

Standard Chartered Bank v. United Republic of Tanzania
(ICSID Case No. ARB/10/12)
Procedural Order No. 1

The Tribunal has considered the Parties' Requests for document production related to the jurisdictional phase of these proceedings, as memorialized in the respective Schedules and Motions filed on 24 February 2011, along with Objections dated 7 March 2011, oral arguments in London on 17 March 2011 and written exchanges dated 21 March 2011.

Without prejudice to possible requests in any subsequent phase of these proceedings, and expressing no view on the merits of the jurisdictional arguments, the Tribunal rules as follows.

1. Claimant's Document Production Requests

(a) Request No. 1

The Tribunal notes the Parties' oral agreement on 17 March 2011 to the effect that no decision is needed at this time for this Request. Notwithstanding that agreement, Claimant reserves the right to resubmit the Request at a later time if necessary.

(b) Requests Nos. 16 and 17

The Tribunal notes Respondent's Letter of 21 March 2011 affirming that Respondent "does not intend to rely on the Invoice Dispute as a basis for or in support of, its jurisdictional objections." Accordingly, the Tribunal declines to compel production.

(c) Request No. 55

The Tribunal notes Respondent's Letter of 21 March 2011 confirming that Respondent "does not intend to rely on the Discontinuance of the ICSID arbitrations by IPTL as a basis for, or in support of, its jurisdictional objections." Moreover, Respondent continues that "GOT does not intend to offer into evidence, utilize or otherwise rely on in support of its jurisdictional objections any document responsive to Request No. 55, including the communications between the alleged representatives of IPTL and ICSID seeking to discontinue/withdraw the arbitrations, nor the Order executed by the Tribunal discontinuing the Interpretation Proceedings in ICSID [Case No.] ARB/98/8." Accordingly, the Tribunal declines to compel production.

(d) Requests Nos. 56-58

The Tribunal notes Respondent's Letter of 21 March 2011 confirming that Respondent "does not intend to offer into evidence, utilize or rely on in support of its jurisdictional objections any documents that, if they existed, would be responsive to Requests 56-58." Accordingly, the Tribunal declines to compel production.

2. Respondent's Document Production Requests

(a) Requests Nos. 4, 5, and 61

The Tribunal directs production of documents responsive to these three Requests.

(b) Request No. 23

The Tribunal directs production of a non-redacted version of the Sale and Purchase Agreement dated 4 August 2005 between Danaharta Managers Ltd. and Standard Chartered Bank (HK) Ltd.

(c) Request No. 34

The Tribunal notes the Parties' oral agreement on 17 March 2011 to the effect that no decision is needed at this time for this Request.

(d) Requests Nos. 49 and 58

The Tribunal declines to direct production of documents responsive to these Requests.

(e) Request No. 54

The Tribunal notes Claimant's willingness "to disclose relevant underlying documents in its possession, custody or control which were examined in the course of the preparation of the report that relate to the three issues out [sic] set out at (i) to (iii) in paragraph 39 of [Respondent's] Motion to Compel." See Claimant's Objections to Respondent's Motion to Compel, at paragraph 47, and Claimant's Letter of 21 March 2011 affirms that Claimant "is willing to produce . . . a list of such documents made available for the due diligence exercise undertaken by SCB's lawyers." The Tribunal declines to compel production of any additional documents with respect to this Request.

3. Deadlines

With respect to any Request for which production has been ordered, the Parties shall confer on an appropriate timetable for disclosure and revert to the Tribunal in the event of disagreement.

4. Commercially Sensitive Information

The Tribunal notes the Respondent's assertion that certain documents at issue contain commercially sensitive information. Without taking a position on the merits of that assertion, the Tribunal invites the Parties to confer on whether terms of a confidentiality order should be agreed between them, reverting to the Tribunal in due course.

For the Tribunal

[Signed]

William W. Park
25 March 2011