

REDFERN SCHEDULE

Requesting Party: Claimant

1	2	3		4	5	6
Request No.	Documents or Category of Documents Requested [Claimant]	Relevance and Materiality [Claimant]		Responses/Objections to Document Requests [Respondent]	Replies to Objection to Document Requests [Claimant]	Tribunal's Decision
		Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports	Comments			
1	The Respondent's AC-30 contract with Bluport Asphalt, and related documents, including all addenda, executed Power of Attorney, the invitation to participate in a public tender, and corresponding bid award	Claimant's Memorial ¶¶ 56, 57, 72, 81, 96, 182; Witness Statement of Mr. Mustafa Abu Naba'a ¶¶ 62-63, 87, 101 Respondent's Memorial ¶¶ 465-468, 471, 473-74, 477	Relevant and material to whether other AC-30 suppliers were similarly situated to Claimant, had contracts with similar terms to the 2013 Contract, and/or had contracts that suffered from the same alleged "irregularities" as the 2013 Contract	Respondent has conducted a reasonable search for the category of documents requested, and provides Claimant with the documents identified in the request that are in its possession, custody or control, as resulting from that search.	N/A	NO DECISION REQUIRED
2	Documents reflecting all payments	Claimant's Memorial ¶¶	Relevant and material to whether	Respondent has conducted a reasonable search for	N/A	NO DECISION REQUIRED

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	Respondent issued to Bluport Asphalt from, May 10, 2013 to July 25, 2022, including those approved by then- Minister of Finance Donald Guerrero Ortiz	56-57, 62, 81, 182; Witness Statement of Mr. Mustafa Abu Naba'a ¶¶ 62-63, 69, 87, 101 Respondent's Memorial ¶¶ 465-468, 471, 473-74, 477	Respondent discriminated against Claimant by paying other similarly situated AC-30 suppliers without paying Claimant	the category of documents requested, and provides Claimant with the documents identified in the request that are in its possession, custody or control, as resulting from that search.		
3	The Respondent's AC-30 contract with Inversiones Titanio and related documents, including all addenda, executed Power of Attorney, the invitation to participate in a public tender, and corresponding bid award	Claimant's Memorial ¶¶ 56, 57, 72, 81, 182; Witness Statement of Mr. Mustafa Abu Naba'a ¶¶ 62-63, 87, 101 Respondent's Memorial ¶¶ 465-468, 471, 473-74, 477	Relevant and material to whether other AC-30 suppliers were similarly situated to Claimant, had contracts with similar terms to the 2013 Contract, and/or had contracts that suffered from the same alleged "irregularities" as the 2013 Contract.	Respondent has conducted a reasonable search for the category of documents requested, and provides Claimant with the documents identified in the request that are in its possession, custody or control, as resulting from that search.	N/A	NO DECISION REQUIRED

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4	Documents reflecting all payments Respondent issued to Inversiones Titanio, from May 10, 2013 to July 25, 2022, including those approved by then- Minister of Finance Donald Guerrero Ortiz	Claimant’s Memorial ¶¶ 56-57, 62, 81, 182 Witness Statement of Mr. Mustafa Abu Naba’a ¶¶ 62-63, 69, 87, 101 Respondent’s Memorial ¶¶ 465-468, 471, 473-74, 477	Relevant and material to whether Respondent discriminated against Claimant by paying other similarly situated AC-30 suppliers without paying Claimant	Respondent has conducted a reasonable search for the category of documents requested, and provides Claimant with the documents identified in the request that are in its possession, custody or control, as resulting from that search.	N/A	NO DECISION REQUIRED
5	The Respondent’s AC-30 contract with General Asphalt and related documents, including all addenda, executed Power of Attorney, the invitation to participate in a public tender, and	Claimant’s Memorial ¶¶ 56, 57, 72, 81, 182; Witness Statement of Mr. Mustafa Abu Naba’a ¶¶ 62-63, 87, 101 Respondent’s Memorial ¶¶ 465-468, 471, 473-74, 477	Relevant and material to whether other AC-30 suppliers were similarly situated to Claimant, had contracts with similar terms to the 2013 Contract, and/or had contracts that suffered from the same alleged “irregularities” as the 2013 Contract.	Respondent has conducted a reasonable search for the category of documents requested, and does not have in its possession, custody or control the documents identified in the request.	Claimant’s original request referred to “General Asphalt,” the colloquial industry name of the AC-30 supplier formally known as “General Supply Corporation S.R.L.” Claimant requests that Respondent confirm whether it has conducted a reasonable search for the AC-30 contracts it entered into with General Supply Corporation S.R.L. If Respondent has not conducted such a search, Claimant asks that it be ordered to do so.	GRANTED AS SPECIFIED While the original Request concerned the Respondent’s AC-30 contract (and related documents) with “General Asphalt”, the Claimant now clarifies that General Asphalt is the colloquial industry name of an entity formally known as “General Supply Corporation S.R.L.”. The <i>prima facie</i> relevance and materiality of contracts (and related documents) concerning AC-30 suppliers other than Sargeant appears undisputed. It also appears undisputed that the Respondent has

	corresponding bid award					<p>concluded contracts with those other suppliers (<i>see e.g.</i>, SoD, ¶ 480), meaning it is reasonable to believe such contracts (and related documents) exist and could be in the Respondent’s possession, custody, or control. This includes potential contracts (and related documents) with General Supply Corporation S.R.L.</p> <p>Indeed (i) both Parties typically refer to General Asphalt next to “Bluport Asphalt” and “Inversiones Titanio” (<i>see e.g.</i> SoC, ¶¶ 56, 182; SoC, ¶¶ 355, 465); and (ii) the Respondent has voluntarily produced to the Claimant the contracts (and related documents) with Bluport Asphalt and Inversiones Titanio (<i>see</i> Requests 1-4 <i>supra</i>).</p> <p>Therefore, the Tribunal grants the Request in relation to General Supply Corporation S.R.L.</p>
6	Documents reflecting all payments Respondent issued to General Asphalt, from	Claimant’s Memorial ¶¶ 56-57, 62, 81, 182 Witness Statement of	Relevant and material to whether Respondent discriminated against Claimant by paying other	Respondent has conducted a reasonable search for the category of documents requested, and does not have in its possession,	Claimant’s original request referred to “General Asphalt,” the colloquial industry name of the AC-30 supplier formally known as “General Supply Corporation S.R.L.” Claimant requests that Respondent confirm	<p>GRANTED AS SPECIFIED</p> <p>The Request is granted in relation to General Supply Corporation S.R.L. The reasons set out with respect to Request 5 <i>supra</i> apply here <i>mutatis mutandis</i>.</p>

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	May 10, 2013 to July 25, 2022, including those approved by then- Minister of Finance Donald Guerrero Ortiz	Mr. Mustafa Abu Naba'a ¶¶ 62-63, 69, 87, 101 Respondent's Memorial ¶¶ 465-468, 471, 473-74, 477	similarly situated AC-30 suppliers without paying Claimant	custody or control the documents identified in the request.	whether it has conducted a reasonable search for the payments it issued to General Supply Corporation S.R.L., including those approved by then-Minister Donald Guerrero. If Respondent has not conducted such a search, Claimant asks that it be ordered to do so.	
7	The Respondent's AC-30 contract with Refidomsa and related documents, including all addenda, executed Power of Attorney, the invitation to participate in a public tender, and corresponding bid award	Claimant's Memorial ¶¶ 56, 57, 66-78, 81, 93-94, 182; Witness Statement of Mr. Mustafa Abu Naba'a ¶¶ 62-63, 73-85 Respondent's Memorial ¶¶ 465-468, 471, 473-74, 477	Relevant and material to whether other AC-30 suppliers were similarly situated to Claimant, had contracts with similar terms to the 2013 Contract, and/or had contracts that suffered from the same alleged "irregularities" as the 2013 Contract	Respondent has conducted a reasonable search for the category of documents requested, and provides Claimant with the documents identified in the request that are in its possession, custody or control, as resulting from that search.	Although Respondent produced the contracts and addenda related to its AC-30 Contracts with Refidomsa, it did not produce any of the Customs' Cargo Manifests or Customs Declarations that cleared the importation of AC-30 in the execution of its contracts. These Cargo Manifests are directly relevant to Claimant's discrimination claim because they evidence that Respondent honored identical tax exemption clauses in the contracts of similarly-situated Dominican AC-30 suppliers, by regularly assuming the importation taxes on AC-30 in furtherance of those contracts. The MOPC assumed the taxes on Refidomsa's AC-30 imports in direct contravention of its current claim that such an exemption is an alleged "unconstitutional" feature of	GRANTED AS SPECIFIED The original Request concerned the Respondent's AC-30 contracts (and related documents) with "Refidomsa". The Claimant concedes that the Respondent has voluntarily produced the requested documents, but for the Customs' Cargo Manifests or Customs Declarations that cleared the importation of AC-30 in the execution of the Refidomsa contracts. Accordingly, the Claimant now requests the production of the Manifests and Declarations. The Manifests and Declarations, which have now been narrowly defined, fall reasonably within the scope of the Request as "related documents". To the extent that the Respondent has not objected to the Request in general and, to the

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					<p>Sargeant’s 2013 Contract. <i>See</i> Respondent’s Memorial ¶ 111. Claimant is entitled to such Cargo Manifests and Declarations to evidence that Respondent ignored identical provisions in the contracts of State and Dominican-owned AC-30 suppliers, but is using such a provision to target Sargeant and avoid honoring the 2013 Contract.</p>	<p>contrary, has voluntarily produced documents falling within the Request’s scope, the Manifests and Declarations appear <i>prima facie</i> relevant and material to the Claimant’s discrimination claim and it is reasonable to believe they exist and are likely to be in the Respondent’s possession, custody or control.</p> <p>Therefore, the Tribunal grants the Request in relation to the Manifests and Declarations that cleared the importation of AC-30 in the execution of the Refidomsa contracts.</p>
8	<p>Documents reflecting all payments Respondent issued to Refidomsa, from September 21, 2020 to July 25, 2022</p>	<p>Claimant’s Memorial ¶¶ 56-57, 62, 66-78, 81, 93-94, 182;</p> <p>Witness Statement of Mr. Mustafa Abu Naba’a ¶¶ 73, 82, 99</p> <p>Respondent’s Memorial ¶¶ 465-468, 471, 473-74, 477</p>	<p>Relevant and material to whether Respondent discriminated against Claimant by paying other similarly situated AC-30 suppliers without paying Claimant</p>	<p>Respondent has conducted a reasonable search for the category of documents requested, and provides Claimant with the documents identified in the request that are in its possession, custody or control, as resulting from that search.</p>	N/A	NO DECISION REQUIRED

<p>9</p>	<p>All documents, communications, or other correspondence between and/or among Respondent about its October 5, 2020, AC-30 contract with Refidomsa, from August 16, 2020 to July 25, 2022</p>	<p>Claimant’s Memorial ¶¶ 66-78, 93-94, 182; Witness Statement of Mr. Mustafa Abu Naba’a ¶¶ 73-85</p>	<p>Relevant and material to whether Respondent discriminated against Claimant in favor of similarly situated Dominican-owned companies</p>	<p>Lack of specificity (Procedural Order No. 1 ("OP1"), ¶ 16.2; IBA Rules, art. 3(a)(ii)). The request is too broad and does not identify with precision a limited category of documents, as it does not identify any specific subject matter or facts in relation to the contract between Respondent and Refidomsa, nor the eventual senders and/or recipients of those documents. It also fails to identify specific State entities.</p> <p>Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). The Request fails to justify why the documents would be relevant and/or material to the issue of discrimination it claims. In fact,</p>	<p>Reply to Respondent’s objection based on lack of relevance and materiality: Respondent’s contract with Refidomsa is a prime illustration of the discrimination against Claimant in favor of similarly-situated Dominican companies that is at the heart of this proceeding. As explained in Claimant’s Memorial, Refidomsa had no prior experience in the AC-30 market in the Dominican Republic and had no infrastructure to supply AC-30, yet it was awarded a contract with Respondent, without a public tender, because of its political contacts in the Dominican government. <i>See</i> M. Abu Naba’a Witness Statement ¶¶ 73-74. And, as alleged by Claimant, Respondent did so as part of a larger scheme to push Sargeant out of the AC-30 market in favor of politically-connected Dominican owned companies. <i>See</i> Claimant’s Memorial ¶¶ 173, 181-82. Accordingly, all aspects of Respondent’s AC-30 contract with Refidomsa—including, but not limited to, Respondent’s decision to enter into the contract; Respondent’s decision</p>	<p>DENIED</p> <p>The Request is overly broad and hence producing responsive documents would impose an unreasonable burden on the Respondent. Indeed, the Request refers to all documents “between and/or among the Respondent”. This formulation potentially includes countless unidentified State entities. Despite the Claimant’s assertion to the contrary, it is reasonable to expect that a foreign investor has a foundational understanding of the host-State’s legal structure and the core functions of its entities, which would allow it to tailor its document production requests accordingly at least to some extent. Yet, the Claimant has made no attempt to narrow down the relevant State entities, unlike with Requests 15 and 17 <i>infra</i>.</p>
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				<p>Claimant does not make a similar request concerning the contracts with the other companies for which it requests documents and does not explain why this specific request concerning the contract with Refidomsa would be relevant to its discrimination claim.</p>	<p>to do so without a public tender; Respondent’s negotiation of the contract; and Refidomsa’s (non)fulfillment of its responsibilities under the contract—are directly relevant to the central question of whether Respondent discriminated against Claimant in favor of similarly-situated Dominican-owned companies. <i>Id.</i></p> <p>Claimant notes that it is not making similar requests with regard to Respondent’s AC-30 contracts with Inversiones Titanio, General Asphalt, and Bluport Asphalt because—unlike Refidomsa—those companies are not owned by Respondent, were already known AC-30 suppliers within the Dominican Republic before their respective contracts were awarded, and have AC-30 contracts that were not entered into for the first time during the current Dominican administration.</p> <p>Reply to Respondent’s objection based on Lack of specificity: This request is sufficiently specific. This request is narrowly tailored to the less than two-year period between</p>	
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					<p>when the current administration assumed office and the date it filed its lawsuit against Sargeant and Mr. Abu Naba'a. Claimant also specifically limits its request to Respondent's October 5, 2020 contract with Refidomsa. In addition, Claimant does not have the familiarity required to determine which specific individuals, entities, and/or State entities may have sent or received responsive documents, communications, or other correspondence, and is therefore not in a position to identify them. Only Respondent knows which individuals and State entities would have discussed its contract with Refidomsa and it is fully capable of identifying those sources, searching those custodians, and producing responsive documents.</p>	
10	<p>All documents, communications, or other correspondence reflecting Respondent's decision to purchase the remaining</p>	<p>Claimant's Memorial ¶¶ 93-94;</p> <p>Witness Statement of Mr. Mustafa Abu Naba'a ¶ 99</p>	<p>Relevant and material to whether Respondent discriminated against Claimant in favor of similarly situated Dominican-owned companies</p>	<p>Lack of specificity (OP1, ¶ 16.2; IBA Rules, art. 3(a)(ii)). The Request is too broad and does not identify with precision a limited category of documents, as it does not identify either the</p>	<p>Reply to Respondent's objection based on lack of relevance and materiality: As discussed in Claimant's Memorial, the Dominican Republic's purchase of Refidomsa's remaining shares was a key event of its long-term plan to push Sargeant, a foreign company, out of the local AC-30</p>	<p>DENIED</p> <p>The requested documents do not appear to be <i>prima facie</i> relevant and material to the outcome of the dispute.</p> <p>Indeed, the Claimant alleges that the Respondent pushed out Sargeant of the local AC-30 market</p>

<p>shares of Refidomsa, making it an entirely state-owned company, from August 16, 2020 to September 1, 2021</p>			<p>eventual issuers, senders or recipients of those documents. It also fails to identify a specific State entity.</p> <p>Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). The documents related to the acquisition of Refidomsa's shares are neither relevant nor material to determine whether Respondent discriminated against Claimant in favor of Dominican companies in like circumstances. Claimant fails to explain why said documents would be relevant and material. In order to analyze a claim of discrimination, it must be determined whether (i) Claimant received certain treatment from the State; (ii) whether</p>	<p>market in favor of politically-connected Dominican-owned companies. <i>See</i> Claimant's Memorial ¶¶ 173, 181-82. Correspondence related to the decision to purchase those shares likely evidences Respondent's discriminatory motive and is, therefore, relevant to this dispute. Indeed, contrary to Respondent's objection, the documents related to Respondent's acquisition of Refidomsa are relevant to Claimant's allegation that Respondent has engaged in a pattern of discrimination against Claimant in favor of similarly situated Dominican competitors, which includes Refidomsa. <i>See</i> Claimant's Memorial ¶¶ 173, 181-82. Also, Refidomsa is entirely owned by the Dominican State (<i>i.e.</i>, Respondent). And Respondent entered into its contract with Refidomsa (a company in which it held a majority stake at the time, and which had never supplied AC-30 within the Dominican Republic) without a public tender. Refidomsa then wholly ignored Sargeant's bid to sub-contract to provide Refidomsa AC-30, even though Sargeant offered to do so</p>	<p>in favor of politically-connected and Dominican-owned companies in comparable circumstances as Sargeant, including Refidomsa (SoC, ¶ 173, 181-82). In this regard, the Claimant alleges that in August 2021, the Respondent fully acquired Refidomsa (SoC, ¶ 93), after which it continued to discriminate against Sargeant in favor of Refidomsa (SoC, ¶ 94). However, the Claimant acknowledges that the Respondent was already Refidomsa's majority shareholder at least since October 2020, when the MOPC concluded an AC-30 supply contract with Refidomsa (SoC, ¶ 66). Moreover, the Claimant does not seem to claim that the Respondent's decision to increase its shareholding in Refidomsa was contrary to the Treaty or otherwise unlawful. In addition, the Request at issue does not concern alleged discriminatory treatment accorded to Sargeant in favor of Refidomsa.</p>
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			<p>other investors or their investments were in like circumstances to Claimant; and (iii) whether Claimant received less favorable treatment than the comparators. The documents related to the acquisition of Refidomsa's shares are not relevant to determine any of these elements. The eventual acquisition of Refidomsa's shares and the documents reflecting the same have no bearing on Sargeant's invoice collection claim. Finally, the fact that the State is a shareholder of Refidomsa is not a disputed one, so the request lacks relevance to prove a disputed fact and lacks materiality to the resolution of the case.</p>	<p>at the lowest possible price, and instead sub-contracted with Ichor Oil—another Dominican company that had similarly never supplied AC-30 in the Dominican Republic. Less than a year later, Respondent purchased the remaining shares of Refidomsa. <i>See</i> M. Abu Naba's Witness Statement ¶¶ 73-79, 99. Thus, an evaluation of the totality of the facts surrounding Respondent's acquisition of Refidomsa represents a pattern of self-dealing on the part of Respondent that is entirely relevant to its discrimination against Claimant, a foreign entity, in favor of State and Dominican-owned companies. Documents and communications about Respondent's decision to purchase the remaining shares of Refidomsa bear directly on Respondent's discriminatory motivations toward Sargeant, and thereby support Claimant's allegations.</p> <p>Reply to Respondent's objection based on lack of specificity: This request is sufficiently specific. This request identifies a narrow, one-year time period and is tailored to the</p>	
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					Respondent’s purchase of the remaining shares of Refidomsa, which, as explained more fully above, is integral to Claimant’s allegations. In addition, Claimant does not have the familiarity required to determine which specific individuals, entities, and/or State entities may have sent or received responsive documents, communications, or other correspondence, and is therefore not in a position to identify them. Only Respondent knows which individuals and entities would have been part of the decision to purchase the remaining shares of Refidomsa and it is fully capable of identifying those sources, searching those custodians, and producing responsive documents.	
11	The General Comptroller of the Republic’s reports and findings, between January 1, 2018 to present, related to alleged “irregularities” in	Respondent’s Memorial Respondent’s Memorial ¶¶ 94, 96, 98, 104-14, 465-468, 471, 473-74, 477, 520 Exhibit R-0027-ENG	Relevant and material to whether the General Comptroller did not report that Dominican-owned companies’ contracts with Respondent has “irregularities” similar to those	Lack of specificity, failure to establish reasonable existence, unreasonable burden and disproportionality (OP1, ¶ 16.2; IBA Rules, arts. 3(a)(ii), 9(2)(c) and (g)). The request is defective in multiple respects. First, it requests	Reply to Respondent’s objection based on relevance and materiality: Respondent put the General Comptroller’s reports and findings directly at issue when it alleged that it did not discriminate against Claimant, but rather, denied payment because of alleged “irregularities” in Claimant’s AC-30 contract that were identified in the General Comptroller’s September 21,	DENIED The requested documents do not appear <i>prima facie</i> relevant and material to the outcome of the dispute, nor is it reasonable to assume they exist. The Request is also overly broad. Hence the production of responsive documents, if any, would impose on the Respondent an unreasonable and disproportionate burden.

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<p>Respondent’s AC-30 contracts, including its findings related to Refidomsa, Bluport Asphalt, Inversiones Titanio General Asphalt, and the private contractors that entered into the 40 hot mix asphalt paving contracts with Respondent that resulted in the RD \$11.5 billion scandal referenced in R-0027-ENG</p>	<p>Witness Statement of Mr. Deline Ascencion Burgos ¶¶ 21-32</p>	<p>alleged in the 2013 Contract and/or whether Respondent was alerted to those alleged “irregularities” by Dominican-owned companies by the General Comptroller, but chose to revoke and withhold payment only to Claimant</p>	<p>documents from the Office of the General Comptroller of the Republic, invoking document R-0027. However, document R-0027 does not refer to any “report or finding” of the Comptroller’s Office. Therefore, the basis invoked in the request for the alleged existence and relevance of the requested documents is incorrect. Second, the request is overly broad, disproportionate and unreasonably burdensome, as it involves the production of almost six years of documents from the audit process by the General Comptroller of the Republic concerning each of the payments under 40 contracts that Claimant does not even identify. The</p>	<p>2020 report. See Respondent’s Memorial ¶¶ 96, 520-21. Claimant is, therefore, entitled to the General Comptroller’s reports and findings related to the similarly-situated AC-30 suppliers that it identified in its Memorial (see Claimant’s Memorial ¶¶ 5, 7, 181-82; Witness Statement of M. Abu Naba’a ¶¶ 62-63), as well as those related to the hot asphalt companies that Respondent cites to support its claim that it did not discriminate against Sargeant, but denied payment because of alleged industry-wide contract “irregularities.” See Respondent’s Memorial ¶ 96, 520-21. If the AC-30 and hot asphalt companies’ contracts were found to include the same alleged “irregularities” that Respondent claims were the basis of its at-issue treatment of Sargeant in relation to the 2013 Contract, those other companies should have received the same treatment. If the General Comptroller identified these same alleged “irregularities” in the other companies’ contracts, reported them to Respondent, and Respondent, nevertheless continued to honor those</p>	<p>Indeed, the Request concerns alleged “reports and findings” by the Comptroller General in relation to Refidomsa, Bluport Asphalt, Inversiones Titanio, General Asphalt, and private contractors that entered into 40 hot mix asphalt paving contracts with the Respondent. Yet, while the Claimant argues that Refidomsa, Bluport Asphalt, Inversiones Titanio, and General Asphalt are comparable companies relevant for its discrimination allegations (see SoC, ¶ 56, 182), the Claimant has not identified the companies with which the Respondent allegedly concluded 40 hot mix asphalt paving contracts. Nor has the Claimant explained why the latter companies/contracts would be in comparable circumstances to Sargeant and/or its contracts with the Respondent.</p> <p>Moreover, there appears to be no indication that the Comptroller General issued any reports or findings in relation to the aforementioned entities or contracts. Notably, it is undisputed that, on 21 September 2020, the Comptroller General issued a report in relation to Sargeant and four other companies that contracted</p>
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				<p>request is a fishing expedition.</p> <p>Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). In any event, the documents are neither relevant to the case nor material to its outcome. Sargeant has not claimed that it was discriminated by reports or findings of the General Comptroller of the Republic. Moreover, what the press report that Sargeant cites as the basis for this request (R-0027) demonstrates itself is that there is an ongoing investigation on these other contractors. Therefore, there is no indication of discrimination in this regard. Additionally, Sargeant has not explained why it claims (for the first</p>	<p>contracts and remit payment to those companies, that would directly support Claimant’s assertion that it has been treated less favorably than similarly-situated competitors. <i>See</i> Claimant’s Memorial ¶¶ 181-82. Claimant is, therefore, plainly entitled to the General Comptroller’s reports related to these hot asphalt and AC-30 contracts.</p> <p>Reply to Respondent’s objection for lack of specificity, existence, undue burden, and disproportionality: This request is sufficiently specific, not unduly burdensome, and proportionate to its central importance in this case. Claimant seeks General Comptroller reports and findings related to certain AC-30 and hot asphalt contracts. Those documents are readily identifiable because they are authored by a single authority—the General Comptroller. Moreover, Respondent claims it is currently investigating the hot asphalt contracts. <i>See</i> R-0027. Therefore, the General Comptroller, as the investigating agency (<i>see</i> Respondent’s</p>	<p>with the Ministry of Public Works (“MOPC”) (R-24, pp. 7-8). In his report, the Comptroller General determined that five payments (one to Sargeant and the remaining four to each of the other four companies) were allegedly contrary to Dominican law. However, the report does not mention either Refidomsa, Bluport Asphalt, Inversiones Titanio, General Asphalt, or the private contractors that allegedly entered into 40 hot mix asphalt paving contracts with the Respondent.</p> <p>Similarly, Exhibit R-27 (to which the Claimant refers to provide context to the Request) consists of a press release about documents/allegations provided/made by the Director General of Public Procurement (an entity operating under the Ministry of the Treasury) and the Director of Government Ethics and Integrity (an entity operating under the Presidency) to the Attorney General, for the latter to carry out a criminal investigation in relation to the purchase of RD\$11.5 billion of hot asphalt concrete by the Ministry of Public Works (“MOPC”), allegedly in breach of Law 340-06. Yet, said press release neither</p>
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				<p>time), as the basis for its document request, that these companies would have incurred in irregularities similar to the multiple illegalities in Sargeant's operation. The reasons that led to holding payment of the invoices issued by Sargeant, were not only the breaches of Dominican law as regards to the lack of a bidding process, but also, among others, the existence of an unconstitutional tax exemption, the fact that the volume of the 2013 Contract had been exhausted (R-0024, p. 5 of the PDF), and the fact that the MOPC legitimately disputes the amounts claimed by Sargeant. In such sense, more than half Sargeant's claim is based on an erroneous, opportunistic, abusive and <i>ex post facto</i></p>	<p>Memorial ¶ 95), should easily be able to provide its relevant reports and findings.</p>	<p>mentions the Comptroller General, nor the alleged 40 hot mix asphalt paving contracts referred to by the Claimant.</p> <p>It follows that the Respondent would incur an unreasonable and disproportionate burden to identify and produce the requested documents, even <i>prima facie</i> relevant and material and is reasonably assumed they exist (<i>quod non</i>).</p>
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				<p>misinterpretation of the 2013 Contract, also contradictory to its own facts and assertions. Sargeant has failed to invoke even a hint of other Contractors being in a similar situation as to all of these irregularities and cannot use this unreasonably burdensome and disproportionate fishing expedition as a tool to seek arguments to build a case it failed to prove.</p>		
12	<p>All documents, communications, or other correspondence between and/or among Respondent reflecting Respondent’s decision to commission the General Comptroller of the Republic</p>	<p>Respondent’s Memorial ¶¶ 94, 96, 98, 520</p> <p>Witness Statement of Mr. Deligne Ascencion Burgos ¶¶ 21-32</p>	<p>Relevant and material to whether Respondent was discriminatory and chose to ignore alleged infirmities in its AC-30 contracts with Dominican-owned companies by only investigating Claimant’s 2013 Contract</p>	<p>Lack of specificity and failure to establish reasonable existence (OP1, ¶ 16.2; IBA Rules, arts. 3(a)(ii)). The request is too broad as it does not identify a time period, nor the State entity to which the request refers. The request also fails to explain why it is stated that there would have been a</p>	<p>Reply to Respondent’s objection based on lack of relevance and materiality: One of Respondent’s primary bases for not paying Sargeant is the September 21, 2020 report issued by the Comptroller. <i>See</i> Respondent’s Memorial ¶¶ 94-97, 520. Although that report supposedly investigated Respondent’s contracts with multiple companies, the first page of the report notes that it was sent to Respondent “in response to [its] request,” for</p>	<p>DENIED</p> <p>The Claimant has not established that the requested documents are likely to exist or are otherwise in the Respondent’s possession, custody or control.</p> <p>As noted previously (<i>see</i> Request 11 <i>supra</i>) it is undisputed that, on 21 September 2020, the Comptroller General issued a report in relation to certain payments to companies that contracted with the MOPC,</p>

<p>to investigate the MOPC’s contracts, which led to the September 21, 2020 report</p>			<p>decision by the Respondent "<i>to commission the Comptroller General</i>" to investigate the MOPC contracts, which State entity would have issued that decision, and how that such decision would have led to the September 21, 2020 report. Indeed, such report (Exhibit R-0024, p. 7 of the PDF) is clear that it arises from a review of “libramientos” pending at the time of assuming the direction of the General Comptroller's Office.</p> <p>Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). Sargeant did not allege in its Memorial that it was discriminated because of the</p>	<p>“documents . . . regarding weaknesses found by the Comptroller General of the Republic in Libramiento 7855-1 charged to contract 13-2013 in the name of the company SARGEANT PETROLEUM, LTD.” See R-0024. Accordingly, it is clear that this investigation of multiple companies by the General Comptroller was merely a pretext to manufacture a reason for refusing to pay Sargeant. In fact, Respondent revoked payment of libramiento no. 7652 over a month before the September 21, 2020 report was issued. See Claimant’s Memorial ¶¶ 59-61; Witness Statement of M. Abu Naba’a’ ¶¶ 65-66. Accordingly, correspondence reflecting Respondent’s decision to commission the General Comptroller to investigate Sargeant is highly relevant to Claimant’s allegation that Respondent discriminated against it.</p> <p>Reply to Respondent’s objection based on lack of</p>	<p>including Sargeant (R-24, pp.7-8). However, contrary to the Claimant’s submissions, the first page of the report does not say that it was issued “in response to [the Respondent’s] request”. Rather, the report provides that it was issued further to “records of [payments], processed through [the MOPC], supposedly ready and awaiting [the Comptroller General’s] approval signature, but [that in the Comptroller General’s] review, irregularities and observations were identified that caught [the Comptroller General’s] attention”. Indeed, the quote invoked by the Claimant is not of the report, but of a communication of 2 August 2022 (i.e., two years after the issuance of the report), whereby the MOPC’s Finance Director forwards the Comptroller General’s report to the MOPC’s General Counsel seemingly pursuant to the latter’s request.</p> <p>Differently stated, at this juncture the Claimant has not provided a reasonable basis to establish that the MOPC liaised with the Comptroller General prior to the 21 September 2020 report. In this respect, the Tribunal notes that, according to the Claimant, “it is</p>
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				<p>purported existence of investigations directed only against the 2013 Contract and not against contracts with other suppliers. This was not part of its claim. Nor has Claimant raised even an indication that this occurred, so this request is based on pure speculation. In fact, the September 21 report invoked by Sargeant (Exhibit R-0024) refers to weaknesses in the “libramientos” from four companies other than Sargeant. In addition, Document R-0027, a publicly available press release that Sargeant invokes as a basis for its Requests Nos. 11 and 19, refers to an administrative investigation and the referral to the</p>	<p>specificity and existence:¹ This request is sufficiently specific. This request provides the date of the report and specifically requests only documents reflecting Respondent’s decision to commission the General Comptroller to investigate Claimant’s 2013 Contract. Contrary to Respondent’s objection and as noted above, there was clearly a decision to commission the General Comptroller’s investigation as a pretext for Respondent refusing to honor the 2013 Contract. <i>See</i> R-0024. In addition, Claimant does not have the familiarity required to determine which specific individuals, entities, and/or State entities may have sent or received responsive documents, communications, or other correspondence, and is therefore not in a position to identify them. Only Respondent knows which individuals and entities would have been part of the decision to commission the General Comptroller and it is fully capable of identifying those</p>	<p>clear” that the “investigation of multiple companies by the General Comptroller was merely a pretext to manufacture a reason for refusing to pay Sargeant [, as the] Respondent revoked payment of libramiento no. 7652 over a month before the September 21, 2020 report was issued”. Yet, the Comptroller General’s 21 September 2020 report did not address payment No. 7652, but rather payment 7855, which was revoked on 1 February 2021 (R-24, pp. 7, 9-10).</p> <p>In addition, the Request seeks the production of all documents “between and/or among Respondent”. This is overly broad for the reasons set out in relation to Request 9 <i>supra</i>, which apply here <i>mutatis mutandis</i>.</p>
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¹ If the Tribunal is inclined to find Claimant’s request overly broad, Claimant requests that the Tribunal grant its request to narrow the time period of its request to January 1, 2018 to September 21, 2020.

				<p>relevant authorities for criminal investigation in relation to the contracts of other asphalt suppliers. All the above rebuts the pure speculation that Respondent would have chosen to " <i>to ignore alleged infirmities in its AC-30 contracts with Dominican-owned companies by only investigating Claimant's 2013 Contract</i>", which statement is made by Claimant as a basis for the alleged relevance and materiality of the document request. Therefore, the requested documents are irrelevant, immaterial and constitute a fishing expedition based on speculation over which Respondent has not invoked even the slightest basis as to justify the burden</p>	<p>sources, searching those custodians, and producing responsive documents.</p>	
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				of seeking documents based on such an indeterminate and broad request.		
13	All documents, communications, or other correspondence between and/or among the Respondent regarding the General Comptroller’s report from September 21, 2020 to present	Respondent’s Memorial ¶¶ 94, 96, 98, 520 Witness Statement of Mr. Deligne Ascencion Burgos ¶¶ 21-32	Relevant and material to whether Respondent made the decision to stop payment to Claimant, but not other similarly situated AC-30 suppliers with allegedly “irregular” contracts	Lack of specificity (OP1, ¶ 16.2; IBA Rules, art. 3(a)(ii)). The request is a fishing expedition based on speculation, for which Sargeant does not invoke the slightest evidence and has not been adequately formulated. Claimant requests the production of three years of alleged documents, without identifying the issuers or recipients of the requested documents, nor are specific State entities identified. Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). The request lacks relevance to the case and materiality to its outcome, for the same reasons	Reply to Respondent’s objection based on relevance and materiality: As discussed above in Request No. 12, the General Comptroller’s report and findings are material to Claimant’s allegations that Respondent discriminated against it. <i>See</i> Respondent’s Memorial ¶¶ 94-97, 520. Discussions about the report will reveal the actions (or inaction) Respondent took (or did not take) against other suppliers whose contracts had alleged “irregularities,” and the targeted and discriminatory actions it took against Claimant. <i>See</i> Claimant’s Memorial ¶¶ 173, 181-82. If these discussions demonstrate that Respondent chose to take no action against other allegedly “irregular” contracts and to stop all payment only to Sargeant, that evidence would ultimately support Claimant’s position that it was discriminated against by Respondent. Claimant is, therefore, entitled to documents reflecting Respondent’s response	DENIED The reasons set out in relation to Requests 11-12 <i>supra</i> apply here <i>mutatis mutandis</i> . In addition, documents post-dating the issuance of the Comptroller General’s 21 September 2020 report do not appear <i>prima facie</i> relevant and material to the outcome of the dispute. Moreover, the Request refers to all documents “between and/or among” the Respondent. This is overly broad for the reasons set out in relation to Request 9 <i>supra</i> , applicable here <i>mutatis mutandis</i> .

				<p>explained in relation to requests No. 11 and No. 12. Claimant also fails to explain how the documents related to the September 21, 2020 report would be relevant to prove that other asphalt contractors engaged in irregularities similar to Sargeant's and Respondent chose to ignore them, a situation that Claimant did not allege in its Memorial, nor has it invoked any evidence in this regard.</p>	<p>to the General Comptroller's report to refute Respondent's claim and bolster its assertion that it is being discriminated against.</p> <p>Reply to Respondent's objection based on specificity:² This request is sufficiently specific. As discussed above with respect to Request No. 12, this request is limited to a single report by the General Comptroller that Claimant has identified by date and narrowed by topic. In addition, Claimant does not have the familiarity required to determine which specific individuals, entities, and/or State entities may have sent or received responsive documents, communications, or other correspondence, and is therefore not in a position to identify them. Only Respondent knows which individuals and entities would have discussed the General Comptroller's September 21, 2020 report and it is fully capable of identifying</p>	
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² If the Tribunal is inclined to find Claimant's request overly broad, Claimant requests that the Tribunal grant its request to narrow this request to: "All documents, communications, or other correspondence between and/or among the Respondent regarding the General Comptroller's report, as that correspondence relates to Sargeant's 2013 Contract with Respondent, from September 21, 2020 to July 25, 2022."

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					those sources, searching those custodians, and producing responsive documents.	
14	All documents, communications, or other correspondence between and/or among the Respondent regarding the decision to remit payment and subsequently revoke payment of the libramientos to Sargeant from August 1, 2019 to present	<p>Claimant’s Memorial ¶¶ 59- 62, 82-83, 90, 175, 181, 191, 220</p> <p>Witness Statement of Mr. Mustafa Abu Naba’a ¶¶ 65, 67-69, 88-89, 92, 96</p> <p>Respondent’s Memorial ¶¶ 94, 96, 520</p> <p>Witness Statement of Mr. Deligne Ascencion Burgos ¶¶ 21-32</p>	Relevant and material to whether Respondent chose to revoke payment to Claimant for discriminatory reasons	Lack of specificity (OP1, ¶ 16.2; IBA Rules, art. 3(a)(ii)). The request is too broad as it does not identify either the possible issuers, senders or recipients of these documents. It also fails to identify a specific State entity.	Reply to Respondent’s objection based on lack of specificity: This request is sufficiently specific. This request is limited to correspondence related to two specific libramiento No. 7852-1 that Respondent issued to Sargeant on August 11, 2019 and revoked on August 17, 2019. ³ See M. Abu Naba’a Witness Statement ¶¶ 65-67. In addition, Claimant does not have the familiarity required to determine which specific individuals, entities, and/or State entities may have sent or received responsive documents, communications, or other correspondence, and is therefore not in a position to identify them. Only Respondent knows which individuals and entities would have been part of the decision to remit and subsequently revoke payment of libramiento no. 7852-1 to Claimant and it is fully	GRANTED AS SPECIFIED The <i>prima facie</i> relevance and materiality of the requested documents is not in dispute. Moreover, while the original Request is overly broad the Claimant has now narrowed its scope to “[a]ll documents, communications, or other correspondence between and/or among the Respondent regarding the decision to remit payment and subsequently revoke payment libramiento no. 7852-1 to Sargeant from August 1, 2019 to present”. The narrowed down Request remains overly broad to the extent it seeks the production of responsive documents “between and/or among the Respondent” (the reasons set out in relation to Request 9 <i>supra</i> apply here <i>mutatis mutandis</i>). However, the Tribunal understands that the MOPC was the entity competent to remit and

³ Following the filing of its Memorial, Claimant received confirmation that the Respondent did, in fact, pay libramiento no. 7856-1, which was issued to Inter Caribe Mercantile. Claimant therefore, narrows this request to “All documents, communications, or other correspondence between and/or among the Respondent regarding the decision to remit payment and subsequently revoke payment libramiento no. 7852-1 to Sargeant from August 1, 2019 to present.”

					capable of identifying those sources, searching those custodians, and producing responsive documents.	subsequently revoke payments (i.e., <i>libramentos</i>). Therefore, the Respondent is ordered to produce: “all documents, communications, or other correspondence issued/received by the MOPC directly addressing its decision to remit payment and subsequently revoke payment of libramiento no. 7852-1 to Sargeant, from 1 August 2019 to date”.
15	All documents, communications, or other correspondence between and/or among the Respondent regarding the MOPC’s 2013 Contract with Claimant between January 1, 2018 to July 25, 2022	Claimant’s Memorial ¶ 129 Witness Statement of Mr. Mustafa Abu Naba’a ¶¶ 41-47, 53-65, 90-92, 99, 102, 104 Respondent’s Memorial ¶¶ 50-51, 46-82, 94-100, 520, 530-535, 548-559	Relevant and material to whether Respondent discriminated against Claimant and to Respondent’s understanding of the 2013 Contract’s terms	Lack of specificity, unreasonable burden and disproportionality (OP1, ¶ 16.2; IBA Rules, arts. 3(a)(ii), 3(b) and 9(2)(a)). The request is a fishing expedition, which is too broadly formulated and does not identify with precision a limited category of documents, as it does not identify any specific subject matter or facts in relation to the 2013 Contract. It simply requests all	Reply to Respondent’s objection based on lack of relevance and materiality: The 2013 Contract is the entire crux of this dispute. Respondent’s correspondence about the 2013 Contract, in both the prior and current administration, is integral to Claimant’s allegation that Respondent shared Claimant’s interpretation of the 2013 Contract’s terms, yet nevertheless refused to pay Claimant (and, indeed, revoked outstanding payments to Claimant) for discriminatory reasons. <i>See</i> Claimant’s Memorial ¶¶ 173, 181-82. Such correspondence captures not only Respondent’s interpretation of the 2013 Contract, but also the	GRANTED AS SPECIFIED The requested documents appear <i>prima facie</i> relevance and material to the outcome of the dispute. They may inform the Claimant’s discrimination allegations in general, and concern the 2013 Contract in particular, which, as the Claimant alleges, lies at the core of its claims. In this context, while the Request (even as narrowed down) is overly broad (the reasons set out above in Request 9 <i>supra</i> apply here <i>mutatis mutandis</i>), it is undisputed that the MOPC was the main State entity performing the 2013 Contract. Therefore, the Respondent must produce “all documents,

			<p>documents in connection with the 2013 Contract, which is unreasonably burdensome and disproportionate for the Respondent. Claimant also fails to identify the issuers and recipients of the requested documents, and it also fails to identify a specific State entity.</p> <p>Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). Claimant has not substantiated how the requested documents would be relevant or material to a finding that Respondent discriminated against Claimant or regarding Respondent's understanding of the 2013 Contract, nor does it delimit to which specific terms of the 2013 Contract the request refers to.</p>	<p>parties' course of performance and course of dealing throughout its execution. Respondent acknowledges the key importance that its interpretation of the 2013 Contract has on this dispute. Indeed, Respondent dedicated almost 30 paragraphs of its Counter-Memorial solely to arguing that the balance of the 2013 Contract was exhausted, fully paid, and that the supply and storage provisions of the 2013 Contract were not independent of each other. <i>See</i> Respondent's Memorial ¶¶ 97-101, 530-554. Such correspondence will likely also illustrate that Respondent targeted Claimant and sought ways to avoid honoring the 2013 Contract, which would help prove Respondent's discriminatory motive and support Claimant's discrimination claims. <i>See</i> Claimant's Memorial ¶¶ 173, 181-82. Thus, Claimant's request for correspondence about the 2013 Contract, which is at the epicenter of this dispute, is hardly a "fishing expedition." Respondent's correspondence about the 2013 Contract is not</p>	<p>communications, or other correspondence issued by/within the MOPC directly addressing the MOPC's interpretation of the storage and supply provisions of the 2013 Contract, from 1 January 2018 until 25 July 2022.</p>
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				<p>Claimant cannot properly substantiate such relevance and materiality precisely because of the breadth of its request. Claimant is not requesting specific or precisely identified documents, but rather engaging in an unreasonably burdensome and disproportionate fishing expedition, in the search for arguments to build a case Claimant does not have and failed to prove.</p>	<p>only relevant and material, but integral to the parties' claims.</p> <p>Reply to Respondent's objection based on lack of specificity, undue burden and disproportionality:⁴ This request is sufficiently specific and is not disproportionate or unduly burdensome. This request is tailored to the relevant time period of this dispute and, as explained more fully above, to the parties' key claims and allegations. Indeed, production of documents from January 1, 2018 to July 25, 2022 are necessary to capture the manner in which the current administration, as well as the prior administration, interpreted the terms of and operated under the 2013 Contract. In addition, Claimant does not have the familiarity required to determine which specific individuals, entities, and/or State entities may have sent or received responsive documents, communications, or other correspondence, and is therefore not in a position to</p>	
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⁴ If the Tribunal is inclined to find Claimant's request overly broad, Claimant requests that the Tribunal grant its request to narrow this request to: "All documents, communications, or other correspondence between and/or among the Respondent regarding the MOPC's interpretation of the storage and supply provisions of Respondent's 2013 Contract with Claimant between January 1, 2018 to July 25, 2022."

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					identify them. Only Respondent knows which individuals and entities would have discussed the 2013 Contract and it is fully capable of identifying those sources, searching those custodians, and producing responsive documents.	
16	All documents, communications, or other correspondence between and/or among Director General of Customs, Eduardo Sanz Lovaton, and Respondent regarding the 5,728.296 metric tons of AC-30 that Respondent would not clear through Customs, from June 1, 2020 and November 31, 2022	Claimant’s Memorial ¶¶ 54, 80, 91-92, 95; Witness Statement of Mr. Mustafa Abu Naba’a ¶¶ 60, 97-98, 100-101	Relevant and material to whether Respondent had a discriminatory motive for not allowing Claimant to export the AC-30 Respondent ordered and instead allowed a Dominican-owned company to buy and sell it from Claimant’s tanks	Respondent has conducted a reasonable search for the category of documents requested, and does not have in its possession, custody or control the documents identified in the request.	N/A	NO DECISION REQUIRED
17	All documents, communicatio	Claimant’s Memorial ¶ 102	Relevant and material to whether	Lack of specificity, unreasonable burden and	Reply to Respondent’s objection based on relevance and materiality:	GRANTED AS SPECIFIED

<p>ns, or other correspondence between and/or among the Respondent about Mr. Mustafa Abu Naba'a and/or his son, Karim Abu Naba'a, from January 1, 2018 to present</p>	<p>Witness Statement of Mr. Mustafa Abu Naba'a ¶ 107</p> <p>Respondent's Memorial ¶ 248</p>	<p>Respondent discriminated against Claimant because it personally disliked Mr. Mustafa Abu Naba'a and his son</p>	<p>disproportionality (OP1, ¶ 16.2; IBA Rules, arts. 3(a)(ii), 3(b) and 9(2)(a)).</p> <p>The request is overly broad and does not identify with precision a limited category of documents, as it does not identify a specific subject matter or specific facts, nor the potential issuers and/or recipients of those documents. It also fails to even identify specific State entities. It simply requests all documents that exist with respect to Mr. Abu Naba'a and his son within a five-year period, which is unreasonably burdensome and disproportionate. The request is so broad that it could potentially include any document in any office throughout the Dominican State regarding these two</p>	<p>Documents and correspondence evidencing that Respondent personally disliked Mr. Abu Naba'a, an owner of Sargeant, is directly relevant and material to Claimant's assertion that it was discriminated against and afforded less favorable treatment than similarly-situated suppliers. <i>See</i> Claimant's Memorial ¶ 181-82. As noted in Claimant's Memorial, "it is sufficient to show discrimination against an investor who happens to be a foreigner, and there is no requirement that the differential treatment be motivated by its foreign nationality." <i>See</i> Claimant's Memorial ¶ 180. Indeed, "[t]he sole facts of (1) discrimination [by Respondent], and (2) [Sargeant's] foreign nationality, are sufficient to establish less favorable treatment." <i>Id.</i> Thus, contrary to Respondent's claim that its personal dislike of Mr. Abu Naba'a and his son is irrelevant, Claimant may demonstrate that Respondent treated Sargeant, a foreign company, less favorably than similarly-situated Dominican companies, for any unjustified reason—including because it</p>	<p>The requested documents may be relevant and, albeit less clear, also <i>prima facie</i> material. Indeed, the Request is aimed at showing that the "Respondent discriminated against Claimant because it personally disliked Mr. Mustafa Abu Naba'a and his son". Yet, the Claimant's own position is that "it is sufficient to show discrimination against an investor who happens to be a foreigner, and there is no requirement that the differential treatment be motivated by its foreign nationality".</p> <p>Moreover, while the original Request is overly broad (the reasons set out above in Request 9 <i>supra</i> apply here <i>mutatis mutandis</i>), the Claimant now has sufficiently narrowed down its scope. Therefore, the Respondent must produce "all documents, communications, or other correspondence within/between the MOPC and/or the President of the Dominican Republic about Mr. Mustafa Abu Naba'a and/or his son, Karim Abu Naba'a, from 1 January 2018 to present".</p>
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			<p>individuals on any subject, such as for example the processing of an identity document or any other purely administrative procedure. In short, the request is a fishing expedition based on speculation for which not the slightest evidence has been invoked. In this regard, Claimant has not shown the slightest indication that Respondent (which is a State, not a person) "<i>personally disliked Mr. Mustafa Abu Naba'a and his son</i>", nor did Respondent allege this in its Memorial. Among other things, this is the first time in the arbitration that Claimant mentions Mr. Abu Naba'a's son, who has no connection with this case.</p>	<p>personally disliked Mr. Abu Naba'a, an owner of Sargeant, and/or members of his family. <i>Id</i> at 181. This personal dislike is reflected in Respondent's own decision to file a suit against not only Sargeant, but Mr. Abu Naba'a personally, in the Dominican Republic's local administrative courts. <i>See</i> Claimant's Memorial ¶ 102. Respondent's Memorial makes clear that it considers Mr. Abu Naba'a's, as well as his son's, personal relationship with members of the Dominican government relevant and material because it includes numerous unsubstantiated allegations about Sargeant's corruption due to those relationships. <i>See</i> Respondent's Memorial ¶ 248. Indeed, Respondent's Memorial cites multiple extremely negative articles about Mr. Abu Naba'a's son. <i>See</i> Respondent's Memorial ¶ 248(v), n. 139, R-0042, R-0043. If Mr. Abu Naba'a's personal relationships and his son's personal relationships were not relevant, Respondent would not have mentioned them multiple times in its Memorial. Claimant is, therefore, entitled to</p>	
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				<p>Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). The analysis of a discrimination claim does not require determining whether or not the Respondent State "personally likes" certain individuals, and Claimant did not allege this point in its Memorial either. The personal liking or lack of such liking that may exist towards these individuals is totally irrelevant. Therefore, the documents are neither relevant nor material to the outcome of the case.</p>	<p>documents revealing what Respondent has said about Mr. Abu Naba'a and his son, Karim, because such documents are relevant to Claimant's allegation that it is being discriminated against.</p> <p>Reply to Respondent's objection based on specificity, undue burden, and disproportionality:⁵ The request is sufficiently specific, not unduly burdensome, and proportionate. This request is tailored to a two-year period that captures the end of the prior administration and the complete tenure of the current administration, which is necessary to show the change in opinion about Mr. Abu Naba'a and his son when the new administration came to power. In addition, Claimant does not have the familiarity required to determine which specific individuals, entities, and/or State entities may have sent or received responsive documents, communications, or other</p>	
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⁵ If the Tribunal is inclined to find Claimant's request overly broad, Claimant requests that the Tribunal grant its request to narrow this request to: "All documents, communications, or other correspondence between and/or among members of the MOPC and/or the President of the Dominican Republic about Mr. Mustafa Abu Naba'a and/or his son, Karim Abu Naba'a, from January 1, 2018 to present."

					correspondence, and is therefore not in a position to identify them. Only Respondent knows which individuals and entities would have discussed Mr. Abu Naba'a and his son in relation to the issues at hand in this proceeding and it is fully capable of identifying those sources, searching those custodians, and producing responsive documents.	
18	All documents, communications, or other correspondence between and/or among the Respondent reflecting the reasons for its decision to file a case against Claimant and Mr. Mustafa Abu Naba'a in the Dominican Republic's local administrative court on July 25, 2022	Claimant's Memorial ¶ 102 Witness Statement of Mr. Mustafa Abu Naba'a ¶ 107 Respondent's Memorial ¶¶ 104-117	Relevant and material to whether Respondent discriminated against Claimant because it personally disliked Mr. Mustafa Abu Naba'a and whether the local administrative proceedings were filed to intimidate and discriminate against Claimant	Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). The analysis of a discrimination claim does not require determining whether or not the Respondent State "personally likes" particular individuals. Moreover, Claimant has not alleged that it was discriminated as a result of the initiation of the administrative judicial proceeding, nor has it asserted any specific claim arising out of the initiation of such	Reply to Respondent's objection based on attorney-client privilege and lack of relevance: Although documents and communications between Respondent and its legal advisors are subject to client-attorney privilege, that privilege is strictly limited and does not extend to "related documents," which may include documents sent and received between Respondent's various personnel and State entities, because they are do not fall into the category of documents that fall into the attorney client privilege. Respondent should, therefore, produce any responsive documents in its possession that do not include correspondent with its "legal advisors."	GRANTED The Request appears <i>prima facie relevant</i> and material. The reasons set out in relation to Request 17 <i>supra</i> apply here <i>mutatis mutandis</i> . Moreover, while the Request seeks the production of all documents "between and/or among the Respondent", the Respondent has not objected to the broadness of the Request. Instead, the Respondent seems to have been able identify responsive documents rather readily. Procedural Order No. 3 includes directions for the production of responsive documents in line with Article 9(2)(b) of the IBA Rules which, contrary to the Respondent's submissions, does

			<p>proceeding. Therefore, the documents are neither relevant to the case nor material to its outcome, based on Claimant's grounds for its request. In any event, Respondent has conducted a reasonable search of the requested category of documents, and other than the documents referred to in the objection below (Privilege), it does not have in its possession, custody or control the documents described in the request.</p> <p>Privilege (IBA Rules, art. 9(2)(b)). All documents and communications between Respondent and its legal advisors and related documents, which determined the legal basis for initiating the aforementioned</p>	<p>These documents are relevant and material to Claimant's discrimination claim because Claimant alleges that the decision to file suit against Sargeant and Mr. Abu Naba'a personally was an intimidation tactic in furtherance of its scheme to exclude Claimant from the local AC-30 market. <i>See</i> Claimant's Memorial ¶ 102; Witness Statement of M. Abu Naba'a ¶ 107. Claimant is, therefore, entitled to internal documents between and among Respondent about its decision to file the local case against Claimant and Mr. Abu Naba'a to support that claim.</p>	<p>not outright exempt a party from producing responsive documents.</p>
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				administrative proceeding and the corresponding procedural strategy, are protected by the attorney-client privilege.		
19	All 40 hot mix asphalt paving contracts entered into by exception by Respondent with private contractors from January 1, 2018 to present, that resulted in the RD \$11.5 billion scandal referenced in R-0027-ENG, including all addenda, assignments, and/or transfers of these contracts, payments made to each contractor, executed Power of	Respondent’s Memorial ¶¶ 102 Exhibit R-0027-ENG Witness Statement of Mr. Deligne Ascencion Burgos ¶ 15	Relevant and material to whether Respondent discriminatorily chose to ignore alleged “irregularities” in its hot mix asphalt contracts with Dominican-owned companies	Lack of specificity, unreasonable burden and disproportionality (OP1, ¶ 16.2; IBA Rules, arts. 3(a)(ii), 9(2)(c) and (g)). The request involves the production of 40 contracts that have not been precisely identified, as well as their annexes, assignments and/or transfers, and almost six years of documents reflecting each of the payments made under these 40 alleged contracts. It thus places an unreasonably and disproportionate burden on Respondent, pursuant to a fishing expedition aimed at proving an alleged	Reply to Respondent’s objection based on relevance and materiality: As discussed in Request No. 11 above, the hot asphalt contracts are relevant because they form part of the basis of Respondent’s claims related to its refusal to pay Claimant. <i>See</i> Respondent’s Memorial ¶ 102. Claimant is, therefore, entitled to production of the hot asphalt contracts and the corresponding payments from Respondent issued under those contracts to evaluate whether those contracts suffer from the same supposed “irregularities” that Respondent claims are in the 2013 Contract and prove that Respondent continued to pay those companies despite knowing of those purported “irregularities.” Reply to Respondent’s objection for lack of specificity, undue burden, disproportionality:	DENIED The reasons set out in relation to Request 11 <i>supra</i> apply here <i>mutatis mutandis</i> .

<p>Attorney, Respondent's invitation to public tender, and corresponding bid awards</p>			<p>discrimination which Sargeant did not clearly explain how it would have occurred in its Memorial, nor was it argued therein in the terms of the present request.</p> <p>Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). Sargeant did not allege in its Memorial that it was discriminated as a result of an alleged unequal treatment of irregularities in the contracts as compared to other suppliers. In any event, what the press report that Sargeant cites as the basis for this request (R-0027) indeed shows is that there is an ongoing investigation of these other contractors, both at the administrative level and including the referral of its results</p>	<p>This request is sufficiently specific. This request is narrowly tailored to the roughly 40 specific hot asphalt contracts that Respondent is currently investigating and that it invokes as a basis for its revocation and refusal of payment to Claimant. These 40 contracts and the corresponding payments issued to each company are a narrow set of documents that should be part of Respondent's investigative files. Respondent is, therefore, fully capable of identifying and producing these documents.</p>	
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				<p>to the relevant criminal authorities. Therefore, there is not even a hint of discrimination in this regard, so the request is based on speculation. Additionally, Sargeant has not explained why it contends (for the first time now) that the irregularities of the contracts of these other companies are similar to the multiple illegalities in Sargeant's operation. The reasons that led to holding the payment of the invoices issued by Sargeant's were not only the violations to Dominican law arising from the absence of a bidding process, but also the existence of an unconstitutional tax exemption to Sargeant, the fact that the volume of the 2013 Contract had</p>		
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				<p>been already exhausted (R-0024, p. 5 of the PDF), and the fact that the MOPC legitimately disputes the amounts claimed by Sargeant, among other reasons. Sargeant has not invoked even a hint that other contractors were in like circumstances as regards all of these irregularities and cannot use this overly burdensome fishing expedition to seek arguments to build a case that it did not even begin to prove.</p>		
20	<p>All executive summaries issued by the Department of Importation and Supply of Asphalt related to Respondent's 2013 Contract with Claimant, executed by Ms. Jacqueline</p>	<p>Claimant's Memorial ¶ 129 Witness Statement of Mr. Mustafa Abu Naba'a ¶¶ 41-47, 53-65, 90-92, 99, 102, 104</p>	<p>Relevant and material to Respondent's understanding of the 2013 Contract's terms</p>	<p>Lack of specificity, unreasonable burden and disproportionality (OP1, ¶ 16.2; IBA Rules, arts. 3(a)(ii), 9(2)(c) and (g)). The request is overly broad, unreasonably burdensome and disproportionate, as it requires a search of ten years of documents, without</p>	<p>Reply to Respondent's objection based on lack of relevance and materiality: These executive summaries are integral to the issues in dispute in this proceeding because they reflect Respondent's understanding of the terms, course of performance, and course of dealing regarding the 2013 Contract. These executive summaries are authored by the Department of Importation and Supply of Asphalt and sent to the</p>	<p>GRANTED The requested documents appear <i>prima facie</i> relevant and material to the outcome of the dispute, which does not exclude issues where the Respondent's internal understanding of the contracts with the Claimant (including the 2013 Contract) may play a role. Moreover, the Request does not appear unreasonably broad to the extent that the Claimant has identified the entity issuing the</p>

	<p>Joaquin Almonte from May 10, 2013 to present</p>	<p>Respondent's Memorial ¶¶ 50-51, 46-82, 94-100, 520, 530-535, 548-559</p>		<p>identifying what Claimant means by executive summaries and the subject matter to which the documents would relate, merely stating that they are executive summaries relating to the 2013 Contract.</p> <p>Lack of relevance and materiality (OP1, ¶ 16.2; IBA Rules, arts. 3(b) and 9(2)(a)). Claimant has not substantiated why and how these documents, which Claimant argues would be internal MOPC documents and not documents between the Parties, would be relevant and material to an understanding of the terms of the 2013 Contract, nor to which terms of the 2013 Contract it refers. The relevant factors in determining the interpretation of</p>	<p>MOPC to explain the status of Claimant's 2013 Contract with Respondent, i.e. how many gallons of AC-30 are outstanding to be supplied and stored. The executive summaries, like those cited in paragraph 91 of Mr. Abu Naba'a's witness statement, will evidence that the Department of Importation and Supply of Asphalt shared the same interpretation of the 2013 Contract as Claimant and advised the MOPC of that interpretation. Moreover, these documents evidence that Respondent operated under the 2013 Contract, which it now alleges was "null and void" (<i>see</i> Respondent's Memorial ¶ 8) without issue for almost 10 years. These documents, therefore, directly support Claimant's assertion that the supply and storage clauses of the 2013 Contract were wholly independent from each other and that the 2013 Contract was valid (<i>see</i> Claimant's Memorial ¶¶ 42, 48, 50-51, 86; Witness Statement of M. Abu Naba'a ¶ 45-46, 54, 56-57) and refute Respondent's allegations that the 2013 Contract was completed and</p>	<p>requested documents, has exemplified the alleged content of such documents (<i>see</i> Abu Naba'a WS, ¶ 91), and has clarified that the requested documents are issued annually.</p>
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				<p>the 2013 Contract are the acts and manner of performance externalized by and between the Parties, and the acts performed by Sargeant itself as already explained in Respondent's Counter-Memorial and Jurisdictional Objections. In addition, Claimant did not explain in its Memorial how, for what reason, and by what legal means it would have known and/or had access to alleged internal documents from specific officials of the MOPC.</p>	<p>invalid. <i>See</i> Respondent's Memorial ¶¶ 97-101, 530-554.</p> <p>Reply to Respondent's Objection based on lack of specificity, undue burden, and disproportionality: This request is sufficiently specific and is not disproportionate or unduly burdensome. Although this request seeks executive summaries covering a 10-year period, these summaries are completed annually. Therefore, there should be only 10 of them. Additionally, Claimant specifically identifies the author of these documents and narrows its request to those summaries related to Respondent's 2013 Contract with Claimant. It is hardly an undue burden to request 10 summaries from a single State entity about a single topic –particularly when that topic forms the entire basis of the dispute. Accordingly, Respondent should be ordered to produce each of these executive summaries in response to this request.</p>	
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