

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Rand Investments Ltd., William Archibald Rand, Kathleen Elizabeth Rand, Allison Ruth Rand,  
Robert Harry Leander Rand and Sembi Investment Limited**

**v.**

**Republic of Serbia**

**(ICSID Case No. ARB/18/8)**

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**PROCEDURAL ORDER NO. 4**

**DOCUMENT PRODUCTION**

***Members of the Tribunal***

Prof. Gabrielle Kaufmann-Kohler, President of the Tribunal

Mr. Baiju S. Vasani, Arbitrator

Prof. Marcelo G. Kohen, Arbitrator

***Secretary of the Tribunal***

Ms. Anna Toubiana

***Assistant to the Tribunal***

Mr. Rahul Donde

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**7 August 2019**

## **I. PROCEDURAL BACKGROUND**

1. In accordance with the Procedural Calendar of 19 December 2018, on 21 June 2019, the Claimants and the Respondent exchanged their respective document production requests. They produced certain responsive documents thereafter and objected to the production of others on 12 July 2019. They replied to the objections on 26 July 2019. The Claimants supplied certain clarifications on 29 July 2019.
2. On this basis, this Order thus addresses the Parties' document requests.

## **II. DOCUMENT REQUESTS**

### **A. Parties' Positions**

3. The Parties' positions on the documents requested by their opposing Party are contained in the Redfern Schedules at Annex A (Claimants' Request for Documents) and B (Respondent's Request for Documents) hereto.

### **B. Analysis**

#### **1. Legal Framework**

4. Under the ICSID Convention and the ICSID Arbitration Rules, the Parties are free to agree on the applicable procedure, including the procedure for taking evidence. In the absence of an agreement, the Tribunal has the power to rule on procedural matters. Specifically in respect of evidence, Article 43 of the ICSID Convention and Rule 34(2) of the Arbitration Rules grant a tribunal the power to order parties to produce documents in the following terms:

“Except as the parties otherwise agree, the Tribunal may, if it deems it necessary at any stage of the proceedings, (a) call upon the parties to produce documents or other evidence [...].”

and:

“The Tribunal may, if it deems it necessary at any stage of the proceeding: (a) call upon the parties to produce documents, witnesses and experts [...].”

5. In accordance with this framework, Section 16 of Procedural Order No. 1 (“PO 1”) contains the following rules in respect of document production:

“16. Production of Documents

*Convention Article 43(a); Arbitration Rules 24, 33 and 34*

16.1. Upon the request of a Party filed within the time limit set in Annex A, each Party may request from the other Party a disclosure of documents or categories of documents within its possession, custody or control. Such a request for production shall identify each document or narrow category of documents sought with precision, in the form of a Redfern Schedule as attached in Annex B hereto, in both Word and .pdf format, specifying why the documents sought are relevant to the dispute and material to the outcome of the case.

16.2. Within the time limit set forth by Annex A, the other Party shall either produce the requested documents or, using the Redfern Schedule provided by the first Party, submit its reasons for its failure or refusal to produce responsive documents (objections).

16.3. Within the time limit set forth by Annex A, the requesting Party shall reply to the other Party’s objections in that same Redfern Schedule and at the same time submit the Word and .pdf copies of the Redfern Schedule to the Tribunal.

16.4. The Parties shall make no submissions in respect of the steps set out in §§ 16.1 to 16.3 above other than those incorporated in the Redfern Schedules.

16.5. On or around the date set forth by Annex A, the Arbitral Tribunal will, at its discretion, rule upon the production of the documents or categories of documents having regard to the legitimate interests of the Parties and all the relevant circumstances, including if appropriate the burden of proof.

16.6. Documents shall be communicated directly to the requesting Party without copying the Arbitral Tribunal. Documents so communicated shall not be considered to be on record unless and until the requesting Party subsequently files them as exhibits in accordance with §17 below.

16.7. In addition, the Arbitral Tribunal may order a Party to produce documents on its own initiative at any time. In that case, the documents shall be submitted to the other Party and to the Arbitral Tribunal in accordance with §17 below and shall be considered to be on record.

16.8. If a party fails to produce a document ordered by the Tribunal, the Tribunal may deem, in light of all circumstances including the reasons advanced by a party to explain its inability to produce any given document, that the document is adverse to the interests of that party.”

6. Furthermore, Section 21.1 of PO 1 provides that the Tribunal shall be guided by the IBA Rules on the Taking of Evidence in International Arbitration (hereinafter the “IBA Rules”). For the purposes of this Order, the following provisions of the IBA Rules are relevant:

(i) Article 3.3:

“A Request to Produce shall contain:

- (a)
  - (i) a description of each requested Document sufficient to identify it, or
  - (ii) a description in sufficient detail (including subject matter) of a narrow and specific requested category of Documents that are reasonably believed to exist; in the case of Documents maintained in electronic form, the requesting Party may, or the Arbitral Tribunal may order that it shall be required to, identify specific files, search terms, individuals or other means of searching for such Documents in an efficient and economical manner;
- (b) a statement as to how the Documents requested are relevant to the case and material to its outcome; and
- (c)
  - (i) a statement that the Documents requested are not in the possession, custody or control of the requesting Party or a statement of the reasons why it would be unreasonably burdensome for the requesting Party to produce such Documents, and
  - (ii) a statement of the reasons why the requesting Party assumes the Documents requested are in the possession, custody or control of another Party.”

(ii) Article 3.4:

“Within the time ordered by the Arbitral Tribunal, the Party to whom the Request to Produce is addressed shall produce to the other Parties and, if the Arbitral Tribunal so orders, to it, all the Documents requested in its possession, custody or control as to which it makes no objection.”

(iii) Article 3.5:

“If the Party to whom the Request to Produce is addressed has an objection to some or all of the Documents requested, it shall state the objection in writing to the Arbitral Tribunal and the other Parties within the time ordered by the Arbitral Tribunal. The reasons for such objection shall be any of those set forth in Article 9.2 or a failure to satisfy any of the requirements of Article 3.3.”

(iv) Article 3.7:

“Either Party may, within the time ordered by the Arbitral Tribunal, request the Arbitral Tribunal to rule on the objection. The Arbitral Tribunal shall then, in consultation with the Parties and in timely fashion, consider the Request to

Produce and the objection. The Arbitral Tribunal may order the Party to whom such Request is addressed to produce any requested Document in its possession, custody or control as to which the Arbitral Tribunal determines that (i) the issues that the requesting Party wishes to prove are relevant to the case and material to its outcome; (ii) none of the reasons for objection set forth in Article 9.2 applies; and (iii) the requirements of Article 3.3 have been satisfied. Any such Document shall be produced to the other Parties and, if the Arbitral Tribunal so orders, to it.”

(v) Article 9.2:

“The Arbitral Tribunal shall, at the request of a Party or on its own motion, exclude from evidence or production any Document, statement, oral testimony or inspection for any of the following reasons:

- (a) lack of sufficient relevance to the case or materiality to its outcome;
- (b) legal impediment or privilege under the legal or ethical rules determined by the Arbitral Tribunal to be applicable;
- (c) unreasonable burden to produce the requested evidence;
- (d) loss or destruction of the Document that has been shown with reasonable likelihood to have occurred;
- (e) grounds of commercial or technical confidentiality that the Arbitral Tribunal determines to be compelling;
- (f) grounds of special political or institutional sensitivity (including evidence that has been classified as secret by a government or a public international institution) that the Arbitral Tribunal determines to be compelling; or
- (g) considerations of procedural economy, proportionality, fairness or equality of the Parties that the Arbitral Tribunal determines to be compelling.”

7. Accordingly, the Tribunal will apply the following standards to rule on the Parties’ requests for production of documents:

- a. Specificity: The request must identify each document or category of documents with precision.
- b. Relevance: The request must establish the relevance of each document or category of documents to prove allegations made in the submissions. For purposes of this Order, the term “relevance” encompasses both the notions of relevance to the dispute and materiality to its outcome. At this stage of the proceedings, the Tribunal is only in a position to assess the

*prima facie* relevance of the documents requested, having regard to the factual allegations the Parties made so far. This *prima facie* assessment does not preclude a different assessment at a later time of the arbitration with the benefit of a more developed record.

- c. Possession, custody or control: The request must show that it is more likely than not that the requested documents exist, that they are not within the possession, custody or control of the requesting party, and that they are within the possession, power or control of the other party.
- d. Balance of interests: Where appropriate and upon reasoned application, the Tribunal will weigh the legitimate interests of the requesting party with those of the requested party, taking into account all relevant circumstances, including the burden of proof, any legal privileges applicable to certain types of communications, the need to safeguard confidentiality, and the proportionality between the convenience of revealing potentially relevant facts and the burden imposed on the requested party.

## **2. Analysis**

8. The Tribunal's decision with respect to each disclosure request is stated in the completed version of the Redfern Schedules that are attached as Annexes A (Claimants' Request for Documents) and B (Respondent's Request for Documents) hereto. These Annexes form an integral part of the present Order.
9. In its decisions as stated in the Annex, the Tribunal addresses what it views as the most important reasons for its decision. Even if not explicitly mentioned, it goes without saying that the Tribunal has considered all of the Parties' arguments and objections.

## **III. DECISION**

10. For the foregoing reasons, the Tribunal:
  - i. Decides each document production request as stated in the last column of the completed version of the Redfern Schedules that are attached as Annexes A (Claimants' Request for Documents) and B (Respondent's Request for Documents) hereto. These Annexes form an integral part of the present Procedural Order;
  - ii. Orders each Party to produce responsive documents by 23 August 2019 in accordance with the time period set in the Procedural Calendar. Documents shall be communicated directly to the requesting Party without copying the Arbitral Tribunal. The documents so communicated shall not be considered to be on record unless and until either Party subsequently files them as exhibits in accordance with PO 1;
  - iii. Where the Parties have accepted to voluntarily produce documents, they shall do so as soon as possible and in any event by 23 August 2019.

Date: 7 August 2019

On behalf of the Tribunal,

[signed]

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Prof. Gabrielle Kaufmann-Kohler

**IN THE MATTER OF INVESTMENT DISPUTE UNDER THE AGREEMENT BETWEEN CANADA AND THE REPUBLIC OF SERBIA FOR  
THE PROMOTION AND PROTECTION OF INVESTMENTS AND UNDER THE AGREEMENT BETWEEN SERBIA AND MONTENEGRO  
AND THE REPUBLIC OF CYPRUS ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

**RAND INVESTMENTS LTD., WILLIAM ARCHIBALD RAND, KATHLEEN ELIZABETH RAND, ALLISON RUTH RAND AND ROBERT  
HARRY LEANDER RAND (CANADA)**

**AND**

**SEMBI INVESTMENT LIMITED**

**(CYPRUS)**

*CLAIMANTS*

**– v –**

**THE REPUBLIC OF SERBIA**

*RESPONDENT*

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**CLAIMANTS' REQUEST FOR PRODUCTION OF DOCUMENTS AND REPLIES  
TO RESPONDENT'S OBJECTIONS**

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26 July 2019

Prof. Gabrielle Kaufmann-Kohler, President of the Tribunal

Mr. Baiju S. Vasani, Arbitrator

Prof. Marcelo G. Kohen, Arbitrator



**I. THE CLAIMANTS' REQUEST FOR PRODUCTION OF DOCUMENTS**

1. The Claimants hereby set out their Request for Production of Documents to the Republic of Serbia ("**Serbia**" or "**Respondent**") pursuant to Section 16 of the Tribunal's Procedural Order No. 1 (the "**Request**") and the International Bar Association's Rules on the Taking of Evidence in International Arbitration (2010) ("**IBA Rules**") referred to in Article 21.1 of Procedural Order No. 1.
2. As per Article 16.1 of Procedural Order No. 1 and the IBA Rules, the Claimants' requests concern documents relevant to the dispute and material to the outcome of the case. The enclosed Redfern Schedule provides the Claimants' basis for each request.
3. To the best of the Claimants' knowledge, the requested documents are not in their possession, custody, or control, and the Claimants reasonably believe the documents requested are within Serbia' possession, custody, or control, and their production would not be unduly burdensome.
4. The Claimants reserve the right to amend or supplement these requests during the course of this arbitration.
5. The following non-exhaustive list of definitions shall apply to the Claimants' Request:
  - a. "**document**" means a record of information of any kind, whether recorded on paper or by electronic means, such as, but not limited to, decisions, memoranda, analysis, correspondence, notices, presentations, reports, minutes, notes, spreadsheets, emails, video and sound recordings, and any other record of information, including documents created and/or stored electronically, and/or by hand. Also, any references herein to communications, responses, requests, explanations and files shall be interpreted to include any and all documents (as just defined) in respect of the foregoing.
  - b. "**regarding**" or "**relating to**" or "**pertaining to**" (including any variant thereof), include referring to, alluding to, responding to, preparing for, concerning, connected with, evidencing, reflecting, commenting on or in respect of.

6. As envisaged under Article 16.3 of Procedural Order No. 1, the Claimants respectfully requests the Tribunal to order Serbia to produce the documents it has refused to produce pursuant the Request.

Sincerely yours,



Rostislav Pekař

Counsel for the Claimants

REDFERN SCHEDULE FOR DOCUMENT REQUESTS No.	REQUEST		OBJECTIONS	REPLY	DECISION	
	Document Requested	Relevance				
		Ref. to Submissions	Comments			
1.	Decision on initiation of the privatization process of BD Agro and/or other documents concerning initiation of BD Agro’s privatization process.	Radović ER, ¶ 14	<p>In her Expert Report, Ms. Radović points out that under certain conditions a “<i>privatization process started on the initiative of the privatization subject itself.</i>” Article 16 of the 2001 Law on Privatization provided that the privatization process might have been initiated also by the Ministry in charge of privatization. Article 17 of the 2001 Law on Privatization provided that under certain circumstances the privatization process could have been initiated by the Serbian Government.</p> <p>The decision and other documents on initiation</p>	<p>Respondent objects to this request under Article 9(2)(a) of the IBA Rules, as the requested documents are irrelevant to Claimants’ case and are not material for the outcome of the proceedings.</p> <p>Notably, Claimants failed to explain why those documents would be of relevance for their case or for the outcome of the proceedings.</p> <p>On a related note, Respondent notes that Article 17 of the 2001 Law on Privatization does not stipulate that the privatization process could have been initiated by the Serbian</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>It is disputed between the Parties what were the roles of various state bodies in BD Agro’s privatization and to what extent the Ministry of Economy and the Government were involved in the privatization process.</p> <p>The requested documents are therefore relevant and material because they would clarify which state body initiated the privatization process and thus shed light on</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

			<p>of the privatization process of BD Agro are important in order to assess the role of various State bodies in BD Agro's privatization process.</p>	<p>Government. Instead, the subject Article stipulates that the ministry in charged for privatization submits the initiative for privatization in entities with majority state capital to the Government of the Republic of Serbia <u>for the purpose of granting consent</u>. Thus, Serbian Government was only in charged for granting consent to initiative for privatization, and not for initiating the process itself.</p> <p>Also, the part of the request that concerns <i>other documents concerning initiation of BD Agro's privatization process</i> is too broad as it is impossible for Respondent to determine which <i>other documents</i> Claimants would deem as related to <i>initiation of BD Agro's privatization process</i>.</p>	<p>the role of various State bodies in BD Agro's privatization.</p> <p><b>The request is not overbroad</b></p> <p>The request is not overbroad. It specifies a narrow group of documents—<i>i.e.</i> the documents related to the initiation of BD Agro's privatization process.</p> <p>The Claimants cannot be reasonably expected to further narrow down their request to specific types of documents, because they simply do not know what documents were prepared by Serbia in relation to the initiation of BD Agro's privatization process.</p> <p>That being said, in order to facilitate Serbia's review of relevant documents, the Claimants agree to restrict their request to</p>	
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					the documents setting out and/or discussing the decision on initiation of the privatization process of BD Agro prepared by the Government, the Ministry of Economy or the Privatization Agency prior to November 2005.	
2.	Any and all documents and communications within the Ministry of Economy and between the Ministry of Economy and the Privatization Agency in 2004 and 2005 regarding Mr. William A. Rand's interest in the privatization of BD Agro, including, without limitation, organization of his visits to BD Agro's premises.	Memorial, ¶¶ 68-72; Counter-Memorial, ¶ 253; Rand WS, ¶¶ 15, 20; Obradović WS, ¶¶ 10-11; CE-013; CE-014; CE-016.	<p>The Claimants explained in their Memorial that Mr. Rand and Mr. Obradović disclosed their agreement with respect to purchase of BD Agro shares to “<i>numerous Serbian officials, including Minister Bubalo, who all understood that Mr. Rand would be the beneficial owner and Mr. Obradović only the nominal owner of BD Agro. None of the officials expressed any concerns regarding that arrangement.</i>”</p> <p>Furthermore, Mr. Rand “<i>made several visits to BD Agro and repeatedly</i></p>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	<p>The Claimants maintain their request.</p> <p>Researching an unspecified “<i>database of the Ministry of Economy / the Privatization Agency</i>” is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>

			<p><i>met with Serbian Government officials, including Mr. Predrag Bubalo, the then Minister of Economy, and his Assistant Minister, Mr. Ljubiša Jovanović, who was responsible for the department of international relations and competitiveness.”</i></p> <p>The requested documents demonstrate that the Ministry of Economy and the Privatization Agency were aware that Mr. Obradović was only a nominal owner of BD Agro shares, which he held for Mr. Rand.</p>		also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia’s possession, custody or control.	
3.	All documents related to the meeting between Mr. Goran Džafić, the then deputy director at the Serbian Investment Promotion Agency (“SIEPA”), and Messrs. Broshko and Markićević that took	CE-311; RE-28; Markićević Second WS, ¶65; Broshko Second WS, ¶31	Messrs. Broshko and Markićević explained in their witness statements that on 19 December 2013, they met with Mr. Džafić, then deputy director at the Serbian Investment Promotion Agency, to discuss issues that BD Agro faced with respect to the	Respondent produces the requested documents that are available to it.	The Claimants note that Serbia does not object to the Claimants’ request, but does not confirm that the produced documents are all responsive documents in Serbia’s possession, custody or control.	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the</p>

	place on 19 December 2013.		<p>Privatization Agency's conduct.</p> <p>After the meetings, Mr. Džafić sent an email to Mr. Vladimir Milenković, the then director of SIEPA and an advisor to the Minister of Economy. In his email, Mr. Džafić explained that Mr. Obradović purchased BD Agro shares "<i>on behalf and for the account of the investment fund RAND Investment Ltd.</i>"</p> <p>The requested documents demonstrate that Messrs. Džafić and Milenković were fully aware of the fact that Mr. Obradović was only a nominal owner of BD Agro shares, which he held for Mr. Rand.</p>		<p>The Claimants therefore request that Serbia be ordered to provide such confirmation and produce additional responsive documents that are in Serbia's possession, custody or control, if any.</p>	<p>Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
4.	Response from Mr. Milenković to email from Mr. Džafić dated 19 December 2013.	CE-311	<p>The requested documents are relevant and material to assess Mr. Milenković's response to Mr. Džafić's email providing a summary of the meeting between Messrs. Džafić,</p>	<p>According to the research of the database of the Development Agency of Serbia / Agency for foreign investments and promotion of export, the requested document does not exist.</p>	<p>The Claimants maintain their request.</p> <p>Researching an unspecified "<i>database of the Development Agency of Serbia / Agency for foreign investments and</i></p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate</p>

			Broshko and Markićević, including the information that Mr. Obradović was only a nominal owner of BD Agro shares.		<p><i>promotion of export</i>” is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia’s possession, custody or control.</p>	responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.
5.	Any communication between Mr. Vladimir Milenković, the then director of SIEPA and advisor to the Minister of Economy, and Mr. Saša Radulović, the then Minister of Economy of Serbia, or any other official	CE-311; RE-28; Markićević Second WS, ¶65; Broshko Second WS, ¶31	The requested documents are necessary to assess whether Mr. Milenković informed Mr. Radulović and/or any other official of the Serbian Government about the meeting between Messrs. Džafić, Broshko and Markićević that took place on 19	Respondent produces the requested documents that are available to it.	The Claimants note that Serbia does not object to the Claimants’ request, but does not confirm that the produced documents are all responsive documents in Serbia’s possession, custody or control.	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the</p>



	of the Serbian Government related to the meeting between Messrs. Džafić, Broshko and Markićević that took place on 19 December 2013.		December 2013 and about the fact that Mr. Obradović was only a nominal owner of BD Agro shares.		The Claimants therefore request that Serbia be ordered to provide such confirmation and produce additional responsive documents that are in Serbia's possession, custody or control, if any.	Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.
6.	All documents of the Center for Control of the Privatization Agency related to the preparation and execution of the auction of BD Agro shares held on 29 September 2005, the monitoring of obligations under the Privatization Agreement, the termination of the Privatization Agreement and the period after the termination of the Privatization Agreement.	RE-46 to RE-50; RE-068 to RE-078, RE-084 to RE-091	<p>BD Agro's privatization, and later termination of the Privatization Agreement, are at the very heart of the dispute between the Parties.</p> <p>The requested documents are relevant and material to assess whether the contemporaneous position of the Privatization Agency and its bodies, was the same as Serbia argues in this arbitration.</p> <p>The documents related to period after the termination of the Privatization Agreement are relevant and material to assess the</p>	<p>Respondent objects this request as it is unduly overbroad and burdensome in the sense of Article 9(2)(c) IBA Rules.</p> <p>Claimants' request amounts to a fishing expedition. First, Claimants failed to specify the relevant time span for the documents requested - their request covers period of 15 years. Second, Claimants failed to specify the type of documents they request under this point.</p> <p>Respondent cannot reasonably be bound to produce essentially all documents ever prepared</p>	<p>The Claimants maintain their request.</p> <p><b>The request is neither overbroad nor unduly burdensome</b></p> <p>The request is neither overbroad nor unduly burdensome. It clearly specifies the author of the requested documents and the subject matter of the requested documents, which covers key aspects of BD Agro's privatization.</p> <p>The request does not amount to a fishing expedition because these key aspects of</p>	<p><b>DENIED.</b></p> <p>The request is overly broad. It would be unduly burdensome for the Respondent to produce the requested documents.</p>

		<p>Privatization Agency's contemporaneous view on the value of BD Agro after the termination of the Privatization Agreement.</p> <p>Furthermore, in its Counter-Memorial, Serbia relies on a number of Privatization Agency's internal documents, such as (i) proposals of the Center of Control; (ii) minutes from sessions of the Commission for Undertaking Measures; or (iii) minutes from sessions of Commission for Control.</p> <p>The requested documents are therefore also relevant and material to assess whether the internal documents of Privatization Agency submitted by Serbia in this arbitration provide a full and objective account of the Privatization Agency's</p>	in relation to BD Agro's privatization.	<p>BD Agro's privatization are at the heart of the dispute and the Parties clearly hold opposing views thereon.</p> <p>It is reasonable to assume that Serbia has already reviewed all documents prepared by the Privatization Agency's bodies in relation to BD Agro's privatization, and it should not be unduly burdensome for Serbia to produce these documents.</p>	
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			contemporaneous position.			
7.	All documents of the Commission for Control of the Privatization Agency related to the preparation and execution of the auction of BD Agro shares held on 29 September 2005, the monitoring of obligations under the Privatization Agreement, the termination of the Privatization Agreement and the period after the termination of the Privatization Agreement.		Claimants hereby incorporate explanation from Request No. 6 above.	Respondent objects this request as it is unduly overbroad and burdensome in the sense of Article 9(2)(c) IBA Rules.  Claimants' request amounts to a fishing expedition. First, Claimants failed to specify the relevant time span for the documents requested - their request covers period of 15 years. Second, Claimants failed to specify the type of documents they request under this point.  Respondent cannot reasonably be bound to produce essentially all documents ever prepared in relation to BD Agro's privatization.	Claimants hereby incorporate and repeat their reply from Request No. 6 above.	<b>DENIED.</b>  The request is overly broad. It would be unduly burdensome for the Respondent to produce the requested documents.
8.	All documents of the Commission for Undertaking Measures of the Privatization Agency related to the preparation and execution of the		Claimants hereby incorporate explanation from Request No. 6 above.	At the outset, Respondent notes that the Commission for Undertaking Measures of the Privatization Agency and the Commission for Control of the Privatization Agency was the same	Claimants hereby incorporate and repeat their reply from Request No. 6 above.	<b>DENIED.</b>  The request is overly broad. It would be unduly burdensome for the Respondent to produce the

	<p>auction of BD Agro shares held on 29 September 2005, the monitoring of obligations under the Privatization Agreement, the termination of the Privatization Agreement and the period after the termination of the Privatization Agreement.</p>			<p>entity – up until 2014, the entity was named Commission for Undertaking Measures, whereas after 2014, it was renamed to Commission for Control.</p> <p>In any event, Respondent objects to this request as it is unduly overbroad and burdensome in the sense of Article 9(2)(c) IBA Rules.</p> <p>Claimants’ request amounts to a fishing expedition. First, Claimants failed to specify the relevant time span for the documents requested - their request covers period of 15 years. Second, Claimants failed to specify the type of documents they request under this point.</p> <p>Respondent cannot reasonably be bound to produce essentially all documents ever prepared in relation to BD Agro’s privatization.</p>		<p>requested documents.</p>
9.	<p>All documents of the Ministry of Economy related to the</p>	<p>Memorial, ¶¶ 20, 121-125, 158-161, 176-</p>	<p>The Claimants demonstrated in their Memorial that the</p>	<p>Respondent objects to this request as it is unduly overbroad and</p>	<p>The Claimants maintain their request.</p>	<p><b>DENIED.</b></p>

	<p>preparation and execution of the auction of BD Agro shares held on 29 September 2005, the monitoring of obligations under the Privatization Agreement, the termination of the Privatization Agreement and the period after the termination of the Privatization Agreement.</p>	<p>178; Counter-Memorial, ¶¶ 156, 582</p>	<p>Ministry of Economy was heavily involved in the BD Agro's privatization process.</p> <p>The Privatization Agency repeatedly requested, and the Ministry of Economy provided, instructions related to privatization process of BD Agro.</p> <p>Most notably, in December 2013, the Ministry initiated a supervision procedure of Privatization Agency's work with respect to privatization of BD Agro.</p> <p>Despite these facts, Serbia alleges in a part of its Counter-Memorial dedicated to issues of attribution that the Privatization Agency "<i>had significant autonomy</i>" and was not "<i>acting under direct supervision of the Ministry of Economy.</i>"</p> <p>The requested documents are therefore relevant and material to</p>	<p>burdensome in the sense of Article 9(2)(c) IBA Rules.</p> <p>Claimants' request amounts to a fishing expedition. First, Claimants failed to specify the relevant time span for the documents requested - their request covers period of 15 years. Second, Claimants failed to specify the type of documents they request under this point.</p> <p>Respondent cannot reasonably be bound to produce essentially all documents ever prepared in relation to BD Agro's privatization.</p>	<p><b>The request is neither overbroad nor unduly burdensome</b></p> <p>The request is neither overboard nor unduly burdensome. It clearly specifies the author of the requested documents and the subject matter of the requested documents, which covers key aspects of BD Agro's privatization.</p> <p>The request does not amount to a fishing expedition because these key aspects of BD Agro's privatization are at the heart of the dispute and the Parties clearly hold opposing views thereon.</p> <p>It is reasonable to assume that Serbia has already reviewed all documents prepared by the Ministry of Economy in relation to BD Agro's privatization, and it</p>	<p>The request is overly broad. It would be unduly burdensome for the Respondent to produce the requested documents.</p>
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			<p>assess (i) the contemporaneous position of the Ministry of Economy regarding alleged breaches of the Privatization Agreement and appropriate remedies; and (ii) the degree of control exercised by the Ministry of Economy over the Privatization Agency in matters related to BD Agro.</p>		<p>should not be unduly burdensome for Serbia to produce these documents.</p>	
10.	<p>The Privatization Agency's response to BD Agro's letter dated 4 May 2007.</p>	<p>RE-61; C-M, ¶ 185</p>	<p>In its letter to privatization Agency dated 4 May 2007, BD Agro requested the Privatization Agency to give its approval to BD Agro to take an EUR 8,200,000 loan from NLB InterFananz AG, investment fund managed by Nova Ljubljanska bank. The loan was to be secured by <i>"a mortgage on the construction facilities and land in the ratio of 1:2."</i></p> <p>Serbia now argues that this loan was allegedly used to pay some</p>	<p>Respondent produces the requested document that is available to it.</p>	<p>The Claimants note Serbia's agreement to produce the requested document.</p>	<p><b>NO DECISION NECESSARY.</b></p>

			<p>installments of purchase price for BD Agro shares. Serbia also argues that loans taken by BD Agro were excessive and that “<i>it does not come as a surprise that indebtedness towards banks ultimately lead to BD Agro’s bankruptcy.</i>”</p> <p>The requested documents are relevant and material to demonstrate the contemporaneous position of the Privatization Agency with respect to loans taken by BD Agro and to assess whether the Privatization Agency voiced any objections to these loans being taken.</p>			
11.	Letter No. 1201/02-0403 from the Privatization Agency to the Center for Education and Representation of Shareholders and Employees dated 4 March 2009.	RE-115; C-M, ¶ 179	In its letter dated 16 March 2009, the Center for Education and Representation of Shareholders and Employees refers to “ <i>Agency’s letter no. 1201/02-0403 of 4 March 2009, informing us about the ascertained</i>	Respondent produces the requested document that is available to it.	The Claimants note Serbia’s agreement to produce the requested document.	<b>NO DECISION NECESSARY.</b>

			<p><i>status of performance of the contract for the sale of social capital of MJA PHK 'Buducnost' from Dobanovci."</i></p> <p>This letter is relevant and material to assess the Privatization Agency's view on the fulfilment of the Privatization Agreement as of 4 March 2009. Furthermore, it is also relevant to rebut allegations of BD Agro's alleged mismanagement raised by the Center for Education and Representation of Shareholders and Employees</p>			
12.	Minutes from the meeting that took place at the Privatization Agency on 4 March 2009 relating to control of the obligations under the Privatization Agreement and BD Agro's management.	RE-115, p. 3	In its letter dated 16 March 2009, the Center for Education and Representation of Shareholders and Employees refers to a meeting allegedly held at the Privatization Agency's premises on 4 March 2009, which was supposedly related to control of the obligations under the Privatization	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested document does not exist.	The Claimants maintain their request. Researching an unspecified " <i>database of the Ministry of Economy / the Privatization Agency</i> " is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no</p>



			<p>Agreement and BD Agro's management.</p> <p>Requested documents are relevant and material to (i) assess whether the meeting indeed took place, and if so (ii) what was the Privatization Agency's contemporaneous view on fulfilment of the obligations under the Privatization Agreement and BD Agro's management.</p>		<p>documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	<p>responsive documents within its possession, custody or control within 5 business days of this Order.</p>
13.	Report of the Privatization Agency dated 16 September 2009 sent to the Center for Education and Representation of Shareholders and Employees.	RE-118	<p>Letter from Center for education and representation of shareholders and employees to the Privatization Agency dated 11 February 2010 states that the Center had received "<i>report dated 16 September 2009, regarding the degree of execution of the contract of buyer Djura Obradovic.</i>"</p> <p>This report is relevant and material to assess what was the Privatization Agency's</p>	Respondent produces the requested document that is available to it.	The Claimants note Serbia's agreement to produce the requested document.	<b>NO DECISION NECESSARY.</b>

			contemporaneous view on fulfilment of the obligations under the Privatization Agreement and BD Agro's management.			
14.	Letter from the Privatization Agency to Mr. Djura Obradović dated 24 March 2011 regarding approval of a sale of agriculture land in Novi Bečej.	RE-069, p. 76	<p>According to the Proposal of the Center for Control for the session of the Commission for Control dated 21 June 2011, on 24 March 2011, the Privatization Agency informed Mr. Obradović that no prior consent of the Agency was needed for the sale of land under Article 5.3.3 of the Privatization Agreement.</p> <p>This document is relevant and material to assess the contemporaneous position of the Privatization Agency regarding applicability of the obligations under the Privatization Agreement as of March 2011.</p>	Respondent produces the requested document that is available to it.	The Claimants note Serbia's agreement to produce the requested document.	<b>NO DECISION NECESSARY.</b>

15.	All documents related to the meeting between the Ministry of Economy, BD Agro and the Privatization Agency that took place on 23 November 2011.	RE-071	According to the Proposal of the Center for Control dated 21 December 2011 <i>“a meeting was held in the premises of the Ministry of the economy and regional development on 23 November 2011, in relation to remarks of the Buyer that during the Agency’s control he delivered all available documents, and that all requests of the Agency for additional documents are unfounded. The meeting was attended by the state secretary of the Ministry of the economy and regional development, director of the Privatization Subject with representatives of the Subjects professional units, director of the auditor “Auditor” Beograd with auditors who prepared auditor’s reports presented to the Agency, head of the Agreement Execution Control Centre, as well as employees of that centre. At the meeting</i>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	The Claimants maintain their request.  Researching an unspecified <i>“database of the Ministry of Economy / the Privatization Agency”</i> is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.  The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia’s possession, custody or control.	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.
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			<p><i>the draft auditor's report prepared by "Auditor" Beograd was presented, on acting of the Buyer within the additional deadline according to the Agency's Decision on 6 October 2011."</i></p> <p>The requested documents are relevant and material to assess the information provided at this meeting and the contemporaneous view(s) of the Ministry of Economy and the Privatization Agency on the fulfillment of obligations under the Privatization Agreement.</p>			
16.	Minutes and any other documents prepared for or to follow up on the meeting between the Ministry of Economy, BD Agro and the Privatization Agency that took place on 16 December 2011.	RE-071; Cvetković WS, ¶ 5	According to the Proposal of the Center for Control dated 21 December 2011 " <i>a meeting was held on 16 December 2011 in the premises of the Privatization Agency, with the representatives of the Agency's Agreement Execution Control Centre, representatives of the</i>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	The Claimants maintain their request.  Researching an unspecified " <i>database of the Ministry of Economy / the Privatization Agency</i> " is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it

			<p><i>Privatization Subject and auditors from "Auditor" Beograd, when the Agency stated its suggestions referring to the presented draft auditor's report."</i></p> <p>The requested documents are relevant and material to assess the discussion at this meeting and the contemporaneous view(s) of the Ministry of Economy and the Privatization Agency on the fulfillment of obligations under the Privatization Agreement.</p>		<p>that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	<p>has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
17.	<p>Audio recordings of the following sessions of the Commission for undertaking measures upon conducted control of the privatization agreement:</p> <p>(a) 296<sup>th</sup> session on 24 February 2011;</p>	RE-046; RE-034; RE-035; RE-047; RE-048; RE-050; RE-083; RE-085; RE-086; RE-088; RE-089; RE-091	<p>These documents are relevant and material to assess whether the minutes from the sessions of the Commission for undertaking measures upon conducted control of the privatization agreement submitted by Serbia objectively reflect discussions that took place at these sessions.</p>	<p>Requested audio recordings do not exist as at that time the meetings were not recorded.</p>	<p>The Claimants note Serbia's confirmation that no responsive documents exist.</p>	<b>NO DECISION NECESSARY.</b>

<p>(b) 312<sup>th</sup> session that took place on 22 June 2011;</p> <p>(c) 325<sup>th</sup> that took place on 6 October 2011;</p> <p>(d) 336<sup>th</sup> session that took place on 22 December 2011;</p> <p>(e) 349<sup>th</sup> session that took place on 30 March 2012;</p> <p>(f) 353<sup>th</sup> session that took place on 26 April 2012;</p> <p>(g) 359<sup>th</sup> session that took place on 15 June 2012;</p> <p>(h) 365<sup>th</sup> session that took place on 31 July 2012;</p> <p>(i) 376<sup>th</sup> session that took place on 25 October 2012;</p> <p>(j) 378<sup>th</sup> session that took place on 8 November 2012;</p> <p>(k) 387<sup>th</sup> session that took place on 18 January 2013; and</p>					
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	(1) 407 <sup>th</sup> session that took place on 10 July 2013.					
18.	The Privatization Agency's response to Mr. Obradović's letter dated 29 December 2011 requesting approval of sale of land in Novi Bečej.	RE-027, C-M, ¶¶ 110-111	<p>In the letter dated 29 December 2011, BD Agro requested from the Privatization Agency an approval to sell the land in Novi Bečej.</p> <p>Privatization Agency's response is relevant and material to assess whether the Privatization Agency—as of 29 December 2011—believed that the Privatization Agreement was still in force and it was entitled to issue such approval.</p>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested document does not exist.	<p>The Claimants maintain their request.</p> <p>Researching an unspecified “<i>database of the Ministry of Economy / the Privatization Agency</i>” is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>

19.	Letter from the Centre for Control to the Centre for Privatization and the Sector for Operational and Legal Affairs dated 17 January 2012.	RE-049, p. 11; RE-072, p. 33; RE-073, p. 58; RE-074, p. 92; RE-075; RE-76, p. 76; RE-84, p. 125; RE-87, p. 105	Several exhibits submitted by Serbia refer to a letter sent by the Centre for Control to the Centre for Privatization and the Sector for legal and operational affairs requesting an opinion on when the obligations under Articles 5.3.3 and 5.3.4 of the Privatization Agreement expire.  The letter from the Center for Control is relevant and material to assess what was the contemporaneous understanding of the Center for Control with respect to the expiry of obligations under Articles 5.3.3 and 5.3.4 of the Privatization Agreement expire.	Respondent produces the requested document that is available to it.	The Claimants note Serbia's agreement to produce the requested document.	<b>NO DECISION NECESSARY.</b>
20.	Minutes and any other documents prepared for or to follow up on the meeting between Mr. Obradović and the Privatization Agency held on 21 March 2012.	RE-085 p. 135; C-M ¶¶ 40, 42, fn. 67	According to the Proposal of the Center for Control for the session of the Commission for Control dated 27 March 2012 <i>“on 21.03.2012, a meeting was held at the Agency's premises where the Buyer stated that he</i>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	The Claimants maintain their request.  Researching an unspecified <i>“database of the Ministry of Economy / the Privatization Agency”</i> is not a reasonable search to localize the	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It



			<p>would make additional efforts to have ‘Crveni Signal’ settle the obligation of towards the Subject with the remark that by performing the said obligation ‘the money will only pass through Crveni Signal and the subject of privatization’ and that only the banks will have profit out of it due to payment of commission, and not the Subject.”</p> <p>The requested documents are relevant and material to assess the veracity of the description of Mr. Obradović’s alleged statements in the Proposal of the Control Central.</p>		<p>requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia’s possession, custody or control.</p>	<p>invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
21.	Minutes and any other documents prepared for or to follow up on the meeting between Mr. Obradović, the Ministry of Economy and the Privatization Agency that took	RE-049, p. 5; RE-072, p. 30; RE-073, p. 53; RE-074, p. 86; RE-075, p. 74; RE-076, p. 26; RE-085, p. 5; RE-087, p. 104	According to the Proposal of the Center for Control for the session of the Commission for Control dated 25 April 2012 “[b]y the decision of the Commission on 30 March 2012 (349 <sup>th</sup> meeting of the	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	The Claimants maintain their request. Researching an unspecified “database of the Ministry of Economy / the Privatization Agency” is not a reasonable search to localize the	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It</p>

	place on 30 March 2012.		<p><i>Commission) decision-making on the performance of obligations of the Buyer under the subject Agreement on sale of capital was postponed, 'having in mind [...] that at the meeting held on 30 March 2012 in the Agency's premises, with the Buyer and representative of the Ministry of the economy and regional development, the Buyer informed the Agency that he had prepared an appeal to the Ministry of the economy and regional development to the Agency's decisions, which were proposed at the Commission meetings, so that accordingly one should wait to receive the attitude of the Ministry of the economy and regional development whether there is basis for the subject appeal'."</i></p> <p>The requested documents are relevant</p>		<p>requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	<p>invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
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			and material to assess the discussion at the meeting and the contemporaneous view(s) of the Ministry of Economy and the Privatization Agency regarding the objections raised by Mr. Obradović.			
22.	Decision of the Commission for Control regarding BD Agro dated 30 March 2012 (349 <sup>th</sup> session).	RE-072; RE-073, pp. 53-54, 58, 68; RE-074, pp. 86-87, 91-92, 101; RE-075, pp. 74, 86; RE-076, p. 26; RE-087, p. 116	According to the Proposal of the Center for Control for the session of the Commission for Control dated 25 April 2012 “[b]y the decision of the Commission on 30 March 2012 (349 <sup>th</sup> meeting of the Commission) decision-making on the performance of obligations of the Buyer under the subject Agreement on sale of capital was postponed, ‘having in mind [...] that at the meeting held on 30 March 2012 in the Agency’s premises, with the Buyer and representative of the Ministry of the economy and regional	Requested decision does not exist as a separate document and it was already submitted in the case files as a part of the minutes from the meeting (Exhibit RE-085).	The Claimants note Serbia’s response.	<b>NO DECISION NECESSARY.</b>

			<p><i>development, the Buyer informed the Agency that he had prepared an appeal to the Ministry of the economy and regional development to the Agency's decisions, which were proposed at the Commission meetings, so that accordingly one should wait to receive the attitude of the Ministry of the economy and regional development whether there is basis for the subject appeal'."</i></p> <p>The requested decision of the Commission for Control is relevant and material to assess the exact reasons that led the Commission to the postponement of decision making on fulfillment of obligations under the Privatization Agreement.</p>			
23.	Decision of the Commission for control regarding BD Agro dated 26 April 2012 (353 <sup>rd</sup> session).	RE-049, p. 20; RE-073, pp. 53,-54, 58; RE-074, pp. 86-87, 92; RE-075, pp. 74, 76; RE-	Several exhibits submitted by Serbia refer to a decision of the Commission for Control by which it decided to request instructions from	Requested decision does not exists as a separate document and it was already submitted in the case files as a part of the	The Claimants note Serbia's response.	<b>NO DECISION NECESSARY.</b>

		076, pp. 26, 31, 41; RE-077, p. 7, 10; RE-087 pp. 104, 106; Cvetković WS, ¶ 5	the Ministry of Economy regarding further steps to be taken with respect to BD Agro.  The requested decision is relevant and material to assess the reasons that led the Commission to request such instructions from the Ministry, as well as to assess the contemporaneous view of the Commission on fulfilment of the obligations under the Privatization Agreement.	minutes from the meeting (Exhibit RE-086).		
24.	Minutes and any other documents prepared for or to follow up on the meeting between the Centre for Control, Centre for Privatization and the Sector for Representation regarding BD Agro upon request of the Centre for Control dated 18 June 2012.	RE-049, p. 11; RE-074, p. 91; RE-075, p. 76; RE-076 p. 32; RE-87, p. 106	According to the Proposal of the Center for Control for the session of the Commission for Control dated 10 July 2013 a <i>“meeting was held between the representatives of the Control Centre, Privatisation centre and Representation Centre, upon the invitation of Control Centre sent by e/mail on June 18, 2012.”</i>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	The Claimants maintain their request.  Researching an unspecified <i>“database of the Ministry of Economy / the Privatization Agency”</i> is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its

			<p>The meeting addressed the question of expiry of the obligations under Article 5.3.3. and 5.3.4. of the privatization Agreement.</p> <p>The requested documents are relevant and material to assess the contemporaneous understanding of the Centre for Control, Centre for Privatization and the Sector for Representation regarding the expiration of the obligations under Article 5.3.3. and 5.3.4. of the privatization Agreement.</p>		<p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	possession, custody or control within 5 business days of this Order.
25.	Decision of the Privatization Agency regarding BD Agro dated 25 October 2012.	RE-049; p. 6; RE-075, p. 75; RE-076, p. 27	In exhibits RE-049 (p. 6), RE-075, (p. 75) and RE-076 (p. 27) the Center for Control stated that in the decision dated 25 October 2012, the Privatization Agency rendered a decision that based on the letter from the Ministry of Economy dated 5 June 2012, the decision regarding fulfillment of obligations under the Privatization	Requested decision does not exist as a separate document and it was already submitted in the case files as a part of the minutes from the meeting (Exhibit RE-088).	The Claimants note Serbia's response.	<b>NO DECISION NECESSARY.</b>

			<p>Agreement is postponed until after a meeting with Mr. Obradović is held.</p> <p>The requested document is relevant and material to determine the exact reasons that led the Agency to postpone its decision regarding performance of obligations under the Privatization Agreement.</p>			
26.	Minutes and any other documents prepared for or to follow up on the meeting between the State Secretary and Assistant Minister at the Ministry of Economy, BD Agro and the Privatization Agency that took place on 2 November 2012.	RE-075; RE-076, pp. 27, 33; RE-080; RE-089, p. 4; RE-090, p. 1; C-M, ¶¶ 51-52	<p>According to the Proposal of the Center for Control for the session of the Commission for undertaking measures dated 7 November 2012 the “meeting was held on 2 November 2012 in the Agency’s premises, attended by: state secretary and assistant minister in the Ministry of finance and economy of RS, Buyer of capital, director of the Subject with representatives of professional units and the auditing house ‘Auditor’, Agency Director, members and</p>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	<p>The Claimants maintain their request.</p> <p>Researching an unspecified “<i>database of the Ministry of Economy / the Privatization Agency</i>” is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5</p>

			<p><i>deputies of members of the Commission for undertaking measures upon performed control, Head of the Agreement Execution Control Centre with associates. Subject of the meeting was acting the Buyer's performance of obligations under the Agreement on sale of capital. At the meeting representatives of the Ministry confirmed that the Buyer has the obligation to submit to the Agency the auditor's report with auditor's statement on acting of the Buyer within the additional deadline, as well as to submit explanation of reasons for not being able to meet the obligations under the Agreement as a whole."</i></p> <p>The requested documents are necessary to assess what exactly was discussed at the meeting and what was the contemporaneous</p>		<p>requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	<p>business days of this Order.</p>
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			position of the Ministry of Economy and the Privatization Agency with respect to the fulfillment of the obligations under the Privatization Agreement—namely what obligations were still binding and to be performed.			
27.	Minutes and any other documents prepared for or to follow up on the meeting between Messrs. Markićević, Obradović, Cvetković (the then director of the Privatization Agency) and Ms. Jelić that took place on 11 June 2013.	Memorial, ¶ 144, Markićević Second WS, ¶¶ 26-29, 32.	Mr. Markićević explained in his witness statement that on 11 June 2013, he and Mr. Obradović met with Mr. Cvetković and Ms. Jelić to discuss release of pledge over BD Agro shares. Mr. Markićević also explained that to his surprise, they “ <i>despite the full payment of the purchase price, the Privatization Agency would not release the pledge over the Beneficially Owned Shares. Representatives of the Privatization Agency further noted that the only way to transfer nominal ownership over BD Agro</i>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	The Claimants maintain their request.  Researching an unspecified “ <i>database of the Ministry of Economy / the Privatization Agency</i> ” is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.  The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.

			<p><i>shares would be through assignment of the Privatization Agreement from Mr. Obradović to an entity nominated by Mr. Rand. The Privatization Agency was fully aware that Mr. Obradović was only the nominal owner of the Beneficially Owned Shares.”</i></p> <p>The requested documents are relevant because they can support the description of the meeting provided by Mr. Markićević.</p>		files and archives and produce the requested documents or confirm that no responsive documents are in Serbia’s possession, custody or control.	
28.	All documents of the Privatization Agency related to the Agency’s decision to commission the legal opinion from Radović & Ratković dated 12 June 2013 (the “ <b>2013 Legal Opinion</b> ”).	Memorial ¶¶ 131-141, CE-034	<p>The Claimants explained in their Memorial that in 2013, unbeknownst to the Claimants, Mr. Obradović and BD Agro, the Privatization Agency decided to approach the law firm Radović &amp; Ratković and seek advice on the alleged violations of the Privatization Agreement.</p> <p>The requested documents are therefore</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules.</p> <p>First, Claimants failed to explain why would reasons based on which the Privatization Agency instructed Radović &amp; Ratković to prepare the 2013 Legal Opinion, be of relevance for the outcome of this dispute.</p>	<p>The Claimants maintained their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>Documents showing the reasons based on which the Privatization Agency instructed Radović &amp; Ratković to prepare the 2013 Legal Opinion are relevant</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

			<p>relevant and material to assess the reasons based on which the Privatization Agency instructed Radović &amp; Ratković to prepare the 2013 Legal Opinion.</p>	<p>Second, the requested documents are subject to attorney client privilege. Therefore, this request should be denied.</p>	<p>and material because they would shed light on the Privatization Agency's contemporaneous assessment of the alleged violations of the Privatization Agreement and its consequences.</p> <p>Serbia's claim that the requested documents are subject to attorney client privilege is unsubstantiated. Serbia does not explain which responsive documents, if any, would be subject to the attorney client privilege, or which legal provision(s) would govern the alleged attorney client privilege.</p> <p>Furthermore, any attorney client privilege was waived when Serbia voluntarily provided the 2013 Legal Opinion to Claimants'</p>	
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					<p>counsel in January 2017.</p> <p>Finally, should the Tribunal find that attorney client privilege is applicable, the Claimants request that Serbia be ordered to produce a privilege log listing all the requested documents that are allegedly subject to the attorney client privilege and explaining in detail the legal basis for the claimed privilege allegedly attaching to each of these documents.</p>	
29.	All documents of the Privatization Agency related to the Agency's decision not to follow the advice provided in the 2013 Legal Opinion.	Memorial, ¶ 141	<p>On 12 June 2013, the Privatization Agency received the 2013 Legal Opinion that unequivocally concluded that such termination would, for a number of reasons, be unlawful.</p> <p>Nonetheless, for reasons unknown to the Claimants, the Privatization Agency decided not to follow the</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules.</p> <p>First, Respondent notes that, contrary to what Claimants suggest, the Privatization Agency was by no means obliged to follow the 2013 Attorney's Opinion.</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>As the Claimants explained in their request, the 2013 Legal Opinion unequivocally concluded that the termination of the</p>	<p><b>GRANTED.</b></p> <p>The documents have been identified with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i>, the</p>

			<p>unequivocal advice provided in the 2013 Legal Opinion. Worse yet, the Privatization Agency withheld the 2013 Legal Opinion not only from the Claimants, Mr. Obradović and BD Agro, but later also from certain decision-making bodies of the Serbian Government. The Claimants' counsel obtained a copy of the 2013 Legal Opinion only in January 2017, pursuant to a request under the Serbian Law on Free Access to Information of Public Importance.</p> <p>The requested documents are therefore relevant and material to assess the reasons for the Privatization Agency's decision not to follow the advice provided in the 2013 Legal Opinion.</p>	<p>Second, the Privatization Agency was not obliged to disclose the 2013 Attorney's Opinion to Claimants, Mr. Obradović, BD Agro, or to any bodies of the Serbian Government.</p> <p>Third, the reasons for the Privatization Agency's decision not to follow the advice provided in the 2013 Legal Opinion are stated in Exhibit RE-49.</p>	<p>Privatization Agreement would be unlawful for a number of reasons.</p> <p>The reasons why the Privatization Agency decided not to follow the advice provided in the 2013 Legal Opinion are relevant and material because they would show the contemporaneous position of the Privatization Agency and its arguments, or the lack thereof, as to why the 2013 Legal Opinion should be disregarded.</p> <p>Serbia's allegations that the Privatization Agency was not required to follow the 2013 Legal Opinion and/or to share it with Claimants, Mr. Obradović, BD Agro, or to any bodies of the Serbian Government do not justify any objection to the</p>	documents appear relevant.
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					<p>production of the responsive documents.</p> <p>Serbia's allegation that the reasons are set out in Exhibit RE-49 is also immaterial. However, the Claimants note that Exhibit RE-049 only sets out the position of the Center for Control, not the Privatization Agency as a whole. Further, Exhibit RE-49 does not provide any reasons for the Center for Control's position that the 2013 Legal Opinion should not be followed.</p>	
30.	Opinion of the competent Ministry to the Privatization Agency that cows and hens cannot be raised at the same premises.	RE-49, p. 27; RE-76, p. 40; RE-104; C-M, ¶ 179	The Proposal of the Center for Control for the session of the Commission for Control dated 10 July 2013 states that the Privatization Agency <i>"was provided with the opinion of the competent Ministry according to which it is not possible to breed laying hens and cattle at the same farm."</i>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested document does not exist.	<p>The Claimants maintain their request.</p> <p>Researching an unspecified <i>"database of the Ministry of Economy / the Privatization Agency"</i> is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no</p>

			<p>In its Counter-Memorial, Serbia argued that BD Agro was badly managed in the period between years 2005 and 2015. One of the examples of the bad management provided by Serbia was that that BD Agro allegedly purchased 32,000 hens that never “<i>ended up in BD Agro.</i>”</p> <p>The requested document is relevant and material to demonstrate that the hens simply could not be kept at the same premises as the cattle owned by BD Agro.</p>		<p>documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia’s possession, custody or control.</p>	<p>responsive documents within its possession, custody or control within 5 business days of this Order.</p>
31.	Any documents setting out the decision of the Privatization Agency regarding proposals related to BD Agro rendered on or around 10 July 2013.	RE-077, p. 5	<p>According to the Proposal of the Center for Control for the session of the Commission for undertaking measures from 20 April 2015, the Privatization Agency rendered a decision on 10 July 2013 that no proposals related to BD Agro are to be submitted until after the Privatization Agency</p>	Respondent produces requested documents that are available to it.	<p>The Claimants note that Serbia does not object to the Claimants’ request, but does not confirm that the produced documents are all responsive documents in Serbia’s possession, custody or control.</p> <p>The Claimants therefore request that Serbia be ordered to</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no</p>

			<p>receives instructions from the Ministry of Economy regarding measures to be taken against Mr. Obradović.</p> <p>This decision lead also to a postponement of a decision on the request for assignment of the Privatization Agreement.</p> <p>The requested decision is relevant and material to determine the exact reasons that led the Privatization Agency to postponing any decision related to BD Agro until after it would receive instructions from the Ministry of Economy.</p>		<p>provide such confirmation and produce additional responsive documents that are in Serbia's possession, custody or control, if any.</p>	<p>responsive documents within its possession, custody or control within 5 business days of this Order.</p>
32.	Minutes and any other documents prepared for or to follow up on the meeting between Mr. Markićević and Mr. Aleksandar Martinović, the then president of the board of Privatization Agency, that took	Memorial, ¶162, Markićević Second WS, ¶¶ 68, 72	Mr. Markićević explained in his second witness statement that before the end of January 2014, he was able to <i>"obtain a meeting with the Privatization Agency through my friend Mr. Milan Kostić, who knew Mr. Aleksandar Martinović, the then Chairman of the</i>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested document does not exist.	<p>The Claimants maintain their request.</p> <p>Researching an unspecified "<i>database of the Ministry of Economy / the Privatization Agency</i>" is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to</p>



	place in January 2014.		<p><i>Privatization Agency's Management Board.</i>" Mr. Markićević also explained that during the meeting he and Mr. Doklešić "explained to Mr. Martinović the details of the request for the Privatization Agency's approval of the Assignment Agreement [...] and that Mr. Obradović was merely a nominal owner of the Beneficially Owned Shares." They also presented plans "for reorganization and further development of BD Agro." Finally, they specifically pointed out the problems they "were encountering with the transfer of nominal ownership and expressed frustration about [their] inability to schedule a meeting with the Privatization Agency's director, Ms. Uzelac."</p> <p>The requested documents are relevant and material to confirm</p>		<p>that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	<p>confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
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			the content of the meeting and the Privatization Agency's contemporaneous understanding thereof.			
33.	Minutes and any other documents prepared for or to follow up on the meeting between Mr. Markićević, Mr. Dragan Stevanović (the then Secretary at the Ministry of Economy), Ms. Neda Galić and representatives of the Privatization Agency that took place on 1 July 2014.	Memorial ¶ 162; Markićević Second WS, ¶ 72	<p>Mr. Markićević explained in his second witness statement that on 1 July 2014, he met “<i>with State Secretary Dragan Stevanović, Ms. Galić and representatives of the Privatization Agency [...] presented the plans for reorganization and further development of BD Agro and pointed to problems with the Privatization Agency's inability to decide on the request for approval of the assignment of the Privatization Agreement.</i>”</p> <p>Mr. Stevanović apologized and said it was unacceptable that such an important matter was still not resolved after such a long time. He also said that he would make sure that the Ministry and the Privatization Agency</p>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	<p>The Claimants maintain their request.</p> <p>Researching an unspecified “<i>database of the Ministry of Economy / the Privatization Agency</i>” is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>

			<p>work on resolution in the shortest possible time.</p> <p>The requested documents are relevant and material to confirm the content of the meeting and the Privatization Agency's contemporaneous understanding thereof.</p>		Serbia's possession, custody or control.	
34.	<p>Minutes and any other documents prepared for or to follow up on the meeting between Mr. Markićević and Mr. Muamer Redžović, the then president of the Privatization Agency's board, that took place on 11 February 2015.</p>	<p>Memorial ¶ 165; Markićević Second WS, ¶ 110</p>	<p>Mr. Markićević explained in his second witness statement that on 11 February 2015, he met with Mr. Redžović and <i>"presented to Mr. Redžović all unresolved issues regarding BD Agro's privatization."</i></p> <p>Mr. Redžović said that the Privatization Agency's constant lack of activity with respect to BD Agro was unacceptable and put BD Agro's survival in jeopardy. He also promised to do everything in his power to help find a solution.</p> <p>Requested documents are relevant and material to confirm the content of</p>	<p>According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.</p>	<p>The Claimants maintain their request.</p> <p>Researching an unspecified <i>"database of the Ministry of Economy / the Privatization Agency"</i> is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>

			the meeting and the Privatization Agency's contemporaneous understanding thereof.		produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.	
35.	Minutes and any other documents prepared for or to follow up on the meeting between Messrs. Broshko, Markićević and Redžović that took place on 19 February 2015.	Memorial ¶ 169; Markićević Second WS, ¶ 112; Broshko Second WS, ¶ 49	<p>Messrs. Broshko and Markićević explained in their witness statements that on 19 February 2015, they met with Mr. Redžović and he repeated his criticism of the Privatization Agency's conduct and again promised to do everything in his power to help find a solution.</p> <p>Requested documents are relevant and material to confirm the content of the meeting and the Privatization Agency's contemporaneous understanding thereof.</p>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	<p>The Claimants maintain their request.</p> <p>Researching an unspecified "<i>database of the Ministry of Economy / the Privatization Agency</i>" is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>

					Serbia's possession, custody or control.	
36.	Minutes and any other documents prepared for or to follow up on the meeting between Messrs. Broshko, Markićević, Doklešić, Stevanović, Ms. Galić and representatives of the Privatization Agency that took place on 19 February 2015.	Markićević Second WS, ¶¶ 113-117	Mr. Markićević explained in his second witness statement that on 19 February 2015 he— together with Messrs. Broshko and Doklešić—met with Mr. Stevanović, Ms. Galić and representatives of the Privatization Agency. During this meeting, representatives of the Privatization Agency “ <i>made a number of new requests as new preconditions for the Privatization Agency’s approval of the assignment. For example, they requested that Mr. Obradović submit an entirely new request for approval of the assignment agreement, because the documents submitted with the original request were allegedly now outdated.</i> ”  The requested documents are relevant and material to confirm	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	The Claimants maintain their request.  Researching an unspecified “ <i>database of the Ministry of Economy / the Privatization Agency</i> ” is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.  The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia’s possession, custody or control.	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.

			the content of the meeting and the Privatization Agency's contemporaneous understanding thereof.			
37.	The Privatization Agency's documents record (in Serbian " <i>delovodna knjiga</i> ") regarding the minutes of the Privatization Agency's meetings with the representatives of BD Agro, Rand Investments and/or Mr. Obradović.	RE-016; RE-022; RE-023; RE-028; RE-036; RE-037; RE-038; RE-039; RE-041	The requested documents are relevant and material to assess the reliability of the Privatization Agency's minutes because they would show irregularities in their preparation. For example, the minutes from the meeting held on 4 February 2014 show a mismatch between date in the document and date on the stamp. The requested document will show the true date when the minutes were prepared and recorded.	Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules, since the documents requested would not testify the reliability of the Privatization Agency's minutes.  Respondent notes that the date on the stamp represents the day the subject minutes were registered in Privatization Agency's documents record (in Serbian " <i>delovodna knjiga</i> "). That day sometimes differs from the day the meeting was held. Therefore, minutes often show a mismatch between date of the meeting and date on the stamp.	The Claimants maintain their request.  <b>The requested documents are relevant and material</b>  Serbia's view that the Privatization Agency's minutes are reliable despite mismatches between their dates and the dates of their entering into the Privatization Agency's documents record does not make the requested documents irrelevant.  The requested documents are relevant and material to assess and document the mismatches. It will then be for the Tribunal to decide whether the mismatches diminish	<b>GRANTED.</b>  The documents have been identified with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i> , the documents appear relevant.

					<p>the reliability of the Privatization Agency's minutes or not.</p> <p>The requested documents are also relevant to verify Serbia's statements that the minutes of certain meetings do not exist (<i>see</i> requests Nos. 12, 16, 20, 21, 24, 26-27 and 32-26).</p>	
38.	<p>All letters from the Privatization Agency to the Ministry of Economy related to BD Agro dated in the period between February 2015 and April 2015.</p>	<p>Markićević Second WS, ¶¶ 143-146</p>	<p>Mr. Markićević explains in his second witness statement that on 31 March 2015, Mr. Stajić (BD Agro's temporary bankruptcy trustee) and Mr. Kostić independently informed Mr. Markićević that "<i>the Privatization Agency had sent a letter to the Ministry of Economy stating that according to the Privatization Agency, the privatization of BD Agro had been finalized because the purchase price was paid and the obligatory investment was made. The Privatization</i></p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules.</p> <p>Claimants failed to explain why would the confirmation of veracity (or lack thereof) of the information provided by Messrs. Stajić and Kostić to Mr. Markicevic be in any way relevant for the outcome of the present dispute. Therefore, this request should be denied.</p> <p>In any event, having in mind that by requested documents Claimants intend to confirm the</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>The Claimants argued throughout this arbitration that the Privatization Agreement was fulfilled and consummated upon the full payment of the purchase price.</p> <p>Serbia cannot seriously dispute that it is relevant and material whether the</p>	<p><b>GRANTED.</b></p> <p>The documents have been identified with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i>, the documents appear relevant.</p>

			<p><i>Agency thus supposedly asked the Ministry of Economy to issue a decision in the supervision procedure so that the Privatization Agency could proceed with the release of the pledge over the Beneficially Owned Shares.”</i></p> <p>On 2 April 2015, Mr. Markićević learned that “<i>the Privatization Agency had not received any response from the Ministry of Economy regarding their request to finalize the privatization of BD Agro and they had sent another letter to the Ministry in this regard.</i>”</p> <p>The requested documents are relevant and material to confirm the veracity of the information provided by Messrs. Stajić and Kostić.</p>	<p>veracity of the quoted information provided by Messrs. Stajić and Kostić, only letter that concerns this particular information could be of relevance and not “<i>All letters from the Privatization Agency to the Ministry of Economy related to BD Agro dated in the period between February 2015 and April 2015.</i>”</p>	<p>Privatization Agency took the same position in March 2015—<i>i.e.</i> mere six months before the termination of the Privatization Agreement.</p> <p>Similarly, it is relevant and material whether and how the Ministry of Economy responded to such position of the Privatization Agency.</p> <p>Furthermore, the period from February to April 2015 coincides with the last three months of the Ministry of Economy’s supervision of the Privatization Agency’s dealing with BD Agro, which culminated in the Ministry of Economy’s instructions dated 7 April 2015 and which is one of the key disputed issues in this arbitration. Therefore, any letters exchanged</p>	
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					between the Ministry of Economy and the Privatization Agency during that short time period are relevant and material.	
39.	Audio recordings of the following sessions of the Commission for Control regarding BD Agro: (i) 12 <sup>th</sup> session that took place on 23 April 2015; (ii) 17 <sup>th</sup> session that took place on 19 June 2015.	RE-040; RE-043	These documents are relevant and material to assess whether the minutes of sessions of the Commission for Control submitted by Serbia objectively reflect discussions that took place at these sessions.	Respondent produces requested audio recordings that are available to it.	<p>The Claimants note that Serbia does not object to the Claimants' request, but does not confirm that the produced documents are all responsive documents in Serbia's possession, custody or control.</p> <p>The Claimants therefore request that Serbia be ordered to provide such confirmation and produce additional responsive documents that are in Serbia's possession, custody or control, if any.</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
40.	Request submitted by the temporary bankruptcy trustee, Mr. Novak Stajić, to the Privatization	RE-016	Minutes of the meeting that took place at the Privatization Agency on 30 June 2015 state the following:	According to the research of the database of the Ministry of Economy / the Privatization Agency, the	<p>The Claimants maintain their request.</p> <p>Researching an unspecified "<i>database of the Ministry of</i></p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the</p>

	<p>Agency requesting an explanation of the Privatization Agency's view that auditor "Prva revizija" had not addressed all requests from the Privatization Agency's decision dated 23 April 2015.</p>		<p><i>"The respective audit reports were presented to the bankruptcy administrator and it was pointed out to him that Auditor Belgrade did not make any statements in the reports of 2 February 2012 and 12 December 2012 regarding the obligations on which the Buyer was informed in the decision of 19 June 2015 that he should provide new auditor's statement.</i></p> <p><i>Bankruptcy administrator asked for a written explanation on this issue, as he found that the auditor Prva revizija made statements on all the obligations from the decision of the Agency as of 23 April 2015 and said that he would ask in writing the explanation from the Agency."</i></p> <p>The requested document is relevant and material to determine why the temporary bankruptcy trustee believed that the</p>	<p>requested documents do not exist.</p>	<p><i>Economy / the Privatization Agency"</i> is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	<p>Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
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			auditor Prva revizija had addressed all requests from the decision of the Privatization Agency dated 23 April 2015.			
41.	Explanation provided by the Privatization Agency to Mr. Novak Stajić, BD Agro's temporary bankruptcy trustee, in response to the request he made at the meeting that took place on 30 June 2015.	RE-016	<p>As explained above, during the meeting with the Privatization Agency on 30 June 2015, Mr. Stajić asked for “a written explanation” of the Privatization Agency's position that the audit reports submitted by Mr. Obradović did not address all points raised by the Privatization Agency.</p> <p>The requested document is relevant and material to assess the Privatization Agency's response thereto.</p>	According to the research of the database of the Ministry of Economy / the Privatization Agency, the requested documents do not exist.	<p>The Claimants maintain their request.</p> <p>Researching an unspecified “<i>database of the Ministry of Economy / the Privatization Agency</i>” is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>

					Serbia's possession, custody or control.	
42.	Decision of the Commission for undertaking measures on the deadline for performing contractual obligations of the Buyer under Art. 5.3.3 and 5.3.4 of the Privatization Agreement envisaged during the session of the Commission that took place on 15 June 2012.	RE-047	<p>The minutes from the 359<sup>th</sup> session of the Commission on undertaking measures state that “[t]he Buyer is granted additional deadline of 30 days to act fully upon the Decision of the Agency made on 27 December 2011. Prior to expiration of additional deadline and consideration of the Buyer’s performance, the Commission will take stand on the deadline for performing contractual obligations of the Buyer from Art. 5.3.3 and 5.3.4 of the Agreement, i.e. up to which moment the Buyer shall observe the stated contractual obligations.”</p> <p>The requested document is relevant and material to assess the contemporaneous position of the Commission for undertaking measures with respect to deadline</p>	Requested decision does not exist as a separate document and it was already submitted in the case files as a part of the minutes from the meeting (Exhibit RE-047).	The Claimants note Serbia’s response.	

			for performing obligations under Articles 5.3.3 and 5.3.4 of the Privatization Agreement.			
43.	Minutes and any other documents prepared for or to follow up on the meeting between Mr. Philip Pinnington, the Canadian Ambassador to Serbia, Ms. Djurdjevska Ćeramilac, the Trade Commissioner of the Canadian Embassy in Belgrade, Mr. Rand, Mr. Markićević and Mr. Ivica Kojić, the Chief of Staff to the Prime Minister of Serbia that took place on 8 September 2015.	Memorial, ¶¶ 212-213	The Claimants explained that during the meeting between Mr. Philip Pinnington, the Canadian Ambassador to Serbia, Ms. Djurdjevska Ćeramilac, the Trade Commissioner of the Canadian Embassy in Belgrade, Mr. Rand, Mr. Markićević and Mr. Ivica Kojić, the Chief of Staff to the Prime Minister of Serbia that took place on 8 September 2015, Mr. Kojić apologized to Mr. Rand for the conduct of the Privatization Agency and the Ministry of Economy and promised that all problems regarding BD Agro would be shortly resolved to Mr. Rand's satisfaction.	According to the research of the database of the Government of the Republic of Serbia, the requested documents do not exist.  In any case, these documents, if they were to exist, would be subject to diplomatic immunity.	The Claimants maintain their request.  Researching an unspecified " <i>database of the Government of Serbia</i> " is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.  The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.

			<p>In its Counter-Memorial, <i>Serbia entirely ignored this meeting.</i></p> <p>The requested documents are relevant and material to confirm the content of the meeting and Serbia's contemporaneous understanding thereof.</p>		<p>As for the Serbia's claim that the requested documents are subject to the "<i>diplomatic immunity</i>", the Claimants note that Serbia does not explain which responsive documents, if any, would be subject to the "<i>diplomatic immunity</i>", or which legal provision(s) would govern the alleged "<i>diplomatic immunity</i>".</p> <p>The Claimants further note that diplomatic immunity cannot attach to a meeting regarding BD Agro that was attended by Mr. Rand and Mr. Markićević.</p> <p>Should the Tribunal decide that the requested documents are subject to the alleged "<i>diplomatic immunity</i>", the Claimants request that Serbia be ordered to</p>	
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					produce a privilege log listing all the requested documents that are allegedly subject to the “ <i>diplomatic immunity</i> ” and explaining in detail the legal basis for the claimed immunity allegedly attaching to each of these documents.	
44.	All communications between the Privatization Agency and the Ministry of Economy from the period between February 2011 and October 2015 related to BD Agro.	Memorial, Sections III.G. and III.O	The requested documents show the extent of communication between the Ministry of the Economy and the Privatization Agency and are therefore relevant and material to assess what was the extent of the Ministry’s involvement of BD Agro’s privatization.  Requested documents are also relevant and material to assess the nature of relationship between the Ministry of Economy and the Privatization Agency.	Respondent objects this request as overbroad and immaterial, in the sense of Article 9(2)(a)&(c) of IBA Rules.  Dispute in hand is related to termination of the Privatization Agreement and not to the privatization of BD Agro in its entirety. Therefore, only documents related to termination could be of relevance. Second, it would be improperly burdensome for Respondent to be obliged to locate all communications that occurred in the period of more than 4 years.	The Claimants maintain their request.  <b>The requested documents are material and relevant</b>  <i>First</i> , it is disputed between the Parties what the relationship between the Privatization Agency and the Ministry of Economy was and what role both these bodies played in BD Agro’s privatization, including the termination of the Privatization Agreement.	<b>GRANTED.</b>  The documents have been identified with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i> , the documents appear relevant.

					<p>For example, the Claimants argue that the Privatization Agency repeatedly requested, and the Ministry of Economy provided, instructions related to the privatization process of BD Agro. In December 2013, the Ministry initiated a supervision procedure of the Privatization Agency's work with respect to privatization of BD Agro.</p> <p>Serbia, on the other hand, alleges that the Privatization Agency “<i>had significant autonomy</i>” and was not “<i>acting under direct supervision of the Ministry of Economy.</i>”</p> <p>The requested documents are therefore relevant and material because they can shed light on the relationship between the Privatization Agency and the</p>	
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					<p>Ministry of Economy and their roles in BD Agro's privatization.</p> <p><i>Second</i>, the present dispute is not only about the termination of the Privatization Agreement, but also about the Serbia's other conduct, including, without limitation, the Privatization Agency's unjustified and unreasonable requests to cure alleged violations of the Privatization Agreement, the refusal to release the pledge over the Beneficially Owned Shares or the refusal to address the request for assignment of the Privatization Agreement to Coropi.</p> <p>Serbia's disputed conduct involved both the Ministry of Economy and the Privatization Agency and occurred in the period from February 2011 to October 2015.</p>	
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					<p>Serbia does not specify any other, purportedly undisputed aspects of BD Agro's privation that the Ministry of Economy and the Privatization Agency would be addressing in their correspondence in that time period.</p> <p>Therefore, all of the responsive documents are relevant and material.</p> <p><b>The request is not overbroad or unduly burdensome</b></p> <p>The request is not overbroad and it would not be unduly burdensome for Serbia to identify responsive documents.</p> <p><i>First</i>, the request identifies a specific time period—from February 2011 to October 2015.</p> <p><i>Second</i>, the request clearly identifies parties to the requested</p>	
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					communication—the Privatization Agency and the Ministry of Economy.  <i>Third</i> , the request clearly specifies subject of the communication—privatization of BD Agro.	
45.	All documents of the Privatization Agency, the Ministry of Economy and/or other Serbian governmental entity discussing the deletion of the pledge on BD Agro shares purchased in privatization (the “ <b>Privatized Shares</b> ”).	Memorial, ¶¶ 117, 120; Milošević ER, ¶¶ 125-132; CE-17; CE-207; CE-208	The Share Pledge Agreement provided that the Privatized Shares will be pledged “ <i>for the period of 5 years as of the day of conclusion of the sale and purchase agreement, that is, until final payment of sale and purchase price</i> ”. Upon the lapse of 5 years and the payment of the purchase price, Mr. Obradović requested the deletion of the pledge. The Respondent failed to delete the pledge over the Privatized Shares.  The requested documents concerning the decision-making process of the Privatization Agency,	Respondent objects to this request as unduly overbroad and burdensome in the sense of Article 9(2)(c) of IBA Rules.  First, Claimants’ request relates to documents of ‘ <i>other Serbian governmental entities</i> ’ which means that Respondent would have to determine to whom exactly Claimants refer to. That is unreasonable burden for Respondent.  Second, the request covers all documents made in an indefinite time span, as Claimants failed to specify	The claimants maintain their request.  <b>The request is not overbroad or unduly burdensome</b>  The request is neither overbroad nor unduly burdensome, because it clearly lists the topic to which the requested documents relate—deletion of pledge on BD Agro shares.  That being said, in order to facilitate Serbia’s review of relevant documents, the Claimants agree to restrict their request to all documents discussing the deletion of pledge on the	<b>GRANTED.</b>  As limited by the Claimants (“all documents discussing the deletion of pledge on the Privatized Shares prepared by the Privatization Agency and/or the Ministry of Economy between January 2011 and October 2015”). The documents have been identified with sufficient precision so their identification

			the Ministry of Economy and/or other entity regarding the deletion of the pledge over the Privatized Shares are relevant and material to understand the reasons for the refusal to delete the pledge were.	the time period relevant for their request.  Additionally, the request lacks relevance and materiality under Article 9(2)(a) of IBA Rules, as Claimants failed to explain the relevance of understanding the reasons for the refusal of the Agency to delete the pledge.	Privatized Shares prepared by the Privatization Agency and/or the Ministry of Economy between January 2011 and October 2015.  <b>The requested documents and relevant material</b>  The relevance of understanding the reasons for the refusal to delete the pledge is obvious. The Claimants claim that the refusal violated Serbian law and Serbia's international obligations. The reasons for Serbia's conduct are relevant to assess its unlawfulness claimed by the Claimants.	and production should not be unduly burdensome for the Respondent. <i>Prima facie</i> , the documents appear relevant.
46.	Administrative file including all documents prepared by the Ministry of Economy, its employees and/or	Memorial, ¶ 123; CE-033	In its letter to the Privatization Agency dated 30 May 2012, the Ministry of Economy, <i>“after reviewing all delivered exhibits, as</i>	Requested documents are already in the case files as Exhibit CE-033.	The Claimants maintain their request.  Exhibit CE-033 contains only the letter from the Ministry of	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has

	other internal and external representatives and/or advisors, related to the letter from the Ministry of Economy to the Privatization Agency dated 30 May 2012.		<p><i>well as the website of [BD Agro],” concluded that “there is no economic justification to terminate the [Privatization Agreement].”</i></p> <p>The requested documents are relevant and material to assess the inputs considered by the Ministry and the reasons for its conclusion.</p>		<p>Economy to the Privatization Agency dated 3 May 2012.</p> <p>The Claimants requested documents prepared by the Ministry of Economy, its employees and/or other internal and external representatives and/or advisors, <i>related</i> to this letter. No such documents are included in exhibit CE-033.</p>	conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.
47.	Administrative file including all documents prepared by the Ministry of Economy, its employees and/or other internal and external representatives and/or advisors, related to the supervision procedure of Privatization Agency’s work with respect to the	Memorial, ¶¶ 158, 176-178; CE-098, CE-206	On 23 December 2013, the Ministry of Economy initiated a <i>“procedure for supervision of the work of the Privatization Agency”</i> with respect to privatization of BD Agro. According to the Ministry, the reason for the initiation of the supervision procedure were twofold: (i) as of the day of the full payment of the purchase price, Mr. Obradović allegedly failed to comply with Article 5.3.4. of the	Respondent objects to this request as unduly overbroad and burdensome in the sense of Article 9(2)(c).  Claimants request <i>all documents</i> prepared by <i>other internal and external representatives and/or advisors</i> , which means that Respondent would have to determine to whom exactly Claimants refer to and to which documents they refer to. That is	The claimants maintain their request.  <b>The request is neither overbroad nor unduly burdensome</b>  The request is neither overbroad nor unduly burdensome. It clearly specifies that the Claimants request the administrative file created by the Ministry of Economy in relation to the supervision procedure of the Privatization	<b>DENIED.</b>  The request is overly broad.

	privatization of BD Agro.		<p>Privatization Agreement; and (ii) there were alleged problems suggesting “<i>the difficult situation</i>” in BD Agro. The Ministry of Economy, however, failed to specify any concrete example of these alleged problems.</p> <p>On 7 April 2015, the Ministry of Economy issued a report completing the supervision procedure of Privatization Agency’s work with respect to privatization of BD Agro.</p> <p>In its report, the Ministry instructed the Privatization Agency to send a notice to Mr. Obradović granting him additional 90 day to deliver “<i>evidence on actions in accordance with the provisions of the [Privatization Agreement], that is in accordance with the Notice on additionally</i></p>	<p>unreasonable burden for Respondent.</p> <p>Second, the request covers all documents made in an indefinite time span, as Claimants failed to specify the time period relevant for their request.</p> <p>Additionally, the request lacks relevance and materiality under Article 9(2)(a) of IBA Rules, as <i>the reasons for the Ministry’s initiation of the supervision procedure, the inputs considered therein and the reasons for the instructions</i> are already stated in the Report of Ministry of Economy on the Control over the Privatization Agency (CE-098).</p>	<p>Agency’s work with respect to the privatization of BD Agro. It should be very easy for Serbia to produce an entire copy of that file.</p> <p>The relevant time period is not indefinite because the supervision procedure was conducted, which is December 2013 – April 2015. However, the Claimants cannot know whether certain of the responsive documents were prepared before or after that time period.</p> <p><b>The requested documents are relevant and material</b></p> <p>Exhibit CE-098 is the final report issued after the supervision procedure.</p> <p>The final report does not necessarily contain information about all inputs considered by the Ministry or all</p>	
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			<p><i>granted term of November 9, 2012.”</i></p> <p>The requested documents are relevant and material to assess the reasons for the Ministry’s initiation of the supervision procedure, the inputs considered therein and the reasons for the instructions included in the Ministry’s final report dated 7 April 2015.</p>		reasons that have led to the Ministry’s instructions.	
48.	Complete file and documents related to BD Agro maintained by the Ombudsman office.	Memorial, ¶¶ 183-203, 214-215; CE-042; CE-086; CE-088; CE-115	<p>As the Claimants explained in their Memorial, on 23 June 2015, Mr. Saša Janković, the Serbian Ombudsman, published his “<i>recommendations</i>” regarding the Privatization Agreement, where he arbitrarily determined that the Privatization Agreement ought to be terminated and reprimanded the Privatization Agency and the Ministry of</p>	<p>Respondent objects to this request on several grounds.</p> <p>The request is unduly overbroad and burdensome in the sense of Article 9(2)(c), as Claimants failed to specify which type of documents they request, concerning which topic, and from which time period. Respondent cannot reasonably be obliged to produce all documents from the Ombudsman office related to BD Agro,</p>	<p>The Claimants maintain their request.</p> <p><b>The request is not overbroad or unduly burdensome</b></p> <p>The request is neither overboard nor unduly burdensome. The request clearly specifies a narrow group of documents—documents maintained by the Ombudsman office that are related to BD Agro.</p> <p>The Ombudsman office certainly</p>	<p><b>GRANTED.</b></p> <p>The request as clarified by the Claimants (“documents maintained by the Ombudsman office that are related to BD Agro” ... “only documents that were relevant for the Ombudsman’s decision-making”). The documents have been identified</p>

			<p>Economy for not having done so back in 2011.</p> <p>On 18 September 2015, the Ombudsman again wrote to the Privatization Agency and the Ministry of Economy, ordering them to account for whether they complied with his earlier “<i>recommendation</i>” and submit a new report on their actions.</p> <p>The Claimants, Mr. Obradović and BD Agro were not even aware that the Ombudsman had been investigating the matter and they had no opportunity to participate in his investigation.</p> <p>The requested documents are therefore relevant and material to assess the reasons for the Ombudsman’s investigation, the inputs, both factual and legal, considered by the Ombudsman during the investigation and the reasons for his</p>	<p>as it would be unreasonable burden for it.</p> <p>Additionally, the request lacks relevance and materiality under Article 9(2)(a) of IBA Rules. This dispute is not related to the proceedings conducted by Ombudsman; instead Claimants were just complaining about recommendation issued on 19 June 2015 by Mr. Saša Janković, the Serbian Ombudsman, regarding the Privatization Agreement, and that document is already in the case files, as Exhibit CE-042.</p>	<p>maintains in its file only documents that were relevant for the Ombudsman’s decision-making, which the Claimants dispute in this arbitration.</p> <p><b>The requested documents are relevant and material</b></p> <p>The requested documents are clearly relevant and material to the outcome of this case. The recommendation issued by the Ombudsman was only a culmination of the whole process and his involvement in the BD Agro’s privatization.</p> <p>The Claimants complain not only about the Ombudsman’s decision, but also about due process violations that occurred during the procedure leading to</p>	<p>with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i>, the documents appear relevant.</p>
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			recommendations to the Privatization Agency and the Ministry of Economy, as well as his follow-up correspondence therewith.		that decision. The entirety of the Ombudsman's file related to BD Agro is clearly relevant and material for that due process claim. It is also relevant and material to assess the reasons for the Ombudsman's investigation, the inputs, both factual and legal, considered by the Ombudsman during the investigation and the reasons for his recommendations to the Privatization Agency and the Ministry of Economy, as well as his follow-up correspondence therewith.	
49.	All documents authored by the Privatization Agency and/or the Ministry of Economy, their employees and/or other representatives related to Mr. Obradović's request	Counter-Memorial, ¶¶ 155-175, 725	Serbia alleges that the request for assignment of the Privatization Agreement to Coropi had not been granted because it <i>"could not be processed during the supervision procedure by the Ministry of</i>	Respondent produces documents that are available to it.	The Claimants note that Serbia does not object to the Claimants' request, but does not confirm that the produced documents are all responsive documents	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive

	for assignment of the Privatization Agreement to Coropi Holdings Limited (“Coropi”).		<p><i>Economy</i>” and it “<i>never contained all the necessary documents, as the Privatization Agency had repeatedly pointed out.</i>”</p> <p>The requested documents are relevant and material to assess the veracity of Serbia’s allegations and the contemporaneous position of the Privatization Agency and/or the Ministry of Economy with respect to the request for assignment.</p>		<p>in Serbia’s possession, custody or control.</p> <p>The Claimants therefore request that Serbia be ordered to provide such confirmation and produce additional responsive documents that are in Serbia’s possession, custody or control, if any.</p>	<p>documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
50.	Minutes, recordings and/or notes from all internal meetings held in the Privatization Agency and/or the Ministry of Economy regarding Mr. Obradović’s request for assignment of the Privatization Agreement to Coropi that are not already part of the record.	Counter-Memorial, ¶¶ 155-175, 725; RE-077, p. 5	<p>According to the Proposal of the Center for Control for the session of the Commission for undertaking measures dated 20 April 2015 “<i>[s]everal meetings were held in the Agency and the Ministry of the economy with the subject of request for assignment of the subject agreement.</i>”</p>	Respondent produces documents that are available to it.	<p>The Claimants note that Serbia does not object to the Claimants’ request, but does not confirm that the produced documents are all responsive documents in Serbia’s possession, custody or control.</p> <p>The Claimants therefore request that Serbia be ordered to provide such confirmation and</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents</p>

			<p>The requested documents are relevant and material to assess the contemporaneous position of the Ministry of Economy and the Privatization Agency to the assignment of the Privatization Agreement to Coropi.</p> <p>For the sake of completeness, Claimants note that some of the minutes falling within this request might be already on the record of this arbitration. The Claimants therefore request only such minutes that have not yet been submitted in this arbitration.</p>		<p>produce additional responsive documents that are in Serbia's possession, custody or control, if any.</p>	<p>within its possession, custody or control within 5 business days of this Order.</p>
51.	Confirmation of payment of the full purchase price for the privatizations of Trayal, Geodetski biro and Zastava PES.	RE-024; RE-031; RE-059; C-M, ¶ 109	In ¶ 109 of its Counter Memorial, Serbia claims, relying on termination of privatization agreements for companies Trayal, Geodetski biro and Zastava PES, that the Privatization Agency had consistently held a position that privatization agreements	Respondent produces the requested documents that are available to it.	The Claimants note that Serbia does not object to the Claimants' request, but does not confirm that the produced documents are all responsive documents in Serbia's possession, custody or control.	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to</p>

			<p>can be terminated after the full payment of the purchase price.</p> <p>The requested documents are relevant and material to determine whether the full purchase price had indeed been paid for the Trayal, Geodetski biro and Zastava PES before their privatization had been terminated.</p>		<p>The Claimants therefore request that Serbia be ordered to provide such confirmation and produce additional responsive documents that are in Serbia's possession, custody or control, if any.</p>	<p>confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
52.	<p>Agreement on sale of socially owned capital concluded between Privatization Agency and the consortium of individuals on 10 January 2007, certification number 1/07 for purchase of company Betonjerka and confirmation on payment of purchase price by the Buyer.</p>	<p>RE-097; C-M, ¶¶ 122, 124-125</p>	<p>Serbia relies on the Betonjerka case to support its argument that the Privatization Agency had been consistent in terminating privatization agreements due to violation of the restriction on encumbering assets (Article 5.3.4. of the Privatization Agreement).</p> <p>The requested documents are relevant and material to assess whether in the Betonjerka case, the buyer also fulfilled its obligations under the</p>	<p>Respondent objects to the part of request which refers to the production of the subject Agreement, as redundant, since this Agreement is already part of the record (RE-98).</p> <p>Respondent produces the requested confirmation on payment of purchase price.</p>	<p>The Claimants note that Serbia does not object to the Claimants' request, but does not confirm that the produced documents are all responsive documents in Serbia's possession, custody or control.</p> <p>The Claimants therefore request that Serbia be ordered to provide such confirmation and produce additional responsive documents that are in Serbia's possession, custody or control, if any.</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5</p>

			Privatization Agreement before the termination of the agreement.			business days of this Order.
53.	All court decisions issued in connection with the termination of the privatization agreement in the Betonjerka case.	RE-097	The requested documents are relevant to assess whether the Privatization Agency's decision in the Betonjerka case—on which Serbia heavily relies—was challenged before Serbian courts and if so, whether the courts upheld the Privatization Agency's reasoning.	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules.</p> <p>Respondent pointed out in its Counter-Memorial (paras. 124-125), that the Betonjerka case confirms the practice of Privatization Agency in cases where buyers breached article 5.3.4. of the privatization agreement. Betonjerka case evidences consistent approach of the Privatization Agency in BD Agro and Betonjerka case and not the conduct of Serbian courts. In fact, in this case the conduct and findings of Serbian courts is not an issue.</p> <p>Therefore, Claimants' request should be denied as redundant and irrelevant.</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>As the Claimants explained in their request—and Serbia confirms in its objection—Serbia argues that the <i>“Betonjerka case confirms the practice of Privatization Agency in cases where buyers breached article 5.3.4. of the privatization agreement”</i>, respectively that it <i>“evidences consistent approach of the Privatization Agency in BD Agro and Betonjerka case.”</i></p> <p>The requested document are relevant and material to understand whether</p>	<p><b>GRANTED.</b></p> <p>The documents have been identified with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i>, the documents appear relevant.</p>

					the alleged “ <i>consistent approach</i> ” taken by the Privatization Agency in the Betonjerka case was subject to review by Serbian courts and if so, what the outcome was.	
54.	Request from Nova Agrobanka, represented by the bankruptcy trustee, to the Deposit Insurance Agency for consent to vote in favor of the pre-pack reorganization plan during the hearing held on 25 June 2015 in front of the Commercial Court of Belgrade.	Memorial, ¶¶ 154, 174-175, Markićević Second WS, ¶¶ 48, 161	This document is relevant and material to show that Nova Agrobanka supported BD Agro’s reorganization based on the pre-pack reorganization plan.	Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules.  Claimants failed to show the relevance of the requested document for the outcome of the present dispute bearing in mind that the fact that Nova Agrobanka supported BD Agro’s reorganization is evident from the fact that it voted for the pre-pack reorganization plan (Exhibits CE-039 and RE-123). Thus, Claimants’ request is utterly redundant and should be denied.  In addition, whether Nova Agrobanka supported BD Agro’s reorganization	The Claimants maintain their request.  <b>The requested documents are relevant and material</b>  Serbia’s quantum expert, Mr. Cowan, attacks the credibility of the pre-pack reorganization plan and claims that there is no evidence that the pre-pack reorganization plan would be successful. Mr. Cowan therefore argues that BD Agro should be valued as a distressed company. (e.g. Cowan ER, ¶¶ 7.22, 8.9 <i>et seq.</i> ).  The reasons for Nova Agrobanka’s support	<b>GRANTED.</b>  The documents have been identified with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i> , the documents appear relevant.

				based on the pre-pack reorganization plan is of no relevance for the present dispute. Notably, Claimants failed to mention any reason why it would be relevant.	for BD Agro's reorganization <i>based on the pre-pack reorganization plan</i> are relevant to disprove Mr. Cowan's speculations with contemporaneous views of BD Agro's major creditor on the feasibility of the pre-pack reorganization plan.  Therefore, the requested document is relevant for the quantum of this case.	
55.	Consent of the Commission for monitoring of the reorganization plans and pre-pack reorganization plans of the Deposit Insurance Agency granted to Nova Agrobanka for the purposes of voting for pre-pack reorganization plan of BD Agro at the hearing held on 25 June 2015 in front of	Memorial, ¶¶ 154, 174-175, Markićević Second WS, ¶¶ 48, 161	This document is relevant and material to show that the Deposit Insurance Agency supported BD Agro's reorganization based on the pre-pack reorganization plan.	Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules.  Claimants failed to show the relevance of the requested document for the outcome of the present dispute, having in mind that the exhibits in the files already show that the Deposit Insurance Agency supported BD Agro's reorganization - Deposit Insurance Agency was the	The Claimants maintain their request.  <b>The requested documents are relevant and material</b>  Serbia's quantum expert, Mr. Cowan, attacks the credibility of the pre-pack reorganization plan and claims that there is no evidence that the pre-pack reorganization plan would be successful.	<b>GRANTED.</b>  The documents have been identified with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i> , the documents appear relevant.

	the Commercial Court of Belgrade.			<p>bankruptcy trustee of Nova Agrobanka (Exhibits CE-294 and CE-352) who voted for the pre-pack reorganization plan (Exhibits CE-039 and RE-123). Thus, Claimants' request is utterly redundant and should be denied.</p> <p>In addition, whether Deposit Insurance Agency supported BD Agro's reorganization based on the pre-pack reorganization plan is of no relevance for the present dispute. Notably, Claimants failed to mention any reason why it would be relevant.</p>	<p>Mr. Cowan therefore argues that BD Agro should be valued as a distressed company. (e.g. Cowan ER, ¶¶ 7.22, 8.9 <i>et seq.</i>).</p> <p>The reasons for the Deposit Insurance Agency's support for BD Agro's reorganization <i>based on the pre-pack reorganization plan</i> are relevant to disprove Mr. Cowan's speculations with contemporaneous views of the Deposit Insurance Agency, and thus Serbia, on the feasibility of the pre-pack reorganization plan.</p> <p>Therefore, the requested document is relevant for the quantum of this case.</p>	
56.	Consent of the Deposit Insurance Agency's director granted to Nova Agrobanka for the purposes of voting for	Memorial, ¶¶ 154, 174-175, Markićević Second WS, ¶¶ 48, 161	This document is relevant and material to show that the Deposit Insurance Agency supported BD Agro's reorganization based on	Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules.	The Claimants hereby incorporate their reply from Request No. 55.	<p><b>GRANTED.</b></p> <p>The documents have been identified with sufficient</p>



	pre-pack reorganization plan of BD Agro at the hearing held on 25 June 2015 in front of the Commercial Court of Belgrade.		the pre-pack reorganization plan.	<p>Claimants failed to show the relevance of the requested document for the outcome of the present dispute, having in mind that the exhibits in the files already show that the Deposit Insurance Agency supported BD Agro's reorganization - Deposit Insurance Agency was the bankruptcy trustee of Nova Agrobanka (Exhibits CE-294 and CE-352) who voted for the pre-pack reorganization plan (Exhibits CE-39 and RE-123). Thus, Claimants' request is utterly redundant and should be denied.</p> <p>In addition, whether Deposit Insurance Agency supported BD Agro's reorganization based on the pre-pack reorganization plan is of no relevance for the present dispute. Notably, Claimants failed to mention any reason why it would be relevant.</p>		precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i> , the documents appear relevant.
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57.	Minutes and audio recordings of any meeting of the Deposit Insurance Agency and/or any of its bodies regarding any reorganization plan of BD Agro.	Memorial, ¶¶ 152-154	This document is relevant and material to show that the Deposit Insurance Agency supported BD Agro's reorganization based on the pre-pack reorganization plan and the Deposit Insurance Agency's views on BD Agro's business plan.	According to the research of the database of the Deposit Insurance Agency, the requested documents do not exist.	The Claimants maintain their request.  Researching an unspecified " <i>database of the Deposit Insurance Agency</i> " is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.  The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.
58.	All documents authored by the Privatization Agency, its employees and or other representatives, related to Mr.	Memorial, ¶¶ 267-271; Counter-Memorial, ¶ 201	The Claimants explained in their memorial that after the Appellate Court revoked the pre-pack reorganization plan, it remanded the case to the	According to the research of the database of the Ministry of Economy / the Privatization Agency, the	The Claimants maintain their request.  Researching an unspecified " <i>database of the Ministry of</i>	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has

	<p>Markićević's letter from 26 October 2015 requesting instructions regarding steps to be taken with respect to decision of the Appellate Court that revoked the pre-pack reorganization plan.</p>		<p>first instance court to repeat the proceeding.</p> <p>The first instance court than ordered BD Agro to amend the reorganization plan in accordance with the decision of the Appellate Court. The deadline set by the court was 15 days.</p> <p>Given that the Privatization Agency had already terminated the Privatization Agreement, Mr. Markićević sent a letter to the Privatization Agency on 26 October 2015, requesting its instructions in this matter. The Privatization Agency never responded.</p> <p>In its Counter-Memorial, Serbia alleges that "<i>the Privatization Agency could not lawfully give instructions to Mr. Markicevic on further actions in respect of BD Agro's reorganization procedure.</i>"</p>	<p>requested documents do not exist.</p>	<p><i>Economy / the Privatization Agency</i>" is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.</p> <p>The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia's possession, custody or control.</p>	<p>conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>
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			The requested documents are relevant and material to assess whether the Privatization Agency acted upon Mr. Markićević request for instructions, and if so, whether it believed that it was not entitled to provide requested instructions.			
59.	All versions of the Privatization Agency's Rulebook on undertaking of measures upon conducted control effective between 4 October 2005 and 21 October 2015.	RE-78, p. 11	<p>In the minutes from the meeting of the Commission for Control that took place on 19 June 2015, the Commission relies on the Rulebook on undertaking of measures upon conducted control as the basis for measures that are to be taken against Mr. Obradović.</p> <p>The requested documents are relevant and material to understand the standards applied to the controls of BD Agro.</p>	Respondent produces the requested documents that are available to it.	<p>The Claimants note that Serbia does not object to the Claimants' request, but does not confirm that the produced documents are all responsive documents in Serbia's possession, custody or control.</p> <p>The Claimants therefore request that Serbia be ordered to provide such confirmation and produce additional responsive documents that are in Serbia's possession, custody or control, if any.</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>

60.	All versions of the Rulebook of the National Assembly of the Republic of Serbia and its committees for processes concerning matters of privatization effective between 4 October 2005 and 21 October 2015.	Milošević ER; ¶ 39, Radović ER, ¶ 15	Article 62 of the 2001 Law on Privatization prescribes that a committee of the National Assembly of the Republic of Serbia is to receive monthly reports on, among others, the status of the privatization procedures and work of all bodies active in the privatization process. In her Expert Report, Ms. Radović states that the <i>“National Assembly only had the right to be regularly informed about the privatization process, but could not directly influence the actions of the Privatization Agency”</i> .  The requested documents are relevant and material to show the role of the National Assembly in the privatization process.	According to the research of the database of the National Assembly of the Republic of Serbia, the requested documents do not exist.	The Claimants maintain their request.  Researching an unspecified <i>“database of the National Assembly of the Republic of Serbia”</i> is not a reasonable search to localize the requested documents. Among other reasons, there is no guarantee that the requested documents were entered into such database.  The Claimants therefore request that Serbia be ordered to search for the requested documents also in its hard copy files and archives and produce the requested documents or confirm that no responsive documents are in Serbia’s possession, custody or control.	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.
61.	All decisions of the National Assembly of the Republic of Serbia and/or its committees	Radović ER, ¶ 15; RE-116, pp. 1, 5	In her Expert Report, Ms. Radović states that the <i>“National Assembly only had the right to be regularly informed</i>	Respondent objects to this request as it is overbroad and insufficiently specified. Respondent is unable to determine which	The Claimants maintain their request.  <b>The request is not overbroad and</b>	<b>DENIED.</b>  The request is overly broad.

	concerning privatization processes in Serbia between the beginning of 2005 and the end of 2015.		<p><i>about the privatization process, but could not directly influence the actions of the Privatization Agency</i>". However, one of the exhibits submitted by the Respondent suggests that the Serbian Parliament discussed the privatization of BD Agro.</p> <p>The requested documents are relevant and material to show the National Assembly's involvement in the privatization process, both generally and specifically with respect to BD Agro.</p>	documents it should produce under this request.	<p><b>insufficiently specified</b></p> <p>The request is not overbroad, nor insufficiently specified.</p> <p><i>First</i>, it clearly identifies the author of the requested documents—the National Assembly of Republic of Serbia and/or its committees.</p> <p><i>Second</i>, it clearly specifies the time period for which the Claimants request documents—<i>i.e.</i> the period from 1 January 2005 to 31 December 2015.</p> <p><i>Third</i>, the request specifies the subject matter of the requested documents—<i>i.e.</i> <i>decisions</i> on privatization processes in Serbia.</p> <p>The existence of such decisions is relevant and material to address Prof. Radović's</p>	
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					statement that the “National Assembly [...] could not directly influence the actions of the Privatization Agency”.	
62.	All versions of the Rulebook of the Ministry of Economy and/or its organizational units for processes concerning matters of privatization effective between 4 October 2005 and 21 October 2015.	Milošević ER, ¶¶ 33-38; Memorial, ¶¶ 20, 21, 27, 97, 120, and Section G, M, and O and corresponding exhibits	Throughout the privatization process of BD Agro, the Ministry of Economy maintained an active role. The Privatization Agency often asked the Ministry of Economy for instructions, meetings were held with the Ministry of Economy, and, in 2013, the Ministry of Economy even commenced a supervision procedure over the privatization of BD Agro.  Actions of the Ministry of Economy thus went to the heart of BD Agro’s privatization process directly influencing the decisions of the Privatization Agency.  The requested documents are relevant and material to assess the	Respondent objects to this request since all the requested documents are publicly available, as they were published in the Official Gazette of the Republic of Serbia, in accordance with the Article 2 of the Law on Publication of Laws and Other Regulations and Acts (Exhibit RE-196). Having this in mind, Claimants have the possibility to obtain the requested documents, especially having in mind that Claimants are represented in this arbitration by Serbian attorneys. Therefore, it would not be unreasonably burdensome for Claimants to obtain these documents, as per Article 3(3)(c) of the IBA Rules.	The Claimants maintain their request, except for documents that have been published in the Official Gazette.  The Claimants’ request covers “[a]ll versions of the Rulebook of the Ministry of Economy and/or its organizational units [...]”, i.e. also rulebooks issued by the Minister, or by any organizational units within the Ministry. These types of rulebooks are not published in the Official Gazette or otherwise publicly available.	<b>DENIED.</b>  <i>Prima facie</i> , the documents requested do not appear to be sufficiently relevant.

			role of the Ministry of Economy in the privatization process of BD Agro.			
63.	All versions of the Rules of Procedure of the Privatization Agency in force between 4 October 2005 and October 2015.	Cvetković WS, ¶ 8	The requested documents are relevant and material to determine the rules of internal organization of the Privatization Agency in the period between signing of the Privatization Agreement and its termination and which bodies were authorized to decide related to BD Agro.	Respondent produces the requested documents that are available to it.	The Claimants note that Serbia does not object to the Claimants' request, but does not confirm that the produced documents are all responsive documents in Serbia's possession, custody or control.  The Claimants therefore request that Serbia be ordered to provide such confirmation and produce additional responsive documents that are in Serbia's possession, custody or control, if any.	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.
64.	Statute of the Privatization Agency dated 23 April 2013, Official Gazette of the Republic of Serbia No. 17/2015.	Cvetković WS, ¶ 8	The requested document is relevant and material to determine the internal organization of the Privatization Agency after April 2013 and the bodies authorized to	Respondent objects to this request since all the requested documents are publicly available, as they were published in the Official Gazette of the Republic of Serbia.	The Claimants note Serbia's confirmation that the requested document is publicly available.	<b>NO DECISION NECESSARY.</b>



			make decisions related to BD Agro.	Having this in mind, Claimants have the possibility to obtain the requested documents, all the more so if one is to have in mind that Claimants are represented in this arbitration by Serbian attorneys. Therefore, it would not be unreasonably burdensome for Claimants to obtain these documents, as per Article 3(3)(c) of the IBA Rules.		
65.	Rulebook on trade of shares from the Privatization Procedure adopted in year 2003.	Radović ER, ¶¶ 77-79	The requested document is relevant and material to determine the rules applicable to trade of shares acquired in the privatization procedure—such as BD Agro shares.	To the best knowledge of Respondent document named <i>Rulebook on trade of shares from the Privatization Procedure</i> adopted in year 2003 does not exist.	The Claimants maintain their request. The requested document <i>does</i> exist. It is referred in Article 236 of the Rules on Operation of Belgrade Stock Exchange (Official Gazette of the Republic of Serbia no. 13/2004, 116/2004, 30/2005, 69/2005, 111/2005 and 44/2006). <sup>1</sup>	<b>NO DECISION NECESSARY.</b>  The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents

<sup>1</sup> Operational Rules of Belgrade Stock Exchange, Art. 236, **CE-377**.

						within its possession, custody or control within 5 business days of this Order.
66.	Valuation of BD Agro performed by the company ING Expert in March 2008.	RE-114, p. 4; Hern ER, Section 6	<p>In its letter from 26 January 2009, the Center for Education and Representation of Shareholders and Employees notes that a company ING Expert performed a valuation of BD Agro and concluded that the value of BD Agro was EUR 98,177,861, with the industrial land being valued at EUR 220,000 per hectare.</p> <p>The requested report is relevant and material for valuation of BD Agro and calculation of Claimants' damages.</p>	Respondent produces the requested document that is available to it.	<p>The Claimants reviewed the document produced by Serbia in response to this request and note that the produced document is an ING Expert valuation report from <i>January</i> 2008.</p> <p>However, as the Claimants explained in their request, the letter from the Center for Education and Representation of Shareholders and Employees dated 26 January refer to an expert report prepared in <i>March</i> 2008:</p> <p>“Namely, we found out and obtained relevant evidence <b>that total assets of the business company BD Agro in March</b></p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal trusts that the Respondent has conducted a full search to locate responsive documents. It invites the Respondent to confirm that it has no responsive documents within its possession, custody or control within 5 business days of this Order.</p>

					<p><b>2008 were assessed at EUR 98,177,861</b> and that said construction land in the Industrial zone is <b>evaluated at EUR 220,000/ha.</b> Evaluation was made by licensed company ‘ING EKSPERT’.” (RE-114, p. 5, emphasis in the original)</p> <p>The Claimants therefore request that Serbia be ordered to produce the valuation of BD Agro performed by the company ING Expert in March 2008, or, alternatively, confirm that no such valuation is in Serbia’s possession, custody or control.</p>	
67.	Minutes from the Tax authority, Zemun branch office, dated 23 July 2014 on valuation of cadastral parcels 166/2, 168/2, 170/2 and 176/2, cadastral municipality Zemun,	Hern ER, Section 3.2	<p>The requested minutes contain data on the market value of land comparable to the land owned by BD Agro determined by the tax authority in 2014.</p> <p>The requested document is relevant and material</p>	Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>The land plots in question are comparable to BD</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

	requested by the Land Directorate		<p>because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to</p>	<p>Agro's construction land in Dobanovci, regulated under the General Regulation Plan for BD Agro Complex Zones A, B and C in the Suburb of Dobanovci, Municipality of Surčin (<b>"Construction land in Zones A, B and C"</b>). This is because Zemun is also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p> <p>Many land plots located in Zemun are used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	
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				the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.		
68.	Valuation of the construction land at the cadastral parcels Nos. 166/2, 168/2, 170/2 and 176/2, cadastral municipality Zemun, made by the Tax authority, branch office Zemun.	Hern ER, Section 3.2	<p>The requested document contains data on the market value of land comparable to the land owned by BD Agro determined by the tax authority.</p> <p>The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>The land plots in question are comparable to BD Agro's Construction land in Zones A, B and C. This is because Zemun is also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

				<p>relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.</p>	<p>Many land plots located in Zemun are used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	
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69.	Valuation of the construction land situated at the cadastral parcel No. 301/1, cadastral municipality Zemun, made by the Tax authority, branch office Zemun.	Hern ER, Section 3.2	<p>The requested document contains data on the market value of land comparable to the land owned by BD Agro determined by the tax authority.</p> <p>The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>The land plot in question is comparable to BD Agro's Construction land in Zones A, B and C because Zemun is also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p> <p>Many land plots located in Zemun are used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>
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				<p>confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.</p> <p>Also, this request is insufficiently specified, lacks any temporal scope and the Tax Authority is unable to locate the requested documents.</p>	<p>Finally, to further facilitate Serbia's search for the requested documents, the Claimants note that the requested valuation was most probably prepared between 1 July 2013 and 31 July 2014 and was later used as a comparable valuation when the Tax authority established the value of expropriated land plots Nos. 166/2, 108/2, 170/2 and 176/ in Zemun in August 2014.</p> <p>The claimants cannot be reasonably requested to further specify their request, because the information necessary to do so is available only to Serbian authorities.</p>	
70.	Valuation of the immovable on cadastral parcel No. 119/1, cadastral municipality Zemun,	Hern ER, Section 3.2	The requested document contains data on the market value of land comparable to the land owned by BD Agro	Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular,	The Claimants maintain their request. <b>The requested documents are</b>	<b>DENIED.</b> <i>Prima facie</i> , the documents requested do not



	made by the Tax authority, branch office Zemun.		<p>determined by the tax authority.</p> <p>The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings</p>	<p><b>relevant and material</b></p> <p>The land plot in question is comparable to BD Agro's Construction land in Zones A, B and C because Zemun is also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p> <p>Many land plots located in Zemun are used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p> <p>Finally, to further facilitate Serbia's search for the requested documents, the Claimants note that</p>	appear to be sufficiently relevant.
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				<p>are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.</p> <p>Also, this request is insufficiently specified, lacks any temporal scope and the Tax Authority is unable to locate the requested documents.</p>	<p>the requested valuation was most probably prepared between 1 July 2013 and 31 July 2014 and was later used as a comparable valuation when the Tax authority established the value of expropriated land plots Nos. 166/2, 108/2, 170/2 and 176/ in Zemun in August 2014.</p> <p>The claimants cannot be reasonably requested to further specify their request, because the information necessary to do so is available only to Serbian authorities.</p>	
71.	Valuation of the immovable on cadastral parcel No. 165/1, cadastral municipality Zemun, made by the Tax authority, branch office Zemun.	Hern ER, Section 3.2	<p>The requested document contains data on the market value of land comparable to the land owned by BD Agro determined by the tax authority.</p> <p>The requested document is relevant and material</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>The land plot in question is</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

			<p>because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>evidence that the land in question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind</p>	<p>comparable to BD Agro's Construction land in Zones A, B and C because Zemun is also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p> <p>Many land plots located in Zemun are used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p> <p>Finally, to further facilitate Serbia's search for the requested documents, the Claimants note that the requested valuation was most probably prepared between 1 July 2013</p>	
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				<p>that the request relates to the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.</p> <p>Also, this request is insufficiently specified, lacks any temporal scope and the Tax Authority is unable to locate the requested documents.</p>	<p>and 31 July 2014 and was later used as a comparable valuation when the Tax authority established the value of expropriated land plots Nos. 166/2, 108/2, 170/2 and 176/ in Zemun in August 2014.</p> <p>The claimants cannot be reasonably requested to further specify their request, because the information necessary to do so is available only to Serbian authorities.</p>	
72.	Decision or agreement determining consideration for cadastral parcel No. 2353/3, surface are 222 m <sup>2</sup> , inscribed in the real estate folio 331, cadastral municipality Progar, expropriated for the purpose of building	Hern ER, Section 3.2	<p>The requested document contains data on the value of land situated near the land owned by BD Agro and the Sremska gazela road and also otherwise comparable to the land owned by BD Agro.</p> <p>The requested document is relevant and material because the valuation of</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in question is comparable to the land owned by BD</p>	<p>The Claimants maintain their request.</p> <p>The Claimants note that their original request incorrectly stated that the number of the land plot in question was "2353/3". The Claimants hereby correct this typographical error to</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

	<p>the Sremska gazela road (part Progar-Bečmen-Dobanovci) by the decision No. 465-310/2017 dated 4 December 2017, issued by the Surčin municipality.</p>		<p>this land represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>Agro let alone in which way it is comparable. Also, they failed to prove that cadastral parcel No. 2353/3, inscribed in the real estate folio 331, cadastral municipality Progar, is indeed expropriated for the purpose of building the Sremska gazela road. Thus, Claimants' request should be denied.</p> <p>Also, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover relates to third persons, not related to the case at hand.</p>	<p>"2355/3". The Claimants confirm that no other changes were made to the original wording of their requests previously sent to Serbia.</p> <p><b>The requested documents are relevant and material</b></p> <p><i>First</i>, the land plot in question is comparable to BD Agro's agricultural land. This is because it is located close to BD Agro's agricultural land, and it was expropriated for building the Sremska gazela road.</p> <p><i>Second</i>, the fact that the land plot in question was expropriated for the purpose of building the Sremska gazela road is evidenced by the attached decision on its expropriation for</p>	
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				<p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA</p>	<p>the purposes of the Sremska gazela road.<sup>2</sup></p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	
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<sup>2</sup> Decision of the Surčin Municipality, 4 December 2017, p. 1, **CE-154**.

73.	Decision of the competent tax authority determining the tax on transfer of absolute rights for the agreement on sale of approximately 235 ha of agricultural land in the cadastral municipality Bečmen, concluded between BD Agro and Galenika Fitofarmacija ad Beograd-Zemun, cert. number Ov 3 699/2013, dated 12 February 2013.	Hern ER, Section 3.2	<p>This decision sets out the market value of agriculture land formerly owned by BD Agro determined by the tax office.</p> <p>The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>Respondent consents to produce the requested document after Claimants sign NDA.</p> <p>Namely, Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons.</p>	<p>The Claimants note Serbia's agreement to produce the requested document.</p> <p>The Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal notes the Parties' in principle agreement to enter into a Non-Disclosure Agreement.</p>
74.	Decision of the competent tax authority determining	Hern ER, Section 3.2	This decision sets out the market value of agriculture land formerly	Respondent consents to produce the requested	The Claimants note Serbia's agreement to	<b>NO DECISION NECESSARY.</b>

	<p>the tax on transfer of absolute rights for the agreement on sale of approximately 33 ha of agriculture land in the cadastral municipality Bečmen, concluded between BD Agro and Galenika Fitofarmacija ad Beograd-Zemun, cert. number Ov 3 1157/2013, dated 4 March 2013.</p>		<p>owned by BD Agro determined by the tax office.</p> <p>The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>document after Claimants sign NDA.</p> <p>Namely, Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons.</p>	<p>produce the requested document.</p> <p>The Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	<p>The Tribunal notes the Parties' in principle agreement to enter into a Non-Disclosure Agreement.</p>
75.	<p>Decision of the competent tax authority determining the tax on transfer of absolute rights for the agreement on sale of</p>	<p>Hern ER, Section 3.2</p>	<p>This decision sets out the market value of agriculture land formerly owned by BD Agro determined by the tax office.</p>	<p>Respondent consents to produce the requested document after Claimants sign NDA.</p>	<p>The Claimants note Serbia's agreement to produce the requested document.</p> <p>The Claimants confirm that they are,</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>The Tribunal notes the Parties' in principle</p>



	approximately 286 ha of agriculture land in the cadastral municipality Ugrinovci, concluded between BD Agro and Galenika Fitofarmacija ad Beograd-Zemun, cert. number Ov I 22263/2013, dated 12 February 2013.		The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.	Namely, Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i> , all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons.	in principle, willing to enter into a NDA agreement requested by Serbia.	agreement to enter into a Non-Disclosure Agreement.
76.	Tax balances (in Serbian poreski bilansi) of BD Agro for the period between years 2005 and 2015 (including).	Hern ER, ¶¶ 144-145, 150	If BD Agro sold its assets—in order to realize their value—it would be required to pay Capital Gains Tax (“CGT”) of 15 per cent on any increase in the value relative to the	Respondent consents to produce the requested document after Claimants sign NDA.  Namely, Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit	The Claimants note Serbia’s agreement to produce the requested document.  The Claimants confirm that they are, in principle, willing to enter into a NDA	<b>NO DECISION NECESSARY.</b>  The Tribunal notes the Parties’ in principle agreement to enter into a Non-

			<p>purchase price, for assets subject to CGT.</p> <p>The capital gain tax should therefore be included in calculation of Claimants' damages—effectively lowering their value. However, given that the Claimants have no longer control over BD Agro, they were unable to obtain documents necessary for the calculation of the capital gains tax.</p> <p>Requested documents are therefore relevant and material for proper calculation of the capital gain tax and Claimants' damages.</p>	<p>RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons.</p>	<p>agreement requested by Serbia.</p>	<p>Disclosure Agreement.</p>
77.	<p>Decision of the tax authority Zemun No. 413-04/714-12 on determination of tax on transfer of absolute rights for construction land in the cadastral municipality Zemun, cadastral parcel No.</p>	<p>Hern ER, Section 3.2</p>	<p>The requested decision sets out the market value of land comparable to the land owned by BD Agro serving as a base for calculation of tax on transfer of absolute rights.</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in</p>	<p>The Claimants maintain their request.</p> <p><b>The documents requested are relevant and material</b></p> <p>The land plot in question is comparable to BD</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

	1300/2, surface 50 square meters.		<p>The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to</p>	<p>Agro's Construction land in Zones A, B and C because Zemun is also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p> <p>Many land plots located in Zemun are used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	
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				the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.		
78.	Decision of the tax authority Zemun No. 413-04/1289-12 on determination of tax on transfer of absolute rights for construction land in the cadastral municipality Zemun, cadastral parcel No. 14333/1, surface 2206 square meters.	Hern ER, Section 3.2	<p>The requested decision sets out the market value of land comparable to the land owned by BD Agro serving as a base for calculation of tax on transfer of absolute rights.</p> <p>The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>The land plot in question is comparable to BD Agro's Construction land in Zones A, B and C because Zemun is also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p> <p>Many land plots located in Zemun are</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

				<p>relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.</p>	<p>used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	
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79.	Decision of the tax authority Zemun No. 413-04/1277-12 on determination of tax on transfer of absolute rights for construction land in the cadastral municipality Zemun, cadastral parcel No. 14330, surface 2366 square meters.	Hern ER, Section 3.2	<p>The requested decision contains market value of land comparable to the land owned by BD Agro serving as a base for calculation of tax on transfer of absolute rights.</p> <p>The requested document is relevant and material because the market value established by the tax authority represents an input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in question is comparable to the land owned by BD Agro let alone in which way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be</p>	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>The land plot in question is comparable to BD Agro's Construction land in Zones A, B and C because Zemun is also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p> <p>Many land plots located in Zemun are used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>
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				confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to the cadastral parcels which relate to third parties as taxpayers, tax authorities are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.		
80.	Decision of the tax authority Zemun No. 413-04/1399-12 on determination of tax on transfer of absolute rights for construction land in the cadastral municipality Zemun, cadastral parcels Nos. 99/38 and 99/55, surface 4865 square meters.	Hern ER, Section 3.2	<p>The requested decision sets out the market value of land comparable to the land owned by BD Agro serving as a base for calculation of tax on transfer of absolute rights.</p> <p>The requested document is relevant and material because the market value established by the tax authority represents an</p>	Respondent objects to this request, as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. In particular, Claimants failed to prove the relevance and materiality of this document as they did not evidence that the land in question is comparable to the land owned by BD Agro let alone in which	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>The land plots in question are comparable to BD Agro's Construction land in Zones A, B and C because Zemun is</p>	<p><b>DENIED.</b></p> <p><i>Prima facie</i>, the documents requested do not appear to be sufficiently relevant.</p>

			<p>input that can be considered by quantum experts in their valuations of the land owned by BD Agro.</p>	<p>way it is comparable. Thus, Claimants' request should be denied.</p> <p>In any event, Respondent objects to this request under Article 9(2)(f) of the IBA Rules, since the requested document is confidential and moreover relates to third persons, not related to the case at hand.</p> <p>Article 7(1) of the Serbian Law on Tax Procedure and Tax Administration (Exhibit RE-195) provides that, <i>inter alia</i>, all documents, information and data about a taxpayer obtained through tax and court proceedings shall be confidential. Article 7(3) further stipulates that all the officials and every other person involved in tax and court proceedings are obliged to keep as confidential subject documents, information and data. Having in mind that the request relates to the cadastral parcels which relate to third parties as taxpayers, tax authorities</p>	<p>also located at the outskirts of Belgrade, it is connected to road networks similar to the Sremska gazela road and the land plots are for commercial use.</p> <p>Many land plots located in Zemun are used as comparables in NERA's valuation report.</p> <p>As for the alleged confidentiality, the Claimants confirm that they are, in principle, willing to enter into a NDA agreement requested by Serbia.</p>	
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				are not permitted to disclose any information related to these persons. Therefore, if Respondent is obliged to produce the requested document that should be conditioned by signing NDA.		
81.	Quarterly reports of BD Agro's bankruptcy trustee on bankruptcy proceedings and on bankruptcy estate for (i) the period between January and March 2019; and (ii) for the period between April and June 2019.	Cowan ER, ¶ 8.21	In his valuation of BD Agro, Mr. Cowan assumes bankruptcy costs in the amount of 20% of the asset value (as per the "Doing Business" findings) and adds these to the liabilities included in the 2016 Confineks Report.  The requested documents are relevant and material to assess the reasonableness of this assumption in light of the actual costs incurred during the BD Agro's bankruptcy proceedings.	Respondent objects to this request, as it is unduly burdensome, and in direct contravention to considerations of procedural economy, proportionality, fairness and equality of the Parties, in the sense of Article 9(2)(c)&(g) IBA Rules.  Respondent notes that one of the Claimants, Mr. William Rand is one of the creditors of BD Agro in the bankruptcy proceedings conducted against BD Agro (Exhibits CE-101, CE-321). According to Article 10 of the Bankruptcy Law (Exhibit RE-197), all participants in the proceedings have the right to inspect data related to	The Claimants withdraw their request.	<b>NO DECISION NECESSARY.</b>

				proceedings, whereas all creditors have the right to ask and obtain from the bankruptcy trustee all the information related to the debtor, course of the bankruptcy proceedings and property and management of the assets of the debtor. Therefore, it would not be unreasonably burdensome for Claimants to obtain and produce these documents, as per Article 3(3)(c) of the IBA Rules.		
82.	Any and all documents relating to BD Agro's purchases and sales of real estate in Novi Bečej, including through the acquisition of a legal entity Sokolac.	Cowan ER, ¶ 7.8.2	The requested documents are relevant and material to assess the market value of BD Agro's real estate in Novi Bečej.	<p>Respondent objects this request as it is unduly overbroad and burdensome in the sense of Article 9(2)(c) IBA Rules.</p> <p>First, Claimants failed to specify the relevant time span for the documents requested, as their request covers essentially all documents made in an indefinite time period. Claimants failed to explain why would BD Agro's purchases and sales of real estate in Novi Bečej that predates alleged</p>	<p>The Claimants maintain their request.</p> <p><b>The request is neither overbroad nor unduly burdensome</b></p> <p>The request is neither overbroad nor unduly burdensome because it identifies a narrow and specific group of documents—<i>i.e.</i> the documents related to purchase of real estate in Novi Bečej by BD Agro.</p>	<b>GRANTED</b> as limited by the Claimants ("all documents evidencing the purchase price for which BD Agro acquired real estate located in Novi Bečej from a legal entity "Sokolac" in December 2007"). The documents have been identified with sufficient

				<p>violation of the BIT be of relevance for the case at hand.</p> <p>Second, Claimants failed to specify the type of documents they request under this point.</p> <p>Therefore, Claimants' request is unduly overbroad and burdensome for Respondent.</p>	<p>To facilitate Serbia's review of relevant documents, the Claimants agree to restrict their request to all documents evidencing the purchase price for which BD Agro acquired real estate located in Novi Bečej from a legal entity "Sokolac" in December 2007.</p> <p><b>The requested documents are relevant and material</b></p> <p>Mr. Cowan claims in his expert report that BD Agro sold the land in Novi Bečej for EUR 7.4 million, which allegedly represented "55% of its estimated value" (Cowan ER, ¶ 8.15).</p> <p>The requested documents are relevant and material to assess what was the acquisition value of land in Novi Bečej and</p>	<p>precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i>, the documents appear relevant.</p>
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					whether EUR 7.4 million indeed represented 55% of this value.	
83.	All documents of the Privatization Agency addressing BD Agro's value after the termination of the Privatization Agreement.	Memorial, ¶ 529; CE-371	<p>Claimants showed that shortly after the termination of the Privatization Agreement, Ms. Knežević (the Privatization Agency's representative administering the expropriated 75.87% shareholding in BD Agro) stated that BD Agro "showed a significant positive value of capital (around 56 million euros)."</p> <p>The requested documents are relevant and material to assess the Privatization Agency's contemporaneous views on the value of BD Agro.</p>	Respondent objects to this request as it lacks relevance and materiality under Article 9(2)(a) of IBA Rules. Claimants failed to explain why would the 'assessment of the Privatization Agency's views on the value of BD Agro' be in any way relevant for the outcome of the present dispute. Therefore, this request should be denied.	<p>The Claimants maintain their request.</p> <p><b>The requested documents are relevant and material</b></p> <p>Serbia cannot seriously dispute that valuation of BD Agro is relevant and material for the outcome of this dispute.</p> <p>The requested documents are therefore relevant and material as well, because they show the Privatization Agency's contemporaneous view on the value of BD Agro immediately after the breaches of the BITs invoked by the Claimants.</p>	<p><b>GRANTED.</b></p> <p>The documents have been identified with sufficient precision so their identification and production should not be unduly burdensome for the Respondent. <i>Prima facie</i>, the documents appear relevant.</p>

**IN THE MATTER OF INVESTMENT DISPUTE UNDER THE AGREEMENT BETWEEN CANADA AND THE REPUBLIC OF SERBIA FOR  
THE PROMOTION AND PROTECTION OF INVESTMENTS AND UNDER THE AGREEMENT BETWEEN SERBIA AND MONTENEGRO  
AND THE REPUBLIC OF CYPRUS ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

**RAND INVESTMENTS LTD., WILLIAM ARCHIBALD RAND, KATHLEEN ELIZABETH RAND, ALLISON RUTH RAND AND ROBERT  
HARRY LEANDER RAND (CANADA)**

**AND**

**SEMBI INVESTMENT LIMITED**

**(CYPRUS)**

*CLAIMANTS*

**– v –**

**THE REPUBLIC OF SERBIA**

*RESPONDENT*

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**RESPONDENT'S REQUESTS FOR PRODUCTION OF DOCUMENTS WITH  
CLAIMANTS' OBJECTIONS AND RESPONDENT'S REPLIES**

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26 July 2019

Prof. Gabrielle Kaufmann-Kohler, President of the Tribunal

Mr. Baiju S. Vasani, Arbitrator

Prof. Marcelo G. Kohen, Arbitrator

REDFERN SCHEDULE FOR DOCUMENT REQUESTS No.		REQUEST		OBJECTIONS	REPLY	DECISION	
		Document Requested	Relevance				
			Ref. to Submissions				Comments
1.	<p>Respondent requests:</p> <p>a) Financial statements, balance sheets and other financial documentation and records of MDH for the period from 2005 to 2008, showing that it registered its ownership over BD Agro’s shares as assets in its financial records;</p> <p>b) Financial statements, balance sheets and other financial documentation and records of Sembi for the period from 2008 to present, showing that it registered its ownership over BD Agro’s shares as assets in its financial records;</p> <p>c) Financial statements, balance sheets and other financial</p>	<ul style="list-style-type: none"><li>• Memorial, paras 40-43, 47-50, 88-92;</li><li>• Counter-Memorial, Section III-A.</li></ul>	<p>Claimants assert that Mr. Obradovic was only the nominal owner of BD Agro’s shares, whereas ultimate beneficial owners of BD Agro’s shares were Claimants. In particular, Claimants state that Mr. Rand’s sole beneficial ownership was channeled through MDH between 4 October 2005 and 22 February 2008, whereas, after 22 February 2008, beneficial ownership of all Claimants was channeled through Sembi.</p>	<p>The Claimants have conducted a reasonable search in their records and produce the requested documents that are in their possession, custody or control.</p> <p>To the extent the responsive documents have been already produced with the Claimants’ previous fillings, they are not produced again.</p>	<p>With respect to request under <b>1(b)</b>, Respondent notes that Claimants failed to produce financial statements, balance sheets and other financial documentation and records of Sembi for the year 2018. Thus, Respondent requests the Tribunal to order the production of these documents.</p>	<p><b>NO DECISION NECESSARY.</b></p> <p>With respect to Request 1(b), the Tribunal notes the Claimants’ clarification of 29 July 2019 that “Sembi’s financial statements for year 2018 have not been produced simply because they have not been prepared yet. Under Cyprus company law, Sembi is obliged to file its financial</p>	

	<p>documentation and records of Rand Investments for the period from 2008 to present, showing that it registered its ownership over BD Agro's shares as assets in its financial records.</p>		<p>Having in mind that Claimants' alleged ownership of BD Agro's shares is crucial for the determination of the Tribunal's jurisdiction, the requested documents should show whether or not MDH's, Sembi's and Rand Investments' financial documents support their assertions. This is relevant for establishing existence of beneficial ownership and material for the outcome of dispute as it concerns the question of whether Claimants made an investment.</p>			<p>statements for 2018 only by the end of December 2019," and invites the Claimants to produce responsive documents as soon as they are available.</p>
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2.	Respondent requests any agreement, correspondence or other documents exchanged prior to conclusion of Share Purchase Agreement between Mr. Obradovic and Mr. Rand or his associated entities concerning their alleged cooperation in acquisition of BD Agro's shares by Mr. Obradovic.	<ul style="list-style-type: none"> <li>• Memorial, paras 67-69;</li> <li>• Counter-Memorial, paras 253-255;</li> <li>• Witness statement of Mr. Rand, paras 13, 16-17;</li> <li>• Witness statement of Mr. Obradovic, paras 7-8, 12-13.</li> </ul>	<p>In his witness statement, Mr. Rand states that Mr. Obradovic had informed him of the investment opportunity in BD Agro already in early 2005, and that they agreed that Mr. Obradovic would submit the auction bid in Mr. Rand's beneficial interest, whereas Mr. Obradovic would only be the nominal owner of BD Agro's shares and that "his role was simply to assist in dealing with the Serbian officials" (<i>Witness statement of Mr. Rand, paras 13, 16-17</i>).</p> <p>Similarly, Mr. Obradovic states that in early 2005 he and Mr. Rand had discussed the</p>	<p>The Claimants have conducted a reasonable search in their records and produce the requested documents that are in their possession, custody or control.</p> <p>To the extent the responsive documents have been already produced with the Claimants' previous fillings, they are not produced again.</p>	No decision needed from the Tribunal.	<b>NO DECISION NECESSARY.</b>
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			<p>investment opportunity in BD Agro, and that having obtained the financing from the Lundin family, they formalized their mutual arrangement in a written agreement (<i>Witness statement of Mr. Obradovic, paras 8, 12-13</i>).</p> <p>However, apart from the Share Purchase Agreement (<i>C-15</i>), which was concluded between Mr. Obradovic and MDH on 19 September 2005, Claimants provided no other documents which would show any correspondence, agreements or negotiations conducted between Mr. Obradovic and Mr. Rand or his associated entities concerning their</p>			
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			<p>alleged cooperation in the acquisition of BD Agro's shares by Mr. Obradovic. In particular, Claimants have not provided any document recording the alleged agreement between Mr. Rand and Mr. Obradovic regarding Mr. Obradovic's role in the acquisition of BD Agro and referred to by Mr. Obradovic in his statement (<i>Witness statement of Mr. Obradovic, para. 7</i>).</p> <p>As noted by Respondent (<i>Counter-Memorial, paras 253</i>), the entirety of Claimants' assertions concerning the conclusion of the Share Purchase Agreement is based solely on witness statements of</p>			
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			<p>individuals who are clearly interested in the outcome of the proceedings.</p> <p>Requested documents should therefore demonstrate whether Share Purchase Agreement was a genuine undertaking, or merely a construct created by Claimants in this arbitration.</p> <p>This is relevant for establishing existence of ownership over BD Agro's shares and material for the outcome of dispute as it concerns the question of whether Claimants made an investment.</p>			
3.	<p>Respondent requests:</p> <p>a) any decision of Sembi's managing</p>	<ul style="list-style-type: none"> <li>Memorial, paras 48 and 314;</li> </ul>	<p>With respect to documents requested under point a), it should be noted that Claimants</p>	<p>The Claimants have conducted a reasonable search in their records and produce the</p>	<p>With respect to request under <b>3(a)</b>, Respondent notes that from</p>	<p><b>NO DECISION NECESSARY.</b></p>

	<p>bodies in relation to the management, day-to-day business or development of BD Agro;</p> <p>b) “control agreements” concluded between Mr. Rand and other directors of Sembi in force in the period 2008-2015.</p>	<ul style="list-style-type: none"> <li>• Counter-Memorial, paras 342-351;</li> <li>• Witness statement of Mr. Markicevic, para 19;</li> <li>• Second witness statement of Mr. Markicevic, para 12;</li> <li>• Witness statement of Mr. Obradovic, para 21.</li> </ul>	<p>assert that Sembi invested in Serbia on 22 February 2008 when it agreed to pay or assume Mr. Obradovic’s debt towards third persons, in consideration of which Mr. Obradovic agreed to transfer to Sembi all his rights, title and interest in and to the Privatization Agreement and shares in BD Agro.</p> <p>Yet, apart from the two agreements concluded on 22 February 2008 (<i>CE-28</i>, <i>CE-29</i>) Claimants provided no other documents that would substantiate the position that Sembi was in any way involved in BD Agro nor that any decisions were ever rendered by Sembi in relation to its alleged direct beneficial</p>	<p>requested documents that are in their possession, custody or control.</p> <p>To the extent the responsive documents have been already produced with the Claimants’ previous fillings, they are not produced again.</p>	<p>the documents Claimants submitted under this point, it transpires that there exist other documents as well, which Claimants failed to produce.</p> <p>First, from the Invitation for the meeting of Board of Directors dated 8 May 2008, as well as from the Minutes of that meeting, held on 12 May 2008, it transpires that Sembi’s directors rendered Resolutions as of 23 February 2008. However, Claimants failed</p>	<p>With respect to Request 3(a) and the allegedly missing documents mentioned in the preceding column, the Tribunal notes the Claimants’ clarifications of 29 July 2019, in particular that (i) the missing documents are not responsive to the Respondent’s request; and (ii) the minutes of the meeting of Sembi’s directors held on 31 August 2008 are not in the Claimants’ possession, custody or control.</p>
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		<p>ownership over the shares in BD Agro.</p> <p>In fact, Respondent explained that Sembi's alleged beneficial ownership could not qualify as investment made in the territory of Serbia, since there is no evidence that Sembi ever invested anything of value in Republic of Serbia, nor that it was involved in the business activities of BD Agro or that it made any expenditures for the benefit of BD Agro (<i>Counter-Memorial, paras 342-351</i>).</p> <p>Therefore, requested documents should serve to establish whether Sembi ever engaged into managing of its alleged investment in BD Agro,</p>		<p>to produce these Resolutions.</p> <p>Second, from the Minutes of the meeting of the Board of Directors held on 28 November 2008, it transpires that the Board reviewed and approved Minutes of the meeting of Sembi's Board of Directors held on 5 June 2008. However, Claimants failed to produce these Minutes.</p> <p>Third, from the Invitation for the meeting of Board of Directors dated 7 May 2009, it</p>	
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			<p>which is relevant and material for the decision on Tribunal's jurisdiction, since, as pointed out by Respondent (<i>Counter-Memorial, para 351</i>), Sembi's passive ownership over BD Agro shares would not suffice to qualify as investment.</p> <p>With respect to documents requested under point b), Mr. Markicevic states in his witness statements that, after becoming director of Sembi, he agreed to always follow Mr. Rand's directions when acting as director of Sembi, and that Mr. Rand, also one of Sembi's directors, had <i>control agreements</i> with other directors of Sembi as well (<i>Witness</i></p>		<p>transpires that there exist Minutes of meeting of Sembi's Board of Directors held on 19 January 2009, as well as Resolutions of Sembi's directors dated 31 August 2008. However, Claimants failed to produce these documents.</p> <p>Fourth, from the Minutes of the meeting of Board of Directors held on 11 May 2009, it transpires that there exist Minutes of the meeting of Sembi's Board of Directors held on 31 August 2008. However,</p>	
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		<p><i>statement of Mr. Markicevic, para 19; Second witness statement of Mr. Markicevic, para 12).</i></p> <p>Allegedly, one of those other directors of Sembi was Mr. Obradovic (<i>Witness statement of Mr. Obradovic, para 21</i>).</p> <p>In the same way as with the documents requested under point a), documents requested under point b) are relevant in order to establish how, if at all, decisions concerning Sembi's alleged investment in BD Agro were made by its managing bodies, which is relevant and material for decision on Tribunal's jurisdiction, as it concerns the question of whether</p>		<p>Claimants failed to produce these Minutes.</p> <p>Therefore, the outstanding documents Claimants failed to voluntarily produce should nevertheless be produced, in order to assess whether Sembi engaged into managing of its alleged investment in BD Agro, which issue is relevant and material for the decision on Tribunal's jurisdiction.</p>	
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			Claimants made an investment.			
4.	<p>Respondent requests:</p> <p>a) loan agreements concluded from 2005-2008 between Mr. Obradovic and the Lundin Family, or 1875 Finance S.A., or any other entity associated with the Lundin Family by which funds were provided to Mr. Obradovic for the acquisition of BD Agro and performance of related investment obligations from the Privatization Agreement;</p> <p>b) bank statements, certificates of wire transfers or other documents proving that</p>	<ul style="list-style-type: none"> <li>• Memorial, paras 88-89;</li> <li>• Counter-Memorial, paras 489-504;</li> <li>• CE-28;</li> <li>• CE-29;</li> <li>• Witness statement of Mr. Azrac, para 13;</li> <li>• Witness statement of Mr. Rand, paras 16-17, 23.</li> <li>• Witness statement of</li> </ul>	<p>With respect to documents requested under points a) and b), it should be noted that in his witness statement, Mr. Rand states that the Lundin family and 1875 Finance S.A. financed the acquisition of BD Agro by providing loans to Mr. Obradovic (<i>Witness statement of Mr. Rand, para 23</i>). This was confirmed by Mr. Obradovic (<i>Witness statement of Mr. Obradovic, para 15</i>) and Mr. Azrac who stated that from 2005 to 2008, at the request of the Lundins and their associated entities, an amount of approximately EUR</p>	<p>The Claimants have conducted a reasonable search in their records and produce the documents requested under letters (b) and (c) that could be located in the Claimants' records.</p> <p>To the extent the responsive documents have been already produced with the Claimants' previous fillings, they are not produced again. The claimants have also conducted a reasonable search for documents requested under letter (a) and confirm that no responsive documents were located in the Claimants' records.</p>	No decision needed from the Tribunal.	<b>NO DECISION NECESSARY.</b>



	<p>funds in the amount of approximately EUR 13.8 million were transferred from the accounts of the Lundin Family or their associated entities to Mr. Obradovic and MDH in relation to BD Agro between 2005 and 2008;</p> <p>c) any agreements concluded or correspondence exchanged between Mr. Rand and the Lundin family whereby it was agreed that the Lundin family or their associated entities would provide financing for acquisition of BD Agro by Mr. Obradovic.</p>	<p>Mr. Obradovic, para 15.</p>	<p>13.8 million was transferred to Mr. Obradovic and MDH for the BD Agro project (<i>Witness statement of Mr. Azrac, para 13</i>).</p> <p>The requested documents are relevant in order to show whether the funds obtained by Mr. Obradovic for the acquisition of BD Agro and performance of additional investment obligations from the Privatization Agreement were indeed provided by the Lundin family or their associated entities, as asserted by Claimants, as well as what were true legal grounds and purposes of such transfers.</p>			
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			<p>With respect to documents requested under point c), Mr. Rand states that he and the Lundin family had agreed that the Lundins and their bankers “would provide a portion of the financing for the project and that they would have the option, exercisable at an indeterminate time, to convert their advances to equity or to be repaid their funds”, as well as that, in accordance with this agreement, loans were provided to Mr. Obradovic by the Lundin family and 1875 Finance S.A. <i>(Witness statement of Mr. Rand, paras 16-17, 23).</i></p> <p>However, Respondent reiterates that the</p>			
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			<p>evidence on record clearly shows that it was Mr. Obradovic himself, and not Mr. Rand, who obtained the funds for the purchase of BD Agro and that Claimants failed to submit any document proving that the payments for BD Agro were made by Mr. Rand or by MDH (<i>Counter-Memorial, paras 498-499</i>).</p> <p>Therefore, the requested documents are relevant in order to show whether it is true, as contended by Claimants, that it was Mr. Rand who secured the funds from the Lundin family, or their associated entities, for the purchase of BD Agro shares by Mr. Obradovic. In</p>			
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			<p>particular, requested documents should show whether there was any substantial contribution in money or assets by Mr. Rand as required under Article 25 of the ICSID Convention. This issue is directly relevant and material for decision on Tribunal's jurisdiction, as it concerns the issue of whether or not there is an investment.</p>			
5.	<p>Respondent requests copy of register of Sembi's shareholders held at Sembi's registered office in accordance with Article 105 of the Cypriot Companies Law, evidencing the ownership structure of Sembi and any changes thereto since 2011 to present.</p>	<ul style="list-style-type: none"> <li>• Counter-Memorial, para 477;</li> <li>• CE-6;</li> <li>• RE-120;</li> <li>• RE-184.</li> </ul>	<p>Claimants assert that Sembi is a limited liability company organized under the laws of Cyprus and owned by Ahola Family Trust and Rand Investments (<i>Memorial, paras 46 and 49</i>). To substantiate such an assertion, Claimants</p>	<p>The Claimants have conducted a reasonable search in their records and produce the requested documents that are in their possession, custody or control.</p> <p>To the extent the responsive documents have been already produced with the</p>	<p>No decision needed from the Tribunal.</p>	<p><b>NO DECISION NECESSARY.</b></p>

			<p>submitted Certificate of Shareholders of Sembi dated 8 June 2017, which was issued by the Cypriot Registrar of Companies “in accordance with the records kept by this Department” (CE-6).</p> <p>However, as pointed out by Respondent (<i>Counter-Memorial, para 477</i>), basic information concerning Sembi and its structure has not been updated since 31 December 2011, when Sembi submitted its last Annual Report (<i>RE-120</i>).</p> <p>This means that, while Exhibit CE-6 was issued by the Cypriot Registrar of Companies “in accordance with the records kept by this</p>	<p>Claimants’ previous fillings, they are not produced again.</p>		
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			<p>Department”, the information on which Exhibit CE-6 was based may be outdated and may no longer be accurate.</p> <p>Having in mind that a company with registered office in Cyprus has an obligation to keep the register of its members at its registered office pursuant to Article 105 of the Companies Law of Cyprus (<i>R-184</i>), the requested documents should show whether Rand Investments, Mr. Rand and his children, through the Ahola Family Trust, maintained their ownership over shares in Sembi after 2011 until present, which is of relevance for their right of standing in the</p>			
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			present arbitration (as Claimants stated in para 564 of the Memorial, claims of Rand Investments, Ms. Kathleen Elizabeth Rand, Allison Ruth Rand and Robert Harry Leander Rand are brought in the alternative to Sembi's claim).			
6.	Respondent requests copies of register of members, excerpts from commercial registries and/or other corporate documents showing the ownership structure of Rand Edgar Investment Corporation and any changes thereto from 2005 do present.	<ul style="list-style-type: none"> <li>• Memorial, paras 40-41, 71;</li> <li>• CE-5;</li> <li>• Witness statement of Mr. Rand, para 18, fn. 4.</li> </ul>	In his witness statement, Mr. Rand asserts that, at the moment Mr. Obradovic concluded the Share Purchase Agreement with MDH ( <i>C-15</i> ) on 19 September 2005, MDH was owned by him and Rand Edgar Investment Corporation, which was, in turn, owned equally by Mr. Rand and Mr. Brian Edgar,	The Claimants have conducted a reasonable search in their records and produce the requested documents that are in their possession, custody or control.  To the extent the responsive documents have been already produced with the Claimants' previous fillings, they are not produced again.	No decision needed from the Tribunal.	<b>NO DECISION NECESSARY.</b>

			<p>whereas “on 25 August 2006, I [Mr. Rand] became the sole owner of Rand Edgar Investment Corp., and thus also of MDH” (<i>Witness statement of Mr. Rand, para 18, fn. 4</i>).</p> <p>Claimants further state that, as result of MDH providing funds to Mr. Obradovic for acquisition of BD Agro (<i>Memorial, para 70</i>), Mr. Rand had full and sole control and beneficial ownership over BD Agro shares after conclusion of the Privatization Agreement on 4 October 2005, which he channeled through MDH (<i>Memorial, para 41</i>).</p> <p>However, it is evident from the register of members of Rand</p>			
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			<p>Edgar Investment Corporation, submitted by Claimants as Exhibit CE-5, that Mr. Rand did not become the sole owner of Rand Edgar Investment Corporation until 31 August 2012.</p> <p>Having in mind the discrepancies between Mr. Rand's witness statement and exhibit on record (<i>CE-5</i>), and also having in mind that the fact who the ultimate owner of MDH (through Rand Edgar Investment Corporation) was in the period after conclusion of the Privatization Agreement on 4 October 2005 is of relevance for the decision on Tribunal's jurisdiction, requested documents are relevant and material as they</p>			
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			concern the issues of alleged beneficial ownership.			
7.	Respondent requests bank statements, certificates of wire transfers or other documents proving that Sembi paid balance of purchase price for BD Agro in conformity with the Agreement of 22 February 2008 between Sembi and Mr. Obradovic	<ul style="list-style-type: none"> <li>• Memorial, paras 90, 330;</li> <li>• CE-29;</li> <li>• Counter-Memorial, para 493.</li> </ul>	Claimants assert that they made a commitment of financial resources in Serbia, <i>inter alia</i> , through payment of the purchase price for BD Agro's shares ( <i>Memorial, para 330</i> ). A portion of the purchase price (approximately EUR 2,055,000) should have been paid by Sembi, in accordance with the Agreement concluded between Sembi and Mr Obradovic on 22 February 2008 ( <i>CE-29</i> ). However, it was Mr. Obradovic himself who made the payments of all installments of the purchase price	The Claimants have conducted a reasonable search in their records and produce the requested documents that are in their possession, custody or control.  To the extent the responsive documents have been already produced with the Claimants' previous fillings, they are not produced again.	No decision needed from the Tribunal.	<b>NO DECISION NECESSARY.</b>

			<p>(<i>Counter-Memorial, para 498; RE-33</i>). Claimants have failed to submit any documentary evidence proving that funds necessary for such payments were indeed transferred from Sembi to Mr. Obradovic, if not to the Privatization Agency directly.</p> <p>The requested documents are relevant in order to establish whether Sembi made any commitment of capital in the case at hand, even indirectly, by providing Mr. Obradovic with the necessary funds. The issue goes to the fundamental basis of the Tribunal's jurisdiction under Article 25 of ICSID.</p>			
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