

[LOGO] **CHAMBERS OF
Véronique Reyter
Court bailiff**

Third party account
BGLL IBAN LU94 0030 4193 0508 0000

50, Bd. J.-F. Kennedy
L-4170 ESCH-SUR-ALZETTE

Postal address:
P.O. Box 373
L-4004 ESCH-SUR-ALZETTE

Internet: www.huissier-reyter.lu
E-mail: reyter.veronique@huissier-reyter.lu

Tel.: 54 42 18 and 54 34 48
Fax: 54 18 68

SERVICE OF EXEQUATUR ORDER

Case:
SIG00414/CT

On the **second** of October in the year two thousand and seventeen

828190

At the request of:

1. the Moldovan company Ascom Group S.A., established and having its registered office at 75, Mateevici St., Chisinau, MD2009 Moldova, registered under number 1002600006034, represented by its chairman currently in office, or by any other body vested with powers for that purpose,

2. Mr Anatolie STATI, businessman, resident at 20, Dragomirna St., Chisinau, MD-2008 Moldova,



3. Mr Gabriel STATI, businessman, resident at 1A, Ghiocelior St., Chisinau, MD-2008 Moldova,

4. the Gibraltar company Terra Raf Trans. Traiding Ltd, established and having its registered office at 13/1, Line Wall Road, Gibraltar, British Overseas Territory, registration number 68609, represented by its director currently in office, or by any other body vested with powers for that purpose

Cost:

Fee:	60.00
Trav.:	21.60
Address:	6.00
Stamp:	12.00
Reg.:	12.00
VAT:	14.89
TOTAL:	126.49

Copy:	15.00
VAT:	2.55
Mail:	2.00
TOTAL:	146.04

Electing domicile at the municipal secretariat of the city where execution is performed, in the chambers of the law firm NautaDutilh Avocats Luxembourg S.a.r.l., registered on List V of the Luxembourg Bar, established and having its registered office at 2, Rue Jean Bertholet, L-1233 Luxembourg, represented for the purposes hereof by Maître Antoine Laniez, Advocate at the Court, resident in Luxembourg, who is thus ordered to act, and also in the chambers of the process-serving court bailiff,

I, the undersigned **Veronique REYTER**, court bailiff, residing at 50, Boulevard J-F Kennedy, L-4170 ESCH-SUR-ALZETTE, registered at the District Court of and in Luxembourg

have served a certified true copy and left it with:

[LOGO]

**CHAMBERS OF
Véronique Reyter
Court bailiff**

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The Republic of Kazakhstan, represented by its President of the Republic currently in office and, to the extent necessary, by its Prime Minister currently in office, or by any other body vested with powers for this purpose in the legal proceedings by the Department for provision of courts' activity under the Supreme Court of the Republic of Kazakhstan (administrative office of the Supreme Court of the Republic of Kazakhstan), at its address at Dinmukhamed Qonayev Street 39, Astana 010000, Kazakhstan, otherwise by the Ministry of Justice, represented by the Minister for Justice currently in office, established at 8, Orynbor St., House of Ministries, 13 Entrance 010000, Astana, Left Bank, Kazakhstan,

Electing domicile for the purposes of these proceedings in the chambers of Maître Rosario GRASSO, Advocate at the Court, professionally resident at 31-33, Rue Sainte Zithe, L-2763 Luxembourg.

GRAND DUCHY OF
LUXEMBOURG

[CREST]

GRAND DUCHY OF
LUXEMBOURG
€2

of an engrossment in enforceable form of an exequatur order issued on request by Thierry Hoscheit, First Deputy Presiding Judge of the District Court of and in Luxembourg, replacing the Presiding Judge, unable to attend on legitimate grounds, assisted by the clerk Marie-Jeanne Weber, dated 30/08/2017, placed at the bottom of an application presented to him on 24/08/2017, declaring enforceable in the Grand Duchy of Luxembourg, as if it came from a local court, the arbitral award of 19 December 2013, amended on 17 January 2014, issued by the Arbitral Tribunal, Arbitration Institute of Stockholm Chamber of Commerce, consisting of Prof. Karl-Heinz BÖCKSTIEGEL, Chairman, David R. HAIGH, QC, co-arbitrator, and Prof. Sergei N. LEBEDEV, co-arbitrator, as amended by the award of 17 January 2014, between the parties.

With a declaration that this service is made for its information, guidance and for all lawful purposes.

In witness whereof, subject to all reservations, in general and whatsoever, a copy of which I have left with those of the above-mentioned documents, as described below.

[Signature]

MEANS OF SERVICE OF WRIT CONTAINING NOTIFICATION OF VISIT

SIG00414CT

This writ was served by the undersigned bailiff in the year two thousand and seventeen on the 02.10

to the addressee under the conditions described below, service being performed at:

his/her/its domicile, his/her/its residence, its head office, its de facto main office, its establishment, its ministry [Illegible]

Acknowledgement of receipt:

The Republic of Kazakhstan represented by its President of the Republic currently in office and, to the extent necessary, by its Prime Minister currently in office, or by any other body vested with powers for this purpose in the legal proceedings by the Department for provision of courts' activity under the Supreme Court of the Republic of Kazakhstan (administrative office of the Supreme Court of the Republic of Kazakhstan), otherwise by the Ministry of Justice, represented by the Minister for Justice currently in office electing domicile for the purposes of these proceedings in the chambers of Maître Rosario GRASSO, Advocate at the Court, 31-33, Rue Sainte Zithe, L-2763 Luxembourg

speaking there to / him/her/it in person _____, declared to be such, who accepts the writ.

In the ABSENCE of the addressee respectively being unable to serve – summon him/her/it in person:

having found _____, being _____, resident at the same address _____ /

who accepts the writ from the court bailiff and gives acknowledgement of its receipt, service to the person being impossible.

having found a person there who refused to accept the writ under the conditions required by the law.

where no-one could be found where no-one with the necessary capacity could be found _____

According to the information obtained by RNRPP the registry of companies _____

If a copy of the deed concerning the above-mentioned addressee has not been given to the person of the party to whom it is to be served/the party summoned, for the above-mentioned reasons, the addressee is hereby notified that a

copy has been handed over in a sealed envelope to the person mentioned above and a copy left in the premises.

copy has been left at the addressee's address in a sealed envelope and another sent by post.

With a declaration that this is made in compliance with the provisions provided by Article 155 onwards of the new Code of Civil Procedure.

The written text between the grey boxes marked with a cross and the next box, marked /or _____ are to be considered. Written text after a grey box without a cross is deemed not to have been written.

Note:

Signed _____
Véronique REYTER
Court Bailiff

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WE, Henri Grand Duke of Luxembourg
Duke of Nassau, etc., etc., etc. make it known

ENGROSSMENT

GRAND DUCHY OF LUXEMBOURG
DISTRICT COURT OF AND IN
LUXEMBOURG

Chambers of the Presiding Judge
Judicial Precinct
L-2080 Luxembourg

No. 40 / 2017

[Stamp] **Antoine Laniez**
Advocate at the Court
certified true copy
[Signature]

ORDER

We, Thierry HOSCHEIT, First Deputy Presiding Judge of the District Court of and in Luxembourg, replacing the Presiding Judge, unable to attend on legitimate grounds, assisted by the clerk Marie-Jeanne WEBER,

Considering the application submitted on 24 August 2017 by:

- the Moldovan company Ascom Group S.A., established and having its registered office at 75, Mateevici St., Chisinau, MD-2009 Moldova, registered under number 1002600006034, represented by its chairman currently in office or by any other body vested with powers for that purpose,
- Anatolie STATI, businessman, resident at 20, Dragomirna St., Chisinau, MD-2008 Moldova,
- Gabriel STATI, businessman, resident at 1A, Ghiocel St., Chisinau, MD-2008 Moldova,
- the Gibraltar company Terra Raf Trans. Trading Ltd, established and having its registered office at 13/1, Line Wall Road, Gibraltar, British Overseas Territory, registration number 68609, represented by its director currently in office or by any other body vested with powers for that purpose,

electing domicile in the chambers of Maître Antoine LANIEZ, Advocate at the Court, resident in Luxembourg,

Considering Article 26.3) of the Energy Charter Treaty of 17 December 1994,

Considering the arbitral award of 19 December 2013 issued by the Arbitration Institute of Stockholm Chamber of Commerce, consisting of Prof. Karl-Heinz BÖCKSTIEGEL, Chairman, David R. HAIGH, QC, co-arbitrator, and Prof. Sergei N. LEBEDEV, co-arbitrator, consisting of 414 pages, amended by an award made under the same composition on 17 January 2014, containing 2 pages,

Considering Article 1250 of the New Code of Civil Procedure and also Article 3 of the New York Convention of 10 June 1958 on the recognition and execution of foreign arbitral awards,

Whereas the application is justified as all the legal conditions for obtaining the exequatur are fulfilled,

We declare enforceable in the Grand Duchy of Luxembourg, as if it came from a local court, the arbitral award of 19 December 2013, amended on 17 January 2014, issued by the Arbitral Tribunal, Arbitration Institute of Stockholm Chamber of Commerce, consisting of Prof. Karl-Heinz BÖCKSTIEGEL, Chairman, David R. HAIGH, QC, co-arbitrator. and Prof. Sergei N. LEBEDEV, co-arbitrator, as amended by the award of 17 January 2014,

between

- the Moldovan company Ascom Group S.A.,
- Anatolie STATI,
- Gabriel STATI,
- the Gibraltarian company, Terra Raf Trans. Traiding Ltd, on the one hand,

and

the Republic of Kazakhstan, on the other hand,

We charge the costs to the Republic of Kazakhstan.

Made in our chambers in the Judicial Precinct in Luxembourg on the thirtieth of August
in the year two thousand and seventeen.

[Signature]

[Signature]

• *NautaDutilh*

Submitted to the registry of the District Court
of Luxembourg
Chief clerk's department

24 AUGUST 2017

APPLICATION FOR EXEQUATUR

The clerk [Signature]

**To the Honorary Counsellor,
Presiding Judge of the District Court of and in Luxembourg**

Has the honour of stating to you, very respectfully, through the law firm NautaDutilh Avocats Luxembourg S.a.r.l., established and having its registered office at 2, Rue Jean Bertholet, L-1233 Luxembourg, registered on List V of the Luxembourg Bar, represented for the purposes of these proceedings by **Maître Antoine LANIEZ**, Advocate at the Court, in the chambers of whom domicile is elected,

At the request of:

1. the Moldovan company Ascom Group S.A., established and having its registered office at 75 Mateevici St., Chisinau, MD2009 Moldova, registered under number 1002600006034, represented by its chairman currently in office or by any other body vested with powers for that purpose,
2. Mr Anatolie STATI, businessman, resident at 20, Dragomirna St., Chisinau, MD-2008 Moldova,
3. Mr Gabriel STATI, businessman, resident at 1A, Ghiocilor St., Chisinau, MD-2008 Moldova,
4. the Gibraltar company Terra Raf Trans. Traiding Ltd, established and having its registered office at 13/1, Line Wall Road, Gibraltar, British Overseas Territory, registration number 68609, represented by its director currently in office or by any other body vested with powers for that purpose,

For the following facts:

The applicant parties have obtained an arbitral award made by Stockholm Chamber of Commerce (SCC) on 19 December 2013, as amended by an amending arbitral award on 17 January 2014 (Case SCC V 116/2010), which ordered:

The Republic of Kazakhstan, represented by its President of the Republic currently in office and, to the extent necessary, by its Prime Minister currently in office, or by any other body vested with powers for this purpose in the legal proceedings by the *Department for provision of courts' activity under the Supreme Court of the Republic of Kazakhstan (administrative office of the Supreme Court of the Republic of Kazakhstan)*, at its address at Dinmukhamed Qonayev Street 39, Astana 010000, Kazakhstan, otherwise by the Ministry of Justice, represented by the Minister for

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• **NautaDutilh**

Justice currently in office, established at 8 Orynbor St., House of Ministries, 13 Entrance 010000, Astana, Left Bank, Kazakhstan.

2. The Republic of Kazakhstan has considerable natural hydrocarbon resources and wanted to obtain the assistance of foreign investors for the exploitation of such resources, mainly natural gas and oil.

3. In view of this, the Republic of Kazakhstan ratified the Energy Charter Treaty (*Energy Charter Treaty*, hereinafter "ECT"), dated 17 December 1994.

Exhibit no. 3: Energy Charter Treaty of 17 December 1994 (original French version)

4. Between 1999 and 2003, the applicant parties invested in two Kazakh entities, Kazpolmunay LLP ("KPM") and Tolkyneftegaz LLP ("TNG"), in order to be able to exploit hydrocarbon reserves situated in the Republic of Kazakhstan.

5. KPM held the exploitation rights to the Borankoil gas field, and TNG those of Tolkyne and Tabyll Block.

6. After the applicant parties had invested considerable sums in this project, thus allowing efficient and profitable exploitation of the deposits in question, the Republic of Kazakhstan began a campaign of harassment and intimidation of the applicant parties with the aim of getting hold of the assets in question.

7. As it did not manage to achieve its aims, the Republic of Kazakhstan then seized the assets in question.

8. In 2010, after these actions by the Republic of Kazakhstan, the applicant parties, as they are authorised to do by the ECT, opened arbitration proceedings with the aim of obtaining compensation on the basis of breaches of the rules protecting investors.

9. It is made clear at this stage that the basis for the competence of the Arbitral Tribunal consists of the ECT treaty and not of a separate arbitration agreement.

10. Indeed, according to the terms of Article 26(3)(a) ECT, Kazakhstan, as a contracting party, had given its unconditional consent to the submission of any claim based on the ECT1 Treaty to arbitration.

11. By submitting a request for arbitration to Stockholm Chamber of Commerce (SCC) on 28 July 2010 on the basis of Article 26(4)(c) ECT, the applicant parties consented to arbitration.

12. The signing by Kazakhstan of the ECT Treaty and the submission of a request signed by the applicant parties thus constitute the arbitration agreement.

13. Arbitration took place before Stockholm Chamber of Commerce (SCC), and an arbitral award was made on 19 December 2013, amended on 17 January 2014 (Case SCC V 116/2010)².

¹ In this case, the exceptions given in Article 26(3)(b)-(c) are not applicable.

• **NautaDutilh**

Exhibit no. 1: Arbitral award of 19 December 2013 and amended arbitral award of 17 January 2014

14. According to the terms of this arbitral award, as amended, the Republic of Kazakhstan was ordered to pay a principal sum of USD 497,685,101.00, with the addition of interest for delay from 30 April 2009 (valued at USD 8,544,022.55 on 14 August 2017), and also USD 8,975,496.40 as compensation for lawyers' fees incurred within the framework of the arbitration proceedings and EUR 803,103.24 as reimbursement of 3/4 of the costs of the arbitration proceedings (as detailed in the amending award of 17 January 2014).

15. The Arbitral Tribunal decided that the Republic of Kazakhstan had breached its obligations to treat foreign investors in a "fair and equitable way" according to the terms of the ECT Treaty as provided in Article 10(1) ECT:

"Taking into account the above considerations, the Tribunal concludes that [Kazakhstan's] measures, seen cumulatively in context to each other and compared with the treatment of [Stati et al.'s] investments before the Order of the President of the Republic on 14/16 October 2008, constituted a string of measures of coordinated harassment by various institutions of [Kazakhstan]. These measures must be considered as a breach of the obligation to treat investors fairly and equitably, as required by Art. 10(1) ECT."

Exhibit no. 1: Arbitral award of 19 December 2013 and amending arbitral award of 17 January 2014, see point 1095

French translation:

"Taking into account the above considerations, the Tribunal concludes that the Defendant's measures, seen cumulatively in context to each other and compared with the treatment of the Applicants' investments before the Order of the President of the Republic on 14/16 October 2008, constituted a string of measures of coordinated harassment by various institutions of the Defendant. These measures must be considered as a breach of the obligation to treat investors fairly and equitably, as required by Art. 10(1) ECT."

Exhibit No. 4: Arbitral award of 19 December 2013 and amending arbitral award of 17 January 2014 (sworn translation into French)

16. The arbitral award of 19 December 2013, as amended on 17 January 2014 (Case SCC V 116/2010), is not open to appeal.

17. Following this arbitral decision, the Republic of Kazakhstan began an appeal for cancellation before the competent court in the country of origin of the arbitral award, in this case the SVEA Court of Stockholm.

18. This appeal was dismissed by the SVEA Court of Stockholm, and the Republic of Kazakhstan was ordered to pay all the court costs, including lawyers' fees.

Exhibit no. 2: judgment of the SVEA Court of Stockholm of 9 December 2016, for English translation see Section 5.3.5 (p. 62)

² Case also listed on the ECT's website: <http://www.energycharter.org/what-we-do/dispute-settlement/investment-dispute-settlement-cases/28--anatolie-and-gabriel-stati-ascom-group-sa-terra-raf-trans-traiding-ltd-v-kazakhstan/>

• **NautaDutilh**

19. This Swedish decision is definitive, in accordance with Article 43 (2) of the Swedish law on arbitration³.

Exhibit no. 5: Swedish law on arbitration (French translation)

20. Despite the definitive nature of the decision of the Svea Court, which confirmed the validity of the arbitral award of 19 December 2013, as amended on 17 January 2014 (Case SCC V 116/2010), the Republic of Kazakhstan made an extraordinary appeal to the Swedish Supreme Court, claiming that the decision of the Svea Court was affected by "serious procedural error".

21. The applicant parties raised the inadmissibility of such an appeal and also, insofar as necessary, its unfounded nature.

22. This appeal is still in progress before the Swedish Supreme Court, but, in the context of this application, it should be made clear that the existence of such an appeal has no consequence on the definitive nature of the arbitral award, insofar as the appeal in question, supposing, which seems impossible, that it is declared admissible, which is not so, concerns only the decision of the Svea Court of Stockholm and does not therefore affect the definitive and enforceable nature of the arbitral award of 19 December 2013 as amended on 17 January 2014 (Case SCC V 116/2010).

23. Yet despite the definitive nature of these awards, the Republic of Kazakhstan remains in default for payment of the sums which it has been ordered to pay and, to this day, the applicant parties have received nothing.

24. It is a question of the enforcement of the execution of this award in the Grand Duchy of Luxembourg, where the Republic of Kazakhstan holds assets which are not protected by State immunity.

25. The conditions provided in Article 1251 of the New Code of Civil Procedure are fulfilled when:

I. the award is definitive as it was made in the last resort;

II. the matter (commercial dispute) is one that can be resolved by means of arbitration, and there are therefore no grounds for doubting the compliance of the award with public order;

III. none of the causes of cancellation provided by Article 1244, nos. 3 to 12, is applicable.

26. The conditions for recognition and execution in Luxembourg of the arbitral award made by the Chamber of Arbitration of the SCC on 19 December 2013, amended by an amending arbitral award of 17 January 2014 (Case SCC V 116/2010), are therefore fulfilled.

³ See point 5.5, page 66 of the decision of the Svea Court of Stockholm, exhibit no. 2.

For a translation into French of the Swedish law on arbitration:

http://www.sccinstitute.com/media/37092/loi-su%C3%A9doise-sur-larbitrage-svedish-arbitration-act_french.pdf - exhibit no. 5

• **NautaDutilh**

FOR THESE REASONS

The applicant pleads that it may please Your Honour to appose the enforcement formula to the arbitral award delivered on 19 December 2013, amended by an amending arbitral award on 17 January 2014 (Case SCC V 116/2010), in the case between the applicant parties as plaintiffs and the Republic of Kazakhstan as defendant.

order the defendant to pay the costs of the exequatur.

Submitted to the registry of the Court of Luxembourg, on 24 August 2014.

With the greatest respect,

[Signature]

Maitre Antoine Laniez

Advocate at the Court

This application is based on the following exhibits:

- | | |
|----------------------|---|
| Exhibit no. 1 | SCC arbitral award of 19 December 2013 and SCC amending arbitral award of 17 January 2014 (certified true copy of the original) |
| Exhibit no. 2 | judgment of the Svea Court of Stockholm of 9 December 2016 |
| Exhibit no. 3 | Energy Charter Treaty of 17 December 1994 (original French version) |
| Exhibit no. 4 | SCC arbitral award of 19 December 2013 and SCC amending arbitral award of 17 January 2014 (sworn translation into French) |
| Exhibit no. 5 | Swedish law on arbitration (French translation) |

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[Stamp] Submitted to the Registry of the **•NautaDutilh**
District Court of Luxembourg AVOCATS LUXEMBOURG
30 AUGUST 2017
The clerk
[Signature]

Luxembourg, 30 August 2017

2, Rue Jean Bertholet
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Tel.: +352 26 12 29 1
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Antoine Laniez
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Antoine.Laniez@nautadutilh.com

District Court of Luxembourg
First section
Attn: Presiding Judge Thierry Hoscheit
Judicial precinct
L-2080 - Luxembourg

Re: Application for exequatur: Ascom Stati et al. v/ RoK

Your Honour,

I am writing to you further to the submission of the application for an exequatur of 24 August, bearing the reference indicated above, to send you an e-mail message which confirms that the amending award of 17 January 2014 only consists of two pages, and that the words "*page 2 of 5*" appear to be a typing error on the part of the *Stockholm Chamber of Commerce (SCC)*.

The e-mail message in question is from the Chairman of the Arbitral Tribunal and communicates the draft of the amending award made for the purpose of receiving the parties' comments.

The draft is on two pages, like the amending award,

You will also find that the true copy of the original issued by the SCC which we have sent you bears the Arbitrators' signatures, which means that you have the amending award, consisting of two pages, in its entirety.

This communication is confidential and may also be privileged. It is intended for use by the indicated addressee only. If you are not the intended addressee, we request that you notify us immediately and destroy this communication, as well as any attachments, without copying, forwarding, disclosing or using it in any other way. NautaDutilh Avocats Luxembourg S.a.r.l. shall not be held liable for any damage relating to the communication of data or documents. NautaDutilh Avocats Luxembourg S.a.r.l. is incorporated as a *société à responsabilité limitée* (private limited liability company) in Luxembourg, with registered office at 2, Rue Jean Bertholet L-1233, Luxembourg and registered with the Luxembourg Register of Commerce and Companies under number B 189905, with a share capital of EUR 12,500 and registered with the Luxembourg bar on List V. all services rendered by NautaDutilh Avocats Luxembourg S.a.r.l. are subject to the general terms and conditions of NautaDutilh Avocats Luxembourg S.a.r.l. (save for the limitation of liability clause included therein) which can be consulted at www.nautadutilh.com (under "General Conditions") and will be provided free of charge upon request.

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•NautaDutilh
AVOCATS LUXEMBOURG

Finally, this editing error was never raised by the other side, which, however, is trying to “turn everything to its advantage”.

Do not hesitate to contact me if you have any questions.

Yours faithfully,

[Signature]

NautaDutilh Avocats Luxembourg S.a.r.l.

Maître Antoine Laniez