

**IN THE MATTER OF AN ARBITRATION
UNDER THE ICSID RULES**

ICSID Case No. ARB/12/14 and ARB/12/40

B E T W E E N:

CHURCHILL MINING PLC
PLANET MINING PTY LTD

Claimants

-and-

THE REPUBLIC OF INDONESIA

Respondent

**CLAIMANTS' REQUEST FOR PRODUCTION
OF DOCUMENTS IN DOCUMENT AUTHENTICITY PHASE**

1. INTRODUCTION

- 1.1 The Republic of Indonesia (the "**Respondent**" or the "**State**") is hereby requested to produce the Documents described below to Churchill Mining PLC and Planet Mining Pty Ltd (the "**Claimants**").
- 1.2 The Claimants make these document requests in accordance with the schedule for the document authenticity phase set out at Annex 1 to the Tribunal's letter dated 4 March 2015.

2. KEY TERMS AND EXPRESSIONS

- 2.1 The following terms as used in this Claimants' Request for the Production of Documents (the "**Request**") shall have the meaning ascribed to them below. All other capitalised terms used but not defined in this Request shall have the meaning ascribed to them in the Parties' Statements.
 - a) "**Bawasda**" means Indonesia's Regional Supervisory Agency (*Badan Pengawas Daerah*).
 - b) "**Borrow-for-use Permits**" means the letters from Governor of East Kalimantan, H. Awang Faroek Ishak regarding the permission to "borrow-for-use" relevant forest area, issued to Investama Resources and Investmine Persada on 11 March 2010 and to Ridlatama Trade and Ridlatama Mineral on 22 March 2010.
 - c) "**BPK Report**" or "**2009 Audit Report**" means Indonesia's Financial Auditor's (*Badan Pemeriksa Keuangan*) "Report on Result of Audit (Audit with Specific Purpose) Semester II Budget Year 2008 over Management of Coal Mining Budget Year 2006 and 2007 at the Government of the Regency of East Kutai and Holders of Mining Authorization in Sangatta" No. 20/LHP/XVII/02/2009 dated 23 February 2009 (Exs. C-145, R-032).
 - d) "**CI**" means Claimants.
 - e) "**Claimants' Jurisdiction Memorial**" means the Claimants' Memorial on Jurisdiction and the Merits dated 13 March 2013.
 - f) "**Documents**" has the meaning set out in Article 1 of the International Bar Association Rules on the Taking of Evidence in International Commercial Arbitration, provided that the term is interpreted as broadly as possible and includes any writing, text, image, recording or information responsive to the following Requests, including any agreements, internal and external correspondence (including email), drafts, presentations, memoranda, meeting minutes, reports, studies, analyses, records and

personal notes (including diaries and calendars), in any form or medium, including electronic or software formats, and in any language.

- g) "**EKCP**" means the East Kutai Coal Project.
- h) "**Forgery Dismissal Application**" means the State's Application for Dismissal of Claimants' Claims Based on the Forged and Fabricated Ridlatama Mining Licences dated 24 September 2014.
- i) "**Governor of East Kalimantan**" means any past or present Governor, Acting Governor or Vice-Governor of East Kalimantan, Indonesia.
- j) "**Investama Resources**" means PT Ridlatama Investama Resources.
- k) "**Investmine Persada**" means PT Investmine Nusa Persada.
- l) "**KPK**" means the Indonesian Corruption Eradication Commission (*Komisi Pemberantasan Korupsi*).
- m) "**MEMR**" means Indonesia's Ministry of Energy and Mineral Resources.
- n) "**Mining Undertaking Licences**" means all mining licences for general survey, exploration and exploitation, and include any equivalent IUP or other licences issued pursuant to the Law on Mineral and Coal Mining, which received the assent of President Yudhoyono on 12 January 2009 and became effective as Law No. 4/2009.
- o) "**Nusantara Group**" means the following Nusantara-owned or controlled companies: PT Batubara Nusantara Kaltim, PT Kaltim Nusantara Coal, PT Nusantara Kaltim Coal, PT Nusantara Wahau Coal, PT Erabara Persada Nusantara and PT Nusantara Santan Coal.
- p) "**Nusantara Licences**" means the mining licences, permits, grants, authorizations or other rights of each of the Nusantara Group companies.
- q) "**PT ICD**" means PT Indonesian Coal Development.

- r) **"Re-enactment Decrees"** means the decrees re-enacting the *Decree of the Regent of East Kutai No.: 188.4.45/116/HK/III/2009* (concerning IUP Exploitation Business Licences) issued to Ridlatama Trade, Ridlatama Mineral, Investama Resources and Investmine Persada by H. Isran Noor of East Kutai Regency on 14 May 2010.
- s) **"Regent of East Kutai"** means any past or present Regent, Acting Regent or Vice-Regent of East Kutai in Kalimantan, Indonesia.
- t) **"Relevant Period"** means the period from 1 January 2007 until 30 June 2010, unless otherwise specified.
- u) **"Ridlatama Group"** means Ridlatama Trade, Ridlatama Mineral, Investama Resources and Investmine Persada.
- v) **"Ridlatama Exploitation Licences"** means the IUP Exploitation Business Licences issued to Ridlatama Trade, Ridlatama Mineral, Investama Resources and Investmine Persada by Mr Noor in his capacity as Regent of East Kutai on 27 March 2009.
- w) **"Ridlatama Exploration Licences"** means the KP Exploration Licences issued to Ridlatama Trade, Ridlatama Mineral, Investama Resources and Investmine Persada by Mr. Ishak in his capacity as Regent of East Kutai on 9 April 2008.
- x) **"Ridlatama General Survey Licences"** means the following licences:
 - i. General Survey Mining Licences issued to Ridlatama Trade and Ridlatama Mineral by Mr. Ishak in his capacity as Regent of East Kutai on 24 May 2007; and
 - ii. General Survey Mining Licences issued to Investama Resources and Investmine Persada by Mr. Ishak in his capacity as Regent of East Kutai on 29 November 2007.
- y) **"Ridlatama Licences"** means the Ridlatama General Survey Licences, the Ridlatama Exploration Licences and the Ridlatama Exploitation Licences.
- z) **"Ridlatama Mineral"** means PT Ridlatama Tambang Mineral.
- aa) **"Ridlatama Trade"** means PT Ridlatama Trade Powerindo.
- bb) **"State's Jurisdiction Memorial"** means the State's Memorial on Objections to Jurisdiction dated 8 April 2013.
- cc) **"WS"** means witness statement.

- 2.2 Each reference to a corporation or natural person shall be deemed to include that corporation's or person's agents, lawyers, representatives and any other person who acted or purported to act on that corporation's or person's behalf.
- 2.3 With regard to certain requests herein, in order to clarify what is referred to, citations are given to relevant statements by the parties or relevant exhibits to those statements. Such citations should not be construed to limit the relevance of such requests.
3. **GENERAL OBSERVATIONS**
- 3.1 The State has alleged that the Claimants have orchestrated "a massive, systematic and sophisticated scheme to defraud" the State (Forgery Dismissal Application, para. 3). The State's case relies upon two main propositions:
- 3.1.1 first, the Ridlatama General Survey Licences and Ridlatama Exploration Licences, and certain related certifications, recommendations and approvals, were "forged and fabricated" by use of an "autopen" device (the **forensic limb**); and
- 3.1.2 second, the Ridlatama General Survey Licences and Ridlatama Exploration Licences were not processed in accordance with the rigid ("fixed") procedure that is always followed at the Regency of East Kutai (and all other Regencies), and these departures or irregularities in procedure suggest that a fraud occurred (the **corroborative limb**).
- 3.2 By the State's own admission, this phase of the arbitration is about much more than just signatures – it is about the way an entire administrative and legal system worked, and the manner in which State agents responsible for overseeing and enforcing this system were actually doing so during the Relevant Period.
- 3.3 Other than the reports of Mr Epstein, the forensic limb of the State's case depends entirely on the evidence of witnesses:
- 3.3.1 first, Mr Ishak and Mr Noor, who state that they did not authorise or sign the Ridlatama General Survey Licences, the Ridlatama Exploration Licences and the Re-enactment Decrees, and that they do not have an autopen device and have never used a stamp signature or a scanned signature to sign official documents; and
- 3.3.2 second, other members of the Regency of East Kutai administration, who state that Mr Ishak and Mr Noor "always signed by hand" and that no autopen device was ever used by the Regency of East Kutai administration.
- 3.4 Given the reliance that the State places on these witness statements, the credibility of the State's witnesses is directly in issue. In order to challenge the testimony of the State's witnesses, the Claimants must have access to Documents that support and underlie the statements

of the State's witnesses. Accordingly, when the Claimants refer to the "credibility" of the State's witnesses as a justification for a document request, it is this aspect of the State's case to which they refer.

- 3.5 As to the corroborative limb of the State's case, this is hinged solely on lay witness evidence and supporting documentation. Essentially, the corroborative limb of the State's case requires that the State substantiate three propositions:
- 3.5.1 first, there was a "fixed" procedure that was invariably followed by the Regency of East Kutai (and all other Regencies) to receive, evaluate and grant applications for Mining Undertaking Licences;
 - 3.5.2 second, there were departures from this "fixed" procedure in the process by which the Ridlatama Licences and supporting documents were obtained; and
 - 3.5.3 third, each departure from the "fixed" procedure enables a corroborative inference to be drawn that the departure was *the result of fraud by Ridlatama Group*.
- 3.6 The State has therefore put the procedures of the Regency of East Kutai directly in issue. The State cannot rely solely on its witnesses to prove that there was a "fixed" procedure that was invariably followed at the Regency of East Kutai during the Relevant Period. Rather, the State must show how this "fixed" procedure worked in practice and whether all other allegedly valid licence holders followed the procedure as described by the State's witnesses. This onus of proof is important considering that the BPK 2009 Audit Report (on which the State itself relies) found, *inter alia*, that the management of general mining licensing was "not transparent nor accountable and has the potential of giving rise to deviation", and that there was no standard operating procedure in place at the Regency of East Kutai (Ex. C-145 and Ex. R-032, BPK Report, pg. ii, para. 1b).
- 3.7 Thus, the Claimants are entitled to request and obtain Documents that are relevant and material to the issue of whether or not there was a "fixed" procedure during the Relevant Period. If the Claimants cannot have these Documents, the Regency's administration will remain a "black box", and an inequality of arms will result. Accordingly, when the Claimants refer to the "corroborative limb" as a justification for a document request, it is this element of the State's case to which they refer.
- 3.8 Finally, despite the State's position that it need not establish the Claimants' "state of mind or possible connivance" behind the alleged forgery (Forgery Dismissal Application, para. 5), the State's burden when alleging any type of fraud, including forgery, is undoubtedly to establish the *mens rea* behind the alleged fraud. Under general principles of international law, the intent to defraud – including a motive supporting this intent – is essential in establishing fraud. This was recognised by the Tribunal in *Plama Consortium Ltd v Bulgaria*,

which held that fraud must be deliberate and rooted in a deception¹. Common law and civil law principles similarly underscore the required element of intent to defraud or corrupt motive when establishing fraud. Thus, in alleging forgery, the State needs to establish a motive behind the allegedly fraudulent acts. So, where the Claimants refer to the *motive* in the justifications below, it is this element of the State's case to which they refer.

- 3.9 The State is making extremely serious allegations against the Claimants and their local partner, the Ridlatama Group. Document production is essential to the Claimants' ability to respond to the State's allegations and the application for dismissal that they underpin.

4. **RESERVATION OF RIGHTS**

- 4.1 On 11 March 2015, the State applied for leave to put further documents and witness statements (including a further handwriting examination report) into evidence ("**State's Application for Leave**"). The Claimants will respond to the State's Application for Leave in accordance with the direction of the Tribunal dated 13 March 2015. However, considering the substance and timing of the State's Application for Leave, the Claimants must reserve all rights to make further requests for the production of Documents in respect of the items of evidence that are the subject of the State's Application for Leave.

5. **REQUEST TO PRODUCE**

- 5.1 Where documents are requested for physical inspection, a note to that effect is included in the description column in the table below. Further, for each of the Documents requested for inspection, the State is asked to produce high resolution colour photocopies and high resolution electronic scans. If the Documents requested are larger than A4 size, the State is requested to provide a true-size high resolution colour photocopy of the signature page.
- 5.2 For each of the Documents requested, the State is asked to produce all responsive documents within its possession, custody or control. For the avoidance of doubt, such documents include any document that is in the possession, custody or control of any other person and that the State is entitled (together or separately), legally, contractually or otherwise, to obtain upon request, in the original or in copy form.
- 5.3 The Claimants confirm that, to the best of their knowledge and belief, none of the Documents requested below are in their possession, custody or control.

¹ ICSID Case No ARB/03/24 (Award, 27 August 2008), paras. 133-135 and 140-143, Ex. CLA-198.

Claimants' Request for Document Production

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No.	Req. Party	Documents or Category of Documents Requested	Relevance and Materiality According to Requesting Party		Responses/ Objections to Document Request	Reply to Objections to Document Requests	Tribunal's Decision
			Reference to Submissions	Comments			
I. General							
a. BPK Report							
1.	CI	All letters, licences, applications, certifications, internal memoranda, interview notes, correspondence and other Documents that the BPK reviewed or relied on for its 2009 Audit Report in finding that there were "indications of forgery" of the Ridlatama Licences, including: (i) letter sent by the Nusantara Energy	The BPK in its 2009 Audit Report questioned the authenticity of the Ridlatama Exploration Licences (Forgery Dismissal Application, para. 22). According to the BPK Report, a comparison conducted by BPK of the mining authorisations listed in three separate	The State claims that the evidence of certain forged and fabricated Ridlatama Licences was first detected by the BPK in its 2009 Audit Report, which questioned the authenticity of the Ridlatama Exploration Licences (Forgery Dismissal Application, para. 22). Thus, on the State's case, the BPK Report is the origin of the forgery allegations	The documents "reviewed or relied on" by the BPK "in finding that there were 'indications of forgery'" of the licenses are those that are expressly indicated in the part of the BPK's Audit Report that analyzed the indications of forgery, i.e. at pp. 37-40. It is also the only part that Claimants translated in exhibit C-145, <i>BPK Audit Report</i> . This part did not relate to Attachment 3, concerning several dozens of various companies that Claimants cite. This and other information in the BPK Audit Report is irrelevant	The State claims that the only documents "reviewed or relied on" by the BPK "in finding that there were indications of forgery" of the licences are those that are expressly indicated in pages 37-40 of the BPK Report. For clarity, the Claimants list the documents explicitly mentioned in pages 37-40 of the BPK Report which the Claimants are specifically requesting that the State produce: (a) "Decrees of the Regent relating to the granting of coal mining undertaking licences"	GRANTED AS NARROWED DOWN The Tribunal notes that the Respondent will produce items (a) and (d) listed in the Claimants' reply. Subject to the following, the remaining documents requested, as narrowed down in the Claimants' reply, appear to be <i>prima facie</i> relevant. The Claimants' requests under items (b), (f), (aa) and (bb) are dealt with below under request Nos. 30, 31, 32 and 35, respectively. Accordingly, under this Request, the Tribunal orders

		<p>Group to the Head of Energy Services and the Head of the Planology Office at the Regency of East Kutai (NE - 047/WH/VII/2008) relating to the alleged Ridlatama Licences;</p> <p>(ii) the log books, records or similar Documents that list mining authorisations at the (a) Ministry (also referred to by the State as Department) of Energy and Mineral Resources, (b) Mining (and Energy) Bureau of the Regency of East Kutai and (c) Planology Office of the Regency of East Kutai;</p> <p>(iii) underlying documents relating to the BPK's findings that coal mining areas overlap with palm plantation areas; and</p>	<p>departmental log books resulted in contradictory findings with respect to registered licences of the Ridlatama Group (Ex. C-145 and Ex. R-032, Attachment 3, pg. 1-2).</p>	<p>against Ridlatama Group.</p> <p>The Documents requested are relevant and material to identify the initial basis and reasoning for the BPK's determination that the Ridlatama Exploration Licences were forged and whether this is consistent with the allegations in the Forgery Dismissal Application.</p>	<p>and immaterial to Claimants' stated goal "to identify the initial basis and reasoning for the BPK's determination that the Ridlatama Exploration Licences were forged."</p> <p>Respondent will produce the documents identified below. The rest of the documents identified in the Report's part concerning the forgery are in the possession, custody or control of Claimants.</p> <p>Request 1(i) – Respondent continues to search for this document. At the same time, it notes that the particulars of this correspondence are already reflected in sufficient detail in the BPK Report.</p> <p>Request 1(ii and iii) – These documents are not identified in the Report's discussion concerning the forgery.</p> <p>Request 1(iv) – These documents are available as follows.</p> <p>The documents referred to in line 1, in the first table at p. 38 are Claimants' exhibits C-14 and C-110, respectively.</p>	<p>(pg. 37);</p> <p>(b) "register book of decrees of the Regent" (pg. 37);</p> <p>(c) "interviews with officials at the Government of the Regency of East Kutai having authority in the process of granting of undertaking license" (pg. 37);</p> <p>(d) "letter sent by the Nusantara Energy Group to the Head of Energy Services and the Head of the Planology Office at the Regency of East Kutai (NE - 047/WH/VII/2008) relating to the alleged Ridlatama Licences" (pg. 37);</p> <p>(e) "confirmation with Planology Office of the Regency of East Kutai" (pg. 30, 2(c)); and</p> <p>(f) "Register Book of decrees of the Regent at the Legal Section" (pg. 38, 2(b)).</p> <p>According to its response, the State will produce items (a) and (d) listed above. The State, however, objects to the production of any other documents the Claimants list above because "[t]hese documents [(b), (c), (e), (f) set out in the Claimants' original request as (ii) and (iii)] are not identified in the Report's</p>	<p>the production of items (c), (e), and (cc).</p>
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		<p>(iv) all original decrees and other supporting documentation reviewed by the BPK in reaching its conclusion that the decree numbers of the Ridlatama Licences were invalid and related to other validly granted decrees.</p>			<p>The documents referred to in line 2, in the first table at p. 38 are Claimants' exhibits C-15 and C-111, respectively.</p> <p>The documents referred to in line 2, in the first table at p. 38 are Claimants' exhibits C-15 and C-111, respectively.</p> <p>The documents referred to in line 3, in the first table at p. 38: Respondent will produce copies of the 2005 and 2008 license of Nusantara Kaltim Coal.</p> <p>The documents referred to in line 4, in the first table at p. 38 are Claimants' exhibits C-16 and C-112, respectively.</p> <p>The documents referred to in lines 5-6, in the first table at p. 38: Respondent will produce copies of the 2005 and 2008 licenses of Era Bara Persada Nusantara, Nusantara Santan Coal.</p> <p>The documents referred to in lines 1-3 in the second table at p. 38 are Claimants' exhibits C-101, C-102, C-100, respectively.</p> <p>The documents referred to in lines 4-5: Respondent</p>	<p>discussion concerning the forgery".</p> <p>This is evidently incorrect, as items (b), (c), (e) and (f) are quoted directly from the pages within the BKP Report that the State has identified as relevant and material to the issue of forgery.</p> <p>In addition, the State argues that Attachment 3 to the BPK Report is irrelevant and immaterial to the BPK's determination that the Ridlatama Licences were forged. Attachment 3 is a table that lists the "Mining Authorizations" recognised by three separate government agencies, the "Department of ESDM" (which we understand to mean the Ministry of Energy & Mineral Resources) ("MEMR"), the "Mining Bureau" and the "Planology Office".</p> <p>While it is correct that the table in Attachment 3 lists licences that are not directly at issue in these proceedings, a number of items in this table do refer to Ridlatama Licences and Nusantara Licences.</p> <p>In particular, on page 1 and page 2, the MEMR's registration book, as reflected in the "Department of ESDM"</p>	
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					<p>will produce copies of the documents concerning Swasembada Bara and Swasembada Energy.</p> <p>The documents referred to in the first table at ¶ 2.b at pp. 38-39: lines 1-2 are exhibits to Ramadani WS, NR-03 and NR-10, respectively; line 3 – the issuance of this document was cancelled (Ramadani WS, Annex, item 8);</p> <p>lines 4-5 – Respondent continues to search for these documents.</p> <p>The documents referred to in lines 1-17 in the table at pp. 39-40 – Respondent continues to search for these documents.</p>	<p>column, lists IR, INP, RTM and RTP as entities with "Mining Authorizations". The "Mining Bureau" and the "Planology" columns do not list these licences. The State's case is that there was "a pattern of forged documents associated with the Ridlatama Companies at three levels of government – the Regency of East Kutai, the Province of East Kalimantan and the Ministry of Energy and Mineral Resources" (State's 23 March 2015 letter, pg. 6). The BPK Report shows a discrepancy in the views taken by two of these levels of government.</p> <p>Accordingly, the Claimants request that the State produce the three documents underlying the substance of Attachment 3. Given the reference by the BPK to register books elsewhere in the Report and the specific reference to "Mining Authorizations listed" at the different governmental agencies, the Claimants narrow their request to the:</p> <p>(aa) register book or similar Document where "Mining Authorizations [are] Listed in the Department of Energy and Mineral Resources" (BPK</p>	
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						<p>Report, Attachment 3, pg. 1);</p> <p>(bb) register book or similar Document where "Mining Authorizations [are] Listed in the ... Mining Bureau ... of the Regency of East Kutai" (BPK Report, Attachment 3, pg. 1); and</p> <p>(cc) register book or similar Document where "Mining Authorizations [are] Listed the Planology Office of the Regency of East Kutai" (BPK Report, Attachment 3, pg. 1).</p> <p>The Claimants note that item (aa) overlaps with request 35 and item (bb) overlaps with request 30. These are the registration books of the MEMR and the Mining Bureau in the Regency of East Kutai. The reasons for this necessary overlap are discussed below under requests 30 and 35, respectively.</p> <p>In summary, the Claimants' narrowed request is that, in addition to the expected production by the State of items (a) and (d) listed above, the State also produce items (b), (c), (e) and (f) for document production; and (aa), (bb) and (cc) for document inspection.</p>	
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2.		The <i>curriculum vitae</i> for each member of the BPK team that was responsible for the production of the BPK Report and the conduct of the underlying audit, including but not limited to Drs. Widyatmantoro (NIP. 240001922).	The BPK in its 2009 Audit Report questioned the authenticity of the Ridlatama Exploration Licences (Forgery Dismissal Application, para. 22).	The Documents requested are relevant and material to the weight that should be given to the BPK Report. The backgrounds of the BPK auditing team are important to determine if they were qualified to opine on forensic matters such as the authenticity of the Ridlatama Licences.	The requested documents lack relevance and materiality to the factual question of whether or not the impugned documents are authentic. The BPK audit identified indications of forgery. The BPK is the agency that conducts such audits, and ensures that its staff has the necessary expertise. As to “forensic matters,” the BPK Audit Report observed that the signatures were identical. This fact is obvious to anybody who compares the signatures. The BPK also observed that it is very unlikely that identical signatures can be made by a person. In any event, Respondent’s Forensic Handwriting Expert independently concluded, <i>inter alia</i> , that the signatures are identical. He noted that no person can produce a signature in exactly the same way twice.	In an apparent attempt to give comfort to the Claimants, the State says that the BPK “ensures its staff have the necessary experience”. The State, therefore, appears to concede that the issue of qualifications is relevant and material, but says that the Claimants should be satisfied with the State’s submission on this point alone. That is not good enough. The State places heavy reliance on the conclusions of the BPK Report. It is certainly not the case that the BPK’s conclusions were solely that the signatures were identical. That is nowhere on the face of the BPK Report. What the report says is that there were “indications” of forgery (Ex. C-14, R-032, pg. 40, 2(d)). This is a much wider conclusion, and the Claimants are entitled to know whether the persons that reached it were sufficiently qualified to do so. It is hard to see how producing the CVs for these people could be controversial, let alone burdensome for the State.	GRANTED The requested documents appear to be <i>prima facie</i> relevant.
3.	CI	All BPK audit reports relating to	The State contends that the	When relying on the BPK for the	The requested documents lack relevance and	The Claimants maintain their view that the documents	DENIED The requested documents,

		management of coal mining issued during the Relevant Period.	<p>BPK Report was undertaken by the BPK as part of a full audit of the management of the coal mining sector at the MEMR, aimed at evaluating the appropriateness of the internal control system of coal mining management, granting of licences, management of non-tax State revenues, profit sharing fund, and management of environmental issues (State's Jurisdiction Memorial, para. 81).</p>	<p>claim that the Ridlatama Exploration Licences were forged (Forgery Dismissal Application, para. 22), the State explains that "the BPK 2009 Audit Report was the result of a much larger audit undertaking by BPK pursuant to relevant Indonesian regulations" and "not initiated by Nusantara" or to "specifically examine the status of Ridlatama's licences" (State's Jurisdiction Memorial, para. 86).</p> <p>The Documents requested are relevant in order to compare other BPK audit reports to the 2009 Audit Report and determine whether the BPK's mandate was in fact to conduct a general audit of coal mining</p>	<p>materiality to the factual question of whether or not the impugned documents are authentic.</p> <p>Any other BPK report for a different investigation relating to the management of coal mining will not establish whether or not the impugned licenses are forged. Also, "[w]hether the BPK's mandate was in fact to conduct a <u>general</u> audit of coal mining licences" is not relevant to the issue of authenticity of the alleged Ridlatama's mining licenses.</p> <p>In any event, Respondent proved that the particular BPK Audit report was prepared as part of broader government audit. Exhibit R-033, BPK's Letter to the President of Indonesia, stated that in 2008, the BPK undertook the audit on Management of Coal at, <i>inter alia</i>, four Provincial Governments, 28 Regency/City and 1,358 holders of mining authorizations.</p>	<p>requested are relevant and material. However, in the interests of cooperation and procedural economy, the Claimants ask that the State provide a list of all BPK audits relating to management of coal mining conducted during the Relevant Period; the Claimants will then nominate three reports of this list for production.</p>	<p>including the reduced request for a list of all BKP audits in the relevant period, do not appear <i>prima facie</i> relevant.</p>
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				licences as the State alleges.			
b. Bawasda Report							
4.	CI	All letters, licences, applications, certifications, internal memoranda, interview or meeting notes, correspondence and other Documents that the Bawasda reviewed or relied on for its report dated 18 March 2010 (" Bawasda Report ", Ex. C-219).	The Bawasda Report found that the Ridlatama Licences were "legal and accountable" (Ex. C-219, para. 4 of Chapter III "Conclusions"). The State, however, claims that the Bawasda Report is flawed because it is "mainly based on a number of documents whose veracity and relevance ... are questionable" (State's Jurisdiction Memorial, para. 89).	The Documents requested are relevant and material to determine whether the Bawasda Report and its supporting documents are in fact "questionable" as the State alleges (State's Jurisdiction Memorial, para. 89). This, in turn, goes to the weight that should be given to the Bawasda Report relative to the weight that should be given to the BPK Report.	The "Documents that the Bawasda reviewed or relied on for its report dated 18 March 2010" are those that are referred to in the Bawasda Report. As detailed below, responsive documents are in the record as Claimants' exhibits or Respondent's exhibits. The rest of the documents should be in the possession, custody or control of Claimants, since the "auditors from the Bawasda's office came to PT ICD's office . . . to . . . review all of the documentation in relation to [the] EKCP licences. (Benjamin WS, ¶ 115) and since the Bawasda's conclusions were "[b]ased on result of document review and confirmation with Management of PT Ridlatama Group" (exhibit R-038, Bawasda Audit Report, Bab III, Conclusion, ¶ 4). Responsive documents are identified below, without	As noted in the reply covering submission to the Claimants' reply to the State's objections (" Reply Covering Submission "), the Claimants have not, at this time, been able to review the documents produced by the State due to issues arising out of the State's use of the "Watchdox" system. Subject to the review of the documents the State will produce, the Claimants are satisfied with the State's response to this request.	NO DECISION REQUIRED

				<p>waiving any applicable objections to authenticity or substance:</p> <p>Exhibits C-65, C-99, C-149, C-41, C-101, C-146, C-66, C-100, C-148, C-40, C-102, C-147, C-32, C-55, C-54, C-37, C-34, C-112, C-111, C-110, C-112, C-210, R-032, R-131, C-14, C-15, C-16, C-134, C-139, C-140, C-143, C-154, R-050, C-134, C-158, P-63, C-192, C-163, R-129.</p> <p>Without waiving the objection that responsive documents should be in the possession, custody or control of Claimants, Respondent will produce copies of the 2005 and 2008 licenses of Nusantara Kaltim Coal, Era Bara Persada Nusantara, Nusantara Santan Coal.</p> <p>Respondent continues to search for the Letter mentioned in Bab II.2.C, but notes that the Bawasda Report provided an “essence” summary of that letter.</p> <p>Respondent will also produce the document dated 8 February 2010, referred to in the Bawasda</p>		
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					Report.		
5.	Cl	<p>The 8 February 2010 Assignment Letter (No. 700.900/22/ITWIL KAB/II/2010) sent by the Regent of East Kutai to a Region Inspector of the Regency of East Kutai to follow up on the findings of the BPK Report, the subsequent written cancellation of such Assignment Letter and any supporting documentation to the cancellation.</p> <p>NOTE: The original of this Document is requested for inspection.</p>	<p>The State claims that the Bawasda Report authored by the Regency of East Kutai's regional audit body was issued without the authorisation of the Regent of East Kutai, and that the assignment to produce such a report (and respective investigation) "was cancelled after the Regent found out that some members of the inspection team went to Jakarta to prepare a report at the Ridlatama Group's office in Jakarta instead of summoning the Ridlatama Group management to Sangatta" (State's Jurisdiction Memorial, para. 87).</p>	<p>The Documents requested are relevant to the issue of why the Bawasda audit was initiated, what the scope of the Bawasda audit was meant to be, and why the instruction to carry out the audit was cancelled. These Documents are relevant and material to the State's allegation that the Bawasda Report and supporting documents are questionable.</p>	<p>Respondent will produce a copy of the 8 February 2010 document.</p> <p>While Respondent has not been able to locate the original of this document, it notes that its authenticity is undisputed, and Claimants failed to demonstrate relevance and materiality of their wish to inspect the original. Moreover, the content of this document is reflected in the beginning of the Bawasda Report.</p> <p>Respondent has not said that the cancellation was a written one, but showed that thereafter the Regent was not expecting the Bawasda to prepare a report. On the date of the completion of this Report, which was marked as "Confidential," the Bawasda inspector submitted the Report to <u>the Head of the Ridlatama Group</u>, without copying the Regent or anyone else. This evidence was unknown to the authorities, until it was recently found at Churchill's website (Respondent's letter to the</p>	<p>The Claimants find it difficult to accept the State's assertion that there is no written record of the Regent's cancellation of the Bawasda audit. The Claimants repeat their request of any written record, including any file note, diary entry, or email recording or reflecting the Regent's cancellation instruction.</p> <p>As to the Assignment Letter, the Claimants appreciate that the State has agreed to produce a copy of this document. The Claimants will need to examine this letter in original form.</p> <p>The Claimants require that the State produce the original of the Assignment Letter for inspection because (i) it is an undisputed document and therefore useful as a comparator (especially for Mr Noor's signature); and, (ii) it is close in time to the Re-enactment Decrees (the authenticity of which are disputed).</p> <p>The Claimants note also that the State provides a similar justification in its own request for production of original</p>	<p>GRANTED</p> <p>The Tribunal notes that the Respondent has agreed to produce a copy of the 8 February 2010 Assignment Letter.</p> <p>The Tribunal further finds that any cancellation and any supporting documentation to the cancellation appear to be <i>prima facie</i> relevant.</p> <p>Finally, the Tribunal orders the production of the original of the 8 February 2010 Assignment Letter for inspection due to take place on 16-17 April 2015.</p>

					Tribunal dated 1 December 2015, n. 27; Respondent's letter to the Tribunal dated 12 December 2014, p. 6).	documents for inspection. In request 1, the State asks to examine original letters from the Regent of East Kutai to IR and INP because, according to the State, these letters have signatures from the Regent of East Kutai that its expert, Mr Epstein, identified as being identical to other allegedly forged documents.	
6.	Cl	<p>Employment files, letters, notes, memoranda and records, including those providing reasons for any employment status change (such as promotions, demotions, early retirement and/or terminations) for:</p> <p>(i) former East Kutai Auditor General, JamiatulKhoir Daik;</p> <p>(ii) the head of the Bawasda auditing team, Ibu Rosdiana;</p> <p>(iii) other members of the Bawasda team, including Ibu Retno Wulandari;</p>	<p>The Bawasda Report found that the Ridlatama Licences were "legal and accountable" (Ex. C-219, para. 4 of Chapter III "Conclusions").</p> <p>It is undisputed that key members of the Bawasda team and the Legal Section of the Regency of East Kutai who were involved in the production of the Bawasda Report had their employment terminated or were demoted following the issuance of the Bawasda Report</p>	<p>The Documents requested are relevant to determine whether the employment status change of certain members of the Bawasda team was a result of the discrepancy between the BPK Report's findings and those of the Bawasda Report. The reasons for such change are relevant to assess the weight that should be given to the Bawasda Report.</p>	<p>(a) The requested documents lack relevance and materiality to the issue of authenticity of Ridlatama's licenses, as any action was due to the manner the Bawasda team conducted the audit (being hosted by PT ICD and Ridlatama in Jakarta). Claimants misrepresent Respondent's explanation. Respondent proved that the Regent did not know of the issuance of the Bawasda Report (<i>see</i> above request 5).</p> <p>The Bawasda assignment was cancelled due to the inappropriate behavior by the Bawasda while the audit was ongoing, and the action was related to that inappropriate behavior (Ordiansyah WS, ¶ 30). Indeed, Mr. Benjamin</p>	<p>As to item (a), the Claimants take issue with the State's assertion that the Claimants are making misrepresentations to the Tribunal.</p> <p>The State challenges the reliability and probative value of the Bawasda report (<i>inter alia</i>) on the basis that it was the product of improper behaviour by the Bawasda team that wrote it. At present, the only evidence for such allegedly improper conduct is found in the State's witness statements. Contrary to what the State says in its objection to this request, Mr Benjamin's evidence is simply that the Bawasda team attended the offices of PT ICD to conduct the audit. These documents will show whether any conduct or disciplinary issues were raised with the relevant Bawasda team members at the</p>	<p>PARTIALLY GRANTED</p> <p>To the exception of items (ii) and (iv), the Tribunal is of the view that the requested documents appear to be <i>prima facie</i> relevant.</p> <p>To the extent that the production of these documents is not possible due to their loss and destruction in the fire that occurred in November 2014 in the Civil Servant Agency of East Kutai (<i>Badan Kepegawaian Daerah – BKD</i>), the Respondent is requested to show the causes and consequences of the fire, including precisely what records were destroyed.</p>

		and (iv) members of the Legal Section in the Regency of East Kutai including Mr Ordiansyah and Mr Zainudun.	(Claimants' Jurisdiction Memorial, para. 192).		<p>stated that the Bawasda team was visiting the “PT ICD’s office [in Jakarta] early to mid-February of 2010” (Benjamin WS, ¶ 115), and Bawasda Report’s conclusion that the Ridlatama Licences were “legal and accountable” was “[b]ased on result of document review and confirmation with Management of PT Ridlatama Group” (Ex. R-038, Bawasda Audit Report, Bab III, Conclusion, ¶ 4).</p> <p>(b) The documents requested concerning Messrs Ordiansyah and “Zaiunudun” [sic] are not relevant, because they were not part of the Bawasda team and were not “involved in the production of the Bawasda Report.” In particular, Mr. Ordiansyah of the Planology Office refused to be co-opted (Ordiansyah WS, ¶ 30. The documents requested concerning “Ibu Rosdiana” are not relevant as she was not part of the Bawasda team either (<i>see</i> exhibit R-038).</p> <p>(c) Besides being irrelevant and immaterial, the</p>	<p>time. They are, therefore, clearly the best evidence of whether the alleged misbehaviour occurred or not (and if it did, whether the Bawasda report is tainted as the State suggests).</p> <p>As to item (b), the State’s response misses the point: the Claimants’ request is not limited to employment records of the Bawasda team, but a wider class of persons whose employment status changed after the Bawasda report was issued.</p> <p>As to item (c), the Claimants request that the State provide contemporaneous documents to show the causes and consequences of the November 2014 fire, including precisely what records were destroyed.</p>	
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					production of the requested documents is not possible due to their loss and destruction in the fire that occurred in November 2014 in the Civil Servant Agency of East Kutai (<i>Badan Kepegawaian Daerah – BKD</i>), which housed all the employment records of the Regency’s civil servants. Respondent will produce supporting material in this respect.		
c. Mr Epstein's Forensic Examination							
7.		Any notes made by Gideon Epstein and his team during the document inspection of original documents in Singapore on 29 August 2014 (" Document Inspection ").	The State relies on Mr Epstein's expert findings set out in his Second Forensic Handwriting Examination Report dated 15 September 2014 (" Second Handwriting Report ") following the Document Inspection concerning its allegations that Mr Ishak and Mr Noor did not sign the Ridlatama General Survey Licences, the	Mr Epstein's Second Handwriting Report sets out Mr Epstein's opinions on the authenticity of the documents that were made available during the Document Inspection. The Documents requested are relevant and material to the issue of his credibility as a forensic handwriting expert and to the credibility of his	Respondent objects to producing the notes that Mr. Epstein made during the document inspection on 29 August 2014 because Mr. Epstein will be available for cross-examination, giving Claimants ample opportunity to question him on his “credibility as a forensic handwriting expert and ... the credibility of his handwriting examination reports” at the hearing. In addition, Claimants already have Mr. Epstein’s forensic reports, which explain how he examined the documents and his findings, and Mr. Epstein’s work during the document	The Claimants will not proceed with this request. However, the Claimants do not accept that they can be criticised for not disclosing the conclusions reached by their hand-writing expert as a result of the document inspection in Singapore (29 August 2014). The Claimants have no burden of proof at this stage.	NO DECISION REQUIRED The Tribunal notes that the Claimants do not proceed with this request.

			Ridlatama Exploration Licences and the Re-enactment Decrees and that the method of adding their signatures was an "autopen" device (Forgery Dismissal Application, para. 23; Second Handwriting Report, paras. 1 and 3 under Findings).	handwriting examination reports, in particular with respect to the reliability and technical merit of the method used by Mr Epstein and his team to inspect the documents that are the subject of his Second Handwriting Report and Third Forensic Handwriting Examination dated 13 October 2014.	inspection is recorded on video available to Claimants. Respondent reminds Claimants and the Tribunal that in September 2014, it requested that Claimants “disclose the conclusions reached by their forensic experts as a result of the inspection of documents ... in order to allow the experts to confer on any technical issues on which they may differ” (Respondent’s letter dated 15 September 2014, p. 5). Claimants’ rejected Respondent’s request (Claimants’ letter dated 3 October 2014).		
d. Nusantara Group							
8.	CI	The following Documents in relation to the Nusantara Group: (i) all applications, letters, submissions and requests from the Nusantara Group to the Regency of East Kutai or any of its agencies, representatives or	According to the State, in 2007, Mr Armin and Mr Ordiansyah, separately, discovered an overlap between (i) the mining areas covered by pre-existing exploration licences granted to the Nusantara Group and (ii) the	The State claims that when the Ridlatama Group applied for general survey licences in 2007, these applications were rejected because they overlapped with pre-existing exploration licences (State's Jurisdiction Memorial, paras.	(i) Such documents are found in exhibit R-027. Claimants themselves relied upon these applications in the lawsuit against Andreas Rinaldi, the “controller” of Ridlatama (RMOJ, ¶ 73; exhibit R-026, ¶¶ 2.29.1-4 and 2.29-7-10). (ii and iii) The requests are overly broad. Claimants were advised between the	First, the Claimants do not accept that Exhibit R-027 disposes of this request. Exhibit R-027 does not include the following two applications: (a) PT Kaltim Nusantara Coal's Application for Exploration No. KNC08/WHH/05 dated 7 March 2005 (Putra's Staff Analysis, para. A(2)(c)); and	GRANTED AS NARROWED DOWN With respect to item (i), the Tribunal finds that the documents requested by the Claimants, as narrowed down in their reply, appear <i>prima facie</i> relevant. Accordingly, the Tribunal orders the production of items (a) and (b) identified in the Claimants’ reply.

	<p>agents, relating to the March 2005 exploration licences or an extension thereof (including the extensions made on 17 July 2008 and the applications for such extensions);</p> <p>(ii) all notifications, authorizations, recommendations, licences, permits, certifications, approvals and other Documents by the Regency of East Kutai relating to the Nusantara Licences between 1 March 2005 and 30 June 2010;</p> <p>(iii) internal memoranda, notes, records of meetings or discussions, correspondence or other Documents relating to communications between the Regency of East Kutai and representatives, employees or agents of the Nusantara Group</p>	<p>mining areas requested to be covered by the Mining Undertaking Licences for the Ridlatama Group (Forgery Dismissal Application, para. 28).</p>	<p>71, 73-74).</p> <p>The suggestion is that Ridlatama discovered this supposed overlap and then contrived to forge the Ridlatama Licences. The Documents requested are relevant and material to the State's case on the element of motive.</p>	<p>end of 2006 and February 2007 by Ridlatama's geological consultants Rimineco that particular Nusantara companies held "concessions" in the precise area that Claimants wanted for their "EKCP" (Gunter WS, ¶ 55; exhibit C-26, ¶ 1.1 and Maps in Attachments 02, 04, 05, 06). So the "discovery" of these facts relates to that period, and the forgery of the mining undertaking licenses for general survey licenses dates back to spring of 2007.</p> <p>Further, "motive" is not material to the determination of the factual question of whether or not the impugned documents are authentic. A finding of the "motive" is not required for determining that the documents are not authentic.</p> <p>Documents responsive to request 8(iii) are already in the record (see exhibits R-129 and R-130).</p> <p>(iv) Forestry permits of the Nusantara Group are irrelevant and immaterial to whether the purported</p>	<p>(b) PT Nusantara Wahau Coal's Application for Exploration No. NWC08/WHH/05 dated 7 March 2005 (Putra's Staff Analysis, para. B(2)(c)).</p> <p>Second, the Claimants do not accept that this request is overly broad. For reasons set out in the Reply Covering Submission, the breadth of any request by the Claimants must be considered taking into account the scale and nature of the allegations they face.</p> <p>Third, the Claimants disagree with the State's self-serving interpretation of Rimineco's Reconnaissance Report.</p> <p>Fourth, the Claimants dispute the chronological aspect of the State's response. The State would have the Tribunal prejudge a critical fact, which is whether the Nusantara Licences were valid at the time the Ridlatama Licences were granted or fabricated or, alternatively, whether they had lapsed. In other words, the issue is not whether the Nusantara Licences were ever awarded, but rather whether they were in force at the time the fraud is alleged to have been committed (such that</p>	<p>With respect to items (ii) and (iii), the Tribunal is of the view that the requested documents appear to be <i>prima facie</i> relevant.</p> <p>With respect to item (iv), the Tribunal notes that the record only contains two borrow-for-use permits granted to two entities of the Nusantara Group (<i>i.e.</i>, PT Kaltim Nusantara Coal (Exh. C-293) and PT Batubara Nusantara Kaltim (Exh. C-294)). Accordingly, the Tribunal orders the production of further borrow-for-use permits or similar forestry permits issued to the Nusantara Group, including to PT Nusantara Wahau Coal, if any.</p>
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		between 1 March 2005 and 30 June 2010; and (iv) all borrow-for-use permits or similar forestry permits issued to the Nusantara Group.			Ridlatama mining undertaking licenses are not authentic. Further, Claimants themselves were able to gain possession of responsive documents (exhibits C-293, C-294).	there was a motive for the fraud). Finally, as set out in the Reply Covering Submission, the State's position <i>volte-face</i> on motive is surprising (see paras. 24-33 of the Reply Covering Submission).	
9.		All letters, licences, applications, certifications, memoranda, interview notes, correspondence and other Documents reviewed and relied on by Djaja Putra for the Mining and Energy Bureau's Staff Analysis dated 26 February 2007 (" Mr Putra's Staff Analysis ", Ex. R-024).	The State claims that the Claimants "worked hard to create the illusion that the mining areas were open for new licensing" by relying, <i>inter alia</i> , on Mr Putra's Staff Analysis, which concluded that the Nusantara Licences had expired (State's Jurisdiction Memorial, para 70).	Mr Putra concluded that the Nusantara Licences had expired and that the areas in question were therefore open to be awarded to the Ridlatama Group. If Mr Putra was correct in his findings, then the Ridlatama Group had no reason to forge the Ridlatama Licences. The State, however, questions the authenticity of Mr Putra's Staff Analysis (State's Jurisdiction Memorial, para. 72). Thus, the Documents underlying Mr Putra's Staff	The documents relied on by the author of this alleged Staff Analysis are listed therein. Half of these are found in exhibits C-15, C-16, C-37, R-027. It is not known what other documents, if any other, were relied upon or whether they ever existed. The rest of the documents, those listed in ¶¶ A.2.(a, b, c) and B.2 (a, b c) date back before the issuance of the 2005 Nusantara licenses and are irrelevant and immaterial "to assess the credibility of Mr Putra's Staff Analysis" of 2007. What is relevant to non-credibility of the alleged Staff Analysis is that it omitted to refer to a number of Nusantara's applications found in exhibit R-027.	The Claimants can do little but accept what the State is saying here. As to the State's <i>volte-face</i> on motive, see paragraphs 24-33 of the Reply Covering Submission.	NO DECISION REQUIRED

				Analysis are relevant and material to assess the credibility of Mr Putra's Staff Analysis. The Documents requested will also address the State's case on the element of motive.	Concerning "motive," see response to request 8.		
10.		All payment records (written or electronic), including invoices, receipts, ledgers and accounts for all payments made by the Nusantara Group in respect of the Nusantara Licences from the date of issuance of the Nusantara Licences to the present day, including but not limited to dead rent and seriousness bond payments.	The State claims that when the Ridlatama Group applied for general survey licences in 2007, these applications were rejected because they overlapped with pre-existing exploration licences (State's Jurisdiction Memorial, paras. 71, 73-74).	<p>The State suggests that the Ridlatama Group discovered the supposed overlap with the Nusantara Group and this led them to forge the Ridlatama Licences.</p> <p>There can only have been an overlap with the Nusantara Licences – and thus a motive for forgery on the part of the Ridlatama Group – if the Nusantara Licences were valid. In order to be valid, the Nusantara Group must have paid dead rent and seriousness bonds and complied with</p>	<p>Payments by Nusantara are irrelevant and immaterial to whether the purported Ridlatama mining undertaking licenses are not authentic.</p> <p>Concerning the motive, see response to request 8, above.</p>	<p>The State's answer here defies logic and reason. The validity of the Nusantara Licences is a key premise of the State's fraud case.</p> <p>To have been valid in 2007, the Nusantara licences must have been fully paid up and maintained. This request is directed at that very point. If the State does not provide these documents, then the whole part of its case that relates to the Nusantara overlap – on which the element of motive depends – will collapse. The State cannot avoid this by now denying it has to prove motive (as to the State's <i>volte-face</i> on motive, see paragraphs 24-33 of the Reply Covering Submission).</p>	<p>GRANTED</p> <p>The requested documents appear to be <i>prima facie</i> relevant.</p>

				<p>all other payment and reporting requirements imposed on it as a licence holder, from the date on which the Nusantara Licences were awarded to the present day (as, according to the State, the Nusantara Licences are still valid and effective today).</p> <p>The Documents requested are relevant and material not only to the element of motive, but also to the scale – and therefore credibility – of the State's allegations of fraud.</p>			
e. State Action							
11.	CI	All information or other Documents collected or generated during police or other government-sponsored investigations	The State explains that the criminal investigations currently being conducted by the East Kutai police authorities of the Ridlatama Group	By the State's own admission, the Documents requested are relevant and material to the issues to be determined in this	Respondent objects to this request on the ground of confidentiality. Based on the Law on Criminal Procedure and the Police Regulation, police investigators are prohibited from disclosing	The State's denial of this request serves to illustrate the inequality of arms that has emerged in this case. The Tribunal was clearly alive to this issue when, in Procedural Order 14, it noted that " <i>Indonesia may obtain an</i>	GRANTED The requested documents appear to be <i>prima facie</i> relevant. The Respondent's objection on the ground of confidentiality is rejected, since the Respondent's

		<p>(whether public or not) into the Ridlatama Group, the Claimants or any individuals, companies or other entities acting on their behalf, regarding the authenticity of the Ridlatama Licences, including records and transcripts of interviews, list of questions posed to and answered by Ridlatama personnel or other related witnesses, reports, summaries or file memoranda and any instructions or briefs issued or given by relevant police officers or other State officials to the State's prosecuting agencies or other State bodies.</p>	<p>relate to the alleged "falsification/counterfeiting" of the Ridlatama Licences and related criminal wrongdoing (State's Letter 15 September 2014, pg. 2).</p>	<p>document authenticity phase.</p> <p>The relevance and materiality of these Documents is confirmed by the State's Application for Leave, in which, <i>inter alia</i>, the State seeks leave from the Tribunal to introduce further Documents obtained as a result of (or originating from) the ongoing police investigations into the Ridlatama Group.</p> <p>For the avoidance of doubt, all the Claimants' rights are reserved in relation to the State's Application for Leave.</p>	<p>investigation materials to third parties, except that a copy of the minutes of examination of a suspect could be provided to the suspect's suspect or his attorney (Respondent's letter to the Tribunal dated 6 October 2014, n. 33 and the authorities cited therein).</p> <p>Claimants misrepresent Respondent's request for leave. Respondent only requested introduction of one document.</p> <p>Seeking leave to introduce one document brought to its attention by the Police does not justify Claimants' request. In the course of their investigations, the Police are entitled to ask questions about documents, which is exactly what they did with respect to the document the subject of Respondent's leave request (Respondent's letter dated 11 March 2013, p. 2). This does not give either party the right to access all documents collected or generated by the police as part of the investigation.</p> <p>Moreover, the document with respect to which</p>	<p><i>unfair advantage in the present proceedings by gathering evidence through investigative techniques applicable under its criminal procedure law, thus circumventing the document production procedure available to the Parties in this arbitration</i>" (PO 14, para. 81). The State simply cannot enjoy all of the forensic (and strategic) rewards of using its police apparatus, while at the same time, assume none of the corresponding risks.</p> <p>The Claimants did not oppose the State's application for leave to introduce materials from these police investigations, and it is disappointing to see that the State is so steadfastly refusing to reciprocate this show of good faith.</p>	<p>investigations are directly connected to the present document authenticity phase.</p>
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					Respondent sought leave was already relied on in the Bawasda report, which is on the record.		
II. General Survey Licences, Exploration Licences and Exploitation Licences							
12.		Records (written or electronic, including images) of meetings, discussions and presentations between the Claimants, the Ridlatama Group or any of its representatives and officials, employees or agents of the Regency of East Kutai, including visits to the EKCP site.	The Claimants set out in their pleadings and Witness Statements an extensive record of meetings that took place between the Claimants, the Ridlatama Group and officers of the Regency of East Kutai, including Mr Ishak and Mr Noor (see, for example, Benjamin WS, paras. 22, 32, 36, 48, 69, 70-71, 73).. Mr Ishak, however, claims that prior to these proceedings, he had never heard of the EKCP (Ishak WS, para. 22), had never attended a	Mr Ishak and Mr Noor claim that they were not aware of the EKCP until months after the Ridlatama Group acquired its General Survey Licences and Ridlatama Exploration Licences, and deny that the extensive list of meetings the Claimants describe took place. The Documents requested are relevant and material to determine whether these meetings occurred – and if they did, what was said and done at these meetings. The Documents further go to the credibility of the State's witnesses	This request places an unreasonable burden on Respondent and is unfair. Claimants' "extensive record of meetings that took place between the Claimants, the Ridlatama Group and officers of the Regency" contains no specific dates beyond "the first week of March 2009" and "28 March 2009" (Benjamin WS, ¶¶ 69, 73). In addition, this "extensive record" is based on hearsay. Respondent reiterates that Mr. Ishak states that before this Arbitration he was "not aware of the existence of a coal mining project that Claimants refer to as the 'East Kutai Coal Project'" (Ishak WS, ¶ 22). Mr. Ishak states that he "never attended any meeting with Mr. Rudy Kurniawan," and that he did not "recall any ... meeting with Mr. Benjamin and Mr. Djaswin Anwar" regarding a rail	As noted in the covering submission to this Redfern schedule, the State's complaint of burden is hard to credit here. The State has vast amounts of resources at its disposal. Given the seriousness of its allegations against the Claimants, the least it can do is marshal some of those resources to ensure the Claimants have a fair trial. Nevertheless, the Claimants are willing to narrow this request such that it relates only to meetings recorded in the photographs provided by the Claimants (in response to the State's request for such photographs). For the Tribunal's ease of reference, the dates of these meetings are 27 March 2009 and 29 April 2009.	GRANTED AS NARROWED DOWN The requested documents in connection with the meetings of 27 March 2009 and 29 April 2009 appear to be <i>prima facie</i> relevant.

			<p>meeting with Rudy Kurniawan from the Ridlatama Group or William Benjamin from PT ICD (Ishak WS, paras. 17, 28-29), and had no knowledge of the Claimants' cooperation with the Ridlatama Group (Ishak WS, para. 20).</p> <p>Similarly, Mr Noor states that he had only heard of the EKCP through a news article in or around September 2009 (Noor WS, para. 12).</p>	<p>and the critical issue of whether the Ridlatama Group engaged in the acts of deceit alleged by the State. These Documents also go to the credibility of the State's witnesses, particularly Mr Ishak and Mr Noor.</p>	<p>project (Ishak WS, ¶¶ 17, 28-29). Mr. Noor states that, around early September 2009, he “read a news article on Churchill ... which claimed ownership of what it called the ‘East Kutai Coal Project’ through its subsidiary,” and around the same time he received a copy of the BPK Report (Noor WS, ¶¶ 11-12).</p>		
13.	Cl	All electronic and written versions and originals of decrees, permissions, authorizations, permits and licences signed, processed and issued by the Regent of East Kutai in relation to Mining Undertaking	The State contends it identified numerous "discrepancies" among the Ridlatama Licences, including "the use of document reference numbers utilized for other unrelated	<p>The State claims that numerous discrepancies in the Ridlatama Licences confirm the forgery and fabrication of the Ridlatama Licences.</p> <p>The Documents requested are relevant and material to identify</p>	<p>This request places an unreasonable burden on Respondent. Claimants are requesting Respondent to produce somewhere in the order of 150 documents per year.</p> <p>Respondent will produce a sample of mining undertaking licenses issued in 2007 and 2008.</p> <p>These years correspond to</p>	<p>First, the Claimants disagree that this request is burdensome, especially in light of the probative value of the documents requested.</p> <p>At the rate identified by the State (around 150 of such documents produced per annum), over a period of three years and a half, this means that the State will be required to produce approximately 500</p>	<p>GRANTED AS NARROWED DOWN</p> <p>The requested documents as narrowed down in the Claimants’ reply appear to be <i>prima facie</i> relevant.</p> <p>While this request may indeed be burdensome for the Respondent, the Tribunal is of the view that, in light of the Respondent’s fraud</p>

		<p>Licences during the Relevant Period.</p> <p>NOTE: All originals of these Documents are requested for inspection.</p>	<p>documents, their absence from official registries, and the inclusion of erroneous references to regulations cited as the basis for issuance of the relevant decrees" (Forgery Dismissal Application, para. 31).</p>	<p>whether any "discrepancies" are unique to the Ridlatama Licences, or whether other licences and decrees issued by the Regency of East Kutai contain similar "discrepancies".</p>	<p>the years of the forged Ridlatama general survey and exploration licenses.</p> <p>Respondent reminds Claimants that Mr. Ramadani has stated that "[d]uring 2007-2010 (<u>and continuing to date</u>), the decrees signed by the Regent were available for public inspection (Ramadani WS, ¶ 19).</p>	<p>documents. Considering the nature and scale of the State's fraud case, it is not too burdensome to require the State to produce these documents – rather than a "sample".</p> <p>Second, the idea of producing a "sample" only defeats the forensic purpose of the Claimants' request. The Claimants need a full suite of comparator materials. That is a basic principle of the adjudication of forgery claims in any legal system. If the State was allowed to choose the comparative sample, the Tribunal would be deprived of objective and reliable comparators, and the State's allegation of forgery would not be able to be robustly tested or determined – let alone in favour of the State. If the State wants to continue with its fraud case in a manner that provides a fair opportunity for the Claimants to present their defence, it must produce all of these documents.</p> <p>However, in the interests of cooperation and procedural economy, the Claimants are willing to narrow this request to the years 2007 and 2008.</p>	<p>allegations, the Claimants must be provided an opportunity to rebut the Respondent's allegations regarding the "discrepancies" among the Ridlatama Licences.</p> <p>The Tribunal further takes note of the Claimants' reservation of rights to seek leave to request documents for the remainder of the Relevant Period.</p> <p>Finally, the Tribunal orders the production of the originals of the requested documents for inspection due to take place on 16-17 April 2015, as narrowed down in the Claimants' reply.</p>
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						<p>This narrowing of scope is without prejudice to the Claimants' right to seek leave to request documents for the remainder of the Relevant Period.</p> <p>The Claimants are happy to confer with counsel for the State in ways to make the production of these documents more efficient and cost-effective.</p>	
14.	C1	<p>All Documents executed and issued by:</p> <p>(i) Mr Ishak, as Regent of East Kutai, on 24 May 2007, 29 November 2007, 8 April 2008 and 9 April 2008;</p> <p>(ii) Mr Ishak, as Governor of East Kalimantan, on 11 March 2010 and 22 March 2010; and</p> <p>(ii) Mr Noor, as Regent of East Kutai, on 27 March 2009, 12 May 2010 and 14 May 2010.</p> <p>NOTE: All</p>	<p>The dates listed in the request correspond to the dates on which the State alleges the Claimants forged the signatures of Mr Ishak and Mr Noor (Forgery Dismissal Application, para. 1).</p>	<p>The Documents requested are relevant in order to compare and examine the manner in which documents were executed by Mr Ishak and Mr Noor on the dates the allegedly forged Ridlatama Licences were issued.</p>	<p>Respondent continues to search for, and will produce any responsive documents.</p>	<p>The Claimants thank the State for its acceptance of this request.</p>	<p>NO DECISION REQUIRED</p> <p>The Tribunal takes note of the Respondent's acceptance to produce the originals at the document inspection due to take place on 16-17 April 2015.</p>

		originals of these Documents are requested for inspection.					
15.		Government letters, notes, memoranda and records that led to, or provide reasons for, the February 2015 resignation of Mr Noor as the Regent of East Kutai.	Mr Noor has resigned from his position as Regent of East Kutai. He is, on any view, one of the State's key witnesses. The State relies heavily on his statements for the claim that the upgrading of the Ridlatama Exploration Licences to the Ridlatama Exploitation Licences was "secured through deception and fraud" (Forgery Dismissal Application, para. 3).	The Documents requested are relevant and material to the credibility of Mr Noor as a witness. If Mr Noor was asked or forced to resign from his post as Regent of East Kutai for reasons relating to the EKCP or his conduct during the Relevant Period, then his credibility as a witness would be put directly in question.	This request lacks relevance and materiality to the issue of the authenticity of the Ridlatama Companies' alleged general survey and exploration licenses dating back to 2007 and 2008 when Mr. Noor was not Regent, and to the authenticity of the other disputed documents, including the purported 14 May 2010 "Reenactment Decrees" allegedly signed by Mr. Noor (Respondent's Application for Dismissal, ¶¶ 23-24, 26(iv); Noor WS, ¶¶ 19, 21; Ramadani WS, Annex, items 20-23). It has no bearing on who signed those documents and how. Claimants' suggestion that "Mr Noor was asked or forced to resign from his post as Regent of East Kutai for reasons relating to the EKCP or his conduct during the Relevant Period" is baseless.	In light of the State's response, the Claimants withdraw this request and will deal with Mr Noor's reason for resignation when he is cross-examined at the hearing of the State's fraud case. For the avoidance of doubt, the Claimants maintain that these documents are relevant and material.	NO DECISION REQUIRED The Tribunal takes note of the Claimants' withdrawal of this request.

16.		Any Documents obtained and produced by the police, the KPK or any other agency of the State, as part of any investigation into the conduct of Mr Ishak or Mr Noor during their respective periods of tenure as Regents of East Kutai and/or Governor of East Kalimantan, including Documents provided by Mr Noor, Mr Ishak or other witnesses called before such investigating agencies, and any Documents taken or seized from either or both of Mr Noor or Mr Ishak by such agencies.	The State relies on Mr Ishak's and Mr Noor's statements when alleging that the Ridlatama Licences were forged and fabricated (Forgery Dismissal Application, para. 3).	The Documents requested are relevant and material to the credibility of Mr Ishak and Mr Noor as the State's key witnesses. If Mr Ishak or Mr Noor were investigated and found to have been involved in corruption or wrongdoing during the Relevant Period, then their credibility as witnesses would be put directly in question.	This request for documents relating to "any investigation" into Mr. Ishak and Mr. Noor is harassing and lacks relevance and materiality to the issue of whether or not Mr. Ishak signed the Ridlatama companies' general survey and exploration licenses, and other disputed documents, and whether or not Mr. Noor signed the "Reenactment Decrees. This request constitutes a fishing expedition by Claimants, which should not be allowed by the Tribunal. In any case, materials of such investigations are confidential. See response to request 11 above.	The Claimants take issue with the State's assertion that this request is a "fishing expedition". The State's case is, in large part, constructed on the premise that both Mr Noor and Mr Ishak are credible. If Mr Noor or Mr Ishak is under investigation for wrongdoing while in office, then that goes directly to the issue of whether they can be believed in what they say about what happened during the period of their tenure that is relevant in this case. The documents requested exist and the Claimants maintain their request that these documents be produced to test the credibility of these key witnesses in cross-examination.	GRANTED The requested documents appear to be <i>prima facie</i> relevant. The Tribunal is of the view that the Claimants must be allowed to verify the credibility of Messrs. Ishak and Noor, and the requested documents are specific enough. The Respondent's objection on the ground of confidentiality is rejected.
17.		All Documents provided to and relied on by the Regent of East Kutai, Mr Putra and any other officers or agents of the Regency of East Kutai in relation to	The Claimants rely on various documents validly issued by the Regency of East Kutai (including by Mr Noor) to support the acknowledgment	The State claims that the Ridlatama Licences were forged and fabricated but does not address the validity of certain supporting documents	Claimants request for "[a]ll documents provided to and relied on by the Regent ... Mr Putra and any other officers or agents ... in relation to" Mr. Putra's permission to RTM and RTP to "conduct surveys of coal mine" (exhibit C-52)	First, the State's semantic distinction between "order" and "permission" is unhelpful. Whatever the proper title of the instrument, it is common ground it was issued. Second, all of these documents are relevant and	GRANTED The requested documents appear to be <i>prima facie</i> relevant.

		<p>the issuance of the Order to commence works in relation to the Ridlatama General Survey Licences (C-52), the Principal Permit for Building Hauling Road and Ocean Going Terminal ("Hauling Road Permit") (C-139) and the Recommendation for Security Clearance in relation to the Lidar Survey ("Lidar Survey Clearance") (C-140).</p>	<p>by the Regency of East Kutai of the validity of the Ridlatama Licences (Claimants' Jurisdiction Memorial, para. 157 (fn 147) and para. 163 (fn 151)).</p> <p>Mr Noor, however, claims that he only heard of the EKCP through a news article in or around September 2009 (Noor WS, para. 12), which was months after the issuance of the Hauling Road Permit and the Lidar Survey Clearance.</p>	<p>provided by the Claimants. The Documents requested are relevant and material to the issue of the validity of these supporting documents, and thus, to the validity of the Ridlatama Licences themselves.</p> <p>The Documents are also relevant and material to the credibility of Mr Noor as a witness, as they will show if he is telling the truth about when he first became aware of the EKCP.</p>	<p>lacks relevance or materiality to the matter of document authenticity.</p> <p>First, whether or not exhibit C-52, signed by Mr. Putra, the former Head of the Department of Mines and Energy of East Kutai, is valid has no bearing on whether the disputed documents, none of which are purportedly signed by Mr. Putra, are authentic.</p> <p>Second, to the extent Claimants rely on exhibit C-52, it is only referred to by Mr. Gunter who mistakenly characterizes exhibit C-52 as an "order" (WS, ¶ 120, n. 22). Exhibit C-52 is in fact a permission.</p> <p>Third, in any case, any documents relied on by Mr Putra in issuing the permission in exhibit C-52 would be within Claimants' possession, custody or control as the permission was granted in response to a letter from RTM and RTP, dated 23 July 2007.</p> <p>Claimants request "[a]ll documents provided to and relied on by the Regent ... Mr Putra and any other</p>	<p>material to a critical component of the State's fraud case, which is that Mr Noor had only heard of the EKCP in or around September 2009. If the full documentary matrix for these instruments is not made available to the Claimants, the Claimants' ability to test this crucial aspect of Mr Noor's evidence will be severely limited.</p>	
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					<p>officers or agents ... in relation to” (i) Mr. Noor’s “support” of IR’s “permit to build hauling road and ocean going terminal” in East Kutai (exhibit C-139) and (ii) Mr. Noor’s “support” of the Ridlatama Group’s “request for a recommendation for Security Clearance” for aerial activities related to the “East Kutai Ocean Hauling Road Going Terminal,” as long as “the permits are legitimate in the area of East Kutai and their implementation is not problematic and does not conflict with other regulations and provisions in force” (exhibit C-140). Again, whether or not exhibits C-139 and C-140 are valid is irrelevant or immaterial to the matter of the authenticity of the disputed documents.</p> <p>In any case, both exhibits refer to a letter dated 10 February 2009 from the Ridlatama Group, a document which should be in Claimants’ possession, custody or control. They also refer to the Ridlatama Companies’ alleged exploration licenses, which</p>	
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					are already on the record.		
18.	Cl	Laws, statutes, policies, guidelines, rules, regulations, manuals, memoranda or other Documents setting out the procedure, whether public or internal, by which officials, employees or agents of the Regency of East Kutai process, assess, approve, comment on, recommend or reject Mining Undertaking Licences during the Relevant Period.	Mr Armin states that the general procedure for processing applications for Mining Undertaking Licences by the Regency of East Kutai has always been the same since 2004 (Armin WS, para. 9). Mr Ishak confirms this point and refers to this procedure as a "fixed procedure" used in other regencies in Indonesia (Ishak WS, para. 9).	The Documents requested are relevant to the overall issue of whether or not there was a "fixed" procedure as alleged by the State and whether the Claimants failed to comply with any of the steps in this procedure. Thus, these Documents go directly to the corroborative limb of the State's case.	Respondent will produce: (i) East Kutai Regional Regulation No. 13 Year 2004; (ii) Minister of Energy and Mineral Resources Decree No. 1453 Year 2000 and (iii) Attachment - 8 of the Minister of Energy and Mineral Resources Decree No. 1453 Year 2000. As explained in the letter attached to these Responses / Objections, Respondent reiterates that it has never argued that there was a rigid procedure that was followed by the Regency in issuing licenses. Mr. Ishak's reference to a "fixed procedure (<i>prosedur tetap</i> or ' <i>protap</i> ')" (Ishak WS, ¶ 9) is not a reference to a rigid procedure. Instead, as is demonstrated from the context in which he refers to a <i>prosedur tetap</i> , he means that there is an established procedure for the processing of mining undertaking licenses. Mr. Ishak explains that various government agencies had particular roles in this procedure (Ishak WS, ¶¶ 9-	The Claimants are grateful for the State's cooperation on this request. However, the Claimants do not accept the State's position that it has not argued that there was a "fixed" procedure (as to which, see paragraph 35-41 of the Reply Covering Submission).	NO DECISION REQUIRED

					10).		
19.	Cl	<p>Any memoranda, letters, communications, notes, correspondence or other Documents (whether external or internal), discussing any failure to apply or comply with the "fixed" procedure by either</p> <p>(i) officials, employees or agents of the East Kutai Regency or any of its agencies; or</p> <p>(ii) companies or other entities operating in East Kutai and seeking to obtain Mining Undertaking Licences.</p>	<p>Mr Ishak states that the procedure to obtain Mining Undertaking Licence is a "fixed" procedure that all of the regencies, including the Regency of East Kutai, are required to follow (Ishak WS, para. 9).</p>	<p>The State claims that the results of the forensic examination and the testimony of the public officials indicating that the signatures on the Ridlatama Licences were forged are corroborated by indicia that the undertaking licences had not been processed in accordance with "regular" or "fixed" procedures, which are allegedly followed by the Regency of East Kutai (Forgery Dismissal Application, para. 29; Ishak WS, para. 9).</p> <p>If there was a "fixed" procedure, then there must be extensive contemporaneous records to show how it was implemented or policed and how deviations from it</p>	<p>This request for "any" documents concerning "any failure to comply with the 'fixed' procedure" is overly broad and is not limited by any time period or any subject matter.</p> <p>Moreover, the request lacks relevance or materiality to the matter of whether the impugned documents are authentic. As explained in the letter attached to these Responses / Objections, Respondent reiterates that it has never argued that there was a rigid or fixed procedure that was followed by the Regency in issuing licenses. To prove that the impugned documents were not authentic, Respondent does not need to show that there was a "fixed procedure.</p>	<p>First, the Claimants maintain their request for these documents. As discussed in the Reply Covering Submission, the procedure followed by officials of the Regency of East Kutai's is still part of the State's case – as it must be if the State is to have any chance of establishing the "irregularities" that it (still) says "corroborate" or "confirm" the fraud.</p> <p>The Claimants must be allowed to test the stability or uniformity of the procedure that the State says was followed. To do so, the Claimants need to see if and how the Regency procedure was policed. If deviations from the "normal" or "established" procedure occurred without consequence, then that would mean that there are a wide range of possible explanations for any "irregularities" the State is able to prove.</p>	<p>GRANTED AS NARROWED DOWN</p> <p>The requested documents appear to be <i>prima facie</i> relevant. The Tribunal notes that the Claimants are not requesting <i>all</i> documents "discussing any failure to apply or comply with the 'fixed' procedure". Accordingly, the Respondent is to provide any responsive document showing the treatment of irregularities with the procedure for obtaining Mining Undertaking Licences during the Relevant Period.</p>

				<p>were addressed by the Regency of East Kutai.</p> <p>The Documents requested are relevant to the overall issue of whether or not there was a "fixed" procedure as alleged by the State and whether the Claimants failed to comply with any of the steps in this procedure. Thus, these Documents also go to the corroborative limb of the State's case.</p>			
20.	CI	<p>The Regency of East Kutai's registration book or similar Document recording all applications, submissions and requests for undertaking mining licences during the Relevant Period.</p> <p>NOTE: The original of this Document is requested for</p>	<p>Mr Ramadani states that all applications for Mining Undertaking Licences submitted directly to the East Kutai Regency are registered in the registration book of the Regency of East Kutai (Ramadani WS, para. 13) .</p>	<p>The Document requested is relevant to the issue of whether or not there was a "regular" or "fixed" procedure and the extent to which Ridlatama Group's dealings with the Regency of East Kutai are recorded in the Documents that are ordinarily generated in the alleged "regular" or</p>	<p>This request is unreasonably burdensome, harassing and lacks relevance and materiality to the issue of the authenticity of the impugned documents.</p> <p>Review of all Regency "registration book[s] or similar Document[s]" for "applications, submissions and requests for undertaking mining licenses [sic]" would not assist in determining whether the disputed</p>	<p>The State's response to this request is extraordinary.</p> <p>First, it is difficult to credit the State's assertion that this request is harassing.</p> <p>Second, the request is for the Regency of East Kutai's registration book – what the Claimants understand to be a single document. To say that the production of one document would be burdensome is absurd. It also puts into question the States</p>	<p>GRANTED</p> <p>The requested document appears to be <i>prima facie</i> relevant.</p> <p>The Tribunal further orders the production of the original registration book at the document inspection due to take place between 16-17 April 2015. If the Respondent insists on not being able to bring the original registration book to Singapore, the Parties are invited to confer on a date</p>

		inspection.		<p>"fixed" procedure.</p> <p>As such, these Documents are also relevant and material to the corroborative limb of the State's case.</p>	<p>Regency documents are authentic. Respondent has explained that the disputed documents contain registration numbers, which are assigned to other documents (<i>see</i> Ramadani WS, Annex). Respondent has already produced the documents which bear the same registration numbers as the disputed documents (<i>see</i> exhibits NR-001 to NR-014).</p> <p>Respondent will not produce the original of these documents at the inspection because Claimants do not explain why the originals are needed. Moreover, Respondent will not be permitted to take these books from East Kutai to Singapore.</p>	<p>use of the term "burdensome" elsewhere in its response to the Claimants' requests.</p> <p>Third, this document has very high probative value. In addition to Mr Ramadani's reference, the BPK Report states explicitly that its conclusions are "[b]ased on the result of audit over Decrees of the Regent relating to the granting of coal mining undertaking license, <i>register book of decrees of the Regent</i> and the result of interviews with officials at the Government of the Regency of East Kutai" (pg. 73, emphasis added).</p> <p>The registration book is needed to test the State's claim that there is no trace of the Ridlatama Licences in the registration book, other than records of applications for the general survey licences. The registration book is also relevant to whether or not there was a "fixed" (or "established") procedure at the Regency of East Kutai.</p> <p>Finally, the State's assertion that "it will not be permitted" to take the registration book to Singapore lacks credibility. In any event, if the State truly</p>	<p>to inspect the original document in East Kutai, it being understood that said inspection would have to take place before the end of the month of April 2015.</p>
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						cannot remove the registration book, the Claimants are willing to travel to the Regency to inspect it. However, the Claimants will require that a copy of the entire registration book be produced in any event.	
21.	CI	All applications for Mining Undertaking Licences submitted to the Regency of East Kutai during the Relevant Period.	According to Mr Armin, along with the application for the Mining Undertaking Licence, the applicant is required to submit a map and the coordinates of the applied-for mining area (Armin WS, para. 10). Thus, the submission of a map and coordinates is a step in the "fixed" procedure described by the State.	The Documents requested are relevant to the overall issue of whether or not there was a "fixed" procedure as alleged by the State, and the specific issue of whether applicants other than the Claimants with valid licences submitted their applications with the allegedly required map and coordinates.	This request is unreasonably burdensome as it would require Respondent to produce numerous documents for three and a half years. In addition, to produce these applications, Respondent would need to obtain the consent of each applicant, which would be unreasonably burdensome, particularly in light of the lack of probative value of the applications. Moreover, whether other applicants submitted an application for a mining undertaking license with a map and coordinates lacks relevance and materiality to the issue of document authenticity. Whether maps and coordinates were submitted with an application says nothing about who signed the disputed documents and	First, the State's objection on the basis of irrelevance and immateriality is inherently inconsistent with the reasoning adopted by the State in its own document production request (" State DPR ") (see other examples below in requests 30, 33, 37 and 40). In the State DPR 2, the State requests documents on the basis that they are "relevant because they would show who was responsible for the inclusion of the <i>particular boundaries in the application for the alleged mining licenses</i> . This is material to the issue of how the alleged mining licences were prepared" (emphasis added). However, the State, in an attempt to object to the Claimants' document request, now takes the view that determining "[w]hether maps and coordinates were submitted with an application says nothing about who signed the disputed documents and	GRANTED AS NARROWED DOWN Subject to the following, the requested documents appear to be <i>prima facie</i> relevant. The request is, however, (i) overly burdensome and (ii) raises issues of confidentiality. With respect to (i), the Tribunal is of the view that all applications for mining undertaking licenses for the year 2007, including with their maps and coordinates, should be sufficient. With respect to (ii), the Respondent is to produce any responsive documents covered under (i) above, by redacting the names and details of the applicants.

				<p>how.</p> <p>The Ridlatama Companies submitted maps and coordinates with their general survey applications and the applications were rejected because there were already existing licenses in the areas the subject of the applications (that is, the areas were not open). The alleged licenses were forged irrespective of whether Ridlatama provided the map and the coordinates.</p>	<p>how" and as such these documents are irrelevant and immaterial. The State, however, cannot make an objection to the Claimants' DPR based on reasoning that is totally inconsistent and irreconcilable with the reasoning it adopts to justify its own requests for documents.</p> <p>Second, the Claimants need the documents requested to test the State's assertion that there was a "fixed" (or "established") procedure and, in particular, that all applicants had to submit an application for a mining licence.</p> <p>Third, the Claimants disagree with the State's assertion that this request is too burdensome. If the State's witnesses are to be believed, all applications for mining licences are centrally recorded. It should, therefore, be no great burden to copy these documents for production to the Claimants.</p> <p>Fourth, as to the assertion that third party consents are required, no legal basis is provided for this supposed barrier to production.</p>	
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						<p>However, if there is such a basis, the State should provide a list of all mining licence applicants and the Claimants will approach the relevant parties to seek their consents.</p> <p>The other way to manage this supposed barrier would be for the Tribunal to put in place a confidentiality regime for the production of this specific class of documents. The Claimants invite the Tribunal to consider this option.</p>	
22.	CI	<p>All staff analyses (<i>telaahan staf</i>) issued, prepared or drafted by staff members of the Mining and Energy Bureau for the purposes of recommending, commenting on or rejecting an application for a Mining Undertaking Licence during the Relevant Period.</p>	<p>The State claims that the Claimants "worked hard to create the illusion that the mining areas were open for new licensing" by relying, <i>inter alia</i>, on Mr Putra's Staff Analysis, which concluded that the Nusantara Group's licences had expired (State's Jurisdiction Memorial, para 70).</p> <p>The State questions the</p>	<p>The Documents requested are relevant and material to the issue of whether or not Mr Putra's Staff Analysis was authentic. In order to determine the authenticity of Mr Putra's Staff Analysis it is necessary to compare it to other staff analyses conducted during the Relevant Period.</p>	<p>The request is overly broad, lacks relevance and materiality to the factual question of whether the impugned documents, including the alleged Staff Analysis dated 26 February 2007 by Djaja Putra (exhibit C-034 / R-024), are authentic or not. The justification for this request is vague. Claimants fail to explain why they need to compare the alleged Staff Analysis to <u>all</u> the staff analyses of the Mining Bureau in the period of three and half years concerning mining applications from other unidentified and unrelated companies that have no connection with the</p>	<p>First, the State's own case is that "if a specific issue is required to be brought to the Regent's attention" the Mining and Energy Bureau will prepare a staff analysis (Armin WS, para. 16). Naturally, this must mean that there are relatively few such documents created – and thus few to produce. It is, therefore, difficult to see how this request could be burdensome for the State.</p> <p>Second, if the State will not produce these documents, then there will be no way to test its allegation (which is part of its corroborative case) that the authenticity of Mr Putra's Staff Analysis is</p>	<p>PARTIALLY GRANTED</p> <p>While the requested documents appear to be <i>prima facie</i> relevant, the Tribunal is of the view that the request is overly burdensome since it spans over a period of three and a half years. Accordingly, the Tribunal limits the production of responsive documents to the years 2007 and 2008.</p>

			<p>authenticity of Mr Putra's Staff Analysis (State's Jurisdiction Memorial, para 72).</p>		<p>disputed matters.</p> <p>Respondent's objections to the alleged Staff Analysis stem from facts which include:</p> <p>(i) the alleged Staff Analysis was never presented to the Regent and bears no instruction from the Regent;</p> <p>(ii) its contents are incorrect, omitting to refer to several Nusantara's applications;</p> <p>(iii) it is contradicted by a later 2008 Staff Analysis concerning Nusantara (exhibit R-129), and authored by the same person who is said to have authored the 2007 Staff Analysis concerning Ridlatama;</p> <p>(iv) the Ridlatama companies are the only ones who had the alleged Staff Analysis</p> <p>The only relevant Staff Analysis for purposes of a comparison is the one mentioned above: exhibit R-129.</p>	<p>"questionable" (State's Jurisdiction Memorial, para 72). The assertions that the State has made about the form and content of Mr Putra's Staff Analysis will simply not be able to be proven, as there will be no norm against which the "comparison" described by the State (in its response to this very request) can be made.</p> <p>The Claimants further note that the State itself, in State DPR 6, requested "memoranda, transmittal notes or other documents indicating the Claimants' or the Ridlatama Group's source of the alleged 26 February 2007 internal Staff Analysis" because these are "relevant and material to whether the alleged 26 February Staff Analysis is authentic and how it was procured". By its own admission then, documents such as those requested here, are relevant and material to the authenticity of the Staff Analysis and the State's fraud case.</p>	
23.	The four recommendation letters from the	Paragraph 3 of each of the Ridlatama	The State claims that Mr Noor was deceived when he	(a) The exploitation licenses refer to "recommendation[s] from	As to item (a) of the State's response, this request is simply not credible. The	GRANTED The Tribunal notes that the	

		<p>Regent of East Kutai to the Ridlatama Group dated 3 March 2009 recommending to proceed to the exploitation phase according to the applicable regulations/procedures.</p> <p>NOTE: All originals of these Documents are requested for inspection.</p>	<p>Exploitation Licences (C-146-149) signed by Mr Noor (Noor WS, para. 10) includes a reference to a letter from the Regent of East Kutai acknowledging the existence and validity of the Ridlatama General Survey Licences and Ridlatama Exploration Licences.</p>	<p>signed the Ridlatama Exploitation Licences (Forgery Dismissal Application, para. 3). The Documents requested are relevant and material to the validity of the Ridlatama Exploitation Licences and also to the credibility of Mr Noor as a witness.</p>	<p>the Regent on 3 March 2009” (exhibits C-146 to C-149/R-040 to R-043). However, Recommendations are not required before the issuance of an exploitation license. In describing how exploitation licenses are issued, neither Mr. Ramadani nor the documents being produced in response to request 18 mentions a “recommendation” from the Regent.</p> <p>In addition, the exploitation licenses do not state that these “recommendations” “acknowledg[e] the existence and validity of the Ridlatama General Survey Licences and Ridlatama Exploration Licences.” Instead, the exploitation licenses state that the recommendations verify that exploitation licenses may be granted as long as there has been compliance with the applicable regulations/procedures (exhibits R-040 to R-043/C-146 to C-149).</p> <p>(b) As Respondent has argued, the circumstances surrounding the granting of those licenses and the</p>	<p>documents the Claimants are seeking here are expressly referred to in the Ridlatama Exploitation Licences, the authenticity of which is undisputed (Noor WS, para. 10). It is also undisputed that the Exploitation Licences were drafted by officials of the Regency of East Kutai, as Mr Noor admits having been handed the Exploitation Licences by Mr Putra, an officer of the Mining and Energy Bureau at the Regency of East Kutai. The State effectively responds to this request by asking the Claimants to explain what these "recommendations" are, but that is clearly a matter for the State alone.</p> <p>Further, the distinction the State is attempting to make in respect of the language surrounding the recommendations mentioned in the Exploitation Licences is unhelpful. The statement that "the exploitation licences ... may be granted as long as there has been compliance with the applicable regulations/procedures" is self-explanatory; that is, compliance with regulations/procedures was a condition to issuance of the</p>	<p>Ridlatama exploitation licenses (Exhibits C-146 to C-149) expressly refer to a recommendation from the Regent dated 3 March 2009. Accordingly, the requested documents appear to be <i>prima facie</i> relevant.</p> <p>The Tribunal orders the production of the originals at the document inspection due to take place between 16-17 April 2015.</p>
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				<p>content of those licenses were unusual. Mr. Noor recalls that when he became Regent, Mr. Putra “asked [him] to sign several decrees granting mining undertaking licenses for exploitation in certain areas of East Kutai to some companies belonging to the Ridlatama Group and some other documents” (Noor WS, ¶ 10). Mr. Noor “do[es] not recall what those documents were” (Noor WS, ¶ 10). Mr. Noor “assumed that all the steps of the regular process had been duly taken by the Head of the Mining and Energy Bureau and ... therefore signed such decrees and those other documents on 27 March 2009” (Noor WS, ¶ 10). In addition, Mr. Ordiansyah “inspected the originals of the Ridlatama’s mining exploitation licenses ... and ... determined that the attached maps were not generated by the Planology Office and did not contain ... [his] initials” (Ordiansyah WS, ¶ 32).</p> <p>(c) If the “recommendations” are</p>	<p>Exploitation Licences. No additional meaning should be ascribed to this language.</p> <p>As to item (b), the State's reiteration of Mr Noor and Mr Ordiansyah's testimony is not relevant to whether the State should produce documents referred to in licences it concedes are authentic. The inner workings of the Regency of East Kutai's administration, including the alleged "unusual" circumstances surrounding the issuance of the Exploitation Licences, are for the State alone to explain.</p> <p>As to item (c) of the State's response, these documents were issued to the Ridlatama Group, and not the Claimants. As such, they are not in the possession, control or custody of the Claimants.</p>	
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					letters, they should be in Claimants' possession, custody or control because the exploitation licenses stated that "to support" their applications, the Ridlatama Companies have "secured a recommendation" or "obtained [a] recommendation" C-146 to C-149/R-040 to R-043).		
24.		All Documents presented by Mr Putra to Mr Noor and relied on by Mr Noor in relation to the signing of the Ridlatama Exploitation Licences.	Mr Noor states that when he became Regent of East Kutai, Mr Putra asked him to sign "several decrees granting Mining Undertaking Licences for exploitation in certain areas of East Kutai to some companies belonging to the Ridlatama Group and some other documents" (Noor WS, para. 10). According to Mr Noor, he assumed that all steps of the regular process had been duly taken by Mr Putra and	The State relies on Mr Noor's statements for the claim that Mr Noor was deceived when he issued the Ridlatama Exploitation Licences (Forgery Dismissal Application, para. 3). Thus, the State has put in issue Mr Noor's state of mind at the time of the issuance of the Ridlatama Exploitation Licences. These Documents are relevant and material to Mr Noor's state of mind and his credibility as a	Respondent cannot produce the documents requested because when, during the beginning of Mr. Noor's tenure as Regent, Mr. Putra visited his office and asked him "to sign several decrees granting mining undertaking licenses for exploitation in certain areas of East Kutai to some companies belonging to the Ridlatama Group and some other documents," Mr. Noor "assumed that all the steps of the regular process had been duly taken by the Head of the Mining and Energy Bureau and ... therefore signed such decrees and those other documents" (Noor WS, ¶ 10). In any case, the exploitation licenses (exhibits C-146, C-147, C-	The Claimants do not understand the State's response to this request. The Claimants are not requesting the documents referred to in the Exploitation License. They are requesting anything else that Mr Putra showed Mr Noor. Just because Mr Noor allegedly "assumed that all the steps of the regular process had been duly taken" does not mean he did not consider or was not shown other documents beyond those referred to on the face of the Exploitation Licence. The Claimants maintain their request that any such documents be produced. What Mr Noor knew at the time he signed the Exploitation Licence is a key part of the State's case, and so the relevance and materiality of these documents is beyond	GRANTED The requested documents appear to be <i>prima facie</i> relevant, and should therefore be produced to the extent that they are not already in the record or covered by Claimants' request No. 23 (see the Tribunal's decision above).

			therefore signed and issued the Ridlatama Exploitation Licences (Noor WS, para. 10). Had he known that the Ridlatama General Survey and Ridlatama Exploration Licences were forged, Mr Noor claims he would not have signed the Ridlatama Exploitation Licences (Noor WS, para 11).	witness. Further, the State has not provided a witness statement for Mr Putra. The documents he allegedly provided to Mr Noor are the best available evidence to show what Mr Putra told and provided to Mr Noor at the time of issuance of the Ridlatama Exploitation Licences.	148, C-149) refer to the documents that were allegedly reviewed in issuing the licenses: - application letters from the Ridlatama Companies dated 10 February 2009 (we note that Claimants have provided application letters dated 2 January 2009 (exhibits C-130, C-131, C-132, C-133)); - recommendations dated 3 March 2009 – see request 23 above; - Provincial Layout/Spatial Plan (<i>Rencana Tata Ruang Wilayah Provinsi - RTRWP</i>) of East Kalimantan (exhibit C-13); and - a number of laws, regulations and decisions that are publicly available.	dispute.	
25.	Cl	All memoranda, notes, records of meetings or discussions, recommendations, policies, correspondence (including emails and other forms of communication) and other	Mr Armin states that if any required documentation is missing from an application for a Mining Undertaking Licence, the Mining and Energy Bureau of	The Documents requested are relevant and material to the overall issue of whether or not there was a "fixed" procedure as alleged by the State, and the specific issue of	(a) Respondent rejects this request to the extent that it relates to MEMR and the Forestry Bureau because they are not involved in the process of rejecting or approving of applications for mining undertaking licenses in East Kutai. (b) Claimants mischaracterize	As to item (a), the State's case is that the fraud crossed multiple levels of the State's Government. The MEMR is one of the agencies at which fraud is said to have occurred: "The evidence regarding the forgery of the licences is confirmed by other evidence such as [...] a pattern of forged documents associated	GRANTED The Tribunal is of the view that the requested documents are specific enough, and appear to be <i>prima facie</i> relevant.

		<p>Documents between and within the MEMR, the Mining and Energy Bureau, the Legal Section, the Forestry Bureau, the Planology Office or any other agency, department or bureau within the Regency of East Kutai in relation to:</p> <p>(i) the rejection or approval of the Mining Undertaking Licence applications submitted by the Ridlatama Group; and</p> <p>(ii) the rejection or approval of the Mining Undertaking Licence applications submitted by the Nusantara Group.</p>	<p>the Regency of East Kutai denies the application and issues a letter notifying the applicant that the application will not be processed without the required documents (Armin WS, para. 14).</p> <p>Mr Sianipar further states that as the Inspectorate General of the Ministry of Forestry conducted an investigation into whether the Ridlatama companies' licences were valid, the Head of the Mining and Energy Bureau of East Kutai informed the Inspectorate General that "data on the Ridlatama companies and their Mining Undertaking Licences could</p>	<p>how the applications and permits of the Ridlatama Group and the Nusantara Group were treated by the various offices within the Regency of East Kutai that were responsible for administering the allegedly "fixed" procedure.</p>	<p>Respondent's argument with respect to the "fixed procedure." As explained in the letter attached to these Responses/ Objections, Respondent does not argue that there was a "fixed" or "rigid" procedure. In addition, Mr. Sianipar did not state that the Inspectorate General of the Ministry of Forestry investigated validity of the licenses. His team "investigate[d] matters on site, in particular, ... whether mining activities had been conducted or were being conducted in the absence of the required Borrow-for-Use Permits" (Sianipar WS, ¶ 16).</p> <p>(c) To the extent that this request relates to the Planology Office, the Planology Office did not write a spatial analysis for to the Ridlatama Companies' general survey applications, but the results of checking the applications were reported to Mr. Putra (Armin WS, ¶ 21).</p> <p>To the extent that this request relates to the Mining and Energy Bureau and Legal Section, if other</p>	<p>with the Ridlatama Companies at three levels of government – the Regency of East Kutai, the Province of East Kalimantan and the Ministry of Energy and Mineral Resources" (State's 23 March 2015 letter, pg. 6).</p> <p>Further, the Ministry of Forestry's objection to Ridlatama's borrow-for-use permit applications goes to the motive that the Ridlatama Group had to allegedly forge the Borrow-for-use Permits (to note that "Borrow-for-use Permits" is a defined term (see pg. 2 of this Redfern schedule) and refers to the recommendations to issue borrow-for-use permits. Accordingly, these documents are important and relevant.</p> <p>As to item (b) of the State's response, regardless of the semantics around the word "fixed", the procedure is still a critical element of the State's fraud case – and all of the agencies and levels of government named in this request play a role in the procedure described (at length) by the State's witnesses. The State's suggestion that the Claimants' request for these documents is</p>	
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			<p>not be found at the Bureau as such Mining Undertaking Licences were not issued through the established procedures for reviewing the applications and drafting the decrees granting the Mining Undertaking Licences, and their Mining Undertaking Licences were not registered at the Bureau" (Sianipar WS, para. 17).</p>		<p>documents are found, Respondent will produce them.</p> <p>(d) Respondent draws Claimants' attention to the following documents already on the record:</p> <ul style="list-style-type: none"> - Exhibit R-105, Staff Evaluation by the Mining and Energy Service of East Kutai, dated 27 April 2010; - Exhibit R-129, Staff Analysis by the Head of the Mining Bureau, dated 19 May 2008, relating to Nusantara; and - Exhibit R-130, Staff Analysis by the Head of the Planology Office of the East Kutai Regency dated 28 May 2008, relating to Nusantara. 	<p>based on a mischaracterisation of the State's case is, therefore, unfounded.</p> <p>Further, this request is not predicated on a misunderstanding of Mr Sianipar's evidence. Mr Sianipar says that he conducted an investigation into the Ridlatama Group following the receipt by the Ministry of Forestry of a public complaint filed by Tribal Leader Alliang that the Ridlatama Group was conducting mining exploration activities in forest areas without a permit. In particular, the investigation sought to "prevent an unauthorized use of forest and its destruction" by the Ridlatama Group (Sianipar WS, para. 11). A fundamental part of the State's case is that a company cannot mine in a forest area without a valid borrow-for-use permit, and that its mining permit will be invalidated if it does. Mr Sianipar says that he was investigating the Ridlatama Group's mining activities in forest areas, which relate directly to the validity of the Ridlatama Licences.</p> <p>As to item (c), the State is now saying that the Planology</p>	
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						Office did not keep a written record of the spatial analysis it conducted in respect of the Ridlatama companies (in which the Nusantara Group overlap was supposedly first discovered). If that is correct, then there is only hearsay to prove this key piece of the State's case: the evidence is limited to what Mr Armin says Mr Putra was told by the Planology Office.	
26.	Cl	<p>The following Documents generated by the Regency of East Kutai's Planology Office (currently, the Spatial and Land Control Bureau):</p> <p>(i) all maps of forest and mining areas in East Kutai stored, retained, controlled, developed or prepared by the Planology Office or any of its agencies, representatives or agents, including those stored within the Planology Office's Geographic Information</p>	<p>According to Mr Ordiansyah, the "Planology Office was the only agency in the Regency Government authorized to issue official maps related to land use, in particular for mining activities. [...] As a result, it was important that any application for land use, in particular for a Mining Undertaking Licence, used a map generated by the Planology Office"</p>	<p>The State claims that the Planology Office was responsible for checking the coordinates of requested mining areas and registering licensed mining areas in its database. The State relies on Mr Ordiansyah's statements that he determined, based on his review of the Planology Office's database, that no mining area in 2007 and 2008 was covered by the Ridlatama Licences as evidence that the Ridlatama Licences were forged and</p>	<p>(i) Claimants' request for "all maps of forest and mining areas in East Kutai" is unreasonably burdensome because it is not possible to locate, and thus produce, all such maps "stored, retained, controlled, developed or prepared by the Planology Office or any of its agencies, representatives or agents." The spatial database can only produce current data – the Planology office did not keep a hardcopy database.</p> <p>In addition, the request is overbroad and, in this way, not relevant to the issue of document authenticity because it relates to all forest and mining areas of East Kutai; however, the</p>	<p>First, maps are at the heart of the State's case. Maps go to the key issues of whether the Ridlatama Licences were forged (see Ordiansyah WS, Annex 1-8), whether Nusantara licences were valid (causing the alleged rejection of the Ridlatama Group's applications for a General Survey licence), whether the EKCP was in a forestry area and whether the mapping component of the "fixed" (or "established") procedure produced reliable and consistent results (such that inferences can be drawn from the alleged "irregularities" on the maps attached to the Ridlatama Licences). Maps, therefore, have a significant probative value in this case.</p> <p>Second, the State claims that</p>	<p>PARTIALLY GRANTED</p> <p>With respect to items (i) to (iii), the Tribunal is of the view that the requested documents appear to be <i>prima facie</i> relevant.</p> <p>With respect to item (iv), the Tribunal is of the view that the request is overly broad and burdensome</p> <p>With respect to item (v), the requested document appears to be <i>prima facie</i> relevant. In this connection, the Tribunal notes that the staff analysis dated 27 April 2010 indicates that spatial evaluations are registered at the Planology Office (Exhibit R-105, para. 4 under "Discussion"). Accordingly, the Tribunal</p>

	<p>System's database;</p> <p>(ii) spatial analyses (or spatial planning map) and results conducted, developed, carried out or requested by the Planology Office or any of its agencies, representatives or agents in relation to the applications submitted to the Regency of East Kutai, including the Mining and Energy Bureau, by the Ridlatama Group for Mining Undertaking Licences;</p> <p>(iii) spatial analyses and results conducted, developed, carried out or requested by the Planology Office or any of its agencies, representatives or agents in relation to the applications submitted to the Regency of East Kutai, including the Mining and Energy</p>	<p>(Ordiansyah WS, para. 15).</p> <p>Mr Armin states that the Planology Office performs a spatial analysis of the relevant areas and reports the results to the Mining and Energy Bureau (Ishak WS, para. 9). In checking the area, the Planology Office uses a Geographic Information System database to create an accurate thematic map and checks the coordinates and map of the area in its database (Ishak WS, para. 9; Ramadani WS, para. 14).</p> <p>Further, a staff analysis dated 27 April 2010, issued by the Mining and Energy Bureau of the Regency of East Kutai, states that spatial evaluations are</p>	<p>fabricated (Forgery Dismissal Application, para. 29).</p> <p>The Documents requested are relevant to confirm whether the Planology Office's database contained any references to, or maps showing, the Ridlatama Licences during the Relevant Period.</p>	<p>so-called EKCP and related disputed licenses did not concern all of East Kutai. That is, all maps of all forest and mining areas of East Kutai are not relevant to whether or not specific mining undertaking licenses for general survey or exploitation over specific mining areas were registered at the Planology Office (Ordiansyah, ¶ 27). Also, maps of forest areas are irrelevant to confirming that “no mining area in 2007 and 2008 was covered by the Ridlatama Licences.” In the same way, maps of mining areas for the entire “Relevant Period” are not relevant to confirming the state of specific mining areas in 2007 and 2008.</p> <p>(ii) and (iii) These requests relating to spatial analyses are already covered in Respondent’s response to request 25.</p> <p>(iv) Claimants’ request for “all other spatial analyses and results ... in relation to all applications submitted to the Regency of East Kutai” is overly broad and lacks relevance and materiality to the</p>	<p>spatial databases can only produce current data. That is surprising, especially considering what Mr Ordiansyah says in paragraphs 27 to 29 of his Witness Statement (where he explains that he was asked by the BPK and the Bawasda during their audits in 2008 and 2009, respectively, to review the Planology Office's database of the maps of the mining areas retroactively (paras. 27-29)). Further, the Claimants understand that it is in the very nature of spatial databases to store historical data that can be viewed retroactively. Accordingly, before the State's explanation can be given any credit, the State should be ordered to produce details of the software that the Planology Office uses for its spatial database, including product licensing information and specifications to show the functionality of the database software.</p> <p>As to item (iv), the Claimants are happy to narrow this request by limiting it to the EKCP area.</p> <p>As to item (v), Exhibit R-105, a staff analysis dated 27 April 2010 issued by the Mining and</p>	<p>orders the production of said document.</p>
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		<p>Bureau, by the Nusantara Group for Mining Undertaking Licences;</p> <p>(iv) all other spatial analyses and results conducted, developed, carried out or requested by the Planology Office or any of its agencies, representatives or agents in relation to all applications submitted to the Regency of East Kutai, including the Mining and Energy Bureau, for Mining Undertaking Licences; and</p> <p>(v) the spatial evaluation register of the Planology Office,</p> <p>during the Relevant Period.</p>	<p>completed and registered at the Planology Office (R-105, para. 4 under "Discussion" (internal pg. 4 of 16).</p>		<p>authenticity of the specific Ridlatama Company licenses, which were concentrated in a specific area of East Kutai. That is, other spatial analyses in relation to all applications for mining licenses in East Kutai do not have any bearing on the question of authenticity of the specific purported licenses.</p> <p>(v) There is no spatial evaluation register.</p>	<p>Energy Bureau of the Regency of East Kutai, states that spatial evaluations are completed and registered at the Planology Office (R-105, para. 4 under "Discussion" (internal pg. 4 of 16)).</p>	
27.		<p>A complete digital image of the database generated and maintained by the Planology</p>	<p>Mr Ordiansyah states that during the BPK's audit, he reviewed the Planology</p>	<p>The Document requested is relevant and material to test the credibility of Mr</p>	<p>This request overlaps with request 26(i).</p>	<p>The State is correct that there is a degree of overlap between this request and request 26(i). However, that overlap is limited, and does not mean</p>	<p>GRANTED</p> <p>The requested document appears to be <i>prima facie</i> relevant. Accordingly, the</p>

		Office.	Office's database and discovered that the Ridlatama Licences were not registered in the database (Ordiansyah WS, para. 27; Forgery Dismissal Application, para. 29).	Ordiansyah's statement that the Ridlatama Licences were not registered with the Planology Office's database. The document will also reveal the state and reliability of the Planology Office's database itself. Assuming the database has been properly maintained (as Mr Ordiansyah suggests), the digital image of the database should provide a contemporaneous record of the evolution of title to the relevant area of land covered by the Ridlatama Licences. The state of the database is also relevant and material to the corroborative limb of the State's case.		this request is not justifiable. It should not be burdensome for the State to produce this document, as this entire database will likely fit on a single external hard-drive.	Tribunal orders the production of said document, to the extent that it is not already covered by Claimants' Requests No. 26(i) above.
28.	CI	All decrees received and initialled ("coordination initials") by each	Mr Ramadani states that the Legal Section of the Regency of East Kutai always keeps an original	The Documents requested are relevant and material to discover whether coordination	(a) This request is unreasonably burdensome because it asks for every decree ever issued in East Kutai from 1 January 2007 to 30 June 2010.	The Claimants are happy to narrow this request such that it is limited to mining licence decrees. This narrower request should	GRANTED AS NARROWED DOWN The Tribunal agrees with the Respondent that this Request is overly broad and

	<p>of:</p> <p>(i) the Head of the Mining and Energy Bureau;</p> <p>(ii) the Head of the Legal Section;</p> <p>(iii) Assistant 1;</p> <p>(iv) the Regional Secretary;</p> <p>(v) the Deputy Regent;</p> <p>(vi) the Head of the Planology Office; or</p> <p>(vii) the Legal Section staff member,</p> <p>during the Relevant Period.</p>	<p>of the decree (with the coordination initials) in its archives (Ramadani WS, para. 20). He further states that at least two originals are provided to the Mining and Energy Bureau, one of which is delivered to the applicant and the other one is kept by the Bureau for its records (Ramadani WS, para. 20). The Mining and Energy Bureau then distributes an original or a copy of the decrees to the agencies specified in the decree (Ramadani WS, para. 20).</p>	<p>initials were always applied, and therefore, whether there was a "fixed" procedure as alleged by the State.</p>	<p>Moreover, the request lacks relevance because it requests all decrees, yet the authenticity phase is only concerned with decrees relating to mining licenses.</p> <p>(b) Respondent will nevertheless produce sample decrees for the years that correspond to the years in which the general survey and exploration licenses were purportedly issued.</p> <p>(c) Respondent reminds Claimants that Mr. Ramadani has stated that “[d]uring 2007-2010 (<u>and continuing to date</u>), the decrees signed by the Regent were available for public inspection” (Ramadani WS, ¶ 19).</p> <p>(d) Only the Head of the Legal Section provided coordination initials on mining undertaking licenses, not a staff member of the Legal Section (Ramadani WS, ¶ 16).</p> <p>Moreover, the Head of the Planology Office did not initial decrees. They only initialled the map attached to a mining undertaking license to confirm that it</p>	<p>not be burdensome for the State. If the State’s witnesses are correct in their description of the licensing procedure, there will only be one such document for every mining undertaking licence ultimately awarded.</p> <p>As to item (c) of the State's response, the State appears to have missed the Claimants' point. The Claimants are not requesting decrees signed by the Regent of East Kutai; rather, they are requesting draft decrees with coordination initials of the officials named by Mr Ramadani. Mr Ramadani does not state that these draft decrees are available for public inspection.</p> <p>As to item (d) of the State's response, the Claimants accept the State's explanation.</p>	<p>burdensome. The Tribunal notes (i) the Claimants’ narrowing of its request to mining licence decrees, and (ii) the Respondent’s willingness to produce a sample of decrees relating to mining licences issued in 2007 and 2008. However, the Tribunal does not believe it to be appropriate for the Respondent to be the sole judge of the sample it wishes to produce.</p> <p>Accordingly, the Tribunal is of the view that the Respondent should produce responsive documents in the two months preceding and following the issuance of the Ridlatama general survey in 2007 and the exploration licences in 2008.</p>
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					was prepared by the Planology Office (Ramadani WS, ¶ 16).		
29.	CI	All diaries, schedules, travel logs, electronic calendars, itineraries, travel expense claims or any other records of travel (including email correspondence), of Mr Ishak and Mr Noor, including complete copies of the passports they used, during the Relevant Period.	Mr Ishak and Mr Noor state that, in their capacity as Regents of East Kutai, they always hand-wrote their signatures (Ishak WS, para. 16; Noor WS, para. 21). The State relies on this statement to bolster its allegations that the Ridlatama Licences must have been forged (Forgery Dismissal Application, para. 24).	A Regent (<i>Bupati</i>) is a senior government official in Indonesia. As a result of his or her senior role, a Regent is often required to travel. The Documents requested are relevant to the issue of whether Mr Ishak and Mr Noor were away from the Regency of East Kutai at times when mining licences and other official documents were issued.	<p>This request is unreasonably burdensome, overly broad, inappropriate, intrusive, and of minimal probative value for the reasons set out below.</p> <p>The request is calculated to harass the officials and their staff and divert significant public resources in responding to it. The request would place an unreasonable burden on Respondent of collecting a complete set of miscellaneous pieces of various records.</p> <p>Ultimately, it is impossible to provide Claimants with a complete collection of the requested documents, as imagined by Claimants. The records of schedules, travel logs, electronic calendars and itineraries are not systematically maintained or preserved, and any changes in the actual travel may not be reflected in the requested schedules, logs, calendars and itineraries. Thus there can be no assurance that</p>	The Claimants disagree with the State's response. The Claimants certainly do not accept that this request is invasive or improper. However, the Claimants are happy to address the whereabouts of Mr Ishak and Mr Noor in cross-examination.	NO DECISION REQUIRED

					the supposedly “relevant period” is fully covered and accurate, or without gaps and discrepancies.		
30.	CI	<p>The log book or similar Document of the Secretariat of the Mining and Energy Bureau at the Regency of East Kutai, in which applicants and the Secretariat register incoming and outgoing communications during the Relevant Period.</p> <p>NOTE: The original of this Document is requested for inspection.</p>	<p>Mr Armin states that the Secretariat of the Mining and Energy Bureau at the Regency of East Kutai maintains separate register books to record incoming and outgoing communications with the applicants of Mining Undertaking Licences (Armin WS, para. 19).</p> <p>Mr Armin further states that after reviewing the Ridlatama Group's applications for general survey mining licences, Mr Putra, Mr Ordiansyah and Mr Armin concluded that those applications should not be processed because</p>	<p>The Document request is relevant and material as it will show the timeline and nature of the Ridlatama Group's dealings with the Secretariat of the Mining and Energy Bureau. The State has put this chronology directly in issue by alleging, in effect, that the applications for the Ridlatama Exploration Licences were rejected directly after the respective applications were submitted to the Mining and Energy Bureau and progressed no further.</p>	<p>This request is irrelevant and immaterial because the Mining and Energy Bureau's register of all incoming and outgoing communications does not show whether or not the impugned documents are authentic. That is, the register does not resolve who signed or did not sign licenses.</p> <p>Also, Claimants' misrepresent Respondent's position. Respondent did not put the “chronology directly in issue” with respect to the general survey license applications or the exploration license applications.</p> <p>Respondent notes that despite diligent searches, it has been unable to locate the 2007 log book of the Mining and Energy Bureau.</p> <p>Respondent will not produce the original of the requested documents at the inspection because Claimants do not explain</p>	<p>This document is crucial and it must be produced.</p> <p>The State tries to avoid this request by redefining the scope of its own case. In this objection (and in a number to follow, see 33, 37 and 40), the State is narrowly defining the scope of relevant and material documents to those that "resolve who signed or did not sign the licenses".</p> <p>First, this is inconsistent with the State's own document production requests, in which it defines the scope of relevant and material documents far more broadly (see, for example, State DPR 1: "requested documents are relevant and material to Claimants' claim that areas were 'open for licensing' and therefore whether there was a motive to forge and fabricate the Ridlatama licences"; State DPR 2: "requested documents are relevant, because they would show who was responsible for the inclusion of the particular boundaries in</p>	<p>GRANTED</p> <p>The requested documents appear to be <i>prima facie</i> relevant.</p> <p>The Tribunal further orders the production of the original log books at the document inspection, due to take place between 16-17 April 2015. In this connection, the Tribunal invites the Respondent to make best efforts to locate the 2007 log book. If the Respondent insists on not being able to bring the original log books to Singapore, the Parties are invited to confer on a date to inspect the original document in East Kutai, it being understood that said inspection would have to take place before the end of the month of April 2015.</p>

			<p>the spatial analyses of the mining areas showed that the areas sought to be mined overlapped with the areas covered by the Nusantara Licences (Armin WS, para. 21).</p>		<p>why the originals are needed. Moreover, Respondent will not be permitted to take these books from East Kutai to Singapore.</p>	<p>the application for the alleged mining licences"; and State DPR 3 "the [SKIP permits] are relevant and material to 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 licences").</p> <p>Second, the administrative footprint (or alleged lack thereof) of the Ridlatama Licences has been put directly at issue by the State in its fraud case. This document is relevant and material to that very issue, because it will show the full pattern of engagement between the Ridlatama Group and the Regency of East Kutai.</p> <p>The Claimants take issue with the State's assertion that they have misrepresented the State's position to the Tribunal. The Claimants' reference to the State putting the chronology of the Ridlatama Licence applications is simple. The State admits that the Ridlatama Group applied for general survey licences, but it alleges that the Claimants'</p>
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					<p>applications were rejected because the EKCP area overlapped with existing valid licences. If this is true, it should be reflected in this log book that "record[s] incoming and outgoing communications with the applicants of Mining Undertaking Licences". The timeline of when applications were made and allegedly rejected or accepted is what the Claimants are referring to when they use the term "chronology" in this request.</p> <p>The Claimants are troubled by the State's assertion that it has been unable to locate the 2007 log book of the Secretariat of the Mining and Energy Bureau at the Regency of East Kutai. 2007 is the year in which the State alleges that the "pattern" of fraud began. If the State cannot locate this critical document then this will have serious implications for the State's fraud case.</p> <p>As to the log books of the other years of the Relevant Period, originals of these documents are needed to ensure that they are reliable as pieces of evidence.</p> <p>Finally, the State's assertion that "it will not be permitted"</p>	
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						to take the log book to Singapore lacks credibility. In any event, if the State truly cannot remove the log book, the Claimants are willing to travel to the Regency to inspect it. However, the Claimants will require that a copy of the entire registration book be produced in any event.	
31.	Cl	<p>The Regent of East Kutai's log book or register book of decrees or similar Document during the Relevant Period.</p> <p>NOTE: The original of this Document is requested for inspection.</p>	<p>In alleging that the Ridlatama Group's licences were forged, the State relies on the BPK's findings in its 2009 Audit Report (Forgery Dismissal Application, para. 22), including the fact that the BPK Report found that the purported Ridlatama Exploration Licences were not registered in the log book of the Regent's decrees (State's 6 June 2014 letter to Tribunal, pg. 3).</p>	<p>The Document requested is relevant and material to show whether the Ridlatama Licences were registered in the log book of the Regency of East Kutai.</p>	<p>The Regent of East Kutai's log book is maintained by the Legal Section of the Regency (Ramadani WS, 11). In light of this, please refer to our comments below in request 32.</p>	<p>Please see the Claimants' comments below in request 32.</p> <p>The Claimants note, however, that the BPK Report suggests that two separate log books existed, the "register book of decrees of the Regent" (Ex. R-032, BPK Report, pg. 37) and the "Register Book of decrees of the Regent at the Legal Section".</p>	<p>GRANTED</p> <p>The requested document appears to be <i>prima facie</i> relevant.</p> <p>The Tribunal further orders the production of the original log books of the Regent of East Kutai at the document inspection due to take place between 16-17 April 2015. If the Respondent insists on not being able to bring the original log books to Singapore, the Parties are invited to confer on a date to inspect the original document in East Kutai, it being understood that said inspection would have to take place before the end of the month of April 2015.</p>
32.	Cl	The Regency of East Kutai's Legal	Mr Ramadani states that after a	The State relies on Mr Ramadani's	This request is unreasonably burdensome,	The State's response to this	GRANTED

		<p>Section's log book or register book of decrees during the Relevant Period.</p> <p>NOTE: The original of this Document is requested for inspection.</p>	<p>decree is signed and stamped, the Legal Section of the Regency of East Kutai registers the decree in a register maintained for each calendar year by the Legal Documentation subdivision. The register functions as a receipt: when the Legal Section provides to the Mining and Energy Bureau the originals of a decree that has been signed by the Regent, it is recorded in this book. The recipient signs the register after receiving a decree from the Legal Section (Ramadani WS, para. 19).</p> <p>In alleging that the Ridlatama Licences were forged and fabricated, Mr Ramadani relies,</p>	<p>statements for the claim that the Ridlatama Licences were absent from official registries, and therefore fabricated (Forgery Dismissal Application, para. 31).</p> <p>This Document is relevant and material to the validity of the Legal Section's log book and the Ridlatama Licences as well as to the credibility of Mr Ramadani.</p>	<p>harassing and lacks relevance and materiality to the issue of the authenticity of the impugned documents.</p> <p>Review of Regency "log book[s] or register book[s] of decrees during the Relevant Period" would not assist in determining whether the disputed Regency documents are authentic. Respondent explained that the disputed documents contain registration numbers, which are assigned to other documents (<i>see</i> Ramadani WS, Annex). Respondent has already produced the documents which bear the same registration numbers as the disputed documents (<i>see</i> exhibits NR-001 to NR-014).</p> <p>Moreover, Respondent reminds Claimants that Mr. Ramadani has stated that "[d]uring 2007-2010 (<u>and continuing to date</u>), the decrees signed by the Regent were available for public inspection" (Ramadani WS, ¶ 19).</p> <p>Respondent will not produce the original of these documents at the</p>	<p>request is extraordinary.</p> <p>First, it is absurd for the State to say that this request is "harassing". This document is critical to the State's own case, and it is an obvious request for the Claimants to make.</p> <p>Second, the document request is for the Regency of East Kutai's Legal Section's log book (or register) – which the Claimants understand to be one single document (possibly, with multiple volumes). To say that the production of one document would be burdensome is not credible. As stated previously, it also puts into question the States use of the term "burdensome" elsewhere in its response to the Claimants' requests.</p> <p>Third, this document has high probative value. Mr Ramadani states that the log book (or register) "functioned as a receipt, when the Legal Section provided to the Mining and Energy Bureau the originals of a decree that has been signed by the Regent. The recipient signed the Register after receiving a decree from the Legal Section." Further, the BPK</p>	<p>The requested document appears to be <i>prima facie</i> relevant. In this connection, the Tribunal notes that the BKP Report mentions, besides a register book of decrees of the Regent (Exh. R-032, p. 37), of a register book of decrees of the Regent at the Legal Section of the Regency of East Kutai (Exh. R-032, p. 38).</p> <p>The Tribunal further orders the production of the original log books of the Regent at the Legal Section of East Kutai at the document inspection due to take place between 16-17 April 2015. If the Respondent insists on not being able to bring the original log books to Singapore, the Parties are invited to confer on a date to inspect the original document in East Kutai, it being understood that said inspection would have to take place before the end of the month of April 2015.</p>
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			<i>inter alia</i> , on his review of the Legal Section's log book (Ramadani WS, para. 23).		inspection because Claimants do not explain why the originals are needed. Moreover, Respondent will not be permitted to take these books from East Kutai to Singapore.	<p>Report states that "[t]he result of verification of the Register Book of decrees of the Regent at the Legal Section in the Regency of East Kutai shows that the numbers of those [Ridlatama] Decrees were in fact not for granting of mining undertaking licence, but instead for other matters" (BPK Report, pg. 38, 2(b)).</p> <p>The fact that the decrees of the Regent of East Kutai are available for public inspection clearly does not negate the need of the Claimants to review the log book (or register) of the Legal Section.</p> <p>Finally, the State's assertion that "it will not be permitted" to take the registration book to Singapore lacks credibility. In any event, if the State truly cannot remove the registration book, the Claimants are willing to travel to the Regency to inspect it. However, the Claimants will require that a copy of the entire registration book be produced in any event.</p>	
33.	Cl	All certification letters or similar Documents signed by Mr Ishak and Mr	The State claims that the four certification letters dated 8	The Documents requested are relevant and material to whether	(a) This request for "[a]ll certification letters or similar Documents signed by Mr Ishak and Mr Noor"	As to item (a) of the State's response, the Claimants are happy to narrow this request by limiting it to certification	<p>GRANTED AS FURTHER NARROWED DOWN</p> <p>The requested documents</p>

		<p>Noor in their capacity as Regents of East Kutai during the Relevant Period.</p> <p>NOTE: The original of these Documents are requested for inspection.</p>	<p>April 2008 signed by Mr Ishak for the Ridlatama Group were forged (Forgery Dismissal Application, para. 26(i)).</p>	<p>the Regent of East Kutai issued certification letters in the normal course of business and, if it did, whether these are similar to those received by the Ridlatama Group.</p>	<p>is overly broad because it effectively asks for “[a]ll certification letters” on any issue or for any industry. In this Arbitration, the disputed certification letters relate to the coal mining industry and to the issue of conducting certain mining activities in cooperation with another company.</p> <p>(b) If the request is asking for “certification letters” like the disputed “certification letters” allegedly issued on 8 April 2008 (exhibits P-45/C-351, P-46/C-352, P-47/C-353, P-48/C-350), the Regent of East Kutai does not issue these types of “certification letters.” This is one of the reasons why Respondent contests the authenticity of the disputed “certification letters.”</p> <p>(c) Even if documents like the disputed “certification letters” on the record existed, they would not be relevant or material to whether the disputed “certification letters” are fake. Respondent has shown that the disputed “certification letters” are forged because Mr. Ishak’s</p>	<p>letters or similar Documents relating to mining undertaking licences signed by Mr Ishak and Mr Noor in their capacity as Regents of east Kutai during the Relevant Period.</p> <p>As to item (b) of the State's response, and for the record, the State has asserted that the Regency of East Kutai has never issued "certification letters", including the disputed "certificated letters" introduced as Exhibits C-350, C-351, C-352, C-353.</p> <p>As to item (c), the State is making an alternative submission as to a matter of fact. It is not credible for the State to assert, on the one hand, that certification letters have never been issued and, on the other hand, that <i>if</i> they were issued, they would not be relevant or material to the issue at hand. The Ridlatama Group's "certification letters" either exist or they do not.</p> <p>If they do exist, then they would certainly be relevant and material to whether the Ridlatama Group certification letters were forged.</p> <p>The existence of such letters</p>	<p>appear to be <i>prima facie</i> relevant. However, the request is overly broad and burdensome. Accordingly, while the Tribunal’s notes the Claimants’ willingness to narrow its request “by limiting it to certification letters or similar Documents relating to mining undertaking licences signed by Mr. Ishak and Mr Noor in their capacity as Regents of east Kutai during the Relevant Period”, the Tribunal limits the production of responsive documents to the year 2008, when the purported certification letters under scrutiny in the present proceedings were allegedly issued.</p> <p>The Tribunal further orders the production of the originals of the responsive documents as specified above at the document inspection due to take place between 16-17 April 2015.</p>
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					signature is produced by an autopen device, not by Mr. Ishak’s hand, and because the numbers assigned to the disputed “certification letters” have been assigned to other letters (Ishak WS 12-13, 16, 20; First Epstein Report, pp. 6-7; Second Epstein Report, p. 8; Ramadani WS, Annex, items 5-8).	cannot be proven if they are not compared to other validly issued certification letters, against which a “comparison” can be conducted. Finally, the Claimants note that the State’s objections to this request and request 34 below are inherently inconsistent with State DPR 16 to 19. The State suggests in its objection that only documents pertaining directly to either the signatures of Mr Ishak or the document reference "discrepancies" can be relevant or material. However, in the State DPR 16 to 19, the State requested documents that are not relevant or material to either the signatures or discrepancies on the certification letters and certificates of legality.	
34.	Cl	All certificates of legality (or legality explanation letters) or similar Documents signed by Mr Ishak and Mr Noor in their capacity as Regents of East Kutai during the Relevant Period.	The State claims that the four certificates of legality dated 8 April 2008 for the Ridlatama Group were forged (Forgery Dismissal Application, para. 26(ii)).	The Documents requested are relevant to determine whether the Regent of East Kutai issued certificates of legality in the normal course of business and, if it did, whether these are similar to those received by the	(a) The Regent of East Kutai does not issue “certificates of legality.” This is one of the reasons why Respondent contests the authenticity of the “certificates of legality” allegedly issued on 8 April 2008 (exhibits C-95, C-96, C-97, C-98). (b) Even if “certificates of	See the Claimants’ reply observations on request 33 above.	GRANTED AS FURTHER NARROWED DOWN The requested documents appear to be <i>prima facie</i> relevant. However, the request is overly broad and burdensome. Accordingly, while the Tribunal’s notes the Claimants’ willingness to narrow this request in the same way that they narrowed

		NOTE: The original of are Documents are requested for inspection.		Ridlatama Group.	legality” existed, they would not be relevant or material to whether the disputed “certificates of legality” are fake. Respondent has shown that the disputed “certificates of legality” are forged because Mr. Ishak’s signature is produced by an autopen device, not by Mr. Ishak’s hand, and because the numbers assigned to the disputed “certificates of legality” have been assigned to other letters (Ishak WS 12-13, 16, 20; First Epstein Report, pp. 6-7; Second Epstein Report, p. 8; Ramadani WS, Annex, items 9-12).		request No. 33, the Tribunal limits the production of responsive documents to the year 2008, when the purported certificates of legality under scrutiny in the present proceedings were allegedly issued. The Tribunal further orders the production of the originals of the responsive documents as specified above at the document inspection due to take place between 16-17 April 2015.
35.	CI	The register, log book or other similar Document maintained by the MEMR (referred to by the BPK as "Department of ESDM", or Energy and Mineral Resources) during the Relevant Period.	When the Ridlatama General Survey Licences were granted, PT ICD ensured that these were registered with MEMR and that MEMR maps that related to mining concessions were updated (Benjamin WS, para. 25). The BPK confirmed this point when it	The Document requested is relevant and material to show that the Ridlatama Licences were registered with MEMR, which goes to the core issue of whether the Licences were valid and authentic. This document is also relevant and material to the credibility of the	The requested registers, logs or “other similar Documents” of MEMR lack relevance and materiality to the factual question of whether the purported license decrees of the East Kutai Regent were forged. Any log books or registers that reflect receipt of documents from Ridlatama and MEMR registering copies of the licenses do not validate the authenticity of the	The State is resisting this request on the basis that it has proven something that remains to be proven. It is undisputed that the MEMR's register book recorded the Ridlatama Licences. What the State questions is why the MEMR recorded such licences if they were forged. The State has not provided any evidence to substantiate its claim that the MEMR registered the General Survey Licences without inquiring into the authenticity	GRANTED The requested document appears to be <i>prima facie</i> relevant.

			found that the MEMR's register included Ridlatama Mineral and Trade Powerindo's Mining Undertaking Licences (BPK Report, R-32, Attachment 3, pg. 2).	State's overall claim: the more levels of government that recognized the Ridlatama Licences, the more elaborate the fraud alleged (and, thus, the harder it is to credit).	purported Ridlatama licenses. The purported licenses were registered by MEMR because Mr. Benjamin and Ridlatama themselves sent copies thereof to MEMR (Benjamin WS, ¶ 24). As stated by Mr. Benjamin, “[p]roviding these copies eventually enabled us to obtain a copy of the Mineral Area Map maintained by [MEMR]” (Benjamin WS, ¶ 25).	or validity of such licences. The MEMR's state of mind is, therefore, something that remains relevant and material to the State's fraud case – and the MEMR's register is therefore a document the State should produce.	
36.	Cl	All drafts and versions of the Mineral Area Maps (or Control Maps) or any other similar maps maintained, stored, retained, controlled, developed or prepared by the Directorate General of Mineral and Coal (and Geothermal) within MEMR, including any letters, petitions, correspondence or other similar Documents requesting that MEMR effect a change on the maps it maintains during	Throughout the Relevant Period, the MEMR map for the area in question changed numerous times: initially, in December 2007, it included references to the areas covered by the Ridlatama Licences, but in a map issued on 7 October 2010 by the MEMR, a notation was included stating that Mr Noor had revoked the Ridlatama Exploitation Licences.	The Documents requested are relevant and material to show the evolution of title in the EKCP area – who had title and when over the area during the Relevant Period. This, in turn is relevant and material to all elements of the State's case.	(a) Claimants misrepresent the role of MEMR's maps. Prior to 2011, there was not an official database of MEMR maps. Maps produced by MEMR were for informational purposes in response to requests from the public. <i>The Seksi Informasi Mineral, Baturbara Panasbumi Dan Airtanah</i> (Information Section of Mineral Coal and Geothermal Groundwater) of MEMR would issue these maps based on the coordinates and other information received by the person requesting the map. In light of this, the <i>Seksi Informasi</i> maps do not	First, the Claimants take issue with the State's allegation that their request is made on the basis of a misrepresentation. The State admits that the MEMR produced maps in response to requests from the public prior to 2011. But the State fails to explain how the MEMR would have been able to reproduce maps across different time periods if it did not store or have a record of such maps as they evolved. The very nature of a map is to portray diagrammatic representations of an area of land or sea showing physical features <i>in real time</i> . This is particularly true of the MEMR maps, which show the evolution of mining license	PARTIALLY GRANTED To the extent that the requested documents (i) relate to the EKCP and (ii) are not already in the record, they appear to be <i>prima facie</i> relevant.

		<p>the Relevant Period.</p>	<p>Subsequently, the references to the area covered by the Nusantara Group's licences were added to the MEMR's map (Benjamin WS, paras. 25, 152, 154).</p>		<p>validate authenticity of the purported license Decrees. Similarly, Claimants are incorrect when they suggest that MEMR changed their maps and that this change somehow reflected their views on the evolution of title.</p> <p>Claimants have themselves provided as exhibits several maps issued by the <i>Seksi Informasi</i> to Ridlatama (<i>see</i> exhibits C-50, C-68, C-105, C-155, C-238). And, Mr. Benjamin and Ridlatama sent copies of the purported licenses to MEMR in order to obtain maps. As stated by Mr. Benjamin, “[p]roviding these copies eventually enabled us to obtain a copy of the Mineral Area Map maintained by [MEMR]” (Benjamin WS, ¶ 25).</p> <p>(b) Further, this request lacks relevance and materiality to the factual question of whether the purported license decrees of the Regent of East Kutai were forged. That is, “[a]ll drafts and versions of” maps processed by MEMR with respect to any part of Indonesia and “letters,</p>	<p>rights. This is evident when comparing the MEMR maps dated 23 June 2007 (Ex. C-50) and 13 October 2010 (Ex. C-258), both of which the State admits were issued by the MEMR (in particular, the <i>Seksi Informasi</i>). Naturally, the MEMR must have had a way of updating its maps and recording such updates. It is these sets of maps during the Relevant Period that the Claimants are requesting.</p> <p>As to item (c) of the State's response, the Claimants acknowledge having received a number of maps from the MEMR (Ex. C-50, C-68, C-105, C-155 and C-238). But, the Claimants are requesting a complete suite of maps, and all changes made to these maps, during the Relevant Period.</p>	
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					<p>petitions, correspondence or other similar Documents requesting that MEMR effect a change” on such maps have no bearing on who signed the license decrees and how.</p> <p>(c) Claimants’ exhibits identified above also indicate that Claimants have some of the requested documents in their possession, custody or control the requested documents.</p>		
III. Borrow-for-Use Permits							
37.	Cl	All applications for borrow-for-use permits received by the Ministry of Forestry for general survey, exploration and exploitation mining activities in East Kutai during the Relevant Period.	According to Ms Nurohmah, the applications for borrow-for-use permits submitted by the Ridlatama Group in September 2009 were incomplete when originally submitted because, <i>inter alia</i> , they were not accompanied by recommendation letters from the Governor of East Kalimantan (Nurohmah WS,	The State relies on Ms Nurohmah's statements to emphasize the extent to which efforts were made by the Ridlatama Group to perpetuate the alleged fraud, providing incomplete applications for borrow-for-use permits (Forgery Dismissal Application, para. 32). The Documents	The request for all borrow-for-use applications received by the Ministry of Forestry is overly broad. Applications for forestry permits, and whether they were complete when submitted, are irrelevant and immaterial to authenticity of the purported Ridlatama documentation, including the purported recommendation letters from the Governor of East Kalimantan. They do not show who signed the disputed documents and how.	First, the State's objection that the Claimants' request is overly broad is based on a straw man. The Claimants do not seek "all borrow-for-use applications received by the Ministry of Forestry", but rather, those borrow-for-use applications that relate specifically to " <i>general survey, exploration and exploitation mining activities in East Kutai during the Relevant Period</i> " (emphasis added). Second, as previously noted, the State accuses the Ridlatama Group of	GRANTED AS FURTHER NARROWED DOWN The Tribunal is of the view that, while appearing to be <i>prima facie</i> relevant, the production of requested documents, even as narrowed down by the Claimants in their reply, remains overly burdensome. Accordingly, the Tribunal limits the production of responsive documents to the year 2009.

			para. 13).	requested are relevant to establish whether Ridlatama Group's borrow-for-use applications were in fact incomplete as compared to other similarly situated companies that successfully applied for such permits.	Moreover, to produce these applications, Respondent would need to obtain the consent of each applicant, which would be unreasonably burdensome, particularly in light of the lack of probative value of the applications. Respondent clarifies that the incompleteness of the Ridlatama's applications did not cause the Ministry of Forestry to detect forgery (Nurohmah WS, ¶ 13).	"perpetuating the alleged fraud [by] providing incomplete applications for borrow-for-use permits" (Forgery Dismissal Application, para. 32). This request is relevant and material to proving or disproving this fact as these documents will allow for a comparison between the Ridlatama Group's allegedly improper applications to other mining licence holders' applications. Further, the State's objection is once again at odds with its own request for documents. In State DPR 32, the State asks for "[p]resentations given by Brett Gunter to Claimants in 2007 regarding the forestry assessment in the EKCP area" because "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".	
38.	CI	All borrow-for-use permits issued by the Minister of Forestry for general	Ms Nurohmah states that borrow-for-use permits are	According to the State, once the Ridlatama Group was informed that	The request for all borrow-for-use permits of all mining areas of East Kutai is overly broad and	The Claimants do not proceed with this request. However, for reasons noted in paragraphs 24-33 of the Reply	NO DECISION REQUIRED

		<p>survey, exploration and exploitation mining activities in East Kutai during the Relevant Period.</p>	<p>always required pursuant to Law No. 41 Year 1999 on Forestry, which requires general survey, exploration or exploitation mining activities in forest areas to be conducted only after obtaining a permit from the Minister of Forestry (Nurohmah WS, para. 21).</p> <p>Mr Gunter, however, states that prior to 2010, most licence holders conducting exploration activities, if they had landholder approval, would commence exploration regardless of whether they had first obtained a Forestry Entry Permit (Gunter WS, para. 112). According to Mr Gunter, this was then standard</p>	<p>it required borrow-for-use permits, it decided to forge recommendation letters from Mr Ishak to support the Ministry of Forestry's issuance of such borrow-for-use permits (Forgery Dismissal Application, paras. 32-33). According to the State, the Ridlatama Group had not previously obtained such permits in an attempt to circumvent Indonesian laws and perpetuate its alleged "fraud" (Forgery Dismissal Application, para. 3). However, the Claimants have shown that such borrow-for-use permits were not required by local authorities, negating the State's assertions.</p> <p>The Documents requested are relevant and material to</p>	<p>unreasonably burdensome. Forestry permits of all other companies are irrelevant and immaterial to the authenticity of the disputed documents, which do not include forestry permits (as no such permits were issued to Ridlatama).</p> <p>Moreover, as explained in the letter attached to these Responses/ Objections, Respondent does not need to prove "motive" in order to prove that the disputed documents were fabricated.</p> <p>Further, Claimants' partners, Ridlatama, stated that it was in fact required to obtain borrow-for-use permits. In the Jakarta State Administrative High Court, Ridlatama stated that it had "found out that its IUP area overlapped with or partly falls within a Forestry Area through a discussion with the Ministry of Forestry ... [and] upon receiving [the] information from the Ministry of Forestry, ... [Ridlatama] immediately applied for the Borrow and Use permit" (exhibit C-288, Memorandum of Appeal of RTP in the Jakarta State Administrative High Court</p>	<p>Covering Submission, the Claimants do not accept the State's assertion that it does not need to prove motive.</p>	
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			practice; it was done with the full knowledge and acquiescence of the <i>Kabupaten</i> and other local authorities (Gunter WS, para. 112).	establish whether borrow-for-use permits were in fact required and obtained by companies operating in East Kutai. These Documents are, therefore, also relevant and material to the element of motive.	dated 4 May 2011, ¶ 5.7.3.3.6).		
39.	Cl	All revocations by the East Kutai Regency of Mining Undertaking Licences based on a failure to comply with forestry regulations during the Relevant Period, and for all of those revocations, all sanctions, criminal, civil or otherwise, imposed on the companies or other entities operating without the necessary forestry permits.	Mr Gunter states that, prior to the situation with Churchill's permits being revoked, he had never seen any mining permit being revoked by the Indonesian Government due to a mining company operating in a forestry area without a permit. It was simply unheard of in his experience (Gunter WS, para. 112). According to Mr Sianipar, "[f]rom time to time, the	According to the State, the Ministry of Forestry rejected the borrow-for-use applications, <i>inter alia</i> , because it found that the recommendation letters from Governor Ishak were allegedly forged (Forgery Dismissal Application, para. 33). The Documents requested are relevant and material to determine why the Ridlatama Group applications for borrow-for-use permits were	The requested documents are irrelevant and immaterial to the authenticity of Ridlatama's purported licenses and other impugned documentation. Claimants again misinterpret Respondent's submissions. Respondent did not state that the Ministry of Forestry rejected the Borrow-for-Use Permit applications because of the forgery of the purported recommendation letters from Governor of East Kalimantan Mr. Ishak (Nurohmah WS, ¶ 16).	The Claimants do not proceed with this request. However, the Claimants do not accept that they misrepresented any of the State's submissions.	NO DECISION REQUIRED

			Ministry of Forestry imposes sanctions against mining companies for conducting mining activities in forest areas without such permits" (Sianipar WS, para. 22).	rejected and whether other similarly situated companies' mining licences were also revoked for failure to have a borrow-for-use permit (and, therefore, the element of motive).			
40.	C1	<p>All maps maintained, stored, retained, controlled, developed or prepared (electronic or otherwise) by:</p> <p>(i) the East Kutai Mining Office or any of its agencies, representatives or agents;</p> <p>(ii) the Ministry of Forestry; and</p> <p>(iii) the Office of Stabilisation of Forest Area,</p> <p>during the Relevant Period.</p>	<p>There is a discrepancy between the evidence of Mr Gunter and Mr Ordiansyah with respect to which maps, central or local, an applicant needs to rely on, both by law and in practice (Ordiansyah WS, paras. 33-37 and Gunter WS, paras. 27, 44-47).</p> <p>The Claimants reviewed a number of different maps, including the Spatial Planning Map at the East Kutai Mining</p>	<p>The Documents requested are relevant and material to show how title to the mining rights – and State recognition of it – evolved in the EKCP area during the Relevant Period.</p> <p>Further, the Documents requested are relevant to corroborate the evidence of the Claimants' witnesses as they relate to the due diligence activities conducted prior to Ridlatama obtaining the</p>	<p>(a) The request is overly broad, vague and unreasonably burdensome as it would require production of all maps held by three different agencies for all of East Kutai or Indonesia.</p> <p>The request is also irrelevant and immaterial to the authenticity of Ridlatama's purported licenses.</p> <p>(b) The fact is that the maps attached to the alleged licenses of Ridlatama are not proper. Proper maps that respond to this request (i.e., maps showing "title to the mining rights") are found in Nusantara's licenses on the record (<i>see, e.g.,</i> exhibits C-110, C-111, C-112, C-212, C-213) and</p>	<p>The State claims that this request is burdensome because "it would require production of documents held by three different agencies for all of East Kutai or Indonesia".</p> <p>First, as to the number of agencies involved in this request, that is directly related to the scale of the fraud alleged by the State.</p> <p>Second, as to the geographic scope of the maps requested, the Claimants are happy to narrow this request (for the avoidance of doubt) to maps of East Kutai.</p> <p>But the Claimants stand by their submission that these documents are relevant and material.</p>	<p>GRANTED AS NARROWED DOWN</p> <p>The requested documents, narrowed down to maps of East Kutai, appear to be <i>prima facie</i> relevant.</p>

			Office, when confirming that the EKCP area did not overlap with any forest area (Benjamin WS, para. 128).	allegedly fraudulent Borrow-for-use Permits. All of this bears equally on the credibility of the State's case and the evidence given by the State's witnesses.	in the Nusantara licenses that Respondent will produce under requests 1 and 3. (c) Claimants misrepresent Respondent's argument. Respondent does not allege that Claimants obtained "fraudulent Borrow-for-use Permits."	According to both parties' witnesses, the maps from these three governmental agencies provided conflicting information relating to forestry areas in the EKCP area: (i) Mr Benjamin states that "the Spatial Planning Map that we had seen at the East Kutai Mining Office represented that the areas covered by our EKCP licences were all non-forestry areas" (Benjamin WS, para. 128); (ii) Mr Benjamin states that in the first quarter of 2009, the Ridlatama Group informed PT ICD that the Indonesian Ministry of Forestry Decree dated 15 March 2001 attached a map (Map No. 1816) that supposedly showed that part of the EKCP area was in a Production Forest area (Benjamin WS, para. 126); and (iii) Mr Ordiansyah states that "because there are sometimes differences between the real conditions on the ground and the data stored at the Central Government [...], the Planology Office always confirmed its findings with the Office of Stabilization of
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					<p>Forest Area [...], which is a part of the Central Government" (Ordiansyah WS, para. 17).</p> <p>The maps of these agencies are relevant because they can corroborate the evidence of the Claimants' witnesses as they relate to the due diligence activities conducted by the Ridlatama Group and PT ICD, as well as on the credibility of the State's case and the evidence given by the State's witnesses.</p> <p>As to item (b), where the State also claims that the proper maps showing "title to the mining rights" are those found in Nusantara's Licences, the Claimants note that the very purpose of the documents requested is to enable the Claimants to test this assertion.</p> <p>As to item (c) of the State's response, the Claimants direct the State to the term "Borrow-for-use Permits" as defined on page 2 of this document (see 2.1(b) under "Key Terms and Expressions", pg. 2 (Borrow-for-use Permits) means the letters from Governor of East Kalimantan, H. Awang Faroek Ishak regarding the permission</p>	
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						to "borrow-for-use" relevant forest area, issued to Investama Resources and Investmine Persada on 11 March 2010 and to Ridlatama Trade and Ridlatama Mineral on 22 March 2010.")).	
41.	CI	All Documents containing or recording complaints from the public received by the Ministry of Forestry relating to violations of forestry laws in East Kutai Regency during the Relevant Period.	According to Mr Sianipar, one of the functions of the Inspectorate General is to investigate violations of forestry laws received via complaints from the public (Sianipar WS, paras. 9-10). According to Mr Sianipar, the Ministry of Forestry's decision on 21 April 2010 not to approve the Ridlatama Group's borrow-for-use permit applications was a result of an investigation conducted as a result of receiving a complaint from Joseph Ingan Alliang, the Head	The Documents requested are relevant and material to determine why the Ridlatama Licences were revoked, and how the State's views of the Ridlatama Group (and the authenticity of the Ridlatama Licences) changed over time. This, in turn, is relevant to the credibility to the State's overall forgery case: if the State formed the view that there was forgery, but it elected to revoke the Ridlatama Licences on the basis of forestry violations alone, then that is relevant and material to the credibility of the State's allegations	(a) The request for all records of all such complaints from the public to the Ministry of Forestry is overly broad and unreasonably burdensome. The requested documents are irrelevant and immaterial to the factual question of whether the purported Ridlatama's licenses are authentic. Moreover, to produce "[a]ll Documents containing or recording complaints from the public," Respondent would need to obtain the consent of each complainant, which would be unreasonably burdensome, particularly in light of the lack of probative value of the applications. (b) Claimants misrepresent Respondent's submissions and the underlying evidence. Ridlatama's borrow-for-permit	The Claimants do not accept that this request is overly broad. The request seeks only documents containing or recording public complaints relating specifically to violations of forestry laws in the area of East Kutai. Further, the State has not provided any support for its assertion that this request is overly broad by, for example, providing a sense of the magnitude of the Claimants' request. However, in the interests of cooperation and procedural economy, the Claimants are happy to narrow this request to complaints of violations of forestry laws in East Kutai filed by <i>tribal leaders or groups representing tribal interests</i> . As to the assertion that third party consents are required, again, no legal basis is provided for this supposed barrier to production. But if there is such a basis, the State should provide a list of all	GRANTED AS FURTHER NARROWED DOWN The requested documents, even as narrowed down in the Claimants' reply are overly burdensome, and do not appear to be relevant, subject to the following. The Tribunal is of the view that any complaints from the public received by the Ministry of Forestry relating to violation of forestry laws in the EKCP area, to the extent that they are not already in the record, appear to be <i>prima facie</i> relevant.

			of Institution of Dayak Kutai Grand Customary Community (Sianipar WS, para. 11).	of forgery.	<p>applications were not rejected due to the Special Inspectorate's investigation of whether the Ridlatama companies were conducting mining activities without forestry permits.</p> <p>The reasons for rejecting the Ridlatama companies' borrow-for-use permits are at exhibits R-135, R-136, C-223 and C-226.</p> <p>The reasons for recommending revocation and the reasons for the revocations themselves can be found in exhibits R-60, R-62, R-63, R-64, R-65.</p>	<p>individuals, entities or groups that have filed such complaints and the Claimants will approach the relevant parties to seek their consents.</p> <p>The State's assertion that "it will not be permitted" to take the registration book to Singapore lacks credibility. In any event, if the State truly cannot remove the registration book, the Claimants are willing to travel to the Regency to inspect it. However, the Claimants will require that a copy of the entire registration book be produced in any event.</p> <p>Finally, the Claimants do not accept that they have misrepresented the State's submissions and the underlying evidence. Mr Sianipar's evidence on the role played by the investigation into the Tribal Leader Alliang's public complaint is vague.</p>	
42.	CI	All Documents sent by the Directorate General of Mineral, Coal and Geothermal at the MEMR relating to the Ridlatama Group during the	The Directorate General of Mineral, Coal and Geothermal sent a number of letters to the Ridlatama Group regarding the status of mining	The Documents requested are relevant and material to the credibility of the State's case: they will show how the different branches of the State	(a) The reason that there are contradictory messages between exhibits C-252 and R-131 is because exhibit C-252, as well as the related exhibits C-253, C-254 and C-255, are forged (Third Epstein Report, p. 3; Respondent's letter to the	The State has given notice that it will make a new allegation that additional documents related to the EKCP are forgeries.	DENIED
						The problem with the State's response to this request is that	The Tribunal is of the view that responsive documents should be in the possession of the Ridlatama Group. Accordingly, the Claimants should seek to obtain any such

		Relevant Period.	<p>authorisations, a number of which may have included contradictory messages (Ex. C-252 and Ex. R-131).</p>	<p>differed in their views on the same matters over the Relevant Period.</p>	<p>Tribunal dated 11 March 2015, p. 5; Respondent’s letter to the Tribunal, dated 9 October 2014, n. 12).</p> <p>(b) The requested documents are not “relevant and material to the credibility of the State’s case” because MEMR did not have a role in issuing mining undertaking licenses, where the applications for such licenses had been submitted to the Regency.</p> <p>(c) “Documents sent by the Directorate General of Mineral, Coal and Geothermal ... relating to the Ridlatama Group” are within Claimants’ possession, custody or control. For example, in its letter to the President dated 20 April 2012, Churchill notes: “Churchill made inquiries to the central Ministry of Energy & Mineral Resources” (exhibit C-315, p. 14). Churchill should have the copies of the documents it received as part of its inquiries.</p>	<p>it is predicated on the assumption that these documents have already been proven to be forgeries. That is clearly not the case.</p> <p>The documents requested are relevant and material and need to be produced.</p>	<p>documents from their former business partners.</p>
43.	CI	Documents prepared by the Regency of East	Mr Ordiansyah states that "our analysis of the	The Documents requested are relevant and	This request overlaps with request 25(i), which asks for “[a]ll memoranda,	The State is incorrect that this request overlaps with request	GRANTED The requested documents

		<p>Kutai's Planology Office in relation to its decision not to issue an official map for the general survey licences applied for by the Ridlatama Group.</p>	<p>applications for the [Ridlatama Group] did show that there were overlaps with mining areas of other Mining Undertaking Licence holders (the Nusantara companies). Due to the overlapping issue, the Planology Office never issued any maps for [the Ridlatama Group] as we understood that general survey licences would not be approved for those Ridlatama companies" (Ordiansyah WS, para. 26).</p>	<p>material to whether the Planology Office did, in fact, review the Ridlatama Group's applications for general survey licences and reject them. If it did, then the Planology Office must have communicated and recorded this decision to other branches of the Regency of East Kutai. These contemporaneous Documents will, in turn, shed light on the credibility of the State's case generally and the credibility of Mr Ordiansyah specifically.</p>	<p>notes, records of meetings or discussions, recommendations, policies, correspondence (including emails and other forms of communication) and other Documents between and within ... the Planology Office ... in relation to ... the rejection or approval of the Mining Undertaking Licence applications submitted by the Ridlatama Group." Accordingly, Respondent refers to its response to request 25.</p>	<p>25.</p> <p>Request 25 is limited to "the rejection or approval of the Mining Undertaking Licence applications submitted by the Ridlatama" and any related, inter-governmental communications. This request relates to documents prepared by the Planology Office "in relation to its decision not to issue an official map", which is clearly distinct from the rejection of a mining undertaking licence.</p> <p>Accordingly, the Claimants maintain their request for these documents.</p>	<p>appear to be <i>prima facie</i> relevant.</p>
IV. Re-enactment Decrees							
44.	CI	<p>All re-enactment decrees issued by the Regent of East Kutai during the Relevant Period.</p> <p>NOTE: All</p>	<p>The State claims that the four Re-enactment Decrees dated 14 May 2010 and signed by Mr Noor were forged</p>	<p>The form and content of the Re-enactment Decrees has been put in issue by the State.</p> <p>These Documents</p>	<p>There are no re-enactment decrees issued by the Regent during the Relevant Period. Mr. Noor states that he" had never issued a 'Re-enactment Decree'" (Noor WS, ¶ 19).</p>	<p>The Claimants can do little but accept what the State is saying here.</p> <p>However, the Claimants note that the State is again making an alternative submission as to</p>	NO DECISION REQUIRED

		originals of these Documents are requested for inspection.	(Forgery Dismissal Application, para. 26(iv)).	are relevant and material because they will allow for the contested Re-enactment Decrees to be compared to other re-enactment decrees signed by Mr Noor. This comparison will, in turn, allow for the authenticity of those contested Re-enactment Decrees to be properly evaluated.	In any event, this request lacks relevance and materiality to the authenticity issue. Even if other re-enactment decrees existed, they would not assist in determining whether the disputed documents are authentic. Respondent has shown that the disputed “re-enactment decrees” are forged because Mr. Noor’s signature is produced by an autopen device, not by Mr. Noor’s hand, and because the numbers assigned to the disputed “re-enactment decrees” have been assigned to other letters (Noor WS, ¶¶ 19-21; First Epstein Report, pp. 6-7; Second Epstein Report, p. 8; Ramadani WS, Annex, items 20-23).	a matter of fact. It is not credible for the State to assert, on the one hand, that re-enactment decrees have never been issued (during the Relevant Period) and, on the other hand, that <i>if</i> they were issued, they would not be relevant or material to the issue at hand. Re-enactment decrees either exist or they do not. If they do exist, then they would certainly be relevant and material to whether the Re-enactment Decrees were forged.	
45.	Cl	All Documents, including letters, licences, applications, certifications, internal memoranda, recommendations, interview notes, correspondence that the Ministry of Forestry relied on in relation to its	In Ex. C-227, a letter from the Ministry of Forestry to Mr Noor, the Minister recommends that Mr Noor cancel the Ridlatama Exploration Licences and/or Ridlatama General Survey Licences for	The State claims that the Ministry of Forestry’s letter drove Claimants to deny that the Mining Undertaking Licence revocations had occurred and subsequently forged the Re-enactment Decrees	(a) Claimants try to justify this request through a mischaracterization of Respondent’s case. Claimants state that Respondent argues that the “Ministry of Forestry’s letter drove Claimants to deny that the Mining Undertaking Licence revocations had occurred and subsequently forged the Re-enactment	The Claimants will not engage with the State on the extensive submissions it has made in opposition to this request. These documents (except those already submitted into evidence) need to be produced because they are relevant and material to the element of motive, particularly as it relates to the State’s allegation that the Re-enactment Decrees	GRANTED The requested documents appear to be <i>prima facie</i> relevant. Accordingly, the Tribunal orders the production of any responsive documents, to the extent that they are not already in the record. The Respondent’s reservation as to privilege is unsubstantiated,

		findings following receipt of the public complaint by the alleged Dayak tribal leader, Mr Aliang.	operating in a protected forest area without a permit after concluding its investigation into the public complaint (Ex. C-227).	(Forgery Dismissal Application, para. 34). The Documents requested are relevant to the State's case on motive.	Decrees.” This takes Respondent’s argument out of context. Respondent’ argues: “The Regent revoked the Ridlatama Companies’ licenses by decrees dated 4 May 2010 after receiving the Ministry of Forestry’s recommendations and consulting with his staff. As with all other inconvenient truths in this affair, the reaction of Claimants to this news was to deny that the revocations had occurred and to continue with their ‘East Kutai Coal Project.’ Notwithstanding its disclosure obligations under the Alternative Investment Market ... regulations, Churchill did not report this event to its investors. It evidently justified withholding this information on the basis of supposed “anomalies” in the 4 May 2010 revocation decrees and the purported ‘Re-enactment Decrees’ dated 14 May 2010 by which Mr. Noor supposedly reinstated the Ridlatama Companies’ mining undertaking licenses” (Respondent’s Application for Dismissal,	were forged.	and therefore rejected.
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					<p>¶ 34, citations omitted).</p> <p>(b) As explained by Mr. Sianipar, the Special Inspectorate reviewed the complaint by the Dayak and produced a report (Sianipar WS, ¶¶ 11-20; exhibit R-60). The documents “relied on in relation to ... [the] findings following receipt of” the complaint by the Dayak are those referred to in the Special Inspectorate in its report.</p> <p>(i) Many of the documents are in the record. These are:</p> <ul style="list-style-type: none"> - letter of complaint from Head of Institution of Dayak Grand Customary Community, dated 13 February 2010 (exhibit R-132); - Regulation of Minister of Forestry Number P.43/Menhut-P/2008 concerning Guidelines for Borrow for Use of Forest Area (exhibit RLA-167); - the Ridlatama Companies’ exploitation licenses dated 27 March 2009 (exhibits R-040 (RTM), R-041 (RTP), R-042 (INP), R-043 (IR)); 	
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					<ul style="list-style-type: none"> - RTM's, RTP's and IR's exploration licenses dated 9 April 2008 (exhibits R-034 (RTM), R-035 (RTP), R-036 (IR)); - Law No. 4 Year 2009 concerning Mining of Mineral and Coal (exhibit RLA-007/CLA-13/CLA-13A); - Law No. 41 Year 1999 concerning Forestry (exhibit CLA-11); - Letter of Director General of Mineral, Coal, and Geothermal of Department of Energy and Mineral Resources Number 3479/30/DJB/2009, dated 21 December 2009, regarding clarification of Decree of Issuance of Mining Undertaking License (exhibit R-131); - BPK Audit Report (exhibit R-032); and - IUP area map overlay with map of designation of East Kalimantan [forest] and Water areas according to Decree of Minister of Forestry Number 79/Kpts-II/2001, dated 15 March 2001 regarding Designation of Forest and Water Area in the territory 	
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					<p>of Province of East Kalimantan (exhibits R-133, R-137).</p> <p>(ii) Respondent will produce some of the documents referred to by the Special Inspectorate in its report. They are:</p> <ul style="list-style-type: none"> - PT Swasembada Energi's general survey license numbered 45/02.188.45/HK/IV/2008 and dated 9 April 2008; and - PT Swasembada Bara's general survey license numbered 46/02.188-45/HK/IV/2008 and dated 9 April 2008. <p>(iii) Respondent continues to looking for the documents that are not on the record.</p> <p>It will produce documents found, unless they are subject to privilege or confidentiality.</p>		
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