

**Churchill Mining PLC and Planet Mining Pty Ltd v. Republic of Indonesia**  
**(ICSID Case No. ARB/12/14 and 12/40)**

**Respondent's Request to Produce Documents**

**13 March 2015**

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No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
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1.	Resp.	All documents provided to ICD and/or Churchill in 2006-2007 by Rimineco concerning the status of the areas that later formed the so-called EKCP, including all documents relating to any mining undertaking license over any part of those areas.	Prior to Claimants' involvement in the EKCP, Ridlatama's expert technical advisor, Rimineco, had been investigating the area (Hardwick WS, ¶¶ 15-16). In late 2006, Rimineco made Churchill and/or ICD aware that the Nusantara Group held mining licenses over the area (Gunter WS, ¶ 55). Rimineco's Reconnaissance Survey Report, which was delivered to ICD, advised that the area was already full with existing mining concessions (exhibit C-26, ¶ 1.1) and showed the areas licensed to Nusantara in the maps attached to the Report (exhibit C-26, Attachments 02, 04, 05, 06). After reviewing the Report, Churchill's consultant Mr. Gunter "came to understand the precise areas within the EKCP Area" and that the areas that had "the largest coal potential fell within the expired Nusantara concession areas" (Gunter WS, ¶¶ 56, 59).	The requested documents are relevant and material to Claimants' claim that areas were "open for licensing" and therefore to whether there was a motive to forge and fabricate the Ridlatama's licenses.	The Claimants will produce any such documents that are in their possession, control or custody.	Claimants did not produce any documents and stated: "After conducting extensive searches, no responsive documents have been found to be within the Claimants' possession, control or custody." Respondent notes Claimants' response.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that "no responsive documents have been found to be within" their possession, control or custody.
2.	Resp.	All documents provided by Rimineco to Churchill, ICD or Ridlatama showing how	According to Claimants' geological consultant Mr. Gunter, he and his company	Respondent notes that Rimineco's 2007 report for ICD advised that the blocks	The Claimants will produce any such documents that are in their	Respondent notes that Claimants produced two documents.	<b>NO DECISION REQUIRED</b>

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		Rimineco "mapped the relevant areas" of the "EKCP."	GMT were "not directly involved in the process of applying for the concessions [as] this was handled by Rimineco [Ridlatama's consultants] and/or the Ridlatama Group. ... For example, in relation to the RTM and RTP concessions, the Rimineco technical team ... mapped the relevant areas" of the EKCP, and Mr. Gunter, "subsequently verified the data for inclusion in the mining licence applications" to ensure that "known coal outcrops ... were within the concession boundaries" and that "everyone is satisfied" that the boundaries "cover the prospective area" (Gunter WS, ¶¶ 69-71).	of RTM and RTP should be located outside the areas of the Nusantara mining licenses. (Ex. C-26, Rimineco Report dated 2007, ¶ 1.1 and Map in Attachment-02). The boundaries of the areas of the alleged licenses of RTM and RTP are completely different from the areas suggested by Rimineco in the above Report and they overlapped with Nusantara's areas (E.g., Ex. R-032, BPK Audit Report, p. 41). The areas under the alleged mining licenses of IR and INP also overlapped with Nusantara's areas (e.g., Nurohmah WS, ¶ 16). The requested documents are relevant, because they would show who was responsible for the inclusion of the particular boundaries in the application for the alleged mining licenses. This is material to the issue of how the alleged mining licenses were prepared.	possession, control or custody.		The Tribunal takes note that the Claimants produced two responsive documents.
3.	Resp.	SKIP permits granted by the Regent of East Kutai to the	Claimants rely on the SKIP permits as indicia of the	The requested documents are relevant and material to	No such documents are in the possession, control or	This request is for specific relevant and material	<b>GRANTED</b>  The Tribunal notes the

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		Ridlatama Companies.	<p>authenticity of the general survey and exploration licenses. Claimants state that Respondent does not dispute the authenticity of the SKIP permits. However, Respondent has not seen the SKIP permits on which Claimants rely and <u>exhibit C-381 indicates that the Ridlatama Companies did not have SKIP permits.</u></p> <p>Claimants' letter dated 23 November 2014, p. 8; Claimants' Memorial on Merits, ¶¶ 144, 373; Hardwick WS, ¶¶ 20-22; First Quinlivan WS, ¶ 18; Benjamin WS, ¶ 8; Gunter WS, ¶ 26; Respondent's letter dated 1 December 2014, p. 9, citing exhibit C-381.</p>	<p>whether the Ridlatama Companies had SKIP permits, whether the permits are authentic, and whether the permits are reliable indicia of the authenticity of the general survey and exploration licenses.</p> <p>The requested documents are not in the possession, control or custody of Respondent.</p>	<p>custody of the Claimants.</p> <p>For the record, the Claimants do not accept the State's interpretation of Exhibit C-381.</p> <p>Exhibit C-381 lists the permits and other documents that the Ridlatama Group had at the time and which were recognized as registrable under MINERBA (the new 2009 Mining Law). SKIP permits were not part of the suite of registrable instruments because, at this time, the Ridlatama Group had General Survey Licences (which rendered the SKIP permits redundant).</p>	<p>documents – the SKIP permits – on which Claimants rely in defending the authenticity of the licenses. Claimants' interpretation of exhibit C-381 demonstrates continued reliance on such SKIP permits. (Respondent disagrees with Claimants' interpretation.)</p> <p>Similar documents in Claimants' exhibits likewise pertain to the Ridlatama companies whom Claimants consider as their business partners.</p> <p>The requested documents should be under Claimants' control and they should produce them.</p>	<p>Claimants' statement that no responsive documents are within their possession, control or custody. The Tribunal is of the view that the Claimants should make additional efforts to request any responsive documents from the Ridlatama companies.</p>
4.	Resp.	“Application Letter of PT Ridlatama Tambang Mineral Number A.1.0-2302-1/KP.RTM-Kutim/II-2007 dated 20 March 2007 concerning Application for General Survey of Coal Deposits.”	<p>The alleged general survey license for RTM dated 24 May 2007 (exhibit C-40) states that it was issued based on RTM's application dated 20 March 2007. However, RTM's application on record is dated 23 February 2007 (exhibit C-32). Further, the coordinates in the dated 23 February 2007 are different from those in the alleged license.</p>	<p>The requested document is relevant and material to whether the alleged RTM mining undertaking license for general survey is authentic and how it was procured.</p> <p>The requested document is not in the possession, custody or control of Respondent.</p>	<p>No such document is in the possession, control or custody of the Claimants.</p>	<p>This request is for a specific relevant and material document, originating on a specific date from a specific Ridlatama company. Among Claimants' exhibits, there are several documents that originated with the Ridlatama Companies, whom Claimants consider as their</p>	<p><b>GRANTED</b></p> <p>The requested document appears <i>prima facie</i> relevant. The Tribunal notes that Exhibit C-40 expressly refers to the 20 March 2007 Letter No. A-1-0-2302-1/KP.RTM-Kutim/II-2007.</p> <p>The Tribunal further notes the Claimants' representation that no</p>

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						business partners. The requested document should be under Claimants' control and they should produce it.	responsive document is in their possession, control or custody. However, the Claimants do not appear to have requested the responsive document from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain the responsive document from the Ridlatama Group.
5.	Resp.	RTM's "letter Number 25/RTM/III/2007 dated 20 March 2007 addressed to the Department of Energy and Mineral Resources for the attention of Head of Legal Section regarding Confirmation on Application for General Survey Concession Area," referenced in the Ministry's reply letter dated 23 March 2007.	According to Claimants, "[t]he Directorate General of MEMR also confirmed that the area was 'open' in a letter to Ridlatama dated 23 March 2007" (Claimants' Memorial on Merits, ¶ 141, citing exhibit C-37, Letter from Ministry of Energy and Mineral Resources to Ridlatama). According to Mr. Benjamin, "[i]n light of the representations by the Indonesian Government," including the 23 March 2007 letter, "PT ICD and Churchill as well as Ridlatama were satisfied that <u>Ridlatama had obtained valid KP General Survey Licenses . . .</u> " (Benjamin WS, ¶ 33 (emphasis added)). The 23 March 2007 "letter from the	Respondent has explained that, based on its express language, the 23 March 2007 letter did not contain an unqualified statement that the areas were "open," but stated that the areas were subject to a condition that no extension was requested by the Nusantara companies. Respondent's Memorial on Objections to Jurisdiction, ¶¶ 75-76; Respondent's letter dated 3 November 2014, Annex A "Non-Viability of Claimants' Claims Based on Finding of Forgery of Ridlatama Licenses," p. 4). Since Claimants' evidence links the 23 March 2007 letter and the question of validity of the licenses for	No such document is in the possession, control or custody of the Claimants.	This request is for a specific relevant and material document, originating on a specific date from a specific Ridlatama company. Among Claimants' exhibits, there are several documents that originated with the Ridlatama Companies, whom Claimants consider as their business partners.  The requested document should be under Claimants' control and they should produce it.	<b>GRANTED</b>  The requested document appears <i>prima facie</i> relevant. The Tribunal notes that Exhibit C-37 expressly refers to the 20 March 2007 Letter No. 25/RTM/III/2007.  The Tribunal further notes the Claimants' representation that no responsive document is in their possession, control or custody. However, the Claimants do not appear to have requested the responsive document from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain the responsive document from the Ridlatama Group.

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			Directorate General of Mineral and Coal dated 23 March 2007 was in response to a 20 March 2007 letter sent by RTM to the Directorate General seeking confirmation that any previous licences over RTM's general survey concession area had lapsed and were invalid by operation of law" (Benjamin WS, ¶ 29).	general survey, the context for issuing the 23 March 2007 letter is relevant and material to the question of the authenticity of the licenses. MEMR's records indicate that the 20 March 2007 letter was received. However, a copy cannot be located despite diligent searches. As the requested document is not in the possession, control or custody of Respondent, it requests that Claimants produce this document.			
6.	Resp.	All memoranda, transmittal notes or other documents indicating Claimants' or Ridlatama's source of the alleged 26 February 2007 internal Staff Analysis from the Head of the East Kutai Mining Bureau to the Regent of East Kutai, or how Claimants or Ridlatama came into possession of this Staff Analysis.	According to Claimants, "on 26 February 2007, the East Kutai Department of Mines confirmed in a letter to the Bupati of East Kutai that the EKCP area was not the subject of any subsisting licences" (Claimants' Memorial on Merits, ¶ 141, citing exhibit C-37). Respondent disputes the authenticity of the 26 February 2007 Staff Analysis (e.g., Respondent's letter dated 3 November 2014, Annex A "Non-Viability of Claimants' Claims Based on Finding of Forgery of	The requested documents are relevant and material to whether the alleged 26 February 2007 Staff Analysis is authentic and how it was procured. The requested documents are not in the possession, control or custody of Respondent.	No such documents are in the possession, control or custody of the Claimants.	Respondent notes Claimants' response.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that "no responsive documents have been found to be within" their possession, control or custody.

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			Ridlatama Licenses," p. 4).				
7.	Resp.	All photographs of Ridlatama's meetings with East Kutai officials which took place from 2006-2010.	According to Mr. Benjamin, "[a]t each stage of the EKCP project, PT ICD and Churchill oversaw Ridlatama's interactions with the Bupati's office ... and collected evidence, including by taking photographs in some instances, of the valid issuance of the licences" (Benjamin WS, ¶ 15(a)).	The requested documents are relevant and material to Claimants' assertion that the issuing of the mining undertaking licenses were photographed in some instances.	The Claimants will produce any such documents that are in their possession, control or custody.	Respondent understands that Claimants produced all such photographs that they have. The photographs are identified as relating to the period of March-April 2009 only.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note that the Claimants have produced all responsive documents in their possession.
8.	Resp.	All documents evidencing the alleged "handover ceremony" or "formal handover presentation" of the Ridlatama Companies' licenses, at which Bupati Ishak formally granted or handed over the KP General Survey Licences of RTM, RTP, IR and INP to Ridlatama representatives.	Mr. Benjamin was told by Ridlatama that the Bupati held a "handover ceremony" for the KP General Survey Licenses of RTM and RTP and an "official presentation" of the KP General Survey Licenses of IR and INP (Benjamin WS, ¶¶ 22, 36).	The requested documents are relevant and material to whether the alleged mining undertaking licenses for general survey are authentic and how they were procured.  The requested documents are not in the possession, custody or control of Respondent.	No such documents are in the possession, control or custody of the Claimants.	Respondent notes Claimants' response.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that no responsive documents are in their possession, control or custody.
9.	Resp.	All correspondence, memoranda, letters, notes, lists, etc. accompanying the alleged delivery by Ridlatama to ICD or Claimants of the alleged mining undertaking licenses of general survey of RTM and RTP dated 24 May 2007 and those of IR and INP dated 29 November 2007.	According to Mr. Benjamin, he "collected all of the documentation associated with each licence for the EKCP from Ridlatama" (Benjamin WS, ¶ 22). Ridlatama was obligated to deliver to Claimants documents such as licenses, permits, approvals, authorizations, etc. (exhibit P-17, Deed of	Ridlatama's official business letters or notes to Claimants, accompanying the alleged delivery, would record that the delivery was made and the date of the delivery.  The requested documents are relevant and material to whether the alleged mining undertaking licenses for	No such documents are in the possession, control or custody of the Claimants. The Ridlatama Group provided the General Survey Licences to ICD in-person.	Respondent notes Claimants' response.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that no responsive documents are in their possession, control or custody.

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			Beneficial Control and Ownership dated 22 May 2007, ¶ 8.3(a)(ix); <i>see also id.</i> , ¶ 2.1).	general survey are authentic, how they were procured, and who prepared them.			
10.	Resp.	Letters from the Regent of East Kutai to RTM and RTP concerning Payment of Provisioning of Territory, Fixed Contribution and Capability Security, in connection with the RTM's and RTP's mining undertaking licenses for general survey, similar to those appearing in exhibits C-92 (re IR) and C-93 (re INP).	Mr. Benjamin states that in July 2007, "we paid the Dead Rent payments corresponding to the RTM and RTP General Survey Licences [and] a 'Seriousness Bond' that was required by the Government to maintain these licences. The Indonesian Government <u>requested</u> and accepted these payments. <u>This confirmed to us that these licences had been validly issued</u> " (Benjamin WS, ¶ 21, emphasis added). With respect to similar payments in connection with the general survey licenses for IR and INP, Mr. Benjamin cites exhibits C-92 and C-93 and says that these payments were made "as we had done with . . . RTM and RTP" (Benjamin WS, ¶ 38 and n. 14; Claimants' letter dated 8 December 2014, p. 10 and n. 49). Among the documents comprising exhibits C-92 and C-93, there are purported	The signatures on the alleged Regent's letters in exhibits C-92 (re IR) and C-93 (re INP) are identical between themselves and to the signatures in the documents identified in Respondent's Application for Dismissal, ¶¶ 25, 26 (i-ii), <i>i.e.</i> , the alleged general survey and exploration licenses, certification letters and certificates of legality. Moreover, these letters are not recorded in the Regency's register of outgoing letters.  An examination of the requested letters of the Regent re RTM and RTP and their comparison to the alleged Regent's letters in exhibits C-92 (re IR) and C-93 (re INP) as well as to the other letters containing the same signature as in exhibits C-92 and C-93 is relevant and material to whether the requested letters and the letters in exhibits C-92 and C-93 are	No such documents are in the possession, control or custody of the Claimants. However, the Claimants do have two letters that Mr Benjamin refers to in paragraph 21 of his Witness Statement, where he states that ICD "receiv[ed] a request from the East Kutai Regency Mining Office" to make the Dead Rent payments for RTM and RTP. These letters, dated 14 May 2007, relate to the Payment of Area Reserve Dead Rent and the Sincerity Deposit ( <i>i.e.</i> the "Seriousness Bond"). They were issued by Djaja Putra, the Regional Head of the Regency of East Kutai's Mining and Energy Bureau at the time.	Respondent notes that Claimants produced one letter from Mr. Djaja Putra. However, Respondent was interested in letters from the Regent Awang Feroek Ishak concerning RTM and RTP, similar to the alleged Regent's letters in exhibits C-92 and C-93 concerning IR and INP. Based on Claimants' explanation, Respondent understands that there are no such letters.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that no further responsive documents are in their possession, control or custody.

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			letters from the Regent to IR and INP, respectively, dated 4 December 2007, concerning Payment of Provisioning of Territory, Fixed Contribution and Capability Security. Therefore, Respondent believes that Claimants should have similar letters concerning RTM and RTP.	authentic and whether the "licenses had been validly issued."  The requested documents are not in the possession, control or custody of Respondent.			
11.	Resp.	Cooperation Agreement dated 25 May 2007 <u>with Attachment Six</u> "KPs" [mining licenses] <u>and Attachment Seven</u> "Block Coordinates."	In Claimants' exhibit C-43, Cooperation Agreement dated 25 May 2007, all eight attachments are blank. Each attachment bears only its number and title. "The Cooperation Agreement set out PT ICD's obligation ... in the area covered by the mining licenses ..." (Claimants' Memorial on Merits, ¶ 80 and nn. 31-32).	The absence of the attachments from the submitted Cooperation Agreement raise further questions concerning authenticity of the mining undertaking licences for general survey dated 24 May 2007.	No such documents are in the possession, control or custody of the Claimants. The documents requested were not originally included as attachments to the Cooperation Agreement.	Respondent understands that no mining licenses or coordinates were attached to the Cooperation Agreement.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that no responsive documents are in their possession, control or custody.
12.	Resp.	Cooperation Agreement dated 28 November 2007 <u>with Attachment Five</u> "KPs" [mining licenses] <u>and Attachment Six</u> "Block Coordinates."	"On 28 November 2007, PT ICD entered into a new Cooperation Agreement with Ridlatama (Claimants' Memorial on Merits, ¶ 83 and n. 36). In Claimants' exhibit C-56, Cooperation Agreement dated 28 November 2007, all seven attachments are blank. Each attachment bears only its	The absence of the attachments from the submitted Cooperation Agreement raise further questions concerning authenticity of the mining undertaking licences for general survey dated 24 May 2007.	No such documents are in the possession, control or custody of the Claimants. The documents requested were not originally included as attachments to the Cooperation Agreement.	Respondent understands that no mining licenses or coordinates were attached to the (Second) Cooperation Agreement.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that no responsive documents are in their possession, control or custody.

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13.	Resp.	Cooperation Agreement dated 31 March 2008 <u>with Attachment Three</u> "KPs" [mining licenses] <u>and Attachment Four</u> "Block Coordinates."	<p>"[O]n 31 March 2008, PT ICD entered into a Cooperation Agreement with Investama Resources and Invest[mine Nusa] Persada ... [concerning] the areas covered by the mining licences of Investama Resources and Invest[mine Nusa] Persada" (Claimants' Memorial on Merits, ¶ 85 and n. 38).</p> <p>In Claimants' exhibit C-86, Cooperation Agreement dated 31 March 2008, all five attachments are blank. Each attachment bears only its number and title.</p>	The absence of the attachments from the submitted Cooperation Agreement raise further questions concerning the authenticity of the mining undertaking licences for general survey dated 29 November 2007.	No such documents are in the possession, control or custody of the Claimants. The documents requested were not originally included as attachments to the Cooperation Agreement.	Respondent understands that no mining licenses or coordinates were attached to this Cooperation Agreement either.	<p><b>NO DECISION REQUIRED</b></p> <p>The Tribunal takes note of the Claimants' statement that no responsive documents are in their possession, control or custody.</p>
14.	Resp.	All alleged notifications from "the Bupati's office ... [to] Ridlatama that it had issued the KP Exploration Licences to RTP, RTM, IR and INP" dated 9 April 2008.	Benjamin WS, ¶ 48. <i>See also id.</i> , ¶ 15(a).	<p>The requested documents are relevant and material to whether the alleged mining undertaking licenses for exploration are authentic and how they were procured.</p> <p>The requested documents are not in the possession, control or custody of Respondent.</p>	No such documents are in the possession, control or custody of the Claimants. The "notifications" referred to by Mr Benjamin in paragraph 48 of his Witness Statement were made by the Bupati's office to the Ridlatama Group verbally.	Respondent notes Claimants' response.	<p><b>NO DECISION REQUIRED</b></p> <p>The Tribunal takes note of the Claimants' statement that no responsive documents are in their possession, control or custody. The Tribunal further notes the Claimants' representation that the alleged notifications were made by the Bupati's office verbally.</p>

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15.	Resp.	All correspondence, memoranda, letters, notes, lists, etc. accompanying Ridlatama's delivery to ICD or Claimants of the alleged mining undertaking licenses of exploration for each of RTM, RTP, IR and INP dated 9 April 2008.	According to Mr. Benjamin, he "collected all of the documentation associated with each licence for the EKCP from Ridlatama" (Benjamin WS, ¶ 22). Ridlatama was obligated to deliver to Claimants documents such as licenses, permits, approvals, authorizations, etc. (exhibit P-17, Deed of Beneficial Control and Ownership dated 22 May 2007, ¶¶ 8.3(a)(ix); <i>see also id.</i> , ¶ 2.1).	Ridlatama's official business letters or notes to Claimants, accompanying the alleged delivery, would record that the delivery was made and the date of the delivery.  The requested documents are relevant and material to whether the alleged mining undertaking licenses for exploration are authentic, how they were procured, and who made them.	No such documents are in the possession, control or custody of the Claimants. The Ridlatama Group provided the mining undertaking licences to ICD in-person.	Respondent notes Claimants' response.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that no responsive documents are in their possession, control or custody. The Tribunal further notes the Claimants' representation that the mining undertaking licenses were delivered to PT ICD in-person by the Ridlatama Group.
16.	Resp.	Letters from RTP, RTM, INP and IR dated 12 February 2008, in response to which the "Certificates of Legality" were allegedly issued by the Regent of East Kutai on 8 April 2008.	According to Mr. Benjamin, "letter[s] from Bupati Ishak approving of PT ICD's work with Ridlatama on the EKCP, assured us that Churchill and PT ICD had the approval of the East Kutai Kabupaten to proceed with the EKCP" (Benjamin WS ¶ 79, n. 43, citing "Certificates of Legality," exhibits C-95 to C-98). Respondent reiterates that the "Certificates of Legality" are forged documents ( <i>see</i> Respondent's Application for Dismissal, ¶¶ 24, 26(ii); Ishak WS, ¶¶ 12, 20).	The requested documents are referenced in the alleged "Certificates of Legality" and are relevant and material to whether the Certificates are authentic and how they were procured.  The requested documents are not in the possession, custody or control of Respondent.	No such documents are in the possession, control or custody of the Claimants.	This request is for specific relevant and material documents, originating on a specific date from specific Ridlatama companies. Similar documents in Claimants' exhibits likewise originate from the Ridlatama companies, whom Claimants consider as their business partners.  The requested documents should be under Claimants' control and they should produce them.	<b>GRANTED</b>  The requested documents appear <i>prima facie</i> relevant.  The Tribunal further notes the Claimants' representation that no responsive documents are in their possession, control or custody. However, the Claimants do not appear to have requested any responsive documents from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain any responsive documents from the

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17.	Resp.	Application letters from IR, RTM, RTP and INP dated 14 February 2008, in response to which the Regent of East Kutai allegedly issued the "Certification Letters" for cooperation with ICD on 8 April 2008.	According to Claimants, their "business partners, the Ridlatama Companies, obtained written approval from the Bupati to enter into service contracts with third party investors, and to vary their shareholding" (Claimants' Reply on Jurisdiction, ¶ 185 and nn. 219, 234, citing "Certification Letter[s]," exhibits C-350 to C-353). Respondent reiterates that the "Certification Letters" are forged documents ( <i>See</i> Respondent's Application for Dismissal, ¶¶ 24, 26(i); Ishak WS, ¶¶ 12, 20).	The requested documents are referenced in the alleged "Certification Letters" and are relevant and material to whether the Certifications are authentic and how they were procured.  The requested documents are not in the possession, custody or control of Respondent.	No such documents are in the possession, control or custody of the Claimants.	This request is for specific relevant and material documents, originating on a specific date from specific Ridlatama companies. Similar documents in Claimants' exhibits likewise originate from the Ridlatama companies, whom Claimants consider as their business partners.  The requested documents should be under Claimants' control and they should produce them.	<b>GRANTED</b>  The requested documents appear <i>prima facie</i> relevant. The Tribunal notes that Exhibits C-350 to C-353 expressly refer to the 14 February 2008 letters ( <i>i.e.</i> , Letter No. 1.1.3-015/HEW-IR/II-2008 from PT IR; Letter No. 1.1.3-015/ANM-RTM/II-2008 from PT RTM; Letter No. 1.1.4-015/FLO-RTP/II-2008 from PT RTP; Letter No. 1.1.1-015/PED-INP/II-2008 from PT INP, respectively).  The Tribunal further notes the Claimants' representation that no responsive documents are in their possession, control or custody. However, the Claimants do not appear to have requested any responsive documents from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain any responsive documents from the Ridlatama Group.

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18.	Resp.	All correspondence, memoranda, letters, notes, lists, etc. accompanying delivery from Ridlatama to ICD or Claimants of the alleged "Certificates of Legality" and "Certification Letters" concerning each of RTP, RTM, INP and IR all dated 8 April 2008.	As set forth in items 16 and 17 above, Ridlatama allegedly obtained "Certificates of Legality" dated 8 April 2008 and "Certification Letters" dated 8 April 2008. Ridlatama was obligated to deliver documents such as the "Certificates of Legality" and "Certification Letters" to ICD (exhibit P-17, Deed of Beneficial Control and Ownership, ¶ 8.3(a)(ix); <i>see also id.</i> , ¶ 2.1).	The requested documents are relevant and material to whether the alleged "Certificates of Legality" and "Certification Letters" are authentic, how they were procured, and who made them.	No such documents are in the possession, control or custody of the Claimants. The Ridlatama Group provided "Certificates of Legality" and "Certification Letters" to ICD in-person.	Respondent notes Claimants' response.	<b>NO DECISION REQUIRED</b>  The Tribunal takes note of the Claimants' statement that no responsive documents are in their possession, control or custody. The Tribunal further notes the Claimants' representation that the mining undertaking licenses were delivered to PT ICD in-person by the Ridlatama Group.
19.	Resp.	Letters from RTM, RTP, IR and INP to the Regent of East Kutai, dated 23 March 2009, "regarding the execution of cooperation with national and international companies to be nominated by" each Ridlatama company.	According to Claimants, "Ridlatama . . . received express approval from the Bupati to cooperate with national and international companies in continuing its mining investigations" (Claimants' Memorial on Merits, ¶ 157 and n. 147, citing "Certificates of Approval of Business Cooperation with National and International Companies," dated 27 March 2009, exhibits C-151, C-152, C-153, C-154). These "Certificates" refer to request letters from the Ridlatama Companies dated 23 March	The requested documents are relevant and material to the issue of the authenticity of the alleged 27 March 2009 "Certificates." The requested documents are not in the possession, custody or control of Respondent.	The Claimants will produce any such documents that are in their possession, control or custody.	Respondent notes Claimants' production.	<b>NO DECISION REQUIRED</b>  The Tribunal notes that the Claimants have produced all responsive documents.

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			Ref. to Submissions	Comments			
			<p>2009.</p> <p>However, letters of explanation / recommendation from Regent Noor to each Ridlatama Company, <u>dated 20 April 2009</u>, also refer to <u>the same request letters</u> from the Ridlatama Companies, <u>dated 23 March 2009</u> (Respondent's Memorial on Objections to Jurisdiction, ¶¶ 96-99 and n. 150; <i>Id.</i>, Annex A, p. A-9).</p>				
20.	Resp.	All versions of letters from the Regent of East Kutai to each of INP and IR dated 12 May 2009.	<p>According to Claimants, “[t]he Bupati ... approved the right of the Ridlatama Companies to cooperate with national and international companies in May 2009” (Claimants' Memorial on Merits, ¶ 158; Planet Mining Request for Arbitration, ¶ 19 and n. 37, citing exhibits P-61 (RTM), P-62 (RTP), P-63 (INP), P-64 (IR)).</p> <p>With Planet's Request for Arbitration, Claimants submitted two Indonesian-language versions of the Regent's alleged letters for RTM and RTP dated 12 May 2009, with the same number and date, but with different content – one is an</p>	<p>Respondent believes that Claimants have more versions of the alleged 12 May 2009 letters for INP and IR and that they may be similar to the second versions of the alleged 12 May 2009 letters for RTM and RTP found in exhibits P-61 and P-62.</p> <p>This belief is based on the observation that the documentation procured by Ridlatama and put forward by Claimants as exhibits almost invariably pertains to each of the four Ridlatama companies.</p> <p>The requested documents are relevant and material to how the 12 May 2009</p>	No such documents are in the possession, control or custody of the Claimants.	Respondent notes Claimants' response.	<p><b>NO DECISION REQUIRED</b></p> <p>The Tribunal notes (i) the Claimants' statement that no responsive documents are within their possession, control or custody, and (ii) the Respondent's acknowledgment of the Claimants' representation.</p>

1.	2.	3.	4.		5.	6.	7.
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			<p>“approval” and the other is a “recommendation.”</p> <p>Claimants took out one of the versions of the 12 May 2009 letters in exhibits C-165 (RTM) and C-166 (RTP), which they filed with the Memorial on Merits.</p> <p>With respect to INP and IR, only an “approval” was filed, not a “recommendation” (exhibits P-63/C-168 (INP), P-64/C-167 (IR)).</p>	<p>“approvals” and “recommendations” were procured by the Ridlatama Companies and to the authenticity of these 12 May 2009 “approvals” and “recommendations.”</p> <p>The requested documents are not in the possession, custody or control of Respondent.</p>			
21.	Resp.	Letters from RTM, RTP, IR and INP to the Regent of East Kutai dated 10 May 2009 regarding cooperation and/or amendment to the share composition of each Ridlatama Company.	<p>As explained in above item 20, there are two Indonesian-language versions of the Regent’s alleged letters for RTM and RTP dated 12 May 2009, with the same number and date, but with different content – one is an “approval” and the other is a “recommendation.”</p> <p>However, there is only one “approval” version of the Regent’s alleged letters for INP and IR dated 12 May 2009.</p> <p>All versions of the 12 May 2009 letters were written in response to a letter from each Ridlatama Company dated 10 May 2009.</p>	<p>The requested documents are relevant and material to the issue of how the 12 May 2009 “approvals” and “recommendations” were procured by the Ridlatama Companies and to the authenticity of these 12 May 2009 “approvals” and “recommendations.”</p> <p>The requested documents are not in the possession, custody or control of Respondent.</p>	No such documents are in the possession, control or custody of the Claimants.	This request is for specific relevant and material documents, originating on a specific date from specific Ridlatama companies. Similar documents in Claimants’ exhibits likewise originate from the Ridlatama companies, whom Claimants consider as their business partners.	<p><b>GRANTED</b></p> <p>The requested documents appear <i>prima facie</i> relevant. The Tribunal notes that Exhibits C-165 to C-168 expressly refer to the 10 May 2009 letters from the Ridlatama Group (<i>i.e.</i>, Letter No. M-003/RTM-KUTIM/V/2009 from PT RTM; Letter No. M-004/RTP-KUTIM/V/2009 from PT RTP; Letter No. 1M-005/IR-KUTIM/V/2009 from PT IR; Letter No. M-006/INP-KUTIM/V/2009 from PT INP, respectively).</p> <p>The Tribunal further notes the Claimants’</p>

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							representation that no responsive documents are in their possession, control or custody. However, the Claimants do not appear to have requested any responsive documents from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain any responsive documents from the Ridlatama Group.
22.	Resp.	Letter from Ridlatama to the East Kutai Police dated 29 October 2009 (together with all attachments), referenced in the alleged East Kutai Police letter dated 28 December 2009.	According to Claimants, "Ridlatama, responding to a request from Churchill and PT ICD, asked the police in late October 2009 to explain the reasons why they had concluded that the Nusantara allegations against Ridlatama were unfounded and that no crimes had been committed." (Claimants' Memorial on Merits, ¶ 204). <i>See also</i> Benjamin WS, ¶¶ 109-111; Exhibit C-210, East Kutai Police letter to Ridlatama dated 28 December 2009; exhibit R-030/C-163, East Kutai Police letter dated 4 May 2009, regarding Notification of Cessation of	Claimants rely on the 28 December 2009 letter from the East Kutai Police as proof that their general survey and exploration licenses were valid and no forgery occurred ( <i>E.g.</i> , Claimants' letter dated 17 October 2014, p. 6, point 1; Claimants' submission at the 21 October 2014 Teleconference (exhibit R-142, p. 6)). As Respondent has explained, on 4 May 2009, the East Kutai Police terminated the investigation of Nusantara's complaint concerning illegal occupancy of land on the ground that such	No such document is in the possession, control or custody of the Claimants.	This request is for a specific relevant and material document, originating on a specific date from the Director of the Ridlatama Group. Among Claimants' exhibits, there are several documents that originated with the Ridlatama Companies, whom Claimants consider as their business partners. The requested document should be under Claimants' control and they should produce it.	<b>GRANTED</b> The requested document appears <i>prima facie</i> relevant. The Tribunal notes that Exhibit C-210 expressly refers to the 29 October 2009 letter from the Ridlatama Group. The Tribunal further notes the Claimants' representation that no responsive documents are in their possession, control or custody. However, the Claimants do not appear to have requested any responsive documents from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain any responsive documents from the

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			Investigation; exhibit R-031/C-164, East Kutai Police letter dated 6 May 2009, regarding Notification of Progress Result of Investigation; Respondent's Memorial on Objections to Jurisdiction, ¶¶ 78-80; Claimants' letter dated 17 October 2014, p. 6, point 1; Claimants' submission at the 21 October 2014 Teleconference (exhibit R-142, p. 6); Claimants' letter dated 23 November 2014, p. 7; Respondent's letter dated 1 December 2014, pp. 7-8; Claimants' letter dated 8 December 2014; pp. 8-9; Respondent's letter dated 12 December 2014, pp. 5-6.	occupancy did not constitute a criminal act. The Police purportedly issued the 28 December 2009 letter in response to Ridlatama's letter dated 29 October 2009. The requested document is relevant to ascertaining the context of the alleged 28 December 2009 letter, which is material to Claimants' allegation that the general survey and exploration licenses were valid. The requested document is not in the possession, custody or control of Respondent.			Ridlatama Group.
23.	Resp.	All Churchill's internal communications, memoranda, notes, etc and all such documents exchanged between Churchill and ICD, as well as between Churchill, or ICD and Ridlatama, relating to Churchill's request that Ridlatama engage a local law firm and obtain their legal	According to Mr. Benjamin, Churchill "wanted to issue an announcement concerning the issuance of the KP General Survey Licences, but [as] a precondition to such an announcement" had to "first obtain[ ] supporting legal advice verifying the validity of the KP General Survey	Claimants opted to verify the validity of the mining undertaking licenses that Ridlatama had been granted by asking Ridlatama to obtain from a local law firm a legal opinion about the validity of those licenses. The requested documents are	The Claimants object to this request on the basis of legal privilege (IBA Rule 9(3)(a)). The documents in question are, by their very nature, documents created by a group of independent legal entities in immediate contemplation of a dispute against a single and	Claimants assert that the requested documents were created "in immediate contemplation of a dispute against . . . the State;" however, Claimants' own evidence indicates that the requested documents were created "[i]n around January 2008," well before	<b>DENIED</b> The Tribunal notes that the legal opinions of the Law Office Sondang Tampubolon and Partners are already in the record as Exhibits C-72 to C-75. The Tribunal does not deem the requested documents to be relevant.

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		opinion about the validity of the KP General Survey Licences, including, but not limited to, the reasons why Churchill needed to obtain such legal opinions.	Licences [and] asked representatives of Ridlatama to engage a local law firm and obtain their legal opinion about the validity.... In response to this request, Ridlatama engaged a local law firm by the name of Sondang Tampubolon & Partners to provide the required legal opinion.” Mr. Benjamin also “assisted with ... obtaining the legal advice” (Benjamin WS, ¶¶ 39-40; <i>see also id.</i> , ¶¶ 15(c), 41). In stating that “[t]hese licences were ‘ <i>valid, unencumbered, and legally enforceable in Indonesia,</i> ’” Claimants rely on the legal opinions (Claimants’ Memorial on Merits, ¶ 350 and n. 327, citing Benjamin WS, ¶ 39; Benjamin WS, ¶ 41).  The legal opinions were disclosed as Exhibits C-72 to C-75.	relevant to the scope of the verification as requested by Churchill from Ridlatama and material to Claimants’ statement that the licenses were valid, based on the obtained “required legal opinion.”	common adverse party – the State. As such, each member of the group of legal entities concerned would need to waive its privilege before these documents could be produced.	any dispute between Claimants and Respondent, and were actually created in preparation for making “an announcement concerning the issuance of the KP General Survey Licences” (Benjamin WS, ¶¶ 39-40). Moreover, the request refers to communications purely among Churchill, ICD and Ridlatama. Therefore, legal privilege does not apply.  Respondent respectfully requests that the Tribunal order production of the requested documents, as they are relevant and material to the outcome of the authenticity phase, Respondent’s request meets the requirements of Article 3.3 of the IBA Rules, and, as explained above, none of the reasons for objection set forth in Article 9.2 of the IBA Rules applies.	Furthermore, the Tribunal is equally of the view that this request is overly broad and burdensome.
24.	Resp.	The announcement that Churchill Mining Plc made concerning the issuance of the KP General Survey Licences after obtaining supporting	According to Mr. Benjamin, Churchill “around January 2008, Mr Mazak [him] that Churchill ... listed on the AIM, wanted to issue an	The requested document is relevant to the reasons why such legal opinions, verifying the validity of the KP General Survey	No such document is in the possession, control or custody of the Claimants because no such specific announcement was made.	Respondent notes Claimants’ response.	<b>NO DECISION REQUIRED</b>

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		legal advice verifying the validity of the KP General Survey Licences.	announcement concerning the issuance of the KP General Survey Licences, but [as] a precondition to such an announcement” had to “first obtain[ ] supporting legal advice verifying the validity of the KP General Survey Licences” (Benjamin WS, ¶ 39).  The “required legal opinion[s]” were issued on 30 January 2008 [by] Sondang Tampubolon & Partners ... in relation to the validity of the KP General Survey Licences” (Benjamin WS, ¶¶ 40-41, citing the Legal Opinions, Exhibits C-73 to C-74).	Licences, became necessary for Churchill Mining Plc and whether Claimants were at the time aware of problems with authenticity and validity of the licenses.			
25.	Resp.	All communications between Churchill, ICD or Ridlatama with the law firm of Sondang Tampubolon & Partners relating to legal opinions regarding the validity of the KP General Survey Licences, including the information provided to the law firm, instructions as to the scope of the opinions, clarifications regarding the opinions, and other related communications.	According to Mr. Benjamin, Churchill had to “obtain[ ] supporting legal advice verifying the validity of the KP General Survey Licences ... [and] asked representatives of Ridlatama to engage a local law firm and obtain their legal opinion about the validity.... In response to this request, Ridlatama engaged a local law firm ... to provide the required legal opinion.” Mr. Benjamin also “assisted with	Claimants opted to verify the validity of the mining undertaking licenses that Ridlatama had been granted by asking Ridlatama to obtain from a local law firm a legal opinion about the validity of those licenses. The requested documents are relevant and material to Claimants’ statement that the licenses were valid, based on the obtained “required legal opinion.”	The Claimants object to this request on the basis of legal privilege (IBA Rule 9(3)(a)). The documents in question pertain to a wide combination of privileged and confidential communications between the Claimants, ICD and the Ridlatama Group and a law firm.  The Claimants also note that, beyond invading the privilege of the Claimants, this request also attempts	(a) Claimants have waived any legal privilege over the requested documents – communications between Churchill, ICD or Ridlatama and Sondang Tampubolon & Partners relating to the legal opinions issued by the latter (IBA Rule 9.3(d)). This is because Claimants have disclosed the fact that there were certain communications between Churchill or Ridlatama and	<b>DENIED</b>  The Tribunal notes that the legal opinions of the Law Office Sondang Tampubolon and Partners are already in the record as Exhibits C-72 to C-75. However, the Tribunal is of the view that the requested documents are privileged under Article 9.3.(a) of the 2010 IBA Rules on the Taking of

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			<p>... obtaining the legal advice” (Benjamin WS, ¶¶ 39-40. <i>See also id.</i>, ¶¶ 15(c), 41). In stating that “[t]hese licences were ‘<i>valid, unencumbered, and legally enforceable in Indonesia,</i>’” Claimants rely on the legal opinions obtained (Claimants’ Memorial on Merits, ¶ 350 and n. 327, citing Benjamin WS, ¶ 39; Benjamin WS, ¶ 41).</p> <p>The legal opinions were disclosed as exhibits C-72 to C-75.</p>		to invade the privilege of the Ridlatama Group.	<p>Sondang Tampubolon &amp; Partners regarding the provision of legal opinions, and have even disclosed the legal opinions themselves (exhibits C-72 to C-75). The disclosed legal opinions and undisclosed requested documents concern the same subject matter.</p> <p>Moreover, as Respondent already explained, Claimants rely on the legal opinions in support of their position that the licenses were “valid, unencumbered, and legally enforceable in Indonesia.” This is a fundamental aspect of Claimants’ case on authenticity. Therefore, Respondent has a legitimate interest in understanding how these legal opinions were procured and what the scope of instructions were. The requested documents are relevant and material to the outcome of the authenticity phase. It would be unfair to allow Claimants to selectively disclose and rely upon the legal opinions without also</p>	Evidence (the “IBA Rules”), and that Article 9.3.(d) of the IBA Rules is not applicable here. Furthermore, Article 9.3.(e) of the IBA Rules leads to no different result in the present case.

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						<p>disclosing the communications that led to the provision of those opinions (IBA Rule 9.3(e)).</p> <p>In light of the above, Respondent's legitimate interest in these documents outweighs any alleged legal privilege that may attach to the requested documents (PO No. 5, ¶ 8).</p> <p>(b) Respondent's request does not "invade the privilege of the Ridlatama Group." The legal opinions prepared by Sondang Tampubolon &amp; Partners are addressed to PT ICD, not to the Ridlatama Companies. Therefore, there is no "privilege of the Ridlatama Group" with respect to the requested documents concerning those opinions. At the most, Ridlatama was merely a conduit for Claimants/PT ICD receiving the legal opinions as Claimants instructed Ridlatama to obtain the legal opinions (Benjamin WS, ¶ 40).</p> <p>Even if there was a</p>	

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						<p>“privilege of the Ridlatama Group,” for the reasons stated above in (a), Ridlatama has waived any privilege with respect to these documents.</p> <p>(c) Respondent respectfully requests that the Tribunal order the production of the requested documents. Alternatively, at the very least, legal privilege needs to be ascertained on a document-by-document basis; therefore, Claimants should produce an itemised schedule of the documents in respect of which privilege is asserted.</p>	
26.	Resp.	Any communications between Churchill, ICD or Ridlatama with Sondang Tampubolon & Partners, Herbert Smith or any other counsel, occurring after Ridlatama became aware of the 2009 BPK Audit Report and the indications of forgery identified therein, and relating to efforts to verify the authenticity of the signatures on the mining licenses, or requesting an investigation or due diligence concerning the same.	<p>“During 2009 our local partner, Ridlatama, provided Churchill with a report dated 23 February 2009 that had been produced by Indonesia’s State Financial Audit Agency (the <i>Badan Pemeriksa Keuangan</i>) (the BPK Report)” (Hardwick WS, ¶ 79).</p> <p>“When we did learn of ... [the BPK] report, we were taken aback by its alarming and unfounded allegations” (Benjamin WS, ¶ 90).</p>	<p>Claimants opted to verify the validity of the mining undertaking licenses that Ridlatama had been granted by asking Ridlatama to obtain from a local law firm a legal opinion about the validity of those licenses.</p> <p>The requested documents relate to the period after Claimants learned that the BPK identified indications of forgery in the licenses, and are relevant and</p>	<p>The Claimants object to this request on the basis of legal privilege (IBA Rule 9(3)(a)). The documents in question pertain to a wide combination of privileged and confidential communications between the Claimants, ICD and the Ridlatama Group and multiple law firms.</p> <p>The Claimants also note that, beyond invading the privilege of the Claimants, this request also attempts</p>	<p>(a) Respondent has a legitimate interest in understanding whether and how Claimants took efforts to verify the authenticity of the Ridlatama Companies’ general survey and exploration licenses after they became aware of the BPK Report. Claimants have disclosed legal opinions that pre-date their becoming aware of the BPK Report (exhibits C-72 to C-75). They rely on</p>	<p><b>DENIED</b></p> <p>The Tribunal notes that the legal opinions of the Law Office Sondang Tampubolon and Partners are already in the record as Exhibits C-72 to C-75. However, the Tribunal is of the view that the requested documents are privileged under Article 9.3.(a) of the IBA Rules, and that Article 9.3.(d) of</p>

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				material to the issue of the authenticity of the licenses.	to invade the privilege of the Ridlatama Group.	<p>these legal opinions as support for the Ridlatama Companies' general survey licences being "valid, unencumbered, and legally enforceable in Indonesia" (Claimants' Memorial on Merits, ¶ 350 and n. 327, citing Benjamin WS, ¶ 39; Benjamin WS, ¶ 41). The requested documents are relevant and material to the outcome of the authenticity phase. It would be unfair to allow Claimants to selectively disclose and rely on legal opinions without having a complete picture of Claimants' communications with their lawyers regarding the authenticity of the impugned mining licenses (IBA Rule 9.3(e)).</p> <p>In light of the above, Respondent's legitimate interest in these documents outweighs any alleged legal privilege that may attach to the requested documents (PO No. 5, ¶ 8).</p> <p>(b) Respondent's request does not "invade the privilege of the Ridlatama Group" because legal opinions regarding</p>	the IBA Rules is not applicable here. Furthermore, Article 9.3.(e) of the IBA Rules leads to no different result in the present case.

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						<p>Ridlatama licenses have already been disclosed and Claimants' evidence suggests that Ridlatama was used as a conduit for any legal advice obtained by Claimants (<i>see, e.g.</i>, Benjamin WS, ¶ 40).</p> <p>(c) Respondent respectfully requests that the Tribunal order the production of the requested documents. Alternatively, at the very least, legal privilege needs to be ascertained on a document-by-document basis; therefore, Claimants should produce an itemised schedule of the documents in respect of which privilege is asserted.</p>	
27.	Resp.	All documents, such as reports, notes, etc., containing the conclusions by former Deputy Attorney General of Indonesia, Mr. Soehandjono, and all documentation obtained by Mr. Soehandjono in his review.	According to Mr. Benjamin, “[i]n mid-2011, ICD appointed the former Deputy Attorney General of Indonesia, Mr. Soehandjono, to review our EKCP licences and the process for the issuance of those licences ....” (Benjamin WS, ¶ 163). Following his review, Mr. Soehandjono is said to have reached conclusions on matters such as the validity	The requested documents are relevant and material to the issue of the authenticity of the mining undertaking licences.	The Claimants object to this request on the basis of legal privilege (IBA Rule 9(3)(a)). The documents in question pertain to privileged and confidential communications between the Claimants' subsidiary ICD and Mr Soehandjono relating to a legal dispute regarding the alleged forgery of the mining undertaking licences.	(a) Claimants have waived any legal privilege over the requested documents as Claimants disclosed both the fact that they appointed Mr. Soehandjono to review the purported EKCP licences and a summary of his conclusions, and they rely on Mr. Soehandjono's conclusions (IBA Rule 9.3(d)). It is extremely unfair to Respondent for	<p><b>GRANTED AS NARROWED DOWN</b></p> <p>The Tribunal notes that in his witness statement, Mr. Benjamin provides a summary of the conclusions reached by the former Deputy Attorney General, Mr. Soehandjono (Benjamin WS, ¶ 164). Accordingly, the Tribunal is of the view that the</p>

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			of Ridlatama's licenses and the investigations by the East Kutai Police and Bawasda (Benjamin WS, ¶¶ 164-166). Mr. Soehandjono is said to have communicated his conclusions to Mr. Benjamin, but Claimants did not submit Mr. Soehandjono's conclusions in the record (Benjamin WS, ¶ 165).			Claimants to refer to Mr. Soehandjono's review and conclusions without producing the requested documents, which would contain these conclusions and provide relevant information regarding the scope of Mr. Soehandjono's task (IBA Rule 9.3(e)). Neither Respondent nor the Tribunal can assess the credibility of the reliance on the alleged conclusions, without having the requested documents. The requested documents are relevant and material to this authenticity phase. In light of the above, Respondent's legitimate interest in these documents outweighs any alleged legal privilege that may attach to the requested documents (PO No. 5, ¶ 8). (b) Respondent respectfully requests that the Tribunal order the production of the requested documents. Alternatively, at the very least, legal privilege needs to be ascertained on a document-by-document basis;	Claimants should provide the report containing said conclusions. As regards the other requested documents, the Tribunal is of the view that said documents are privileged under Article 9.3.(a) of the IBA Rules, and that Article 9.3.(d) of the IBA Rules is not applicable here. Furthermore, Article 9.3.(e) of the IBA Rules leads to no different result in the present case.

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						therefore, Claimants should produce an itemised schedule of the documents in respect of which privilege is asserted.	
28.	Resp.	Documents in connection with any attempts by Churchill, ICD or Ridlatama to verify the authenticity and validity of the mining undertaking licenses, other than engaging the law firm of Sondang Tampubolon & Partners in 2007 and appointing a former Deputy Attorney General in 2011.	In 2007, Ridlatama engaged the local law firm of Sondang Tampubolon & Partners to obtain their legal opinion about the validity of mining undertaking licenses for general survey (Claimants' Memorial on Merits, ¶ 350 and n. 327; Benjamin WS, ¶¶ 39-41). In "2011, ICD appointed the former Deputy Attorney General of Indonesia, Mr Soehandjono, to review [the] ... EKCP licences . . . ." (Benjamin WS, ¶ 163).	The requested documents are relevant and material to the issue of the authenticity of the mining undertaking licenses.	The Claimants object to this request on the basis of legal privilege (IBA Rule 9(3)(a)). The State's reference to submissions makes it clear that this document request pertains to Churchill, ICD and the Ridlatama Group's decision to engage local law firms or other legal experts.  The Claimants also note that, beyond invading the privilege of the Claimants, this request also attempts to invade the privilege of the Ridlatama Group.	(a) Legal privilege does not apply to the requested documents. "Documents in connection with any attempts by Churchill, ICD or Ridlatama to verify the authenticity and validity of the mining undertaking licenses" does not necessarily mean documents created for the purpose of giving or obtaining legal advice, or created for the dominant purpose of preparing for litigation.  (b) To the extent that any of the requested documents are privileged, Respondent has a legitimate interest in understanding whether and how Claimants took efforts to verify the authenticity and validity of the Ridlatama Companies' general survey and exploration licenses. Claimants have disclosed and rely on legal opinions from Sondang	<b>GRANTED AS NARROWED DOWN</b>  The Tribunal is of the view that the Claimants should provide a privilege log identifying any documents related to Churchill's, ICD's or Ridlatama's attempts to verify the authenticity and validity of the mining undertaking licenses, other than engaging the law firm of Sondang Tampubolon & Partners in 2007 and appointing a former Deputy Attorney General in 2011.

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No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
			Ref. to Submissions	Comments			
						<p>Tampubolon &amp; Partners (exhibits C-72 to C-75). They have also disclosed and rely on the review conducted by Mr. Soehandjono and his conclusions (Benjamin WS, ¶¶ 163-166). It would be unfair to allow Claimants to selectively disclose and rely on these legal opinions and conclusions without having a complete picture of other opinions obtained with respect to verifying the authenticity or validity of the impugned licenses (IBA Rule 9.3(e)). In light of the above, Respondent's legitimate interest in the requested documents outweighs any alleged legal privilege that may attach to the requested documents (PO No. 5, ¶ 8).</p> <p>(c) Respondent's request does not "invade the privilege of the Ridlatama Group" because legal opinions regarding Ridlatama licenses have already been disclosed and Claimants' evidence suggests that Ridlatama was used as a conduit for</p>	

1.	2.	3.	4.		5.	6.	7.
No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
			Ref. to Submissions	Comments			
						any legal advice obtained by Claimants ( <i>see, e.g.</i> , Benjamin WS, ¶ 40).  (d) Respondent respectfully requests that the Tribunal order the production of the requested documents. Alternatively, at the very least, legal privilege needs to be ascertained on a document-by-document basis; therefore, Claimants should produce an itemised schedule of the documents in respect of which privilege is asserted.	
29.	Resp.	The letter or letters “regarding Technical Consideration from the Directorate General of Mineral and Coal,” allegedly issued in connection with “the process of requesting for Forest Area Lease” in 2009 and which were referenced in ¶ 2 of the alleged letters from the East Kutai Forestry Police Squad to Ridlatama dated 5 August 2009 (exhibits C-179 to C-183).	According to Claimants, “Ridlatama operated throughout at the EKCP with the express knowledge and direct involvement of the local forestry police, under the authority of the East Kutai Department of Forestry, as well as representatives of other local authorities” (Claimants’ Memorial on Merits, ¶ 230, citing exhibits C-179 to C-183, East Kutai Forestry Police letters to Ridlatama dated 5 August 2009). Respondent disputes the authenticity of these letters	Although Claimants submitted alleged “Technical Consideration[s] from the Directorate General of Mineral and Coal” as exhibits, these are dated <u>22 September 2010</u> (exhibits C-252 to C-255). The “Technical Considerations” that Respondent is now requesting are referred to in letters dated <u>5 August 2009</u> (exhibits C-179 to C-183). Moreover, the 22 September 2010 alleged “Technical Consideration” letters – the only such	The Claimants find this request difficult to understand. It appears that the State is requesting documents that are already in evidence as Exhibits C-252 to C-255. The “Technical Considerations” referred to in the four letters dated 5 August 2009 (C-179 to C-183) are the same letters regarding “Technical Consideration from the Directorate General of Mineral and Coal” dated 22 September 2010 that Claimants introduced into evidence as	Respondent understands Claimants’ reply as confirming that around the time of the of the alleged 5 August 2009 letters, or at anytime in 2009, there were no technical considerations from the Directorate General of Mineral and Coal, and that the only such technical considerations were dated 22 September 2010, which are in the record and which Respondent identified as forgeries.	<b>NO DECISION REQUIRED</b>

1.	2.	3.	4.		5.	6.	7.
No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
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			allegedly signed by the late Mr. Julhadie (Hearing on Jurisdiction, Tr. 13052013, 232:14-235:25; Respondent's Rejoinder to Claimants' Application for Provisional Measures dated 27 May 2014, n. 42; exhibit R-142, Unofficial Transcript of 21 October 2014 Teleconference, p. 10).	documents on record – are forged (Respondent's letter dated 9 October 2014, n. 12; Third Epstein Report). The requested documents are relevant and material to 1) whether the requested documents were ever issued; 2) whether the alleged letters of the Forestry Police 5 August 2009 are authentic.  The requested documents are not in the possession, control or custody of Respondent.	Exhibits C-252 to C-255.  For the avoidance of doubt, these are the only documents that the Claimants have in their possession, control or custody that correspond to this document request.		
30.	Resp.	All documents related to the Bawasda investigation or Bawasda audit in 2010, including, but not limited to, (i) all documents, including all communications, notes, etc., and their accompanying documentation, exchanged between the Bawasda and Ridlatama, Bawasda and ICD, Bawasda and Churchill's representatives, and (ii) all internal notes in Claimants' possession or control from all interactions and meetings between the Bawasda and Ridlatama, Bawasda and ICD, Bawasda and Churchill's	According to Mr. Benjamin, "[t]he Bawasda carried out its investigation from 9 to 16 February 2010 ... [and] during its investigation the Bawasda audit team (i) met with officials from Nusantara, Ridlatama and ICD, (ii) inspected all of the key legal documentation concerning the mining licences for East Kutai granted to Ridlatama and Nusantara; and (iii) inspected documents from the East Kutai Mining Office" (Benjamin WS ¶ 114. <i>See also id.</i> , ¶ 115-121). <i>See also</i> Claimants' letter	The requested documents are relevant and material to assessing the reliability of the Bawasda audit as alleged evidence that Claimants' general survey and exploration licenses were valid and no forgery occurred.  The requested documents are not in the possession, custody or control of Respondent.	During its audit, the Bawasda team was given access to all documents at ICD and Ridlatama's offices. Thus, through this request, the State is effectively requesting a copy of the entire body of documents that were located at the offices of ICD and Ridlatama during the Bawasda audit. This request is, therefore, overly broad and unreasonably burdensome for the Claimants.	The scope of this request is limited to a specific category: documents related to the communications and interactions between Churchill, ICD and Ridlatama with the Bawasda team of auditors. Respondent is not requesting "the entire body of documents that were located at the offices of ICD and Ridlatama." Thus, the request is not overly broad or burdensome. The requested documents are relevant and material to the	<b>GRANTED AS NARROWED DOWN</b>  The Claimants should produce (i) the communications, and (ii) internal notes from the interactions and meetings, between Bawasda on the one hand, and Ridlatama, ICD and Churchill's representatives on the other hand, such documents being relevant to the outcome of the dispute.

1.	2.	3.	4.		5.	6.	7.
No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
			Ref. to Submissions	Comments			
		representatives.	dated 17 October 2014, p. 6, point 1; exhibit R-142, Claimants' submission at 21 October 2014 Teleconference, p. 6; Claimants' letter dated 8 December 2014, pp. 6-8.			credibility and propriety of the preparation of the Bawasda Audit Report, on which Claimants rely in defending the authenticity of the licenses.	
31.	Resp.	All petitions, protest letters, etc. made by the Ridlatama Companies, ICD or Claimants to the Regent of East Kutai between 4 May 2010 and 14 May 2010 concerning the 4 May 2010 revocation decrees and all requests and applications made in the same period by the Ridlatama Companies, ICD or Claimants to the Regent to re-enact the revoked licenses or to confirm that the exploitation licenses were valid, or that the Regent never revoked the licenses.	According to Claimants' letter to the President of Indonesia, "[f]ollowing strong protests against the[] unjust and unsubstantiated First Purported Revocation Decrees, the Bupati of East Kutai reinstated the EKCP Licenses on 14 May 2010 and denied that he had ever issued the First Purported Revocation Decrees" (exhibit C-310, Hogan Lovells' letter to the President of Indonesia dated 22 November 2011, p. 5. <i>See also</i> exhibit C-315, Claimants' letter to the President of Indonesia dated 20 April 2012, pp. 13-14 ("On 14 May 2010, ... Ridlatama ... advised Churchill that the East Kutai Regent confirmed the Exploitation licenses he had granted to the Ridlatama Companies were valid and he did not know the origin of the [revocation decrees dated	The requested documentation is relevant and material to whether the alleged "reenactment decrees" are authentic and how they were procured. The requested documents are not in the possession, custody or control of Respondent.	No such documents are in the possession, control or custody of the Claimants.	Respondent understands that Claimants and Ridlatama do not have such documents.	<b>NO DECISION REQUIRED</b>

1.	2.	3.	4.		5.	6.	7.
No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
			Ref. to Submissions	Comments			
			4 May 2010].") Respondent disputes the authenticity of the alleged reenactment decrees (Respondent's Application for Dismissal, ¶¶ 23, 24, 26(iv); Second Epstein Report, p. 8; Noor WS, ¶¶ 18-19; Ramadani WS, Annex items 20-23).				
32.	Resp.	Presentations given by Brett Gunter to Claimants in 2007 regarding the forestry assessment in the EKCP area.	Prior to 2009, Claimants allegedly believed that the "EKCP" was not in a <u>conservation</u> forest area, <u>protected</u> forest area or <u>production</u> forest area (Claimants' Memorial on Merits, ¶ 205. <i>See also</i> Benjamin WS, ¶¶ 127-129). In 2007, Mr. Gunter, Claimants' geological consultant and witness, "gave various presentations [to Churchill] in which the maps he referred to illustrated that areas of <u>protected</u> forest were outside of the EKCP area" (Hardwick WS, ¶ 18 (emphasis added); Gunter WS, ¶ 104).  According to Mr. Benjamin, "[i]n the first quarter of 2009," Ridlatama informed Claimants that the "EKCP" was partly in a <u>production</u>	The 2007 presentations by Mr. Gunter are relied on by Claimants to excuse their failure to apply for forestry permits prior to 2009.  The requested documents are relevant to whether that failure was due to the alleged belief that the "EKCP" was not in a production forest area or there was another motive not to submit applications for forestry permits prior to 2009, in the period to which the alleged licenses relate.  The requested documents are material to authenticity of various disputed documents associated with the Ridlatama's 2009-2010 applications for borrow-for-use permits, as well as the broad scope of the	No such document is in the possession, control or custody of the Claimants.	Respondent notes Claimants' response.	<b>NO DECISION REQUIRED</b>

1.	2.	3.	4.		5.	6.	7.
No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
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			forest area and Claimants asked Ridlatama to apply for borrow-for-use permits "out of any abundance of caution" (Benjamin WS, ¶¶ 126, 131; Claimants' Memorial on Merits, ¶ 209).	wrongful fabrication of documents relating to the "EKCP," including the mining licenses.			
33.	Resp.	All memoranda, lists, notes, etc., other than Mr. Gunter's presentations referred to above, provided to Ridlatama, ICD or Churchill as to whether the "EKCP" was located within an area that required a forestry permit, including, but not limited to, memoranda, lists, notes, etc. received from the Mining Bureau of East Kutai or other agencies in connection with the Ridlatama Companies applying for the mining undertaking licenses in 2007 and 2008.	Claimants allegedly believed that the "EKCP" was not in a <u>conservation</u> forest area, <u>protected</u> forest area or <u>production</u> forest area. (Claimants' Memorial on Merits, ¶ 205. <i>See also</i> Benjamin WS, ¶¶ 127-129). They note that Ridlatama made enquiries "into the status of the EKCP area with respect to forestry" (Hardwick WS, ¶ 18). They also state that their "initial thorough investigations had established that" the EKCP was not in an area that required a forestry permit. (Hardwick WS, ¶ 105; <i>see also</i> Benjamin WS, ¶ 127). In 2009, Ridlatama informed Claimants of an Indonesian Forestry Decree dated 15 March 2001 to which Map No. 1816 was attached. The map showed that the EKCP was within a production forest area. Mr. Benjamin	The requested documents are relevant to whether the failure to apply for forestry permits was due to the alleged belief that the "EKCP" was not in a production forest area or there was another motive not to submit applications for forestry permits prior to 2009, in the period to which the alleged licenses relate.  The requested documents are material to authenticity of various disputed documents associated with the Ridlatama's 2009-2010 applications for borrow-for-use permits, as well as the broad scope of the wrongful fabrication of documents relating to the "EKCP," including the mining licenses.	No such document is in the possession, control or custody of the Claimants. The Claimants note, however, that documents corresponding to this request have already been introduced into evidence (see, for example, Exhibits C-8 and C-13).	Respondent understands that Claimants and Ridlatama do not have such documents, and the only such documents are those in exhibits C-8 and C-13.	<b>NO DECISION REQUIRED</b>

1.	2.	3.	4.		5.	6.	7.
No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
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			states that this map “ <u>directly conflicted with the maps we had seen during consultations we had with the mining office at the East Kutai Regency when we carried out our due diligence prior to applying for the KP General Survey, KP Exploration ....</u> ” (Benjamin WS, ¶ 127 (emphasis added)).				
34.	Resp.	All correspondence between Claimants, ICD and Ridlatama, as well as Churchill or ICD and Mr. Gunter, from the first quarter of 2009 regarding Ridlatama becoming aware of the Ministry of Forestry Decree (No. 79/Kpts-II/2001) dated 15 March 2001 and asking Ridlatama to apply for borrow-for-use-permits.	Prior to 2009, Claimants allegedly believed that the EKCP was not in a <u>conservation</u> forest area, <u>protected</u> forest area or <u>production</u> forest area. (Claimants’ Memorial on Merits, ¶ 205. <i>See also</i> Benjamin WS, ¶¶ 127-129).  Approximately two years later, in 2009, Ridlatama informed Claimants that part of the “EKCP” area was in a production forest. Claimants asked Ridlatama to apply for borrow-for-use permits “out of any abundance of caution,” even though they did not believe that this was required (Benjamin WS, ¶¶ 126, 131; Claimants’ Memorial on Merits, ¶ 209. <i>See also</i> Gunter WS, ¶¶ 109: “I recall that at some point	The requested documents are relevant as they would contain discussions of the reasons why there was no application for forestry permits before 2009 and of the strategies for applying for forestry permits in 2009-2010.  The requested documents are material to authenticity of various disputed documents associated with the Ridlatama’s 2009-2010 applications for borrow-for-use permits, as well as the broad scope of the wrongful fabrication of documents relating to the “EKCP,” including the mining licenses.	According to the State, the Ridlatama Group forged the borrow-for-use recommendation letters in March 2010 <i>after</i> Ridlatama applied for the borrow-for-use permits on 9 September 2009. The Ministry of Forestry denied these applications in March and April 2010, allegedly because Ridlatama failed to include borrow-for-use recommendation letters (Nurohmah WS, para. 13). Thus, the Ridlatama Group's state of mind prior to applying for such permits in the first quarter of 2009 is not relevant or material to the issue of whether the Ridlatama Group forged recommendation letters in	The relevance and materiality of this request is in verifying Claimants’ explanation of the failure to apply for forestry permits in connection with the <u>exploration stage</u> under the alleged exploration licenses. The activities in applying for borrow-for-use permits in connection with the <u>exploitation stage</u> , in the course of which forged documents were generated <u>to support the applications</u> , would also be clarified by reviewing the requested documents.  Respondent respectfully requests that the Tribunal order the production.	<b>GRANTED</b>  The requested documents appear <i>prima facie</i> relevant.

1.	2.	3.	4.		5.	6.	7.
No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
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			Churchill informed me that it, through its local partner, was submitting an application for [forestry] permits with the central forestry department)." As part of their application, the Ridlatama Companies submitted forged letters of recommendation in support of their application (Respondent's Application for Dismissal, ¶ 26(iii); Third Epstein Report).		March 2010, <i>after</i> they had applied for borrow-for-use permits. As such, the documents requested are not relevant or material to the State's allegations of forgery.		
35.	Resp.	<u>All</u> versions of all recommendations by the Governor of East Kalimantan addressed to the Ministry of Forestry in connection with any and all applications of the Ridlatama Companies for borrow-for-use forestry permits.	The Bawasda audit report, on which Claimants rely for proof of the authenticity of the mining licenses ( <i>e.g.</i> , Claimants' letter dated 8 December 2014, pp. 6-8.), mentions that the "[f]acts found during the audit are based on documents" such as the "Letter of the Governor of East Kalimantan number 522.21/5213/Ek dated 29 December 2009 regarding Use of forest area" (exhibit C-219, Bawasda Report on Special Audit dated 18 March 2010, pp. 4,7; exhibit R-038, Bawasda Report dated 18 March 2010, pp. 5,7). Respondent became aware of	Respondent observes that Claimants have several versions of purported recommendations from the Governor for Ridlatama's applications for borrow-for-use permits. Thus, they may have similar "recommendations" concerning not only RTM, but also the other three companies (RTP, IR, INP) or/and bear a different date than the already known "recommendations." The requested documents are relevant and material to the authenticity of the purported Governor's recommendations appearing in Claimants'	The Claimants will produce any such documents that are in their possession, control or custody.	Claimants produced "the Recommendation by the Governor of East Kalimantan addressed to the Ministry of Forestry in connection with RTP's application for a borrow-for-use forestry permit dated 29 December 2009." They stated that "Claimants have no other versions of this document or any other recommendations in their possession, control or custody" (Claimants' Document Production of 27 March 2015). <b>Respondent requests that the original of this document be provided</b>	<b>PARTIALLY GRANTED</b>  The Tribunal takes note that the Claimants' have produced the Recommendation of the Governor of East Kalimantan dated 29 December 2009. The Tribunal orders that the original of said Recommendation be provided for the inspection scheduled to take place between 16-17 April 2015. No decision required for the remaining request.

1.	2.	3.	4.		5.	6.	7.
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			<p>the contents of the 29 December 2009 letter after it was shown to the Governor of East Kalimantan by the National Police who had obtained it in the course of the search of the ICD office on 29 August 2014.</p> <p>Claimants had not submitted this document in the record despite its relevance. On 11 March 2015, Respondent applied to the Tribunal for leave to file this document as an exhibit.</p> <p>Respondent contests the authenticity of similar letters from the Governor submitted in Claimants' exhibit C-220 (Respondent's Application for Dismissal, ¶ 26(iii); Second Epstein Report, pp. 3, 8).</p>	<p>exhibit C-220.</p> <p>The requested documents are not in the possession, control or custody of Respondent.</p>		<p><b>for the inspection scheduled in April 2015.</b></p> <p>Respondent understands that Claimants and Ridlatama do not have any other similar recommendations, in particular concerning IR and INP.</p>	
36.	Resp.	All communications exchanged from September 2009-2011 between the London Alternative Investment Market (AIM) and Churchill regarding authenticity or forgery of the mining licenses for the "EKCP."	In the letter dated 3 September 2009 to the AIM, the Regent of East Kutai referred to the Audit Report by the Financial Auditor Body of the Republic of Indonesia (the BPK) which had found indications of forgery in the Ridlatama's mining undertaking licenses for exploration (exhibit C-191/R-057). The Regent	In light of the substance of the Regent's letters of 3 September 2009 and 22 October 2009, the AIM should have discussed these with Churchill.	Claimants object to this request on the basis that the State has not demonstrated that these documents are relevant and material. The documents requested do not go to prove any element of the forensic limb of the State's case, and they are similarly irrelevant and immaterial to the corroborative limb	(a) The requested documents are relevant and material because the Regent's letters to AIM referred to the fact that the BPK Report had found indications of forgery in the Ridlatama Companies' mining undertaking licenses for exploration (exhibit C-191/R-57, p. 2), and any subsequent	<b>GRANTED</b> The requested documents appear to be <i>prima facie</i> relevant and specific. There are no compelling grounds under Article 9.2.(e) of the IBA Rules that would lead to a different conclusion.

1.	2.	3.	4.		5.	6.	7.
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			<p>followed up with a letter to the AIM dated 22 October 2009, requesting a response from Churchill and the AIM (exhibit C-200/R-059). However, according to Mr. Hardwick, the AIM viewed these letters as "simply mischief making by whoever had sent" them (Hardwick WS, ¶¶ 89-90).</p>	<p>from the AIM. The requested documents are relevant and material to the issue of the authenticity of the mining undertaking licenses. The requested documents are not in the possession, control or custody of Respondent.</p>	<p>of the State's fraud case. The Claimants also object to this request on the basis of commercial confidentiality (IBA Rule 9(2)(e)).</p>	<p>communications between AIM and Churchill would also have discussed these indications of forgery. (b) Claimants have not provided any "compelling" grounds as to why the requested documents should not be produced on the basis of commercial confidentiality. (c) Respondent respectfully requests that the Tribunal order the production of the requested documents. Alternatively, at the very least, commercial confidentiality needs to be ascertained on a document-by-document basis; therefore, Claimants should produce an itemised schedule of the documents in respect of which commercial confidentiality is asserted.</p>	
37.	Resp.	Letter from the President Director of INP to the Director General of Mineral, Coal and Geothermal of the Ministry of Energy and Mineral Resources, dated 27 May 2010, regarding Application for Technical Considerations in the context of License for	On 22 September 2010, following INP's request of 27 May 2010, the Director General of Mineral, Coal and Geothermal allegedly wrote to the Director General of Forest Planology in support of INP's application for a borrow-for-use permit	<p>The requested document is relevant and material to whether the Director General's letter dated 22 September 2010 is authentic, how it was procured and who made it. The requested document is not in the possession,</p>	No such document is in the possession, control or custody of the Claimants.	Claimants rely on the technical considerations allegedly issued by the Director General of Mineral, Coal and Geothermal of the Ministry of Energy and Mineral Resources to each of the Ridlatama companies	<b>GRANTED</b> The requested document appears <i>prima facie</i> relevant. The Tribunal notes that Exhibit C-252 expressly refers to the 27 May 2010 letter from the President Director of PT INP No. 003/IR-

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		the Borrowing and Use of Forest Area for Activities under IUP for Exploitation.	(exhibit C-252; Hardwick WS, ¶ 101). Respondent disputes the authenticity of the Director General's letter (Respondent's letter dated 9 October 2014, n. 12; Third Epstein Report).	control or custody of Respondent.		dated 22 September 2010. This request is for a specific relevant and material document, originating on a specific date from a specific Ridlatama company. Among Claimants' exhibits, there are several documents that originated with the Ridlatama Companies, whom Claimants consider as their business partners. The requested document should be under Claimants' control and they should produce it.	MINERBAPUM/V/2010 The Tribunal further notes the Claimants' representation that no responsive document is in their possession, control or custody. However, the Claimants do not appear to have requested the responsive document from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain the responsive document from the Ridlatama Group.
38.	Resp.	Letter from the President Director of IR to the Director General of Mineral, Coal and Geothermal of the Ministry of Energy and Mineral Resources, dated 27 May 2010, regarding Application for Technical Considerations in the context of License for the Borrowing and Use of Forest Area for Activities under IUP for Exploitation.	On 22 September 2010, following IR's request of 27 May 2010, the Director General of Mineral, Coal and Geothermal allegedly wrote to the Director General of Forest Planology in support of IR's application for a borrow-for-use permit (exhibit C-253; Hardwick WS, ¶ 101). Respondent disputes the authenticity of the Director General's letter (Respondent's letter dated 9 October 2014, n. 12; Third	The requested document is relevant and material to whether the Director General's letter dated 22 September 2010 is authentic, how it was procured and who made it. The requested document is not in the possession, control or custody of Respondent.	No such document is in the possession, control or custody of the Claimants.	Claimants rely on the technical considerations allegedly issued by the Director General of Mineral, Coal and Geothermal of the Ministry of Energy and Mineral Resources to each of the Ridlatama companies. This request is for a specific relevant and material document, originating on a specific date from a specific Ridlatama company. Among Claimants' exhibits, there are several	<b>GRANTED</b> The requested document appears <i>prima facie</i> relevant. The Tribunal notes that Exhibit C-253 expressly refers to the 27 May 2010 letter from the President Director of PT IR No. 003/IR-MINERBAPUM/V/2010 The Tribunal further notes the Claimants' representation that no responsive document is in their possession, control or custody. However, the

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			Epstein Report).			documents that originated with the Ridlatama Companies, whom Claimants consider as their business partners. The requested document should be under Claimants' control and they should produce it.	Claimants do not appear to have requested the responsive document from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain the responsive document from the Ridlatama Group.
39.	Resp.	Letter from the President Director of RTP to the Director General of Mineral, Coal and Geothermal of the Ministry of Energy and Mineral Resources, dated 27 May 2010, regarding Application for Technical Considerations in the context of License for the Borrowing and Use of Forest Area for Activities under IUP for Exploitation.	On 22 September 2010, following RTP's request of 27 May 2010, the Director General of Mineral, Coal and Geothermal allegedly wrote to the Director General of Forest Planology in support of RTP's application for a borrow-for-use permit (exhibit C-254; Hardwick WS, ¶ 101). Respondent disputes the authenticity of the Director General's letter (Respondent's letter dated 9 October 2014, n. 12; Third Epstein Report).	The requested document is relevant and material to whether the Director General's letter dated 22 September 2010 is authentic, how it was procured and who made it. The requested document is not in the possession, control or custody of Respondent.	No such document is in the possession, control or custody of the Claimants.	Claimants rely on the technical considerations allegedly issued by the Director General of Mineral, Coal and Geothermal of the Ministry of Energy and Mineral Resources to each of the Ridlatama companies. This request is for a specific relevant and material document, originating on a specific date from a specific Ridlatama company. Among Claimants' exhibits, there are several documents that originated with the Ridlatama Companies, whom Claimants consider as their business partners. The requested document	<b>GRANTED</b> The requested document appears <i>prima facie</i> relevant. The Tribunal notes that Exhibit C-254 expressly refers to the 27 May 2010 letter from the President Director of PT IR No. 003/IR-MINERBAPUM/V/2010 The Tribunal further notes the Claimants' representation that no responsive document is in their possession, control or custody. However, the Claimants do not appear to have requested the responsive document from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain the responsive

1.	2.	3.	4.		5.	6.	7.
No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality		Responses/ Objections to Document Request	Reply to Objections to Document Request	Tribunal's Decisions
			Ref. to Submissions	Comments			
						should be under Claimants' control and they should produce it.	document from the Ridlatama Group.
40.	Resp.	Letter from the President Director of RTM to the Director General of Mineral, Coal and Geothermal of the Ministry of Energy and Mineral Resources, dated 27 May 2010, regarding Application for Technical Considerations in the context of License for the Borrowing and Use of Forest Area for Activities under IUP for Exploitation.	On 22 September 2010, following RTM's request of 27 May 2010, the Director General of Mineral, Coal and Geothermal allegedly wrote to the Director General of Forest Planology in support of RTM's application for a borrow-for-use permit (exhibit C-255; Hardwick WS, ¶ 101). Respondent disputes the authenticity of the Director General's letter (Respondent's letter dated 9 October 2014, n. 12; Third Epstein Report).	The requested document is relevant and material to whether the Director General's letter dated 22 September 2010 is authentic, how it was procured and who made it. The requested document is not in the possession, control or custody of Respondent.	No such document is in the possession, control or custody of the Claimants.	Claimants rely on the technical considerations allegedly issued by the Director General of Mineral, Coal and Geothermal of the Ministry of Energy and Mineral Resources to each of the Ridlatama companies. This request is for a specific relevant and material document, originating on a specific date from a specific Ridlatama company. Among Claimants' exhibits, there are several documents that originated with the Ridlatama Companies, whom Claimants consider as their business partners. The requested document should be under Claimants' control and they should produce it.	<b>GRANTED</b> The requested document appears <i>prima facie</i> relevant. The Tribunal notes that Exhibit C-255 expressly refers to the 27 May 2010 letter from the President Director of PT IR No. 003/RTM-MINERBAPUM/V/2010. The Tribunal further notes the Claimants' representation that no responsive document is in their possession, control or custody. However, the Claimants do not appear to have requested the responsive document from the Ridlatama Group. Accordingly, the Claimants shall make best efforts to obtain the responsive document from the Ridlatama Group.
41.	Resp.	All communications (with their attachments) exchanged between Churchill and Credit Suisse in 2010-2011	According to Mr. Quinlivan, "[i]n the course of preparing [the] case in this arbitration, [he] sought to arrange a	Claimants' evidence indicates that issues of forgery were looked into by Credit Suisse and	The Claimants object to this request on the basis of commercial confidentiality (IBA Rule 9(2)(e)). Credit	(a) Claimants have not provided any "compelling" grounds as to why the requested documents	<b>GRANTED AS NARROWED DOWN</b>

1.	2.	3.	4.		5.	6.	7.
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		discussing forgery or possible forgery of the revocation decrees, the Ridlatama licenses and any other document that is being disputed by either party in this case.	meeting with [Credit Suisse, but the latter] declined [his] request for a meeting and, indeed, in response issued an email terminating Credit Suisse's engagement on the project" (First Quinlivan WS, ¶ 74, citing exhibit C-261, emails dated 30 November 2010). In the cited emails, Credit Suisse did not terminate the engagement but referred to a map showing an overlap with Nusantara's areas, and Mr. Quinlivan responded: "As we have seen before . . . the distribution of forged documents are a common technique . . . ." Further, according to Mr. Quinlivan, in May 2010, Credit Suisse told Churchill "that [the revocation] decrees might very well not be genuine" (First Quinlivan WS, ¶ 69).	Churchill. The requested documents would reveal Credit Suisse's and Churchill's respective views on the question of the authenticity of the disputed documents in this Arbitration and are relevant and material to issue of their authenticity. The requested documents are not in the possession, control or custody of Respondent.	Suisse was Churchill's investment advisor during the period in question. The Claimants shared sensitive business information with Credit Suisse as part of this relationship. Further, the Claimants object to the second limb of the request, where the State requests all communications between Churchill and Credit Suisse discussing the possible forgery of "any other document that is being disputed by either party in this case". Given the scope of the State's expanding fraud case, the second limb of this request is overly broad and thus unreasonably burdensome.	should not be produced on the basis of commercial confidentiality. The mere fact that Claimants allegedly "shared sensitive business information with Credit Suisse" does not provide compelling grounds. Claimants have already disclosed communications between themselves and Credit Suisse (exhibits C-224, C-259, C-260, C-261). It is unfair for Claimants to selectively disclose certain communications with Credit Suisse, but not others, given that these communications likely pertain to the issue of forgery as Claimants' evidence indicates that issues of forgery were considered by Credit Suisse (exhibit C-261; IBA Rule 9.3(e)).  (b) This request is not overly broad and unreasonably burdensome, and Respondent's case on forgery is not "expanding." Respondent clearly identified the documents that it disputes in this Arbitration in its	The Tribunal accepts the Claimants' argument that the requested documents are privileged under Article 9.2.(e) of the IBA Rules.  However, the Tribunal is of the view that the Claimants should provide a privilege log identifying communications between Churchill and Credit Suisse discussing the alleged forgery of the revocation decrees, the Ridlatama licenses and any other document that is being disputed by either party in this case.

1.	2.	3.	4.		5.	6.	7.
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						<p>Application for Dismissal. The only additional document that Respondent has identified as a forged document is exhibit R-144, which is a forged recommendation from the Governor of East Kutai similar to the forged recommendations in exhibit C-220 that were raised in Respondent's Application for Dismissal.</p> <p>(c) Respondent respectfully requests that the Tribunal order the production of the requested documents. Alternatively, at the very least, commercial confidentiality needs to be ascertained on a document-by-document basis; therefore, Claimants should produce an itemised schedule of the documents in respect of which commercial confidentiality is asserted.</p>	
42.	Resp.	All documents that were (1) sent from Claimants or Ridlatama to the Government or (2) received by Claimants or Ridlatama from the Government, which relate to the EKCP and on which	Claimants rely on interactions with the government as proof of the authenticity of the disputed documents, particularly the impugned licenses ( <i>E.g.</i> , Claimants' letter dated 17	The requested documents are relevant and material to whether the disputed documents relating to the EKCP are authentic, particularly whether Claimants have reliable	This request is overly broad and thus unduly burdensome.  It is also manifestly unreasonable as it purports to impose a burden of proof on the Claimants,	This request is neither overly broad nor burdensome, as it identifies a specific category of documents – communications with authorities – on which	<b>DENIED</b>  The Tribunal is of the view that the request is overly broad and burdensome.

1.	2.	3.	4.		5.	6.	7.
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		<p>Claimants rely as proof of the authenticity of the disputed documents, but which Claimants have not yet submitted as exhibits.</p> <p>Such documents include, but are not limited to, those evidencing that “numerous East Kutai district officials, including from the Bupati’s office as well as forestry police officers from the East Kutai Regency, were present on a routine basis at the EKCP site to supervise Claimants’ drilling programme and other aspects of their mining activities.”</p>	<p>October 2014, p. 6, citing Benjamin WS, ¶ 63 and Gunter WS, ¶¶ 105-110).</p>	<p>proof of the validity of the mining licenses.</p>	<p>and then force them to produce against that manufactured burden. The State alone bears the burden of proof at present.</p>	<p>Claimants rely in defending the authenticity of the disputed documents. Disclosure of all such relevant documents is material to this point in the proceedings as the Tribunal and the Parties are focused on the issue of authenticity, and to ensure that there is no unfair surprise later in the proceedings on authenticity. If the requested documents exist, they should be produced now.</p>	
43.	Resp.	<p>All documents relating to the use or presence of an autopen device in Claimants’ or the Ridlatama Companies’ offices, including protocols relating to the signature of documents and receipts of an autopen device.</p>	<p>Mr. Epstein has confirmed that an “autopen” device added signatures to the disputed documents (Respondent’s Application for Dismissal, ¶¶ 23-24; First Epstein Report, pp. 6-7; Second Epstein Report, p. 8; Third Epstein Report, p. 3).</p>	<p>The requested documents are relevant and material to whether the disputed documents are authentic.</p>	<p>These documents do not exist.</p>	<p>Respondent notes Claimants’ response.</p>	<p><b>NO DECISION REQUIRED</b></p>

**Instructions:**

- (1) **This Request encompasses all documents within the possession, custody or control of Claimants.**
- (2) **The term “document” has the meaning attributed to it under the 2010 IBA Rules on the Taking of Evidence in International Arbitration, that is: “a writing of any kind, whether recorded on paper, electronic means, audio or visual recordings or any other mechanical or electronic means of storing or recording information.”**
- (3) **The documents requested should be produced in the manner in which they are maintained. If the documents requested are stored electronically, Claimants may produce the electronic versions of such documents.**

**Reservation of Rights:**

**In accordance with the Tribunal's directions, the present Request for Documents is limited to matters of document authenticity. Respondent reserves the right to request that Claimants produce documents concerning other matters at an appropriate time.**