

Procedural Order No. 6 – Annex A
DOCUMENT PRODUCTION SCHEDULE
Gramercy v. Peru – UNCT/18/2

Requesting Party:
Gramercy

Requested Party:
Republic of Peru

Document Request No. 1.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Any documents, including presentations, studies, calculations, and estimates of the impact of the value of the total Land Bond debt outstanding on Peru’s budget, and draft decisions, prepared by or for the Government of Peru and provided directly or indirectly to the Constitutional Tribunal (“CT”), any of its justices, or employees in relation to File N° 00022-1996-PI/TC prior to the issuance of the July 2013 CT Order.</p>	<p>Peru objects to this request for the reasons set forth herein. The requested category of documents is not well-defined, narrow or specific, as required by Tribunal order as well as Peruvian law governing the disclosure of State documents. <i>See</i> Supreme Decree No. 070-2013-PCM, Art. 1 (requiring, <i>inter alia</i>, a “concrete and precise expression of the information request”). The request broadly and imprecisely requests documents prepared by or for the entire “Government of Peru,” without identifying any specific authority or entity alleged to have issued the documents.</p> <p>Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.</p>	<p>The Tribunal takes notice.</p>
<u>Time frame of issuance</u>		
<p>January 1, 2013 – July 16, 2013.</p>		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The requested information is relevant and material to prove Gramercy’s claims that Peru’s enactment of the Supreme Decrees was part of a tainted, arbitrary, and unjust process that failed to comport with Peru’s treaty obligations.</p> <p>Gramercy has shown that the “majority” opinion appeared only at the eleventh hour when the CT Justices had planned to have final deliberations on a different decision, drafted by Justice Eto, which Justice Urviola and others falsely turned into Justice Mesia’s “dissent” by use of white out. C-34, ¶¶ 15-18; 85-90, <i>see</i> Doc. CE-221. Peru has merely dismissed the allegations as “misleading and unfounded,” R-34 ¶ 268, and that any allegations of cooperation with the MEF are “baseless.” R-34 ¶ 267-268. Mr. Castilla has also testified that he did not recall any meetings between the MEF and the CT. RWS-2 ¶ 32. However, in a July 16, 2013 televised interview, Justice Urviola stated that he coordinated with the MEF in the course of issuing the 2013 CT Order. C-34 ¶ 90; Doc. CE-178. Further, during the January 9-10, 2019 congressional hearings, Justice Eto testified that the CT Justices met with MEF officials, and referenced a MEF presentation to the CT that included an assessment of the impact of the Land Bond debt’s impact on Peru’s budget.</p> <p>The requested information is necessary for Gramercy’s claims that the Government and certain members of the Constitutional Tribunal colluded, that the 2013 CT Order</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, any claims arising from the July 2013 Resolution are time-barred. Gramercy declared on 5 August 2016 that its claims had been submitted by that date (though they had not, given Gramercy’s failure to comply with the waiver requirement). Even if that were the relevant date, the Resolution is outside of the prescription period, and the request seeks documents that predate the Resolution. <i>See, e.g.</i>, Statement of Defense ¶¶ 178-188; Reisman ¶¶ 70-75.</p> <p>Even if not time-barred, Gramercy’s allegations regarding the deliberative process, including documents provided to or considered by the Tribunal, are irrelevant and immaterial. Gramercy’s claims rest on the purported impact of the final Resolution on the value of its alleged Bonds, not the deliberative process leading to the Resolution. The Tribunal was competent to issue the Resolution, ruled in accordance with Peruvian law, and confirmed the validity of the Resolution in multiple subsequent decisions. Magistrates who voted in the majority have confirmed their votes, and the Resolution remains binding law. <i>See, e.g.</i>, Statement of Defense ¶¶ 98-109, 266-268, 272; Hundskopf ¶¶ 116-121.</p>	<p>N/A</p>

was arbitrary and irregular, and that the Supreme Decrees have no valid basis.	The documents also are not relevant or material because Gramercy was not a party to the judicial proceeding in question and, accordingly, lacks standing to bring claims based on any alleged improprieties in that proceeding. <i>See, e.g.</i> , Statement of Defense ¶¶ 263-264.	
Reference in Memorial (paras.)		
C-34 ¶¶ 194–197, 204, 208-214, 233–234.	Peru rejects Gramercy’s baseless allegations and speculation in this and each subsequent request, even if not specifically addressed herein.	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Gramercy does not have access to this information, which must have been generated by the Government of Peru or the Constitutional Tribunal in the process of issuing the 2013 CT Order.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues. In addition, Gramercy may independently have possession or access to such documents. The record demonstrates that the criminal and congressional proceedings were both initiated by a member of the bondholder organization ADAEPRA. As demonstrated, Gramercy has infiltrated bondholder organizations and used them as part of its attack campaign against Peru. In response to Peru’s submissions on this issue in the aggravation phase, Gramercy conceded its “coordination” with ADAEPRA, among others, and that such coordination was a “component of Gramercy’s original investment strategy.” <i>See, e.g.</i> , C-28 ¶ 29.	N/A
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because it addresses alleged measures “prior to the issuance” of the July 2013 Resolution that plainly fall outside of the three-year prescription period and, in any event, are irrelevant and immaterial, and because the request broadly seeks production by the entire “Government of Peru.”	Gramercy has alleged that the MEF manipulated or colluded with the CT as part of an arbitrary and unjust process that resulted in the destruction of the Bonds’ value. The documents requested go directly to this issue, and thus have significant evidentiary value that outweighs any burdens to Peru, which would be limited since the request seeks a narrowly tailored category of documents from a limited seven month period. Gramercy has also identified specific examples of relevant documents, including a MEF presentation assessing the impact of the Land Bond debt on Peru’s budget. That Peru has submitted “more than 1000 fact exhibits” of its choosing is immaterial to whether it must provide the requested documents. Peru’s prescription period objection is irrelevant. While Gramercy disputes Peru’s prescription argument, it is well-established that acts occurring before a limitations period may be relevant in assessing a breach falling within the limitations period. Further, Peru can easily identify the relevant custodians, unlike Gramercy. Peru’s invocation of Supreme Decree No. 070-2013-PCM is	N/A

irrelevant and misleading. Under Peruvian law, a petitioner seeking information from the government need not know the public entity in possession of the requested information. *See* Supreme Decree No. 072-2003-PCM, Art. 10(e).

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<p>Under Peruvian law, judicial deliberations of the Constitutional Tribunal are classified as secret and not subject to disclosure. <i>See</i> Supreme Decree No. 017-93-JUS, Single Unified Text of Organic Law of Judicial Power, Art. 133; Administrative Resolution No. 095-2004-P-TC, Normative Regulation of Constitutional Tribunal, Art. 19(5). The secrecy of judicial deliberations also is well-established as a matter of international law and practice. <i>See, e.g.</i>, ICJ Rules of Court, Art. 21 (1978) (“The deliberations of the Court shall take place in private and remain secret.”). Gramercy’s request targeting the internal judicial deliberations of Peru’s highest court raises compelling issues of institutional sensitivity that weigh heavily against production – particularly in view of the request’s prescription period limitations and lack of relevance or materiality.</p>	<p>Documents that the government provided to the CT are not judicial deliberations. Nor do any of the provisions of Peruvian law Peru cites render such documents secret. Peru’s objection on this basis is thus wholly irrelevant.</p> <p>The principle protecting the secrecy of judicial deliberations is also inapt in this case, where the deliberations have long since concluded, the Judges involved no longer serve in that capacity, and members of the judiciary members of the judiciary and the executive have publicly referenced the requested documents and communications. Further, the deliberations themselves have been publicized, including pursuant to ongoing Congressional and criminal investigations, and thus any secrecy that might have applied has been waived and abandoned.</p> <p>To the extent Peru persists in this irrelevant objection, the Parties should have the opportunity to brief this issue more broadly.</p>	N/A

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.

Document Request No. 2.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Any documents, notes, communications, or records in the possession of the Constitutional Tribunal or the MEF demonstrating the provenance of the “majority” opinion of the 2013 CT Order, including the electronic file of the 2013 CT Order containing the file properties and relevant metadata.</p> <p>With respect to email communications, the relevant custodians shall include each of the then-Justices of the Constitutional Tribunal, Oscar Diaz Muñoz, Felipe Andres Paredes San Roman, Erick Moreno Garcia, Pamela Rose, Ambassador Luis Miguel Castilla, and officers and employees of the MEF who worked or participated on matters related to the Land Bonds. The relevant search terms shall include: Expediente N° 00022-1996-PI/TC, mayoría, mayoritaria, discordante, singular, borrador, proyecto, bonos de la reforma agraria, bonos, IPC, Índice de Precios al Consumidor, CPI, dolarización, Gramercy, firma, ponencia, ponente, presupuesto (público), deuda (pública), interés, tipo de cambio, paridad, Títulos del Tesoro Americano, Bonos del Tesoro Americano.</p>	<p>Peru objects to this request for the reasons set forth herein.</p> <p>Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.</p>	<p>The Tribunal takes notice.</p>
Time frame of issuance		
June 1, 2013 – July 23, 2013.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
See justification for Request No. 1 above.	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, as addressed in Request No. 1:</p> <ul style="list-style-type: none"> - The documents relate to issues that are outside the three-year prescription period and thus outside the scope of this arbitration. - Allegations regarding the Constitutional Tribunal’s deliberation process are irrelevant and immaterial because the July 2013 Resolution remains valid, final, and binding. In any event, Gramercy’s claims rest on the alleged impact of the final Resolution on the value of its alleged Bonds, and not the process leading to issuance of the Resolution. - Gramercy was not a party to the proceeding and lacks standing to bring claims based on any alleged improprieties in that proceeding. 	<p>N/A</p>
Reference in Memorial (paras.)		
C-34 ¶¶ 194–197, 204, 208-214, 233–234.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Gramercy does not have access to this information, which must have been generated by the Government of Peru or the Constitutional Tribunal in the process of issuing the 2013 CT Order.</p>	<p>Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues. In addition, Gramercy may independently have possession or access to such documents. The record demonstrates that the criminal and congressional proceedings were both initiated by a member of the bondholder organization ADAEPRA. As demonstrated, Gramercy has infiltrated bondholder organizations and used them as part of its attack campaign against Peru. In response to Peru’s submissions on this issue in the aggravation phase, Gramercy conceded its</p>	<p>N/A</p>

“coordination” with ADAEPRA, among others, and that such coordination was a “component of Gramercy’s original investment strategy.” *See, e.g., C-28 ¶ 29.*

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because it addresses alleged measures prior to the July 2013 Resolution that plainly fall outside of the three-year prescription period and, in any event, are irrelevant and immaterial.	<p>Gramercy has alleged that the MEF manipulated or colluded with the CT as part of an arbitrary and unjust process that resulted in the destruction of the Bonds’ value. The documents requested go directly to this issue, and thus have significant evidentiary value relating to these claims. This evidentiary value clearly outweighs any burdens to Peru, which would be limited in view of the fact that Gramercy’s request is narrowly tailored to a small category of documents and custodians, from a very narrow time period of less than two months. This is in stark contrast to Peru’s requests, many of which cover a period of 13 years.</p> <p>Peru’s prescription period objection is irrelevant. While Gramercy disputes Peru’s prescription argument, it is well-established that acts occurring before a limitations period may nevertheless be relevant in assessing a breach falling within the limitations period, and indeed 23 of Peru’s own requests relate to this period.</p> <p>Finally, the requested documents are not irrelevant and immaterial, for the reasons set forth in its request.</p>	N/A

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
With respect to electronic mail, Peru is engaged in an effort to identify relevant and material documents that are in its possession, custody, or control and are not lost, destroyed, or otherwise do not exist.	Gramercy reserves the right to respond to any specific documents identified as lost, destroyed, or nonexistent. Gramercy notes that under Peru’s Law on Transparency and Access to Public Information (Unified Text of Law No. 27086, approved by Supreme Decree No. 043-2003-PCM), the public administration is prohibited from destroying information in its possession, unless specific legal requirements have been fulfilled. Further, Article 3 of the Regulations of Law No. 27086 requires that the highest-ranking public officer of the relevant entity takes action to recover any unduly destroyed, lost or modified information and impose the corresponding sanctions.	N/A

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Under Peruvian law, judicial deliberations of the Constitutional Tribunal are classified as secret and not subject to disclosure. <i>See</i> Supreme Decree No. 017-93-JUS,	<i>First</i> , to the extent the documents are in the possession of the MEF, they are clearly not	N/A

<p>Single Unified Text of Organic Law of Judicial Power, Art. 133; Administrative Resolution No. 095-2004-P-TC, Normative Regulation of Constitutional Tribunal, Art. 19(5). The secrecy of judicial deliberations also is well-established as a matter of international law and practice. <i>See, e.g.</i>, ICJ Rules of Court, Art. 21 (1978) (“The deliberations of the Court shall take place in private and remain secret.”). Gramercy’s request targeting the internal judicial deliberations of Peru’s highest court raises compelling issues of institutional sensitivity that weigh heavily against production – particularly in view of the request’s prescription period limitations and lack of relevance or materiality.</p>	<p>classified judicial deliberations. Peru’s objection on this basis is thus wholly irrelevant.</p> <p><i>Second</i>, while the CT may have certain privileges and immunities based on the separation of powers under Peruvian law, it remains an organ of the state under international law, and its actions are thus relevant and material in assessing Peru’s wrongful conduct.</p> <p><i>Third</i>, the principle protecting the secrecy of judicial deliberations is also inapt in this case, where the deliberations have long since concluded, the Judges involved no longer serve in that capacity, and members of the judiciary members of the judiciary and the executive have publicly referenced the requested documents and communications. Further, the deliberations themselves have been publicized, including pursuant to ongoing Congressional and criminal investigations, and thus any secrecy that might have applied has been waived and abandoned.</p> <p>To the extent Peru persists in this irrelevant objection, the Parties should have the opportunity to brief this issue more broadly.</p>	
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O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
<p>The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.</p>		

Document Request No. 3.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Any documents, including draft decisions, notes, communications, recordings, or draft rulings, in the possession of the MEF or the Constitutional Tribunal, relating to the CT’s deliberations for the 2013 CT Order, the August 2013 Resolution, or the November 2013 Resolution.</p> <p>With respect to email communications, the relevant custodians shall include each of the then-Justices of the Constitutional Tribunal, Tribunal Secretary Oscar Diaz Muñoz, Felipe Andres Paredes San Roman, Erick Moreno Garcia, Pamela Rose, Ambassador Luis Miguel Castilla, and officers and employees of the MEF who worked on matters related to the Land Bonds. The relevant search terms shall include: Expediente N° 00022-1996-PI/TC, mayoría, mayoritaria, discordante, singular, borrador, proyecto, bonos de la reforma agraria, bonos, IPC/Índice de Precios al Consumidor, dolarización, Gramercy, firma, ponencia/ponente, presupuesto (público), deuda (pública), interés, tipo de cambio, paridad, Títulos del Tesoro Americano, Bonos del Tesoro Americano.</p>	<p>Peru objects to this request for the reasons set forth herein.</p> <p>Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.</p>	<p>The Tribunal takes notice.</p>
Time frame of issuance		
July 1-16, 2013, August 1-8, 2013, and October 28 - November 4, 2013.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
See justification for Request No. 1 above.	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, as addressed in Request No. 1:</p> <ul style="list-style-type: none"> - The documents relate to issues that are outside the three-year prescription period and thus outside the scope of this arbitration. - Allegations regarding the Constitutional Tribunal’s deliberation process are irrelevant and immaterial because the referenced 2013 Resolutions all remain valid, final, and binding. In any event, Gramercy’s claims rest on the alleged impact of the final Resolutions on the value of its alleged Bonds, and not the process leading to issuance of the Resolutions. - Gramercy was not a party to the proceeding and lacks standing to bring claims based on any alleged improprieties in that proceeding. <p>Further, Gramercy has not raised any allegations regarding the deliberative process as to the August or November 2013 Resolutions, as the cited Memorial references reflect. The requested documents regarding the August and November Resolutions do not support its claims.</p>	<p>N/A</p>
<p align="center">Reference in Memorial (paras.)</p> <p>C-34 ¶¶ 194–197, 204, 208-214, 233–234.</p>		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Gramercy does not have access to this information, which must have been generated by the Government of Peru or the Constitutional Tribunal in the process of issuing the 2013 CT Order.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues. In addition, Gramercy may independently have possession or access to such documents. The record demonstrates that the criminal and	<p>N/A</p>

congressional proceedings were both initiated by a member of the bondholder organization ADAEPRA. As demonstrated, Gramercy has infiltrated bondholder organizations and used them as part of its attack campaign against Peru. In response to Peru’s submissions on this issue in the aggravation phase, Gramercy conceded its “coordination” with ADAEPRA, among others, and that such coordination was a “component of Gramercy’s original investment strategy.” See, e.g., C-28 ¶ 29.

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because it addresses alleged measures that are plainly outside of the three-year prescription period and, in any event, are irrelevant and immaterial.	<p>Gramercy has alleged that the MEF manipulated or colluded with the CT as part of an arbitrary and unjust process that resulted in the destruction of the Bonds’ value. The documents requested go directly to this issue, and thus have significant evidentiary value relating to these claims. This evidentiary value clearly outweighs any burdens to Peru, which would be limited in view of the fact that Gramercy’s request is narrowly tailored to a small category of documents and custodians, from a very narrow time period of only four weeks total. This is in stark contrast to Peru’s requests, many of which cover a period of 13 years.</p> <p>Peru’s prescription period objection is irrelevant. While Gramercy disputes Peru’s prescription argument, it is well-established that acts occurring before a limitations period may nevertheless be relevant in assessing a breach falling within the limitations period, and indeed 23 of Peru’s own requests relate to this period.</p> <p>Finally, the requested documents are not irrelevant and immaterial, for the reasons set forth in its request.</p>	N/A

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
With respect to electronic mail, Peru is engaged in an effort to identify relevant and material documents that are in its possession, custody, or control and are not lost, destroyed, or otherwise do not exist.	Gramercy reserves the right to respond to any specific documents identified as lost, destroyed, or nonexistent. Gramercy notes that under Peru’s Law on Transparency and Access to Public Information (Unified Text of Law No. 27086, approved by Supreme Decree No. 043-2003-PCM), the public administration is prohibited from destroying information in its possession, unless specific legal requirements have been fulfilled. Further, Article 3 of the Regulations of Law No. 27086 requires that the highest-ranking public officer of the relevant entity takes action to recover any unduly destroyed, lost or modified information and impose the corresponding sanctions.	N/A

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
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O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<p>Under Peruvian law, judicial deliberations of the Constitutional Tribunal are classified as secret and not subject to disclosure. <i>See</i> Supreme Decree No. 017-93-JUS, Single Unified Text of Organic Law of Judicial Power, Art. 133; Administrative Resolution No. 095-2004-P-TC, Normative Regulation of Constitutional Tribunal, Art. 19(5). The secrecy of judicial deliberations also is well established as a matter of international law and practice. <i>See, e.g.,</i> ICJ Rules of Court, Art. 21 (1978) (“The deliberations of the Court shall take place in private and remain secret.”). Gramercy’s request targeting the internal judicial deliberations of Peru’s highest court raises compelling issues of institutional sensitivity that weigh heavily against production – particularly in view of the request’s prescription period limitations and lack of relevance or materiality.</p>	<p><i>First</i>, to the extent the documents are in the possession of the MEF, they are clearly not classified judicial deliberations. Peru’s objection on this basis is thus wholly irrelevant.</p> <p><i>Second</i>, while the CT may have certain privileges and immunities based on the separation of powers under Peruvian law, it remains an organ of the state under international law, and its actions are thus relevant and material in assessing Peru’s wrongful conduct.</p> <p><i>Third</i>, the principle protecting the secrecy of judicial deliberations is also inapt in this case, where the deliberations have long since concluded, the Judges involved no longer serve in that capacity, and members of the judiciary have publicly referenced the requested documents and communications. Further, the deliberations themselves have been publicized, including pursuant to ongoing Congressional and criminal investigations, and thus any secrecy that might have applied has been waived and abandoned.</p> <p>To the extent Peru persists in this objection, the Parties should have the opportunity to brief this issue more broadly.</p>	N/A
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.		

Document Request No. 4.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Any communications between, on the one hand, any Justice or employee of the Constitutional Tribunal, including Chief Justice Oscar Urviola, Justice Gerardo Eto Cruz, Oscar Diaz Muñoz, Felipe Andres Paredes San Roman, Erick Moreno Garcia, Pamela Rose, and, on the other hand, any employee of the MEF, including external consultants, relating to File N° 00022-1996-PI/TC prior to the issuance of the 2013 CT Order, as well as transcripts or meeting minutes of the meeting between Chief Justice Urviola, Minister of the Economy Luis Miguel Castilla, and the President of the Council of Ministers Juan Jiménez on or around July 10, 2013 and the conversation between Chief Justice Urviola and Mr. Roy Gates at the Constitutional Tribunal on July 11, 2013, as reflected in Docs. CE-27 and 178.</p> <p>With respect to email communications, the relevant custodians shall include each of the individuals listed by name above. The relevant search terms shall include: Expediente N° 00022-1996-PI/TC, mayoría, mayoritaria, discordante, singular, borrador, proyecto, bonos de la reforma agraria, bonos, IPC, Índice de Precios al Consumidor, CPI, dolarización, Gramercy, firma, ponencia/ponente, presupuesto (público), deuda (pública), interés, tipo de cambio, paridad, Títulos del Tesoro Americano, Bonos del Tesoro Americano, Gates.</p>	<p>Peru objects to this request for the reasons set forth herein. The request is dense and confusing. Procedural Order No. 3 provides that each request must be limited to a “single” (emphasis in original) document or document category, further to confirmation at the Procedural Conference that requests would be separate and not include sub-requests. The request is not limited to a single document or category, but rather contains compound requests for three separate categories regarding allegations of communications “as well as” meetings “and” a separate conversation.</p> <p>The requested categories of documents also are not well-defined, narrow, or specific, as required by Tribunal order as well as Peruvian law governing the disclosure of State documents. <i>See</i> Supreme Decree No. 070-2013-PCM, Art. 1. The request broadly encompasses any communication between any and all employees of both the Constitutional Tribunal and the MEF, as well as third-party external consultants of the MEF, “relating” to the referenced case file.</p> <p>Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.</p>	<p>The Tribunal takes notice.</p>
Time frame of issuance		
From July 1, 2013 to July 23, 2013.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
See justification for Request No. 1 above.	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, as addressed in Request No. 1:</p> <ul style="list-style-type: none"> - The documents relate to issues that are outside the three-year prescription period and thus outside the scope of this arbitration. - Allegations regarding the Constitutional Tribunal’s deliberation process are irrelevant and immaterial because the July 2013 Resolution remains valid, final, and binding. In any event, Gramercy’s claims rest on the alleged impact of the final Resolution on the value of its alleged Bonds, and not the process leading to issuance of the Resolution. - Gramercy was not a party to the proceeding and lacks standing to bring claims based on any alleged improprieties in that proceeding. 	<p>N/A</p>
Reference in Memorial (paras.)		
C-34 ¶¶ 194–197, 204, 208-214, 233–234.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
These intra-institutional communications are inaccessible to the public and must be within Peru’s custody.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues. In addition, Gramercy may independently have possession or access to such documents. The	N/A

record demonstrates that the criminal and congressional proceedings were both initiated by a member of the bondholder organization ADAEPRA. As demonstrated, Gramercy has infiltrated bondholder organizations and used them as part of its attack campaign against Peru. In response to Peru’s submissions on this issue in the aggravation phase, Gramercy conceded its “coordination” with ADAEPRA, among others, and that such coordination was a “component of Gramercy’s original investment strategy.” See, e.g., C-28 ¶ 29.

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because it address alleged measures “prior to the issuance” of the July 2013 Resolution that plainly are outside of the three-year prescription period and, in any event, are irrelevant and immaterial, and because the request fails to identify a well-defined, narrow, or specific category of documents.	Gramercy has alleged that the MEF manipulated or colluded with the CT as part of an arbitrary and unjust process that resulted in the destruction of the Bonds’ value. The documents requested go directly to this issue, and thus have significant evidentiary value relating to these claims. This evidentiary value clearly outweighs any burdens to Peru, which would be limited in view of the fact that Gramercy’s request is narrowly tailored to a small category of documents and custodians, from a very narrow time period of less than two months. This is in stark contrast to Peru’s requests, many of which cover a period of 13 years. Peru’s prescription period objection is irrelevant. While Gramercy disputes Peru’s prescription argument, it is well-established that acts occurring before a limitations period may nevertheless be relevant in assessing a breach falling within the limitations period, and indeed 23 of Peru’s own requests relate to this period. Finally, the requested documents are not irrelevant and immaterial, for the reasons set forth in its request.	N/A

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
With respect to electronic mail, Peru is engaged in an effort to identify relevant and material documents that are in its possession, custody, or control and are not lost, destroyed, or otherwise do not exist.	Gramercy reserves the right to respond to any specific documents identified as lost, destroyed, or nonexistent. Gramercy notes that under Peru’s Law on Transparency and Access to Public Information (Unified Text of Law No. 27086, approved by Supreme Decree No. 043-2003-PCM), the public administration is prohibited from destroying information in its possession, unless specific legal requirements have been fulfilled. Further, Article 3 of the Regulations of Law No. 27086 requires that the highest-ranking public officer of the relevant entity takes action to recover any unduly destroyed, lost or modified information and impose the corresponding sanctions.	N/A

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
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O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<p>Under Peruvian law, judicial deliberations of the Constitutional Tribunal are classified as secret and not subject to disclosure. <i>See</i> Supreme Decree No. 017-93-JUS, Single Unified Text of Organic Law of Judicial Power, Art. 133; Administrative Resolution No. 095-2004-P-TC, Normative Regulation of Constitutional Tribunal, Art. 19(5). The secrecy of judicial deliberations also is well-established as a matter of international law and practice. <i>See, e.g.</i>, ICJ Rules of Court, Art. 21 (1978) (“The deliberations of the Court shall take place in private and remain secret.”). Gramercy’s request targeting the internal judicial deliberations of Peru’s highest court raises compelling issues of institutional sensitivity that weigh heavily against production – particularly in view of the request’s prescription period limitations and lack of relevance or materiality.</p>	<p>Communications between the government and the CT are not judicial deliberations. Nor do any of the provisions of Peruvian law Peru cites render such communications secret. Peru’s objection on this basis is thus wholly irrelevant.</p> <p>Further, the principle protecting the secrecy of judicial deliberations is also inapt in this case, where the deliberations have long since concluded, the Judges involved no longer serve in that capacity, and members of the judiciary members of the judiciary and the executive have publicly referenced the requested documents and communications. Further, the deliberations themselves have been publicized, including pursuant to ongoing Congressional and criminal investigations, and thus any secrecy that might have applied has been waived and abandoned.</p> <p>To the extent Peru persists in this irrelevant objection, the Parties should have the opportunity to brief this issue more broadly.</p>	N/A
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
<p>The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.</p>		

Document Request No. 5.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any transcripts, testimonies, or recordings from hearings, investigations, and proceedings conducted by the Peruvian Congress against Chief Justice Urviola, including those conducted on Jan. 9, 2019 and Jan. 10, 2019, as well as documents from such hearings, investigations, and proceedings that relate to the issuance of the 2013 CT Order and its reasoning, or to meetings or communications between employees of the Constitutional Tribunal and employees of the MEF, including external consultants.	Peru objects to this request for the reasons set forth herein. Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
Time frame of issuance		
From November 2017 to present.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
See justification for Request No. 1 above. The congressional hearings are directly related to Gramercy’s claims arising from the white-out allegations.	Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, as addressed in Request No. 1:	N/A
Reference in Memorial (paras.) C-34 ¶¶ 194–197, 204, 208-214, 233–234.	<ul style="list-style-type: none"> - The documents relate to issues that are outside of the three-year prescription period and thus outside the scope of this arbitration. - Allegations regarding the Constitutional Tribunal’s deliberation process are irrelevant and immaterial because the July 2013 Resolution remains valid, final, and binding. In any event, Gramercy’s claims rest on the alleged impact of the final Resolution on the value of its alleged Bonds, and not the process leading to issuance of the Resolution. - Gramercy was not a party to the proceeding and lacks standing to bring claims based on any alleged improprieties in that proceeding. 	

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Peru’s Congress and the Criminal Prosecutor of Lima have initiated investigations and proceedings into complaints against Chief Justice Urviola and Oscar Diaz Muñoz, respectively. They have therefore generated and remain in possession of the requested documents.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues. In addition, Gramercy may independently have possession or access to such documents. The record demonstrates that the criminal and congressional proceedings were both initiated by a member of the bondholder organization ADAEPR. As demonstrated, Gramercy has infiltrated bondholder organizations and used them as part of its attack campaign against Peru. In response to Peru’s submissions on this issue in the aggravation phase, Gramercy conceded its “coordination” with ADAEPR, among others, and that such coordination was a “component of Gramercy’s original investment strategy.” <i>See, e.g.</i> , C-28 ¶ 29.	N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because it addresses alleged measures relating to issuance of the July 2013 Resolution that plainly are outside of the three-year prescription period and, in any event, are irrelevant and immaterial.	<p>Gramercy has alleged that the MEF manipulated or colluded with the CT as part of an arbitrary and unjust process that resulted in the destruction of the Bonds' value. The documents requested were generated within Peru's own investigations relating these allegations, and are thus highly relevant and have significant evidentiary value. Further, this request is not overly burdensome to Peru, as it requires Peru only to identify and produce its own record of specifically identified congressional proceedings. Yet again, this stands in sharp contrast to Peru's broad, vague, and expansive requests.</p> <p>Peru's prescription period objection is irrelevant. While Gramercy disputes Peru's prescription argument, it is well-established that acts occurring before a limitations period may nevertheless be relevant in assessing a breach falling within the limitations period, and indeed 23 of Peru's own requests relate to this period.</p> <p>Finally, the requested documents are not irrelevant and immaterial, for the reasons set forth in its request.</p>	N/A

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
As Peru repeatedly has highlighted, Gramercy has withheld evidence, contrary to burdens of proof, due process, and Tribunal orders. Gramercy seeks to manufacture irrelevant issues from a proceeding started by an organization with which Gramercy concedes coordination as part of its attack campaign against Peru. Gramercy has not identified the source of its information regarding the January 2019 hearings; its requests seem to suggest that Gramercy has knowledge of what transpired. It offends principles of fairness and equality for Gramercy to demand these documents, while concealing its own evidence and apparent involvement – further to Gramercy's pattern of interference and abuse of the Treaty dispute mechanism. <i>See, e.g.,</i> Reisman ¶¶ 76-86.	It does not “offend principles of fairness and equality” for Gramercy to seek documents from the referenced proceedings. The proceedings in question were streamed live on YouTube and thus contemporaneously available to the public. <i>See</i> https://www.youtube.com/watch?v=UHpnRsiZUXA . Peru's suggestion that Gramercy's knowledge of the general content of ongoing Congressional proceedings in a democratic country is somehow inappropriate is not remotely credible, and yet again demonstrates Peru's own lack of transparency.	N/A

Tribunal's Decision

The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.

Document Request No. 6.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any documents, testimonies, and evidence submitted or produced in the course of the criminal proceedings by the Criminal Prosecutor of Lima against Oscar Diaz Muñoz relating to the issuance or drafting of the 2013 CT Order and dissent, or relating to meetings or communications between employees of the Constitutional Tribunal and employees of the MEF, including external consultants.	Peru objects to this request for the reasons set forth herein. Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
Time frame of issuance		
From November 2015 to present.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
See justification for Request No. 1 above. As Peru acknowledged, Mr. Diaz is implicated in criminal proceedings regarding the white-out allegation. R-34 ¶¶ 100-101.	Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, as addressed in Request No. 1: - The documents relate to issues that are outside of the three-year prescription period and thus outside the scope of this arbitration. - Allegations regarding the Constitutional Tribunal’s deliberation process are irrelevant and immaterial because the July 2013 Resolution remains valid, final, and binding. In any event, Gramercy’s claims rest on the alleged impact of the final Resolution on the value of its alleged Bonds, and not the process leading to issuance of the Resolution. - Gramercy was not a party to the proceeding and lacks standing to bring claims based on any alleged improprieties in that proceeding.	N/A
Reference in Memorial (paras.) C-34 ¶¶ 194–197, 204, 208-214, 233–234.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Peru’s Congress and the Criminal Prosecutor of Lima have initiated investigations and proceedings into complaints against Chief Justice Urviola and Oscar Diaz Muñoz, respectively. They have therefore generated and remain in possession of the requested documents, which could not be in Claimants’ possession.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues. In addition, Gramercy may have independently have possession or access to such documents. The record demonstrates that the criminal and congressional proceedings were both initiated by a member of the bondholder organization ADAEPRA. As demonstrated, Gramercy has infiltrated bondholder organizations and used them as part of its attack campaign against Peru. In response to Peru’s submissions on this issue in the aggravation phase, Gramercy conceded its “coordination” with ADAEPRA, among others, and that such coordination was a “component of Gramercy’s original investment strategy.” <i>See, e.g., C-28 ¶ 29.</i>	N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

<p>The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i>, because it addresses alleged measures relating to issuance of the July 2013 Resolution that plainly are outside of the three-year prescription period and, in any event, are irrelevant and immaterial.</p>	<p>Gramercy has alleged that the MEF manipulated or colluded with the CT as part of an arbitrary and unjust process that resulted in the destruction of the Bonds' value. The documents requested are documents generated within Peru's own investigations relating these allegations, and are thus highly relevant and have significant evidentiary value. This value outweighs any burden to Peru, which would be minimal, as the request requires Peru only to identify and produce its own record of specifically identified criminal proceedings. Yet again, this stands in sharp contrast to Peru's broad, vague, and expansive requests.</p> <p>Peru's prescription period objection is irrelevant. While Gramercy disputes Peru's prescription argument, it is well-established that acts occurring before a limitations period may nevertheless be relevant in assessing a breach falling within the limitations period, and indeed 23 of Peru's own requests relate to this period.</p> <p>Finally, the requested documents are not irrelevant and immaterial, for the reasons set forth in Gramercy's request.</p>	
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O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<p>As Peru repeatedly has highlighted, Gramercy has withheld evidence, contrary to burdens of proof, due process, and Tribunal orders. Gramercy seeks to manufacture irrelevant issues from a proceeding started by an organization with which Gramercy concedes coordination as part of its attack campaign against Peru. Gramercy has not identified the source of its information regarding the January 2019 hearings; its requests seem to suggest that Gramercy has knowledge of what transpired. It offends principles of fairness and equality for Gramercy to demand these documents, while concealing its own evidence and apparent involvement – further to Gramercy's pattern of interference and abuse of the Treaty dispute mechanism. <i>See, e.g.,</i> Reisman ¶¶ 76-86.</p>	<p>It does not “offend principles of fairness and equality” for Gramercy to seek documents from the referenced proceedings. The proceedings in question have been extensively publicized and covered by the Peruvian press. Peru's suggestion that Gramercy's knowledge of the general content of ongoing criminal investigations in a democratic country is somehow inappropriate is not remotely credible, and yet again demonstrates Peru's own lack of transparency.</p>	<p align="center">N/A</p>

Tribunal's Decision

The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.

Document Request No. 7.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Any documents or reports prepared by or on behalf of the MEF estimating or discussing the total land bond debt under different valuation methods, including the updating formulas from Decree N° 017-2014-EF, N° 019-2014-EF, N° 034-2017-EF and 242-2017-EF, and/or Peru’s ability to pay the estimated outstanding Land Bond debt, as well as any documents, lists, or reports listing or describing the total quantity of known Land Bonds outstanding and the characteristics of those Bonds.</p>	<p>Peru objects to this request for the reasons set forth herein. The request is dense and confusing. Procedural Order No. 3 provides that each request must be limited to a “single” (emphasis in original) document or document category, further to confirmation at the Procedural Conference that requests would be separate and not include sub-requests. The request is not limited to a single document or category, but rather contains compound requests for three separate categories regarding total debt “and/or” Peru’s ability to pay “as well as” quantity and characteristics of Bonds.</p> <p>The requested categories of documents are not well-defined, narrow or specific, as required by Tribunal order as well as Peruvian law. The timeframe is overly broad and does not correspond to the referenced Decrees. The request is overly broad and encompasses undefined third parties, not any specific or narrow person, authority, or entity.</p> <p>Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.</p>	<p>The Tribunal takes notice.</p>
<p>Time frame of issuance</p> <p>2011 to present.</p>		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The requested information is relevant and material to prove Gramercy’s claims that Peru’s enactment of the Supreme Decrees was part of a tainted, arbitrary, and unjust process that failed to comport with Peru’s treaty obligations, and that the updating formulas contained in the 2014 and 2017 Supreme Decrees are arbitrary and effectively deny the current value of the Bonds in violation of Peru’s treaty obligations.</p> <p>As Gramercy explained, the updating formula in the 2014 Supreme Decrees had no support in economic literature or logic, C-34 ¶ 198, the August 2017 Supreme Decree formula remains economically unjustifiable and offers payment at far below current value, <i>id.</i> ¶ 127, and the Constitutional Tribunal’s statement that CPI would strain the budget must have been based on false or misleading information. Further, during the January 9-10, 2019 congressional hearings, Justice Eto testified that the CT Justices met with MEF officials, and referenced a MEF presentation to the CT that included an assessment of the impact of the Land Bond debt’s impact on Peru’s budget. Peru has also produced documents referencing previous estimates of the debt. <i>See R-15.</i></p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, with respect to different valuation methods, the requested timeframe is overly broad and largely irrelevant. As of 16 July 2013, the Constitutional Tribunal had provided legal clarity and mandated application of the dollarization method. The Supreme Decrees were implemented pursuant to that Resolution. Any different valuation methods were unnecessary and irrelevant from that point.</p> <p>With respect to estimates of total Bond debt and Peru’s ability to pay, Peru has demonstrated that there is a marked distinction between fiscal capacity to pay and fiscal responsibility, as reflected in the balancing of sovereign obligations under the Constitutional Tribunal Resolution and Supreme Decrees. Whether Peru has the capacity to pay all of the outstanding Bond debt is irrelevant to Gramercy’s compensation claims seeking an implied return of 5,674 percent. <i>See, e.g.,</i> Statement of Defense ¶¶ 110-119; Quantum Report ¶¶ 154-173.</p>	<p>N/A</p>
<p>Reference in Memorial (paras.)</p> <p>C-34 ¶¶ 150-171, 181-188, 193, 196, 198-203, 205-207, 210-211, 235.</p>		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
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Gramercy does not have the requested information, which must be in Peru's possession if the MEF did conduct the above-referenced assessment of the outstanding Land Bond debt.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy's possession relating to these issues. Gramercy has not identified the source of its information regarding the January 2019 hearings; its requests would seem to suggest that Gramercy has knowledge of what transpired.	N/A
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because it broadly ranges from 2011 until the present and encompasses documents prepared by unspecified third parties.	<p>Gramercy has alleged that the MEF manipulated or colluded with the CT as part of an arbitrary and unjust process that resulted in the destruction of the Bonds' value. As a result of this interference, the 2013 CT Decision explicitly justifies its decision to reject CPI on its conclusion that it would "generate severe impacts on the Budget of the Republic." Doc. CE-17, "Whereas" Section, ¶ 25. Peru indeed highlights this fact in its brief as a justification for its actions. <i>See R-34</i> ¶¶ 92, 241. Peruvian officials have repeatedly referenced such justification, including in the recent Congressional hearings, where former Justice Eto stated that the Judges understood the overall debt to amount to 18.5 billion dollars. Yet Peru has produced no evidence demonstrating its own assessments of that impact or the underlying basis for the CT decision.</p> <p>This evidentiary value outweighs the minimal burden to Peru of producing a narrowly tailored category of documents relating to the specific issue of the MEF's calculations of the total outstanding land bond debt, for which Gramercy has already identified specific examples. Gramercy notes that Peru's assessment of the "broad" time period pales in comparison to its own requests.</p>	N/A
O3: Loss or destruction (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal takes notice that Respondent has undertaken to "produce relevant and material documents located in response to this request, if any".		

Document Request No. 8.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any instructions, documents, or communications exchanged between, on the one hand, the MEF, Betty Armida Sotelo Bazán, or any other entity/individual within the Government of Peru and, on the other hand, Mr. Luis Bruno Seminario de Marzi, or his employees, assistants, and agents, in connection with his 2011 expert opinion (Doc. R-297) and the appropriate valuation methodology for the Land Bonds, including those expressly contemplated under the Consultancy Contract between the MEF and Mr. Seminario of April 18, 2011 (Doc. R-509).	Peru objects to this request for the reasons set forth herein. Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
Time frame of issuance		
January 1, 2011 – December 31, 2011.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
This information is relevant and material to prove Gramercy’s claims that the updating formula contained in the 2014 Supreme Decrees is arbitrary and effectively denies the current value of the Bonds in violation of Peru’s treaty obligations. As Gramercy explained, the updating formula in the 2014 Supreme Decrees had no support in economic literature or logic. C-34 ¶ 198. Peru has represented that it has relied on Mr. Seminario’s expert opinion in developing the updating formula adopted in those Supreme Decrees. <i>See, e.g., R-34</i> ¶¶ 82, 113-115; Docs. R-297, R-354, R-508 . Mr. Seminario’s Consultancy Contract provides that “el consultor podra aceptar instrucciones en relación con esta transacción de la señora Betty Armida Sotelo Bazan o de cualquier persona que ella misma designe.” <i>See Doc. R-509, ¶ 1.4</i> . The requested information is necessary to assess the instructions that Mr. Seminario received for completing his expert report, as well as the involvement of the MEF in the preparation of that report, and to demonstrate the flawed basis for Peru’s updating formula that was adopted from that report.	Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the documents are irrelevant and immaterial to Gramercy’s claim that the updating formulas under the Supreme Decrees are arbitrary and deny the current value of the Bonds. Previously produced documents demonstrate the established scope of Mr. Seminario’s work and the final conclusions he reached pursuant to that scope, including with respect to the actualization methodology. As Peru also has demonstrated, Mr. Seminario’s conclusions set forth therein informed the development of the updating formulas adopted in the Supreme Decrees. Accordingly, any purported “flawed basis” for the updating formulas is in the documents already produced, and not in any alleged additional exchanges. The requested documents are extraneous, irrelevant and immaterial. <i>See, e.g., Statement of Defense</i> ¶¶ 82, 113.	N/A
Reference in Memorial (paras.)		
C-34 ¶¶ 150-171, 181–188, 193, 198, 205-207.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Gramercy does not have the requested information, which must be in Peru’s possession since the MEF was a party to the Consultancy Contract providing for such further instructions and must have communicated with Mr. Seminario regarding the valuation of the Land Bonds. <i>See Doc. R-509</i> .	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues.	N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss or destruction (max. 100 words)

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<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
<p>The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.</p>		

Document Request No. 9.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The following documents listed in Section IV (pp. 7-10) of Doc. R-426:</p> <ul style="list-style-type: none"> • Letter Nos. CF/8004-2006/UAO, CF-06260-2009/GAJ, and CF-06261-2009/GAJ from the Corporación Financiera de Desarrollo S.A.; • Oficio Nos. 3375-2006/DE-FONAFE and 1668-2009/DE-FONAFE from the Fondo Nacional de Financiamiento de la Actividad Empresarial del Estado; • Oficio Nos. 3713-2006-AG-SEGMA and 2119-2009-AG-SEGMA and Informe No. 423-2009-AG-OAJ from the Ministry of Agriculture; • Oficio Nos. 540-2009-DP/PAD and 540-2009-DP/PAD from the Defensoría del Pueblo; • Informe No. 355-2009/SBN-GL from the Ministry of Housing, Construction, and Sanitation; • Informe No. 026-2009/INEI/OTAJ from the Presidency of the Council of Ministers; • Letter GG Nos. 208-07-2009-AGROBANCO and 355 12-2009-AGROBANCO from Agrobanco; • Opinion referenced on page 9 of Doc. R-426 and Oficio No. 094-2009-BDRP, both from the Central Reserve Bank of Peru; • Communication dated July 2, 2009, referenced on page 9 of Doc. R-426, and Letter dated July 2, 2009 referenced on page 10 of Doc. R-426; both from ADAEPRA • Oficio No. 9399-2009/SBN and Informe No. 354-2009/SBN-GL from the Superintendencia Nacional de Bienes Estatales; and • Informe No. 028-2009/INEFI*OTAJ from the Presidency of the Council of Ministers, National Institute of Statistics and IT. 	<p>Peru objects to this request for the reasons set forth herein. Procedural Order No. 3 provides that each request must be limited to a “single” (emphasis in original) document or document category, further to confirmation at the Procedural Conference that requests would be separate and not include sub-requests. The request is not limited to a single document or category, but rather includes sub-requests for 20 different documents.</p> <p>Notwithstanding and reserving its objections, Peru will produce relevant and material documents located in response to this request, if any.</p>	<p align="center">The Tribunal takes notice.</p>
<p align="center">Time frame of issuance</p>		
<p>From January 2006 to June 16, 2011.</p>		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is relevant and material to prove Gramercy’s claims that the updating formula contained in the 2014 Supreme Decrees is arbitrary and effectively denies the current value of the Bonds in violation of Peru’s treaty obligation, and that Gramercy had a legitimate expectation to be paid at current value.</p> <p>As Gramercy explained, the updating formula in the 2014 Supreme Decrees had no support in economic literature or logic. C-34 ¶ 198. In partial response, Peru has submitted a 2011 Report by the Agrarian Commission of the Peruvian Congress, which actually concluded that CPI should be adopted to calculate the current value of the Agrarian Bonds. <i>See Doc. R-426</i>. However, Peru has not produced the documents referenced in that report. The requested information, which was received and assessed by the Agrarian Commission when producing said report, is necessary to prove Gramercy’s position that the different valuation method later adopted in Peru’s Supreme Decrees</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, Gramercy mischaracterizes the evidence when it states that Peru submitted the 2011 Agrarian Commission Report “[i]n partial response” to Gramercy’s allegations regarding the updating formula. Peru has shown that the Commission Report, as well as the multiple unsuccessful attempts to advance legislation addressing the Bonds, is part of a broader record demonstrating that the legal status of the Bonds was under a cloud of uncertainty for decades. This included the period from 2001 to 2011, when different draft bills (including the one attached to the 2011 Commission Report) were introduced proposing a variety of valuation methodologies. None became law. The requested documents, which based on the description appear to reflect the views of various parties submitted to the</p>	<p align="center">N/A</p>

was flawed, and that alternative methods had significant support.	Commission, demonstrate that different views, including as to valuation methodologies, were expressed over time – and thus that the legal status of the Bonds remained uncertain. No resolution was actually reached until the 2013 Constitutional Tribunal Resolution and subsequent Supreme Decrees. The requested documents, mentioned in a Report attaching a draft bill that never became law, thus are irrelevant and immaterial to the updating formula that was later implemented. <i>See, e.g.,</i> Statement of Defense ¶¶ 73-87.	
Reference in Memorial (paras.)		
C-34 ¶¶ 150-171, 181–188, 193, 198, 205-207.		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Gramercy does not have access to these documents, which Peru can access without undue burden as Doc. R-426 explicitly states that Congress possessed and consulted the requested materials.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues. In addition, Gramercy may independently have possession or access to such documents. Among others, two of the documents were issued by ADAEPRA. As demonstrated, Gramercy has infiltrated bondholder organizations and used them as part of its attack campaign against Peru. In response to Peru’s submissions on this issue in the aggravation phase, Gramercy conceded its “coordination” with ADAEPRA, among others, and that such coordination was a “component of Gramercy’s original investment strategy.” <i>See, e.g.,</i> C-28 ¶ 29.	N/A
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss or destruction (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.		

Document Request No. 10.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any reports, communications, or other documents by the MEF or third parties engaged by the MEF applying the formula adopted under Supreme Decrees N° 17-2014-EF and N° 19-2014-EF to calculate or estimate the value of any specific Land Bonds, including Gramercy's bonds.	Peru objects to this request for the reasons set forth herein. Notwithstanding and reserving its objections, Peru will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
Time frame of issuance		
From July 2013 to August 20, 2017.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
This information is relevant and material to prove Gramercy's claims that the updating formula contained in the 2014 Supreme Decrees is arbitrary and effectively denies the current value of the Bonds in violation of Peru's treaty obligations. As Gramercy explained, the updating formula in the 2014 Supreme Decrees had no support in economic literature or logic. C-34 ¶ 198. Peru has responded that its "compensation formulas are economically viable and reasonable." R-34 ¶ 273; RER-5 ¶¶ 61-66. The requested information is required to demonstrate that the updating formula in the 2014 Supreme Decrees had the purpose and effect of destroying the value of the Land Bonds, to illustrate the arbitrary nature of the formula and to demonstrate that Peru was aware of the facts when it promulgated the formula.	Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the documents are irrelevant and material to Gramercy's claim that the updating formulas under the 2014 Supreme Decrees are arbitrary and deny the current value of the Bonds. Only the final formula under Supreme Decree No. 242-2017-EF has ever been applied to any specific Bonds in the Bondholder Process. The Bondholder Process is a carefully regulated procedure grounded in Peruvian law, due process, and international best practices. Gramercy's claims based upon the alleged arbitrariness of valuations applied to the Bonds of third-party participants under the Bondholder Process – let alone prior valuation methodologies that were not applied – are hypothetical at best, because Gramercy chose to boycott the Process. <i>See, e.g.</i> , Statement of Defense ¶¶ 110-119, 292.	N/A
Reference in Memorial (paras.)		
C-34 ¶¶ 150-171, 181–188, 193, 198, 205-207.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Gramercy does not have access to these documents, which Peru can access without undue burden as it must have produced this information in the process of developing the updating formula in Supreme Decrees N° 17-2014-EF and N° 19-2014-EF.		N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.		

Document Request No. 11.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any reports or other documents created by the MEF or third parties consulted by the MEF concerning Supreme Decrees N° 034-2017-EF and 242-2017-EF, including documents explaining the rationale for amending the prior Decrees, the rationale for the formulas in each amended Decree, any economic analyses of either amended Decree, and any additional reports prepared by the DGETP.	Peru objects to this request for the reasons set forth herein. The request is dense and confusing. Procedural Order No. 3 provides that each request must be limited to a “single” (emphasis in original) document or document category, further to confirmation at the Procedural Conference that requests would be separate and not include sub-requests. The request is not limited to a single document or category, but rather contains compound requests for three separate categories regarding the rationale for amending prior Decrees, the rationale for formulas, and economic analyses. Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
<p align="center">Time frame of issuance</p> <p>From January 21, 2014 through August 26, 2017.</p>		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is relevant and material to prove Gramercy’s claims that the updating formula contained in the 2017 Supreme Decrees is arbitrary and effectively denies the current value of the Bonds in violation of Peru’s treaty obligations, that Peru’s multiple unilateral revisions to the formula demonstrate the lack of process and haphazard nature of the bondholder process, and that Peru’s changes to the updating formula following the commencement of the arbitration were an attempt to engineer a more favorable position in the arbitration.</p> <p>As Gramercy explained, the updating formula in the 2014 Supreme Decrees had no support in economic literature or logic. C-34 ¶ 198. After three years, during which Peru offered no explanation or justification of the basis for its updating formula, and following Gramercy’s commencement of the arbitration, Peru issued its February 2017 Supreme Decree. <i>Id.</i> ¶ 199. Peru’s only explanation for this opportunistic change in position is its bland and unsupported assertion that it decided to review its updating formula in the 2014 Supreme Decrees, because it would be “prudent” to do so since the formula was developed solely on a “theoretical basis.” <i>See, e.g., RWS-1 ¶ 37-38; Doc. R-341 ¶ 22; Doc. R-352 ¶ 9.</i> The documents Gramercy requests are necessary to show Peru’s actual motivation for again revising the formula.</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the documents are irrelevant and immaterial to Gramercy’s claim that the updating formulas under the 2017 Supreme Decrees are arbitrary or reflect a haphazard process. Previously produced documents demonstrate just the opposite: the Supreme Decrees issued pursuant to the 2013 Constitutional Tribunal Resolution were developed through a reasoned, comprehensive, methodical, and transparent process, pursuant to Peruvian law, that produced a reasonable and economically viable compensation formula.</p> <p>The documents also are not relevant or material to Gramercy’s claim that the “actual motivation” for changes to the valuation formula was to “engineer” a more favorable position in this arbitration. In fact, by 2016, Gramercy had repeatedly represented to Peru that it would not participate in the Bondholder Process. <i>See, e.g., Statement of Defense ¶¶ 125, 282, 292.</i></p>	N/A
<p align="center">Reference in Memorial (paras.)</p> <p>C-34 ¶¶ 150-171, 181-196, 199-207, 235.</p>		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
These documents are not in Gramercy’s possession. Peru has submitted several exhibits and statements showing that the MEF has internally discussed the updating formula prior to publishing the 2017 Supreme Decrees. <i>See, e.g., Docs. R-686-699.</i> Peru must thus be in a position to	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues.	N/A

retrieve any additional relevant documents and communications without undue burden.		
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss or destruction (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.		

Document Request No. 12.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Any reports, communications, or other documents in the Government of Peru’s possession estimating or assessing the potential cost or value of Gramercy’s Land Bonds in connection with the development of the revised formulas contained in Supreme Decrees N° 034-2017-EF and N° 242-2017-EF.</p> <p>With respect to email communications, the relevant custodians shall include Ministers Alonso Segura Vasi, Alfredo Thorne, and Fernando Zavala, as well as officers and employees of the MEF who worked or participated on issues related to the Land Bonds. Relevant search terms shall include Gramercy, Edwards, demanda arbitral, notificación de arbitraje, arbitraje, fondos buitres, buitres, especulativos, Koenigsberger, Debevoise, D&P, UNCITRAL, CNUDMI, valuación, actualización.</p>	<p>Peru objects to this request for the reasons set forth herein. The requested category of documents is not well-defined, narrow or specific, as required by Tribunal order as well as Peruvian law governing the disclosure of State documents. <i>See</i> Supreme Decree No. 070-2013-PCM, Art. 1 (requiring, <i>inter alia</i>, a “concrete and precise expression of the information request”). The request broadly and imprecisely requests documents in the possession of the entire “Government of Peru,” without identifying any specific authority or entity alleged to possess the documents (except as specified exclusively for emails).</p> <p>Notwithstanding and reserving its objections, Peru will produce relevant and material documents located in response to this request, if any.</p>	<p>The Tribunal takes notice.</p>
<p align="center">Time frame of issuance</p> <p>From June 2, 2016 to August 26, 2017.</p>		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is relevant and material to prove Gramercy’s claims that the updating formula contained in the 2017 Supreme Decrees is arbitrary and effectively denies the current value of the Bonds in violation of Peru’s treaty obligations, and that Peru’s changes to the updating formula following the commencement of the arbitration were an attempt to engineer a more favorable position in the arbitration.</p> <p>Peru’s quantum expert has justified the reasonableness of Peru’s current updating formula by comparing its estimated value for Gramercy’s purchase price of the Land Bonds to the approximate value of the bonds according to Professor Edwards’ assessment of the amount available under the Bondholder Process. RER-5 ¶ 110. The information requested is relevant to demonstrating that the August 2017 Supreme Decree reverse engineered the formula to match what Peru computed as the purchase price for Gramercy’s Land Bonds.</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other reasons, the documents are irrelevant and immaterial to Gramercy’s claim that the updating formulas under the 2017 Supreme Decrees are arbitrary or reflect a haphazard process. Previously produced documents demonstrate the opposite: the Supreme Decrees issued pursuant to the 2013 Constitutional Tribunal Resolution were developed through a reasoned, comprehensive, methodical, and transparent process, pursuant to Peruvian law, that produced a reasonable and economically viable compensation formula.</p> <p>The documents also are not relevant or material to Gramercy’s claim that changes to the valuation formula were an “attempt to engineer” a more favorable position in this arbitration. In fact, by 2016, Gramercy repeatedly had represented to Peru that it would not participate in the Bondholder Process. Having hid for years all information regarding the purchase of its Bonds from Peru and the Tribunal, Gramercy now makes speculative, unfounded, and irrelevant allegations regarding “reverse engineer[ing],” after Peru demonstrated that the purchase price agreed by Gramercy under the purchase contracts was US\$31.2 million, while Gramercy now seeks US\$ 1.8 billion (for an implied return of 5,674 percent). <i>See, e.g.,</i> Statement of Defense ¶¶ 71, 226, 303-304; Quantum ¶¶ 14, 15, 110-111, 124, 136.</p>	<p>N/A</p>
<p align="center">Reference in Memorial (paras.)</p> <p>C-34 ¶¶ 150-171, 181-196, 199-207, 235.</p>		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Peru has submitted a quantum expert report including calculations of the expert’s estimates regarding the purchase price and valuation of Gramercy’s Land Bonds. <i>See, e.g.,</i> RER-5 ¶¶ 15.d, 110, Appendix 6. Peru must therefore be in possession of the requested information.</p>		<p>N/A</p>

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because it seeks production by the entire “Government of Peru,” and fails to identify a well-defined, narrow, or specific category of documents.	<p>Gramercy has alleged that the process leading to the enactment of the Supreme Decrees was arbitrary and irregular; including because the 2014 and 2017 Supreme Decrees are arbitrary and effectively deny the current value of the Bonds and Peru’s changes to the updating formula following the commencement of the arbitration were an attempt to engineer a more favorable position in the arbitration. The documents requested thus have significant evidentiary value relating to these claims.</p> <p>This evidentiary value clearly outweighs any burdens to Peru, which would be limited in view of the fact that Gramercy’s request is narrowly tailored to a small category of documents and custodians, from a narrow time period of around a year. This is in stark contrast to Peru’s requests, many of which cover a period of 13 years.</p> <p>Further, Peru can easily identify the relevant custodians, unlike Gramercy. Peru’s invocation of Supreme Decree No. 070-2013-PCM is irrelevant and misleading. Under Peruvian law, a petitioner seeking information from the government need not know the public entity in possession of the requested information. <i>See</i> Supreme Decree No. 072-2003-PCM, Art. 10(e).</p>	N/A

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
With respect to electronic mail, Peru is engaged in an effort to identify relevant and material documents that are in its possession, custody, or control and are not lost, destroyed, or otherwise do not exist.	Gramercy reserves the right to respond to any specific documents identified as lost, destroyed, or nonexistent. Gramercy notes that under Peru’s Law on Transparency and Access to Public Information (Unified Text of Law No. 27086, approved by Supreme Decree No. 043-2003-PCM), the public administration is prohibited from destroying information in its possession, unless specific legal requirements have been fulfilled. Further, Article 3 of the Regulations of Law No. 27086 requires that the highest-ranking public officer of the relevant entity takes action to recover any unduly destroyed, lost or modified information and impose the corresponding sanctions.	N/A

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.

Document Request No. 13.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Any reports, draft reports, communications, and other documents exchanged between the Government of Peru and Mr. Luis Bruno Seminario de Marzi, or his employees, assistants, and agents, or Mr. Carlos Lapuerta, or his employees, assistants, and agents, regarding the updating formula for calculating the value of the Land Bonds adopted in Supreme Decrees N° 017-2014-EF and N° 019-2014-EF, as well as those contained in Supreme Decrees N° 034-2017-EF and 242-2017-EF.</p> <p>With respect to email communications, the relevant custodians shall include Mr. Seminario, Mr. Lapuerta, and their employees, assistants, and agents, as well as officers and employees of the MEF who worked or participated on issues related to the Land Bonds. Relevant search terms shall include bonos, valuación, actualización, borrado, reporte, bonos de la reforma agraria, bonos, IPC, Índice de Precios al Consumidor, CPI, dolarización, fórmula, Gramercy, Edwards, Koenigsberger, Debevoise, D&P.</p>	<p>Peru objects to this request for the reasons set forth herein. The requested category of documents is not well-defined, narrow or specific, as required by Tribunal order as well as Peruvian law governing the disclosure of State documents. <i>See</i> Supreme Decree No. 070-2013-PCM, Art. 1 (requiring, <i>inter alia</i>, a “concrete and precise expression of the information request”). The request broadly and imprecisely requests documents exchanged by the entire “Government of Peru,” without identifying any specific person, authority or entity alleged to have issued the documents (except as specified exclusively for emails).</p> <p>Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.</p>	<p>The Tribunal takes notice.</p>
<p align="center">Time frame of issuance</p>		
<p>From Jan. 1, 2014 through present.</p>		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is relevant and material to prove Gramercy’s claims that the updating formulas contained in the 2014 and 2017 Supreme Decrees are arbitrary and effectively deny the current value of the Bonds in violation of Peru’s treaty obligations.</p> <p>As Gramercy explained, the updating formula in the 2014 Supreme Decrees had no support in economic literature or logic, C-34 ¶ 198, and the August 2017 Supreme Decree formula remains economically unjustifiable and offers payment at far below current value. <i>Id.</i> ¶ 127. Peru claims that it based its original formula on Mr. Seminario’s 2011 report, and has further relied on a June 2016 letter from Mr. Seminario advising that the 2014 Supreme Decrees method contain two typographical errors in explaining the revisions made to the formula in February and August of 2017. <i>See, e.g., R-34 ¶ 82, 113-115; Docs. R-297, R-354, R-508.</i> Peru has also relied on Mr. Lapuerta’s August 2016 report in support of its 2017 revision. However, Peru has not disclosed whether Mr. Seminario or Mr. Lapuerta offered any assessment of the 2014 or subsequent formulas other than the June 2016 letter and the August 2016 report, respectively.</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other reasons, the documents are irrelevant and immaterial to Gramercy’s claim that the updating formulas under the Supreme Decrees are unsound and deny the current value of the Bonds. Previously produced documents demonstrate the established scope of Messrs. Seminario’s and Lapuerta’s work and the final conclusions they reached pursuant to that scope, including with respect to the actualization methodology. As Peru also has demonstrated, their work was undertaken in the context of the development of the updating formulas adopted in the Supreme Decrees. Accordingly, any purported flawed basis for the updating formulas is in the documents already produced, and not in any alleged additional exchanges. The requested documents are extraneous, irrelevant and immaterial. <i>See, e.g.,</i> Statement of Defense ¶¶ 82, 113, 115.</p>	<p>N/A</p>
<p align="center">Reference in Memorial (paras.)</p>		
<p>C-34 ¶¶ 150-171, 181-188, 193, 196, 198-203, 205-207, 210-211, 235.</p>		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Gramercy was not privy to exchanges between Mr. Seminario and the Peruvian government. As the party that hired Mr. Seminario for his consulting services and sought his opinion on the Supreme Decree formula, Peru must have access to the request information without undue burden.</p>	<p>Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues.</p> <p>Gramercy’s request identifies as email custodians the third parties Mr. Seminario, Mr. Lapuerta, and their employees, assistants, and agents. The</p>	<p>N/A</p>

emails of such third parties are not in the possession, custody, or control of Peru.

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because it seeks production by the entire “Government of Peru,” and fails to identify a well-defined, narrow, or specific category of documents.	Gramercy has alleged that the updating formulas contained in the 2014 and 2017 Supreme Decrees are arbitrary, expropriatory, economically unjustified, and effectively deny the current value of the Bonds. In response, Peru has relied almost entirely on Mr. Seminario’s report in support of both its original formula and its decision to amend the formula, and on Mr. LaPuerta for the latter. At the same time, Peru has declined to submit witness testimony from these individuals, rendering any other communications they may have had on the issue of material significance to assessing Peru’s responses to these claims. This evidentiary value outweighs any burden to Peru, which would be minimal in view of the fact that the request seeks a narrowly tailored category of documents defined by reference to two individuals and their employees or agents. Further, Peru can easily identify the relevant custodians, unlike Gramercy. Peru’s invocation of Supreme Decree No. 070-2013-PCM is irrelevant and misleading. Under Peruvian law, a petitioner seeking information from the government need not know the public entity in possession of the requested information. <i>See</i> Supreme Decree No. 072-2003-PCM, Art. 10(e).	N/A

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
With respect to electronic mail, Peru is engaged in an effort to identify relevant and material documents that are in its possession, custody, or control and are not lost, destroyed, or otherwise do not exist.	Gramercy reserves the right to respond to any specific documents identified as lost, destroyed, or nonexistent. Gramercy notes that under Peru’s Law on Transparency and Access to Public Information (Unified Text of Law No. 27086, approved by Supreme Decree No. 043-2003-PCM), the public administration is prohibited from destroying information in its possession, unless specific legal requirements have been fulfilled. Further, Article 3 of the Regulations of Law No. 27086 requires that the highest-ranking public officer of the relevant entity takes action to recover any unduly destroyed, lost or modified information and impose the corresponding sanctions.	N/A

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision		
The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.		

Document Request No. 14.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any reports or documents by the MEF or third parties consulted by the MEF regarding the development of the procedural aspects of Peru's bondholder process under Supreme Decrees N° 17-2014-EF, N° 19-2014-EF, N° 034-2017-EF, and N° 242-2017-EF, including any attempts to solicit input from bondholders in developing this process and the "legal and technical supporting documents" referenced by Mr. Castilla (RWS-2 ¶ 47).	Peru objects to this request for the reasons set forth herein. Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
Time frame of issuance		
From July 2013 to August 26, 2017.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is material and relevant to prove Gramercy's claim that Peru's bondholder process fails to comport with best practices and due process in the creation and application of its bondholder process while also depriving bondholders of their right to access courts, in violation of Peru's treaty obligations.</p> <p>Peru represents its bondholder process as legitimate and to "comport[] with established practices for claims procedures," R-34 ¶ 119; RER-3 ¶ 6, and that the Supreme Decrees setting forth the procedures were "the result of a procedure within the MEF in which technical experts developed and implemented the processes set forth" in the 2013 CT Order. RER-3 ¶ 12. Mr. Castilla further testifies that the process was "backed by legal and technical supporting documents from the corresponding areas at the Ministry." RWS-2 ¶ 47. However, Peru has not provided a full set of such legal, technical supporting documents. Moreover, objectively, the Supreme Decrees implementing this bondholder process stripped bondholders of all rights, for instance by requiring them to waive their right to seek relief in other fora. <i>See C-34</i> ¶¶ 130-134, 206. The requested information is necessary to prove Gramercy's claim that Peru has failed to fulfill its treaty obligations when establishing the procedural mechanism for payment.</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other reasons, Gramercy mischaracterizes the evidence when it states that the Bondholder Process "objectively . . . stripped bondholders of all rights." Previously produced documents demonstrate that the Supreme Decrees established an ordered, transparent Bondholder Process to pay legitimate holders of Bonds. The Bondholder Process preserves the due process rights of participating bondholders to seek recourse through, at various stages, litigation and administrative appeals – as expressly provided in the Supreme Decrees. Further, the provisions regarding exclusivity <i>vis-à-vis</i> other fora are in line with, and less rigid than, the standard practice of comparable programs internationally.</p> <p>Setting aside Gramercy's disregard for the evidence, the documents also are irrelevant and immaterial because they concern the development, and not implementation, of the Process. Gramercy claims that the Bondholder Process deprives bondholders of rights, not that the development of the Process somehow constituted a separate deprivation. All elements of the Process, including the procedures for administrative and judicial appeal, were finalized and published in Supreme Decree No. 242-2017-EF. The requested documents are not relevant or material to demonstrating any deficiency in the Bondholder Process as implemented and applied to bondholders – which, in any event, does not include Gramercy. Gramercy's claims based upon any alleged deprivation of rights through the review mechanisms available under the Supreme Decrees are hypothetical at best, because Gramercy chose to boycott the Process. <i>See, e.g.,</i> Statement of Defense ¶¶ 110-119, 236, 279, 282, 292, 298; Wühler ¶¶ 9-18.</p>	N/A
Reference in Memorial (paras.)		
C-34 ¶¶ 198-204, 206-207, 225-231, 236-238.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Gramercy is not privy to this information, which Peru must have been generated in the course of developing its bondholder process.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy's possession relating to these issues.	N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.

Document Request No. 15.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any documents or reports by the MEF assessing which category of payment Gramercy would fit into under Art. 19.7 of Supreme Decree N° 17-2014-EF or Art. 18 of Supreme Decree N° 242-2017-EF, how many other entities would fall under that category, and the nationality of each such entity.	Peru objects to this request for the reasons set forth herein. The request does not identify any evidence, even circumstantial evidence, of the putative existence of the proposed category of documents, as required by Procedural Order No. 3. The suggestion that the MEF would specifically account for Gramercy when establishing the payment order categories is speculative and unsupported. Notwithstanding and reserving its objections, Peru will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
Time frame of issuance		
Between July 1, 2013 and February 28, 2014.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
This information is material and relevant to prove Gramercy’s claim that Peru has treated Claimants less favorably than its own nationals by putting it last in line for payment, treatment which to Gramercy’s knowledge was not granted to any Peruvian entity. To Claimants’ knowledge, Gramercy is the only legal entity that the MEF and Peruvian Government consider as falling in the category of “purchaser of Land Bonds for speculative ends” included in the Supreme Decrees, C-34 ¶¶ 114, 222, which Peru has not specifically denied, but has argued is in application of “fundamental constitutional principles” that allow it to prioritize “non-speculative investors over speculative investors.” R-34 ¶ 278. The documents that Gramercy requests are necessary to show that Peru designed the Supreme Decree process with the knowledge and intent specifically to prejudice Gramercy as a foreign investor albeit through facially neutral language in the Supreme Decrees.	Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the payment order established under the Supreme Decrees applies only to bondholders participating in the Bondholder Process, and therefore is not relevant to the claims because Gramercy chose to boycott the Process. Even if Gramercy had participated in the Bondholder Process, the prioritization of payments set forth under the Supreme Decrees expressly applies to cash payments only – and Gramercy repeatedly has represented that it seeks payment in bonds. Indeed, Gramercy has not even attempted to allege any way in which the prioritization of cash payments for bondholders participating in the Process favors Peruvian bondholders over Gramercy, a non-participant. As Peru demonstrated, further to the 2013 Constitutional Tribunal Resolution, the Supreme Decrees established a reasonable and transparent payment order (for cash payments only) for bondholders participating in the Bondholder Process. The categories prioritize original bondholders and the elderly, natural persons over juridical entities, and non-speculative over speculative investors. The prioritization categories are grounded in Peruvian law, including Article 4 of the Constitution, due process, and international best practices. <i>See, e.g.</i> , Statement of Defense ¶¶ 278, 291-293; Hundskopf ¶ 128; Wühler ¶¶ 68, 70.	N/A
Reference in Memorial (paras.)		
C-34 ¶¶ 215-224.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Peru has represented that it produced thorough reports prior to developing its Supreme Decrees, which include the payment priority provisions and introduce the concept of “purchaser . . . for speculative ends.” <i>See, e.g.</i> , RER-3 ¶ 12 (“Each supreme decree was the result of a procedure within the MEF in which technical experts developed and implemented the processes set forth in the Constitutional Tribunal 16 July 2013 Resolution...”). Peru must therefore be in possession of the requested information.		N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.

Document Request No. 16.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any documents or reports by the Working Group created under Supreme Decree N° 034-2017-EF and relating to its internal guidelines to determine the form of payment for bonds submitted to the bondholder process, including whether the payment options selected by bondholders are “viable” and/or referencing Gramercy.	Peru objects to this request for the reasons set forth herein. The request does not identify any evidence, even circumstantial evidence, of the putative existence of the proposed category of documents “referencing Gramercy,” as required by Procedural Order No. 3. The suggestion that the Working Group would specifically account for Gramercy – which repeatedly had represented to Peru that it would not participate in the Bondholder Process – when addressing potential forms of payment is speculative and unsupported. Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
<p align="center">Time frame of issuance</p> <p>From October 2016 to August 20, 2017.</p>		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is material and relevant to prove Gramercy’s claim that Peru’s bondholder process fails to comport with best practices and due process in the creation and application of its bondholder process while also depriving bondholders of their right to access courts, in violation of Peru’s treaty obligations.</p> <p>Peru has submitted statements and exhibits regarding the establishment of a Working Group to assist in the implementation of the procedure for the determination of the payment method of the Agrarian Bonds. <i>See, e.g., R-34 ¶¶ 116, 275; Docs. R-390, R-595, R-991.</i> Specifically, the Working Group’s minutes dated March 22, 2017 state that internal guidelines were circulated to the Working Group members for discussions. Doc. R-595. The requested information is relevant and material for Gramercy to demonstrate the deficiencies in Peru’s bondholder process, including that Peru unilaterally determines the final amount and form of payment, which may include non-financial forms of property.</p>	Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the procedures for designating forms of payment established under the Supreme Decree applies only to bondholders participating in the Bondholder Process, and therefore is not relevant to the claims because Gramercy boycotted the Process. The Bondholder Process is a carefully regulated procedure grounded in Peruvian law, due process, and international best practices. Supreme Decree No. 242-2017-EF expressly provides the forms of payment which participating bondholders may select. Gramercy’s claims based upon the Bondholder Process, including the determination of form of payment, are hypothetical at best, because Gramercy chose not to participate. <i>See, e.g., Statement of Defense ¶¶ 110-119, 236, 279, 282, 292, 298.</i>	N/A
Reference in Memorial (paras.)		
C-34 ¶¶ 198-204, 206-207, 225-231, 236-238.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Gramercy is not in possession of this information, which Peru is in a position to produce without undue burden as it has already submitted relevant exhibits and statements regarding the Working Group.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues.	N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.

Document Request No. 17.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The reports prepared by the National Police of Peru (“<i>Dictamen Pericial de Grafotécnica</i>”) for each claim submitted to Peru’s bondholder process, which include <i>inter alia</i> the date of placement of each bond submitted in the claim, the series, the stated face value, the class, the number of clipped or unclipped coupons, copies or photographs of the relevant bonds, and the reasons for their successful or unsuccessful authentication, redacted as necessary for personal identifying information. This request is for the category of documents similar to Doc. R-649 for Case No. 70 for each of the cases listed in Docs. R-367 and R-368.</p>	<p>Peru objects to this request for the reasons set forth herein. The case files for individual bondholders participating in the Bondholder Process are irrelevant and material to the claims of Gramercy, which chose to boycott the Process. Gramercy’s request is nothing more than an obvious fishing expedition for irrelevant information, if not also an effort to interfere with Peruvians and Peruvian procedure, further to Gramercy’s pattern of interference and abuse.</p> <p>In any event, Peru previously produced a complete case file which demonstrated the implementation and application of the Bondholder Process. Production of the complete file, comprised of 25 exhibits totaling 100 pages, involved significant time and cost burdens, including to redact personal identifying information as required by Peruvian privacy laws. Peru considers it important for the Tribunal to weigh carefully whether production of additional individual case files, if any, would be warranted, in view of the objections set forth herein.</p>	N/A
Time frame of issuance		
From January 2014 to present.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is relevant and material to prove Gramercy’s claims that the updating formulas contained in the 2014 and 2017 Supreme Decrees are arbitrary and effectively deny the current value of the Bonds in violation of Peru’s treaty obligations.</p> <p>As Gramercy explained, the updating formula in the 2014 Supreme Decrees had no support in economic literature or logic, C-34 ¶ 198, and the August 2017 Supreme Decree formula remains economically unjustifiable and offers payment at far below current value. <i>Id.</i> ¶ 127. Peru has responded that the formula is “reasonable because it preserves the value of the bonds, and [is] consistent with economic theory.” R-34 ¶ 114. The information Gramercy requests is necessary to prove Gramercy’s claim that Peru’s updating formula, as applied to bonds that went through the bondholder process, is unsound.</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the documents are not relevant or material to Gramercy’s claim that the updating formulas under the Supreme Decrees are unsound and deny the current value of the Bonds. The documents do not concern the updating formulas, but rather Peru’s physical authentication of Bonds (held by third-party holders, not Gramercy) in individual case files as part of the Bondholder Process. The Bondholder Process is a carefully regulated procedure grounded in Peruvian law, due process, and international best practices. Gramercy’s claims based upon the Bondholder Process as applied to other bondholders are hypothetical at best, because Gramercy chose to boycott the Process. Documents evidencing Peru’s authentication of bonds held by third parties who opted to participate in the Bondholder Process are irrelevant and immaterial to Gramercy’s claims, for which Gramercy relies on unauthenticated scans of alleged Bonds. <i>See, e.g.</i>, Statement of Defense ¶¶ 5-6, 64, 110-119, 292.</p>	The request is not <i>prima facie</i> relevant and material to this case.
Reference in Memorial (paras.)		
C-34 ¶¶ 150-171, 181-188, 193, 196, 198-203, 205-207, 210-211, 235.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Peru has been conducting the bondholder process, through which it has necessarily gathered information regarding the bonds’ attributes in order to update their value. Gramercy is not in possession of this information, which Peru is in a position to produce without undue burden.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues.	N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because Peru previously produced a complete case file which demonstrated the implementation and application of the Bondholder Process. Production of the complete file, comprised of 25 exhibits totaling 100 pages, involved significant time and cost burdens, including to redact personal identifying information as required by Peruvian privacy laws. <i>See</i> Peruvian Law No. 29733, Law for the Protection of Personal Information (guaranteeing the fundamental right of protection of personal information). Production of an additional 300 authentication reports would require that Peru incur substantial further time and cost to review and redact all applicable information for each individual.	Peru has based its defense to Gramercy’s claims on the existence of the “bondholder process,” but has refused to provide evidence of the specific workings of this process other than for a sole bondholder of its choosing. Having done so, it is disingenuous for Peru to now claim that the requested documents are irrelevant or lack evidentiary value. Peru has further demanded far more burdensome discovery from Gramercy, including relating to its purchases of thousands of bonds, despite the fact that Gramercy already provided proof of ownership. Production of the set of documents requested is thus not unreasonably burdensome. Gramercy further has no objection to entering into a confidentiality agreement as necessary to protect personal information of bondholders, or to provide Peru with a reasonable amount of additional time to complete the necessary redactions.	The request is unreasonably burdensome. The objection is upheld.
O3: Loss or destruction (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Peru repeatedly has highlighted that Gramercy withheld relevant evidence on central issues, contrary to burdens of proof and in violation of due process and Tribunal orders. It remains unclear what Gramercy holds in reserve, to spring upon Peru later. Gramercy’s evident fishing expedition for information from individual bondholder case files stands in stark contrast to Gramercy’s own concealment of, <i>inter alia</i> , the contracts, purchase prices, and payment details for its alleged Bond acquisitions. Proportionality, fairness, and equality all weigh against Gramercy’s demand for production of all individual files – and further abuse of the Treaty dispute mechanism. <i>See</i> Reisman ¶¶ 76-86.	It does not offend principles of “fairness or equality” for Gramercy to request documents of the kind that Peru itself has already submitted into the record. Peru’s assertion that Gramercy has “concealed” information is disingenuous. Gramercy has submitted copies of all the Bonds at issue in the arbitration to the Tribunal, had previously provided the same to Peru, and has further offered to provide Peru the originals. Moreover, Gramercy can hardly be said to “conceal” information already in Peru’s possession, like the sales contracts.	N/A
Tribunal's Decision		
The request does not meet R2. Respondent’s O2 is upheld. The request is DISMISSED.		

Document Request No. 18.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>All resolutions, reports, and other documents issued by the MEF regarding updating the value of the Land Bonds in the 44 cases referenced in R-34 ¶ 126. This request is for the same type of document as those produced for Case No. 70 as Docs. R-658, R-659, R-660, and R-661.</p>	<p>Peru objects to this request for the reasons set forth herein. The case files for individual bondholders participating in the Bondholder Process are irrelevant and material to the claims of Gramercy, which chose to boycott the Process. Gramercy’s request is nothing more than an obvious fishing expedition for irrelevant information, if not also an effort to interfere with Peruvians and Peruvian procedure, further to Gramercy’s pattern of interference and abuse.</p> <p>In any event, Peru previously produced a complete case file which demonstrated the implementation and application of the Bondholder Process. Production of the complete file, comprised of 25 exhibits totaling 100 pages, involved significant time and cost burdens, including to redact personal identifying information as required by Peruvian privacy laws. Peru considers it important for the Tribunal to weigh carefully whether production of additional individual case files, if any, would be warranted, in view of the objections set forth herein.</p>	<p>The request does not identify in sufficient detail a document or a narrow and specific category of documents. The Tribunal decides to narrow down the request to: all final resolutions issued by the MEF regarding updating the value of the Land Bonds in the 44 cases referenced in R-34 ¶ 126, with personal identifying information redacted as appropriate.</p>
<p>Time frame of issuance</p> <p>From December 2015 to present.</p>		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is relevant and material to prove Gramercy’s claims that the updating formulas contained in the 2014 and 2017 Supreme Decrees are arbitrary and effectively deny the current value of the Bonds in violation of Peru’s treaty obligations.</p> <p>Peru submitted Doc. R-649 through R-670 regarding one of the five cases that had completed the bondholder process and received payment as of November 30, 2018—Case No. 70—which appears to be the case for which the highest payment was issued in <i>nuevos soles</i>. See Doc. R-367, Tab “RD Pagos.” Peru has not submitted information regarding the other cases, some of which involved bonds with a higher face value in <i>soles de oro</i> but yielded a lower valuation in <i>nuevos soles</i> than the case for which Peru has submitted exhibits. See <i>id.</i>, Case No. 31. The requested information regarding the other cases for which an updated value of the bonds was determined as a result of Peru’s bondholder process is necessary for Gramercy to assess the application of the updating formula in the Supreme Decrees to specific bonds.</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the documents are not relevant or material to Gramercy’s claim that the updating formulas are arbitrary and deny the current value of the Bonds. Only the final formula published under Supreme Decree No. 242-2017-EF has been applied to any Bonds in the Bondholder Process. The requested documents demonstrate Peru’s application of the formula to Bonds of third-party individuals who participated in the Bondholders Process. The Bondholder Process is a carefully regulated procedure grounded in Peruvian law, due process, and international best practices. Gramercy’s claims based the Bondholder Process as applied to other bondholders are hypothetical at best, because Gramercy chose to boycott the Process. Documents evidencing Peru’s actualization of the value of bonds held by third parties who opted to participate in the Bondholder Process are irrelevant and immaterial to Gramercy’s claims. Statement of Defense ¶¶ 110-119, 292, 304.</p>	<p>The request is <i>prima facie</i> relevant as narrowed down by the Tribunal.</p>
<p>Reference in Memorial (paras.)</p> <p>C-34 ¶¶ 150-171, 181-188, 193, 196, 198-203, 205-207, 210-211, 235.</p>		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Peru has already submitted exhibits containing this information for one case, and presumably possesses the same for the other cases it has identified. See Docs. R-658, R-659, R-660, and R-661. Gramercy is not in possession of this information, which Peru is in a position to produce without undue burden.</p>	<p>Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues.</p>	<p>The Tribunal takes notice.</p>

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	The Tribunal takes notice of Respondent’s objection. Respondent must proceed as described in para. 46 of Procedural Order No. 3.

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because Peru previously produced a complete case file which demonstrated the implementation and application of the Bondholder Process. Production of the complete file, comprised of 25 exhibits totaling 100 pages, involved significant time and cost burdens, including to redact personal identifying information as required by Peruvian privacy laws. <i>See</i> Peruvian Law No. 29733, Law for the Protection of Personal Information (guaranteeing the fundamental right of protection of personal information). Production of an additional 43 cases worth of documents, as Gramercy requests, would require that Peru incur substantial further time and cost to review and redact all applicable information for each individual.	Gramercy has alleged that the Supreme Decree updating formulas are arbitrary and effectively deny current value. Peru has based its defense on the existence of the “bondholder process,” but has refused to provide evidence of the workings of this process except for a sole bondholder of its choosing, without any way of determining whether that valuation is typical—and it likely is not. Peru has also repeatedly declined to provide <i>any</i> estimate of Gramercy’s Bonds pursuant to <i>any</i> of its formulas. It is disingenuous for Peru to now claim that the requested documents are irrelevant or lack evidentiary value. They have significant evidentiary value, as they contain information on the attributes of Bonds that allow Gramercy to assess Peru’s application of its valuation formula to those Bonds—a material point on which Peru has continued to be evasive. This value outweighs the burden to Peru, which does not require “an additional 43 cases worth of documents,” but rather four documents from each identified case. Peru has demanded far more burdensome discovery from Gramercy. Gramercy has no objection to entering into a confidentiality agreement as necessary to protect personal information of bondholders, or providing Peru additional time for redactions.	As narrowed down by the Tribunal, the request is not unreasonably burdensome.

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Peru repeatedly has highlighted that Gramercy withheld relevant evidence on central issues, contrary to burdens of proof and in violation of due process and Tribunal orders. It remains unclear what Gramercy holds in reserve, to spring upon Peru later. Gramercy’s evident fishing expedition for information from individual bondholder case files stands in stark contrast to Gramercy’s own concealment of, <i>inter alia</i> , the contracts, purchase prices, and payment details for its alleged Bond acquisitions. Proportionality, fairness, and equality all weigh against Gramercy’s demand for	It does not offend principles of “fairness or equality” for Gramercy to request documents of the kind that Peru itself has already submitted into the record. Peru’s assertion that Gramercy has “concealed” information is disingenuous. Gramercy has submitted copies of all the Bonds at issue in the arbitration to the Tribunal, had previously provided the same to Peru, and has further offered to provide Peru the originals. Moreover, Gramercy can hardly be said to	As narrowed down by the Tribunal, the request does not affect fairness or equality of procedure.

production of all individual files – and further abuse of the Treaty dispute mechanism. *See* Reisman ¶¶ 76-86.

“conceal” information already in Peru’s possession, like the sales contracts.

Tribunal's Decision

The request meets R1 to R3 as narrowed down by the Tribunal and is PARTIALLY GRANTED. Respondent must produce all final resolutions issued by the MEF regarding updating the value of the Land Bonds in the 44 cases referenced in R-34 ¶ 126, with personal identifying information redacted as appropriate.

Document Request No. 19.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Any documents demonstrating the amount the Peruvian government has actually paid in each of the 4 out of 5 proceedings identified as paid but for which exhibits were not submitted (Case Nos. 25, 31, 19, and 27) and intends to pay in each of the 6 proceedings identified as in progress of payment (Case Nos. 17, 198, 50, 42, 32, 153), with personal identifying information redacted as appropriate. This request is for the category of documents similar to Docs. R-663-670 for Case No. 70 for each of the cases listed in Doc. R-367, Tab “Formato D.” This is in addition to the documents corresponding to R-649, R-658, R-659, R-660, and R-661 for these 10 cases, which are also requested for these cases under Request Nos. 16 and 17 above.</p>	<p>Peru objects to this request for the reasons set forth herein. The case files for individual bondholders participating in the Bondholder Process are irrelevant and material to the claims of Gramercy, which chose to boycott the Process. Gramercy’s request is nothing more than an obvious fishing expedition for irrelevant information, if not also an effort to interfere with Peruvians and Peruvian procedure, further to Gramercy’s pattern of interference and abuse.</p> <p>In any event, Peru previously produced a complete case file which demonstrated the implementation and application of the Bondholder Process. Production of the complete file, comprised of 25 exhibits totaling 100 pages, involved significant time and cost burdens, including to redact personal identifying information as required by Peruvian privacy laws. Peru considers it important for the Tribunal to weigh carefully whether production of additional individual case files, if any, would be warranted, in view of the objections set forth herein.</p>	<p>The request identifies in sufficient detail a document or a narrow and specific category of documents.</p>
<p align="center">Time frame of issuance</p>		
<p>From November 2017 to present.</p>		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>This information is relevant and material to prove Gramercy’s claims that the updating formulas contained in the 2014 and 2017 Supreme Decrees are arbitrary and effectively deny the current value of the Bonds in violation of Peru’s treaty obligations.</p> <p>Peru submitted Doc. R-649 through R-670 regarding one of the five cases that had completed the bondholder process and received payment as of November 30, 2018. The requested information regarding the other cases for which payment has been issued or pending as a result of Peru’s bondholder process is necessary for Gramercy to assess the application of the updating formula in the Supreme Decrees to specific bonds.</p>	<p>Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the documents are not relevant or material to Gramercy’s claim that the updating formulas are arbitrary and deny the current value of the Bonds. The requested documents demonstrate the procedure for determining the form of payment of Bonds (held by third-party holders, not Gramercy) as part of the Bondholder Process. The Bondholder Process is a carefully regulated procedure grounded in Peruvian law, due process, and international best practices. Gramercy’s claims based upon the Bondholder Process as applied to other bondholders are hypothetical at best, because Gramercy chose to boycott the Process. Documents evidencing Peru’s procedure for the determination of form of payment of bonds held by third parties who opted to participate in the Bondholder Process are irrelevant and immaterial to Gramercy’s claims. Statement of Defense ¶¶ 110-119, 292.</p>	<p>The request is relevant and material as narrowed down by the Tribunal: documents demonstrating the amount the Peruvian government has actually paid in each of the 4 out of 5 proceedings identified as paid but for which exhibits were not submitted (Case Nos. 25, 31, 19, and 27 listed in Doc. R-367, Tab “Formato D”), with personal identifying information redacted as appropriate.</p>
<p align="center">Reference in Memorial (paras.)</p>		
<p>C-34 ¶¶ 150-171, 181-188, 193, 196, 198-203, 205-207, 210-211, 235.</p>		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Peru has already submitted exhibits regarding one of the five cases that have completed its bondholder process as of November 2018 and the six cases for which payment is pending. <i>See Docs. R-367, R-368, and R-369.</i> Gramercy is not in possession of this information, which Peru is in a position to produce without undue burden.</p>	<p>Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues.</p>	<p>The Tribunal takes notice.</p>

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<p>Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.</p>	<p>Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.</p>	<p>The Tribunal takes notice of Respondent’s objection. Respondent</p>

		must proceed as described in para. 46 of Procedural Order No. 3.
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because Peru previously produced a complete case file which demonstrated the implementation and application of the Bondholder Process. Production of the complete file, comprised of 25 exhibits totaling 100 pages, involved significant time and cost burdens, including to redact personal identifying information as required by Peruvian privacy laws. <i>See</i> Peruvian Law No. 29733, Law for the Protection of Personal Information (guaranteeing the fundamental right of protection of personal information). Production of an additional 10 cases worth of documents, as Gramercy requests, would require that Peru incur substantial further time and cost to review and redact all applicable information for each individual.	Gramercy has alleged that the Supreme Decree updating formulas are arbitrary and effectively deny current value. Peru has based its defense on the existence of the “bondholder process,” but has refused to provide evidence of the workings of this process except for a sole bondholder of its choosing, without any way of determining whether that valuation is typical—and it likely is not. Peru has also repeatedly declined to provide any estimate of Gramercy’s Bonds pursuant to any of its formulas. It is disingenuous for Peru to now claim that the requested documents are irrelevant or lack evidentiary value. They have significant evidentiary value, as they contain information on the attributes of Bonds that allow Gramercy to assess Peru’s application of its valuation formula to those Bonds—a material point on which Peru has continued to be evasive. This value outweighs the burden to Peru, which does not require “an additional 10 cases worth of documents,” but rather specific documents from each identified case. Peru has demanded far more burdensome discovery from Gramercy. Gramercy has no objection to entering into a confidentiality agreement as necessary to protect personal information of bondholders, or providing Peru additional time for redactions.	As narrowed down by the Tribunal, the request is not unreasonably burdensome.
O3: Loss or destruction (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Peru repeatedly has highlighted Gramercy’s withholding of relevant evidence on central issues, contrary to burdens of proof and in violation of due process and Tribunal orders. It remains unclear what Gramercy holds in reserve, to spring upon Peru later. Gramercy’s evident fishing expedition for information from individual bondholder case files stands in stark contrast to Gramercy’s own concealment of, <i>inter alia</i> , the contracts, purchase prices, and payment details for its alleged Bond acquisitions. Proportionality, fairness, and equality all weigh against Gramercy’s demand for production of all individual files – and further abuse of the Treaty dispute mechanism. <i>See</i> Reisman ¶¶ 76-86.	It does not offend principles of “fairness or equality” for Gramercy to request documents of the kind that Peru itself has already submitted into the record. Peru’s assertion that Gramercy has “concealed” information is disingenuous. Gramercy has submitted copies of all the Bonds at issue in the arbitration to the Tribunal, had previously provided the same to Peru, and has further offered to provide Peru the originals. Moreover, Gramercy can hardly be said to “conceal” information already in Peru’s possession, like the sales contracts.	As narrowed down by the Tribunal, the request does not affect fairness or equality of procedure
Tribunal's Decision		
The requests meets R1, R2, and R3 as narrowed down by the Tribunal and is PARTIALLY GRANTED. Respondent must produce documents demonstrating the amount the Peruvian government has actually paid in each of the 4 out of 5 proceedings		

identified as paid but for which exhibits were not submitted (Case Nos. 25, 31, 19, and 27 listed in Doc. R-367, Tab “Formato D”), with personal identifying information redacted as appropriate.

Document Request No. 20.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The 18 requests for reconsideration or recourses for appeal filed in response to a Directoral Resolution with the updated value of the bonds (<i>see</i> Doc. R-368 , Tab “Consolidado,” Column “Fecha de Apelación,”) and any other documents demonstrating the basis for such requests, with personal identifying information redacted as appropriate.	Peru objects to this request for the reasons set forth herein. The case files for individual bondholders participating in the Bondholder Process are irrelevant and material to the claims of Gramercy, which chose to boycott the Process. Gramercy’s request is nothing more than an obvious fishing expedition for irrelevant information, if not also an effort to interfere with Peruvians and Peruvian procedure, further to Gramercy’s pattern of interference and abuse.	The request does not identify in sufficient detail a document or a narrow and specific category of documents. The request is narrowed down to: the 18 requests for reconsideration or recourses for appeal filed in response to a Directoral Resolution with the updated value of the bonds (<i>see</i> Doc. R-368, Tab “Consolidado”, Column “Fecha de Apelación”), with personal identifying information redacted as appropriate.
Time frame of issuance		
From September 2017 to present.	In any event, Peru previously produced a complete case file which demonstrated the implementation and application of the Bondholder Process. Production of the complete file, comprised of 25 exhibits totaling 100 pages, involved significant time and cost burdens, including to redact personal identifying information as required by Peruvian privacy laws. Peru considers it important for the Tribunal to weigh carefully whether production of additional individual case files, if any, would be warranted, in view of the objections set forth herein.	

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
This information is relevant and material to prove Gramercy’s claims that the updating formulas contained in the 2014 and 2017 Supreme Decrees are arbitrary and effectively deny the current value of the Bonds in violation of Peru’s treaty obligations.	Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the documents are not relevant or material to Gramercy’s claim that the updating formulas are arbitrary and deny the current value of the Bonds. The requested documents demonstrate the appeal mechanisms available to participants in the Bondholder Process at various stages of the process, consistent with due process and Peruvian law. The Bondholder Process is a carefully regulated procedure grounded in Peruvian law, due process, and international best practices, and affords participants multiple opportunities for recourse to administrative or even judicial review procedures. Gramercy’s claims based upon the Bondholder Process as applied to other bondholders are hypothetical at best, because Gramercy chose to boycott the Process. Documents relating to the due process available to participants in the Bondholder Process are irrelevant and immaterial to Gramercy’s claims. Statement of Defense ¶¶ 110-119, 292.	The request is <i>prima facie</i> relevant as narrowed down by the Tribunal.
Reference in Memorial (paras.)		
C-34 ¶¶ 150-171, 181-188, 193, 196, 198-203, 205-207, 210-211, 235.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Peru has already submitted exhibits identifying these requests. Gramercy is not in possession of this information, which Peru is in a position to produce without undue burden.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy’s possession relating to these issues.	The Tribunal takes notice.

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	The Tribunal takes notice of Respondent’s objection. Respondent

		must proceed as described in para. 46 of Procedural Order No. 3.
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The category of documents lacks any evidentiary value that could outweigh the time, cost, and other burdens that production would entail, including, <i>inter alia</i> , because Peru previously produced a complete case file which demonstrated the implementation and application of the Bondholder Process. Production of the complete file, comprised of 25 exhibits totaling 100 pages, involved significant time and cost burdens, including to redact personal identifying information as required by Peruvian privacy laws. <i>See</i> Peruvian Law No. 29733, Law for the Protection of Personal Information (guaranteeing the fundamental right of protection of personal information). Production of 18 cases worth of documents, as Gramercy requests, would require that Peru incur substantial further time and cost to review and redact all applicable information for each individual.	Gramercy has alleged that the Supreme Decree updating formulas are arbitrary and effectively deny current value. Peru denied this allegation, basing its defense on the existence of the “bondholder process.” Yet at the same time, Peru’s own evidence demonstrates that a significant number of bondholders have challenged the valuation formulas received under that process. The nature of these challenges thus has significant evidentiary value in assessing Peru’s defenses to Gramercy’s claims. This value outweighs the burden to Peru of producing these specifically identified documents. Further, Gramercy has not requested “an additional 18 cases worth of documents,” but rather 18 specific documents that are easily identifiable and clearly within Peru’s possession. Peru has demanded far more burdensome discovery from Gramercy. Gramercy has no objection to entering into a confidentiality agreement as necessary to protect personal information of bondholders, or providing Peru additional time for redactions.	As narrowed down by the Tribunal, the request is not unreasonably burdensome.
O3: Loss or destruction (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Peru repeatedly has highlighted Gramercy’s withholding of relevant evidence on central issues, contrary to burdens of proof and in violation of due process and Tribunal orders. It remains unclear what Gramercy holds in reserve, to spring upon Peru later. Gramercy’s evident fishing expedition for information from individual bondholder case files stands in stark contrast to Gramercy’s own concealment of, <i>inter alia</i> , the contracts, purchase prices, and payment details for its alleged Bond acquisitions. Proportionality, fairness, and equality all weigh against Gramercy’s demand for production of all individual files – and further abuse of the Treaty dispute mechanism. <i>See</i> Reisman ¶¶ 76-86.	It does not offend principles of “fairness or equality” for Gramercy to request documents of the kind that Peru itself has already submitted into the record. Peru’s assertion that Gramercy has “concealed” information is disingenuous. Gramercy has submitted copies of all the Bonds at issue in the arbitration to the Tribunal, had previously provided the same to Peru, and has further offered to provide Peru the originals. Moreover, Gramercy can hardly be said to “conceal” information already in Peru’s possession, like the sales contracts.	As narrowed down by the Tribunal, the request does not affect fairness or equality of procedure.
Tribunal's Decision		
The requests meets R1, R2, and R3 as narrowed down by the Tribunal and is PARTIALLY GRANTED: Respondent must produce the 18 requests for reconsideration or recourses for appeal filed in response to a Directoral Resolution with the updated value of the bonds (see Doc. R-368, Tab “Consolidado”, Column “Fecha de Apelación”), with personal identifying information redacted as appropriate.		

Document Request No. 21.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Any internal rules, guidelines or other protocols at the MEF that apply for the development, drafting, and issuance of decrees and that were in effect when the MEF developed and issued Decrees N° 017-2014-EF, N° 019-2014-EF, N° 034-2017-EF and N° 242-2017-EF.	Peru objects to this request for the reasons set forth herein. Notwithstanding and reserving its objections, Peru has produced relevant and material documents in its possession and control as part of the more than 1,000 fact exhibits Peru has submitted to date, and will produce relevant and material documents located in response to this request, if any.	The Tribunal takes notice.
Time frame of issuance		
July 2013 to August 2017.		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The requested information is relevant and material to prove Gramercy's claims that Peru's enactment of the Supreme Decrees was part of a tainted, arbitrary, and unjust process that failed to comport with Peru's treaty obligations, that Peru's multiple unilateral revisions to the formula demonstrate the lack of process and haphazard nature of the bondholder process, in violation of Peru's treaty obligations. As Gramercy explained, Peru has issued multiple Supreme Decrees without providing any justification or explanation for doing so. C-34 ¶ 199. Peru's only explanation for its opportunistic changes in position is its bland and unsupported assertion that it decided to review its updating formula in the 2014 Supreme Decrees, because it would be "prudent" to do so since the formula was developed solely on a "theoretical basis." <i>See, e.g., RWS-1 ¶¶ 37-38; Doc. R-341 ¶ 22; Doc. R-352 ¶ 9.</i> The documents Gramercy requests are necessary to demonstrate that Peru has acted in an arbitrary and non-transparent manner with respect to the Supreme Decrees, and to show Peru's actual motivation for again revising the formula.	Gramercy has not demonstrated that the requested documents are relevant and material. Among other things, the documents are not relevant or material to Gramercy's claim regarding the allegedly arbitrary process and "actual motivation" underlying the 2014 Supreme Decrees. The requested documents do not relate specifically to any of the Supreme Decrees, but rather are publicly available and generally applicable rules, guidelines, and protocols. Further, Peru previously produced documents specifically evidencing the process for developing, drafting, and issuing each of the Supreme Decrees – which confirm that the process was reasoned, transparent, and fully compliant with Peruvian law. <i>See, e.g., Statement of Defense ¶¶ 110-119.</i>	N/A
Reference in Memorial (paras.)		
C-34 ¶¶ 150-171, 181-196, 198-207, 235.		

R3: Not in possession of requesting party (max. 100 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The requested information is not at Gramercy's disposal because it is internal governmental documentation, which the Government is in a position to access without undue burden.	Peru previously produced documents regarding the referenced issues. There is thus material in Gramercy's possession relating to these issues. In addition, Gramercy may independently have possession or access to such documents. MEF rules, guidelines, and protocols are publicly available.	N/A

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Documents prepared in anticipation of litigation or arbitration, if any, would be subject to legal privilege per Procedural Order No. 3.	Gramercy reserves the right to respond to any specific documents or categories of documents identified as privileged.	N/A

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss or destruction (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
<p>The Tribunal takes notice that Respondent has undertaken to “produce relevant and material documents located in response to this request, if any”.</p>		