

## International Centre for Settlement of Investment Disputes

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By Fax

July 14, 2003

Tokios Tokelés  
c/o Mr. Serhiy Danylov  
Chairman of the Board and General Director  
and Mr. Ivan Lozowy  
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Ukraine  
c/o Prime Minister of Ukraine  
Cabinet of Ministers  
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and  
Ms. Lada Pavlikovska  
Deputy State Secretary  
and  
Mr. Kostyantyn Krasovsky  
Head of Department on  
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Re: Tokios Tokelés v. Ukraine (ICSID Case No. ARB/02/18)

Dear Sirs and Madam,

I refer to the Respondent's letters of June 27 and July 3, 2003 and the Claimant's letters of July 1 and 11, 2003 regarding the Respondent's request for production of documents of May 7, 2003 in this case.

At the first session of the Tribunal held in Paris on June 3, 2003, it was agreed that the Claimant produce as many documents as it considers appropriate and responsive to the Respondent's request by June 20, 2003, and that the Respondent, if it is not satisfied with the Claimant's document production, provide its observations on such production by June 27, 2003.

Having received from the Claimant its document production within the time limit prescribed, the Respondent submitted its observations on such production on June 27, 2003, setting out a list of "missing" documents and requesting the Tribunal to fix a reasonable time limit

for the production of the listed documents. The Claimant responded by letter of July 1, 2003, stating that the Respondent's observations of June 27, 2003 did not "conform to the agreement reached by the parties" and that it would "consider the production of additional documents in due course". The Respondent replied in a letter of July 3, 2003, requesting the Tribunal to "instruct the Claimant to produce the requested documents within ten days". On July 11, 2003, the Claimant provided detailed comments on the Respondent's request of June 27, 2003, stating that the Tribunal should reject such request.

The Tribunal has carefully considered the parties' submissions on the above-mentioned issue and has requested me to inform you of its decision as follows:

In view of the Claimant's letter of July 11, 2003 the Tribunal decides that the Claimant produce those of the documents requested by the Respondent which the Claimant regards as relevant to the issue before the Tribunal and as not being already in the Respondent's possession. The Tribunal's decision is without prejudice to its power under Article 43 of the ICSID Convention and Rule 34 of the Arbitration Rules to call upon the parties to produce documents or other evidence that it might deem necessary in order to decide on the jurisdiction issue.

The Claimant is requested to produce the above-mentioned documents by July 21, 2003. Should the Claimant have difficulties in providing the translations into English of the documents by July 21, it may submit documents in Ukrainian/Russian without any translation and complete the translations of those documents by July 28, 2003.

The Tribunal wishes to remind the parties of their obligation "to cooperate with the Tribunal in the production of evidence", set out under Rule 34(3) of the Arbitration Rules.

Sincerely yours.

.....Signed.....

Martiná Suchanková  
Secretary of the Tribunal

cc :

Members of the Tribunal