

ANNEX 1 TO PROCEDURAL ORDER NO. 4

**IN THE MATTER OF AN ARBITRATION
UNDER THE RULES OF THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

Arbitral Tribunal

Professor Pierre Mayer (President)
Professor Emmanuel Gaillard
Professor Brigitte Stern

EUROGAS INC.

AND

BELMONT RESOURCES INC.

(CLAIMANTS)

v.

THE SLOVAK REPUBLIC

(RESPONDENT)

**CLAIMANTS' REPLY TO RESPONDENT'S RESPONSES AND OBJECTIONS TO CLAIMANTS' DOCUMENT PRODUCTION
REQUEST DATED AUGUST 17, 2015**

Case No. ARB/14/14

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<u>Document Request No. 1</u>	
A. Documents or category of documents requested	All Documents evidencing that in 2005, the Slovak Republic ran tenders for the assignment of approximately 30 excavation areas other than the Gemerská Poloma area.
B. Relevance and materiality (para. ref. to submissions and comments)	<p>In its Counter-Memorial, Respondent argues that following the enactment of Act No. 558/2001, amending Act No. 44/1988 on Protection and Utilization of Mineral Resources (the “2002 Amendment”), Rozmin was not the only entity whose mining rights were revoked, and that “[t]he Slovak Republic ran tenders for the assignment of approximately 30 other excavation areas in 2005” (Respondent’s Counter-Memorial, ¶ 14). In the words of Respondent: “<i>In 2005, relevant DMOs in the Slovak Republic applied the 2002 Amendment to approximately 30 assigned excavation areas involving different entities that also had not engaged in any Excavation during the three-year period</i>” (<i>id.</i>, ¶ 312).</p> <p>The requested Documents are relevant and material for the Tribunal to be able to determine whether the 2002 Amendment indeed led to the revocation of the mining rights of other entities, and how the 2002 Amendment was implemented in other instances.</p> <p>The requested Documents are in Respondent’s possession, custody or control as it is the Slovak Republic that decides of the revocation of any entity’s mining rights and it is also the Slovak Republic that runs tenders for the assignment of excavation areas.</p>
C. Summary of objections by disputing Party to production of requested documents	<p>The Slovak Republic objects to this request as overly broad, unreasonably burdensome, and unduly disproportionate as it seeks “[a]ll documents” pertaining to 30 tenders run in 2005. This request would yield an overly burdensome volume of responsive, but irrelevant and immaterial, documents.</p> <p>The Slovak Republic also objects to this request to the extent that it seeks publicly-available documents that are readily accessible to the Claimants. For example, official announcements as to each of the referenced 30 tenders were made in the Slovak Republic’s Official Journal, and their copies have been exhibited to the Slovak Republic’s Counter-Memorial.</p> <p>Finally, the Slovak Republic objects to this request on the basis that it is the Slovak Republic’s burden to prove the fact that it published the opening of 30 reassignment tenders in 2005—and the Slovak Republic discharged that burden by exhibiting the respective announcements as Exhibit R-0136.</p>
D. Reply	Claimants request that the Tribunal dismiss Respondent’s Objection and order the production of the Documents requested.

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	<p>The Documents requested by Claimants are clearly and narrowly defined by reference to their relevance and materiality, which Respondent does not dispute.</p> <p>In particular, Claimants’ Document Request arises out of Respondent’s assertion that “[i]n 2005, relevant DMOs in the Slovak Republic applied the 2002 Amendment to approximately 30 assigned excavation areas involving different entities that also had not engaged in any Excavation during the three-year period,” and that therefore “Rozmin was not singled out” (Respondent’s Counter-Memorial, ¶ 312). In order to ascertain whether this assertion is true, the Tribunal must be able to examine how the 2002 Amendment was implemented in other instances, determine whether the 2002 Amendment has indeed led to the revocation of the mining rights of other entities and, if so, in what circumstances.</p> <p>The Documents requested by Claimants are therefore all Documents, including, but not limited to, all correspondence, minutes of meetings, assessment memoranda, and reports (both internal and external), that will enable the Tribunal, for each of the “30 assigned excavation areas” referred to by Respondent, to determine notably the extent of the works carried out and/or the investments made at the time of the revocation, the due diligence carried out by the Slovak Republic before deciding to revoke the mining rights, the grounds on which the decision to revoke the mining rights was made, and the criteria on the basis of which the mining rights were reassigned to another entity.</p> <p>This information is not publicly available, and the official tender announcements exhibited by Respondent at Exhibit R-136 do not even indicate the identity and nationality of the entity whose mining rights were revoked, let alone the status of the works carried out or the extent of the investments made. In fact, the official tender announcements exhibited by Respondent at Exhibit R-136 only demonstrate that the procedure for the reassignment of the mining rights pursuant to the 2002 Amendment was initiated, but not that it was concluded and that the mining rights were indeed reassigned to another entity, let alone on which grounds any reassignment was decided.</p> <p>For all the above reasons, Claimants request that the Tribunal order the production of the Documents requested.</p>
<p>E. Decision of the Tribunal</p>	<p>Denied. Respondent has the burden of proof.</p>

<p><u>Document Request No. 2</u></p>	
<p>A. Documents or category of documents requested</p>	<p>All Documents discussing the revocation of Rozmin’s mining rights, issued between January 1, 2002 (date of entry into effect of the 2002 Amendment) and April 22, 2005 (date on which mining rights over the Gemerská Poloma deposit were assigned to Economy Agency RV s.r.o. (“Economy Agency”) (see Exhibit C-31, Report on the Course and Results of the Selection Procedure for the Designation of the MA GP to Another Organisation Performed on April 21, 2005)), including</p>

	<p>but not limited to all correspondence, minutes of meetings, assessment memoranda, and reports (both internal and external) prepared in support of, or in relation to, the following:</p> <ul style="list-style-type: none"> • the December 30, 2004 announcement, in the Business Journal, of the initiation of a new public tender procedure for the assignment of the Gemerská Poloma deposit (Exhibit C-29, Initiation of the Selection Procedure for the Determination and Assignment of the Extraction Area, Business Journal No. 253/2004, dated December 30, 2004, p. 99); • the letter from Mr. Baffi, dated January 3, 2005, informing Rozmin <i>post facto</i> that its rights had <i>de facto</i> been revoked and were to be awarded to a new organization (Exhibit C-30, Letter from the District Mining Office to Rozmin sro, dated January 3, 2005 (Ref. 2405/451.14/2004-I)); • the meeting of February 16, 2005, attended by Mr. Pavol Rusko, then Minister of Economy of the Slovak Republic, representatives of the MMO, and Rozmin executives, in the course of which the revocation of Rozmin's mining rights was discussed; • the decision of the DMO dated April 22, 2005, assigning the Gemerská Poloma deposit to Economy Agency (Exhibit C-31, Report on the Course and Results of the Selection Procedure for the Designation of the MA GP to Another Organisation Performed on April 21, 2005).
<p>B. Relevance and materiality (para. ref. to submissions and comments)</p>	<p>In its Counter-Memorial, Respondent argues that Rozmin's mining rights were revoked, in accordance with the 2002 Amendment (which took effect on January 1, 2002), as a result of Rozmin's failure to perform excavation for three years under this Amendment. In this respect, Respondent carefully avoids addressing the publication, on December 30, 2004 – that is, before the expiration of a three-year period as of the entry into effect of the 2002 Amendment – of the “Initiation of the Selection Procedure for the Determination and Assignment of the Extraction Area” (Exhibit C-29, Initiation of the Selection Procedure for the Determination and Assignment of the Extraction Area, Business Journal No. 253/2004, dated December 30, 2004, p. 99).</p> <p>The requested Documents are relevant and material:</p> <ul style="list-style-type: none"> • to determine when the decision was taken to revoke Rozmin's mining rights (before or after the expiration of a three-year period as of the entry into force of the 2002 Amendment); • to determine the extent of the due diligence carried out by Respondent prior to the revocation (e.g. to assess the procedural fairness of the DMO's decision to revoke Rozmin's mining rights); and • to assess the underlying reasons and/or objectives of the revocation.

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	<p>The requested Documents are in Respondent's possession, custody or control, as they are Documents internal to (issued by) Respondent.</p>
<p>C. Summary of objections by disputing Party to production of requested documents</p>	<p>The Slovak Republic objects to this request as overly broad and unreasonably burdensome as it seeks "[a]ll documents" discussing the revocation of Rozmin's mining rights created between 1 January 2002 and 22 April 2005.</p> <p>Subject to the above objections, the Ministry of Finance, which represents the Slovak Republic in this proceeding, has requested the Ministry of the Economy, the District Mining Office in Spišská Nová Ves, which has jurisdiction over Gemerská Poloma, and the Main Mining Office to inform it if they have documents relevant to this request. The Ministry of Finance will inform Claimants and the Tribunal as soon as it hears from those authorities and will produce any responsive, non-privileged and non-confidential documents.</p>
<p>D. Reply</p>	<p>Claimants request that the Tribunal dismiss Respondent's Objection and order the production of the Documents requested without reservation.</p> <p>Respondent does not dispute the existence, or the relevance and materiality of the Documents requested. In fact, it does not object to the Document Request <i>per se</i>. It agrees to the production of the Documents requested subject to an unsubstantiated and vague Objection, which is only intended to blur the extent of Respondent's obligation to produce, and/or to preserve a <i>way out</i> in case it does not want to produce a Document falling within the scope of Claimants' Request. In other words, if Respondent's Objection were to be granted, it would deprive Claimants and the Tribunal of the ability to determine whether Respondent has, or not, complied with its obligation to produce. This cannot be allowed.</p> <p>This is all the more so that, in any event, the Documents requested by Claimants are clearly and narrowly defined. They are limited both in terms of subject-matter, namely "<i>Documents discussing the revocation of Rozmin's mining rights,</i>" which is the very central issue in this arbitration, and in terms of time-period, namely Documents issued between January 1, 2002 (date of entry into effect of the 2002 Amendment) and April 22, 2005 (date on which mining rights over the Gemerská Poloma deposit were assigned to Economy Agency). This already narrow and detailed description of the Documents requested is moreover accompanied by a non-exhaustive list of events to which the requested Documents should pertain.</p> <p>For all the above reasons, Claimants request that the Tribunal order Respondent to produce, without reservation, the Documents requested, and that all Documents responsive to this Request which Respondent claims to be privileged and/or confidential, be identified together with Respondent's position as to why such Documents should be considered privileged and/or confidential. This is because the Slovak Republic cannot possibly have the authority to make the ultimate decision as to whether a particular Document is, or not, privileged and/or confidential.</p>

E. Decision of the Tribunal	Granted.
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<u>Document Request No. 3</u>	
A. Documents or category of documents requested	<p>(a) All Documents discussing the advancement of works at the deposit up to December 2004, including all Documents making any reference to Director Baffi's site visit of December 8, 2004 (Exhibit C-28, Minutes of the December 8, 2004 inspection by the District Mining Office) and all Documents issued by Director Baffi in relation to this site visit.</p> <p>(b) All Documents discussing the authorization granted to Rozmin, on May 31, 2004, to carry out mining activities at the deposit until November 13, 2006 (Exhibit C-27, Authorisation of Mining Activity in the Mining Area "Gemerská Poloma," dated May 31, 2004 (Ref. 1023/511/2004)).</p>
B. Relevance and materiality (para. ref. to submissions and comments)	<p>In its Counter-Memorial, Respondent argues that Rozmin's mining rights were revoked, in accordance with the 2002 Amendment (which took effect on January 1, 2002), as a result of Rozmin's failure to perform excavation for three years under this Amendment. Well after the suspension of works by Rozmin and well after the entry into effect of the 2002 Amendment, however, the DMO explicitly authorized Rozmin to resume and pursue mining activities at the Gemerská Poloma talc deposit until November 13, 2006 (Exhibit C-27, Authorisation of Mining Activity in the Mining Area "Gemerská Poloma," dated May 31, 2004 (Ref. 1023/511/2004)). This authorization was confirmed by the DMO's director himself, Mr. Antonín Baffi, following a site visit conducted on December 8, 2004 (Exhibit C-28, Minutes of the December 8, 2004 inspection by the District Mining Office).</p> <p>In its Counter-Memorial, while Respondent acknowledges that "<i>on 31 May 2004, the DMO issued a new Authorization of Mining Activities</i>" (Respondent's Counter-Memorial, ¶ 273), and that "[t]he authorization was valid through the term of the Rozmin's lease agreement with Lesy Slovenskej Republiky, š.p. but, in any case, not longer than 13 November 2006" (<i>ibid.</i>), Respondent incomprehensibly argues that this authorization created no obligation on the part of the Slovak Republic. Furthermore, Respondent carefully avoids addressing the fact that on December 8, 2004, Mr. Baffi did not only conduct "<i>a routine supervisory inspection of the site to verify whether Rozmin's contemporaneous on-site activities were in accordance with Slovak mining regulations</i>" (Respondent's Counter-Memorial, ¶ 280), but also clearly confirmed that Rozmin's right to carry out mining activities at the Gemerská Poloma would remain valid until November 13, 2006 (see Exhibit C-28, Minutes of the December 8, 2004 inspection by the District Mining Office).</p>

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	<p>The requested Documents are relevant and material to understand the meaning and implications of the authorization granted to Rozmin on May 31, 2004, and reconfirmed on December 8, 2004, to carry out mining activities at Gemerská Poloma until November 13, 2006.</p> <p>The requested Documents are in Respondent's possession, custody or control as they are documents internal to Respondent.</p>
<p>C. Summary of objections by disputing Party to production of requested documents</p>	<p>The Slovak Republic objects to this request as overly broad, unreasonably burdensome, and disproportionate as it seeks "[a]ll documents" discussing the advancement of works at the deposit from the beginning of time and through December 2004.</p> <p>The Slovak Republic also objects to this request as overly broad, unreasonably burdensome, and disproportionate as it seeks "[a]ll documents" discussing the Authorization of Mining Activity in the Mining Area "Gemerská Poloma," dated May 31, 2004 (Ref. 1023/511/2004), without any limitation in time. The events leading to the reassignment of the Excavation Area have been discussed ex-post in a number of administrative and court proceedings in the Slovak Republic; and it would be unduly burdensome and disproportionate for the Slovak Republic to search for "[a]ll documents" that may have ex-post referred to that Authorization.</p> <p>The Slovak Republic further objects to this request on relevancy and materiality grounds to the extent that it seeks the production of documents created prior to 1 October 2001 as there is no dispute between the Parties that certain works were performed at the Excavation Area prior to 1 October 2001 and the performance of those works is not at issue in this dispute.</p> <p>Finally, the Slovak Republic objects to the production of any document included in the administrative or court files maintained in the proceedings in the Slovak Republic to which Rozmin was a party on the grounds of unreasonably burdensome, disproportionate, and contrary to the basic requirement that the Claimants may only seek documents that are not in their own possession or control. As a party to those Slovak proceedings, Rozmin, and therefore Claimants, has readily obtained copies of all documents included in those files. In fact, recently on 12 June 2015, the District Mining Office ("DMO") provided Rozmin with a complete copy of the DMO's and the MMO's files in the proceeding that led to the issuance of the DMO's 30 March 2012 decision on the reassignment of the Excavation Area "Gemerská Poloma" and the MMO's related 1 August 2012 appellate decision (see attached Letter from the DMO to Rozmin dated 12 June 2015, Exhibit R-0210). Similarly, on 4 August 2015, the DMO provided to Rozmin copies of documents and information relating to the Excavation Area's reassignment proceeding in 2005 (see attached Letter from the DMO to Rozmin dated 4 August 2015, Exhibit R-0211). The documents included in the administrative and court files in the proceedings to which Rozmin was a party thus have been in Claimants' possession and need not be produced by the Slovak Republic.</p> <p>Subject to the above objections, the Ministry of Finance, which represents the Slovak Republic in this proceeding, has requested the Ministry of the Economy, the District Mining Office in Spišská Nová Ves, which has jurisdiction over Gemerská Poloma, and the Main Mining Office to inform it if they have other documents relevant to this request. The</p>

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	<p>Ministry of Finance will inform Claimants and the Tribunal as soon as it hears from those authorities and will produce any responsive, non-privileged and non-confidential documents, which are not covered by any of the above objections.</p>
<p>D. Reply</p>	<p>Claimants request that the Tribunal dismiss Respondent's Objection and order the production of the Documents requested without reservation.</p> <p>Respondent does not dispute the existence, or the relevance and materiality of the Documents requested, at least insofar as Documents created after October 1, 2001 are concerned (which are addressed below). In fact, it does not object to the Document Request <i>per se</i>. It agrees to the production of the Documents requested subject to unsubstantiated and vague Objections, which are only intended to blur the extent of Respondent's obligation to produce, and/or to preserve a <i>way out</i> in case it does not want to produce a Document falling within the scope of Claimants' Request. In other words, if Respondent's Objection were to be granted, it would deprive Claimants and the Tribunal of the ability to determine whether Respondent has, or not, complied with its obligation to produce. This cannot be allowed.</p> <p>This is all the more so that, in any event, Respondent's Objections have no merit, for the following reasons.</p> <ul style="list-style-type: none"> • <i>First</i>, Respondent does not dispute the existence, or the relevance and materiality of the Documents requested, save for Documents created after October 1, 2001, in respect of which it claims that "<i>there is no dispute between the Parties that certain works were performed at the Excavation Area prior to 1 October 2001 and [that] the performance of those works is not at issue in this dispute.</i>" Although Claimants take note of Respondent's admission in this respect, the fact that the Slovak Republic today acknowledges that "<i>certain works were performed at the Excavation Area prior to 1 October 2001</i>" does not affect or diminish the relevance and materiality of contemporaneous Documents evidencing the Slovak Republic's assessment of the works carried out up until October 1, 2001. To the contrary, the Slovak Republic's assessment of the works carried out by Rozmin until October 1, 2001, has most likely played a material role in the decision-making process that led to the issuance of the authorization granted to Rozmin, on May 31, 2004, to carry out mining activities at the deposit until November 13, 2006. It is therefore not only relevant and material, but in fact critical to understand the meaning and implications of the authorization granted to Rozmin on May 31, 2004, and reconfirmed on December 8, 2004, to carry out mining activities at Gemerská Poloma until November 13, 2006. • <i>Second</i>, the Documents requested under Document Request No. 3(a) are clearly and narrowly defined. They are limited both in terms of subject-matter, namely "<i>Documents discussing the advancement of works at the deposit, including all Documents making any reference to Director Baffi's site visit of December 8, 2004 (Exhibit C-28, Minutes of the December 8, 2004 inspection by the District Mining Office) and all Documents issued by Director Baffi in relation to this site visit,</i>" and in terms of time-period, namely from the start of the works in September 2000 (Claimants' Memorial, ¶ 134) until December 2004 (announcement of a new tender for the award of mining rights over the Gemerská Poloma deposit). Therefore, Respondent's Objection that Claimants' Document Request is overly broad, unreasonably burdensome, and disproportionate, must fail.

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	<ul style="list-style-type: none"> • <i>Third</i>, the Documents requested under Document Request No. 3(b) are clearly and narrowly defined, as they are limited only to Documents discussing a single decision, namely the authorization granted to Rozmin, on May 31, 2004, to carry out mining activities at the deposit until November 13, 2006 (Exhibit C-27, Authorisation of Mining Activity in the Mining Area “Gemerská Poloma,” dated May 31, 2004 (Ref. 1023/511/2004)). Therefore, Respondent’s Objection that it would be “<i>unduly burdensome and disproportionate for the Slovak Republic to search for ‘[a]ll documents’ that may have ex-post referred to that Authorization</i>” must fail because it misrepresents, or misunderstands, the nature and scope of Claimants’ Request, which is sufficiently narrow and specific for Respondent to be able to identify the Documents requested. For the avoidance of doubt, Claimants reiterate that, unless otherwise stated, the Documents requested are only Documents discussing the decision to grant Rozmin, on May 31, 2004, the authorization to carry out mining activities at the deposit until November 13, 2006, or Documents referring thereto in the context of the revocation and reassignment of Rozmin’s mining rights, including but not limited to, all correspondence, minutes of meetings, assessment memoranda, and reports (both internal and external), addressing notably the due diligence undertaken before granting this authorization, the underlying reasoning and/or rationale for granting this authorization, the implications thereof, and/or the assessment thereof by the Slovak Republic after the authorization was granted. • <i>Fourth</i>, Claimants’ position is that none of the Documents requested is in their possession, custody or control. For the avoidance of doubt, Claimants reiterate that the Documents requested do not encompass the documents which were effectively produced and served on Rozmin in the course of administrative or court proceedings to which Rozmin was a party, but rather the Documents that were not provided to Rozmin, or made publicly available, including, but not limited to, all correspondence, minutes of meetings, assessment memoranda, and reports (both internal and external), discussing the subject matter of Document Request No. 3(a) and 3(b). Respondent’s Objection in this respect is yet another attempt to blur the extent of Respondent’s obligation to produce, and/or to preserve a <i>way out</i> in case it does not want to produce a Document falling within the scope of Claimants’ Request. If Respondent’s Objection were to be granted, Claimants and the Tribunal would be deprived of the ability to determine whether Respondent has, or not, complied with its obligation to produce. Again, this cannot be allowed. <p>For all the above reasons, Claimants request that the Tribunal order Respondent to produce, without reservation, the Documents requested, and that all Documents responsive to this Request which Respondent claims to be privileged and/or confidential, be identified together with Respondent’s position as to why such Documents should be considered privileged and/or confidential. This is because the Slovak Republic cannot possibly have the authority to make the ultimate decision as to whether a particular Document is, or not, privileged and/or confidential.</p>
<p>E. Decision of the Tribunal</p>	<p>(a) Granted, but only in relation to Director Baffy's visit. (b) Granted.</p>

<u>Document Request No. 4</u>	
A. Documents or category of documents requested	All Documents providing information as to the nature of the disagreements between Gebrüder Dorfner GmbH Co. Kaolin- und Kristallquarzsand- Werke KG (“Dorfner”) and Östu Industriemineral Consult GmbH (“ÖIMC”), on the one hand, and Rima Muráň s.r.o. (“Rima Muráň”), on the other hand, which led Dorfner and ÖIMC to sell their investment in Rozmin to Belmont Resources Inc. (“Belmont”).
B. Relevance and materiality (para. ref. to submissions and comments)	<p>In its Counter-Memorial, Respondent alleges that “[t]hrough the entry of EuroGas GmbH into the project, the cooperation between Gebrüder Dorfner and ÖSTU, on one side, and RimaMuráň, on the other, became complicated, and it was almost impossible to find and pursue common strategy with respect to the deposit” (Respondent’s Counter-Memorial, ¶ 244). Respondent further contends that ÖIMC’s and Dorfner’s decision to exit Rozmin “was facilitated by their concerns about an association with EuroGas GmbH and Mr. Rauball” (<i>id.</i>, ¶ 245).</p> <p>Respondent’s witnesses, Mr. Peter Čorej (one of the founders and shareholders of Rima Muráň (see Witness Statement of Peter Čorej, ¶ 11) and the person who submitted, through Economy Agency, the winning bid in April 2005 after the revocation of Rozmin’s mining rights (<i>id.</i>, ¶ 58)), and Mr. Stephan Dorfner (the managing director of the Dorfner Group from 1992 to 2005 (Witness Statement of Stephan Dorfner, ¶ 1), responsible for the Dorfner Group’s “foreign activities” in the Gemerská Poloma talc project (<i>id.</i>, ¶ 3)) remained silent as to the reasons that had led Dorfner and ÖIMC to leave Rozmin.</p> <p>In his witness statement dated June 28, 2015, Mr. Čorej merely stated that “[t]he German companies [Dorfner and ÖIMC] were very unsatisfied with the fact that we sold, together with other shareholders [of Rima Muráň], a 55% shareholding interest in RimaMuráň to EuroGas” (Witness Statement of Peter Čorej, ¶ 32). Mr. Čorej did not, however, elaborate on this assertion or on the reasons why Dorfner and ÖIMC had sold their interest in Rozmin.</p> <p>As to Mr. Dorfner, he stated the following in his witness statement dated June 26, 2015: “End of 1997, Mr. Čorej from RimaMuráň approached ÖSTU and Gebrüder Dorfner with an idea to secure financing for the project by involving EuroGas GmbH, an Austrian mining company and subsidiary of EuroGas Inc. However, such a cooperation was not acceptable for ÖSTU and Gebrüder Dorfner because at this time we had negotiations with DEUTSCHE BANK to finance the talc project. The entry of a new partner would have considerably delayed the negotiations, possibly the GERMAN bank would have lost interest in financing. Despite the clear refusal of ÖSTU and Gebrüder Dorfner, the shareholders of RimaMuráň decided to sell their 55% participation in RimaMuráň to EuroGas GmbH on 16 March 1998, and thus EuroGas GmbH became an indirect shareholder of Rozmin. Through the entry of EuroGas GmbH into the project, the cooperation between Gebrüder Dorfner and OSTU, on one side, and RimaMuráň, on the other, became complicated, and it</p>

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	<p><i>was almost impossible to find and pursue common strategy with respect to the deposit. DEUTSCHE BANK lost interest in financing the project, same to Talc de Lucenac which was also interested in a cooperation to develop the the [sic] talc deposit GEMERSKA POLOMA.” (Witness Statement of Stephan Dorfner, ¶¶ 11 and 12). Not one of these allegations is, however, substantiated by any documentary evidence.</i></p> <p>The requested Documents are relevant and material:</p> <ul style="list-style-type: none"> • for the Tribunal to assess Respondent’s unsubstantiated portrayal of EuroGas GmbH and Mr. Wolfgang Rauball as trouble-makers rather than good-faith investors; and • to determine the real reasons why Dorfner and ÖIMC decided to end their investment in the Slovak Republic talc industry and why Talc De Luzenac decided not to participate in the project. <p>The requested Documents are under Respondent’s control as they are documents that were issued by, and exchanged between, Rima Muráň and Dorfner, whose executives, Mr. Čorej and Mr. Stephan Dorfner, provided witness statements in these proceedings on behalf of Respondent. As noted above, Mr. Čorej was one of the founders and shareholders of Rima Muráň and Mr. Dorfner was the managing director of the Dorfner Group from 1992 until December 2005 and was responsible for the Dorfner Group’s “foreign activities” in the Gemerská Poloma talc project.</p>
<p>C. Summary of objections by disputing Party to production of requested documents</p>	<p>The Slovak Republic does not have any documents responsive to this request.</p> <p>The Slovak Republic further notes that any such responsive documents would reside with the parties to the referenced disagreement (Gebrüder Dorfner GmbH Co. Kaolin- und Kristallquarzsand- Werke KG, Östu Industriemineral Consult GmbH and Rima Muráň s.r.o.), and, as a result, those documents in any event would not be in the Slovak Republic’s custody, possession, or control. The Slovak Republic rejects the Claimants’ contention that documents in the possession of Messrs.</p> <p>Peter Čorej and/or Stephan Dorfner are under the Slovak Republic’s control. Messrs. Čorej and Dorfner are third parties who graciously agreed to be witnesses in this arbitration. They are not the Slovak Republic’s employees, officials, or representatives, and any documents which may be in their possession, custody, or control thus are not under the Slovak Republic’s control.</p> <p>The Slovak Republic also objects to this request on the basis that it is the Slovak Republic’s burden to prove the existence of the disagreements between Dorfner and Östu, on the one hand, and Rima Muráň, on the other hand, which led Dorfner and Östu to sell their shareholding in Rozmin to Belmont—and the Slovak Republic discharged that burden by submitting the witness statements of Messrs. Čorej and Dorfner.</p>

<p>D. Reply</p>	<p>Claimants request that the Tribunal dismiss Respondent's Objections and order the production of the Documents requested for the following reasons.</p> <p>Claimants note that Respondent does not dispute either the existence, or the relevance and materiality of the Documents requested. Rather, Respondent claims that the Documents requested are not in its possession, custody or control. However, Respondent cannot have it both ways. Respondent cannot place great reliance on the testimony of, and be assisted in this arbitration by, individuals who have an extensive knowledge of the Deposit, who have been involved in the facts underlying this dispute from the start, and who have access, and have granted the Slovak Republic access (as demonstrate below), to a variety of documents relevant and material for the resolution of the dispute, but at the same time, refuse to make available to Claimants the documents which these witnesses have granted Respondent access to. This would place Claimants at a great disadvantage.</p> <p>By way of reminder, Mr. Dorfner was, from 1992 until December 2005, the managing director of the Dorfner Group, the parent company of Gebrüder Dorfner GmbH & Co. Kaolin-und Kristallquarzsand-Werke KG, one of Rozmin's original shareholders. During that time, he "<i>was responsible for 'foreign activities' of Dorfner group in the Gemerska Poloma talc project,</i>" and as such is vary familiar with the project, as well as the initial attempts at securing investors. As for Mr. Peter Corej, he has "<i>personally participated in an intensive geological exploration</i>" at the Deposit "<i>since 1989</i>" (Witness Statement of Mr. Peter Corej, ¶ 6), and then became the "<i>co-owner and one of the executive directors</i>" of Rima Muráň (Witness Statement of Mr. Peter Corej, ¶ 11), a 43% shareholder in Rozmin until March 2002, and the main contractor engaged by Rozmin to perform the opening works on the Deposit. He is also the individual who "<i>decided to submit a bid to the selection procedure [for the reassignment of Rozmin's mining rights] through [his] spouse's company, Economy agency R.V., s.r.o.,</i>" the company that was awarded the mining rights at the conclusion of the selection procedure, before merging with VSK Mining.</p> <p>Moreover, the fact that the witnesses on whose testimony the Slovak Republic relies, and in particular Mr. Corej, have actively assisted Respondent in this arbitration, including by way of documentary evidence, is evidenced by the following:</p> <ul style="list-style-type: none">• Claimants have identified at least 18 Exhibits produced by Respondent with its Counter-Memorial which the Slovak Republic could not have obtained without the direct assistance of the witnesses on whose testimony it relies. These documents include letters exchanged directly between Rozmin and Rima Muráň, and an agreement entered into between DEG-Deutsche Investitions- und Entwicklungsgesellschaft mbH, Gebrüder Dorfner GmbH & Co. Kaolin-und Kristallquarzsand-Werke KG, ÖSTU Industriemineral Consult GmbH and Rima Muráň (Exhibits R-122, R-124 to R-135, and R-169 to R-173). The Slovak Republic was neither party nor privy to any of these documents, yet it was able to obtain copies thereof in support of its Counter-Memorial. It would be grossly unfair, not to mention a serious breach of Claimants' right to due process, and in particular their right to equality of arms, for Respondent to have access to documents held by the witnesses on whose testimony it relies, without Claimants being able to request access to
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	<p>documents which are undoubtedly, and undisputedly, in the possession, control or custody, of the same witnesses, and which are both relevant and material to the resolution of the dispute.</p> <ul style="list-style-type: none"> • Moreover, in addition to being (i) one of the original shareholders of Rozmin; (ii) the “<i>co-owner and one of the executive directors</i>” of Rima Muráň, the main contractor engaged by Rozmin to perform the opening works on the Deposit (Witness Statement of Mr. Peter Corej, ¶ 11); and (iii) the bidder who, “<i>through [his] spouse’s company, Economy agency R.V., s.r.o.</i>,” was reassigned Rozmin’s mining rights at the conclusion of the selection procedure (Witness Statement of Mr. Peter Corej, ¶ 58); Mr. Corej is also the one who conveniently filed, around the time that the cooling off period under the U.S.-Slovak BIT was about to expire without any satisfactory outcome in sight, the criminal complaint that served as basis for the criminal investigation, and the resulting house search and seizure of documents in the possession of Rozmin’s external accountant, launched by the Slovak authorities on the day that the Request for Arbitration was filed (Exhibit C-49, Order for a House Search, dated June 25, 2014). In other words, there is no denying that Mr. Corej has been involved in this dispute, and has actively assisted Respondent since the outset of this arbitration. Again, it would be grossly unfair, not to mention a serious breach of Claimants’ right to due process, and in particular their right to equality of arms, for Respondent to have access to documents held by the witnesses on whose testimony it relies, without Claimants being able to request access to documents which are undoubtedly, and undisputedly, in the possession, control or custody, of the same witnesses. <p>For all the above reasons, it cannot be seriously argued that the documents in the possession, custody and control of Respondent’s witnesses, are not in the possession, custody and control of the Slovak Republic, and it would be grossly unfair, not to mention a serious breach of Claimants’ right to due process, and in particular their right to equality of arms, to deny Claimants access to the same.</p> <p>Lastly, Respondent cannot rely on the fact that Mr. Dorfner and Mr. Corej made in their witness statements allegations with respect to “<i>disagreements between Dorfner and Östu, on the one hand, and Rima Muráň, on the other hand,</i>” which allegations are only intended to portray EuroGas GmbH and Mr. Wolfgang as trouble-makers rather than good-faith investors, without substantiating the same or granting Claimants an opportunity to access documents, which are undeniably in the possession, custody or control of said witnesses, in order to rebut these unsubstantiated allegations.</p> <p>Based on the foregoing, Claimants request the Tribunal to order the production of the Documents requested.</p>
<p>E. Decision of the Tribunal</p>	<p>Denied. Respondent has the burden of proof.</p>

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<u>Document Request No. 5</u>	
A. Documents or category of documents requested	All Documents showing that at the end of 1997, Dorfner and ÖIMC were negotiating with Deutsche Bank an agreement whereby the latter would finance the talc project, and all Documents discussing Deutsche Bank's decision not to invest in the project.
B. Relevance and materiality (para. ref. to submissions and comments)	<p>In its Counter-Memorial, Respondent suggests that the (indirect and direct) acquisition, by EuroGas GmbH and Belmont, of an interest in Rozmin had the effect of discouraging potential investors to invest in the Gemerská Poloma project, while investments were secured immediately after the revocation of Rozmin's mining rights over the Gemerská Poloma deposit and the award of the same to Economy Agency. Indeed:</p> <ul style="list-style-type: none"> • In his witness statement dated June 26, 2015, Mr. Dorfner stated – without relying on any documentary evidence – the following: <i>“End of 1997, Mr. Čorej from RimaMuráň approached ÖSTU and Gebrüder Dorfner with an idea to secure financing for the project by involving EuroGas GmbH, an Austrian mining company and subsidiary of EuroGas Inc. However, such a cooperation was not acceptable for ÖSTU and Gebrüder Dorfner because at this time we had negotiations with DEUTSCHE BANK to finance the talc project. The entry of a new partner would have considerably delayed the negotiations, possibly the GERMAN bank would have lost interest in financing. [...] Through the entry of EuroGas GmbH into the project, [...] DEUTSCHE BANK lost interest in financing the project [...]”</i> (Witness Statement of Stephan Dorfner, ¶¶ 11 and 12). • In its Counter-Memorial, despite arguing that Rozmin did not carry out any mining activities at the site and did not de-risk the deposit, Respondent indicates that immediately after the revocation of Rozmin's rights, <i>“Economy Agency secured an investor with sufficient funds to provide capital to the project”</i> (Respondent's Counter-Memorial, ¶ 311). <p>The requested Documents are relevant and material to determine whether Deutsche Bank was indeed interested in investing in the project of development of the Gemerská Poloma deposit and, if so, why this interest vanished, in particular, whether it was because of the involvement EuroGas GmbH in Rozmin or rather because before Claimants' involvement in Rozmin and the performance of the studies commissioned by Claimants, the investment was too risky.</p> <p>The requested Documents are under Respondent's control as they are Documents that directly support allegations made Mr. Stephan Dorfner in his witness statement dated June 26, 2015, submitted on behalf of the Slovak Republic.</p>
C. Summary of objections by disputing Party to	<p>The Slovak Republic does not have documents responsive to this request.</p> <p>The Slovak Republic further notes that any such responsive documents would reside with the parties to the referenced negotiations (Gebrüder Dorfner GmbH Co. Kaolin- und Kristallquarzsand- Werke KG, Östu Industriemineral Consult GmbH and Deutsche Bank), and, as a result, those documents in any event would not be within the Slovak Republic's</p>

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production of requested documents	<p>custody, possession, or control. The Slovak Republic rejects the Claimants' contention that documents in the possession of Mr. Stephan Dorfner are under the Slovak Republic's control. Mr. Dorfner is a third party who graciously agreed to be a witness in this arbitration. He is not the Slovak Republic's employee, official, or representative, and any documents which may be in his possession, custody, or control thus are not under the Slovak Republic's control.</p> <p>The Slovak Republic also objects to this request on the basis that it is the Slovak Republic's burden to prove the existence of negotiations with Deutsche Bank and Deutsche Bank's decision not to invest in the project—and the Slovak Republic discharged that burden by submitting the witness statements of Mr. Dorfner.</p>
D. Reply	<p>Claimants note that Respondent does not dispute either the existence, or the relevance and materiality of the Documents requested. Rather, Respondent claims that the Documents requested are not in its possession, custody or control. However, Respondent cannot have it both ways and Claimants repeat here, and incorporate by reference, their Reply to Respondent's Objection to Document Request No. 4 with respect to the Documents in the possession, custody and control of Respondent's witnesses, which Claimants submit should be considered, for the reasons stated above and in particular, to safeguard Claimants' right to due process, and their right to equality of arms, as being in the possession, custody and control of Respondent. In particular, Mr. Dorfner was the managing director of the Dorfner Group, the parent company of Gebrüder Dorfner GmbH & Co. Kaolin-und Kristallquarzsand-Werke KG, from 1992 until December 2005, and "<i>was responsible for 'foreign activities' of Dorfner group in the Gemerska Poloma talc project</i>" (Witness Statement of Mr. Stephan Dorfner, ¶¶ 1-3). It is therefore undisputable, and in fact undisputed, that the Documents requested are in the possession, custody and control of Mr. Dorfner, and therefore of the Slovak Republic.</p> <p>Moreover, Respondent should not be able to rely on the fact that Mr. Dorfner made, in its witness statement, allegations with respect to a potential financing agreement with Deutsche Bank that failed, allegedly due to the fact that EuroGas Inc. started participating in the project, which allegations are only intended to portray EuroGas GmbH and Mr. Wolfgang as trouble-makers rather than good-faith investors, without substantiating the same or granting Claimants an opportunity to access documents, which are undeniably in the possession, custody or control of the said witness, in order to rebut these unsubstantiated allegations.</p> <p>Based on the foregoing, Claimants request the Tribunal to order the production of the Documents requested.</p>
E. Decision of the Tribunal	Denied. Respondent has the burden of proof.

<u>Document Request No. 6</u>	
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<p>A. Documents or category of documents requested</p>	<p>All Documents supporting Respondent's allegation that after it was awarded rights over the Gemerská Poloma deposit in April 2005, "<i>Economy Agency secured an investor with sufficient funds to provide capital to the project</i>" (Respondent's Counter-Memorial, ¶ 311), including any correspondent and agreement between the Slovak Republic and/or Economy Agency and the said – unidentified – investor.</p>
<p>B. Relevance and materiality (para. ref. to submissions and comments)</p>	<p>The Documents requested are relevant and material to identify the entity that agreed to finance the project and the terms of this financing agreement, entered into immediately after the revocation of Rozmin's mining rights, notwithstanding Respondent's allegation that virtually no progress had been made at the site by Rozmin between 2001 and 2004 and that no investor had agreed to finance the project before 2001.</p> <p>The requested Documents must be in Respondent's possession, custody or control as Respondent must have relied on them to state that "<i>Economy Agency secured an investor with sufficient funds to provide capital to the project</i>" (Respondent's Counter-Memorial, ¶ 311).</p>
<p>C. Summary of objections by disputing Party to production of requested documents</p>	<p>The Slovak Republic objects to this request to the extent that it seeks documents not within the Slovak Republic's custody, possession, or control but which rather are in the custody, possession, or control of third parties, including the referenced investor.</p> <p>Subject to the above objection, the Ministry of Finance, which represents the Slovak Republic in this proceeding, has requested the Ministry of the Economy, the District Mining Office in Spišská Nová Ves, which has jurisdiction over Gemerská Poloma, and the Main Mining Office to inform it if they have documents relevant to this request. The Ministry of Finance will inform Claimants and the Tribunal as soon as it hears from those authorities and will produce any responsive, non-privileged and non-confidential documents.</p>
<p>D. Reply</p>	<p>Claimants request that the Tribunal dismiss Respondent's Objection and order the production of the Documents requested without reservation.</p> <p>Respondent does not dispute the existence, or the relevance and materiality of the Documents requested. In fact, it does not object to the Document Request <i>per se</i>. It agrees to the production of the Documents requested subject to an Objection which has not merit and which is only intended to blur the extent of Respondent's obligation to produce, and/or to preserve a <i>way out</i> in case it does not want to produce a Document falling within the scope of Claimants' Request. In other words, if Respondent's Objection were to be granted, it would deprive Claimants and the Tribunal of the ability to determine whether Respondent has, or not, complied with its obligation to produce. This cannot be allowed.</p> <p>Claimants repeat here, and incorporate by reference, their Reply to Respondent's Objection to Document Request No. 4 with respect to the Documents in the possession, custody and control of Respondent's witnesses, which Claimants submit</p>

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	<p>should be considered, for the reasons stated above and in particular, to safeguard Claimants' right to due process, and their right to equality of arms, as being in the possession, custody and control of Respondent. In particular, it is undisputed that Mr. Corej "decided to submit a bid to the selection procedure [for the mining rights of the Deposit, following Claimants' illegal expropriation] through [his] spouse's company, Economy agency R.V., s.r.o.," namely the company which was awarded the mining rights at the conclusion of the selection procedure, before merging with VSK Mining. It is therefore undisputable, and in fact undisputed, that the Documents requested are in the possession, custody and control of Mr. Corej, and therefore of the Slovak Republic.</p> <p>Moreover, and in any event, the requested Documents must be in Respondent's possession, custody or control as Respondent must have relied on them to state that "<i>Economy Agency secured an investor with sufficient funds to provide capital to the project</i>" (Respondent's Counter-Memorial, ¶ 311).</p> <p>For all the above reasons, Claimants request that the Tribunal order Respondent to produce, without reservation, the Documents requested, and that all Documents responsive to this Request which Respondent claims to be privileged and/or confidential, be identified together with Respondent's position as to why such Documents should be considered privileged and/or confidential. This is because the Slovak Republic cannot possibly have the authority to make the ultimate decision as to whether a particular Document is, or not, privileged and/or confidential.</p>
<p>E. Decision of the Tribunal</p>	<p>Denied. Respondent has the burden of proof.</p>

<p><u>Document Request No. 7</u></p>	
<p>A. Documents or category of documents requested</p>	<p>All Documents evidencing the interest of Talc De Luzenac in acquiring Dorfner's and ÖIMC's shares in Rozmin in 2000, and the reasons why Talc De Luzenac did not proceed with the purchase of these shares.</p>
<p>B. Relevance and materiality (para. ref. to submissions and comments)</p>	<p>In its Counter-Memorial, Respondent alleges that "<i>only two established companies showed an interest in acquiring Gebrüder Dorfner's and ÖSTU's stake in Rozmin. Lusenac was interested, but withdrew after a few visits at the site</i>" (Respondent's Counter-Memorial, ¶ 246).</p> <p>The requested Documents are relevant and material to the Tribunal's determination of the level of interest expressed by Talc De Luzenac in Respondent's mining sector and, most importantly, to assess the risk taken by Claimants when they invested in Rozmin.</p>

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	<p>The requested Documents must be in Respondent's possession, custody or control as Respondent must have relied on them to state that Talc de Luzenac was temporarily interested in acquiring an interest in Rozmin (Respondent's Counter-Memorial, ¶ 311).</p>
<p>C. Summary of objections by disputing Party to production of requested documents</p>	<p>The Slovak Republic does not have documents responsive to this request.</p> <p>The Slovak Republic further notes that any such responsive documents would reside with the parties to the referenced interaction (Gebrüder Dorfner GmbH Co. Kaolin- und Kristallquarzsand- Werke KG, Östu Industriemineral Consult GmbH, and Talc De Luzenac), and, as a result, those documents in any event would not be in the Slovak Republic's custody, possession, or control.</p> <p>The Slovak Republic also objects to this request on the basis that it is the Slovak Republic's burden to prove the interest of Talc De Luzenac to acquire Dorfner's and Östu's shareholding in Rozmin—and the Slovak Republic discharged that burden by submitting the witness statements of Mr. Stephan Dorfner.</p>
<p>D. Reply</p>	<p>Claimants note that Respondent does not dispute either the existence, or the relevance and materiality of the Documents requested. Rather, Respondent claims that the Documents requested are not in its possession, custody or control. However, Respondent cannot have it both ways and Claimants repeat here, and incorporate by reference, their Reply to Respondent's Objection to Document Request No. 4 with respect to the Documents in the possession, custody and control of Respondent's witnesses, which Claimants submit should be considered, for the reasons stated above and in particular, to safeguard Claimants' right to due process, and their right to equality of arms, as being in the possession, custody and control of Respondent. In particular, Mr. Dorfner was the managing director of the Dorfner Group, the parent company of Gebrüder Dorfner GmbH & Co. Kaolin-und Kristallquarzsand-Werke KG, from 1992 until December 2005, and "<i>was responsible for 'foreign activities' of Dorfner group in the Gemerska Poloma talc project</i>" (Witness Statement of Mr. Stephan Dorfner, ¶¶ 1-3). It is therefore undisputable, and in fact undisputed, that the Documents requested are in the possession, custody and control of Mr. Dorfner, and therefore of the Slovak Republic.</p> <p>Moreover, the requested Documents must be in Respondent's possession, custody or control as Respondent must have relied on them to state that Talc de Luzenac was temporarily interested in acquiring an interest in Rozmin (Respondent's Counter-Memorial, ¶ 311).</p> <p>Lastly, Respondent cannot rely on an unsubstantiated allegation made by Mr. Dorfner in his witness statement to object to Claimants' Request for documentation supporting the same. This is all the more so that the reasons why Talc de Luzenac ultimately decided not to acquire an interest in Rozmin is particularly relevant and material for the determination of the risks taken by Claimants when they invested in Rozmin. In the absence of any explanations provided by Mr. Dorfner in his witness statement, one can only assume that the reason why Talc de Luzenac decided not to invest is that the project was too risky at the time, namely in 1998-2000. This in turn would demonstrate that Claimants had de-risked and/or added</p>

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	<p>significant value to the Deposit, given that Rozmin's successor, Economy Agency, had much less difficulty finding an investor in 2005 (Respondent's Counter-Memorial, ¶ 311).</p> <p>For all the above reasons, Claimants request that the Tribunal order Respondent to produce the Documents requested.</p>
E. Decision of the Tribunal	Denied. Respondent has the burden of proof.

<u>Document Request No. 8</u>	
A. Documents or category of documents requested	<p>All Documents issued between January 1, 2002 (date of entry into effect of the 2002 Amendment) and April 22, 2005 (date on which mining rights over the Gemerská Poloma deposit were awarded to Economy Agency (Exhibit C-31, Report on the Course and Results of the Selection Procedure for the Designation of the MA GP to Another Organisation Performed on April 21, 2005)), regarding:</p> <ul style="list-style-type: none"> • the decision to launch a new tender in late 2004 or early 2005 for the award of mining rights over the Gemerská Poloma deposit and • the DMO's decisions to award mining rights over the deposit to Economy Agency and then to VSK Mining s.r.o. ("VSK Mining"), <p>including but not limited to all correspondence, minutes of meetings, assessment memoranda, and reports (both internal and external), prepared in support of, or in relation to, the following:</p> <ul style="list-style-type: none"> • the December 30, 2004 announcement, in the Business Journal, of the initiation of a new public tender procedure for the assignment of the Gemerská Poloma deposit (Exhibit C-29, Initiation of the Selection Procedure for the Determination and Assignment of the Extraction Area, Business Journal No. 253/2004, dated December 30, 2004, p. 99); • the letter from Mr. Baffi, dated January 3, 2005, informing Rozmin <i>post facto</i> that its rights had <i>de facto</i> been revoked and were to be awarded to a new organization (Exhibit C-30, Letter from the District Mining Office to Rozmin sro, dated January 3, 2005 (Ref. 2405/451.14/2004-I)); • the meeting of February 16, 2005, attended by Mr. Pavol Rusko, then Minister of Economy of the Slovak Republic, representatives of the MMO, and Rozmin executives, in the course of which the revocation of Rozmin's mining rights was discussed;

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	<ul style="list-style-type: none"> • the decision of the DMO dated April 22, 2005, assigning the Gemerská Poloma deposit to Economy Agency (Exhibit C-31, Report on the Course and Results of the Selection Procedure for the Designation of the MA GP to Another Organisation Performed on April 21, 2005); • the DMO's decision, dated July 2, 2008 – following the Slovak Republic Supreme Court's decision of February 27, 2008 cancelling the April 2005 decision of the DMO assigning mining rights over the Gemerská Poloma deposit to Economy Agency – awarding mining rights over the Gemerská Poloma deposit to Economy Agency's successor, namely VSK Mining (Exhibit C-34, Decision of the District Mining Office on the Assignment of the Gemerská Poloma Mining Area to VSK Mining, dated July 2, 2008 (Ref. 329-1506/2008)); • the MMO's decision dated January 12, 2009, confirming the DMO's decision of July 2, 2008 awarding the rights over the Gemerská Poloma deposit to VSK Mining (Exhibit C-270, Decision of the Main Mining Office, dated January 12, 2009 (Ref. 26-34/2009)); • the DMO decision of March 30, 2012 – following the Slovak Republic Supreme Court's decision of May 18, 2011, declaring the award of mining rights to VSK Mining unlawful – re-assigning exclusive mining rights over the Gemerská Poloma deposit to VSK Mining (Exhibit C-37, Decision of the District Mining Office, dated March 30, 2012 (Ref. 157-920/2012)); • the MMO's decision of August 1, 2012, confirming the DMO's decision of March 30, 2012 re-assigning mining rights over the Gemerská Poloma deposit to VSK Mining (Exhibit C-273, Decision of the Main Mining Office, dated August 1, 2012 (Ref. 808-1482/2012)).
<p>B. Relevance and materiality (para. ref. to submissions and comments)</p>	<p>The requested Documents are relevant and material:</p> <ul style="list-style-type: none"> • to assess the extent of the due diligence carried out by Respondent prior to the revocation (e.g. to assess the procedural fairness of the DMO's decision to revoke Rozmin's mining rights), as well as the underlying objectives of the revocation; • to determine whether Mr. Čorej or any of the bidding companies had any contacts with the Slovak Republic, that had an impact on the latter's decision to revoke Rozmin's mining rights and/or whether such revocation decision was taken to the benefit of Mr. Čorej, Economy Agency or any of the other bidding entities. <p>The requested Documents are in Respondent's possession, custody or control as they are Documents internal to (issued by) Respondent.</p>
<p>C. Summary of objections by</p>	<p>The Slovak Republic objects to this request as overly broad, unreasonably burdensome, and disproportionate as it seeks "[a]ll documents" relevant to 10 distinct categories of events. The Slovak Republic further objects to this request as vague</p>

<p>disputing Party to production of requested documents</p>	<p>because, on the one hand, it seeks documents created between 1 January 2002 and 22 April 2005 but, on the other hand, it lists categories of events that took place after 22 April 2005. The request, therefore, is contradictory.</p> <p>The Slovak Republic also objects to the production of any documents included in the administrative or court files maintained in the proceedings in the Slovak Republic to which Rozmin was a party as unreasonably burdensome, disproportionate, and contrary to the basic requirement that the Claimants may only seek documents that are not in their own possession or control. The Slovak Republic reiterates and incorporates by reference the objection it raised in this respect in connection with Claimants' Request No. 3 above.</p> <p>Subject to the above objections, the Ministry of Finance, which represents the Slovak Republic in this proceeding, has requested the Ministry of the Economy, the District Mining Office in Spišská Nová Ves, which has jurisdiction over Gemerská Poloma, and the Main Mining Office to inform it if they have documents relevant to this request that were created between 1 January 2002 and 22 April 2005. The Ministry of Finance will inform Claimants and the Tribunal as soon as it hears from those authorities and will produce any responsive, non-privileged and non-confidential documents, which are not covered by the above objections.</p>
<p>D. Reply</p>	<p>Claimants note that Respondent does not dispute the existence, or the relevance and materiality of the Documents requested. In fact, it does not object to the Document Request <i>per se</i>. It agrees to the production of the Documents requested subject to Objections which have not merit and which are only intended to blur the extent of Respondent's obligation to produce, and/or to preserve a <i>way out</i> in case it does not want to produce a Document falling within the scope of Claimants' Request. In other words, if Respondent's Objections were to be granted, this would deprive Claimants and the Tribunal of the ability to determine whether Respondent has, or not, complied with its obligation to produce. This cannot be allowed.</p> <p>This is all the more so that, in any event, Respondent's Objections have no merit, for the following reasons.</p> <ul style="list-style-type: none"> • <i>First</i>, the Documents requested are clearly and narrowly defined. They are limited both in terms of subject-matter, namely Documents regarding (i) the decision to launch a new tender in late 2004 or early 2005 for the award of mining rights over the Deposit, and (ii) the DMO's decisions to award mining rights over the deposit to Economy Agency and then to VSK Mining; as well as in terms of time-period, by reference to ten precise events identified in Claimants' Request. The reference to Documents issued "<i>between January 1, 2002 [...] and 22 April 22, 2005</i>" is a clerical mistake. The Request should read "<i>between January 1, 2002 (date of entry into effect of the 2002 Amendment) and August 1, 2012 (date of the MMO's decision confirming the DMO's decision of March 30, 2012 re-assigning mining rights over the Gemerská Poloma deposit to VSK Mining (Exhibit C-273, Decision of the Main Mining Office, dated August 1, 2012 (Ref. 808-1482/2012)).</i>" There is no contradiction and Respondent's Objection that Claimants' Document Request is overly broad, unreasonably burdensome, and disproportionate, must fail.

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	<ul style="list-style-type: none"> • <i>Second</i>, Claimants repeat, and incorporate here by reference, their Reply to Respondent's Objection to Document Request No. 3. Claimants' position is that none of the Documents requested are in their possession, custody or control. For the avoidance of doubt, Claimants reiterate that the Documents requested do not encompass the documents which were effectively produced and served on Rozmin in the course of administrative or court proceedings to which Rozmin was a party, but rather the Documents that were not provided to Rozmin, or made publicly available, including, but not limited to, all correspondence, minutes of meetings, assessment memoranda, and reports (both internal and external), discussing the subject matter of this Document Request. <p>Based on the foregoing, Claimants request that the Tribunal order Respondent to produce the Documents requested, and that all Documents responsive to this Request which Respondent claims to be privileged and/or confidential, be identified together with Respondent's position as to why such Documents should be considered privileged and/or confidential. This is because the Slovak Republic cannot possibly have the authority to make the ultimate decision as to whether a particular Document is, or not, privileged and/or confidential.</p>
E. Decision of the Tribunal	Denied. Partly duplicating request n°2 and overly broad for the rest.

<u>Document Request No. 9</u>	
A. Documents or category of documents requested	All documents included in the Slovak Republic's tender of April 2005, and all internal reports issued in preparation for this tender.
B. Relevance and materiality (para. ref. to submissions and comments)	<p>The requested Documents are relevant and material:</p> <ul style="list-style-type: none"> • to determine the dates on which these Documents were prepared, hence the date on which Respondent decided to revoke Rozmin's mining rights and/or launch a new tender; and • to assess the state of the deposit at the time of the revocation of Rozmin's mining rights and the extent to which the deposit's reserves had been confirmed. <p>The requested Documents are in Respondent's possession, custody or control as they are Documents issued by, and internal to, Respondent.</p>

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C. Summary of objections by disputing Party to production of requested documents	The Ministry of Finance, which represents the Slovak Republic in this proceeding, has requested the Ministry of the Economy, the District Mining Office in Spišská Nová Ves, which has jurisdiction over Gemerská Poloma, and the Main Mining Office to inform it if they have documents included in the preparation of the tender and/or distributed or made available to potential participants. The Ministry of Finance will inform Claimants and the Tribunal as soon as it hears from those authorities and will produce any responsive, non-privileged and non-confidential documents.
D. Reply	Considering that Respondent has agreed to produce the Documents requested, no order is requested from the Tribunal at this stage, save for an order requiring that all Documents responsive to this Request which Respondent claims to be privileged and/or confidential, be identified together with Respondent's position as to why such Documents should be considered privileged and/or confidential. This is because the Slovak Republic cannot possibly have the authority to make the ultimate decision as to whether a particular Document is, or not, privileged and/or confidential.
E. Decision of the Tribunal	Granted , except for confidential or privileged documents. Respondent will identify confidential or privileged documents as precisely as possible, explaining why they are confidential or privileged.

<u>Document Request No. 10</u>	
A. Documents or category of documents requested	All Documents pertaining to exchanges between Mr. Čorej, Economy Agency, or any of the other six bidding entities, on the one hand, and any Slovak body or authority, on the other hand, before the revocation of Rozmin's mining rights or thereafter but before the award of mining rights over the Gemerská Poloma deposit to Economy Agency on April 22, 2005.
B. Relevance and materiality (para. ref. to submissions and comments)	<p>The requested Documents are relevant and material:</p> <ul style="list-style-type: none"> • to assess the extent of the due diligence carried out by Respondent prior to the revocation (e.g. to assess the procedural fairness of the DMO's decision to revoke Rozmin's mining rights); • to assess the underlying objectives of the revocation; and • to determine whether Mr. Čorej, Economy Agency or any of the bidding companies had any contacts with the Slovak Republic that had an impact on the latter's decision to revoke Rozmin's mining rights and/or whether such revocation decision was taken to the benefit of Mr. Čorej, Economy Agency or any of the other bidding entities. <p>The requested Documents are in Respondent's possession, custody or control as they are, or pertain to, exchanges with the Slovak Republic.</p>

<p>C. Summary of objections by disputing Party to production of requested documents</p>	<p>The Slovak Republic objects to this request as overly broad, unreasonably burdensome, and disproportionate as it seeks “[a]ll documents” pertaining to exchanges between one individual and seven entities and <i>any</i> Slovak authority even where those exchanges were unconnected to the talc deposit, to the tender process itself, or to the issues in dispute in this arbitration.</p> <p>The Slovak Republic further objects to this request to the extent that it seeks information that is confidential or privileged, especially on the basis that it contains the bidders’ trade secrets. Section 23 of the Slovak Administrative Procedure Code provides in this respect:</p> <p style="padding-left: 40px;"><i>“(1) The participants to the proceeding, their representatives and involved parties are entitled to inspect files, make extracts and excerpts therefrom and obtain copies except for voting minutes and to otherwise obtain information from files except for voting minutes.</i></p> <p style="padding-left: 40px;"><i>(2) The administrative authority may also allow other persons, who must justify their request, to inspect files, make extracts and excerpts therefrom and obtain copies or to otherwise obtain information from files. The administrative authority must allow the ombudsman to inspect files for the purpose of the performance of his/her position.</i></p> <p style="padding-left: 40px;"><i>(3) The administrative authority must take measures in order to ensure that the procedures under paragraphs 1 and 2 do not result in the disclosure of state secrets, bank secrets, tax secrets, trade secrets or violations of the confidentiality obligation imposed or recognized by the law.”</i></p> <p>The Slovak Republic thus has a statutory duty to protect third party’s trade secrets, as defined in Section 17 of the Slovak Commercial Code, which provides that a “trade secret consists of all the facts of a commercial, manufacturing or technical nature related to the business which have actual, potential, tangible or intangible value, are not freely accessible in the relevant business area and which the entrepreneur wishes to prevent from being disclosed, provided that the entrepreneur adequately provides for the confidentiality thereof.”</p> <p>Therefore, the Slovak Republic can only disclose responsive documents subject to the redaction of trade secrets, which it will do. This applies to all of the Claimants’ requests.</p> <p>Subject to the above objections, the Ministry of Finance, which represents the Slovak Republic in this proceeding, has requested the Ministry of the Economy, the District Mining Office in Spišská Nová Ves, which has jurisdiction over Gemerská Poloma, and the Main Mining Office to inform it if they have any responsive documents regarding the talc deposit in Gemerská Poloma. The Ministry of Finance will inform Claimants and the Tribunal as soon as it hears from those authorities and will produce any responsive, non-privileged and non-confidential documents.</p>
<p>D. Reply</p>	<p>Claimants note that Respondent does not dispute the existence, or the relevance and materiality of the Documents requested. Rather, the Slovak Republic objects to the production of the Documents requested on the ground that Claimants’</p>

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	<p>Request is “<i>overly broad, unreasonably burdensome, and disproportionate as it seeks ‘[a]ll documents’ pertaining to exchanges between one individual and seven entities and any Slovak authority even where those exchanges were unconnected to the talc deposit, to the tender process itself, or to the issues in dispute in this arbitration.</i>”</p> <p>This Objection however cannot stand as the Documents requested by Claimants are clearly and narrowly defined. They are limited both in terms of persons/entities involved, namely “<i>Documents pertaining to exchanges between Mr. Čorej, Economy Agency, or any of the other six bidding entities, on the one hand, and any Slovak body or authority, on the other hand,</i>” and in terms of time-period, namely Documents pertaining to exchanges made up until the award of mining rights over the Gemerská Poloma deposit to Economy Agency on April 22, 2005. This already narrow and detailed description of the Documents requested is further narrowed down by Claimants’ description of the relevance and materiality of the Documents requested, which Respondent has not disputed.</p> <p>In any event, should the Tribunal consider that the scope of Documents requested ought to be further or more explicitly narrowed down, Claimants clarify, for the avoidance of doubt, that it requests all Documents pertaining to exchanges between Mr. Čorej, Economy Agency or any of the other six bidding entities, on the one hand, and any Slovak body or authority, on the other hand, before the revocation of Rozmin’s mining rights or thereafter but before the award of mining rights over the Gemerská Poloma deposit to Economy Agency on April 22, 2005, pertaining to the activities of Rozmin at the deposit up until the revocation of its mining rights on December 30, 2004, the reasons which initially led the Slovak Republic to consider revoking Rozmin’s mining rights, the reasons and/or the underlying rationale of the revocation, the tender process for the reassignment of Rozmin’s mining rights to another company/organization, the talc Deposit in general, or any issues in dispute in this arbitration.</p> <p>Based on the foregoing, Claimants request that the Tribunal order Respondent to produce the Documents requested, and that all Documents responsive to this Request which Respondent claims to be privileged and/or confidential, be identified together with Respondent’s position as to why such Documents should be considered privileged and/or confidential. This is because the Slovak Republic cannot possibly have the authority to make the ultimate decision as to whether a particular Document is, or not, privileged and/or confidential.</p> <p>As for Respondent’s Objection based on its alleged statutory duty “<i>to protect third party’s trade secrets, as defined in Section 17 of the Slovak Commercial Code,</i>” Claimants take note of Respondent’s undertaking to “<i>disclose responsive documents subject to the redaction of trade secrets,</i>” and reserve their rights should the information redacted by the Slovak Republic exceed what is strictly necessary to protect the trade secrets of third parties.</p>
<p>E. Decision of the Tribunal</p>	<p>Granted, but only to the extent those exchanges were connected to the talc deposit, to the tender process itself, or to the issues in dispute in this arbitration, and with the exception of trade secrets.</p>

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<u>Document Request No. 11</u>	
A. Documents or category of documents requested	The bids submitted by the seven companies (Economy Agency, Východoslovenské kameňolomy, a.s., SIDERIT s.r.o. Nižná Slaná, Mondo Minerals Slovakia, s.r.o., Rudohorská investičná spoločnosť, s.r.o., IMI Fabi (Slovakia), s.r.o., and NewCo Slovakia s.r.o.) that were interested in the deposit, in April 2005, after the revocation of Rozmin's rights.
B. Relevance and materiality (para. ref. to submissions and comments)	<p>In its Counter-Memorial, Respondent states that “[a]fter a thorough review of those bids, the committee awarded the winning bid to Economy Agency—the company that had submitted the proposal for exploitation of the Excavation Area that ranked first. Indeed, the documentation of Economy Agency was prepared by Mr. Čorej, who had taken part in the project since 1989 and who had substantial knowledge of the Excavation Area” (Respondent’s Counter-Memorial, ¶ 308).</p> <p>The requested Documents are in Respondent’s possession, custody or control as they are documents that were submitted to the Slovak Republic.</p>
C. Summary of objections by disputing Party to production of requested documents	<p>The Slovak Republic objects to this request to the extent that it seeks information that is confidential on the basis that it contains the bidders’ trade secrets. As explained in the Slovak Republic’s objections to Request No. 10, the Slovak Republic can only disclose responsive documents subject to the redaction of trade secrets, which it will do.</p> <p>Subject to the above objections, the Ministry of Finance, which represents the Slovak Republic in this proceeding, has requested the Ministry of the Economy, the District Mining Office in Spišská Nová Ves, which has jurisdiction over Gemerská Poloma, and the Main Mining Office to inform it if they have documents relevant to this request. The Ministry of Finance will inform Claimants and the Tribunal as soon as it hears from those authorities and will produce any responsive, non-privileged and non-confidential documents.</p>
D. Reply	Claimants take note of Respondent’s undertaking to “disclose responsive documents subject to the redaction of trade secrets,” and reserve their rights should the information redacted by the Slovak Republic exceed what is strictly necessary to protect the trade secrets of third parties. Accordingly, no order from the Tribunal is requested at this stage save for an order requiring that all Documents responsive to this Request which Respondent claims to be privileged and/or confidential, be identified together with Respondent’s position as to why such Documents should be considered privileged and/or confidential. This is because the Slovak Republic cannot possibly have the authority to make the ultimate decision as to whether a particular Document is, or not, privileged and/or confidential.
E. Decision of the Tribunal	Granted , except for confidential or privileged documents. Respondent will identify confidential or privileged documents as precisely as possible, explaining why they are confidential or privileged.

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<u>Document Request No. 12</u>	
A. Documents or category of documents requested	<p>All Documents discussing the revocation of Rozmin's general mining authorization of May 14, 1997 (the "General Mining Authorization"), issued up to January 12, 2008 (date on which the MMO confirmed the DMO's decision to revoke Rozmin's General Mining Authorization (see Exhibit C-274, Decision of the Main Mining Office, dated January 12, 2009 (Ref. 25-32/2009)), including but not limited to all correspondence, minutes of meetings, assessment memoranda, and reports (both internal and external), prepared in support of, or in relation to, the following:</p> <ul style="list-style-type: none"> • the DMO's decision of August 12, 2008, revoking Rozmin's General Mining Authorization of May 14, 1997 (Exhibit C-35, Decision on the Revocation of the Authorization for Mining, dated August 12, 2008 (Ref. 104-1620/2008)); • the MMO's decision dated January 12, 2009, confirming the decision of the DMO dated August 12, 2008 revoking Rozmin's General Mining Authorization (Exhibit C-274, Decision of the Main Mining Office, dated January 12, 2009 (Ref. 25-32/2009)).
B. Relevance and materiality (para. ref. to submissions and comments)	<p>In its Counter-Memorial, Respondent states the following: "<i>The general mining permit is governed by Act No. 51/1988 Coll. on Mining Activity, Explosives and on the State Mining Administration ('Law 51'), which is a different law than the Mining Act that governs excavation areas. Pursuant to Section 4(b) of Law 51 (not the Mining Act which was amended by the 2002 Amendment), the DMO shall initiate proceedings on cancellation of the general mining permit if the entity, inter alia: (i) ceases to meet the conditions for obtaining the general mining permit for a period of more than 3 months; or (ii) ceases to perform Mining Works at any site in the Slovak Republic for a period of more than three years. In 2008, the DMO concluded that these conditions applied to Rozmin because (i) Rozmin had not appointed a responsible representative for several years and thus that the conditions for obtaining the General Mining Permit were not met for more than three months, and (ii) Rozmin did not perform any mining activities at any site in the Slovak Republic for a period longer than three years. The DMO therefore cancelled Rozmin's General Mining Permit</i>" (Respondent's Counter-Memorial, ¶¶ 340-341).</p> <p>The requested Documents are relevant and material:</p> <ul style="list-style-type: none"> • to determine when the decision was taken to revoke Rozmin's General Mining Authorization; • to determine the extent of the due diligence carried out by Respondent prior to the revocation (e.g. to assess the procedural fairness of the DMO's decision to revoke Rozmin's mining rights); and • to assess the underlying objectives of the revocation.

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	<p>The requested Documents are in Respondent's possession, custody or control as they are Documents internal to (issued by) Respondent.</p>
<p>C. Summary of objections by disputing Party to production of requested documents</p>	<p>The Slovak Republic objects to the production of any documents included in the administrative or court files maintained in the proceedings in the Slovak Republic to which Rozmin was a party as unreasonably burdensome, disproportionate, and contrary to the basic requirement that the Claimants may only seek documents that are not in their own possession or control. The Slovak Republic reiterates and incorporates by reference the objection it raised in this respect in connection with Claimants' Request No. 3 above.</p> <p>Subject to the above objections, the Ministry of Finance, which represents the Slovak Republic in this proceeding, has requested the Ministry of the Economy, the District Mining Office in Spišská Nová Ves, which has jurisdiction over Gemerská Poloma, and the Main Mining Office to inform it if they have documents relevant to this request that were not submitted in the administrative and judicial proceedings held in the Slovak Republic pertaining to the revocation of Rozmin's General Mining Permit. The Ministry of Finance will inform Claimants and the Tribunal as soon as it hears from those authorities and will produce any such responsive, non-privileged and non-confidential documents.</p>
<p>D. Reply</p>	<p>Claimants repeat, and incorporate here by reference, their Reply to Respondent's Objection to Document Request No. 3.</p> <p>Claimants' position is that none of the Documents requested are in their possession, custody or control. For the avoidance of doubt, Claimants reiterate that the Documents requested do not encompass the documents which were effectively produced and served on Rozmin in the course of administrative or court proceedings to which Rozmin was a party during Claimants' shareholding, but rather the Documents that were neither provided to Rozmin nor made publicly available, including, but not limited to, all correspondence, minutes of meetings, assessment memoranda, and reports (both internal and external), discussing the subject matter of this Document Request. Respondent's Objection in this respect is yet another attempt to blur the extent of Respondent's obligation to produce, and/or to preserve a <i>way out</i> in case it does not want to produce a Document falling within the scope of Claimants' Request. If Respondent's Objection were to be granted, Claimants and the Tribunal would be deprived of the ability to determine whether Respondent has, or not, complied with its obligation to produce. This cannot be allowed.</p> <p>Based on the foregoing, Claimants request that the Tribunal order Respondent to produce the Documents requested, and that all Documents responsive to this Request which Respondent claims to be privileged and/or confidential, be identified together with Respondent's position as to why such Documents should be considered privileged and/or confidential. This is because the Slovak Republic cannot possibly have the authority to make the ultimate decision as to whether a particular Document is, or not, privileged and/or confidential.</p>

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E. Decision of the Tribunal	Granted , except for confidential or privileged documents. Respondent will identify confidential or privileged documents as precisely as possible, explaining why they are confidential or privileged.
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<u>Document Request No. 13</u>	
A. Documents or category of documents requested	All Documents addressing the deposit's reserves and value, prepared or issued after the December 30, 2004 announcement of the initiation of a new public tender procedure for the assignment of the Gemerská Poloma deposit.
B. Relevance and materiality (para. ref. to submissions and comments)	<p>The requested Documents are relevant and material to determine the extent of damages sustained by Claimants as a result of the revocation of their mining rights.</p> <p>The requested Documents must be in Respondent's possession, custody or control as Respondent made it plain in its Counter-Memorial that the State must follow the advancement of any entity's mining activities in the Slovak Republic.</p>
C. Summary of objections by disputing Party to production of requested documents	The Slovak Republic objects to this request because it seeks documents that are not relevant or material at this stage of the proceedings. The Claimants submit that the documents would be relevant to determine the extent of damages. This arbitration has been bifurcated and the present stage of the proceedings addresses solely issues of jurisdiction and quantum. The requested documents are entirely irrelevant and unnecessary at the present jurisdictional and merits stage as they are not required in order to determine if the Tribunal has jurisdiction over the Claimants or if the Slovak Republic violated its international-law obligations.
D. Reply	Claimants submit that nothing, in the Procedural Orders or otherwise, prevents Claimants from already requesting at this stage Documents which are relevant for the determination of the damages sustained by Claimants as a result of the revocation of their mining rights, which issue is indisputably relevant and material for the resolution of the dispute as a whole. This is all the more so that Respondent does not claim that the production of the requested Documents would be burdensome. The requested Documents are in any event also relevant to the question of financing, and thus to the merits, to rebut any allegation that Claimants did not have the financial means to develop the Deposit. The value of the Deposit is indeed is one of the elements taken into account by financial institutions when granting financing facilities.
E. Decision of the Tribunal	Denied . The request is premature.

