

Tribunal's Decisions on the Government of Belize's Requests for Production of Documents

19 December 2013

| No. | Documents or Category of Documents Requested | Relevance and Materiality According to Requesting Party | | Objections to Document Request | Reply to Objections to Document Request | Tribunal's Decision |
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| | | Ref. to Submissions | Comments | | | |
| 1. | Documents sufficient to identify the predecessors of BCB, and the shareholders of each of the predecessors of BCB. | Stmt. of Def. ¶ 38 | BCB would have this Tribunal believe that this dispute is simply about a loan that BCB purportedly made to Belize Telemedia. However, BCB and the majority shareholders in Belize Telemedia are all owned and or controlled by the same persons or entities that comprise the Ashcroft group. The identity of predecessors of BCB and ownership of predecessors of BCB is therefore relevant and material. | <p>Any information concerning the identity of the predecessors of BCB is not relevant to this dispute. As noted in paragraph 38 of the Statement of Defense (“SoD”), until 9 February 2009, BCB was known as The Belize Bank (Turks and Caicos) Limited. Exhibit C-12 makes it clear that its predecessor was the Belize Bank (Turks and Caicos) Limited with effect from 17 February 2009. That fact is not in dispute.</p> <p>It is clear that BCB is a “company” registered in the Turks and Caicos Islands, a territory to which the Treaty has been extended under Article 11 (see SoC, ¶ 137). On that basis, BCB qualifies as an</p> | BCB's objections are not well-taken and should be overruled. BCB objects that the identity of predecessors—and shareholders of predecessors—of BCB is not relevant to this dispute. To the contrary, GOB alleges that both BCB and the majority shareholders in Belize Telemedia are all owned or controlled by the same persons that comprise the Ashcroft group. The requested information is relevant to show that the transaction was an overarching scheme used by the Ashcroft group to gain control of shares of Belize Telemedia via the illegal use of the Telemedia loan and related facilities. GOB | Granted. |

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| | | | | <p>“investor” within Article 1(d)(i) of the Treaty. GoB does not dispute this in its SoD. In fact, the only jurisdictional objection that BCB raises concerns the validity of the loans (see SoD, section 6).</p> <p>The identity of the shareholders of the “predecessors of BCB”, the other part of the requested information in this category, is also entirely irrelevant to the issues in this case.</p> | <p>contends that the loan was a sham transaction designed merely to shift assets between companies and was no investment at all. BCB also has claimed that GOB's actions were intentionally directed at Lord Ashcroft's interests in Belize, including BCB and Telemedia. BCB has also put at issue the relationship between Lord Ashcroft and the various entities discussed in the pleadings, and GOB is entitled to defend against such accusations.</p> | |
| 2. | Documents sufficient to identify any parent companies of BCB, and the shareholders of any parent companies of BCB. | Stmnt. of Def. ¶ 39 | BCB would have this Tribunal believe that this dispute is simply about a loan that BCB purportedly made to Belize Telemedia. However, BCB and the majority shareholders in Belize Telemedia are all | BCB objects to Document Request 2 in principle on the basis that the requested documents (a) lack sufficient relevance to the case or materiality to its outcome and (b) are | BCB's objections are not well-taken and should be overruled. BCB objects that the identity of predecessors—and shareholders of predecessors—of BCB | Granted. |

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| | | | owned and or controlled by the same persons or entities that comprise the Ashcroft group. The identity of parent companies of BCB and ownership of parent companies of BCB is therefore relevant and material. | overbroad. The Claimant repeats the response made to Document Request No 1. | is not relevant to this dispute. To the contrary, GOB alleges that both BCB and the majority shareholders in Belize Telemedia are all owned or controlled by the same persons that comprise the Ashcroft group. The requested information is relevant to show that the transaction was an overarching scheme used by the Ashcroft group to gain control of shares of Belize Telemedia via the illegal use of the Telemedia loan and related facilities. GOB contends that the loan was a sham transaction designed merely to shift assets between companies and was no investment at all. BCB also has claimed that GOB's actions were | |

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| | | | | | intentionally directed at Lord Ashcroft's interests in Belize, including BCB and Telemedia. BCB has put at issue also the relationship between Lord Ashcroft and the various entities discussed in the pleadings, and GOB is entitled to defend against such accusations. | |
| 3. | Documents sufficient to evidence Lord Ashcroft's ownership interests, however indirect, in BCB. | Stmnt. of Def. ¶¶ 7, 39, 46, 51, 57, 58, 78, 79, 81, 82, 110 | BCB would have this Tribunal believe that this dispute is simply about a loan that BCB purportedly made to Belize Telemedia. However, BCB and the majority shareholders in Belize Telemedia are all owned and or controlled by the same persons or entities that comprise the Ashcroft group. Lord Ashcroft's ownership interests are therefore material and relevant. | BCB objects to Document Request 3 on the basis that the requested documents (a) lack sufficient relevance to the case or materiality to its outcome and (b) are overbroad. The Claimant's response to Document Request No 1 is repeated. | BCB's objections are not well-taken and should be overruled. BCB objects that the identity of predecessors—and shareholders of predecessors—of BCB is not relevant to this dispute. To the contrary, GOB alleges that both BCB and the majority shareholders in Belize Telemedia are all owned or controlled by the same persons that | Granted. |

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| | | | | | comprise the Ashcroft group. The requested information is relevant to show that the transaction was an overarching scheme used by the Ashcroft group to gain control of shares of Belize Telemedia via the illegal use of the Telemedia loan and related facilities. GOB contends that the loan was a sham transaction designed merely to shift assets between companies and was no investment at all. BCB also has claimed that GOB’s actions were intentionally directed at Lord Ashcroft’s interests in Belize, including BCB and Telemedia. BCB has put at issue also the relationship between Lord Ashcroft and the various entities | |

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| | | | | | discussed in the pleadings, and GOB is entitled to defend against such accusations. | |
| 4. | Documents in the possession and/or control of BCB sufficient to evidence Lord Ashcroft's ownership interests, however indirect, in Belize Telemedia or its predecessor(s). | Stmt. of Def. ¶¶ 7, 39, 46, 51, 57, 58, 78, 79, 81, 82, 110 | BCB would have this Tribunal believe that this dispute is simply about a loan that BCB purportedly made to Belize Telemedia. However, BCB and the majority shareholders in Belize Telemedia are all owned and or controlled by the same persons or entities that comprise the Ashcroft group. Lord Ashcroft's ownership interests are therefore material and relevant. | BCB objects to Document Request 4 on the basis that the requested documents (a) lack sufficient relevance to the case or materiality to its outcome and are (b) overbroad. As previously noted BCB is a "company" registered in the Turks and Caicos Islands, a territory to which the Treaty has been extended under Article 11 (see SoC, ¶ 137). BCB therefore qualifies as an "investor" within Article 1(d)(i) of the Treaty. GoB does not dispute this in its SoD. In fact, the only jurisdictional objection | BCB's objections are not well-taken and should be overruled. BCB objects that the identity of predecessors—and shareholders of predecessors—of BCB is not relevant to this dispute. To the contrary, GOB alleges that both BCB and the majority shareholders in Belize Telemedia are all owned or controlled by the same persons that comprise the Ashcroft group. The requested information is relevant to show that the transaction was an overarching scheme used by the Ashcroft group to gain control of | N/A (BCB states that it has no responsive documents). |

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| | | | | <p>that BCB raises concerns the validity of the loans (see SoD, section 6). The ownership of Belize Telemedia is entirely irrelevant to this issue.</p> <p>Without prejudice to the above, BCB does not have any documents which evidence Lord Ashcroft’s ownership of Belize Telemedia. At the date of the BCB loan agreement, Lord Ashcroft did not own shares in BTL whether directly or indirectly. BCB Holdings Limited, which was the parent company of BCB at the time the loan was entered into held approximately 2.49% in Belize Telemedia. Those shares were held on trust for Dunkeld International</p> | <p>shares of Belize Telemedia via the illegal use of the Telemedia loan and related facilities. GOB contends that the loan was a sham transaction designed merely to shift assets between companies and was no investment at all. BCB also has claimed that GOB’s actions were intentionally directed at Lord Ashcroft’s interests in Belize, including BCB and Telemedia.</p> | |

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| | | | | Investments Limited. | | |
| 5. | All written communications between BCB and Belize Telemedia regarding the Loan, Loan Facility Agreement or Mortgage Debenture. | Stmt. of Claim ¶ 31 | BCB's claims revolve around entering into various agreements with Belize Telemedia. Communications between the two entities regarding those agreements are therefore relevant and material. | GoB's Document Request 5 is overbroad. Specifically, GoB requests "all" written communications between BCB and BTL regarding the Loan. However, to satisfy the requirement under the IBA Rules on Taking of Evidence that the requesting party must identify a "narrow and specific category of [d]ocuments" (article 3(a)(ii)). Accordingly, GoB must, at the minimum, specify the time period and the categories of documents it is requesting, along with a statement as to why it considers those documents to be relevant to the case and material to its outcome. | BCB's objections are not well-taken and should be overruled. GOB has defined a narrow and specific category of documents, <i>i.e.</i> "communications" between certain individuals regarding a particular topic. This is sufficiently narrow to satisfy the criteria of the IBA Rules on Taking of Evidence. Furthermore, GOB has provided a statement as to why it considers the requested documents to be relevant to the case. See the column entitled "Relevance and Materiality According to the Party." BCB's claims revolve around entering into various loan agreements with Belize Telemedia. | Rejected (not sufficiently narrow, too broad). |

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| | | | | | Communications between the two entities regarding those loan agreements are therefore relevant and material to the legality of the agreements, their creation, whether they constituted an investment in Belize, whether these were sham transactions, establishing the trail of monies, establishing what BCB knew about the purpose of these transactions, and are relevant to the claims of alleged damages. | |
| 6. | All written communications between BCB and Lord Ashcroft regarding the Loan, Loan Facility Agreement or Mortgage Debenture. | Stmt. of Def. ¶¶ 7, 39, 46, 51, 57, 58, 78, 79, 81, 82, 110 | BCB would have this Tribunal believe that this dispute is simply about a loan that BCB purportedly made to Belize Telemedia. However, BCB and the majority shareholders in Belize Telemedia are all owned and or controlled by | BCB objects to Document Request 6 on the basis that the requested documents (a) lack sufficient relevance to the case or materiality to its outcome and (b) are overbroad. | BCB's objections are not well-taken and should be overruled. GOB has defined a narrow and specific category of documents, <i>i.e.</i> "communications" between certain individuals regarding a | Rejected (not sufficiently narrow and specific). |

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| | | | the same persons or entities that comprise the Ashcroft group. Lord Ashcroft's ownership interests are therefore material and relevant. | In any event, the Document Request is clearly overbroad because it does not identify the time period or the categories of documents that GoB is seeking. Accordingly, GoB must, at the minimum, specify the time period categories of documents it is requesting, along with a statement as to why it considers those documents to be relevant to the case and material to its outcome. | particular topic. This is sufficiently narrow to satisfy the criteria of the IBA Rules on Taking of Evidence. Furthermore, GOB provided a statement as to why it considers the requested documents to be relevant to the case. See the column entitled "Relevance and Materiality According to the Party." BCB would have this Tribunal believe that this dispute is simply about a loan that BCB purportedly made to Belize Telemedia. However, BCB and the majority shareholders in Belize Telemedia are all owned and/or controlled by the same persons or entities that comprise the Ashcroft group and the transaction was a sham, not an investment in | |

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| | | | | | Belize. Lord Ashcroft's ownership interests are therefore material and relevant, and the communications between BCB and Lord Ashcroft's interests go to that precise issue and demonstrate that this was an intentionally orchestrated scheme to leave Telemedia with debt and no asset to show for that debt, in order to attempt to defeat a nationalization by GOB, and was no investment by BCB at all. | |
| 7. | All written communications between BCB and Lord Ashcroft regarding Belize Telemedia and/or TIL. | Stmt. of Def. ¶¶ 7, 39, 46, 51, 57, 58, 78, 79, 81, 82, 110 | BCB would have this Tribunal believe that this dispute is simply about a loan that BCB purportedly made to Belize Telemedia. However, BCB and the majority shareholders in Belize Telemedia are all owned and or controlled by | BCB objects to Document Request 7 on the basis that the requested documents (a) lack sufficient relevance to the case or materiality to its outcome and (b) are overbroad. It repeats its response in relation | BCB's objections are not well-taken and should be overruled. GOB has defined a narrow and specific category of documents, <i>i.e.</i> "communications" between certain individuals regarding a | Rejected (not sufficiently narrow and specific). |

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| | | | the same persons or entities that comprise the Ashcroft group. Lord Ashcroft’s ownership interests are therefore material and relevant. | to Document Request no 6 above. | particular topic. This is sufficiently narrow to satisfy the criteria of the IBA Rules on Taking of Evidence. Furthermore, GOB provided a statement as to why it considers the requested documents to be relevant to the case. See the column entitled “Relevance and Materiality According to the Party.” BCB would have this Tribunal believe that this dispute is simply about a loan that BCB purportedly made to Belize Telemedia. However, BCB and the majority shareholders in Belize Telemedia are all owned and/or controlled by the same persons or entities that comprise the Ashcroft group and the transaction was a sham, not an investment in | |

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| | | | | | Belize. Lord Ashcroft's ownership interests are therefore material and relevant, and the communications between BCB and Lord Ashcroft's interests go to that precise issue and demonstrate that this was an intentionally orchestrated scheme to leave Telemedia with debt and no asset to show for that debt, in order to attempt to defeat a nationalization by GOB, and no investment by BCB at all. | |
| 8. | All written communications between BCB and TIL regarding the Loan, Loan Facility Agreement or Mortgage Debenture. | Stmt. of Def. ¶ 62 | BCB has put the Loan Facility Agreement directly at issue. Communications related to the negotiation of this agreement and the circumstances related to entering into this agreement are therefore relevant and material. | BCB objects to this request because it (a) lacks sufficient relevance to the case or materiality to its outcome and (b) is overbroad. The request fails to | BCB's objections are not well-taken and should be overruled. GOB has defined a narrow and specific category of documents, <i>i.e.</i> "communications" between certain individuals regarding a | Rejected (not sufficiently narrow and specific). |

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| | | | | identify a specific category of document and fails to identify a specific time period for this category of documents. | particular topic. This is sufficiently narrow to satisfy the criteria of the IBA Rules on Taking of Evidence. Furthermore, GOB provided a statement as to why it considers the requested documents to be relevant to the case. See the column entitled “Relevance and Materiality According to the Party.” BCB has put the Loan Facility Agreement directly at issue. Communications related to the negotiation of this agreement and the circumstances related to entering into this agreement are therefore relevant and material. In addition, the communications between BCB and TIL may tend to establish that the transaction was a sham, because | |

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| | | | | | Telemedia is the alleged debtor on the loan transaction. The documentation requested also goes to the issue of the trail of the funds, what the monies were used for, and what knowledge BCB had about the transaction. | |
| 9. | All underwriting, loan and document files at BCB for the Loan, Loan Facility Agreement or Mortgage Debenture. | Stmt. of Claim ¶ 31; Stmt. of Def. ¶ 62 | BCB's claims revolve around entering into the Loan Facility Agreement with Belize Telemedia. Evidence casts doubt on the legitimacy of the transaction, shows that the transaction was for an illegal purpose, and suggests that the transaction was actually a sham transaction. The underwriting of the Loan and due diligence conducted by BCB is relevant and material to establish BCB's level of participation in the scheme. | BCB objects to Document Request 9 on the basis that the requested documents (a) lack sufficient relevance to the case or materiality to its outcome and (b) are overbroad. The central issue in this arbitration is that the GoB alleges that the legality of the Telemedia Loan depends on the purpose for which it was provided, and it says that the purpose was an illegal one. That is a | BCB's objections to this request are not well-taken and should be overruled. BCB argues that the central dispute in this lawsuit is that the Telemedia loan was illegal and that such an inquiry is simply a point of law and this dispute therefore needs no discovery. Yet in its next breath, BCB acknowledges that GOB contends the Telemedia loan was a "sham." | Rejected (not sufficiently narrow and specific). |

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| | | | | <p>point of law. There is no factual dispute between the parties about the various uses to which Belize Telemedia Limited (Telemedia) might put the Telemedia Loan to – these are clearly stated in Article 1(b) of the Telemedia Loan itself.</p> <p>As to the vague and unparticularised allegation that the Telemedia Loan was a “sham” this is in any event an allegation which has no legal or factual basis.</p> <p>The Government controls Telemedia and knows precisely how the funds advanced under the loan was used. While it is a matter for Telemedia, and not BCB, how such funds were used, it is also</p> | <p>BCB then makes the assertion that there is no “factual basis” for such allegations. That topic is <i>precisely</i> the subject of the documents sought by GOB's discovery requests.</p> <p>BCB then proceeds to argue the merits of whether the Telemedia loan was a legitimate transaction. This illustrates that BCB is simply talking out of both sides of its mouth.</p> <p>BCB further asserts that there is no need to engage in discovery to determine BCB's level of participation in the transaction because it is undisputed that the loans in question were provided by BCB to BTL. This is a red herring. GOB alleges</p> | |

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| | | | | <p>clear that such funds were used consistent with the purposes stated in the Telemedia Loan. Any suggestions that the Telemedia Loan was for some alternative purpose simply have no legitimate basis. The requests for further documentation in relation to any purpose cannot be substantiated.</p> <p>It is not in dispute that the loans in question were provided by BCB to BTL (see Amd SoC, ¶31; SoD, ¶218). Therefore, no documents need to be disclosed to understand "<i>BCB's level of participation</i>" in the transaction.</p> <p>There is also no dispute between the parties that the various uses to which BTL might put the loans to are stated at</p> | <p>that BCB was involved in the overarching scheme to conduct an illegal and sham transaction. GOB is entitled to discovery on that issue. BCB's assertion that it simply provided the loans in question is not enough to divest GOB's rights to conduct discovery in order to defend itself in this arbitration.</p> <p>BCB then asserts that the purpose of the loan is stated in the Telemedia Facility. BCB misses the forest for the trees. The stated purpose in the agreement is not the only possible purpose for loan and the stated purpose on the loan documents do not defeat the defense that the transaction is a sham –</p> | |

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| | | | | <p>Article 1(b) of the Telemedia Facility (see Amd SoC 168; SoD, 220). The due diligence that BCB may have undertaken prior to providing to these loans will, at best, reveal BCB's assessment of the risk of default, and are therefore irrelevant to the GoB's case.</p> <p>In any event, the GoB request refers to "all loan and document files" held by BCB without specifying the date range of any documents it is requesting. To satisfy the requirement under the IBA Rules on Taking of Evidence that the requesting party must identify a "narrow and specific category of [d]ocuments" (article 3(a)(ii)), GoB must, at the minimum, specify</p> | <p>otherwise any sham transaction could be legitimized by the language of the contract. GOB alleges that the purpose was other than what was stated in the agreement and GOB is entitled to discovery on that issue.</p> <p>BCB further asserts that its internal loan file will simply evidence the due diligence it conducted, which will reveal BCB's assessment of the risk of default. BCB asserts that such evidence is irrelevant to GOB's case. This is also a red herring. Discoverable evidence is that which may lead to the discovery of admissible evidence. This discovery request is intended to determine BCB's knowledge level</p> | |

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| | | | | <p>the time period and the categories of documents it is requesting, along with a statement as to why it considers those documents to be relevant to the case and material to its outcome.</p> | <p>and participation in the overarching scheme to subvert Belizean law. BCB’s assertion that responsive documents probably will not yield relevant information, in BCB’s opinion, is not a sufficient objection.</p> <p>BCB is essentially attempting to enforce a loan against the GOB. It would be highly unusual for a respondent not to be entitled to review the loan file under such circumstances. This is an essential, basic and garden-variety document request in this type of action.</p> <p>Further, GOB’s discovery request complies with the IBA Rules on the Taking of Evidence. GOB has narrowly tailored the request to seek only the</p> | |

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| | | | | | <p>underwriting files of BCB relating to the loans in question.</p> <p>Finally, GOB has provided additional reasons why such documents are relevant and material. See column entitled "Relevance and Materiality According to Requesting Party."</p> | |
| 10. | All minutes of the Board of Directors of BCB, the Credit Committee of BCB, or any other committee of BCB regarding the Loan, Loan Facility Agreement or Mortgage Debenture. | Stmt. of Claim ¶ 31; Stmt. of Def. ¶ 62 | BCB's claims revolve around entering into the Loan Facility Agreement with Belize Telemedia. Evidence casts doubt on the legitimacy of the transaction, shows that the transaction was for an illegal purpose, and suggests that the transaction was actually a sham transaction. The approval of the Loan and due diligence conducted by BCB is relevant and | <p>BCB objects to Document Request 10 on the basis that the requested documents (a) lack sufficient relevance to the case or materiality to its outcome (b) are overbroad.</p> <p>GoB's statement as to how the documents requested are relevant to the case or material to its outcome, including the</p> | <p>BCB's objections are not well-taken and should be overruled.</p> <p>BCB objects to this request on the same grounds upon which it objected to Document Request No. 9. As shown above, BCB's objections fail.</p> <p>Contrary to BCB's assertions, this request</p> | Rejected (not sufficiently narrow and specific). |

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| | | | <p>material to establish BCB's level of participation in the scheme.</p> | <p>citations it has provided in support thereof, are <u>exactly</u> the same as those provided in support of Document Request 9.</p> <p>BCB therefore objects to Document Request 10 for the same reasons identified above in respect of Document Request 9.</p> <p>The GoB has failed to specify any date range for these documents. The transaction occurred over six years ago. On any analysis, any minutes regarding the loans that post-date the date of the transaction cannot be relevant.</p> <p>To satisfy the requirement under the IBA Rules on Taking of Evidence that the requesting party must</p> | <p>also satisfies the IBA Rules on the Taking of Evidence. BCB takes issue that the request is not limited by time. It need not be. It is already narrowly tailored and limited to only those meeting minutes that relate to the Loan, Loan Facility Agreement or Mortgage Debenture. BCB further argues that minutes responsive to this request that post-date the transaction cannot be relevant to this dispute. This is incorrect. Minutes that discuss the Loan and related facilities, even if same post-date the transaction, may lead to the discovery of admissible evidence and show BCB's level of participation in the overarching scheme to</p> | |

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| | | Ref. to Submissions | Comments | | | |
| | | | | identify a "narrow and specific category of [d]ocuments" (article 3(a)(ii)), GoB must, at the minimum, specify the time period and the categories of documents it is requesting, along with a statement as to why it considers those documents to be relevant to the case and material to its outcome. | subvert Belizean law. Finally, GOB has already described why documents responsive to this request are relevant and material. See column entitled "Relevance and Materiality According to Requesting Party." The information also goes to the issue of the knowledge of BCB, which may be evidence of the sham nature of the transaction. | |
| 11. | All minutes of the Board of Directors of BCB, the Credit Committee of BCB, or any other committee of BCB that refer or relate to Belize Telemedia and/or TIL. | Stmt. of Claim ¶ 31; Stmt. of Def. ¶ 62 | BCB's claims revolve around entering into the Loan Facility Agreement with Belize Telemedia. Evidence casts doubt on the legitimacy of the transaction, shows that the transaction was for an illegal purpose, and suggests that the transaction was actually a sham transaction. | BCB objects to Document Request 11 on the basis that the requested documents lack sufficient relevance to the case or materiality to its outcome. GoB's statement as to how the documents requested are relevant to | BCB's objections are not well-taken and should be overruled. BCB objects to this request on the same grounds upon which it objected to Document Request No. 9. As shown above, BCB's objections fail. | Rejected (not sufficiently narrow and specific). |

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| | | | BCB meetings and contacts with the parties involved are relevant and material to establish improper dealing. | <p>the case or material to its outcome, including the citations it has provided in support thereof, are <u>exactly</u> the same as those provided in support of Document Request 9.</p> <p>BCB therefore objects to Document Request 10 for the same reasons identified above in respect of Document Request 9.</p> <p>Moreover, GoB's request is overbroad as it seeks <u>all</u> meeting minutes that "refer or relate to" BTL or TIL.</p> | <p>Contrary to BCB's assertions, this request satisfies the IBA Rules on the Taking of Evidence. It is narrowly tailored to only seek meeting minutes that refer or relate to Belize Telemedia and/or TIL.</p> | |
| 12. | Documents sufficient to evidence the route of the wiring of US\$22,500,000.00 by BCB to RBTT Merchant Bank pursuant to the Loan Facility Agreement. | Stmnt. of Def. ¶¶ 70, 71, 73 | The evidence shows that BCB advanced the proceeds from the Loan directly to RBTT Merchant Bank to facility the purchase of Belize Telemedia's shares by TIL. This is one of GOB's defenses to the | BCB objects to Document Request 12 on the basis that the requested documents lack sufficient relevance to the case or materiality to its outcome. | <p>BCB's objections are not well-taken and should be overruled.</p> <p>BCB argues that documents responsive to this request are not relevant. Then BCB</p> | Granted. |

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| | | | <p>amended statement of claim. Tracking the trail of the funds from BCB to Belize Telemedia is therefore necessary during the course of this proceeding. This document request is therefore relevant and material.</p> | <p>In any event, the “route of the wiring” of the funds is already clear and fully evidenced and is not in dispute. It is not in dispute that an amount of US\$21.9m (not \$22.5m) was sent from BTL’s bank account at BCB to a bank account at RBTT on 10 July 2007. See A A Statement, ¶ 5.3; Waight Statement, ¶ 40.). BCB has already adduced documentary evidence showing this (see Exhibits C-63 and C-64). Exhibit C-63 in particular mirrors GoB’s own evidence of BTL’s account statement (see JW-12). So both BTL’s own bank statements and BCB’s own records show the identical information about the transfer of these funds to</p> | <p>argues that it has already produced sufficient evidence establishing the “route of the wiring.” If the topic were not relevant, BCB would have no need to produce any such evidence in the first place.</p> <p>Again, BCB believes that it can decide for itself what is sufficient, what is relevant, and what is disputed and undisputed. It cannot. GOB has claimed that the transaction was a sham, so it is entitled to the requested documentation to examine the specific trail of the funds, to establish that the funds were transmitted and to whom and where, as discussed above. If the trail of the funds does</p> | |

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| | | | | <p>RBTT.</p> <p>In light of that, the route via which these funds were transferred is already sufficiently evidenced and the GoB has failed to explain why a request for any further documents is justified.</p> | <p>not go through Belize, for example, there would be no investment in Belize and no viable treaty claim.</p> | |
| 13. | <p>All written communications between BCB and RBTT Merchant Bank regarding the wiring of US\$22,500,000.00 by BCB to RBTT Merchant Bank pursuant to the Loan Facility Agreement.</p> | <p>Stmt. of Def. ¶¶ 70, 71, 73</p> | <p>The evidence shows that BCB advanced the proceeds from the Loan directly to RBTT Merchant Bank to facilitate the purchase of Belize Telemedia's shares by TIL. This is one of GOB's defenses to the amended statement of claim. Tracking the trail of the funds from BCB to Belize Telemedia is therefore necessary during the course of this proceeding. This document request is therefore relevant and material.</p> | <p>BCB objects to Document Request 13 on the basis that the requested documents lack sufficient relevance to the case or materiality to its outcome.</p> <p>GoB's statement as to how the documents requested are relevant to the case or material to its outcome, including the citations it has provided in support thereof, are <u>exactly</u> the same as those provided in support of Document</p> | <p>BCB objects to Document Request No. 13 on the same grounds upon which it objected to Document Request No. 12. BCB's objections are not well-taken and should be overruled for the reasons discussed above.</p> | <p>Granted.</p> |

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| | | | | Request 12. BCB therefore objects to Document Request 13 for the same reasons identified above in respect of Document Request 12. | | |
| 14. | Documents sufficient to evidence from which BCB account the \$22,500,000.00 was disbursed pursuant to the Loan Facility Agreement. | Stmt. of Def. ¶¶ 70, 71, 73 | The evidence shows that BCB advanced the proceeds from the Loan directly to RBTT Merchant Bank to facilitate the purchase of Belize Telemedia's shares by TIL. This is one of GOB's defenses to the amended statement of claim. Tracking the trail of the funds from BCB to Belize Telemedia is therefore necessary during the course of this proceeding. This document request is therefore relevant and material. | BCB objects to Document Request 14 on the basis that the requested documents lack sufficient relevance to the case or materiality to its outcome. GoB's statement as to how the documents requested are relevant to the case or material to its outcome, including the citations it has provided in support thereof, are <u>exactly</u> the same as those provided in support of Document Request 12 and 13. BCB therefore objects to Document Request 14 | BCB objects to Document Request No. 14 on the same grounds upon which it objected to Document Requests Nos. 12 and 13. As shown above, BCB's objections are not well-taken and should be overruled, for the reasons discussed above. | Granted. |

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| | | | | for the same reasons identified above in respect of Document Request 12. | | |
| 15. | Documents sufficient to evidence to which bank account the \$22,500,000.00 was disbursed pursuant to the Loan Facility Agreement. | Stmt. of Def. ¶¶ 70, 71, 73 | The evidence shows that BCB advanced the proceeds from the Loan directly to RBTT Merchant Bank to facilitate the purchase of Belize Telemedia's shares by TIL. This is one of GOB's defenses to the amended statement of claim. Tracking the trail of the funds from BCB to Belize Telemedia is therefore necessary during the course of this proceeding. This document request is therefore relevant and material. | BCB objects to Document Request 15 on the basis that the requested documents lack sufficient relevance to the case or materiality to its outcome. GoB's statement as to how the documents requested are relevant to the case or material to its outcome, including the citations it has provided in support thereof, are <u>exactly</u> the same as those provided in support of Document Request 12, 13 and 14. BCB therefore objects to Document Request 15 for the same reasons identified above in respect of Document | BCB objects to Document Request No. 15 on the same grounds as it objected to Document Requests Nos. 12, 13 and 14. As shown above, BCB's objections are not well-taken and should be overruled, for the reasons discussed above. | Granted. |

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| | | | | Request 12. | | |
| 16. | All internal documents at BCB regarding its first claim for compensation, dated 15 and 16 October 2009, after the First Notice of Acquisition by GOB of Belize Telemedia. | Stmt. of Def. ¶ 91 | BCB alleges it made claims for compensation in its amended statement of claim. The circumstances related thereto, communications involved, and internal documents are relevant and material to show BCB's intentions—especially given that the transaction was illegal and a sham. | BCB objects to Document Request 16 on the basis that the requested documents are privileged. In addition, the requested documents lack sufficient relevance to the case or materiality to its outcome. The GoB has all the relevant correspondence on in respect of BCB's claims for compensation in both 2009 and 2011 as it is between BCB's Belize lawyers and the Ministry of Finance. This correspondence has been exhibited in these arbitration proceedings (Exhibits C-22 – 27, C-29 – 30, C-117 – C-118). It is not in dispute that the GoB has not paid any compensation | BCB's objections are not well-taken and should be overruled. First, BCB objects on the grounds that responsive documents are privileged. Yet BCB does not describe how they are privileged. While communications with an in-house attorney on this topic in advance of litigation would likely be privileged, internal documents on this topic would not be privileged. Also, BCB has not provided any privilege log, identifying the specific documents that it claims are privileged with sufficient identification information in order for this Tribunal to make a | Rejected (lack of relevance to the case and materiality to its outcome). |

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| | | | | to BCB (SoD para 107). | <p>determination as to the asserted claim of privilege, and thus, BCB has waived any privilege claims.</p> <p>Second, BCB objects that the documents lack sufficient relevance to the case. However, as explained in the column on relevance and materiality, such documents are relevant to show BCB’s intentions—especially given that the transaction was illegal and a sham. GOB is entitled to determine BCB’s internal understanding about these transactions—<i>i.e.</i> whether BCB believed them to be valid loans or something else. That information would be disclosed in the documentation requested</p> | |

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| | | | | | <p>by GOB.</p> <p>Finally, BCB argues that GOB already has all of the relevant correspondence with respect to BCB's claims for compensation. As is obvious, GOB has all of the correspondence between itself and BCB. GOB does not, however, have internal documents from BCB related to the claims for compensation, and that information must be produced for the reasons discussed above.</p> | |
| 17. | All internal documents at BCB regarding a further claim for compensation, dated 14 January 2010, after the Second Notice of Acquisition by GOB of Belize Telemedia. | Stmnt. of Def. ¶ 92 | BCB alleges it made claims for compensation in its amended statement of claim. The circumstances related thereto, communications involved, and internal documents are relevant and material to show BCB's intentions—especially given | <p>BCB objects to Document Request 17 on the basis that the requested documents are privileged.</p> <p>In addition, the requested documents lack sufficient relevance</p> | <p>As shows above in GOB's Reply to BCB's Objections to Document Request No. 16, BCB's objections are not well-taken and should be overruled.</p> | Rejected (lack of relevance to the case and materiality to its outcome). |

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| | | | that the transaction was illegal and a sham. | to the case or materiality to its outcome for reasons identified above in respect of Document Request 16. | | |
| 18. | All internal documents at BCB regarding the purpose for the Loan. | Stmt. of Def. ¶ 68 | While BCB claims the purpose of the Loan was as stated in the Loan Facility Agreement, the evidence shows otherwise. Communications or documents related to the purpose of the Loan is therefore relevant and material. | BCB objects to Document Request 18 on the basis that it is overbroad as it seeks <u>all</u> documents regarding the 'purpose' of the Loan without specifying either a date range or what categories of documents are sought. The purpose of the loan is clearly started in the loan documentation (see Article 1(b) of the Loan Agreement, Exhibit C-2) and this purpose has not been disputed. | BCB's objections are not well-taken and should be overruled. GOB has specified that this request seeks internal documents at BCB that relate to the purpose of the loan. This is narrowly tailored to yield only BCB's internal loan file documentation and other internal documentation related to the purpose of the loan. While the loan documentation states a purported purpose for the loan, GOB alleges that the transaction was in fact a sham. As such, GOB has propounded this request to obtain | Rejected (not sufficiently narrow and specific). |

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| | | | | | internal documentation that is directly relevant to GOB's contention. This request therefore seeks relevant and discoverable evidence. | |
| 19. | All internal documents at BCB regarding the legality and/or illegality of the Loan, Loan Facility Agreement or Mortgage Debenture. | Stmt. of Def. ¶¶ 201-250 | GOB argues that the Loan Facility Agreement is illegal and ultra vires. Documents responsive to this request is therefore relevant and material. | BCB objects to Document Request 19 on the basis that, to the extent any responsive documents might exist, they are privileged. This request is also overly broad. | <p>BCB's objections are not well-taken and must be overruled.</p> <p>GOB is entitled to determine what BCB's internal understanding about the legality of the subject transactions was and whether BCB understood the transactions to be a sham.</p> <p>BCB objects that responsive documents are privileged yet BCB has not described what privilege would attach to BCB's internal documents relating to the Loan. While</p> | Rejected (not sufficiently narrow and specific). |

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| | | Ref. to Submissions | Comments | | | |
| | | | | | <p>communications with in-house counsel in anticipation of litigation would be privileged, any internal documents not involving in-house counsel would not. Also, BCB has not provided any privilege log, identifying the specific documents that it claims are privileged with sufficient identification information in order for this Tribunal to make a determination as to the asserted claim of privilege, and thus, has waived any privilege claims.</p> <p>BCB further alleges that the request is overly broad but fails to describe why such request is overly broad. To the contrary, the request complies with</p> | |

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| | | | | | the IBA Rules of Taking of Evidence. They are clear and request a specific category of documents. | |
| 20. | All documents in the possession and/or control of BCB regarding the distribution of the subject Belize Telemedia's shares as a dividend to shareholders. | Stmt. of Def. ¶¶ 78-83 | The evidence establishes that the Loan was used to fund an illegal purchase of Belize Telemedia's shares and the purchased shares were then distributed to shareholders of Belize Telemedia. This establishes that the transaction was a sham. The evidence sought by this document request is therefore relevant and material. | BCB objects to Document Request 20 on the basis that the requested documents lack sufficient relevance to the case or materiality to its outcome. It is not in dispute that BTL issued certain shares as a dividend to its shareholders in August 2007. Clearly, therefore, this distribution of shares post-dates issuance of the Loan. On GoB's case, whether or not the Loan was lawful depends on the purpose for which it was provided. That inquiry | BCB's objections are not well-taken and should be overruled. BCB essentially argues that distribution of Belize Telemedia's shares post-dates the Loan and, incredulously, that such evidence cannot be used to establish that the Loan was used to fund an illegal purchase of Belize Telemedia's shares. As is obvious, evidence relevant to this dispute includes evidence pre-dating the Loan, which shows Belize | Granted. |

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| | | | | <p>obviously must consider what BTL knew or did not know at the time the Loan was issued, and not <u>after</u> the Loan had been issued. Document Request 20 is therefore irrelevant to the case that GoB is advancing.</p> <p>Further, the documents sought are documents which presumably the GoB has access to as it controls Belize Telemedia.</p> | <p>Telemedia's unlawful purpose and intent and, additionally, evidence post-dating the Loan, which shows what the Loan was in fact used for.</p> <p>In other words, GOB alleges that the transaction was a sham because the loan proceeds were used for a particular purpose. Discovery relating to how the loan proceeds were eventually used is therefore entirely appropriate.</p> | |
| 21. | All written communications between BCB and Sunshine regarding the Sunshine Loan, Sunshine Syndicated Loan Agreement, Sunshine Overdraft Facility or Sunshine | Stmt. of Claim ¶ 21 | BCB's claims revolve around entering into various agreements with Sunshine. Communications between the two entities regarding those agreements are therefore relevant and material. | <p>BCB objects to Document Request 21 on the basis that the requested documents lack sufficient relevance to the case or materiality to its outcome.</p> <p>GoB does not allege that</p> | <p>BCB's objections are not well-taken and should be overruled.</p> <p>BCB asserts that because GOB does not allege that the Sunshine loan is illegal, discovery into documents relating</p> | Rejected (not sufficiently narrow and specific). |

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| | Mortgage of Shares. | | | the Sunshine Facility is illegal. Instead, GoB's allegations regarding lawfulness (or otherwise) relate solely to the Telemidia Facility. The requested documents have no relevance to GoB's pleaded case. This request is merely a fishing expedition. | to the Sunshine loan would be a fishing expedition. To the contrary, GOB asserts that the Sunshine loan is involved in the overarching scheme devised to controvert the laws of Belize. Discovery is warranted as it is relevant to GOB's defense. In any event, BCB is the <i>claimant</i> in this arbitration and directly put the Sunshine loan at issue by claiming that GOB expropriated BCB's investment—made in Belize—in the Sunshine facility and Sunshine Overdraft Facility and accompanying Sunshine Security and Sunshine Mortgage of Shares. Discovery is warranted simply because BCB put these alleged | |

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| | | | | | investments at issue so that GOB may properly defend itself in this action. | |
| 22. | The underwriting, loan and/or document files at BCB for the Sunshine Loan and Sunshine Overdraft Facility. | Stmt. of Def. ¶¶ 95-100 | BCB's claims revolve around entering into the Loan Facility Agreement with Sunshine. Evidence casts doubt on the legitimacy of the transaction, shows that the transaction was for an illegal purpose, and suggests that the transaction was actually a sham transaction. The underwriting of the Loan and due diligence conducted by BCB is relevant and material to establish BCB's level of participation in the scheme. | BCB objects to Document Request 22 on the basis that the requested documents lack sufficient relevance to the case or materiality to its outcome. GoB does not allege that the Sunshine Facility is illegal. Instead, GoB's allegations regarding lawfulness (or otherwise) relate solely to the Telemedia Facility. The requested documents have no relevance to the GoB's pleaded case. This request is merely a fishing expedition. | BCB's objections are not well-taken and should be overruled. BCB asserts that because GOB does not allege that the Sunshine loan is illegal, discovery into documents relating to the Sunshine loan would be a fishing expedition. To the contrary, GOB asserts that the Sunshine loan is involved in the overarching scheme devised to controvert the laws of Belize. Discovery is warranted as it is relevant to GOB's defense. In any event, BCB is the <i>claimant</i> in this arbitration and directly | Rejected (not sufficiently narrow and specific). |

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| | | | | | <p>put the Sunshine loan at issue by claiming that GOB expropriated BCB’s investment—made in Belize—in the Sunshine facility and Sunshine Overdraft Facility and accompanying Sunshine Security and Sunshine Mortgage of Shares. Discovery is warranted simply because BCB put these alleged investments at issue so that GOB may properly defend itself in this action.</p> <p>GOB respectfully requests that the Tribunal order BCB to produce all documents responsive to each of the categories of document requests herein above.</p> | |