

In the matter of an arbitration under the Rules of
Arbitration of the Arbitration Institute of the Stockholm
Chamber of Commerce

No: V (116/2010)

ICC Hearing Centre 112, avenue
Kleber 75016, Paris

Day 2 Tuesday, 2nd October 2012
Hearing on Jurisdiction and the Merits

Before:

PROFESSOR KARL-HEINZ BOCKSTIEGEL PROFESSOR SERGEI LEBEDEV MR DAVID
R HAIGH QC

BETWEEN:

ANATOLIE STATI GABRIEL STATI ASCOM GROUP SA TERRA RAF TRANS
TRAIDING LIMITED

Claimants

-v-

THE REPUBLIC OF KAZAKHSTAN

Respondent

REGINALD SMITH, KENNETH FLEURIET, KEVIN MOHR, HELOISE HERVE, AMY
ROEBUCK FREY, ALEXANDRA KOTLYACHKOVA and VALERYA SUBOCHEVA, of
King & Spalding, appeared on behalf of the Claimants.

DR PATRICIA NACIMIENTO, JOSEPH TIRADO, SIMON RAMSDEN, ZHANIBEK
SAURBEK, MAX STEIN and SVEN LANGE, of Norton Rose LLP, and PROFESSOR
IGOR V ZENKIN, of Moscow Regional Collegium of Advocates, appeared
on behalf of the Respondent.

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ALSO APPEARING

FOR CLAIMANTS

ZHENNIA SILVERMAN, King & Spalding
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Support and International Cooperation of the Financial
Police

ALAN TLENCHIEV, Head of the Division on the Supervision over
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OLCOTT, Carnegie Endowment for International Peace

FOR THE TRIBUNAL

KATHERINE SIMPSON, Secretary to the Tribunal

INTERPRETERS

ALEXANDRE TCHEKHOV, Russian-English Interpreter

NATALY HOLM, Russian-English Interpreter

09:30 1

Tuesday, 2nd October 2012

2 (9. 32 am)

3 MR ANATOLIE STATI (called)

4 (Evidence interpreted)

5 THE CHAIRMAN: Good morning, everybody. We resume the
6 hearing. I understand we are now going to hear Mr Stati
7 as the next witness.

8 Mr Stati, you will not testify in English, I take
9 it?

10 MR SMITH: Mr Chairman, let me make a clarification because
11 there has been a slight change. As a result of
12 difficulties yesterday with the Romanian translation,
13 Mr Stati has indicated a preference to testify today in
14 Russian, as opposed to in Romanian. His statement,
15 however, is in Romanian.

16 So therefore, if counsel, when addressing questions
17 to Mr Stati, could simply direct him to the paragraph
18 number -- which they would do in any event -- of the
19 witness statement. It might be a bit more cumbersome,
20 and we apologise for that. But we think, so that the
21 transcription of his testimony is accurate and complete,
22 he would prefer and be much more comfortable today
23 testifying in Russian.

24 THE CHAIRMAN: Alright.

25 Now, before we get going, there is the statement in

09:35 1 front of you, Mr Stati, of which I take it you will get
2 now a Russian translation. I hope the interpreter still
3 has the sheet from yesterday. If the interpreter would
4 kindly read out the text of the witness declaration in
5 English. (Pause)

6 So if the interpreter would be kind enough to read
7 out to Mr Stati a Russian translation of the English
8 declaration that I hope the interpreter still has
9 available. (Pause)

10 THE WITNESS: Yes, I understand that in my testimony I have
11 to tell the truth and nothing but the truth, and I am
12 also aware that if I do not say the truth, I may face
13 legal consequences and may be held responsible under the
14 applicable law.

15 THE CHAIRMAN: Thank you very much, Mr Stati.

16 Your witness, please.

17 MR SMITH: Mr Chairman, before I begin questioning Mr Stati,
18 I just want to advise the Tribunal that this direct
19 examination will likely be more lengthy than the five
20 minutes. There are a number of issues as they relate to
21 causation and the background to Mr Stati's businesses
22 that were raised for the first time by the respondent in
23 the rejoinder, and I think that it would be appropriate
24 for Mr Stati to respond to those questions. We will try
25 to be as efficient with the time as possible.

09:37 1 TH CHAIRMAN: Well, you're using your own time anyway.
E

2 MR SMITH: Thank you.

3 (9 37 am)

4 Direct examination by MR SMITH

5 Q. Mr Stati, you've been handed copies of your first and
6 second witness statements in this proceeding, and
7 I would ask if you would indicate to the Tribunal
8 whether those statements remain true and correct to the
9 best of your knowledge?

10 A. Well, practically everything in my witness statements is
11 correct, except for a very small detail. Instead of
12 "[Rompetrol]there should be the national gas company
13 [Petrom] of Romania. It was not indicated in which
14 place.

15 Q. Mr Stati, if you would turn to your first witness
16 statement at paragraph 6, is that the correction that
17 you want to make, a change from "Rompetrol" to "Petrom"?

18 You have to answer verbally, Mr Stati.

19 A. Yes, absolutely correct.

20 Q. Mr Stati, when did you first form Ascom Group?

21 A. 1994 .

22 Q. And where is Ascom Group based?

23 A. The central office of Ascom is situated in Chisinau in
24 Moldova. 75 Mateevici street.

25 Q. And how many employees does Ascom Group currently have?

09:39 1 A. 111 employees in the central office and -- 111 personnel
2 in the central office and about 3,000 specialists at the
3 fields run by Ascom.

4 Q. Okay. And how many employees did Ascom Group have at
5 its peak of operations?

6 A. In the central office there were about 380 persons, and
7 after the problems arose with Kazakhstan we reduced the
8 number of employees.

9 Q. Thank you, Mr Stati.

10 There has been some suggestion in the respondent's
11 rejoinder materials that you had no prior experience in
12 the oil and gas business prior to Kazakhstan. Would you
13 explain to the Tribunal how, Mr Stati, you and the Ascom
14 Group got involved in the oil and gas business?

15 A. After we had sold our interest in Decebal cooperative,
16 which had been set up in 1989 -- it was an industrial
17 cooperative, we actually earned quite good money on
18 that -- and since Moldova imports also almost 100% of
19 its energy resources, we decided to invest this money
20 into a serious energy-related project. And our contacts
21 in Turkmenistan informed us that there was a tender
22 arranged by the Ministry of Oil and Gas of Turkmenistan
23 for refurbishing and bringing back into operation the
24 idle wells.

25 That's why we got interested and we offered to the

09:41 1 national oil and gas company of Romania to set up
2 a joint venture to carry out this project.
3 Unfortunately they did not accept this proposal because
4 after their operations in Severobad, the Turkmen party
5 did not fully settle their affairs, and apparently they
6 didn't believe they will be paid in due time and didn't wish to
get involved in such problems again. In
7 response to our question if they would agree to become
8 our contractors, so that we take all the risks and pay
9 for their services, they agreed.
10 With this offer we went to the tender. Our bid
11 turned out to be the most attractive and we signed
12 a contract for renovation of the idle wells at an old
13 oilfield in Turkmenistan, and another contract for
14 refurbishing and restoration of oil and gas equipment.
15 Q. Mr Stati, did you consider your operations in
16 Turkmenistan to be a success?
17 A. Yes. We were hugely successful in Turkmenistan because
18 we managed to call or recall all the experts and
19 specialists who had worked in those fields in
20 Turkmenistan and had huge experience after Turkmenistan
21 gained sovereignty, became independent. Most
22 specialists who left the country were called back by us.
23 So we actually created a very strong team of good
24 specialists with very high potential, both in the
25 country and outside it.

09:44 1 We actually were able to make up the strongest team

2 in Turkmenistan. We worked at five fields, and were very
3 successful, and in one
4 and a half years we were able to raise the extraction of
5 oil and gas to the equivalent of 50,000 barrels per day.

5 Q. Thank you, Mr Stati.

6 Why did Ascom Group leave Turkmenistan?

7 A. For the period until 2015, originally for five years
8 with a right to extend it until the year 2015, after we
9 had raised the production and the contract turned out to
10 be very profitable, we were able to repair within five years 256
11 deep
12 wells, and these were difficult wells; most of them had
13 technical problems. And since we were able to maintain
14 the level of production in five years, Turkmenneft
15 still decided to keep their rights for themselves. They
16 did not actually agree to extend the contract, that's
17 why it was completed, and I was even awarded by
18 President Niyazov, I received the medal for merit. And
19 that's all I can say in this respect.

19 Q. What was your next oil and gas endeavour, Mr Stati, with
20 Ascom Group after leaving Turkmenistan?

21 A. Well, we were aware, of course, that our contract was
22 nearing its completion in the year 2000. We earned very
23 good money because we had success there, so we decided to
24 develop our business further.

25 At that time Kazakhstan was very attractive, we

09:46 1 started looking into Kazakhstan assets, and that's how
2 we acquired 60% in 1999 in Kazpolmunay, and in 2000 year
3 we also acquired 75% in Tolkynneftegaz. These fields
4 although, by definition of the Ministry of Geology of
5 the USSR, held no prospects. The Kazakhstan partners in
6 three years had done almost nothing, and we had very
7 little time left to complete the minimal programme, and
8 we were told by the akim, Mr Kiyinov, that if we failed
9 to complete the minimal programme, the licence may be
10 revoked, so we should be very cautious because little time indeed
11 was left to complete the minimal programme. And we assured
12 the akim, the governor, that we will approach the issues
13 professionally. We knew what we were facing at that
14 time. All the equipment was very close at hand, at
15 Nibit Dag, and we will be able to transport our
16 equipment within a very short period of time. And we
17 were able to actually outperform the programme by some
18 20% both physically and financially.

18 Q. Mr Stati, before the events of the fall of 2008, and in
19 particular the letter from President Voronin and
20 President Nazarbayev's response to that letter, did you
21 consider your oil and gas operations in Kazakhstan to be
22 successful?

23 A. Yes, they were very attractive because we were working
24 with ten drilling platforms. We drilled
25 about 10-12 wells per year, and we were also referred to as

09:49 1 an exemplary operation. We received letters of
2 gratitude from the authorities and good reviews in
3 different inspections which is confirmed by the acts of
inspections of competent authorities. So we never had any
4 disputes, always had a good mutual
understanding and were operating actually quite
5 smoothly. And the authorities always provided positive
evaluation of our work.

6 Q. We will come to Project Zenith in a moment, which took
7 place, as I understand it, in the summer of 2008. But
8 prior to Project Zenith, had any companies or
9 individuals expressed an interest in acquiring the
10 operations of either KPM or TNG?

11 A. Well, in fact we had certain problems over a certain
12 period of time in Kazakhstan. We started gas production
13 in 2003, and that's where problems emerged because
14 practically our contract gives us the right for 100%
15 export of gas, and we never managed to get to actually
16 exporting. KazRosGaz and Gazprom were creating
17 problems.

18 KazRosGaz is a 50% owned joint venture by
19 KazMunaiGas and Gazprom, and that's where problems --
20 the first problem emerged in 2003, when we were directly
21 warned by KazRosGaz that until the field was exhausted,
22 we should sell gas at the rate of \$11. This was below
23 self-cost and totally unacceptable; we were against it.
24 And that's why we -- KazRosGaz and its affiliated
25 company kept addressing us with requests -- GazImpex,

09:51 1 for example, as KazRosGaz -- to sell a part of our
2 shares to these companies.

3 The reason actually was that KazRosGaz could not
4 reach the world market alone; it had to share its
5 revenues with Gazprom, and we were confronted with the
6 request that they should themselves produce volumes, and
7 then they were afraid to export these volumes of gas.

8 Practically speaking, this was the origin of the
9 persecutions, of harassment of my company. Because
10 apart from this, Mr Kulibayev had another very
11 interesting project, KazAzot, and on the base of it,
12 together with the Japanese partners, they planned to build up
13 the
14 biggest petrochemical plant in the free zone of the city
15 of Aktau, and that would cover 15% of the market of
16 mineral fertilisers.

17 In this project the participants were Gutserayev,
18 Kulibayev and Kuserbayev. They in fact kept hinting to
19 us that we might support this project and sign
20 contracts. We formulated our offers, but the prices
21 that we offered did not satisfy them. And in fact the
22 plant was situated too far away from the transportation
23 route, and transportation expenses would be too great,
24 and the whole operation would be less economically
25 viable.

26 So the further developments, as strange as it is,

09:53 1 stemmed from these situations that Mr Kulibayev was
2 actually interested in Tolkynneftegaz as a supplier of
3 gas to export markets. They earned good money on the
4 exports and paid only kopecks to us. There was an idea
5 to earn good money on cheap raw material by supplying
6 the raw materials to this large petrochemical plant.

7 Q. Thank you, Mr Stati.

8 In the summer of 2 008 your company went through what
9 has been known as Project Zenith. Why did you decide in
10 the summer of 2008 to attempt to sell your Kazakh
11 operations?

12 A. Actually we didn't want to sell all of our business in
13 Kazakhstan, and we offered for sale through Renaissance
14 Capital investment bank only Tolkyn and Borankol. And
15 Tabyl we wanted to keep for ourselves because we made discoveries
16 at Bahyt and Munaibay and we had
17 serious intentions to develop this block, as there was
18 a block reef, and our aim was to develop the project of
19 this reef.

19 The prices were very good at that time in the
20 market: there was great interest in oil and gas assets,
21 and we regarded the valuation of our assets as at a very
22 good level, and we thought that we might sell those
23 assets and then carry over our operations to Sudan,
24 where we had a product-sharing agreement with the
25 Government of Southern Sudan. And also in the north of

09:56 1 Iraq, with the Kurdistan Government, we had signed
2 very profitable contracts also on a product-sharing
3 base. And we wanted to develop those projects,
4 as well as the Taby1 block.

5 Q. Mr Stati, why did you withdraw from the Project Zenith
6 sale process in the fall of 2008?

7 A. We all know that from July until October the prices were
8 plummeting and the crisis was there, and we were aware
9 that in the second round we will have no chance to reach
10 agreements with potential buyers on such profitable
11 terms because the internal valuation of our assets was
12 much higher than what had been offered by the Korean
13 [National] Oil Company, to the tune of \$1.5 billion.

14 As we know, usually prices keep fluctuating: they go
15 down, then they rise. If we compare to the situation
16 today, we have the same prices until the start of our
17 transaction to sell our assets. So we were waiting for
18 a more appropriate moment to sell our assets at better
19 prices.

20 Q. Thank you, Mr Stati. When did you first learn of
21 President Nazarbayev's directive in response to
22 President Voronin's letter?

23 A. This was on 19th or 20th October. I was informed by
24 Mr Salagor, who was the coordinator of the projects in
25 Kazakhstan.

09:58 1 Q. And, Mr Stati, do you have any view or opinion as to why
2 President Nazarbayev gave the directive that he gave in
3 October 2008?
4 A. As I went through this history of selling our gas
5 volumes, I was aware of the great interest in our
6 volumes displayed by KazRosGaz, by Mr Kulibayev. And on
7 many occasions we had meetings with Mr Kulibayev
8 attempting to reach an agreement to set up together with
9 him a 50/50 joint venture. But his conditions were
10 always very low: he never wanted to pay for this 50%.
11 That's why I never accepted, and I kept telling him that
12 at least he might pay for the costs that we encountered
13 in the 50% shares but he did not accept even those terms.
14 Mr Kulibayev is a very canny person; he always sees
15 to it that someone else does the work for him. I think
16 it was his initiative, he has great influence and enjoys
17 attention, and apparently there was an agreement between
18 Mr Nazarbayev and Mr Voronin. Mr Voronin and I have
19 different opinions on various issues, on life in
20 general. He disliked me, and that's why he agreed to
21 cooperate with Mr Nazarbayev and to write this letter
22 , and in my opinion this letter was the start of the operation
23 to seize our assets.
24 Q. Mr Stati, when the investigations began in the fall of
25 2008 and continued into 2009, did you make any efforts

10:00 1 to communicate with President Nazarbayev?

2 A. Yes, on many occasions. Many times I wrote a letter
3 personally, and asked Mr Luchinskii, who also wrote
4 a dozen telegrams to Mr Nazarbayev asking him to give
5 an audience, to receive me and listen to our case, and for us
6 to understand why was there such negative attitude, such pressing of
7 our companies.

8 Mr Luchinskii kept talking to the presidential
9 office, and his chief secretary of the presidential
10 office, and they kept promising that, "Of course we'll
11 put you through to the President," but day after day
12 there was a failure and we couldn't reach President
13 Nazarbayev, never managed to speak to him to understand
14 why such pressure was being exerted on us.

15 And then Mr Luchinskii addressed Mr Victor
16 Chernomyrdin, who was then the ambassador in Ukraine.
17 This was a very close friend and associate of
18 Mr Nazarbayev. And when Mr Chernomyrdin called
19 Mr Nazarbayev, Mr Nazarbayev actually spoke to him and
20 they had a conversation. When Mr Chernomyrdin asked
21 President Nazarbayev to receive us, to have a meeting
22 and look into this case, Mr Nazarbayev just hung up and
23 refused to continue this conversation.

24 Q. You mentioned in your answer on a couple of occasions
25 Mr Luchinskii. Remind the Tribunal who Mr Luchinskii

10:02 1

is?

2 A. Mr Luchinskii was the former President of Moldova.

3 Between 1995 and 2000 we met each other, when he became

4 the President. He supported our project because he was

5 aware that in order to maintain the energy security of

6 the country, we, as a company, were capable to implement

7 this project. A country is not sovereign as long as its

8 energy security is maintained -- the country which

9 imports 100% of its energy resources always depends on

10 a third country, and we see that Russia uses its gas

11 deliveries in order to put -- to advance political

12 claims with respect to our country.

13 Q. Mr Stati, what prompted your decision to renew your

14 efforts to sell your companies early in 2009?

15 A. As you see in the materials of our case, we were fully

16 aware and we knew Mr Kulibayev's tactics. We realised

17 that President Nazarbayev's resolution on President

18 Voronin's letter was the starting signal for serious

19 harassment and pressure on our companies.

20 It was claimed that we breached the preemptive

21 rights of Kazakhstan when the assets of Tolkynneftegaz were
transferred to

22 Gheso and then to Terra Raf, and then there were

23 accusations advanced -- fabricated accusations, of

24 course -- that we were operating main pipelines without

25 licence, that we were engaged in illegal entrepreneurial

10:04 1 activities.

2 We realised, of course, that this was the start of
3 very hard pressing; something that was usual in
4 post-Soviet states, what was called "raider" takeovers
5 of companies. We were not the first to be subjected to
6 this treatment. So we made up our mind to leave as soon
7 as we could, rescuing as much as we could of our assets.
8 We also realised that the prices would be low, but still
9 in order to go save at least something, we decided to
10 resume the Zenith Project and we turned to Renaissance
11 Capital, asking them to invite the potential buyers of
12 our assets.

13 Q. Were those efforts a success?

14 A. Yes. Yes. We received an offer from Total, from
15 Turkish [Petroleum] and from PSA Energy Holding; and at
16 a later point from [KNOC], who in July requested access to our
17 databank, and there was a large group who studied our databank.
18 We met also
19 Mr Kim and he explained why he refused to buy our
20 assets.

21 We were also invited by Total in February 2009 to
22 Paris, and there we discussed sale of our assets. And
23 they were very interested in the Taby1 block because
24 after they studied the 3D seismic they ascertained that
25 that there was a reef structure
and they were very interested in it.

10:07 1 Q. Do you have any understanding, Mr Stati, as to why your
2 efforts ultimately were unsuccessful in selling your
3 companies in the first or second quarter of 2009?
4 A. In any case, all the companies realised what kind of
5 claims were advanced by the state towards our companies:
6 huge penalties were imposed on Kazpolmunay,
7 US\$145 million, for allegedly illegal entrepreneurial
8 activity using some kind of main oil pipeline. There
9 were also claims advanced with respect to the payment
10 again of illicitly imposed \$62 million of corporate
11 back-taxes. There were also claims advanced with
12 respect to the payment of illegal customs duties on
13 exports by Kazpolmunay, because Kazpolmunay was exempted
14 from such payments.
15 Also in May or in June there was a declaration by
16 the financial police that in practice four directors of
17 the companies, TNG and KPM, were facing criminal
18 charges, accused of violations and obtaining illegal
19 profits from entrepreneurial activity of \$980 million.
20 These were atrocious accusations. Each company was
21 aware how serious the situation was. We didn't wish to
22 have problems with the Kazakhstan authorities. And of
23 course everyone kept telling me, "Let's try to reach
24 an agreement with the Kazakhstan authorities. If you
25 manage to have a compromise, then we will go back to

10:09 1 discussions and resolving whether to buy your assets."

2 MR SMITH: Thank you, Mr Stati.

3 THE CHAIRMAN: Thank you very much. We can go to cross

4 right away, I think.

5 (10 .10 am)

6 Cross-examination by DR NACIMIENTO

7 Q. Good morning, Mr Stati.

8 A. Good morning.

9 Q. I have a few questions regarding your background. Is it
10 correct that you spent the first 17 years of your career
11 in the construction business in Moldova?

12 A. Yes. I have read memoirs of Ms Olcott. I am not
13 a constructor; I am a mechanical engineer, and I worked
14 as an engineer working with lifting mechanisms and
15 exploiting these lifting mechanisms. I have nothing to
16 do with construction as such.

17 I also want to inform you that I have never been
18 a Communist, not during the Soviet time and not during
19 the present.

20 THE CHAIRMAN: I'm sorry, Mr Stati, you can only answer the
21 questions which are posed. Those are the rules of the
22 game.

23 THE WITNESS: I beg your pardon.

24 DR NACIMIENTO: And then after those first 17 years, you
25 spent a further five years in a Moldovan consumer goods

10:11 1 trading company; is that right?

2 A. No. I did not have anything to do with trading.

3 Q. Could I refer you to your first witness statement, the
4 first paragraph, the last sentence. It says:

5 "In 1989, I then joined Decebal, a Moldovan consumer
6 goods trading company, where I served as Director until
7 1994 . "

8 A. Decebal dealt with production, purely production. We
9 were putting wine into bottles. We produced a conveyor
10 for 12,000 bottles per hour. We were very successful.
11 We also produced plastic goods. We also produced shoes.

12 THE INTERPRETER: If the interpreter understood correctly.

13 A. Yes, we did not directly work with trading. This is
14 probably my misunderstanding of the question. I was not
15 a trader myself; I did not sell at a market.

16 Q. Is this description of Decebal a correct one in your
17 witness statement?

18 THE CHAIRMAN: Can you somehow get your microphone closer,
19 as you are talking in the other direction.

20 DR NACIMIENTO: I'm sorry.

21 A. Absolutely correct.

22 Q. It's a consumer goods trading company?

23 A. The company was producing, bottling the wine, producing
24 plastic goods and shoes. But of course, once you've
25 produced, you do sell them after that.

10:14 1 Q. Okay, thank you. And then, approximately at the age of
2 40, you decided to make a change of your life; is that
3 right?

4 A. In what way?

5 Q. You started a new career and you started a new
6 education; is that right?

7 A. That's right. In 1992 I started studies by distance of
8 the university at the economic faculty, and I graduated
9 from it.

10 Q. And while you were still studying, actually at the
11 beginning of it, you created the Ascom Group?

12 A. In 1994.

13 Q. Is it a correct description of your position, Mr Stati,
14 that within the companies controlled by you, you take
15 the main decisions?

16 A. Absolutely correct. But I work in a team.

17 Q. And you are informed about all relevant facts so as to
18 take the relevant decisions?

19 A. Yes, of course, everything that reaches me, indeed. But
20 I can't say if this is a comprehensive list of facts.
21 It depends on the loyalty of my personnel.

22 Q. Was it your decision to start this arbitration?

23 A. Yes, it was me.

24 Q. Did you select the counsel for this arbitration?

25 A. Absolutely correct.

10:16 1 Q. And did you instruct counsel for this arbitration?

2 A. In which way, instruct?

3 Q. Tell them what to do?

4 A. No, we have a contract. I trust they are professionals
5 and they know how to act.

6 Q. You have a contract, and you are saying you trust they
7 are professionals. So you entered into an engagement
8 letter with King & Spalding?

9 A. There is a contract between us.

10 Q. And who provides King & Spalding with the necessary
11 information for this arbitration?

12 A. My team. They receive all the information concerning
13 the facts, and all the information they require, and all
14 the information they are entitled to, based on the
15 applicable law.

16 Q. And who is your team in this respect?

17 A. My management.

18 Q. Can you give us the names?

19 A. There are many people.

20 Q. Can you name them?

21 A. Alright. Mr Lungu, Mr Cojin, Mr Salagor, Mr Pisica,
22 Mr Condorachi, Mr Stejar, Mr Calancea. Do you want me
23 to continue listing them? We are speaking about
24 30-40 people.

25 Q. And the ones that you just mentioned are the main

10:18 1 people?

2 A. Almost, yes.

3 Q. Do you remember when you engaged King & Spalding for
4 this arbitration?

5 A. In 2009.

6 Q. You specifically instructed them to start working on the
7 arbitration?

8 A. That's correct.

9 MR SMITH: Mr Chairman, I believe I'll just allow counsel to
10 ask her questions, but she is getting dangerously close
11 to attorney-client communications between Mr Stati and
12 my firm.

13 DR NACIMIENTO: It is just getting close, but as you mention
14 it, I am just asking about the dates.

15 So in 2009 you engaged King & Spalding, and
16 instructed them to start work on the arbitration?

17 A. Yes. We provided them with the materials, we have
18 signed an agreement that they will bring this to
19 arbitration and represent our interests in it.

20 Q. Was it in early 2009?

21 A. I can't tell for sure. I don't remember exactly. In
22 2009, sometime in the beginning.

23 Q. Are you aware that your attorneys confirmed receiving
24 internal government materials from sources within
25 ministries?

10:20 1 A. Yes, I am. Yesterday Mr Reggie [Smith] made a statement
2 that there are people who, probably understanding what
3 kind of awful actions are performed in some of the
4 authorities of Kazakhstan, and probably these people
5 [have] been trying to bring the truth to the matter and
6 trying to achieve a fair judgment over the atrocities in
7 Kazakhstan; probably this is why these people did what
8 they did.

9 Q. Do you know who are these people?

10 A. No, I don't. But I encourage them.

11 Q. Did you learn yesterday only about those documents?

12 A. Not all of them. Some of the documents were brought to
13 me personally and shown to me, and I was astonished
14 about the things said. They demonstrate, for example,
15 Blagovest, how many people there were who were acting
16 illegally and who were engaged in raiding activities.

17 Q. You said that those documents were brought to you
18 personally. Who brought them to you?

19 A. Some of them by -- many of these documents by my people,
20 my employees in Kazakhstan, who would just bring them
21 and put it in front of me on my desk for my information.

22 Q. And who were those people in Kazakhstan? Your people?

23 A. Many of them, I can't really recall which documents and
24 which people. It was such a pressing and such
25 a stressful situation, we were very nervous. You

10:22 1 couldn't recall what you had for breakfast. We are not
2 an investigating team; we are businessmen.
3 Q. Can you name some of those people?
4 A. No.
5 Q. You mentioned before that you take the main business
6 decisions, and that you are informed and that you have
7 people informing you, and you named some of them, and
8 you named the main ones. Among the ones that you named,
9 were those bringing you documents?
10 A. No.
11 Q. Can you remember which other documents were put in front
12 of you?
13 A. The letter of Mr Nazarbayev, I've seen it in the media,
14 it was on the internet, it was in the papers. When it
15 comes to Blagovest, I've got a whole folder which was
16 picked from the desk of Mr Andreyev, and there were
17 documents on the construction of a channel, and among
18 other things there was Blagovest letter in this folder.
19 Q. How did you react to these letters?
20 A. Well, how could I react? How would you do it? It
21 wasn't good news. I couldn't imagine such things could
22 have happened. We were so praised. We were so
23 appreciated. We were doing good things. We were paying
24 taxes on time. We were one of the leading companies in
25 Kazakhstan. And we were shocked to learn that we had

10:24 1 such good wishes, so to say.

2 Q. Did you speak to your team about those documents?

3 TH CHAIRMAN: Sorry, I have real problems hearing you.
E

4 DR NACIMIENTO: I'm sorry.

5 TH CHAIRMAN: Perhaps you could move a bit over here, and
E

6 speak more into the microphone.

7 DR NACIMIENTO: Yes, okay. Is this better?

8 TH CHAIRMAN: Absolutely.
E

9 DR NACIMIENTO: Did you speak to your team about those
10 documents?

11 A. With shock , we did.

12 Q. Are you aware that those documents are part of this
13 arbitrat ion?

14 A. I suppose so.

15 Q. Are you aware that it's illegal to pass on those
16 documents?

17 A. Well, if there are some people who breached the law,
18 these are the people that should be brought to justice.

19 Q. Did you encourage those sources of information?

20 A. In what way?

21 Q. Did you ask for more information?

22 A. From whom?

23 Q. From the source providing you with documents.

24 A. Unfortunately I did not have sources. I only was able
25 to see the documents for my information.

10:27 1 Q. Are you aware that some of these documents have been
2 later amended, and not by the ministry who initially
3 drafted them?

4 A. I did not care about such things. I was not interested
5 in such things.

6 Q. What did you do with those documents?

7 A. I forwarded these documents to the security services and
8 to the legal department.

9 Q. Can I refer you to Exhibit 11 of the Olcott report.

10 A. It is in English; I don't read English.

11 Q. Then I can read it out to you and it can be translated.

12 A. Thank you.

13 Q. This is an article which appeared in a newspaper in 1996
14 and I am reading from the second row in the middle,
15 where it says:

16 "Ascom, a joint venture operating in the oil-rich
17 independent republics that emerged after the breakup of
18 the Soviet Union, signed a US\$40 million contract in
19 September with the government of Turkmenistan. The
20 contract involved the repair, maintenance and operation
21 of 3,600 oil derricks and wells.

22 "To implement the contract, Ascom subcontracted part
23 of the work to the Romanian firm UPETROM and put
24 an UPETROM engineer ... in charge of the whole project.
25 Tomescu and two associates then stole documents from

10:30 1 Romania's Institute of Oil Research and tried to smuggle
2 them to Ascom's headquarters in Kischinev."
3 A. (Not interpreted)
4 MR SMITH: I'm not sure, Mr Stati, there is a question
5 pending.
6 DR NACIMIENTO: The question is: so it's not the first time
7 that you have been accused of illegally obtaining
8 documents?
9 A. I have never obtained documents illegally. If this
10 little paper said something about Mr Tomescu, who was
11 totally innocent, and at a later stage it proved that
12 the newspaper was speaking about catalogues, catalogues
13 that you could purchase in any little kiosk, and
14 an apology was made. And if Ms Olcott believes that she
15 is an expert, and not only a collector of lies and false
16 declarations, let this expert deal with the matters of
17 her field of expertise. Let her make expert statements,
18 let her make research, and demonstrate and see that
19 later Mr Tomescu received apologies and he was proved
20 innocent.
21 Q. Let's talk about another exhibit of the Olcott report,
22 Exhibit 4. It's an article --
23 A. I know what it is.
24 Q. Let me first explain what it is. It's an article
25 written by a journalist in a Moldovan newspaper, right?

10:33 1 A. No. Let me explain. This was written by Zio, who was
2 editor of Roshka, who was sent to me by Mikhail Sion to
3 ask me to pay €125,000 to improve my reputation, to
4 whitewash my name. This is a business of dirty journalists.
Unfortunately time has to be spent
5 on such people, on such great experts referred to in
6 Ms Olcott's report. These are people who actually
7 collect these kinds of falsifications, dirty lies, and
8 after that allege that this proves something, and refer
9 to great sources.

10 I don't know what is the expertise of Ms Olcott, but
11 I think she should be ashamed to refer to such kind of
12 sources. If there is no evidence, if there are no
13 people who really can prove something, you shouldn't
14 really refer to falsified documents and falsified
15 declarations and lies, and yellow press which works
16 specifically to make you pay the money.

17 Q. In paragraph 6 of your first witness statement you refer
18 to two large contracts with the Ministry of Oil and Gas
19 of Turkmenistan. And you then state that:

20 "Ascom ... became the main crude oil exporter of
21 Turkmenistan."

22 A. Absolutely correct.

23 Q. And that was in 1995?

24 A. No, that's not right. Starting from 1995, between 1995
25 and 1997, as always in these post-Soviet Republics, they

10:35 1 had some difficulties with payments for the volumes of
2 the works performed. And in 1997 Turkmenistan allocated
3 600,000 tonnes of oil in payment for the investment and
4 reinvestment and our shareholding under the contract.
5 And of course, having such volumes, we became one of the
6 largest exporters of oil in Turkmenistan, second to the state.
7 And that can be proved by Glencore, Vitol and Mark Rich.
8 These were traders for Turkmenistan; these are their
9 words.
10 Q. And that began in 1995, when signing those two
11 contracts?
12 A. Yes, that's right. In 1995 we only signed the contract.
13 Q. And it was three years after you had started your new
14 life as a businessman?
15 A. New life, old life, I was just working. I was just
16 doing business.
17 Q. You had just started your economy degree, and you had
18 not graduated yet?
19 A. I graduated in 1997.
20 Q. Going back to the Exhibit 4 of the Olcott report, this
21 article says that your business got off the ground
22 because of political interest. Is that correct?
23 A. What are you referring to? I can't -- I don't want to
24 have this document. If you want to give me some
25 statement or some argument.

10:37 1 Mr Chairman, I beg your pardon, but if someone
2 brings some facts to me ... This is just a lie, this is
3 just a fairytale. I can make you as many fairytales as
4 you like. I can write 300 pages a day, and you will not
5 like these fairytales. Will you accept them as truth or
6 will you tell me that this is a fairytale?

7 Let's take a certain fact; I will be happy to speak
8 about facts. But I just hear that we are wasting time
9 on fairytales, and I wouldn't recommend you do the same.

10 Q. Let me read you the part of the article I'm referring
11 to. It says:

12 "His success is based on Moldavian state leaders,
13 important politicians, former secret service respondents
14 in numerous states, banks, but also strange, doubtful
15 groups. Of course he owes them and he has to offer his
16 wallet when their political interests require it."

17 A. (Speaks in Russian)

18 MR SMITH: There's no question, Mr Stati.

19 A. Are you accusing me of something?

20 MR SMITH: Mr Stati, there is no question.

21 A. If you are accusing me, I think I can bring
22 allegations --

23 MR SMITH: She has quoted a line from blog. So I assume she
24 will have a question now, based on that line from the
25 blog.

10:39 1 DR NACIMIENTO: That's right.

2 Is it correct, Mr Stati, that your business then is
3 really dependent on a strong connection to politics and
4 to certain politicians?

5 A. Well, you know, I never used the support of politicians
6 in my business. If you had the time, or if Ms Olcott
7 understood what kind of business we are working in, then
8 she would be honoured to write a true story about this
9 business being a very hard business, a very complex
10 business. And besides we have lots of competitors, we
11 have lots of people envying us, and lots of people like
12 to write lies about us, unfortunately.

13 Q. Can I refer you to paragraph 25 of your first witness
14 statement. Here you describe how you turned to various
15 political contacts and supports.

16 A. That's absolutely right, yes, and I have mentioned it
17 already. I have approached our President, and any
18 President respecting himself must protect the interests
19 of his compatriots, of his citizens. In what way do you
20 see any wrongdoing here when a former President defends
21 his citizen? This is really good, this is encouraged in
22 the entire world, and this is right. What are you
23 unhappy about?

24 Q. In what position was Mr Pisica working for you at the
25 time of this case, throughout this case?

10:42 1 A. He was head of the legal department.

2 Q. Is it correct that he is a Moldovan-trained lawyer?

3 A. Yes, that's absolutely correct.

4 Q. And Mr Condorachi, in what --

5 A. The same.

6 Q. He is also a Moldovan lawyer?

7 A. Yes, absolutely correct.

8 Q. Have you ever engaged Kazakh lawyers?

9 A. Yes, we retained the services of Kazakh lawyers and we
10 obtained consultations from Kazakhstan advisors.

11 Q. Is it fair to say that Mr Condorachi and Mr Pisica had
12 to rely on those Kazakh lawyers because they were
13 themselves not trained Kazakh lawyers?

14 A. Yes, that's absolutely correct. They obtained the
15 consultations; that's quite normal.

16 Q. Do you know the names of the Kazakh lawyers?

17 A. Unfortunately not.

18 Q. In November 2 009 you hired Mr Andreyev as general
19 director of KPM; is that right?

20 A. Yes, that's quite correct. We made a mistake. After
21 Mr Cornegruta had been arrested, Mr Askolkov, who was at
22 that time his deputy, got scared, and he was afraid of
23 the prosecutions by the Kazakhstan authorities, and he
24 asked me to find someone out of the directors. All my
25 guys were scared at that time: they understood they were

10:44 1 risking their lives, their freedom. We were aware what
2 was happening in Kazakhstan: that you are actually
3 devoid of any rights, you are not protected by anything.

4 So the deputy head of the security department
5 brought Mr Andreyev and suggested that he be appointed
6 the director, as he was the first -- lawyer of first
7 rank, highest rank, he had been a judge himself. And
8 so we made this agreement as we had no other way out.
9 And fortunately we kept him for only one month because
10 we became aware that he was a person who was not
11 actually working in favour of the company but rather
12 against the company.

13 THE CHAIRMAN: Sorry, may I just ask one clarification
14 question, Mr Stati.

15 You have before and now referred again to the
16 security department. Do I understand correctly that
17 that was the security department of your own company?

18 A. Yes, that's quite correct.

19 THE CHAIRMAN: Okay, thank you.

20 DR NACIMIENTO: You also mentioned before, when I was asking
21 you about the internal documents from the Kazakhstan
22 ministries, that you found documents -- or that those
23 documents were taken also from a file on Mr Andreyev's
24 desk. Is that correct?

25 A. Yes, that's quite correct.

10:46 1 Q. And that was before or after Mr Andreyev left?

2 A. This was happening during his tenure at the company.

3 And after these documents were brought to me,

4 I immediately decided to dismiss him, because in those
5 documents I discovered indications that he was working
6 against the interests of our company.

7 Q. Can you describe these documents?

8 A. This was draft project for building a canal linking --
9 the project was started back in 1936 by the
10 Soviet Union, and it was intended to supply shipping
11 communication between the Caspian Sea and the Azov and
12 the Black Sea basins.

13 Q. In about the same period you also dismissed TNG's
14 general director, Mr Kisilev; is that correct?

15 A. That's absolutely correct, because they kept company all
16 the time and I was -- just suspected that they were
17 together working against our company.

18 Q. When running your oil and gas business in Kazakhstan,
19 did you ever live there?

20 A. No. I often came there. But initially I spent about
21 six months at one of the fields, but then from time to
22 time I spent two or three weeks at the fields.

23 Q. You stated before that you take the main decisions in
24 the companies that you control. How did you make sure
25 that you were informed about the daily business?

10:48 1 A. Well, I've told you that we are working in a team and
2 I trust people. Unless you trust people, you can't work
3 with them.
4 Q. And who was your local team in Kazakhstan?
5 A. The key managers and top specialists.
6 Q. And their names?
7 A. There are many of them. We were altogether about
8 7,000 persons.
9 Q. 7,000 persons working in Kazakhstan for your companies?
10 A. 3,500 worked in Kazakhstan.
11 Q. You mentioned before that in order to take your
12 decisions, you are informed on everything that is
13 important and relevant for those decisions. Who were
14 the people who brought you that information?
15 A. I've mentioned already that I often visited the fields,
16 and I obtained a large volume of information from the
17 planning meetings with the key specialists and managers,
18 and I also visited the wells themselves.
19 Q. And who are the key persons informing you?
20 A. Do you wish to learn all our secrets? Do you need it?
21 Q. Yes .
22 A. Well, I treasure these people. You maybe would like to
23 recruit them into a different team. I won't really give
24 them up.
25 Q. Are some of them witnesses in this case?

10:50 1 A. That's quite correct, they are present here.

2 Q. Who is it?

3 A. These are vice-present Mr Lungu, responsible for commerce
and

4 finance; the former TNG director, Mr Cojin; Pisica,

5 Condorachi and Poskarek, the lawyers; and the former

6 head of the economy department, Mr Calancea. That's

7 all.

8 Q. On 18th September 2009, the Aktau city court ruled in

9 the criminal case of Mr Cornegruta, is that correct?

10 A. Yes, that's quite right. This is fully illegitimate,

11 based on unfounded accusations in the case. All the

12 pipelines had been built according to the approved

13 designs, also reviewed by the respective technical

14 bodies and coordinated with all the competent bodies of

15 Kazakhstan, in full compliance with the law. And by

16 designation of the project, all these pipelines are
internal, in-use

17 field pipelines, and they constitute a single complex of

18 oil and gas production.

19 So accusations of illegal entrepreneurial activities

20 advanced against Mr Cornegruta are illegitimate, and

21 these fabricated charges were of course advanced in

22 support of President Nazarbayev's resolution on

23 Mr Voronin's letter.

24 Q. How did you first learn about that sentence?

25 A. Well, we are people, we communicate with each other. It

10:53 1 was declared by the Kazakhstan authorities that on
2 18th November, if I remember correctly, accusations were
3 advanced, and the charges were brought probably; and on
4 19th September the court ruled passing a sentence to
5 sentence Mr Cornegruta to four years in jail. And he
6 was absolutely innocent.

7 Q. And who told you first about that sentence?

8 A. Well, I have my lawyers, and they keep me informed.

9 Q. And you learnt it directly when the sentence came in on
10 19th September 2009?

11 A. Well, frankly speaking, I didn't look at my watch at
12 that time.

13 Q. At the end of the sentence it also states the recovery
14 of \$145 million in illegal profits from KPM; that is,
15 the recovery of those \$145 million in illegal profits
16 was ordered. Is that correct?

17 A. Can you please repeat your question?

18 Q. The sentence also contains a part ordering the recovery
19 of US\$145 million in illegal profits?

20 A. That's quite right. This sentence contains this
21 illegal, illegally imposed, fabricated penalty.

22 Q. And you were informed by your legal team about the
23 penalty?

24 A. Yes, of course. What else?

25 Q. Can you remember where you were at that point in time?

10:55 1 A. No, of course not.

2 Q. And who informed you?

3 A. As I mentioned, a lawyer.

4 Q. Which one?

5 A. Mr Pisica.

6 Q. Did you instruct your lawyer to react to that sentence?

7 MR SMITH: Mr Chairman -- before you answer, Mr Stati -- the
8 instruction that Mr Stati gave to his counsel seems to
9 be well within the province of the attorney-client
10 privilege, and I would object to the question.

11 THE CHAIRMAN: Yes, agreed.

12 DR NACIMIENTO: What was your reaction to the sentence?

13 A. My reaction was somewhat surprised. I was surprised
14 because we never operated main pipelines. This was
15 a totally trumped-up charge as an excuse to support
16 Mr Nazarbayev's resolution on President Voronin's
17 letter.

18 Q. Would you have expected then for your local legal team
19 to immediately react to that sentence?

20 A. We realised that we were absolutely innocent, and that
21 what we were facing were illicit attempts to take over
22 our companies. This was quite obvious to all of us.
23 And any measures that we might have taken at that time
24 would not reach any results, because any court or any
25 other decisions taken by other bodies would be against

10:58 1

us .

2 Q. Are you aware that a decision or a sentence can be
3 appealed?

4 A. Yes, of course. But to whom? That's why we've come all
5 the way to the Arbitral Tribunal.

6 Q. Are you aware that your Kazakhstan local people missed
7 the deadline for appeal?

8 A. Honestly speaking, I didn't follow this. I was aware
9 that we'll be never able to obtain justice in
10 Kazakhstan. That's why I kept insisting on arbitration.

11 Q. How many persons did KPM and TNG employ in 2009 and
12 2010?

13 A. Altogether, together with CASCo, 3,500 people:
14 500 people from Moldova and Romania, and also from the
15 old Turkmenistan team, and 3,000 were specialists and
16 local employees in Kazakhstan.

17 THE CHAIRMAN: Mr Stati, a little while ago a similar
18 question was asked and you said that indeed 3,500 people
19 worked in Kazakhstan for you, but you also mentioned
20 a figure of 7,000, which I understood were altogether
21 working for you. Is that correct? Could you just
22 explain how you get to the 7,000, if I understood that
23 correctly.

24 A. Well, in oil and gas business we work in three shifts:
25 that's why we have such numbers. And in addition we

11:00 1 work also in Iraq fields, northern Iraq, in Kurdistan,
2 Bardarash, and also we operate in Southern Sudan, in the
3 fifth block: it's a huge block, 21,000 -- over
4 21,000 square kilometres. We are building roads,
5 canals, sites for wells.

6 We have a lot of people working there because
7 basically this block is to 90% covered by water. So
8 it's very difficult operation, huge volumes of work
9 required; that's why we employ lots of people there.
10 And these people work two months at the field and then
11 they are free for another two months, and then three
12 shifts again. In some cases we have four shifts.

13 One has also to comply with the regulatory
14 operations: the working day should not be longer than
15 eight hours.

16 THE CHAIRMAN: I understand. So it's a correct recollection
17 from me that you had about 3,500 people working in
18 Kazakhstan, and altogether 7,000 for all of your
19 projects that you described?

20 A. That's absolutely correct.

21 THE CHAIRMAN: Thank you.

22 DR NACIMIENTO: Mr Stati, Mr Lungu in his first witness
23 statement says it's about 1,000 employees, and we heard
24 yesterday Mr Fleuriet also confirming that you had 1,000
25 employees in Kazakhstan. Which number is correct?

11:02 1 A. Well, you can check with the lists of the employees in
2 Kazakhstan: you will see that there are 3,000 local
3 employees and 500 of ours.

4 MR FLEURIET: Mr Chairman, I'd just like to note for the
5 record that that misrepresents my [statement] of yesterday.
6 Yesterday I was referring specifically to KPM and TNG.
7 There was another company, CASCo, in Kazakhstan as well.
8 I did not include those employee numbers for CASCo in
9 what I said yesterday.

10 DR NACIMIENTO: Mr Stati, is it correct that the gas prices
11 dropped sharply from a very high point in the late
12 summer of 2008 to a very low point in the beginning of
13 2009?

14 A. Well, when it comes to the gas prices, the prices were
15 going up actually. This statement that you've made
16 concerns oil prices.

17 Q. Can I refer you to the witness statement of Mr Lungu in
18 paragraph 7.

19 MR SMITH: I believe it's in English, counsel.

20 DR NACIMIENTO: Is it correct that the drop in local demand
21 affected the cash situation of TNG?

22 A. Well, you know, to some extent, yes, that's correct.
23 But all the harassment of the company were directed by
24 a very skilled director heading these harassments, and
25 he was very well aware that it's important to bring

11:05 1 these companies into bankruptcy and force these
2 companies to either sell at the lowest rates, very
3 profitable for them, or seize these companies if the
4 companies do not hold against the pressure.

5 I just want to give you an explanation. The
6 principle is that, in the same manner as in Russian,
7 when Gazprom is a monopolist, in the same manner
8 KazRosGaz is monopolist in Kazakhstan, and all these
9 were affiliated companies that were made up. It does
10 not really mean that there is ongoing liberalisation of
11 the market in Kazakhstan.

12 There is no way we could dictate the prices or the
13 volumes in Kazakhstan; there is no way we can force them
14 to renegotiate the terms and conditions. They are
15 dictating the terms for us. And this is totally true.
16 If you want to have the true information, just ask
17 people in Kazakhstan, and many of them will be able to
18 prove you this.

19 Q. Is it also correct that in the summer of 2009 TNG had to
20 pay excess profits tax in the amount of approximately
21 US\$20 million?

22 A. My recollection is 32. But yes, something like that.

23 Q. And this affected the cash situation too?

24 A. Well, you know, as I already said, all the harassment
25 campaign that started in order to force the company to

11:07 1 sell gas to Kemikal and KazRosGaz --

2 Q. Mr Stati, I'm sorry, my question was really very simple.

3 You had --

4 A. But I will tell you the truth, if you'll allow me.

5 Q. No, can you please just answer my question? It's very

6 simple. There was --

7 A. (Not interpreted)

8 Q. In the summer of 2009 you had to pay \$20 million, or you

9 said even \$32 million, in excess profits tax. And my

10 question is: did this affect the cash situation?

11 A. Yes, that's correct. We had to pay, and this had

12 a certain effect, indeed. But this was not the scariest

13 thing.

14 Q. Were the tax demands legal?

15 THE CHAIRMAN: I'm sorry, I couldn't get your question.

16 DR NACIMIENTO: Were the tax demands legal?

17 THE CHAIRMAN: Well, that's a legal question.

18 DR NACIMIENTO: Okay.

19 Would you describe the financial situation of TNG in

20 spring and summer of 2009 as difficult?

21 A. As a result of serious pressing from all the Kazakh

22 authorities, pressing that our companies experienced, of

23 course the company was experiencing a difficult stage.

24 And in this case, the very same problems concerned gas,

25 which forced us to reduce the production volumes of gas.

11:10 1 The same thing with a firm called Vitol, who did not
2 pay for the condensate and oil delivered to Vitol,
3 although our contract forced us to only deliver to Vitol
4 alone. And they justified nonpayment for the resources
5 supplied by them returning the investment that they had
6 made into LPG on the basis of a contract about joint operations,
7 because they considered that the risk was
8 so high. So they found this way instead to return their
9 investments.
10 We also received a \$62 million illegal requirement
11 to pay corporate taxes. We also received a claim for
12 tens of millions of dollars on export duties; KPM,
13 Kazpolmunay, received that. This was an illegal
14 requirement because the company was free from payment
15 obligations for such duties.
16 We also experienced people being arrested. We also
17 experienced all kinds of audits and inspections which
18 prevented us from pure business operations. We were
19 constantly in need to respond to the enquiries. This
20 was a serious campaign.
21 But despite all these difficulties, and despite this
22 very hard stage for the companies, we still maintained
23 their production levels at the levels required for this
24 project. We did keep up with our tax payments, we did
25 pay out dividends, we did not fire any people. The
 companies still kept working in a normal mode, except

11:12 1 for these problems that I've mentioned concerning

2 harassment from the Kazakh authorities.

3 Q. You told us that in spring and summer of 2009 there were
4 cash constraints. Is it correct that around that same
5 time TNG stopped constructing the LPG plant?

6 A. Well, they had invested \$248 million into the
7 construction of this LPG plant, and we had completed
8 this construction up to 95%. What was the point in
9 terminating the construction when you are nearly at the
10 end of the construction stage?

11 The real reason for this was the pressure that we
12 have experienced from the authorities of Turkmenistan
13 (sic) .

14 THE INTERPRETER: Says the witness.

15 MADAM INTERPRETER: Says the witness.

16 A. I have listed all those obstacles that we have
17 experienced from the controlling authorities. How could
18 you possibly work in these conditions, and how could you
19 keep investing when the climate became so unattractive
20 for investment? You couldn't possibly hold against this
21 pressure.

22 My managers were accused of illegal business
23 activities by the financial police. There was a public
24 declaration where it was stated that they had stolen
25 \$980 million. How could you trust such people, and how

11:14 1 could you continue investing? I wanted to wait until
2 this is settled, and after that continue constructions.
3 And by the way, LPG is still unfinished; there are
4 just two steps left to complete this construction but they could
5 not do them. So
6 let me ask these great experts: what are they waiting
7 for, and why aren't they able to complete the
8 Construction themselves? Of course we intended to
9 complete this construction. This is our baby; this is
10 something that we had great expectations for. This was
11 supposed to be a very profitable enterprise.
12 Q. Mr Stati, is it correct that in 2009 TNG and KPM agreed
13 to extend the payment terms for their largest customers,
14 Statoil and General Affinity?
15 A. Once again, could I have the question read to me?
16 Q. In 2009, is it correct that TNG and KPM agreed to extend
17 the payment terms for their largest customers? And
18 those largest customers are Statoil and
19 General Affinity.
20 A. Do you mean to say that Statoil and General Affinity
21 were making payment to TNG? I'm afraid I did not
22 understand your question.
23 Q. Can I take you to the financial statement for 2009, F3
24 and F4 2.
25 A. I'm afraid Mr Lungu is the best expert to testify about
26 financial matters. I'm not the expert.

11:16 1 Q. Okay. Let's move on, then.

2 Is it correct, Mr Stati, that in 2009 you paid
3 yourself a bonus of \$3.8 million?

4 A. This is my legal right. Yes.

5 Q. I have a few questions regarding the Tristan bond
6 structure. Could you take a look at C-585.

7 A. I really think you should put these questions to
8 Mr Lungu, as the financial questions are outside my
9 scope of expertise. He's the one who knows much better,
10 so he should be answering these questions. We split the
11 expertise and the duties.

12 Q. I will try to ask the questions as generally as
13 possible.

14 A. Alright, please do.

15 Q. Is it correct that KPM and TNG had provided a guarantee
16 for the benefit of the bondholders?

17 A. Yes, that's correct.

18 Q. And is it also correct that this guarantee was then also
19 guaranteed by Ascom and Terra Raf?

20 A. That's correct. Both Ascom and Terra Raf guaranteed , by
21 their assets, to the bondholders in KPM and TNG.

22 Q. Did the guarantee cover the assets of Ascom and
23 Terra Raf?

24 A. What do you mean, "cover the assets"?

25 Q. Did Ascom and Terra Raf guarantee with their full

11:19 1

assets?

2 A. Ascom and Terra Raf guaranteed 100% share, 100% of their
3 shares in KPM and TNG.

4 Q. So is it correct to say that in case of default, Ascom
5 and Terra Raf would have been liable only with regard to
6 their shares in KPM and TNG?

7 A. Absolutely correct.

8 Q. So in case of default, only the shares of KPM and TNG
9 would be lost?

10 A. In case of default, we would lose all our assets in
11 these two companies, KPM and TNG.

12 Q. And so which also means that you, your son, Ascom and
13 Terra Raf are not liable for the losses of the
14 bondholders?

15 A. Ascom and Terra Raf are liable towards the bondholders
16 for 100% shares in KPM and TNG. Isn't my answer clear?

17 Q. Yes, thank you.

18 Mr Stati, is it correct that the first bond issuance
19 at the end of 2006 amounted to US\$300 million?

20 A. No, \$320 million.

21 Q. And is it correct that part of this amount raised by
22 Tristan [was] lent to KPM and TNG?

23 A. That's correct. Terra Raf and Ascom lent the money for
24 development of KPM and TNG projects.

25 Q. Do you know the amount?

11:22 1 A. Well, I don't think I can give you a direct response

2 right away and be precise. Approximately almost all the

3 monies were sent for project development.

4 Q. Is it correct, as it's stated in the financial

5 statement, it's US\$211 million? Is it a figure that you

6 could confirm?

7 A. No, I cannot confirm anything. You should ask Mr Lungu.

8 Q. Is it correct that with the funds lent to KPM, KPM did

9 pay a dividend of \$25 million to its shareholder Ascom?

10 A. I believe this was a repayment of a debt. If I recall

11 correctly, the bondholders wanted to remain the only

12 debtors ...

13 THE INTERPRETER: Said the witness.

14 A. ... before the companies, and by repaying this debt they

15 wanted to get rid of KPM's debt towards Ascom and Terra Raf. If

16 I recall correctly, \$50 million were paid to repay the

17 debt to Ascom and Terra Raf for the companies.

18 But this is really not precise information. Really

19 I would appreciate it if you would put these questions

20 to Mr Lungu.

21 Q. Mr Stati, I have a few questions regarding the

22 Cliffson --

23 THE CHAIRMAN: Can I just ask: it's 11.30, I see, so we will

24 have to find an appropriate time for a coffee break. Do

25 you think that would be a good time now?

11:25 1 DR NACIMIENTO: Now is fine, yes.

2 THE CHAIRMAN: Okay. So we have had two hours, that is
3 a lot of time for a witness as well, and for the
4 examiner, so we will have a coffee break of 15 minutes.
5 Alright? Thank you.

6 I should tell you, Mr Stati, that during this time
7 you should not communicate with the parties on your
8 testimony. These are the rules of the game. Okay?
9 Thank you.

10 THE WITNESS: I guarantee that I will not talk to anyone;
11 I will not even put any questions to anyone. May I have
12 coffee by myself?

13 THE CHAIRMAN: Of course.

14 THE WITNESS: Thank you.

15 (11.26 am)

16 (A short break)

17 (11.47 am)

18 THE CHAIRMAN: Alright, we continue with the
19 cross-examination.

20 DR NACIMIENTO: Before we continue, Mr Stati, I was asked by
21 the interpreters to ask you to speak slowly. It seems
22 they have difficulties following you and translating
23 properly.

24 THE WITNESS: Yes, of course I will try to speak slower.

25 DR NACIMIENTO: I have a few questions about Project Zenith.

11:49 1 Is it correct that you retained Renaissance Capital?

2 A. Yes. According to the existing practice, we retain
3 an investment bank in Renaissance Capital in order to
4 carry out this operation.

5 Q. Renaissance Capital is Russian?

6 A. As far as I understand, they have mixed Russian and
7 British capital.

8 Q. Did you personally instruct them?

9 A. Well, you probably overestimate my knowledge. They are
10 professionals, they know what they are doing, so I can't
11 really give instructions to them.

12 Q. Could I refer you to your first witness statement,
13 paragraph 35. Here you state:

14 "As soon as Total had discussed with the Kazakh
15 authorities, it sent us a letter withdrawing from
16 Project Zenith."

17 Could I take you to C-296.

18 A. What shall I do with it? It's in English.

19 Q. It's a short letter; I can just read it to you. It's
20 a letter from Total dated July 24th 2009, and it says:

21 "We have now finalised our assessment. Despite
22 a long exchange of information and discussion, Total ...
23 do not desire to proceed further with Zenith
24 Proj ect ..."

25 A. To whom is this letter addressed?

11:52 1 Q. It's addressed to Renaissance Capital.

2 A. I was not aware of this. But anyway, you know, once
3 again I can reiterate that when we, in February 2009,
4 were invited to Paris to have an interview presentation
5 of our project to Total, they were once again, I would
6 say, very much interested, especially in the reef which
7 was being identified after reinterpretation of the
8 seismic profiling, 3D projection. This structure was,
9 I would say, generating huge interest on their part.

10 And what they wrote actually, well, this is rather
11 both strange and at the same time, on the other hand,
12 one could explain these accusations against the
13 companies. Of course, it is difficult to countenance
14 for any third party to take a decision to enter
15 a company facing such problems in Kazakhstan; I mean TNG
16 and KPM. You would agree probably that these are very
17 serious, frightening accusations actually. Personally
18 I would probably not take the decision to enter
19 a company which has such problems in its relations with
20 the state.

21 Q. Total was one of the bidders in the first phase; is that
22 correct?

23 A. Yes, that's quite correct.

24 Q. And it continued in the second phase?

25 A. Absolutely correct.

11:55 1 Q. And you mentioned that it gave an indicative offer?

2 A. That's right.

3 Q. What do you mean by "indicative"?

4 A. Well, first of all I would like to clarify that our
5 assets that were offered for sale did not include the
6 Tabyl block --

7 Q. Mr Stati, this was not my question. I was asking you:
8 you mention in your witness statement that they gave
9 indicative offers. Can you explain what you mean by
10 "indicative"?

11 A. I am trying to explain as I can. Well, if you are not
12 satisfied, then I don't know what I should do.

13 Q. Please try.

14 A. Thank you very much. You are very kind.

15 So as I was explaining, our first offer,
16 specifically to Total, because we made an offer only
17 with respect to KPM and TNG, and if I'm not mistaken,
18 they made an indicative offer of \$960 million. This was
19 a kind of bid, like bidding in a tender. Those who
20 proceed to the second phase would have a chance to win
21 the assets.

22 Now, why I said only TNG and KPM assets: the fact is
23 that they were very much interested in Tabyl, and at the
24 second phase we were concentrating to a great extent our
25 discussions on Tabyl.

11:57 1 Q. And what do you mean by "indicative"?

2 A. What do you mean when you mention "bidding"? Are you
3 aware what it means? Approximately in the same sense,
4 in the same way: the first offers are made, and then the
5 most attractive offers are selected, and those who filed
6 those offers are invited to participate in the second
7 phase.

8 Q. Indicative, would you say it's an approximate offer?

9 A. One can say approximate or desired.

10 Q. Is it a binding offer?

11 A. No, it's not binding.

12 Q. Was the offer a condition for any bidder to have access
13 to the data room?

14 A. Yes, that's quite correct. Those who proceeded to the
15 second phase had access to a greater volume of
16 information in the data room.

17 Q. And the non-binding offer was made before having access
18 to that data?

19 A. Well, you know, Renaissance Capital was in practice
20 offering a memorandum which included almost all the
21 information in the database.

22 Q. What was the difference between the database information
23 and the Renaissance Capital memorandum?

24 A. Well, the participants in the process may ask initial
25 documents, the seismic profiles may be reinterpreted

12:00 1 following different technologies, and this makes bidders
2 probably more confident in assessing the assets.

3 Q. Yes, and my question was related to the information that
4 you gave. I understand that there was the Renaissance
5 Capital memorandum with some information, and then the
6 database or the data room with additional information.
7 Is that correct?

8 A. Yes, one can say so.

9 Q. I am confused because I understood you before as saying
10 that the major information was in the data room.

11 A. Well, it probably more correct to say the full
12 information is stored in the data room; whereas since we
13 distributed the memorandum in June, we represented there
14 all the information available at that point in time,
15 until June, when this data was presented. And then
16 a couple of months later, probably some subsequent
17 developments were also interesting or they were looking
18 into further developments.

19 Q. I thought I had understood that the bidding offer, the
20 unbinding offer, was a condition to have access in the
21 data room. Is that correct?

22 A. I don't know how I could explain it so that it would be
23 more convenient for you to understand.

24 If a person has serious intentions, then he
25 demonstrates such serious intentions; and if you don't

12:02 1 have such intentions, you don't really participate in
2 the process. These are very serious projects. So first you make
3 an offer, and this offer
4 is studied very carefully, and if -- and before you make
5 an offer, you study the documents seriously. And if you
6 are potentially interested, then you proceed to making
7 an offer; otherwise not.
8 Q. What is the basis for making that offer?
9 A. A study of the available data submitted by us.
10 Q. And the basis for you to decide on who would get access
11 to the data room was the amount of the offer?
12 A. Yes, of course. This is one of the key factors.
13 Q. And you chose the highest bidders?
14 A. Yes, absolutely correct.
15 Q. And what were the names of those bidders?
16 A. KNOC, the Korean National [Oil] Company, of South Korea.
17 They offered \$1.55 billion, and practically we were
18 orienting ourselves towards them.
19 Q. And those were the highest bidders?
20 A. Yes, that's correct.
21 Q. Were there other bidders?
22 A. I was not interested in these.
23 Q. In which?
24 A. The other companies. If they offered smaller amounts,
25 would you choose these?
Q. Isn't it a fact that in the second phase there were only

12:04 1 those three bidders?

2 A. At the second phase, as I mentioned, Total, Turkish
3 [Petroleum], PSA Energy Holding. KNOC joined a bit
4 later, in July.

5 Q. Paragraph 22 of your second witness statement, you speak
6 about Total, and you say:

7 "To my knowledge, they did not indicate any serious
8 concerns about the technical development of the fields
9 or the geology presented ... "

10 MR HAIGH: Sorry, was that paragraph 22?

11 DR NACIMIENTO: 22, yes, in the middle.

12 A. Yes, I remember this quite well, even without reference
13 to a specific paragraph. We had a meeting in Paris in February,
14 and we discussed mostly the reef. They were not very much
15 interested in the assets that were operated at that
16 time; they were more interested in the other things.

17 Q. You were present at that meeting in Paris?

18 A. Yes, as well as here.

19 Q. I'm sorry, I did not understand the answer.

20 A. Yes, of course I was present.

21 Q. I'm sorry. Okay. Who else participated in that
22 meeting?

23 A. Mr Lungu. The vice president for production,
24 Mr Vilescu; Mr Orfescu, Rado Konstantin, the head of
25 geology and physics department; and Mr Glamós, the head

12:07 1 of the corporate finance department.

2 Now, on the part of -- as for the French party,
3 I don't remember everybody, but Louis Caillard,
4 Philippe Mallard, Bernard Lebon, and I don't remember
5 the others.

6 Q. Do you know the date of that meeting?

7 A. Not the exact date. Sometime in February 2009.

8 Q. Mr Stati, are you aware that Total was asked to increase
9 its initial offer?

10 A. Excuse me? Can you say it?

11 THE INTERPRETER: Says the witness.

12 Q. Total submitted two offers; is that correct?

13 A. I know only about one.

14 Q. Okay. I have just one last question.

15 You mention Mr Cornegruta in both your witness
16 statements. Are you still in contact with him?

17 A. Unfortunately not. He is aware that we are now in the
18 arbitration, involved in arbitration proceedings, and as
19 a person well versed, he will not contact with us.

20

21 Q. Did he help you with information to prepare this
22 arbitration?

23 A. No. I didn't need it.

24 Q. Did you inform him about the arbitration?

25 A. No, but this is no secret. Everyone is aware of this,

12:10 1 including Mr Nazarbayev himself.

2 Q. When were you last in contact with Mr Cornegruta?

3 A. I don't remember. I don't remember.

4 Q. This year?

5 A. No.

6 DR NACIMIENTO: Thank you, Mr Stati. No further questions.

7 THE CHAIRMAN: Thank you very much indeed. Do you need

8 a five-minute break, or can you go right away to

9 re-direct, if any?

10 MR SMITH: No re-direct.

11 THE CHAIRMAN: No re-direct. Thank you very much.

12 I turn to my colleagues. Any questions to Mr Stati

13 at this stage? "At this stage" meaning it's really the

14 last chance.

15 MR HAIGH: No, thank you, Mr Chairman.

16 PROFESSOR LEBEDEV: No.

17 THE CHAIRMAN: You are released, Mr Stati. Thank you very

18 much for your patience.

19 THE WITNESS: Thank you very much.

20 THE CHAIRMAN: Now, the next witness would be ...

21 DR NACIMIENTO: Mr Pisica.

22 THE CHAIRMAN: Mr Pisica, right. Is he here? I think we

23 want to use up the time.

24 DR NACIMIENTO: Can we have a short, five-minute break?

25 THE CHAIRMAN: A five-minute break, that's okay, to get

12:12 1 organised.

2 (12 .12 pm)

3 (A short break)

4 (12 .20 pm)

5 MR GRIGORE PISICA (called)

6 (Evidence interpreted)

7 THE CHAIRMAN: Welcome, Mr Pisica. Is the translation
8 working?

9 THE WITNESS: Yes, I hear the translation.

10 THE CHAIRMAN: Very good.

11 Now, you have been sitting here, so you know the
12 procedure. We would need the interpreter to read out to
13 you the declaration which every witness is supposed to
14 give to us from the sheet. You only have it in English,
15 so they will read it to you and, if you agree, you just
16 say you confirm that.

17 Would the interpreter be kind enough to do that.

18 THE INTERPRETER: (Reads out witness declaration)

19 THE WITNESS: Yes, I confirm.

20 THE CHAIRMAN: Thank you very much indeed. Please go ahead.

21 MR MOHR: Thank you.

22 (12 .22 pm)

23 Direct examination by MR MOHR

24 Q. Mr Pisica, you have submitted two witness statements in
25 this case, right?

12:22 1 A. Absolutely right.

2 Q. And do you have those with you today?

3 A. Yes, I am looking at both of them.

4 Q. And are those witness statements accurate today, to the
5 best of your knowledge?

6 A. Yes, they remain to reflect the truth and reflect the
7 realities.

8 Q. Okay, thank you.

9 Could you please briefly tell the Tribunal about
10 your educational and work background?

11 A. I received my legal training at Moldova State
12 University. I studied there between 1987 until 1992.
13 Upon graduation -- by the way, I was specialised in
14 commercial law. And after graduation, for three and
15 a half years I worked for the legal department of the
16 Parliament of the Republic of Moldova as their senior
17 consultant, again focused on the field of commercial and
18 civil and tax legislation and business law.

19 Starting in 1996 I have worked as in-house lawyer
20 for Ascom Group, and just one month or two after my
21 start, I was raised -- my position was raised to the
22 head of the legal department, and this is the position
23 I remain in until this date.

24 Q. Thank you.

25 The respondent has argued in its rejoinder in this

12:24 1 arbitration that the transfer of shares, TNG shares,
2 from Gheso to Terra Raf was not complete until
3 May 16th 2005. Do you agree with that position?
4 A. No, absolutely not.
5 Q. Why not?
6 A. Because the transaction concerning the transfer of the
7 shares from Gheso to Terra Raf completed on
8 28th May 2003, and Kazakhstan is fully aware of this
9 fact.
10 Q. What happened on that date to complete that transaction?
11 A. 28th May 2003, the contract for the sale of shares was
12 registered with an independent registrar, and this is
13 documented by the note on the contract itself, which
14 includes the date of 28th May. Thanks to this note, or
15 as a result of such note, the independent registrar has
16 issued an extract from the shareholders register and
17 a copy of the register of the shareholders which stated
18 that Terra Raf trading was the only shareholder, the
19 sole shareholder of Tolkynneftegaz, and thus having 100%
20 of the shares.
21 This all happened on 28th May 2003.
22 THE CHAIRMAN: By the way, if you give these handouts, since
23 they must be in the file, it would be good if you could
24 tell us what exhibit number it is; for the next time,
25 indicated on it. But now you can tell us, of course.

12:26 1 MR MOHR: We will do that. In this case, this is

2 Exhibit R-18.

3 Mr Pisica, do you recognise this document,

4 Exhibit R-18?

5 A. Yes, I do.

6 Q. Please tell us what it is.

7 A. R-18 is a response letter addressed to Tolkynneftegaz
8 dated 16th January 2009 and according to this letter the
9 joint stock company called Registrator Zerde, which is,
10 as you can see in this letter, the former name of
11 Invest Service, which in truth was registrator of
12 Tolkynneftegaz.

13 So this company provides Tolkynneftegaz with certain
14 documents, including the list of the shareholders
15 produced at the time of the execution and the register
16 of transactions registered during the period of the
17 validity of the contract, and also attaches copies of
18 documents relating to the issue of securities, including
19 certificate of state registration, notice of the
20 approval of the report on the issue, and certificate
21 about cancellation of issue of shares dated
22 1st April 2005, as well as copies of certificate of
23 state registration of Registrator Zerde and its licence.

24 Q. Thank you. I've tabbed two pages for you, just to make
25 this easier to refer to. Can you please turn to the

12:29 1 first tab, to the second page of the document.

2 What is the information that's reflected on this
3 page?

4 A. This is a register of transactions, and this register
5 was made as per 16th January 2009 at 11:38:52.

6 Q. I want to call your attention to the last entry on this
7 register of transactions, number 13. What information
8 is reflected in that entry?

9 A. In the 13th line on this page you can see the type of
10 the transaction, transaction between the seller and the
11 buyer, the time when this transaction was executed,
12 concerning which shares this transaction was executed,
13 the amount of the shares.

14 Q. Does that entry reflect the date of registration of that
15 transaction?

16 A. Yes, of course it does. You can see it in the second
17 column to the left.

18 Q. And what date does that reflect for that transaction?

19 A. 28th May 2003. So 28/05 means 28th May.

20 Q. And was that the transfer of shares from Gheso to
21 Terra Raf, shares in TNG?

22 A. Absolutely right.

23 Q. I will call your attention then to the second document
24 that's flagged in this exhibit. What is this document?

25 A. This is the register as per 28th May 2003 of

12:31 1 Tolkynneftegaz, an open joint stock company.

2 Q. Does this document also reflect the registration of the
3 transfer of shares in TNG from Gheso to Terra Raf?

4 A. This document is actually a certificate of the fact of
5 the transfer in favour of Terra Raf Trans Traiding. So
6 this document reflects the register of the holders after
7 the purchase of 100% of the shares by Terra Raf, shares
8 in TNG.

9 MR MOHR: Thank you.

10 THE CHAIRMAN: Thank you very much. We come to
11 cross-examination.

12 (12 .32 pm)

13 Cross-examination by DR NACIMIENTO

14 Q. Good morning, Mr Pisica.

15 A. Good morning.

16 Q. Mr Pisica, you are a qualified lawyer in Moldova; is
17 that right?

18 A. Yes. I obtained my legal qualification at Moldova State
19 University.

20 Q. And you have primarily worked as a lawyer for Ascom in
21 Moldova; is that correct?

22 A. Yes .

23 Q. You're not qualified to practise as a lawyer in
24 Kazakhstan?

25 A. No, I am not employed in Kazakhstan.

12:33 1 Q. Is it correct that Mr Condorachi is a qualified lawyer
2 in Romania?

3 A. He is not a Romanian lawyer; he is actually Moldovan by
4 origin. And he obtained his legal education in Romania.

5 Q. Okay. In your first witness statement in paragraph 8
6 you state that you:

7 "... selected the candidates for the positions of
8 in-house lawyer and General Counsel for KPM and TNG ..."

9 Is that correct?

10 A. That's correct.

11 Q. And you chose Mr Condorachi?

12 A. I want to be more specific. In this particular witness
13 statement I say that I was selecting the candidates at
14 the time when we were entering Kazakhstan, and
15 Condorachi was employed in Kazpolmunay or
16 Tolkynneftegaz -- in KPM or TNG -- if I recall
17 correctly, not at that moment of time, but somewhere in
18 2008 or 2009.

19 Q. And Condorachi was the head of the legal department of
20 KPM and deputy head of the legal department of TNG; is
21 that correct?

22 A. Correct.

23 Q. And KPM and TNG operate in Kazakhstan only; is that
24 correct?

25 A. Yes .

12:36 1 Q. Is it correct that you are the head of the legal
2 department of Ascom, and have been over the course of
3 the last years?
4 A. Yes .
5 Q. And it's correct that Ascom's offices are in Chisinau,
6 in Moldova?
7 A. Yes .
8 Q. How far is Chisinau from Aktau?
9 A. Could you please rephrase your question? I did not
10 understand.
11 Q. My question is: how far is it to travel from Chisinau to
12 Aktau?
13 A. If you fly, some three or four hours, if you fly
14 directly. If you fly via Moscow, it's much longer.
15 Q. It's about 2,500 kilometres away; is that correct?
16 A. Maybe. I'm not an expert in the geography. I never got
17 this precise information.
18 Q. You were not present at KPM and TNG's offices in Aktau
19 for the inspections of the financial police; is that
20 correct?
21 A. What kind of inspections do you speak about? What
22 period of time do you cover in your question? Could you
23 please be more specific?
24 Q. Can I refer you to your first witness statement,
25 paragraph 11. You are speaking here about inspections

12:39 1 by the financial police in Aktau.

2 A. That's right. I have read what I said in my testimony,
3 yes, and I confirm the truth in this statement.

4 Q. Were you present during those inspections?

5 A. No, I did not personally participate during these
6 inspections but, having analysed the situation, judged
7 from the incoming and outgoing documents of the company,
8 I can draw the conclusions which I have stated in the
9 eleventh paragraph of my testimony, of my first witness
10 statement.

11 Q. You say "having analysed the situation", based on the
12 documents. When did you analyse that situation?

13 A. I always kept in contact with the office in Aktau, and
14 especially contact with my peers, lawyers. So on
15 a daily basis I could afford and actually had a duty to
16 carry out such analysis. This is something I do due to
17 the position I hold.

18 Q. And who were your peers?

19 A. During the last time these were -- did you want me to
20 give you the number or the names?

21 Q. The names.

22 A. Mr Edward Eftodi at some point in time, but due to his
23 family situation he left Kazakhstan. Then we had
24 Alexandru Condorachi you've mentioned,
25 Mr Alexandru Poskaruk, Gennadi Tsugula, Gennadi Pyntu,

12:42 1

Sultan Medetov, Petr Kochetov.

2 Q. Were you at some time present in Kazakhstan?

3 A. Yes, I was.

4 Q. Can you tell us when?

5 A. 18th, 19th and probably 20th March 2009.

6 Q. Were you ever present when the financial police was
7 conducting inspections?

8 A. I beg your pardon? Could you be more specific about the
9 inspection? Which particular inspection of the
10 financial police are you asking me about, and what
11 period of time do you speak about now, and what issues
12 at hand are we discussing, or what issues these
13 inspections were about?

14 Q. My question was whether you were ever present at any
15 inspection at any time in Kazakhstan.

16 A. If we speak about -- if we say that the financial police
17 conducted inspections concerning the main pipeline, then
18 I was personally in Kazakhstan between 18th and
19 20th March 2009.

20 Q. In paragraph 13 of your first witness statement you
21 refer to the inspection of the geology committee in
22 October 2008.

23 A. Yes .

24 Q. Were you present at that inspection?

25 A. At the time of this inspection I was not in Kazakhstan.

12:45 1 However, the documents evidencing this were available to
2 me, and they were given as materials of these
3 arbitration proceedings as well; they are part of the
4 evidence.

5 Q. Have you read all the materials of the arbitration
6 proceedings?

7 A. I can't be sure of that. I can't be sure that I have
8 read all the materials. I only act as a witness. And
9 I cannot assure you that I am familiar with all the case
10 materials, at least not compared to the counsel
11 representing our interests in this case. This is not my
12 level of familiarity with the case materials.

13 Q. In paragraph 13 you describe the inspection by the
14 geology committee, and we have established that you were
15 not present. You state here that the financial police
16 "improperly accompanied the ... Geology and Subsoil Use
17 Committee", and that they "requested that the audit
18 report include an unnecessary 'additional information'
19 paragraph". Is that correct?

20 A. Yes, that's what I say. However, this is what I am
21 saying based on my own notes and the documents that were
22 available to me.

23 Q. But you were not present at that specific inspection;
24 that's correct, right?

25 A. No, I was not in the office, I was not in the town of

12:47 1 Aktau. But I drew my conclusions based on the documents
2 available, documents on this particular inspection.
3 Q. Can you tell us which documents you drew your
4 conclusions on?
5 A. If we speak specifically with reference to paragraph 13,
6 I make this statement with respect to the inspection
7 by -- the geology and subsoil use inspection which was
8 ordered by the financial police. And in the case
9 materials we have a protocol drawn after this inspection
10 dated -- I'm sorry ...
11 THE INTERPRETER: Says the witness.
12 A. ... from 4th to 11th November.
13 And as I remember, the item with "additional
14 information" is entered in each of these protocols of
15 both inspections of KPM and TNG, and if I remember
16 correctly, this "additional" item is entered in the
17 protocol of Kazpolmunay inspection at page 32, and TNG
18 protocol at page 21.
19 Q. In paragraph 22 of your first witness statement, you
20 refer to the interviews of Mr Cornegruta and Mr Cojin.
21 A. I'm sorry, I'm reading item 25 (sic) and it doesn't say
22 anything about Mr Cornegruta. It's probably
23 a misunderstanding. It's paragraph 20.
24 Q. Okay, thank you. Were you present at the interviews of
25 Mr Cornegruta and Mr Cojin?

12:50 1 A. Again, I'm sorry, paragraph 22 does not say anything
2 about interview with Mr Cornegruta.
3 Q. Yes, it's just an unrelated question.
4 Were you present at an interview with Mr Cornegruta
5 and Mr Cojin?
6 A. I'm sorry, who is Mr Cojin?
7 Q. Maybe I'm mispronouncing it. Maybe you can help me.
8 MR MOHR: Mr Cojin.
9 A. Can you please clarify what period of time this
10 interview was held? You are asking me about
11 an interview which was held when?
12 DR NACIMIENTO: It's not important. At any time.
13 A. Alright, if it's not important. No, I was not present
14 at such interviews.
15 Q. Were you present during the search of 6th May 2009?
16 A. Physically I was not present, but virtually I was. In
17 a virtual sense I was there.
18 Q. How could you be there in a virtual sense?
19 A. I was personally feeling all the pressures, all the
20 pressing, all the pressure at the time when this search
21 was conducted by the financial police.
22 Q. You were not present during that search?
23 A. Physically not.
24 Q. So none of the descriptions that you gave of that search
25 is based on your personal experience?

12:52 1 THE CHAIRMAN: I think you have to make an effort to put it
2 into question form.

3 DR NACIMIENTO: Is it correct that the description that you
4 give in your witness statement of that search is not
5 based on your personal experience?

6 A. It's based not on my personal participation. But
7 everything that is stated here in my witness statement,
8 I have no doubt whatsoever that all this actually
9 happened because I was receiving various information
10 concerning this search, both in subsequent documents
11 from different persons, and their feelings, their
12 experiences were totally clear to me during this time;
13 their troubles, their feelings, their agitation,
14 whatever they want through.

15 Q. In paragraphs 54 and 55 of your first witness statement,
16 you refer here to a bankruptcy notice. It's
17 a bankruptcy notice served on 3rd February 2010.

18 Is it correct that the Ministry of Finance tried to
19 apply for external monitoring of KPM, but that this
20 application was refused by the court?

21 A. With your permission, I would read these paragraphs to
22 the end, to be able to answer your question correctly.

23 Q. Sure. (Pause)

24 A. Paragraph 54 reflects my statement that on 3rd February
25 the Ministry of Finance served KPM with a notice about

12:56 1 initiation of bankruptcy proceedings. What you say
2 about the monitoring, the monitisation, as in solid
3 subject, this is a procedure envisaged by the Law on
4 Bankruptcy.

5 Q. You are speaking about external monitoring, right?
6 A. As far as I remember, this was mentioned in that letter.

7 Q. Was external monitoring ever imposed on KPM?
8 A. What followed after that letter, which I mention here,
9 was not fully clear to us because we responded to that
10 letter of the Ministry of Finance in a proper way that
11 this amount due to which this procedure was initiated,
12 or attempts were made to start this external monitoring
13 procedure, this amount included a disputed amount under
14 the notices of 10th February 2009. We submitted those
15 replies, and subsequently we realised that our replies
16 were accepted, or at least they were noted, and the
17 subsequent procedure of external monitoring with respect
18 to KPM was not imposed.

19 However, on the basis of the documents submitted by
20 you in the course of these arbitration proceedings,
21 I realised that Kazakhstan actually intended to
22 introduce an external monitoring procedure by way of
23 a court ruling, and the court dismissed the Kazakhstan
24 application. This claim, brought to the court by
25 Kazakhstan, had never been made known to us because

12:59 1 under the procedural rules apparently it was either
2 recalled by the applicant himself or it was declined by
3 the court for some reasons which we are not aware of.
4 Q. Can you tell us to which documents you refer, the
5 documents that respondent brought in this arbitration?
6 A. If I remember correctly, there [was] a request of the
7 tax committee, or probably Ministry of Finance,
8 submitted to the Aktau court. That's what I remember
9 exactly, that there was something like that. It was
10 Exhibit R-something.
11 Q. And are you aware that this is also confirmed by
12 a witness from the tax committee, Mr Rahimgaliev?
13 A. Yes, I remember. It was there as well, such statement
14 was there.
15 Q. Did you read all other witness statements?
16 A. There are many statements; I haven't read them all.
17 Q. Did you prepare your witness statement yourself?
18 A. Naturally.
19 Q. Did you write it completely alone?
20 A. Some circumstances, probably about certain dates,
21 I asked my colleagues and I checked documents and made
22 my conclusions, which are described here.
23 Q. Did you speak with Mr Condorachi about your witness
24 statement?
25 A. Yes .

13:01 1 Q. Did you also see his witness statement?

2 A. Yes, I've seen it.

3 Q. Okay. And he saw yours?

4 A. Yes .

5 Q. Did you participate in writing his witness statement?

6 A. No.

7 Q. Did he participate in writing your witness statement?

8 A. Of course not.

9 Q. Could you explain why there is then a nearly identical
10 paragraph in both witness statements?

11 A. I have no knowledge of this. If you checked the texts
12 against each other, please tell me.

13 Q. I refer you to your witness statement, paragraphs 54
14 and 55, and the Condorachi witness statement,
15 paragraphs 40 and 41.

16 A. Maybe I just don't know, but the circumstances around
17 the same letters and the issues cannot be different, and
18 accordingly we cannot discuss the same fact in different
19 interpretations. That's why Alexandru has similar
20 positions, similar to what is presented in my witness
21 statement.

22 Q. Let's move on to the termination of the contract. In
23 paragraph 57 of your first witness statement, could you
24 please take a look at this.

25 A. Yes .

13:05 1 Q. You state here that you were only "given 3 days to cure
2 the alleged violations". Is that correct?

3 A. Yes, I confirm that that's correct and that is what is
4 said here.

5 Q. Could I take you to Exhibit C-2, the notices of
6 violation of 14th July 2010.

7 A. Can you please hand over the document to me? (Handed)
8 Thank you.

9 Q. Where in this letter does it say that you have three
10 days to cure the alleged violations?

11 A. Please look at the stamp at the bottom of the document.
12 Here we have a stamp of Kazpolmunay, the incoming
13 number, 16th July 2010.

14 Q. Yes. I have a question regarding the contents of that
15 letter. You say in your witness statement in
16 paragraph 57 that you were only given three days to cure
17 the alleged violations. And my question is: where in
18 this letter does it say that you had three days to cure
19 the violations?

20 A. In this paragraph at the end of the letter there is
21 a reference to five days: that is until 19th July 2010.
22 And although the notice was issued on 14th July 2010, it
23 reached Kazpolmunay on 16th July, which means if we
24 speak about five days, and the letter arrived at KPM --
25 if it had arrived on 14th July, then we would have no

13:08 1 problems; then we would have full five days. But since
2 this notice arrived at KPM on 16th July, and 16th July
3 is Friday -- and as far as we and I knew, it arrived on
4 Friday, one or two hours before the end of the working
5 day. That's why I made the proper conclusion that we
6 were given only three days for responding to this
7 notice.

8 Q. And where does it say that you have to cure the
9 violations? Whether in three days or in five days,
10 that's not the point here.

11 A. I'm sorry, I don't understand your question. It says
12 that during this period you have to submit explanations
13 on reasons for failure to observe the contractual
14 provisions ...

15 THE INTERPRETER: The interpreter is improvising.

16 A. ... and documents witnessing the rectification of these
17 breaches.

18 So my reply to your question is to be found in the
19 phrase "to submit all the necessary documents confirming
20 that these violations have been cured". So within these
21 days we were supposed to submit all the documents
22 corroborating the elimination of the violations.

23 Q. Can you help me, Mr Pisica? I just cannot find where
24 the letter does say that you have to cure the
25 violations. You just read it. You have to submit

13:10 1 explanations regarding the reasons of non-execution of
2 the contract terms.
3 A. There are three requests in the same sentence. It says
4 namely: to submit ...
5 THE INTERPRETER: The interpreter is improvising the
6 translation.
7 A. ... explanations concerning reasons for non-observance;
8 to submit all the necessary documents corroborating
9 elimination of such violations; and the third, to inform
10 about measures taken to prevent further violations. So
11 there are three requests in the same sentence, and
12 I refer here apparently to the second request.
13 Q. It's not a request to cure the violations; is that
14 correct?
15 A. The phrase or request contained here, one can reasonably
16 infer that one should first eliminate the violations and
17 then submit a document confirming this; that is, the
18 elimination. Do I understand it correctly? So this is
19 the meaning of what we have here.
20 Q. Does it say that you have to first eliminate the
21 violations?
22 A. I can't read any other meaning in this phrase because if
23 we didn't have this phrase "documents confirming
24 elimination", then I could assume that one did not
25 expect that we eliminate the violations within three

13:13 1 days. If documents confirming such eliminations are
2 requested, it means actually that we were requested
3 first to eliminate the violations and then submit
4 documents confirming this.

5 Q. In your statement in paragraph 57 you refer to your
6 letter of 19th July 2010, the letter of KPM and TNG
7 responding to the MOG's notices. And if I may refer
8 you, you state here that you:

9 "... filed detailed objections to the MOG's
10 'findings' ..."

11 Is that correct?

12 A. Yes. We are saying here that despite the short period
13 of time, on 19th July, as instructed, we filed detailed
14 objections to the Ministry of Oil and Gas by email, fax
15 and by express delivery.

16 Q. Let's take a look at this reply. It's Exhibit C-24.
17 Can I refer you to item 1.3.

18 Is it correct that in item 1.3, KPM does not object
19 that it owed US\$114 million to the Republic?

20 A. If I may just complete reading, please.

21 Q. Yes, sure. (Pause)

22 MR HAIGH: I'm sorry to interrupt. Is it \$114 million or is
23 it \$114,809? My copy says only \$114,000.

24 DR NACIMIENTO: It seems to be a typo. In C-2 it's

25 \$114 million, and this is the reply to that letter, so

13:17 1 it seems to be simply a typo.

2 A. Yes, I have read item 1.3 of this answer of 19th July.

3 Q. So this amount is not disputed; is that correct?

4 MR MOHR: Can I get a clarification of what the amount is in
5 question that you are addressing? Your answer was
6 unclear.

7 DR NACIMIENTO: The amount is stated in C-2.

8 THE CHAIRMAN: It is 114,000 in both documents.

9 DR NACIMIENTO: I'm not sure actually. 114,000 thousand.

10 I think this is something that can be clarified.

11 THE CHAIRMAN: Okay, we will clarify it later. Obviously
12 the witness must give cannot insight on that.

13 THE WITNESS: May I respond?

14 THE CHAIRMAN: You can? Okay.

15 A. In the response, and in fact, the amount we are speaking
16 about is 114,000, \$114,809. So it's never
17 114 million. Why? Because we are speaking about
18 historical costs, and as far as I remember there is
19 an additional agreement -- no. 6, 7 or 8, I'm not
20 sure -- additional agreement to contract no. 3 05, to the
21 effect that the total amount of the historic cost is
22 approximately 6 or 8 million, and this is the amount
23 that KPM had to pay on a quarterly basis throughout the
24 remaining period, the period remaining of the validity
25 of the contract, which is until 2021.

13:20 1 So the total amount that was to be paid throughout

2 this time is 6 or 8 million all in all, so it can't
3 possibly be a matter of 114 million of historic cost.

4 DR NACIMIENTO: We will clarify that. The question here is
5 the amount, whatever is not objected to, and could you
6 read the first part of the sentence. (Pause)

7 Is it correct that you are referring to financial
8 difficulties as reason for not paying that amount?

9 A. You can see here that the financial difficulties are
10 mentioned, but they are of procedural nature; they are
11 not on the merits. That's my understanding. Because if
12 you read any further, you can see that these financial
13 difficulties resulted -- were a result of the seizure of
14 the assets of KPM in May 2009, and also due to the
15 seizure of the banking operations and frozen cashier
16 operations by the financial police and judicial
17 Authorities since January 2010.

18 So you can see this is not a cash issue of the
19 company; this is a procedural issue which is a result of
20 certain actions. And the company, due to those actions,
21 was unable to perform banking operations; and without
22 ability to carry out banking transactions, the company
23 could not possibly pay these historic costs to the state.

24 So this is the explanation. There is a force
25 majeure circumstance in our understanding, and due to

13:22 1 this force majeure, as we treat it under this contract,
2 we were unable to carry out the payments.
3 Q. So is it your testimony that the company would have been
4 in a position to pay, from the point of view whether
5 there was sufficient financial means, but was not able
6 to because of technicalities, because it was not able to
7 have access to the bank account? Is that your
8 testimony?
9 A. Well, if you are well familiar with the chronology of
10 the events and chronology of the transactions performed
11 in respect of our company, then you can see that this is
12 a letter of 19th July 2010; you know that the assets
13 were seized in May 2009, the banking operations were
14 frozen from January 2010.
15 As a result, all these material means available to
16 or possibly available to KPM, all these material means
17 were actually in the hands of the executive power of the
18 Ministry of Justice. These were the authorities who
19 could dispose of the funds. These were the authorities
20 who could decide to which accounts the funds from the
21 bank accounts of KPM could be sent.
22 As I understand, they wanted at that moment -- this
23 is my understanding -- they wanted at that moment to
24 repay the debt following the judgment for the penalty
25 imposed following the judgment, the first penalty

13:25 1 imposed ...

2 THE INTERPRETER: Just a second. The interpreter had to
3 verify the date.

4 A. ... the judgment from 18th September 2009. This was the
5 main task of them; this task, and not repayment of our
6 historic or past costs and our past debt towards the
7 state.

8 DR NACIMIENTO: Thank you. I think this is a good moment to
9 break for lunch.

10 THE CHAIRMAN: Alright, we will break for lunch.

11 Nevertheless, I think it might be helpful if we clarify
12 that amount somewhere, because it does make a difference
13 whether it is \$114,000 or \$114 million also in the
14 circumstances. So at some stage, perhaps the parties
15 could get together and that should be clarified.

16 Okay, so we'll meet again at 2.30.

17 Mr Pisica, as you know, I'm afraid you will have to
18 spend your lunch by yourself.

19 THE WITNESS: (In English) No problem.

20 THE CHAIRMAN: You may not discuss with the parties during
21 the break. Thank you very much.

22 THE WITNESS: (Interpreted) Thank you.

23 (1.26 pm)

24 (Adjourned until 2.3 0 pm)

25 (2 31 pm)

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14:31 1 THE CHAIRMAN: Mr Pisica, welcome back. I hope the lunch
2 was not too lonely for you, and you are back with full
3 powers, because the cross-examination will continue.

4 DR NACIMIENTO: Actually we have informed also claimants we
5 are done with the cross-examination. No further
6 questions from our side.

7 THE CHAIRMAN: Oh. Yes, okay. Re-direct?

8 MR MOHR: We have no re-direct. We were able to reach
9 clarification, I believe, on the number that we were
10 discussing before the lunch break in Exhibits C-2 and
11 C-24: that it is indeed \$114,800.09.

12 THE CHAIRMAN: Okay. Well, that's helpful. Thank you very
13 much.

14 May I ask my colleagues: do they have additional
15 questions of Mr Pisica? You do?

16 MR HAIGH: No, thank you, Mr Chairman.

17 THE CHAIRMAN: Sergey, do you have additional questions to
18 Mr Pisica?

19 PROFESSOR LEBEDEV: No.

20 THE CHAIRMAN: No questions from me, you'll be relieved to
21 hear. So thank you very much indeed for your patience
22 and that ends your testimony. Thank you very much,
23 Mr Pisica.

24 THE WITNESS: Thank you, sir.

25 THE CHAIRMAN: Which indeed will mean that we turn

14:32 1 immediately to Mr Romanosov.

2 (2 33 pm)

3 MR VICTOR ROMANOSOV (called)

4 (Evidence interpreted)

5 THE CHAIRMAN: Mr Romanosov, welcome. If you have been
6 here, you know the procedure by now. So the first thing
7 I would like to ask you to do is -- does it come across
8 to you? Is the translation with you?

9 THE WITNESS: Yes.

10 THE CHAIRMAN: Very good.

11 We ask every witness, as you know, to read out,
12 perhaps after translation, the declaration that you have
13 in front of you in English. Will the interpreter be
14 kind enough again to translate it into -- are we having
15 it in Russian?

16 MR FLEURIET: (Nods head)

17 THE CHAIRMAN: Okay.

18 THE INTERPRETER: (Reads out witness declaration)

19 THE WITNESS: Yes, I accept this.

20 THE CHAIRMAN: It was confirmed? I didn't hear the answer.

21 Okay. Thank you very much.

22 Then we come to the introduction of the witness,
23 please.

24 MR FLEURIET: Thank you, Mr Chairman.

25 (2 34 pm)

14:34 1

Direct examination by MR FLEURIET

2 Q. Mr Romanosov, good afternoon. Could you briefly
3 describe your educational background, please?

4 A. In 1971 I graduated from an oil college and got a degree
5 of oil technician for drilling oil and gas wells. After
6 that, I started my working life, and I also was studying
7 in parallel at the evening department of Moscow Oil and
8 Gas University, and in 1978 I graduated from this
9 institute with a degree of mining engineer, with
10 specialisation of drilling oil and gas wells.

11 Of course, subsequently, in my subsequent career,
12 I also worked with different kinds of advanced education
13 and further courses. But basically this is my
14 educational background.

15 Q. And could you please describe for the Tribunal your
16 principal work experience.

17 A. As I mentioned, in 1971 I started working as assistant
18 driller. This was the very start of my career at oil
19 and gas fields in Russia. From 1972 I started working
20 for Turkmenneft Association. I carried on working as
21 a driller, then as a foreman of a -- head of a drilling
22 team.

23 Subsequently I was an engineer working with
24 exploration wells, the head of a production department.
25 Then in 1987 I was promoted to the position of the head

14:37 1 of department of drilling operations at Turkmenneft
2 Association, and until 1997 I worked for Turkmenneft,
3 which was transformed into a concern. Altogether some
4 25 years I worked at oil and gas fields in Turkmenistan.

5 In 1997 I went to work for Ascom, where I was
6 appointed head of the contract operations for drilling
7 and capital repairs of wells. This was my position
8 until the end of 1999.

9 In 1999 the contract in Turkmenistan was finalised,
10 and from the year 2000 I was appointed technical
11 director, initially of Kazpolmunay, and then also at the
12 same time at Tolkyneftegaz. And for these two
13 companies I actually worked some ten years, until the
14 year 2010, in the position of technical director.

15 That's briefly the highlights.

16 Q. During your ten years with KPM and TNG in Kazakhstan,
17 what Kazakh agencies were primarily responsible for
18 inspecting the oil and gas field operations of those two
19 companies?

20 A. First and foremost it was the Ministry of Oil and Gas
21 and the state committee for subsoil and geology. But
22 I had not very much contact with these bodies because
23 I worked directly at the field and I was responsible for
24 the operation of a large number of wells and actually
25 facilities that we built.

14:40 1 There was a close supervision by the Ministry of
2 Emergencies, by the firefighting services, by the
3 environmental service, by the Ministry of Labour and
4 Social Protection, by the sanitary inspection as well.
5 So there were other supervising bodies as well.

6 There was also the State Drug Control Agency,
7 because we worked with certain chemical substances, with
8 methanol. So there were quite a number of -- more than
9 ten different supervising bodies. But essentially more
10 comprehensive inspections/controls were carried out
11 under the auspices of the Ministry of Emergencies.

12 Q. Prior to October 2008, how would you describe your
13 working relationship with those various agencies?

14 A. All the supervisory bodies carried out regular
15 inspections, but the key inspection was a comprehensive
16 inspection involving different supervisory bodies.
17 Altogether they were carried out under normal working
18 conditions. They were far-reaching, deep-going
19 inspections; it was not merely -- it was not always easy
20 to undergo such inspections.

21 But generally speaking, everything was normal.
22 There was an objective attitude displayed by these
23 bodies. They issued a large number of instructions that
24 were carried out; we addressed the breaches or faults
25 that were indicated. And this was, I would say,

14:42 1 a normal process of operation at the field.

2 Q. Did that working relationship change after October 2008?

3 A. Yes, these relationships unfortunately changed. And

4 what was significant, a significant event was a visit of

5 our deposits, our field, by the financial police. Prior

6 to that, the financial police had never got interested

7 in our fields. And all of a sudden there's a commission

8 arriving, and all our -- and they examined all of our

9 communications. We were very much surprised.

10 MR MOHR: Thank you. I have no further questions.

11 THE CHAIRMAN: Thank you very much. We turn to cross right

12 away.

13 MR TIRADO: Thank you, sir.

14 (2.43 pm)

15 Cross-examination by MR TIRADO

16 Q. Good afternoon, Mr Romanosov. Can I begin by asking -17I

believe you've just confirmed this in the

18 introduction -- but you were the technical director of

19 TNG and KPM from 2000 to 2010; that's correct, isn't it?

20 A. That's absolutely correct.

21 Q. And until 2011 you also worked at Ascom, didn't you?

22 A. Yes. I worked subsequently at Komet, or for company

23 Komet in Iraq, as deputy technical director.

24 Q. Okay. So until recently you were an employee of one of

25 the claimants, weren't you?

14:44 1 A. I was employee of the company. Well, to put it simply,
2 the owner of this company was Ascom. I was working for
3 Komet, and prior to that at Kazpolmunay and
4 Tolkynneftegaz, and these companies belong to Ascom.
5 Q. Perhaps this is a good time, if I could just refer you
6 to your first witness statement, please, and your CV at
7 the back.
8 Sorry, just to clarify that last point, the first
9 entry under "Work Experience" dates from 2010 until
10 present: you worked for Ascom Group SA, one of the
11 claimants in this arbitration. That's correct, isn't
12 it?
13 A. Yes. And what's wrong about this? I worked for the
14 company Komet. I had a contract with Komet, which in
15 turn belonged to Ascom. So I think this is correct.
16 I must -- sure, I am not an expert on legal matters.
17 What I know for sure is that Komet belonged to
18 Ascom Group, if you wish.
19 Q. Thank you. Is it fair to say then that you've had
20 a relationship with the Ascom Group, a close
21 relationship with the Ascom Group, for over eleven
22 years?
23 A. More than that. Starting in 1997, so it would make some
24 14 years, wouldn't it?
25 Q. Thank you. As you have your CV in front of you, I note

14:46 1 that under the "Specialty", under the heading of

2 "Education", it states:

3 "... oil and gas ... drilling."

4 Do you see that?

5 A. Yes, of course. That's the exact wording from my
6 diploma.

7 Q. And your CV does not refer to any experience of design
8 or classification of pipelines, does it?

9 A. I was not constructing oil pipelines, but the wells are
10 drilled at oilfields, and this is the initial stage of
11 the entire cycle of oil production. Until the year 2000
12 I was not concerned with production issues -- well, the
13 operation of drills, more specifically. I had been
14 building wells, so to say, building them, equipping
15 them. But after that ...

16 Well, you know, my education was broader than that.
17 When a drilling engineer is taught to drill the wells,
18 he also gets the knowledge how to operate them. And
19 I also mentioned this specifically: that I regularly
20 attended different advanced courses at the Oil and Gas
21 University where I studied among other things
22 additionally the development of a field, preparation of
23 a well for production.

24 In order to become a real specialist in such issues,
25 first of all, my education was more than sufficient; and

14:48 1 of course the vast practice that I had, practical
2 experience. Over 40 years altogether I worked at
3 oilfields, and pipelines that I worked with all the
4 time, or walked along all the time, were not something
5 new.

6 Q. But you have no specific academic qualification in the
7 design or classification of pipelines, do you, sir?

8 A. I have no formal education with respect to construction
9 of pipelines, but I have formal qualifications for
10 operation of such pipelines. And there is an addendum
11 to my diploma listing all the subjects that I read
12 through my university years, and there you will find
13 such subjects as operation, preparation of pipelines.
14 And thus I studied these subjects at the university and
15 there's a corresponding document.

16 Q. I don't wish to labour the point, but the point is very
17 specific. You have no specific qualification for the
18 design -- I'm not talking about the operation -- the
19 design or classification of the pipelines, do you?

20 A. As for design, I'm not sure what you actually mean when
21 you speak about designing of a pipeline. Actually
22 laying a pipeline is not such difficult work. There is
23 no specialisation or separate profession, separate
24 qualification of pipeline designer. All these subjects
25 I studied at the university, and in addition I have

14:51 1 certificates from the various courses which I've
2 attended which testify that I actually have done these
3 courses and that I am actually competent in these areas.

4 Q. Okay, thank you, sir.

5 Could I ask you to review the expert report of
6 Mr Suleymenov. In particular, if I could ask you to
7 look at paragraph 55 of that report. This is the
8 paragraph that reads:

9 "Any conclusion that a pipeline is a trunk pipeline
10 based only on certain technical parameters (wall
11 thickness, diameter, etc.) finds no support in Kazakh
12 law. "

13 Do you see that paragraph?

14 A. Well, my opinion in this respect is that the key
15 criterion --

16 THE CHAIRMAN: May I just interrupt for a second. I'm not
17 sure whether that is a legal question, because the
18 sentence says "in Kazakh law", and I don't think we are
19 having a witness on Kazakh law.

20 MR TIRADO: No, sir, we are not, but there is a general
21 point.

22 THE CHAIRMAN: Perhaps you could rephrase the question,
23 because the sentence as such simply says "Kazakh law",
24 and that is something which the witness should not
25 testify on.

14:53 1 MR TIRADO: No, sir, I agree, and obviously I'm just quoting

2 from the report directly. The question is that, "The

3 classification of a pipeline is not only a technical

4 matter; do you agree?"

5 MR FLEURIET: That's still a legal question. That's still

6 a legal question he's asking.

7 TH CHAIRMAN: I'm not sure.

E

8 MR TIRADO: I'm not sure that's right.

9 TH CHAIRMAN: Say it again, please.

E

10 MR TIRADO: In order to determine the classification of

11 a pipeline, one looks beyond technical questions; do you

12 agree?

13 A. My opinion in this respect is unambiguous. The fact

14 that a certain pipeline belongs to a certain category is

15 its purpose, what is actually pumped through this

16 pipeline.

17 As for the technical parameters, of course they have

18 significance. But this is of secondary significance,

19 because both main and in-field pipelines may consist of

20 the same pipes, have the same outward appearance. And

21 in such situations, when a pipeline is of very small

22 diameter, as formerly ours, 6-inch pipeline, [compared

23 to a pipeline of] 1,000 millimetres, in this case of

24 course it's obvious.

25 But for a layman who doesn't know the significance

14:55 1 of the products pumped through this pipeline, a layman
2 may judge by the outward appearance. But for
3 a professional, the key issue is what is the purpose of
4 this pipeline.

5 I'm not sure I answered your question.

6 Q. I'm not sure you did either, so if I may rephrase it.

7 The point is that the claimants' own expert says
8 that the matter is a matter of Kazakh law, in terms of
9 classification of pipelines. Do you agree?

10 A. Well, probably, yes, one should take into account the
11 law. But the legislation, as far as I know it, all the
12 in-field pipelines involved in the cycle of oil and gas
13 production do not belong to the category of main
14 pipelines under the law.

15 Q. Thank you. Just to clarify, your CV does not
16 demonstrate that you have any legal experience, does it?

17 A. Of course I don't have any legal experience, apart from
18 vast life experience.

19 Q. Let me put it to you bluntly, sir, in that case.

20 A person who has no legal experience or any
21 specialist pipeline experience is frankly not competent
22 to determine whether or not a pipeline is a trunk
23 pipeline; do you agree?

24 A. Well, generally speaking, I can read and understand
25 legal literature. As for a narrower professional

14:57 1 competence in the narrow area of oil issues, I can --
2 with reference to legal literature -- find out what is
3 what.

4 Q. Okay, sir. Thank you.

5 Can I ask you to look at Exhibit C-469 -- it's being
6 handed to you now -- in particular, page 2 of that
7 exhibit. You will see just over halfway down it states
8 that you were the chairman of the working committee in
9 respect of the construction of the pipeline. Is that
10 correct?

11 A. No, I was the chairman of the working commission for
12 commissioning the already-built pipeline. I was
13 involved in the operation, not construction of the
14 pipeline. And I was accepting them, the pipelines, from
15 the constructors into operation.

16 Yes, I was the chairman of a working commission.

17 Q. Okay. Again, if you could refer to your first witness
18 statement, please, paragraph 28. Have you got it there?

19 A. (Not interpreted) Da.

20 Q. In this paragraph you say the pipeline was constructed
21 in accordance with industry design standards for field
22 pipelines, and not, you say, main pipelines.

23 A. (Not interpreted) Da, da.

24 Q. Yes? Sorry to make you do this. If you could also then
25 refer, please, to your second witness statement,

15:00 1 paragraph 13, you also say that:

2 "The National Design Institute Neftegaz designed
3 [the facility] in accordance with ... VSN 5-13/2.38-85."

4 The title of this design standard you say is the
5 "design of steel in-field pipelines"; that's correct,
6 isn't it?

7 A. Yes .

8 Q. Could you then -- once again I refer you to the
9 Suleymenov expert report at pages 7 and 9.

10 A. Paragraph 7, you mean?

11 Q. Sorry, sir, pages 7 and 9 in the Russian version; 6 and
12 8 in the English. This lists out the documents
13 Mr Suleymenov relied upon in creating his report, which
14 states that the KPM pipeline is not a trunk pipeline.
15 You will see that VSN 51-3/2.38-85 is not listed there,
16 is it?

17 A. Where does it mention this? We have a list of documents
18 here, and which of the items here -- so paragraph 20, we
19 have 28 items here.

20 Q. Correct.

21 A. Which of the items here you have in mind?

22 Q. Well, the point is that the reference to
23 VSN 51-3/2.38-85 doesn't appear in this list, does it?

24 A. Well, I don't know actually. Let's have a look. The
25 fact is that in this list there are no references at all

15:04 1 to construction regulations and rules for design of
2 pipelines. There is not a single reference to SNiP,
3 that is Construction Norms and Regulations. That's
4 a Russian abbreviation, SNiP. So there are no
5 references to Construction Norms and Regulations at all.
6 Q. Isn't the point that, according to Mr Suleymenov, this
7 design document for field pipelines is clearly not
8 an important document for classifications of pipelines?
9 Do you agree?
10 MR FLEURIET: That's not an appropriate question to be
11 asking, about what's important to Mr Suleymenov or not.
12 TH CHAIRMAN: Well, I think the witness can say whether in
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13 the context, in his view, it's important. So I think
14 that's okay.
15 A. I think it is a significant document because it is the
16 basic document on the basis of which the designer
17 carried out his design work, and this document
18 unambiguously states that this pipeline is an in-field
19 pipeline.
20 MR TIRADO: Understood. So you say it's a significant
21 document. It's curious therefore, isn't it, that it
22 doesn't appear on this list of documents that
23 Mr Suleymenov relied upon in creating his report? Do
24 you agree?
25 A. Well, I don't know. Probably there is a reference to

15:05 1 some construction norms and rules elsewhere. But the
2 fact is that Mr Suleymenov is not a constructor.
3 I think that probably in his report somewhere he
4 mentions Construction Norms and Regulations generally,
5 but no specific norms and regulations are mentioned in
6 this item. Probably there is a reference elsewhere; one
7 should look thoroughly.

8 Q. Thank you, sir.

9 If I can then ask you to look at Exhibit R-244,
10 which is just being handed to you. This refers to
11 SNiP III-42-80 on the second page; the second page of
12 paragraph 4.3.5. Do you see that?

13 A. The page number is ...? Can you please once again give
14 me the number?

15 Q. Yes, it's at the -- it's the top -- it's the heading
16 4.3.5, that section, and it's at the top of the next
17 page. Can you see the reference, "According to
18 SNiP III-42-80"?

19 A. Yes, I see it.

20 Q. Okay. Sorry, there's another exhibit I need to take you
21 to, so if you just keep your finger on that.
22 Exhibit C-110, which again is just being handed to you,
23 sir, on page 2 of that document.

24 THE CHAIRMAN: Sorry, you are going so fast, we have to
25 follow the document and we are not being handed it so we

15:09 1 have to find it.

2 Okay.

3 MR TIRADO: Thank you, sir.

4 On page 2 of Exhibit C-110, "SNiP III-42-80" is
5 a guideline relevant to the welding of trunk pipelines,
6 isn't it? In the English version it's towards the
7 bottom of the page. Do you see that reference there?

8 A. Yes, I see it.

9 Q. It seems odd then that reference is made to trunk
10 pipeline standards when you say that it was designed as
11 a field pipeline; don't you agree?

12 A. There's nothing strange about this. The fact is that
13 this once again proves that the technical parameters,
14 such as the number of welding joints, how they were
15 [constructed], with what methods, do not have
16 significance in determining the classification of
17 a pipeline. Other criteria are essential, and
18 I mentioned primarily what is actually pumped through
19 the pipeline. And how you check the welding joints
20 doesn't matter actually; it doesn't affect the purpose
21 of a pipeline.

22 Q. Okay, thank you. If you can put those exhibits to one
23 side. I'm sorry about all the jumping around here.

24 If I could then take you back to your second witness
25 statement, sir, at paragraph 16.

15:13 1 A. Yes .

2 Q. You note that the court's expert did not visit the
3 pipeline, don't you?

4 A. Yes. As far as I know, the expert is not at all
5 a specialist in oil and gas production. He made his
6 report on the basis of some educational literature that
7 he read, and SNIPs and he did not even take the trouble to visit
8 the field itself before producing such an important
9 document as an expert report. He did not deem it
10 necessary to visit the field and see it with his own
11 eyes .

12 Q. Okay. Could I ask you to look at Exhibit C-469. I hope
13 it's on page 2 of your version. Point 9 sets out the
14 dimensions of the KPM pipeline, doesn't it?

15 A. Yes, absolutely correct.

16 Q. Okay, thank you. Then if you could look again at
17 Exhibit R-244, and in particular section 1.4.5. Do you
18 have that, sir? This states that the pipeline will be
19 laid underground, doesn't it?

20 A. Yes, of course, underground.

21 Q. Okay. So the question is: if the pipeline is laid
22 underground, and the dimensions of the pipeline are set
23 out in the working programme, there is nothing to be
24 gained, is there, from visiting the pipeline? Do you
25 agree?

15:16 1 A. Of course not. The fact that it is laid underground
2 doesn't mean that it's impossible to check it.

3 First of all, there are places, the joints, then
4 there are wells along the length of the pipeline,
5 control wells, where one can go down and see the pipes
6 with one's own eyes. There are many indicating signs
7 along the pipeline. So the fact that it is laid
8 underground doesn't mean it is invisible. We are
9 checking it all the time, of course, in the process of
10 operation.

11 The fact that it is laid underground is normal; all
12 the pipelines are underground. If you put them on the
13 surface, it will be really very difficult to walk on the
14 surface.

15 Q. Understood. But put simply, there is no need to visit
16 the pipeline to ascertain whether it is a trunk pipeline
17 or not, is there?

18 A. It is necessary, of course, to visit the pipeline and
19 see what facilities are linked by this pipeline. There
20 are some industrial facilities linked by it, and this is
21 the principal thing. Whether it belongs to the system
22 of oil production, only having looked at the facility
23 itself can you make this conclusion. Otherwise one
24 can't judge, from someone's stories, from hearing from
25 someone. One should examine the object by oneself.

15:18 1 Q. Okay, thank you. I'm afraid I am going to ask you to
2 look at something else. Could I refer you to the
3 statement of claim, in particular page 23.

4 Are you familiar with this diagram, sir?

5 A. Yes, of course. It's the diagram of our communications.

6 Q. And the dotted line denotes the contract area, doesn't
7 it?

8 A. One can't say that. Everything is very schematic here.
9 Probably it does; I can admit this.

10 Q. And from this diagram at least, the storage facility
11 lies outside the red dotted line, doesn't it? Sorry,
12 you can't obviously tell the colour, I think.

13 A. Well, it doesn't matter. The storage, as you call it,
14 it's not storage properly speaking; it's the main
15 constructions, as they are called in the design
16 document. They are situated outside the contract area,
17 as many other structures, elements of the infrastructure
18 for oil production, are physically placed outside the
19 limits of the contract area.

20 Q. So you would agree that part of the KPM pipeline lies
21 outside the dotted line then?

22 A. Yes, of course. It's obvious.

23 Q. Thank you.

24 So could I then now take you back to your first
25 witness statement, paragraph 34 of that statement. You

15:21 1 mention in this paragraph that in February 2010

2 an official from the Office of Justice told you to stop

3 operating seized equipment, don't you?

4 A. This was an enforcement officer actually, who visited

5 the field and asked why the impounded equipment is in

6 operation.

7 Q. But is it really correct that stopping the machinery

8 would have such grave consequences?

9 A. Well, this depends on what you mean by large

10 consequences.

11 Q. Would there be long-term problems with stopping the

12 machinery?

13 A. Well, what kind of problems? I can say what would

14 happen as a result of this: one would discontinue

15 operation of certain wells, and one needed time to do

16 this. He demanded that this should be done immediately,

17 and I explained to him that it's just impossible to do

18 something immediately.

19 Well, people would be out of work, the production

20 would stop. So it's up to you how to judge such

21 circumstances, if they are serious or not. In my

22 opinion they would be serious.

23 Q. So would you agree with the following statement of

24 Mr Ongarbaev at paragraph 4.2 of his witness statement,

25 where he says:

15:23 1 "A gas or oil field is not simply like a car in the
2 sense that one cannot just turn it off and turn it back
3 on again."

4 A. Well, in general he is right. Stopping any industrial
5 process has a certain inertia. So you have to stop it
6 and then restart it, everything takes time, everything
7 is complicated. So I agree with you.

8 Q. So it follows from this that if an operator of an oil
9 and gas field abandoned his fields, you would need to
10 react very quickly to get the machinery going, doesn't
11 it?

12 A. An operator cannot abandon his field, if you mean the
13 technical operator: this may lead to dangerous
14 consequences like accidents. So what do you mean by
15 "abandon"? I'm not sure I understand. He would not be
16 allowed to abandon the field.

17 Who do you mean by "operator", when you -- probably
18 I didn't understand the question correctly. Are you
19 speaking about the technician, who is actually a workman
20 who is operating? But you probably mean an operator,
21 a ... I'm sorry.

22 Q. Okay, let me rephrase. In order to avoid any serious
23 consequences from the -- it would be important, would
24 you agree, to ensure that the machinery is activated as
25 soon as possible?

15:25 1 A. Well, as a specialist in the oil field, I'm not very
2 sure what you wish to hear. If it is possible to stop
3 an oil and gas well, are you asking about this? In
4 principle one can stop it, of course, but this requires
5 certain technological operations to be performed. It's
6 not simply that you close the valve and that's it.

7 So it is a complicated thing. I'm sorry, I'm not
8 sure what you actually are asking. If it is possible to
9 stop the operation of an oilfield? Yes.

10 Q. Yes, but the point is that it -- well, as you have said
11 on record, you agree with Mr Ongarbaev's statement that
12 it's simply not like switching on and off a car, and
13 that there are serious consequences if you stop ...?

14 A. Well, yes, and probably the enforcement officer was not
15 fully aware of this when he was talking about
16 immediately stop.

17 As I wrote in my witness statement, after he left,
18 I started issuing certain commands for discontinuing the
19 operation. But a very short time after that he returned
20 and told me: no, no, we should not stop the operation,
21 so I started cancelling the commands that I had already
22 issued. This was the sequence of events.

23 Q. Thank you. We can move on, I think, to the final topic
24 that I'd like to explore with you.

25 If I can refer you to your first witness statement,

15:27 1 paragraphs 37-39. This is where you refer to a visit by
2 the Kazakh Prime Minister to the LPG plant on
3 21st July 2010, don't you?
4 A. Yes. There was such an event.
5 Q. The purpose of his visit was not for him to personally
6 terminate the contract and transfer the territories into
7 trust management, was it?
8 TH CHAIRMAN: I'm sorry, how do you expect the witness to
E
9 say what the purpose of the Prime Minister was?
10 MR TIRADO: Well, if I can refer the witness to Exhibit 21
11 to Martha Olcott's report, perhaps this might help
12 clarify it.
13 MR HAIGH: Excuse me, Mr Tirado, can you help me understand
14 what the exhibit reference is? It bears the date of
15 July 25th 2010, but I'm not sure what the title is,
16 since it seems to be in something other than English.
17 MR TIRADO: The English translation should be "Principal
18 Results of Karim Masimov's Visit to the Mangystau
19 District".
20 MR HAIGH: Thank you.
21 MR TIRADO: Sir, as you will see from that Exhibit 21 to
22 Martha Olcott's report, the Prime Minister took part in
23 a number of activities during his time in the region,
24 including a visit to a mosque and an ancient burial, and
25 a planned visit to Uzen-Turkmen railroad project on

15:31 1 20th July 2010.

2 On 21st July 2010, as well as visiting TNG, he also
3 can be seen, from other exhibits in the report, to be
4 undertaking other activities in the region. Perhaps
5 I can just show you Exhibit 22.

6 And one final exhibit is Exhibit 23.

7 It is clear from these exhibits, isn't it, that the
8 visit was part of a planned visit to the area of
9 importance in this region. Do you agree?

10 THE CHAIRMAN: Sorry, I still don't see what the witness is
11 supposed to say on that. You referred him to a number
12 of documents, which is difficult enough to follow for
13 him because he probably hasn't seen them, and then you
14 ask him about the visit in general. I don't see what
15 the witness can contribute to that.

16 MR TIRADO: Well, the claimant has suggested that the visit
17 by the Prime Minister was for him to personally
18 terminate the contracts and transfer the territories
19 into trust management, sir.

20 THE CHAIRMAN: No, I understand that. But I still don't see
21 what the witness can say about the purpose of the Prime
22 Minister.

23 MR TIRADO: I am asking him whether he agrees that on the
24 face of the exhibits and the circumstances that have
25 just been presented to him, there is nothing to suggest

15:33 1 that indeed that was the motive of the Prime Minister's
2 visit to the region. He was clearly there for other
3 functions and other activities. As a matter of fact,
4 that's what he was doing.

5 A. Well, I can say about the feelings in our labour force
6 at the time of the Prime Minister's visit. It's obvious
7 that the Prime Minister has lots of business and other
8 things to attend to. We had actually received
9 a notification that our contracts might be terminated,
10 and we realised that the arrival of such a high-ranking
11 official was of significance for us. We hoped secretly
12 that maybe everything would work out not in such
13 a tragic way. Unfortunately this didn't happen. It was
14 declared that our contracts were terminated, and after
15 that we lost all hope. It was obvious to us that this
16 was the end.

17 MR TIRADO: Okay, thank you, sir. No further questions.

18 TH CHAIRMAN: Any questions on re-direct?
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19 MR FLEURIET: Yes, Mr Chairman. I'll be very brief.

20 (3 34 pm)

21 Re-direct examination by MR FLEURIET

22 Q. Mr Romanosov, if I could ask you to look back at one of
23 the paragraphs opposing counsel just referred you to in
24 your first witness statement, paragraph 37. This is
25 about the Prime Minister's visit.

15:35 1 You say here that you were instructed to construct
2 three helipads for the arrival of the delegation. Who
3 gave you those instructions?

4 A. The preparation for the visit of the Prime Minister was
5 in the hands of the municipality, akimat; it's the
6 regional administration, the regional authorities. So
7 they had created a commission, which gave me
8 instructions.

9 I received those instructions and among other
10 things, among other actions dedicated to the visit,
11 there was the construction of this site. We also had to
12 prepare the route of the visit, and other things: to
13 prepare the facility, to prepare demonstrational stands.
14 We also had to prepare a message release.

15 So we had quite some work to do, and we did perform
16 this work in very short time. We were in a hurry, and
17 we had to make it by the deadline.

18 Q. Okay.

19 Earlier you were referred to Exhibit R-244.
20 Unfortunately there are no page numbers on this exhibit,
21 but I'm under the heading 4.3.5, "Borankol -- Raw
22 Materials Base oil pipeline", about halfway through the
23 document. (Pause to locate the document)

24 A. Yes, I am with you.

25 Q. In my English version, about four or five paragraphs

15:39 1 down, it says:

2 "The projected pipeline is classified under
3 VSN 2.38-85 as a pipeline of III-rd class, IV-th
4 category."

5 Do you see that?

6 THE INTERPRETER: Just a second, sir. I will read it from
7 the Russian version.

8 A. Yes, I see this line.

9 Q. Is that the same as VSN 51-3/2.38-85 that you refer to
10 in paragraph 13 of your second witness statement, in the
11 first sentence?

12 A. Most likely, yes. Most likely I did mean exactly the
13 same VSN. I just try to find it in my text.

14 Q. Yes, I'm sorry. Again, it's paragraph 13 of your second
15 witness statement, the first sentence.

16 A. Yes, we are speaking about the same document.

17 Q. Finally, if I could refer you back to the paragraph in
18 Professor Suleymenov's expert report to which you were
19 earlier referred: paragraph 55. I'll give you just
20 a moment to find it.

21 A. Yes, I can see this.

22 Q. Could you read all three sentences of that paragraph to
23 yourself.

24 A. Yes, I am ready.

25 Q. Now, I am not asking for a legal conclusion, but in your

15:43 1 lay opinion, do you agree with the second sentence and
2 the third sentence of this paragraph that the length of
3 a pipeline has significance as to whether or not it's
4 properly viewed as a trunk pipeline?

5 A. Yes, I agree. I agree with these conclusions, the
6 conclusions in this particular paragraph.

7 The thing is, as I already said, the thickness of
8 the wall, the diameter, may be identical, or may be
9 similar by looks, both for the trunk pipeline and
10 non-trunk pipeline. It's like a road: the road may look
11 similar or the same, but depending on the functions of
12 this road, this road may be qualified as industrial road
13 or motor road.

14 So here it's hard to say by looking at the thing,
15 but the length is decisive. Normally these non-trunk
16 pipelines -- normally the fields are far from the trunk
17 pipelines, and for this purpose they have to build
18 additional pipelines to actually bring things together.
19 So normally we are not speaking about huge distances;
20 for example, 50 kilometres for our neighbours. They
21 have industrial pipeline of 50, TNG had had
22 an industrial pipeline of 50 kilometres.

23 While the trunk pipeline is the pipeline which
24 actually collects and which transports the oil of plenty
25 of contractors. There can be hundreds of them, hundreds

15:45 1 of different pipelines which bring oil together into the
2 same pipeline, and then the purpose or the function of
3 this trunk pipeline is actually to bring all this oil
4 for transportation, probably to a harbour or to
5 a refinery. So clearly such a trunk pipeline will have
6 different functions than in-field pipeline.

7 So I fully agree within the conclusions of
8 Mr Suleymenov in this paragraph.

9 MR FLEURIET: Thank you. I have no further questions.

10 THE CHAIRMAN: Any further questions from the respondent's
11 side?

12 MR TIRADO: No, sir, thank you.

13 THE CHAIRMAN: Thank you very much. My colleagues?

14 (3.46 pm)

15 Questions from THE TRIBUNAL

16 MR HAIGH: Thank you, Mr Chairman.

17 I just want to clarify your last answer, if I may.

18 Earlier in your cross-examination you said the key issue
19 is: what is the purpose of the pipeline? Do you recall
20 that testimony?

21 A. Yes, I do.

22 MR HAIGH: I wonder if you could just either expand on it or
23 relate it to what you've just said in relation to the
24 answer you gave a moment ago in response to your
25 counsel. When you say the key issue is the purpose of

15:46 1 the pipeline, obviously all pipelines carry product of
2 one kind or another, from one point to another. What
3 are you talking about?

4 A. That's right: when we are speaking about production of
5 oil and gas, then the pipelines of the oil companies,
6 they are part of a production cycle for those
7 hydrocarbons, be it oil or gas, and at the beginning of
8 such a cycle is an oil well. This is where we start,
9 this is where the oil starts its transportation. And
10 then the oil goes through all the cycles: collection of
11 the oil, treatment of the oil, transportation of the
12 oil.

13 The key facilities, in our case we have TSB, and in
14 these key facilities we control the quality of the
15 product. We also perform certain technological
16 operations to achieve the standard quality. And after
17 we have carried out the delivered acceptance of the
18 product together with the owner of the trunk pipelines,
19 and after we have completed the passport for this oil,
20 and after we have defined the quality of the oil, and
21 the price, which depends on the quality, after all this,
22 the cycle of production of the oil is completed.

23 So at this moment the oil will cross the border of
24 the trunk pipeline and is sent to its next destination.
25 So for each technological chain of this process, each

15:48 1 chain or each part of the chain has its own name, has
2 its own purpose. As for the pipeline, that's the
3 pipeline that connects those production facilities.

4 This is what I mean. I believe I have answered your
5 question.

6 MR HAIGH: I just wanted to make sure I understood what you
7 meant. That's fine. Thank you very much.

8 THE CHAIRMAN: I just ask a question by curiosity, and
9 I have no indication that this is relevant for the case
10 but it clarifies my mind a little bit.

11 I understand that trunk pipelines certainly, but
12 also others, you will have different products being
13 transported through the pipeline, different quality or
14 whatever. How do you separate them, to make sure that
15 this is the section now of your product, and then
16 perhaps comes a product from another producer? How do
17 you separate them technically? Can you help me on that?

18 A. That's an interesting question. The thing is it's the
19 decision in the hand of the transporter: they decide at
20 what time to transport which kind of oil. So there are
21 certain timelines or certain hours when you can submit
22 or we can add certain oil of a certain producer. So
23 they are the ones who decide which are the producers
24 they can combine our oil with.

25 But of course in the trunk pipelines the oil will be

15:50 1 mixed with other oil and it will no longer be
2 impersonated or individually marked. But since I am not
3 an expert in the sales of oil, I frankly don't know how
4 they handle it at the harbour. But my task is to pump
5 the oil into the pipeline, and frankly I'm not an expert
6 to tell you what happens next. But it is an interesting
7 question, indeed.

8 THE CHAIRMAN: Thank you very much. I was just trying to
9 learn what I could, but I'm quite aware that you are not
10 an expert on this.

11 Alright. If there are no further questions, I think
12 we are finished with the witness. Thank you very much
13 again, and you are relieved now of your duty as
14 a witness.

15 I suppose we should still go on with the next
16 witness at this time. It's a bit early for the coffee
17 break maybe.

18 THE WITNESS: Thank you very much.

19 THE CHAIRMAN: Or do you prefer to have the coffee break
20 right now? We could do that.

21 MR TIRADO: Yes, sir.

22 THE CHAIRMAN: Okay. So at 4.10 we continue. Thank you.

23 MR TIRADO: Thank you.

24 (3 .52 pm)

25 (A short break)

15:52 1 (4 14 pm)

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2 MR ALEXANDRU CONDORACHI (called)

3 TH CHAIRMAN: Alright. This is Mr Condorachi, I take it.
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4 I have a procedural question from our side, which
5 just came out of our little discussion, but I think
6 I should rather raise it now rather than at the end of
7 the hearing, to hear your reaction.

8 The question is: would the parties mind, or would
9 they agree, if they provide us photographs of the
10 witnesses? At least the experts we are not seeing, so
11 that's not relevant, but of the witnesses. It would
12 help us. We will study the statements in quite a while,
13 at least again: half a year maybe, because we have
14 a second hearing and so on. And it would help us indeed
15 if we could connect a face with the statement and the
16 transcript at that time.

17 Now, we are not insisting on that; I am just raising
18 the question, and you don't have to reply now. Perhaps
19 you want to think about it. It is a question of data
20 protection, maybe; I don't know what. But it's just
21 a spontaneous thing.

22 I suggested that many years ago but I've never
23 really implemented it in a case. If you want to say
24 something now; otherwise we'll just leave it and at
25 an appropriate time you can respond.

16:15 1 MR SMITH: We would be happy to provide glamour shots of all
2 of our witnesses!

3 THE CHAIRMAN: Of course they must be nice pictures.

4 MR HAIGH: No touch-ups, though.

5 DR NACIMIENTO: The same here. I don't think it is
6 a problem.

7 THE CHAIRMAN: Very good. So at some stage perhaps -- you
8 prepare however you like -- you let us have those
9 pictures and then we will relate to them.

10 MR FLEURIET: Do you want pictures of counsel as well?

11 THE CHAIRMAN: Let's not overdo it!

12 I must tell you a couple of weeks ago I had
13 a one-week hearing in Warsaw, and there the parties
14 agreed, without even asking us, to give us a list,
15 pictures of the various -- at least the main counsels,
16 but I am not insisting on that. Those who speak here,
17 we recognise rather well, so ... but if you want to add
18 your glamour pictures, of course we will not stop you.

19 DR NACIMIENTO: While we are at the procedural issues,
20 I have one question. We had quite extensive direct
21 examinations today; do I take it that the same also is
22 allowed for respondent?

23 THE CHAIRMAN: Of course.

24 DR NACIMIENTO: Okay.

25 THE CHAIRMAN: The rule has always been -- but I've been

16:17 1 rather liberal on that, I must admit -- that direct
2 examination can go beyond the five minutes on any
3 matters that arose really after the statement, and we
4 have been liberal on that. So that would certainly
5 apply to the respondent as well.

6 DR NACIMIENTO: Okay.

7 THE CHAIRMAN: It still all counts against your time anyway.

8 Alright. Now let's now come back to Mr Condorachi.

9 Will that be in Russian as well?

10 THE WITNESS: (In English) Yes.

11 THE CHAIRMAN: Yes, okay.

12 So let's start again the initiation procedure, which
13 you probably know by now. If the interpreter could
14 kindly read out in Russian the statement --

15 THE INTERPRETER: Yes, sir.

16 THE CHAIRMAN: -- and then the witness can confirm it.

17 THE INTERPRETER: (Reads out witness declaration)

18 THE WITNESS: (Interpreted) I agree to that.

19 THE CHAIRMAN: Thank you very much. Please go ahead.

20 (4 18 pm)

21 Direct examination by MS ROEBUCK FREY

22 Q. Good afternoon, Mr Condorachi. Do you have your two
23 statements on the table in front of you?

24 A. That's right.

25 Q. Can you please confirm the accuracy of those statements?

16:18 1 A. Yes, I do confirm.

2 Q. Thank you. Can you also explain to the Tribunal why you
3 wrote your first witness statement in Romanian, whereas
4 you wrote your second witness statement in Russian?

5 A. Due to the fact that when I was preparing my first
6 statement I had a -- we only had a translator from
7 Romanian into English, and this is why I wrote it in
8 Romanian. I do speak both languages equally well, but
9 it's simpler for me to talk Russian.

10 Q. Okay, thank you.

11 On Monday, yesterday, counsel for the respondent
12 stated during its opening presentation that the
13 financial police were not involved in the inspections
14 that took place in July 2010 at KPM and TNG. Do you
15 agree with that statement?

16 A. No, I disagree, because I personally know that the
17 financial police did participate, and for the first time
18 I learnt it on 4th July 2010, when on Sunday I came in
19 and the inspection was ongoing, the inspection by the
20 Prosecutor General.

21 I came on Sunday to the office to finish some
22 affairs because we were so busy on the working days
23 preparing or dealing with the inspection. And when
24 I came into the office, at the entrance the security
25 guard answered my question, when I asked him if there

16:20 1 was anyone in the office, he told me that there were
2 several officials from the financial police and several
3 representatives of the geological committee and Ministry
4 of Energy out of those inspectors, and they were
5 particularly in the geologic department of the office.

6 Mind you, this was a Sunday, a Sunday when no one in
7 the company is on duty. When I asked them for the
8 purpose of their visit, they said that they were looking
9 for some employees, and when we informed them that,
10 "This is a Sunday, there is nobody in the office," they
11 said, "Well, we know that you are in the office quite
12 often, so we wanted to talk to somebody." They received
13 an answer that there was no one in the office, but they
14 proceeded and went up to the geological department.

15 When I learnt that, I went to my office, I made
16 certain calls and I informed people that we had
17 financial police representatives in our office. And to
18 my knowledge, until then the financial police had not
19 taken part in the inspections. So I picked my computer,
20 I took the computer of my colleague, and I left the
21 office. This was the first time I learnt.

22 After that, we informed the management about this
23 fact and our management had certain consultations; I'm
24 not aware of the details. But I received a call in the
25 evening and they told us that me and some middle-level

16:21 1 managers, it would be best that me and several other
2 mid-sized managers should leave Kazakhstan this week: it
3 would be safer and better for us because from previous
4 experience of our dealings with financial police, it
5 ended up jailing one of our employees, as you know.

6 For that purpose, top management and Mr Stati
7 himself decided not to take any chances and asked the
8 most important people who still remained in Kazakhstan
9 to leave the country.

10 However, when we flew into Kischinev, when we
11 arrived we spent the entire day in the office and we
12 monitored everything that was going on in Kazakhstan.
13 And by the way, Monday and Tuesday, the following days,
14 were holidays in Kazakhstan, so the first working day
15 was Wednesday.

16 On Thursday we were informed that the financial
17 police made an official visit to the office, Mr Rakhimov
18 and the other Mr Rakhimov, from that moment they took
19 part in the inspections. Officially they were present
20 in the office, they communicated with the members of the
21 Prosecutor General's Office, who were there as well,
22 with other inspectors as well. I recall the name of
23 Mr Pakeev(?), who was in charge of this inspection, he
24 was heading this operation.

25 So this is my answer.

16:23 1 MS ROEBUCK FREY: Thank you. I have no further questions at
2 this time.

3 TH CHAIRMAN: Alright. We come to cross.

E
4 (4 23 pm)

5 Cross-examination by MR TIRADO

6 Q. Good afternoon, Mr Condorachi. Can I apologise in
7 advance because I will be referring to a number of
8 different documents and cross-referring to a number of
9 different documents, and we will try our best to do this
10 as seamlessly and painlessly as possible, but there will
11 be quite a few references to various exhibits and
12 statements.

13 First of all, you have there, I see, on the desk
14 there, your first witness statement. If I could ask you
15 to turn to paragraphs 40 and 41 of your first witness
16 statement, please, and just take a moment to refresh
17 your memory of what you said there. (Pause)

18 A. (Not interpreted) Da.

19 Q. Thank you. Can I ask you to look at Mr Pisica's first
20 witness statement, which is being handed to you now, and
21 in particular if I can refer you to paragraphs 54 and 55
22 of that statement.

23 What I'd like you to do, please, is read Mr Pisica's
24 statement and then compare it with the paragraphs I've
25 just asked you to read from your statement.

16:26 1 A. (Not interpreted) Da.

2 Q. Would you agree that the wording of paragraphs 40 and 41
3 of your first witness statement and paragraphs 54 and 55
4 of Mr Pisica's first statement are virtually identical?

5 A. Well, these statements describe the same events.

6 Q. But they describe them, do they not, in almost identical
7 terms?

8 A. Similarly terms; I wouldn't say that they are identical.

9 Q. I think the term I used was "virtually identical".

10 Did you write your statement, Mr Condorachi?

11 A. Yes, I did.

12 Q. And the words that are used in your paragraphs 40 and 41
13 of your first statement are your words or Mr Pisica's?

14 A. These are my words.

15 Q. Thank you.

16 Just to clarify your role, if I may, it is correct
17 that you are qualified as a lawyer in Romania; is that
18 right?

19 A. That's right. I graduated from Romanian university, so
20 I am a Romanian lawyer. Well, to say that I am
21 a Romanian lawyer, that's a bit different thing. But
22 I am a graduate of Romanian university: I obtained my
23 law degree in Romania.

24 Q. Understood. But you do not have any qualifications in
25 relation to Kazakh law, do you?

16:28 1 A. I never studied in Kazakhstan, I never had any
2 university studies in Kazakhstan, although while
3 I worked in Kazakhstan I attended a number of seminars
4 and workshops concerning Kazakhstan legislation, which
5 was subjected to periodic changes.

6 Q. But whether you studied in Kazakhstan or elsewhere, you
7 don't actually have any qualification in Kazakh law, do
8 you?

9 A. No. When you say I don't have qualification, what
10 exactly do you mean? I don't have a diploma?

11 Q. Correct. You are not qualified in, you do not have
12 a degree, you do not have a diploma in Kazakh law, do
13 you?

14 A. No, I don't have any diploma in Kazakh law. However,
15 a qualified Kazakhstan lawyer is different to --

16 Q. I'd now like to discuss the inspections and
17 investigations -- sorry, I think the sound's ...

18 THE INTERPRETER: I apologise. The last answer of the
19 witness was:

20 A. I wanted to make a difference because the notion of
21 a qualified Kazakhstan lawyer is something different.
22 So I just wanted to make sure I understand what you
23 mean.

24 Q. Okay, thank you. I would like to discuss the
25 inspections and investigations that resulted in

16:30 1 a criminal charge being successfully brought against

2 Mr Cornegruta in September 2 009.

3 In paragraph 16 of your first witness statement you
4 state that the financial police:

5 "... gamed the system, by gathering all the
6 necessary information through the criminal
7 investigations of KPM and TNG, and then changing the
8 target of the criminal case, thus ensuring that KPM
9 would not participate in the subsequent trial."

10 Do you see that? You are nodding, so ...

11 A. Yes, I see that.

12 THE CHAIRMAN: You have to say yes or no.

13 THE WITNESS: Yes.

14 MR TIRADO: However, in your second witness statement at
15 paragraph 2 you say:

16 "... the Financial Police began an investigation
17 looking for criminal activity without formally accusing
18 any specific individual, or even KPM directly, of having
19 committed a crime or notifying that it was the subject
20 of the criminal investigation."

21 Do you see that?

22 A. Yes, I do.

23 Q. Those two statements are contradictory, aren't they?

24 A. No, they are not.

25 Q. No? First you say KPM was initially the target; then

16:32 1 you say KPM was not a target initially. In fact, you do
2 not know how a criminal investigation works under Kazakh
3 law, do you, because you are not a Kazakh lawyer? Isn't
4 that right?

5 A. I would like to clarify that the criminal case was
6 initiated based on a fact, the fact of alleged use of
7 the trunk pipeline without having a licence to do so,
8 and the criminal case that was initiated does not
9 require that the criminal case is initiated against
10 someone individually. And at the first stage of the
11 criminal investigations, the financial police were
12 gathering the evidence without bringing accusations
13 against anyone individually.

14 And so it lasted until Mr Cornegruta received the
15 accusations. I believe, if I'm not mistaken, it was the
16 end of April or early May. So by this time the
17 financial police had gathered all the evidence, from the
18 moment when they initiated the criminal case on
19 15th December until they produced accusations against
20 Mr Cornegruta in early May.

21 So I don't see any contradiction in these two
22 statements, because in my second witness statement I say
23 that Mr Cornegruta did not have any possibility to
24 participate in the criminal investigation for the period
25 of four or five months. And at the moment when he

16:34 1 received these accusations against him, they basically
2 just produced a criminal file against him, with all the
3 evidence and other materials, and at this moment
4 Mr Cornegruta had to deal with the entire materials,
5 with the entire file.

6 So at the moment the accusations were brought
7 against him, he could not participate -- KPM could not
8 participate, because the accusations were not against
9 KPM but against Mr Cornegruta personally. While during
10 the investigation period, all the enquiries and all the
11 activities of the financial police were targeting KPM,
12 because the company was working with the pipelines.
13 That's why the investigations were -- the company was
14 the owner of the pipeline.

15 So please do not accuse me of not knowing the
16 criminal law of Kazakhstan. And you did not allow me to
17 complete my statement about being a qualified lawyer in
18 Kazakhstan.

19 If you say that only lawyers who were educated in
20 Kazakhstan were allowed to practise law in Kazakhstan,
21 it wouldn't be true about a large number of lawyers in
22 Kazakhstan. If you received your legal degree outside
23 Kazakhstan, abroad -- many lawyers in Kazakhstan did
24 so -- they can continue practising law, they can
25 practise law in Kazakhstan without requalifying

16:36 1 themselves in Kazakhstan. 30%, if not 50%, of the
2 lawyers working in Kazakhstan obtained their degree
3 outside the country. And this is actually true not only
4 for Kazakhstan but for all post-Soviet republics.

5 However, when it comes to my personal knowledge of
6 Kazakhstan legislation, I have worked for eight years in
7 this country and I believe I have obtained quite a good
8 knowledge of the legislation in its practical
9 application, meaning especially given that the
10 legislation is very similar between this and the other
11 country, and we have the same basics both in Moldova and
12 Kazakhstan. We moved into the same directions in
13 parallel due to the market economy being introduced
14 approximately at the same time and in the same manner,
15 and approximately using the same consultants and
16 experts, building legislation, and using the same aid
17 from foreign countries to facilitate the switch into the
18 market economy.

19 So there are no such principal differences between
20 the legislations of Moldova, Kazakhstan and the Russian
21 legislation as well.

22 That was what I wanted to clarify. Thank you.

23 Q. You say in paragraph 2 of your second witness statement
24 that neither the rights of KPM nor Cornegruta were
25 protected during the investigation, and that they did

16:37 1 not participate in the investigation.

2 However, as Mr Rakhimov confirmed in his [second]
3 witness statement -- and that's being passed to you
4 now -- at paragraph 4.5, Mr Cornegruta was interviewed
5 by the financial police as a witness in the
6 investigation on 25 December 2008. Therefore he did
7 participate in the investigation, didn't he?

8 A. Mr Cornegruta -- in the criminal process there is a huge
9 difference between a witness and a suspect concerning
10 the rights that such persons have in the criminal
11 process, and the status of a suspect gives you much
12 broader rights to defend yourself. But Mr Cornegruta
13 was questioned as a witness, in a different status. And
14 after that, all the procedural remedies, or all the
15 procedural measures and capacity of the financial police
16 were used in respect of Mr Cornegruta.

17 However, the criminal case was still considered
18 initiated based on a fact. And when we made enquiries,
19 they told us that since a criminal case was initiated
20 due to certain facts, the materials were only given to
21 the participants of the criminal process. And since
22 they did not have a suspect at that time, then since you
23 are not a party to the criminal case yet, you do not
24 have any rights of access to the information.

25 So until May 2009 the investigation was held without our
participation; they would just

16:39 1 come to us, they would just extract some materials, and
2 we wouldn't even know what they get. They would arrange
3 for expertise. And he only obtained these materials in
4 May, when he was allowed to see the materials.

5 So what I mean is that during the process when the
6 evidence was collected, Mr Cornegruta did not take any
7 other part but participated as a witness and was
8 questioned as a witness, and he did not even have
9 a criminal lawyer with him at that moment. We actually
10 did not have any criminal lawyer available at that time
11 because we were not expecting this coming, and that was
12 very unpleasant.

13 Q. You also say in your first witness statement at
14 paragraph 13 that KPM made complaints to the GPO about
15 the investigation. As Mr Kravchenko confirms in his
16 second witness statement in paragraph 3.5, a copy of
17 which is being passed to you:

18 "... the GPO protects the rights and freedoms of
19 citizens, as well as the rights of businessmen in
20 Kazakhstan."

21 Therefore, KPM had protection and used the
22 protection in the course of the investigation,
23 didn't it?

24 A. The role of the Prosecutor's Office is an interesting
25 question. Thanks for putting this to me.

16:41 1 Every time we had a opportunity and every time we
2 had a reason, we would send a complaint to the General
3 Prosecutor's Office, and the General Prosecutor's Office
4 would send this back down to the officials at the local
5 level, to the regional prosecutor's office, and they
6 would send it to the transport prosecutor's office or
7 municipality of Mangystau transport prosecutor's office.
8 So they would send it back locally and we would never
9 receive any answers to our complaints.

10 Only at a later stage we learnt that the General
11 Prosecutor and the transport prosecutor and even the
12 regional prosecutor never saw these materials; they only
13 made enquiries. But the financial police, using the
14 excuse that this is a case under investigation or there
15 is an expertise ongoing, would give them this excuse and
16 not provide the materials.

17 So, as we learnt at a later stage, during all this
18 period of time the GPO did not have an opportunity to
19 actually obtain access to the materials of this case.
20 Although the Prosecutor's Office is a more powerful
21 authority and actually has a duty and the scope of its
22 authority to see the materials, and the financial police
23 had a duty to provide the materials to either Mangystau
24 local prosecutor's office or transport prosecutor's
25 office or regional prosecutor's office, or General

16:43 1 Prosecutor's Office, this [has] never been done.

2 I don't think we can speak about protection or
3 freedoms and rights which were duly protected through
4 these authorities.

5 Q. Well, Mr Kravchenko is here and will be giving evidence,
6 and will no doubt clarify exactly the role of the GPO.

7 Mr Rakhimov says in his second statement, at
8 paragraphs 2.2 and 2.3:

9 "... on 15 December 2008, I passed a Resolution to
10 open a criminal investigation.

11 "A criminal case was not instituted against
12 a specific person ..."

13 Then in paragraph 2.5 he goes on to say:

14 "... on 25 April 2009, I made the decision to name
15 Cornegruta as the defendant and issued a Resolution. On
16 the same day, in accordance with Art[icle] 209 of the
17 CPC of the RoK, the Resolution was announced to and
18 explained to Mr Cornegruta in the presence of his
19 lawyer. Mr Cornegruta was also informed about his
20 rights as an accused."

21 Mr Condorachi, therefore, between the start of the
22 investigation on 15th December and 25th April, neither
23 KPM nor Mr Cornegruta was considered a defendant and
24 neither of them was at risk of any prosecution in that
25 period. Do you agree?

16:45 1 A. No, I disagree. The thing is that all the case
2 materials against Cornegruta were gathered during this
3 period of time, when he was not accused yet. So when he
4 was accused, at the time when he was accused, at that
5 time that he was accused, he received the entire file
6 against him with all the materials.

7 We were hoping that it will not come to that because
8 we were of the opinion that there was no reason to even
9 initiate the criminal case, not to mention accuse
10 Mr Cornegruta for illegal business, i.e. operation of a trunk
pipeline without licences.
11 When it comes to use of alleged -- alleged use of the
12 trunk pipelines, we believe that there were no reasons
13 to initiate such criminal case.

14 And this phrase in this particular -- "Resolution",
15 I am speaking about "Resolution" -- except for this
16 particular phrase, there were no other reasons. And
17 there were allegations that KPM and TNG do not have
18 licences: this was indeed true because they never used
19 the trunk pipeline. So there were no confirmations at
20 this point in time and there was no serious expert or
21 other specialist who could say whether this is a trunk
22 pipeline. You could only guess or there was a wishful
23 thinking on behalf of the financial police to qualify
24 this pipeline as trunk pipeline.

25 The MEMR was the licensing authority with respect to this type of
activity from the very moment when this pipeline appeared and was

16:47 1 commissioned in 2002 and until 2007, when the scope of this
2 liability was transferred to the Agency for Regulation of Natural
Monopolies,
3 there were no hints whatsoever that we would receive and
4 no reasons to believe that this could possibly be
5 a trunk pipeline. And suddenly, at the very moment
6 during the inspection where the participants were -- or
7 the inspecting authorities were officials from the
8 financial police -- this was the moment in time when the
9 Ministry of Energy no longer was the licensing
10 authority -- suddenly this ministry became interested in
11 this licensing matter.

12 However, they did not specify in this document that
13 this was indeed a trunk pipeline; they just specified
14 that we, or the companies, did not have the licence,
15 which is a true fact because the companies never owned
16 a trunk pipeline.

17 So it is my opinion that there were no reasons to
18 initiate a criminal case.

19 And just a small note: everything that the officials
20 of the financial police did, both during the inspection
21 and at the later stage, they were gathering the
22 information about the profits of KPM, and the purpose
23 was -- and the sales of oil information, just to see the
24 future of the company. So this was the main purpose of
25 the inspections.

16:48 1 So the matter whether this was a trunk or not

2 a trunk pipeline --

3 THE CHAIRMAN: I'm sorry, I think you are aware that this
4 was a bit beyond the question that was raised. So just
5 try to stick to the answers.

6 THE WITNESS: (In English) Excuse me.

7 MR TIRADO: I'm grateful, sir.

8 Mr Condorachi, in paragraph 24 of your first witness
9 statement you acknowledge that Mr Cornegruta's lawyers
10 reviewed the criminal file to prepare their defence from
11 25th May to 30th July. (Pause)

12 A. (Interpreted) Yes, I have refreshed it in my mind.

13 Q. In paragraph 6.2 of his statement, Mr Rakhimov confirms
14 that they:

15 "... were allowed to take notes of any details and
16 also to copy documents, and they were given all the time
17 necessary to familiarise themselves with the case
18 files."

19 I put it to you, Mr Condorachi, that again it is
20 clear that Mr Cornegruta was given a normal and
21 appropriate opportunity to protect his rights. Do you
22 agree?

23 A. The fact that Mr Cornegruta and his lawyers were given
24 the case materials was a normal fact; of course, what
25 else? However, procedurally their rights were

16:51 1 fulfilled, and they had access to the case materials

2 indeed. There were lots of complaints from the very
3 start of the time which they were given to familiarise
4 themselves with the case, but these complaints were
5 denied.

6 But yes, I agree with you: they had possibility to
7 copy any documents and so forth. The problem is that
8 they only had the opportunity to read the materials
9 which were gathered, but they had no possibility to
10 participate in the investigation or demand additional
11 expertise.

12 Q. Okay. Now let's look at the trial itself, shall we?

13 You say in your first witness statement at
14 paragraph 25 that the trial itself took place between
15 30th July and 18th September 2009; correct?

16 A. Yes. 18th September was the date of the sentence. Yes.

17 Q. And you were head of legal at this time, weren't you?

18 A. Yes, I was the head of the legal department of KPM.

19 Q. You did not attend the trial though, did you?

20 A. No, I was not present at the trial.

21 Q. Can I ask you to look at paragraph 25 of your witness
22 statement, the third line, where you state that you kept
23 yourself "[appraised] of the progress of the trial". So
24 it's clear from that that you were aware of what was
25 happening in the trial, weren't you?

16:53 1 A. Yes, of course. It would be surprising otherwise, if
2 I were not interested in the course of the trial. And
3 of course I was looking for information. I received
4 such information, but it was fairly general information.
5 Cornegruta's lawyers who participated in the process
6 were his defence lawyers. They were not retained by the
7 company, they were not the lawyers of the company, and
8 they were not strictly speaking obliged to report to me,
9 because even in this respect there was a remark on their
10 part that in the final account they are the lawyers of
11 Mr Cornegruta and that's all.

12 Q. Thank you. I'd like to ask you some questions about the
13 trial itself. Can I ask you to review paragraph 24 of
14 your first witness statement -- again, this is the third
15 line -- where you say:

16 "Their motions were all either ignored or
17 dismissed ..."

18 Correct?

19 A. Yes, to the extent they told me about this.

20 Q. Okay. But as we know, you are not a qualified Kazakh
21 lawyer, so you cannot say whether the court was right to
22 refuse any of those motions, can you?

23 A. If you cast doubt on my qualification as a Kazakh
24 lawyer, at least the lawyers in the trial were qualified
25 Kazakh lawyers, they had their barrister certificates,

16:55 1 and they told me that their well-founded motions were
2 not accepted. Although actually I also had a chance to
3 look into the documents and make my own conclusions and
4 have my own opinions. But we trusted our lawyers -- or
5 rather the lawyers of Mr Cornegruta, who were qualified
6 Kazakhstan lawyers.

7 Q. But it's also true, isn't it, to say that some of the
8 motions were accepted, weren't they?

9 A. Possibly. I can't say for sure.

10 Q. Okay. Can I ask you to look at Exhibit C-704. This is
11 a document that's been very recently provided by the
12 claimants, and it's said to provide minutes of a number
13 of the hearings in the Aktau City Court. The respondent
14 has submitted a copy of the official court transcript of
15 the hearings, which are at Exhibits R-315.1 and R-315.2.

16 You will see this official transcript is signed at
17 the end of each set of minutes. Can you see that?

18 MS ROEBUCK FREY: Excuse me, Mr Tirado. I hate to
19 interrupt, but is there an English translation of the
20 official minutes you are referring to, R-315?

21 MR TIRADO: I believe we submitted partial translations but
22 not a full one, given the time we received them.

23 MS ROEBUCK FREY: Is the part that you are about to refer to
24 in English?

25 THE CHAIRMAN: I think only the documents translated in

16:58 1 English can be used, obviously. Right.

2 MR TIRADO: Really the only point we really want to show at
3 this stage is the signatures at the end, that they are
4 signed.

5 MS ROEBUCK FREY: Okay. We have no problem in fact. We
6 will stipulate that that document is signed.

7 MR TIRADO: Okay.

8 In particular, can I ask you to compare page 15 of
9 Exhibit C-704 -- this is in Russian -- and the last page
10 of the official court version in Russian.

11 A. I am looking at the last one.

12 Q. By "official", I mean the one with the signature on the
13 end. So you are comparing page 15 of C-7 04 and the
14 official Russian version that has a signature:
15 Exhibit R-315.1 in Russian, also at page 15?

16 A. I see it.

17 MR TIRADO: Sorry, Mr Chairman, it's really distracting:

18 I think the interpreter is not switching off the click.
19 There seems to be a delay.

20 THE CHAIRMAN: The delay is okay because they need some time
21 to finish the translation, but I think they are doing
22 their best. We'll have to be patient.

23 MR TIRADO: Thank you.

24 Yes, sorry. Having compared those documents, you
25 will note that the claimants' version does not contain

17:00 1 a signature where the official court document does,

2 does it?

3 A. Yes, that's correct. I can only add in this respect
4 that the minutes of the court hearing were obtained from
5 the court, there is a request in the materials of the
6 case, and this was the shape in which we received this
7 document, and through a lawyer. And that's frequent
8 practice in Kazakhstan.

9 Q. Mr Condorachi, who sent you the transcript of the court
10 hearing?

11 A. Nobody sent it to me personally. As far as I know,
12 these transcripts were provided by the lawyers to us,
13 and there is a request in the materials of the case to
14 issue the records, and that's the actual form in which
15 they were provided. And they informed us that this is normal
16 practice, that such
17 records are provided from electronic media in unsigned
18 version.

18 Q. Okay. Moving on then.

19 In paragraph 26 of your first witness statement you
20 discuss the application dated 13th June 2008 from KPM to
21 the Agency for Regulation of Natural Monopolies to renew
22 a licence. The licence is at Exhibit C-115, which is
23 being handed to you now.

24 In this application Mr Cornegruta requested the
25 renewal of a licence for various activities, didn't he?

17:03 1 A. Yes, that's true, to re-execute the licences. Yes, that
2 is a request to the Agency for Regulation of Natural
3 Monopolies from KPM to re-execute -- reissue licences
4 for certain kinds of activities.

5 Q. Yes, and in the activities for which you requested a new
6 licence, he referred to use of "trunk gas-, oil products
7 pipelines", didn't he? It's the second bullet point.

8 A. In this letter the kind of activities indicated not only
9 main pipeline but also, to make it understandable, in
10 2007 the licensing law was amended in Kazakhstan and
11 under the new law it was necessary to re-execute
12 licences to amend certain names of different kinds of
13 activities which were changed in the new law. So the
14 essence remained the same, but the wordings were
15 changed. Therefore KPM turned to the competent body in
16 order to reissue this licence.

17 Prior to this, it was the Ministry of Energy and
18 Mineral Resources which was the licensing body. We
19 turned to this ministry and they informed that under
20 a government decree changing the spheres of competence
21 of different agencies -- it's not that essential -- the
22 competence for issuing licences for this kind of
23 activities was now transferred to the Agency for
24 Regulation of Natural Monopolies, and they instructed us
25 to turn to this agency. And in those letters of

17:06 1 response, the wordings, the names of the kind of
2 activities were the same.
3 So the official who was preparing this letter wrote
4 out the complete name of the different -- the respective
5 kind of activities because the entire wording, the full
6 wording from the law consists of several parts,
7 including oil and gas extraction division, treatment ...
8 THE INTERPRETER: The interpreter missed the next word.
9 Q. Sir, if I may interrupt, with all due respect, I think
10 the witness is going way beyond my question, which was
11 simply a question referring to the use of the term.
12 A. So here in this wording we have the term "trunk gas-,
13 oil products pipeline", but in this letter we did not
14 apply for licence for these activities because we did
15 not actually engage in such activities.
16 Q. Thank you. I think you did answer my question.
17 You say that this activity was included because
18 Mr Cornegruta's letter:
19 "... simply reproduced the full list of activities
20 listed in Article 12(2) of the new 2008 Law on
21 Licensing..."
22 However, Article 12(2) -- this can be found at
23 Exhibit C-116 -- refers to "underground gas storage
24 wells". But Mr Cornegruta does not refer to this
25 activity in his letter, does he?

17:08 1 A. Could you please give the name of this article once
2 again?

3 Q. Yes. You say in your first witness statement at
4 paragraph 26 that this activity was included because
5 Mr Cornegruta:

6 "... simply reproduced the full list of
7 activities ..."

8 The article was Article 12(2) of the new 2008 Law on
9 Licensing.

10 A. Yes, I can see it.

11 Q. So Mr Cornegruta has not simply reproduced a list of
12 activities from Article 12(2), has he?

13 A. In this letter the wording is reproduced from the law,
14 without quoting the last sentence about underground
15 storages.

16 Q. Okay. Also in paragraph 26 of your first statement you
17 say that during Mr Cornegruta's trial the prosecution
18 relied on Mr Cornegruta's letter:

19 "... as an alleged 'admission' that KPM [owned and]
20 operated a 'main' pipeline."

21 However, there is no reference to this letter being
22 characterised as an "admission" in any of the official
23 documents relating to the trial, is there?

24 A. I'm not familiar with all the documents of the process.
25 However, I've heard from the lawyers that this letter

17:10 1 was actively used as a confirmation of the fact that he
2 was knowledgeable of the fact that KPM had a main
3 pipeline.

4 Q. Okay. Let's move on again.

5 This time if I could take you, please, to
6 paragraph 8 of your first witness statement. Here you
7 say that KPM's pipeline is an "in-field pipeline". You
8 also say that:

9 "... no one even remotely knowledgeable about the
10 oil and gas industry could consider that either KPM or
11 TNG own or operate a 'main' pipeline".

12 So the terms "main" and "trunk" pipelines are used
13 interchangeably, aren't they?

14 A. Yes .

15 Q. Could I ask you to look at Exhibit R-244, please. This
16 is the work project/design specification for the raw
17 material base on KPM's property. Are you familiar with
18 this document?

19 A. I am not a technical specialist. Maybe -- yes, I'm
20 almost sure I've seen it before.

21 Q. Could I ask you to review section 1.4.5.

22 A. Yes, I've found it.

23 Q. You will see it describes the KPM oil pipeline that was
24 the subject of Mr Cornegruta¹'s trial, doesn't it?

25 A. Yes .

17:13 1 Q. It says --

2 A. Yes, just judging by everything I see, it must be this
3 Pipeline, Borankol - TSB, 18 km.

4 Q. It says here that:

5 "Design solution provision is made for construction
6 of an oil trunk pipeline ..."

7 Doesn't it?

8 A. I can't see anything here about "trunk pipeline". It
9 doesn't mention a "trunk pipeline" anywhere here.
10 Please, where have you seen it?

11 Q. Do you have the Russian version?

12 A. I'm sorry, I don't see any "trunk pipeline" here.

13 Q. Do you see the words "trunk pipeline"?

14 A. No. The words "trunk pipeline" are not present in the
15 Russian text.

16 Q. We may have a discrepancy in the translation.

17 THE INTERPRETER: The interpreter sees the difference.

18 Indeed there is a certain discrepancy in the
19 translation. In the Russian text what is literally
20 mentioned is construction of an oil collector with
21 glass-fibre pipes.

22 THE CHAIRMAN: Thank you.

23 MR TIRADO: In that case we will move on to a different
24 subject. I'd like to explore the October/November
25 inspections with you.

17:16 1 At several points in your statement you refer to --

2 A. I'm sorry, I would like to make a remark. When I look
3 at the Law on Licensing, I see that here is the version
4 of the law dated 2011. So please provide me with the
5 text of the law which was in force at the time of the
6 trial, because I'm not actually familiar with this
7 wording.

8 Q. I don't think we need to explore that further. I'd like
9 to move on to a different topic.

10 The October/November inspections --

11 A. Excuse me, why don't we -- why don't we ... The thing
12 is, just for my response, you gave me a version of the
13 law which is a later version of the law, and the later
14 version of the law was not the wording that I am
15 familiar with. So I trust that you give me the law
16 applicable to the case, but the law that you gave me is
17 as per 2011, while we were actually talking about the
18 contents of the law as per 2008.

19 So if you want me to give you a correct answer when
20 we discuss the letter of Mr Cornegruta, I need to look
21 at the text of the law from 2008, because this is the
22 law that applies.

23 MR TIRADO: Mr Chairman, I understand Mr Condorachi's
24 concern here, and it seems a legitimate one. I'm afraid
25 I don't have it to hand to give it to him. I am not

17:18 1 sure how you would like to deal with that.

2 In terms of the timing, it may be something we can
3 try and sort out overnight and deal with, because
4 unfortunately I don't think we will be able to finish by
5 5.30. Would that be acceptable?

6 THE CHAIRMAN: Okay. Not to lose time, continue as you
7 wish. If we are not finishing today anyway, you can
8 pick it up tomorrow morning.

9 MR TIRADO: Thank you, sir.

10 So moving on then to the different topic of the
11 October/November inspection. As I was saying, at
12 several points in your statement you refer to disruption
13 caused by inspections initiated by the financial police
14 in October 2008. Specifically you make mention of this
15 at paragraphs 7, 12, 32 and 33 of your first witness
16 statement.

17 Do you remember making those statements?

18 A. I am looking at the points 7, 12, 32, 33. In item 7
19 I am not speaking anything about the inspections of
20 October/November. In paragraph 12 I don't mention the
21 inspections of October/November 2008 either. Also 32,
22 33, you said?

23 Q. Mr Condorachi, apologies: it should be at paragraph 11,
24 not 12.

25 A. In paragraph 11 I am not speaking about the inspections

17:21 1 of October/November either. I am speaking about the
2 answer of Mr Andreyev to our complaint.

3 Q. It is your position, is it not, Mr Condorachi, that
4 disruption was caused by the inspections?

5 A. Yes, I do say so. They were seriously disruptive for
6 our work, for the work of the company. Besides, on top
7 of distracting people from performing their daily
8 duties, these inspections also carried with them
9 emotional disruption, because it was quite unpleasant to
10 be in this atmosphere and in the environment created
11 around the company due to these multiple and massive
12 inspections, very intensive ones.

13 Q. But since you joined KPM in January 2 009, you would not
14 have been present for any inspections that took place
15 prior to January 2009, would you?

16 A. In October/November 2008 -- not 2009, 2008 -- I worked
17 in a company called CASCo, who is a general contractor
18 of KPM and TNG, and during these inspections the offices
19 of the two companies were rented from CASCo, who also
20 had kept several offices or several rooms for CASCo
21 employees who were in the town of Aktau at the moment,
22 since the main office and the majority of the personnel
23 were in the field in Borankol. However, a few employees
24 needed to be in the office due to the duties that they
25 had. They had to stay in the town, and myself included.

17:24 1 So during all this period of time we basically shared
2 the room with the lawyers of KPM and TNG.

3 So I personally witnessed all the inspections.
4 I even participated in some actions: I helped to look
5 for certain documents or actually assisted the other
6 lawyers because they did not have the time to do
7 everything themselves. So I helped and stepped in.
8 They did not have the possibility, within the time
9 given, to comply with all the requests which they
10 received.

11 So on a current basis from time to time I had to
12 assist them personally and do something personally, so
13 you could actually say that I did participate in these
14 inspections on behalf of TNG and KPM.

15 Q. You also referred to disruption caused by the
16 investigation undertaken by the financial police in
17 various tax cases. It is inevitable that dealing with
18 a criminal case is likely to impose some additional
19 burden on a company; wouldn't you agree?

20 A. Well, I don't know about any criminal case, but this
21 particular criminal case was a serious disruption in our
22 work. I can just tell you that they extracted all the
23 documents which have to do with our commercial
24 activities, starting with the invoices, loading bills,
25 bills of lading, shipping documents and so on, not to

17:26 1 mention any drafts and design documentation; everything
2 that has to do with those poor pipelines' construction,
3 and not to mention any enquiries, answers to the
4 enquiries, correspondence and so on.

5 Basically, if not on a daily basis, the financial
6 inspection officials visited us at least every other day
7 in the winter and early spring of 2009, and they were
8 quite demanding, including the deadlines that they gave
9 us to provide them with the information.

10 They didn't care if the management was present or
11 not, because officially the management must be in place
12 when documents are extracted and acts -- receipts of
13 such documents were signed; they would basically just
14 stay in the room until we deliver what they want us to
15 deliver, and wouldn't leave, even though we had never
16 refused to cooperate. We always cooperated to the best
17 we could. We produced the documents within the period
18 of time which was feasible.

19 You must understand we had current operations, these
20 were large companies, we had large business to take care
21 of, and the business was not that -- it was a complex
22 business, so we had ongoing business activities which we
23 had to run at the same time as satisfying the requests
24 and preparing the documents for inspection, for
25 extraction by the financial police, and preparing

17:27 1 answers to a number of enquiries we received.

2 MR TIRADO: Thank you, Mr Condorachi.

3 Mr Chairman, I think, given the hour in the day, may

4 I propose this would be a convenient time to break?

5 THE CHAIRMAN: I think indeed it would. Good timing.

6 Alright, so we'll interrupt the examination here.

7 Mr Condorachi, you have heard before that you should

8 not discuss the case during the interruption with the

9 parties, but we don't want you to be lonely and get lost

10 in Paris, of course. So if you meet with your

11 colleagues, that is okay, as long as you don't discuss

12 the case. Alright?

13 THE WITNESS: Okay.

14 THE CHAIRMAN: We trust you on that.

15 Alright. So we meet again at 9.30 tomorrow morning.

16 Thank you.

17 (5.28 pm)

18 (The hearing adjourned until 9.30 am the following day)

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