used as a mechanism to “build” a case.</p>	<p>documents <i>might</i> implicate a <i>third party's</i> commercial information.</p> <p>As for the authorities relied on by Mexico, the O’Malley commentary to which Mexico refers only posits that a tribunal should give “<i>consideration</i>” to the need to protect confidential information. The Claimant notes that this arbitration is already subject to a strict confidentiality regime in the form of Procedural Order No. 2, which allows the redaction of confidential information from publication. Such safeguards are more than adequate to address Mexico’s purported concerns, and even if they were not, additional safeguards could be put in place in the form of a confidentiality agreement, as noted above. However, Mexico has not proposed any additional safeguards, but instead has chosen to raise a blanket objection. Such approach is again a transparent</p>	

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					<p>attempt to circumvent Mecixo’s document production obligations and reflects Mexico’s failure to engage in the document production process in good faith.</p> <p>Indeed, even if the requested documents did involve some commercially sensitive information, Mexico could simply redact that information. But rather than produce these documents with redactions and a corresponding log, as the Claimant has done in good faith with its own commercially confidential information, Mexico has yet again refused to search for or to produce any responsive documents.</p> <p>Mexico’s only response on this point is to brazenly assert that “<i>it is quite possible that the Respondent would not be able to exhibit this kind of documents because they surely contain confidential commercial</i></p>	

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					<p><i>information</i>". But again, that is not how document production works. A party cannot refuse to search for responsive documents, speculate that the documents <i>might</i> contain some confidential information, and then aver that "<i>it is quite possible</i>" that redactions would not be practicable. Again, the Claimant has reviewed its own responsive documents in good faith, redacted any commercially confidential information contained in those documents, and then duly produced a redactions log justifying the same.</p> <p>The Tribunal should not countenance Mexico's obstructive refusal to conduct a reasonable, good faith search for responsive documents in its possession, custody, or control. It bears pausing here to emphasize once more that Mexico has produced <i>zero</i> documents to date.</p>	

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		References	Comments			
					<p>Finally, as for Mexico’s assertion that the Claimant cannot use document production to “<i>build a case</i>”, the Claimant refers to its General Response No. 3, which explains why Mexico’s view on the scope and purpose of document production is wrong and misguided.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
20	All Documents relating to the intervention of Judicial Syndicate, Ms. María Esmeralda Aguilar Olguín, in the Initial Blockade from 3 February 2016 to 5 February	Memorial ¶¶ 2.75-2.87, 2.190 López Ramírez ¶¶ 6.14, 6.18, 6.24	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In its Memorial, the Claimant demonstrated that the Mexican authorities acted swiftly to end the</p>	See General Objections 1, 2 and 3. Claimant’s justifications demonstrate that it intends to shift the burden of proof to Respondent, as Ms. Olguín’s intervention in the first manifestation does not automatically imply that documents such as those requested	The Claimant maintains Request No. 20 in its entirety. <i>See</i> the Claimant’s Response to Mexico’s General Objection Nos. 1, 2, and 3. Reasonably Believed to Exist: Mexico asserts that “ <i>Ms. Olguín’s</i>	Any report made by Ms. María Esmeralda Aguilar Olguín concerning the Initial Blockade.

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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	2016, including any instructions from the Federal Government or the Governor of Coahuila to Ms. Olguín and any reports or communications reflecting Ms. Olguín’s observations regarding the Initial Blockade.	Counter-Memorial ¶¶ 154, 175	Initial Blockade in response to Mr. López Ramírez’s requests for intervention and assistance (Memorial ¶¶ 2.75-2.87). The record shows that Ms. Aguilar Olguín arrived at the Project site on 4 February 2016 and left at around noon (López Ramírez ¶¶ 6.14, 6.18). As discussed in Request No. 21, the record also establishes that around 10:00 p.m. two Coahuila Public Prosecutors and police officers arrived at the camp and acted swiftly to lift the Initial Blockade (López Ramírez ¶ 6.24). The Claimant has demonstrated that the swift removal of the Initial Blockade is in stark contrast with the failure of these same authorities to take action within their power to end the Continuing Blockade (<i>See</i> Memorial ¶ 2.190). In its Counter-Memorial, Mexico argues that the dispersion of the	by Claimant (i.e., written instructions or communications about her observations at the site) exist. In this regard, Respondent wishes to reiterate that the production of documents cannot be used as a mechanism to “build” a case. Additionally, it is clarified that the information requested is more than 8 years old, so its location becomes more complicated and it may not be possible to find it, a situation in which the following conditions would not be met: (i) that this information exists and (ii) that it is in the possession, custody or control of Mexico.	<i>intervention in the [Initial Blockade] does not automatically imply</i> ” that the requested documents exist. That objection is baseless. Indeed, Mexico itself has asserted that the dispersion of the Initial Blockade resulted in part from the intervention of Ms. Aguilar Olguín (Counter-Memorial ¶ 154; Fraire ¶ 17). The Claimant simply seeks to test that assertion. In addition, Mexico argues that because the requested documents are more than 8 years old, it “ <i>may not be possible to find it</i> ”. Unless Mexico’s document-retention policy forecloses access to the documents, which Mexico has not asserted, there is no reason why it “ <i>may not be possible to find</i> ” the requested documents. At a minimum, Mexico must conduct a reasonable, good faith search for the requested documents, and produce any responsive documents located as a result of that good faith search.	Otherwise refused, The Documents requested, being concerned with the detail of events in 2016, are unlikely to be sufficiently material to the outcome of the case. Moreover, it does not appear to be in dispute that the authorities did intervene swiftly and successfully in 2016.

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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			<p>Initial Blockade resulted in part from the intervention of Ms. Aguilar Olguín (Counter-Memorial ¶ 154). It also argues that, contrary to the Claimant’s contentions, the Initial Blockade was “<i>only a small demonstration</i>” that “<i>dissolved . . . on the miners’ own free will</i>” (Counter-Memorial ¶ 175). Mexico has not produced any documents relating to Ms. Olguín’s intervention, seemingly on the basis that the blockade “<i>dissolved . . . on the miners’ own free will</i>” (Counter-Memorial ¶ 175).</p> <p>The requested Documents are relevant to evaluate the Respondent’s assertions that the Initial Blockade was “<i>only a small demonstration</i>” that “<i>dissolved . . . on the miners’ own volition</i>” and thanks to the intervention of Ms. Olguín Aguilar (Counter-Memorial ¶ 175). The requested Documents</p>		<p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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			<p>are also relevant to assess the nature of Ms. Olguín Aguilar’s intervention and to compare the Respondent’s response to the Initial Blockade under the Enrique Peña Nieto administration with its response to the Continuing Blockade under the Andrés Manuel López Obrador administration.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are internal documents prepared by or for the municipal Syndicate in connection with her intervention in the Initial Blockade. The Claimant therefore reasonably believes that the requested Documents are in the Respondent’s possession, custody, or control.</p>			

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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21	All Documents relating to the intervention of Coahuila Public Prosecutors Sergio López Reyna and Anayanci Serrano in the Initial Blockade on 4 February 2016, including any instructions from the Federal Government, the Governor of Coahuila, or the Chief Prosecutor of the Coahuila Prosecutor's Office (<i>Fiscal General de Coahuila</i>), and any reports or communications reflecting the Coahuila Public Prosecutors' observations	Memorial ¶¶ 2.68, 2.84 López Ramírez ¶ 6.24 Counter-Memorial ¶¶ 154, 175	Relevance and Materiality For the same reasons set out above in Request No. 20, the requested Documents are relevant to this dispute and material to its outcome. As Mr. López Ramírez testifies, around 10:00 p.m. on 4 February 2016, two Coahuila Public Prosecutors, Sergio López Reyna and Anayanci Serrano, and two police officers arrived at the scene of the Initial Blockade the same day it began, informed the blockaders that they were breaking the law, threatened to arrest them, and ordered the blockaders to remove the locks and chains from the front and back gates (López Ramírez ¶ 6.24). Mineros Nortesños heeded the officers' orders and dispersed, thus lifting the Initial Blockade (Memorial ¶ 2.84). Thus, as the Claimant asserts in its Memorial,	The objections of Request No. 20 are incorporated <i>mutatis mutandis</i> into this Request. See General Objection No. 4 Additionally, the information requested by the Claimant on the responsibilities of the agents of the Public Ministry is public information (Articles 127 to 131 of the National Code of Criminal Procedures) (R-0037). The Complainant did not provide further information such as a folio number with which to follow up on a complaint or request to the prosecutor's office. Knowing that information would allow for a more accurate search. Similarly, there is no evidence that the Claimant made a complaint that would have resulted in the opening of an expediente in 2016, because as	The Claimant maintains Request No. 21 in its entirety. <i>See</i> the Claimant's Response to Mexico's General Objection No. 4. Possession, Custody, or Control: The Claimant refers to its response in Request No. 7. Like Request No. 7, this Request does not call for publicly available laws regarding the general duties of Public Prosecutors in Mexico, but rather for <i>specific</i> instructions given to these <i>specific</i> Prosecutors with respect to the Initial Blockade, including with respect to their role and mandate in investigating the Initial Blockade. Likewise, the Claimant refers to its Response in Request No. 5, in which the Claimant explains why folio numbers are not necessary for Mexico to conduct a reasonable search for responsive documents, and	Any report made by Sergio López Reyna and/or Anayanci Serrano concerning the Initial Blockade. Otherwise refused as in 20.

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
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	regarding the Initial Blockade.		<p><i>“the Mexican authorities acted swiftly to end [the Initial Blockade]”, in contrast with their inaction with respect to the Continuing Blockade (Memorial ¶ 2.68).</i></p> <p>In its Counter-Memorial, Mexico does not specifically deny the Claimant’s assertion about the Public Prosecutors’ intervention to lift the blockade. Rather, as explained in Request No. 20, Mexico argues that the dispersion of the Initial Blockade was in part <i>“due to . . . the intervention of the Municipal Syndic, Mrs. Esmeralda Olguín Aguilar”</i> (Counter-Memorial ¶ 154). It also argues that, contrary to the Claimant’s contentions, the Initial Blockade was <i>“only a small demonstration”</i> that <i>“dissolved . . . on the miners’ own free will”</i> (Counter-Memorial ¶ 175).</p>	the Claimant itself acknowledges, in 2016 there was no action that constituted a crime.	<p>to its Response in Request No. 7, in which the Claimant explains why documents related to Minera Metalín’s requests for Government assistance are relevant and material to the issues in dispute, even if those requests did not result in the opening of a formal criminal investigation.</p> <p>Finally, the Claimant is compelled to point out the absurdity of Mexico’s assertion that <i>“Claimant itself acknowledges, in 2016 there was no action that constituted a crime”</i>. As the Claimant explained in its Memorial, the Initial Blockade occurred when <i>“Mineros Norteños decided to take matters into its own hands and to extort the alleged royalties from Minera Metalín directly by illegally blockading the Project site”</i> (¶ 2.72). The Claimant reiterates numerous times in its Memorial that Mineros Norteños’s actions in imposing the Initial</p>	

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			<p>The requested Documents are relevant to assess the Respondent’s assertions that the lifting of the Initial Blockade was “<i>due to . . . the intervention of the Municipal Syndic, Mrs. Esmeralda Olguín Aguilar</i>” (Counter-Memorial ¶ 154) and that the Initial Blockade was “<i>only a small demonstration</i>” that “<i>dissolved . . . on the miners’ own free will</i>” (Counter-Memorial ¶ 175). The requested Documents are also relevant to assess the nature of the Public Prosecutors’ intervention and to compare the Respondent’s response to the Initial Blockade under the Enrique Peña Nieto administration with its response to the Continuing Blockade under the Andrés Manuel López Obrador administration.</p> <p>Possession, Custody, or Control</p>		<p>Blockade constituted unlawful, and indeed criminal, acts (<i>See, e.g.,</i> Memorial ¶¶ 2.73, 2.75, 2.77, 2.80). The fact that Mexico acted swiftly in 2016 to remove the Initial Blockade – in stark contrast with its response to the Continuing Blockade – does not make Mineros Norteños’s acts in 2016 any less criminal.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	

No.	Documents or category of documents requested (requesting Party)	Relevance and materiality		Reasoned objections to document production request (objecting Party)	Response to objections to document production request (requesting Party)	Decision (Tribunal)
		References	Comments			
			The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are internal, Government Documents prepared by or for the Coahuila Public Prosecutors in connection with their intervention in the Initial Blockade. The Claimant therefore reasonably believes that the requested Documents are in the Respondent's possession, custody, or control.			
22	All Documents, including police reports, prepared by the two police officers who accompanied Coahuila Public Prosecutors Reyna and Serrano at the Initial Blockade on 4 February 2016.	Memorial ¶¶ 2.68, 2.84 López Ramírez ¶ 6.24 Counter-Memorial ¶¶ 154, 175	Relevance and Materiality For the same reasons set out above in Request No. 21, the requested Documents are relevant to this dispute and material to its outcome. Possession, Custody, or Control The requested Documents are reasonably believed to exist and are	See General Objections 1, 2 and 3. The Claimant does not even indicate whether the policemen belonged to the municipality of Sierra Mojada, to another municipality, or whether they were state policemen. Without this information, it is virtually impossible for Respondent to conduct a search.	The Claimant maintains Request No. 22 in its entirety. <i>See</i> the Claimant's Responses to Mexico's General Objection Nos. 1, 2, and 3. Reasonably Believed to Exist: Mexico asserts that without knowing " <i>whether the policemen belonged to the Municipality of Sierra Mojada, to</i>	Refused as regards police reports as impractical and otherwise as 20.

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			not in the Claimant's possession, custody, or control. The requested Documents are internal, Government Documents prepared by or for the police in connection with their intervention in the Initial Blockade. The Claimant therefore reasonably believes that the requested Documents are in the Respondent's possession, custody, or control.	Additionally, it is clarified that the information requested is more than 8 years old, so its location becomes more complicated and it may not be possible to find it, a situation in which the following conditions would not be met: (i) that this information exists and (ii) that it is in the possession, custody or control of Mexico.	<p><i>another municipality, or whether they were state policemen . . . it is virtually impossible for Respondent to conduct a search</i>" for responsive documents. Mexico's assertion is baseless.</p> <p>This Request relates to the records of Mexico's own police forces relating to specific events on a specific date and in a specific location – it is simply not credible that Mexico is unable to conduct a reasonable search for responsive documents with its own police force based on this information. In any event, the Claimant has named the relevant Prosecutors (Reyna and Serrano) and can inquire with them which police forces were involved (which Mexico does not dispute it can do). But rather than engage in a reasonable, good faith search for responsive documents, Mexico instead raises this baseless objection to justify its</p>	

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					<p>refusal to search for <i>any</i> responsive documents. This is bad faith.</p> <p>Moreover, Mexico again objects on the ground that the documents are eight years old and that, therefore, the “<i>location [of the requested documents] becomes more complicated</i>”. Mexico does not explain what this vague statement means or why the location “<i>becomes more complicated</i>”. The fact that documents may be stored in State archives does not make them inaccessible or non-existent. Indeed, Mexico does not assert that the documents have been destroyed pursuant to any official document retention policy, but rather asserts that the location is “<i>more complicated</i>”.</p> <p>Mexico cannot evade its duty to conduct a reasonable, good faith search for responsive documents</p>	

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					<p>simply because their current location is “<i>complicated</i>”.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
23	All Documents prepared by the Director of Public Security and the Department of Public Service in the City of Saltillo, Coahuila, from 4 February 2016 to 8 March 2016 regarding the Initial Blockade.	López Ramírez ¶ 6.17 Counter-Memorial ¶ 159, 166	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>As reflected in the sworn affidavit given by Mr. López Ramírez to Coahuila Public Prosecutor Serrano on 5 February 2016, at around 4:30 p.m. on 4 February 2016, Mr. López Ramírez gave “<i>immediate notice</i>” of Mineros Norteños’s imposition of chains and padlocks on the front and back gates of the project site “<i>to the</i></p>	See General Objections 1, 2 and 3. Claimant uses two different names to refer to an alleged authority. Mr. López Ramírez’s witness statement mentions the “Department of Citizen Attention in the City of Saltillo”, while the present application refers to the “Department of Public Service”. It is important for the purposes of the search to know exactly which authority is being referred to.	The Claimant clarifies Request No. 23 as follows: “ <i>All Documents prepared by the Director of Public Security, Mr. Isaac Montenegro, and the Department of Citizen Attention in the City of Saltillo, Coahuila, from 4 February 2016 to 8 March 2016 regarding the Initial Blockade</i> ” (See Memorial ¶ 2.78; López Ramírez ¶ 6.17). See the Claimant’s Responses to Mexico’s General Objection Nos. 1, 2, and 3.	Refused. It is not suggested that the Director witnessed the events in question. Otherwise, as 20.

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			<p><i>Director of Public Security and the Department of Public Service in the city of Saltillo, Coahuila</i>” and requested their intervention to end the Initial Blockade (C-0027; López Ramírez, 6.17).</p> <p>In its Counter-Memorial, Mexico does not deny the Claimant’s assertion that “<i>immediate notice</i>” was given “<i>to the Director of Public Security and the Department of Public Service in the city of Saltillo, Coahuila</i>” (Counter-Memorial, 159; C-0027; López Ramírez, 6.17). Rather, it characterizes the affidavit as a “<i>unilateral statement</i>” that “<i>does not provide further elements to confirm a crime</i>” (Counter-Memorial ¶ 166). Mexico, however, does not produce any Documents prepared by the Director of Public Security or the Department of Public Service in response to the affidavit and the facts attested therein.</p>	<p>It is common for federal and state agencies to have citizen service offices. There are also citizen attention offices at the municipal level (another level of government), for example, the municipality of Saltillo, Coahuila, has a citizen attention area: https://</p> <p>Once a request or requirement is made to the Mexican authorities (<i>i.e.</i>, citizen attention or police), it is common for the agencies or offices in charge to inform the applicant a folio number to follow up on any procedure or requirement, so knowing this information is essential to perform the search.</p> <p>In addition, Claimant’s Request is not relevant or material to the resolution of the dispute because it is based on its own incorrect allegations. Respondent has</p>	<p>Relevance and Materiality: Mexico asserts that this Request “<i>is not relevant or material to the resolution of the dispute because it is based on [the Claimant’s] own incorrect allegations</i>”. Namely, Mexico asserts that, contrary to the Claimant’s assertions, “<i>the 2019 Demonstration was carried out peacefully and . . . there was no crime or situation that warranted the intervention of the police</i>”. This objection is both wrong and immaterial. It is wrong because, as the Claimant has explained, Mineros Norteños’s actions during the Initial Blockade constituted unlawful, and indeed criminal, acts (<i>See, e.g.</i>, Memorial ¶¶ 2.72, 2.73, 2.75, 2.77, 2.80), and the police <i>did</i> in fact intervene to remove the Initial Blockade by informing the blockaders of their illegal acts and threatening to arrest them for those acts (Memorial ¶ 2.84).</p>	

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			<p>The requested Documents are relevant to evaluate the Respondent's assertions regarding the nature of the Initial Blockade. The requested Documents are also relevant to assess the actual chain of events that led to the resolution of the Initial Blockade by clarifying what role, if any, the Director of Public Security and the Department of Public Service had in resolving the Initial Blockade.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are internal Documents prepared by or for the Director of Public Security and the Department of Public Service. The Claimant therefore reasonably believes that</p>	<p>demonstrated that the 2019 Demonstration was carried out peacefully and that there was no crime or situation that warranted the intervention of the police (Counter-Memorial ¶ 194).</p>	<p>The objection is also immaterial because regardless of whether the Initial Blockade resulted in a formal criminal investigation or charges, the above-described prosecutors and police officers attended the Initial Blockade, informed the blockaders of their criminal acts, and threatened to arrest the blockaders, and therefore would reasonably have responsive documents concerning these actions (Memorial ¶ 2.84).</p> <p>Possession, Custody, or Control: The Claimant believes that its agreement to revise Request No. 23 as set out above addresses the first two substantive paragraphs of Mexico's objection, which concern possession, custody, or control.</p> <p>As for the remainder of Mexico's objection, the Claimant refers to its Response in Request No. 5, which explains why folio numbers are not</p>	

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			the requested Documents are in the Respondent's possession, custody, or control.		necessary for Mexico to conduct a reasonable search for responsive documents. For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.	
24	All Documents that the Coahuila Public Prosecutors, Reyna and Serrano, produced, received, or gathered as part of any investigative file opened further to Mr. López Ramírez's 5 February 2016 affidavit.	López Ramírez ¶ 6.17 Counter-Memorial ¶ 166	Relevance and Materiality For the same reasons set out above in Request No. 21, the requested Documents are relevant to this dispute and material to its outcome. In addition, in its Counter-Memorial, Mexico argues that, contrary to Mr. López Ramírez's testimony, the acts underlying the Initial Blockade were allegedly not criminal in nature and that "[t]he only contemporaneous thing that	The objections of Request No. 23 are incorporated <i>mutatis mutandis</i> into this Request. See General Objection 4. Additionally, the information requested by the Claimant on the "duties" of the agents of the Public Prosecutor's Office is public and is recorded in Articles 127 to 131 of the National Code of Criminal Procedures (R-0037)	The Claimant maintains Request No. 24 in its entirety. <i>See</i> the Claimant's Response to Mexico's General Objection No. 4. The Claimant reiterates its response to Request No. 23, <i>mutatis mutandis</i> . Possession, Custody, or Control: The Claimant refers to its response in Request No. 9: like Request No. 9, the Claimant is not asking for documents showing the general duties of public prosecutors but	Subject to 21, refused as in 20.

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			<p><i>exists is a unilateral statement of Mr. López Ramírez taken the following day, in which he states his statement and does not provide further elements to confirm a crime” (Counter-Memorial ¶ 166). Mexico, however, has failed to produce any Documents prepared by the Public Prosecutors relating to Mr. López Ramírez’s affidavit.</i></p> <p>The requested Documents are relevant to evaluate the Respondent’s assertions regarding the nature of the Initial Blockade. The requested Documents are also relevant to assess the Coahuila Public Prosecutors’ actual contemporaneous views regarding the acts underlying the Initial Blockade and their potential to give rise to criminal actions.</p>		<p>rather documents showing the specific mandates of two named prosecutors assigned to the Initial Blockade. The requested documents would evince the specific directives given to Prosecutors Reyna and Serrano with respect to the Initial Blockade, which would be internal and non-public.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	

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			<p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are internal, Government Documents prepared by or for the Public Prosecutors in connection with Mr. López Ramírez's affidavit, to which the Claimant does not have access. The Claimant therefore reasonably believes that the requested Documents are in the Respondent's possession, custody, or control.</p>			
25	All Documents prepared by or for Coahuila Public Prosecutor Serrano and the Governor of Coahuila relating to the 8 March 2016 Meeting held	López Ramírez ¶¶ 7.4-7.6, 7.10 Counter-Memorial	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>On 8 March 2016, the Claimant agreed in good faith to meet with</p>	See General Objections 1, 2 and 3. Claimant's Request is not specific and granting it would create an unreasonable burden on Respondent.	The Claimant maintains Request No. 25 in its entirety. <i>See</i> the Claimant's Responses to Mexico's General Objection Nos. 1, 2, and 3.	Granted but only as regards reports or memoranda prepared for or sent to the Governor of

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	between Minera Metalín and Mineros Norteños to resolve Mineros Norteños’s baseless demands for royalty payments not yet due, including any reports or communications reflecting her observations regarding the meeting.	¶¶ 6, 92, 402, 551	<p>Mineros Norteños and with the Mexican Government to discuss an amicable resolution to Mineros Norteños’s baseless demands for payment (López Ramírez ¶ 7.4-7.6). The Government attendees were a lawyer from the Governor of Coahuila and Coahuila Public Prosecutor Serrano (López Ramírez ¶ 7.6). During the meeting, Mineros Norteños noted that the Governor of Coahuila was very interested in resolving the conflict (López Ramírez ¶ 7.10).</p> <p>In its Counter-Memorial, Mexico argues that the Claimant was allegedly unwilling to negotiate a solution with Mineros Norteños (Counter-Memorial ¶¶ 6, 92, 402, 551).</p> <p>The requested Documents are relevant to evaluate the Respondent’s assertions regarding</p>	<p>Neither the Claimant nor its witnesses provide any further identifying information about the alleged “lawyer from the Government of the state of Coahuila” who would have served as a witness at the alleged meeting. (Witness statement of Mr. López Ramírez, ¶ 6.24).</p> <p>Moreover, Claimant’s requests are neither relevant nor material to the dispute and are based on its own unsubstantiated allegations of an alleged change in the State’s conduct resulting from Mr. López Obrador’s presidency.</p> <p>On the contrary, Respondent has made it clear that Claimant did not provide, nor did it make the slightest effort to demonstrate, that the change of government was related to the claims it alleges. Instead, the facts claimed by</p>	<p>Relevance and Materiality: Mexico asserts that the requested documents are not relevant or material to this dispute because they are “<i>based on [the Claimant’s] own unsubstantiated allegations of an alleged change in the State’s conduct resulting from Mr. López Obrador’s presidency</i>”. That is wrong for two reasons.</p> <p><i>First</i>, the Claimant proffers multiple independent reasons why the requested documents are relevant and material to the issues in dispute, yet Mexico selects one reason and then casts <i>all</i> responsive documents as not relevant or material on that basis. As the Claimant has explained, documents relating to the 8 March 2016 meeting between Minera Metalín and Mineros Norteños – attended by a lawyer from the Coahuila Governor’s Office and Coahuila Public Prosecutor Serrano</p>	Coahuila. Such a document, or documents, appear likely to exist and if so may be relevant and material to the allegation that the position of the Respondent changed between 2016 and 2019.

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			<p>these negotiations. The requested Documents are also relevant to compare the Respondent's response to the Initial Blockade under the Enrique Peña Nieto administration with its response to the Continuing Blockade under the Andrés Manuel López Obrador administration.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are internal, Government Documents prepared by or for the Coahuila Public Prosecutors in connection with the 8 March 2016 meeting to which the Claimant does not have access. The Claimant therefore reasonably believes that the requested Documents are in the Respondent's possession, custody, or control.</p>	<p>Claimant are attributable only to itself, to its lack of diligence in fulfilling its contractual commitments and to its mismanagement of social conflicts. (Counter-Memorial, ¶¶ 369-376.)</p> <p>Additionally, it is clarified that the information requested is more than 8 years old, so its location becomes more complicated and it may not be possible to find it, a situation in which the following conditions would not be met: (i) that this information exists and (ii) that it is in the possession, custody or control of Mexico.</p> <p>Finally, Claimant's justifications demonstrate that it intends to shift the burden of proof to Respondent.</p> <p>Respondent wishes to reiterate that the production of documents</p>	<p>– are relevant to evaluate Mexico's assertion that the Claimant was allegedly unwilling to negotiate a solution with Mineros Norteños (Counter-Memorial ¶¶ 6, 92, 402, 551). That basis alone is sufficient to show relevance and materiality, and Mexico does not object to this basis in its response.</p> <p><i>Second</i>, even if the Claimant's second basis for relevance and materiality were its only basis – namely, that the requested documents are relevant to compare Mexico's responses to the two Blockades – the premise of Mexico's objection is wrong. To justify this Request, the Claimant need not prove its claim that the change in administration caused the marked shift in Mexico's response to the Continuing Blockade. Rather, the Claimant must show that the requested documents are relevant</p>	

				cannot be used as a mechanism to “build” a case.	<p>and material to assess a disputed issue: here, (i) whether Mexico’s response to the two blockades materially differed from one another, and (ii) whether, as Mexico asserts, its prosecutorial agencies had no authority to do anything to assist in removing the Continuing Blockade. The requested documents are relevant and material to these issues.</p> <p>Narrowly Tailored and Specific: Mexico asserts that the Request is not specific and is unduly burdensome because “[n]either the Claimant nor its witnesses provide any further identifying information about the alleged ‘lawyer from the Government of the [S]tate of Coahuila’ who would have served as a witness at the alleged meeting”. But again, as explained in Request No. 5, it is the specific <i>agency</i> that is material for document requests – not the individual officers thereof. Here, the Claimant has specified that a lawyer representing the Government of Coahuila attended the 8 March 2016 meeting. This information is sufficient for Mexico to conduct a reasonable, good faith search for responsive documents.</p> <p>Indeed, to comply with its production obligations, Mexico would simply</p>
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					<p>need to request from Public Prosecutor Serrano documents relating to the 8 March 2016 Meeting he attended (which, Mexico does not dispute). Mexico is also in a position to identify the lawyer, either by asking Public Prosecutor Serrano or asking the Governor of Coahuila.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
26	All Documents memorializing or recording Mineros Norteños's General Assembly meetings from December 2015 to March 2016 and from August 2019 to December 2019,	Memorial ¶¶ 2.15, 2.115 López Ramírez, ¶¶ 6.1, 8.2	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In their pleadings, the Parties agree that Mineros Norteños is a Mexican for-profit cooperative mining</p>	<p>Complainant requests documents that are not in Respondent's possession</p> <p>It is important to note that Mineros Norteños is a third party outside of these proceedings and Respondent does not have possession or control</p>	To the extent Mexico represents that it has conducted a reasonable, good faith search for responsive documents in the Public Registry of Commerce related to Minera Metalín, the Initial Blockade, or the Continuing Blockade and has not located any responsive documents, the Claimant accepts that	No order required.

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	including all Minutes registered in the <i>Registro Público de Comercio</i> , discussing Minera Metalín, the Initial Blockade, or the Continuing Blockade.	Counter-Memorial ¶¶ 46, n.19, 149, 190	association, or <i>sociedad cooperativa</i> (See Memorial ¶ 2.15; Counter Memorial ¶ 46). In its Counter-Memorial, the Respondent acknowledges that cooperative associations like <i>Mineros Norteños</i> are “ <i>social business corporation[s] formed by individuals who join together to achieve common objectives</i> ” and that “ <i>important decisions are made democratically at meetings called General Assemblies</i> ” (Counter Memorial n.19). Evidence establishes that <i>Mineros Norteños</i> held General Assembly meetings, including to discuss the Continuing Blockade. ⁷⁷ Under Article 194 of the <i>Ley General de Sociedades Mercantiles</i> , ⁷⁸ which applies to	of the documents of said cooperative. Furthermore, Claimant’s Request does not comply with Rule 3.3(c)(i). Said rule requires a declaration that the documents are not in the custody or control of the requesting Party. However, it is noted that the Public Registry of Commerce is a registry to which any person may have access. In this sense, if the requested documents are not in its possession, it is because it did not want to obtain them. E The Public Registry of Commerce is still available for consultation. (See, Article 21 of the Regulations of the Public Registry of	representation. In the event that Mexico locates responsive documents, Mexico should disclose those documents consistent with its continuing disclosure obligations.	

⁷⁷ See *Mineros Norteños* Facebook post calling for an extraordinary meeting to be held on 8 December 2019, 21 November 2019, **C-0166**.

⁷⁸ See *Ley General de Sociedades Mercantiles*, Art. 194, **C-0167**.

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			<p>cooperative associations by virtue of Article 10 of the <i>Ley General de Sociedades Cooperativas</i>,⁷⁹ Mineros Norteños is required to register the minutes of its General Assembly meetings with the <i>Registro Público de Comercio</i>, which is under the auspices of Economía. Mexico has not produced any of these Minutes with its Counter-Memorial.</p> <p>The requested Documents are relevant to evaluate the Respondent's assertions that the Initial Blockade and the Continuing Blockade were not extortionate attempts by Mineros Norteños to obtain by force what it had been unable to obtain lawfully through the Mexican courts but rather "<i>two peaceful demonstration movements</i>" whose "<i>sole purpose</i>" was "<i>to seek</i></p>	<p>Commerce: "<i>The commercial acts registered in the Registry's databases are of a public nature, any person may consult them [...]</i>". Available at https://rpc.economia.gob.mx/siger2/resources/docs/RRPC.PDF</p> <p>However, in making its justifications, Claimant relies on an incorrect reading of Mexican law.</p> <p>The Respondent does not object that, by virtue of Article 10 of the General Law of Cooperative Societies, the General Law of Mercantile Societies applies on a supplementary basis.</p> <p>However, Article 194 only obliges companies to register their minutes</p>		

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See Art. 10, *Ley General de Sociedades Cooperativas*, C-0168.

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			<p><i>an amicable solution to a legitimate conflict</i>” (Counter-Memorial ¶ 149). The requested Documents are also relevant to assess the Respondent’s assertions that, contrary to the testimony of Juan Manuel López Ramírez, Deputy Borrego allegedly did not encourage Mineros Norteños to impose the Continuing Blockade on the Project or assure Mineros Norteños that his “<i>allies</i>” would protect them. (Counter-Memorial ¶ 190, Memorial ¶ 2.115).</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The requested Documents are records of Mineros Norteños required to be registered with the <i>Registro Público de Comercio</i>, which is a Government office under the auspices of</p>	<p>with the Public Registry of Commerce in the case of minutes of Extraordinary Meetings.</p> <p>Article 182 of the General Law of Mercantile Corporations establishes that extraordinary meetings are those that meet to deal with any of the following matters:</p> <ul style="list-style-type: none"> • Extension of the duration of the partnership; • Early dissolution of the company; • Increase or reduction of capital stock; • Change of corporate purpose; • Change of nationality of the company; • Transformation of society; • Merger with another company; 		

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			<p>Economía. The requested Documents are therefore reasonably believed to be in the Respondent's possession, custody, or control.</p>	<ul style="list-style-type: none"> • Issuance of preferred shares; • Redemption by the company of its own shares and issuance of bonus shares; • Bond issuance; • Any other modification of the social contract, and • Other matters for which the law or the articles of incorporation require a special quorum. <p>It is clear that the subject matter requested by the Claimant does not fall within the assumptions established by law, and therefore no clear legal basis has been established to establish the existence of the requested documents.</p> <p>Therefore, the Claimant's request is not admissible.</p>		

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				However, notwithstanding the above objections, the Respondent conducted a search for the requested documents in the Public Registry of Commerce and did not obtain any results.		
27	The complete report associated with exhibit R-0062 allegedly presented by Antonio Valdez to South32 on 20 June 2022.	Counter-Memorial ¶ 256	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In its Counter-Memorial, Mexico states that Mr. Valdez reported his dispute with Minera Metalín to South 32's EthicsPoint application (Counter Memorial ¶ 256). Yet Mexico produced in support of that contention only a single exhibit (R-0062), which is a poorly scanned copy of an incomplete, anonymous report. In particular, the document is missing the attachments to which it refers.</p>	Respondent does not have possession, control or custody of documents prepared or received by Mr. Antonio Valdez, who is a third party unrelated to this proceeding.	<p>The Claimant maintains Request No. 27 in its entirety.</p> <p>Possession, Custody, or Control: Mexico misunderstands the Claimant's Request. The Claimant is calling for the complete version of a document Mexico has already exhibited with its Counter-Memorial and referenced therein (Exhibit R-0062; Counter-Memorial ¶ 256); the Claimant is not requested any other documents internal to Mr. Valdez.</p> <p>Mexico's assertion that it does not have possession, custody, or control over Mr. Valdez's documents is belied by the fact that Mexico has</p>	The Respondent shall search for as complete and clear a copy of Exhibit R-0062 and of its attachments as it can find and produce them to the Claimant.

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			<p>The requested Documents, which comprise the rest of the above-referenced report, are relevant to assess the report.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant’s possession, custody, or control. The Claimant is not privy to the full report and has no control over it given that it involves only South32 and Mr. Valdez. The Claimant reasonably believes that the requested Documents are in Mexico’s possession, custody, or control because Mexico submitted a portion of the report with its Counter-Memorial but failed to file the rest.</p>		<p>exhibited not only the report prepared by Mr. Valdez, but also emails that it could have obtained only from Mr. Valdez. For example, Mexico has exhibited an email from the Claimant’s witness, Mr. Barry, to Mr. Valdez dated 18 July 2022 (R-0048) in the context of settlement discussions between the Claimant and Mr. Valdez. Such email was not copied to any Mexican officials, nor was it exhibited by the Claimant in this arbitration. Thus, the only way that Mexico could have obtained this document is from Mr. Valdez himself. Accordingly, to the extent that the full version of this report requires Mexico to request that full version from Mr. Valdez, Mexico has the ability to do so.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents</p>	

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					responsive to this Request, in its possession, custody, or control.	
28	<p><i>Travaux préparatoires</i> of the negotiations for the elaboration of Annex 14-C of the USMCA signed on 30 November 2018, including:</p> <p>a. Copies of the initial draft text of Annex 14-C, including Footnotes 20 and 21, and any proposed revisions thereto by any of the USMCA Contracting Parties;</p> <p>b. All Minutes (and related attachments) of the seven rounds</p>	<p>Counter-Memorial ¶¶ 330-344</p> <p>Memorial ¶¶ 3.24, 3.25</p>	<p>Relevance and Materiality</p> <p>The requested Documents are relevant to this dispute and material to its outcome.</p> <p>In its Counter Memorial, Mexico objects to the Tribunal’s jurisdiction <i>ratione temporis</i> and <i>ratione voluntatis</i>, arguing that Annex 14-C of the USMCA does not extend the substantive obligations under Section A of Chapter 11 of the NAFTA beyond 1 July 2020—the date of termination of that Agreement (Counter-Memorial ¶ 330). Despite this argument, the Respondent has failed to produce the <i>travaux préparatoires</i> of the USMCA or any other internal Documents relating to Annex 14-C of the USMCA. Instead, Mexico</p>	<p>See General Objections 1, 2, and 3.</p> <p>First, Claimant has not established the relevance of the documents it requests to the outcome of the dispute. Claimant has not established that recourse to supplementary means of interpretation under the VCLT is necessary in this case.</p> <p>On the contrary, Respondent has made its case on the interpretation of Annex 14-C from the general rule of treaty interpretation set forth in Article 31 VCLT based on good faith, the ordinary meaning of the terms of the treaty, its context and object and purpose (Counter-Memorial, ¶¶ 335-337, 341, 344).</p>	<p>The Claimant maintains Request No. 28 in its entirety.</p> <p>See the Claimant’s Responses to Mexico’s General Objection Nos. 1, 2, and 3.</p> <p>Relevance and Materiality: Mexico asserts that the Claimant has not established the relevance and materiality of the requested documents because it “<i>has not established that recourse to supplementary means of interpretation under the VCLT is necessary in this case</i>”. That objection is wrong on at least two grounds.</p> <p>First, there is plainly a dispute between the Parties as to the meaning and effect of Annex 14-C of the</p>	<p>Granted for the reasons given by the Claimant in its response.</p>

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	<p>of negotiations from 18 May 2017 to 3 August 2018, regarding the text of Annex 14-C, including Footnotes 20 and 21;</p> <p>c. All Documents from 20 January 2017 to 1 July 2020 that the Mexican Government, the United States Government, or the Canadian Government (including any of their agencies, officials, or employees) prepared or exchanged with one or more of the USMCA Contracting Parties relating to or</p>		<p>relies solely on its own interpretation of the provisions, regurgitating its conclusory arguments from previous arbitrations (<i>see</i> Counter-Memorial ¶ 330). Based on these conclusory arguments, the Respondent asserts that it is not bound by any obligations under the NAFTA and has not consented to arbitrate claims arising after 1 July 2020 (Counter-Memorial ¶¶ 337, 344).</p> <p>The Claimant, on the other hand, demonstrated this Tribunal’s jurisdiction by showing that the Respondent’s breaches are continuous in nature and started before the NAFTA was terminated (Memorial ¶ 3.25). Further, the Claimant has demonstrated that the claims were timely, as they were filed within three years after the termination of NAFTA (Memorial ¶ 3.24).</p>	<p>Second, it is clear that Claimant’s Request is overly broad and ambiguous, constituting a <i>fishing expedition</i> that imposes an unreasonable burden on Respondent. Moreover, Claimant provides no additional elements identifying the “agencies, officials, or employees” mentioned in its Request, which reinforces the lack of specificity and clarity in its request.</p> <p>To comply with such a request would require a search without clear parameters or specific information, and without adequate justification to support its scope.</p> <p>In that sense, the Request is contrary to Article 3(3)(a) and (b) and Article 9(2)(a) and (c) of the IBA Rules.</p>	<p>USMCA. Supplementary means of interpretation, such as a review of the <i>travaux préparatoires</i> is required to resolve the Parties’ differences in interpretation pursuant to VCLT Article 32.</p> <p>Moreover, as the Claimant has explained, other tribunals hearing legacy NAFTA claims have granted similar requests for <i>travaux préparatoires</i> on the ground that the negotiating history <i>is</i> relevant and material to assess Mexico’s interpretation of the USMCA. Specifically, the <i>Coeur Mining</i> tribunal held that the negotiating history of the USMCA, as well as the positions adopted by Mexico during those negotiations, were relevant supplementary means under the VCLT to assess Mexico’s interpretation of the Treaty. <i>See Coeur Mining, Inc. v. United Mexican States</i>, ICSID Case No.</p>	

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	discussing, Annex 14-C of the USMCA, Legacy Investment Claims, and the text of Footnotes 20 and 21.		<p>The requested Documents are relevant to evaluate the Respondent’s actual interpretation of the USMCA, which will have two implications. <i>First</i>, they will provide grounds for estopping Mexico from urging a reading of the treaty that runs contrary to its own interpretation, as articulated in its very negotiation of the treaty’s terms. If there were any indication in the negotiation history supporting Mexico’s jurisdictional objections, Mexico would have incorporated such evidence in its Counter-Memorial. And <i>second</i>, the Documents constitute supplementary bases for interpreting the USMCA pursuant to Article 32 of the Vienna Convention on the Law of Treaties (RL-0018).</p> <p>Importantly, other tribunals to have heard this production request have</p>		<p>UNCT/22/1, Procedural Order No. 5, 19 Jun. 2024, CL-0167.</p> <p><i>Second</i>, the requested documents are relevant and material to assess Mexico’s <i>actual</i> contemporaneous interpretation of the USMCA, as memorialized in the requested <i>travaux préparatoires</i>, and not the <i>post hoc</i> reading that Mexico has adopted in this arbitration. Specifically, Mexico’s proffered reading of the USMCA derives from its own self-serving interpretation of the Treaty plucked from submissions in previous arbitrations (<i>See</i> Counter-Memorial ¶ 330). Yet, if Mexico’s own negotiating history reflects an interpretation of the USCMA that differs from its proffered construction here, Mexico should be estopped from advancing its contrary interpretation to this Tribunal. In any event, the interpretation of the USMCA by <i>a</i></p>	

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			<p>granted it. In <i>Coeur Mining v. Mexico</i> (ICSID Case No. UNCT/22/1), the claimant submitted very similar requests to the ones advanced here, seeking the negotiating history of the USMCA and the positions adopted by Mexico during those negotiations. The tribunal granted the request, holding that the positions adopted by Mexico were relevant supplementary means under the VCLT to assess Mexico’s interpretation of the Treaty.⁸⁰</p>		<p><i>single party, i.e., Mexico, is insufficient to shed light on all of the parties’ understanding of the meaning of the relevant portions of the USMCA. For all of these reasons, the requested documents are relevant and material to the issues in dispute in this case.</i></p> <p>Narrowly Tailored and Specific: Next, Mexico asserts that the Request is overbroad and unduly burdensome because the Claimant “<i>provides no additional elements identifying the ‘agencies, officials, or employees’ mentioned in its Request</i>”. This is spurious. The Claimant is seeking production of the <i>travaux préparatoires</i> to a Treaty that Mexico entered into in 2020. It is simply not credible for Mexico to assert that it cannot determine where</p>	

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See *Coeur Mining, Inc. v. United Mexican States*, ICSID Case No. UNCT/22/1, Procedural Order No. 5, 19 June 2024, **CL-0167**.

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			<p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are governmental communications and diplomatic Documents prepared by and exchanged between the governments of Mexico, the United States of America, and Canada and therefore are not in the Claimant's possession, custody, or control.</p>		<p>these documents would be held within its own agencies. Mexico alone has access to its internal negotiating records concerning the USMCA and, as the State, alone has the requisite knowledge to identify the proper custodians. The requested documents are within Mexico's sole possession, custody, or control, and Mexico alone is capable of identifying the specific custodians of the requested documents. Mexico's objection on possession, custody, or control grounds is baseless.</p> <p>For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.</p>	
29	All internal Documents from 20 January 2017 to 1	Counter-Memorial ¶¶ 330-344	Relevance and Materiality	The objections of Request No. 28 are incorporated <i>mutatis mutandis</i> into this Request.	The Claimant reiterates <i>mutatis mutandis</i> its response in Request No. 28.	Refused. Documents purely

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	July 2020 prepared by Mexico, including by its <i>Secretaría de Relaciones Exteriores</i> , reflecting Mexico's proposals regarding or its interpretation of Annex 14-C of the USMCA, including its Footnotes 20 and 21.	Memorial ¶¶ 3.24, 3.25	<p>For the reasons set forth in Request No. 28, the requested Documents are relevant to this dispute and material to its outcome.</p> <p>Possession, Custody, or Control</p> <p>The requested Documents are reasonably believed to exist and are not in the Claimant's possession, custody, or control. The requested Documents are communications prepared by and exchanged within the Mexican government and are therefore not in the Claimant's possession, custody, or control.</p>		For all of these reasons, the Claimant respectfully requests the Tribunal to order the Respondent to search for and to produce documents responsive to this Request in its possession, custody, or control.	internal to the Respondent are unlikely to assist the Tribunal in the interpretation or application of the treaty.