

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANATOLIE STATI; GABRIEL STATI;	)	
ASCOM GROUP, S.A.; TERRA RAF	)	
TRANS TRADING LTD.,	)	
	)	
Petitioners,	)	
	)	
v.	)	Civil Action No. 1:14-cv-1638-ABJ
	)	
REPUBLIC OF KAZAKHSTAN,	)	
	)	
Respondent.	)	
	)	

**RESPONDENT REPUBLIC OF KAZAKHSTAN'S  
OPPOSITION TO PETITION TO CONFIRM ARBITRAL AWARD**

**EXHIBIT 32**

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  
Hearing on Quantum

Tuesday, 29th January 2013

Before:

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

BETWEEN:

ANATOLIE STATI GABRIEL STATI ASCOM GROUP SA TERRA RAF TRANS TRADING  
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, MAX STEIN and SVEN LANGE, of Norton Rose  
LLP, and JOSEPH TIRADO, of Winston & Strawn, appeared on behalf  
of the Respondent.

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Day 2 - Hearing on Quantum  
STATI et al -v- REPUBLIC OF KAZAKHSTAN  
SCC Arbitration V (116/2010)

Tuesday, 29th January 2013

ALSO APPEARING

FOR CLAIMANTS

ZHENNIA SILVERMAN, King & Spalding VICKI MASON,  
King & Spalding MIHAIL POPOVICI, Ascom Group SA

FOR RESPONDENT

ZHANIBEK SAURBEK, Norton Rose LLP ANASTASIA  
MALTSEVA, Norton Rose LLP NATALIA NIKIFOROVA,  
Norton Rose LLP  
MARAT BEKETAYEV, Secretary of the Ministry of Justice and Deputy  
Minister of Justice  
YERLAN TUYAKBAYEV, Director of the Department of Legal Support  
and International Cooperation of the Financial Police  
AMAN SAGATOV, Senior Prosecutor of the Division on the Supervision  
over Compliance with Environmental Legislation of the Department  
of Supervision over Compliance with Legislation in the  
socio-economic sphere of the General Prosecutor's Office  
GANI BITENOV, Chief Expert of the Department of Protection of State  
Property Rights of the Ministry of Justice DONE TULEGEN, Deputy  
Director of the Legal Services Department, the Ministry of Oil and  
Gas

FOR THE TRIBUNAL

KATHERINE SIMPSON, Secretary to the Tribunal

INTERPRETERS

ALEXANDRE TCHEKHOV, Russian-English Interpreter NATALY HOLM,  
Russian-English Interpreter

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09:30 1

Tuesday, 29th January 2013

2 (9.30 am)

3 MR VICTOR ROMANOSOV (called)

4 (Evidence interpreted)

5 THE CHAIRMAN: Good morning, everybody. We will continue  
6 with the examination of witnesses.

7 May I just hear from the interpreters: do they have  
8 the declaration for possible translation? Thank you  
9 very much.

10 Alright. Mr Romanosov, welcome. As you, I think,  
11 have experienced yesterday, we ask every witness to read  
12 out a declaration to us. You have it in front of you in  
13 English, but the interpreters are in a position to  
14 translate it to you, so that you can do it in any  
15 language you like, as long as it is English or Russian.

16 Alright, would you be kind enough to -- either the  
17 interpreters to read it to you, or to read it out to us  
18 yourself.

19 THE WITNESS: Yes, I do confirm.

20 THE CHAIRMAN: I don't hear a translation. I may be on the  
21 wrong channel.

22 THE INTERPRETER: Can you hear the interpreter now? (Pause)

23 Mr Chairman, can you hear me? (Pause)

24 So the witness confirms that, that he is aware.

25 THE CHAIRMAN: Thank you very much. Alright, we come to the

10:35 1 start of the drilling operation were made. The designs  
2 were made. And the next stage, the next step, would  
3 have been actually having and setting up a rig on the  
4 spot.

5 MR FLEURIET: Thank you.

6 THE CHAIRMAN: Thank you. I apologise again for forgetting  
7 my co-arbitrators. I learnt my lesson at the beginning  
8 of the hearing.

9 PROFESSOR LEBEDEV: No, I followed the Russian, so  
10 everything was alright for me.

11 THE CHAIRMAN: Alright. That concludes the testimony,  
12 Mr Romanosov. We will have a five-minute break, just to  
13 turn to the next witness.

14 (10 .36 am)

15 (A short break)

16 (10 .44 am)

17 MR CATALIN BROSCARU (called)

18 (Evidence interpreted)

19 THE CHAIRMAN: Welcome, Mr Broscaru. I am aware that we are  
20 getting a translation from Romanian, and I welcome our  
21 new interpreters for that.

22 Mr Broscaru, the interpreters will read to you  
23 a statement, a declaration which every witness has to  
24 read out to us, and if you listen to that translation  
25 and then tell us whether that's agreeable to you.

10:46 1 THE WITNESS: Yes, thank you. Everything will be okay.

2 THE CHAIRMAN: Okay, thank you. Would the claimant please  
3 introduce the witness.

4 MS ROEBUCK FREY: Thank you, Mr Chairman.

5 (10.46 am)

6 Direct examination by MS ROEBUCK FREY

7 Q. Good morning, Mr Broscaru. Do you have a copy of your  
8 witness statement in front of you?

9 A. Yes .

10 Q. Do you have any corrections to make to that statement?

11 A. Yes, in the chapter introduction, in the second chapter,  
12 there is an omission. It should have been stated: the  
13 director of the department. I repeat: the director of  
14 construction for the plant of gas processing, of natural  
15 gas processing.

16 Q. Thank you.

17 Can you explain your duties and responsibilities as  
18 director for the construction of the gas processing  
19 plant, the LPG plant?

20 A. Yes, I was monitoring permanently the acquisitions  
21 that were coming at the worksite where I worked; I was monitoring  
22 all the construction and assembly works and their quality; and I was in  
23 charge with the progress reports, so I was permanently making  
24 reports about the status of the works.

24 Q. Thank you.

25 If you turn to paragraph 28, on the last page of

10:48 1 your witness statement. In this paragraph you say that

2 as of March 2009, when construction on the LPG plant had

3 stopped, the plant was "very close to completion". Can

4 you explain what you mean by "very close to completion"?

5 A. Taking into account that the schedule that had been

6 scheduled was 36 months, at the moment where the

7 building the construction stopped, I mean the time that

8 we used was very, very short. That's what I meant.

9 Q. I'm sorry, I'm not sure I understand. You said the time  
10 that was used was very, very short?

11 A. So we scheduled, we planned to use 36 months, and it

12 was -- yes, we needed three more months. So a very

13 short time to finish, to complete the construction.

14 Q. Okay. Is it accurate to describe the percentage

15 completion at that time as at least 80% complete?

16 A. Yes, we can say 80% or more than 80%, considering the

17 amount of the number of equipment that was installed, the volume  
18 of the equipment that was installed and

19 the time that was left until the project was to be

20 finalised. We can have a different interpretation

21 maybe. If we take into account what equipment was

22 mounted during the time that had been scheduled, we can

23 say that more than 90% of the work on this plant was

24 completed.

25 Q. Thank you. In its last submission --

THE CHAIRMAN: I'm sorry, I'm just trying to clarify. I am



10:50 1 using the text in the respondent's binder, where we also  
2 have the witness statement, and on paragraph 28 I see  
3 a tracked change, and I'm just wondering from whom it  
4 comes, because the "80%" has been deleted and replaced  
5 by "very close to completion".

6 MS ROEBUCK FREY: Right. Actually that's why I'm asking  
7 these questions, Mr Chairman. Earlier this week we  
8 submitted a new English translation because we had  
9 noticed some errors in the translation. So the tracked  
10 changes version I believe that you have was submitted by  
11 claimants this past week, and that accurately reflects  
12 the Romanian version. It's the corrected translation of  
13 the Romanian version.

14 THE CHAIRMAN: Okay. So the "80%" was not in the Romanian,  
15 I understand.

16 MS ROEBUCK FREY: That's right.

17 THE CHAIRMAN: But now you asked about them.

18 MS ROEBUCK FREY: Right, and I was just trying to address  
19 that issue, in case there were any doubts about whether  
20 it was a material change or not.

21 THE CHAIRMAN: Thank you.

22 MS ROEBUCK FREY: Mr Broscaru, Kazakhstan has argued in this  
23 case that in order to complete the LPG plant, you would  
24 need to invest approximately \$100 million more into the  
25 project. Do you agree with that statement?

16:46 1

hearing.

2

Another little point is -- we'll see whether that

3

becomes relevant -- for reasons of force majeure, we

4

have to stop at 5.30 today. We can't go beyond that.

5

Let's see how far we get. But I understand this is the

6

last witness from the respondent's side today, because

7

the third witness is only available on Thursday morning.

8

Or has that changed?

9

DR NACIMIENTO: That has changed.

10

TH CHAIRMAN: That has changed? Oh.

E

11

DR NACIMIENTO: Yes, it has changed. So we have

12

Professor Balco here and Professor Olcott.

13

TH CHAIRMAN: I am talking about witnesses.

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14

DR NACIMIENTO: The fact witnesses? That's the last fact

15

witness for now.

16

TH CHAIRMAN: For now. And Thursday morning we have the

E

17

third one?

18

DR NACIMIENTO: That's right. Mr Seiting, that hasn't

19

changed.

20

TH CHAIRMAN: No. The experts, that's a different matter;

E

21

a different level of testimony. Alright.

22

(4 47 pm)

23

MR TARAS KHALELOV (called)

24

(Evidence interpreted)

25

TH CHAIRMAN: Mr Khalelov, welcome. As you probably know

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16:47 1 by now, you will be asked to read out or confirm  
2 a declaration that the interpreters will be kind enough  
3 to read out to you in translation, and then you can tell  
4 us whether that is agreeable to you.

5 TH WITNESS: Yes, I confirm.  
E

6 TH CHAIRMAN: Thank you. Okay, introduction by respondent.  
E

7 MR TIRADO: Thank you very much.

8 (4 48 pm)

9 Direct examination by MR TIRADO

10 Q. Good afternoon, Mr Khalelov. Do you have in front of  
11 you your witness statement dated 27th November 2012?

12 A. Yes, [it is] in front of me.

13 Q. And is there anything that you would wish to add or  
14 change to that statement?

15 A. Nothing in principle.

16 Q. Thank you.

17 Perhaps you would be good enough to describe your  
18 qualifications and work experience.

19 A. Well, do you want me to start by my education?

20 I graduated from the polytechnical institute in Almaty  
21 in 1978 and I started working in the place called Uzen,  
22 and then I worked at the field called Columbus. And  
23 from 2004 to 2008 I worked in a gasfield called Kunnar,  
24 and from 2008 I am working at a company called  
25 KazMunaiTeniz, KMT.

16:49 1 Q. Thank you.

2 You are currently the director of the department of  
3 fields and production of hydrocarbons at KazMunaiTeniz,  
4 or KMT; that's correct, isn't it?

5 A. That's correct.

6 Q. Can you describe what the responsibility of that  
7 department is?

8 A. As I already said in my written statement, mainly we  
9 cooperate with structural departments of KMT, cooperate  
10 with state authorities, and the main task is to  
11 coordinate the work of our KMT branch in Aktau,  
12 which is currently acting as an operator and is  
13 entrusted with trust management.

14 Q. Thank you.

15 You state in your witness statement, at  
16 paragraph 4.1 to be specific, that:

17 "Ever since the Claimants abandoned the unfinished  
18 LPG Plant, no further construction on the Plant has been  
19 conducted."

20 Is that correct?

21 A. Absolutely correct.

22 Q. And has any construction been commenced since you  
23 submitted your witness statement?

24 I'm sorry, did you want to add something else?

25 THE INTERPRETER: Sorry, sir, I asked the witness to speak

16:51 1 a bit louder, as we struggled, and I will translate your  
2 question now.

3 A. No. The answer to your question is no.

4 MR TIRADO: Just to clarify, the question was: has any  
5 construction been commenced since you submitted your  
6 witness statement?

7 A. And you are speaking only about the construction works  
8 related to -- at this plant? No, no works were carried  
9 out and no work commenced.

10 Q. Thank you. And are you aware of any plans to finish the  
11 construction?

12 A. No, officially I am not informed of any. I do not know.

13 Q. Okay, thank you.

14 Mr Broscaru tells us in his witness statement that  
15 there were contracts to the effect that KazTurkMunai gas  
16 would be processed at the Borankol processing  
17 facilities. Does KMT still do this?

18 A. I can only say that -- only witness about the period  
19 starting from August 2010, and for this period of time  
20 there were no changes for the field; the field continued  
21 working exactly as it did at that moment. So the plant  
22 is exactly in the condition it was at that moment of  
23 time, in August 2010, and nothing has changed since  
24 then.

25 Q. Sorry, just to clarify, is it your testimony that the --

16:53 1 A. It's not included in the technological process.

2 THE INTERPRETER: That was the last portion of the answer,  
3 sorry, sir.

4 A. It might have been that I did not understand the  
5 question correctly, and I'm sorry. I'm listening to  
6 some echo.

7 MR TIRADO: Yes, it is a little distracting.

8 Let me rephrase the question: does the Borankol  
9 process any gas on behalf of KazTurkMunai?

10 A. No. No, because the plant is not ready, and because the  
11 plant is not part of the objects received in trust  
12 management.

13 Q. Just to be clear, I am talking about the gas processing  
14 plant, not the LPG plant.

15 A. But that's the same plant.

16 Q. You've also stated that KMT only monitors the so-called  
17 contract 3 02 properties, and that KMT has not conducted  
18 any exploration and is not intending to do so. You say  
19 that at 5.1 of your statement. Is that correct?

20 A. That's correct. Well, I don't know what the contract  
21 means, but the two fields nearby, they are not part of  
22 the fields within our scope of trust management; they  
23 are not part of our entrusted facilities.

24 Q. Understood. And has any exploration been commenced  
25 since you submitted your witness statement?

16:55 1

A. No.

2 Q. A final question. Are you aware of any plans to explore  
3 the contract 302 area?

4 A. No, I'm not aware of any.

5 MR TIRADO: Thank you, Mr Khalelov. No further questions.

6 TH CHAIRMAN: Go ahead.

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7 (4 56 pm)

8 Cross-examination by MR FLEURIET

9 Q. Mr Khalelov, my name is Ken Fleuriet and I am counsel  
10 for the claimants in this arbitration. I have a few  
11 questions for you this afternoon.

12 First of all, you state in your witness statement --  
13 and you just repeated -- that the LPG plant is not part  
14 of the trust management. Is that correct?

15 A. That's correct.

16 Q. If that is correct, why do you employ guards to protect  
17 the premises and the equipment?

18 A. We are not doing anything in this area. But simply, in  
19 order to ensure that [nothing] gets stolen and so on,  
20 because of course it is situated nearby -- how could  
21 I put it? I don't know really details about this case.

22 But the fact is that it's important that no one  
23 touches anything at this plant, and everything is kept  
24 exactly in the condition it was, because if there will  
25 be some kind of dispute -- I don't know; it's a legal

16:57 1 matter really. But in fact the only thing that we do is  
2 we only ensure the security. We have some guards, and  
3 we have even brought in a security company who is  
4 ensuring this order.

5 Q. Have you been told that the trust management will end at  
6 the moment this case ends?

7 A. I can't say, because I'm not a lawyer. I am not aware  
8 of any such thing.

9 Q. I am just asking if you have been told that the trust  
10 management will end as soon as this case ends.

11 A. No, nobody said so.

12 Q. Is the LPG plant being protected because the plant is  
13 very valuable?

14 A. Well, I guess no one disputes the fact that it's  
15 a valuable property; of course it's valuable. But how  
16 exactly valuable it is, I can't really answer; and what  
17 money we are talking about, I can't say.

18 Q. Are you aware that TNG was the owner of the LPG plant?

19 A. At that moment I was not working at the facilities, in  
20 the company. But -- how could I put it? -- as everyone,  
21 it's a fact known to everyone, and I know the facts  
22 which are known to everyone else.

23 Q. So are you or are you not aware that TNG owned the LPG  
24 plant?

25 A. I haven't seen the documents confirming this fact, so



16:59 1 I would say I don't know, legally speaking. But

2 speaking generally ...

3 Q. But speaking generally, you are aware that TNG was the

4 owner of the LPG plant?

5 A. Yes .

6 Q. Can you explain how the LPG plant can fall outside the

7 scope of the trust management, if TNG owned it?

8 A. I was not part of this business, of these affairs, when

9 the trust management was established, and I'm not

10 a lawyer myself, so I don't know about the reasons for

11 that.

12 Q. Was the LPG plant left outside the scope of the trust

13 management so that the government could dispose of the

14 LPG facility if it wanted to?

15 A. Legally speaking, I don't know the answer. I don't know

16 how to qualify this, and I can't answer your question.

17 Q. Well, can you explain why you've been given what you

18 call "trust management" over a proportion of TNG's

19 assets, but not all of them?

20 A. I am not -- I don't know about -- I don't know the

21 answer to this question.

22 Q. Let's turn to contract 3 02. You say in your witness

23 statement that KMT has not conducted any exploration on

24 contract 302. Has any other company, other than KMT,

25 conducted any exploration?

17:01 1 A. I'm not aware of such.

2 Q. Have you heard of a company called Lucent Petroleum?

3 A. No.

4 Q. Would it surprise you to learn that there were public  
5 tenders in 2011 and 2012 for the processing of  
6 3D seismic at Munaibay?

7 A. Yes, I would be surprised. I am not aware of that.

8 Q. Do you have an opinion as to why contract 3 02, which was  
9 also an asset of TNG, is not part of your trust  
10 management?

11 MR TIRADO: Sir, I think you've already asked that question  
12 and it's been answered.

13 THE CHAIRMAN: I'm sorry?

14 MR TIRADO: I believe counsel for the claimants has already  
15 asked that question at least twice, and that's been  
16 answered.

17 MR FLEURIET: I asked it with respect to the LPG plant.  
18 I am asking now with respect to contract 302.

19 THE CHAIRMAN: Okay.

20 MR TIRADO: Forgive me.

21 THE INTERPRETER: Shall I re-ask the question, sir?

22 MR FLEURIET: Do you have an opinion as to why contract 3 02,  
23 which was also an asset of TNG, is not part of your  
24 trust management?

25 A. No, I don't know why. I already said that I started

17:03 1 working -- or the period during which I worked in the  
2 company does not cover the timeframe when this happened.  
3 I only started working in 2010, in August.  
4 Q. Is it true that the income from KPM and TNG, the income  
5 that they have been earning under your trust management  
6 for operation of a couple of their assets, goes into  
7 an escrow account?  
8 A. Yes, it is so.  
9 Q. Did KMT ensure that KPM's \$145 million criminal fine was  
10 paid to the government? The criminal fine that was  
11 imposed on KPM, was that paid by KMT as the trust  
12 manager?  
13 A. I have not heard of such sum. And you are speaking  
14 about the money paid from this escrow account to the  
15 government? No, I have not -- I have never heard of it.  
16 Q. How much money is in these escrow accounts for KPM and  
17 TNG as of this date?  
18 A. I don't know the exact amount. I know that there is  
19 a escrow account and I know that our financial  
20 department controls this, but I don't know how much  
21 money there is.  
22 Q. Do you know an approximate amount?  
23 A. No, I can't answer.  
24 Q. Are you aware of any 3D seismic that has been conducted  
25 on contract 302 in the last two years?

17:06 1 A. I am not aware of anything regarding this contract. We  
2 are not working with this contract.

3 Q. Was any of the money in the escrow account used to pay  
4 \$62 million for corporate back-taxes that the government  
5 claims was owed?

6 A. Are you speaking about penalties? Penalties or -- if  
7 you are speaking about penalties, I don't know about any  
8 penalties being paid. Especially on behalf of  
9 Kazakhstan, I guess there are certain authorities  
10 dealing with these issues or some state bodies dealing  
11 with these issues.

12 Q. So you have no personal knowledge as to whether any of  
13 the money in escrow has been paid in relation to any of  
14 the penalties that were imposed on KPM or TNG?

15 A. I don't know about any penalties of KPM and TNG. The  
16 only thing I can say is that this escrow account, I can  
17 only say that current and regular taxes are being paid  
18 from this escrow account, but I know nothing about any  
19 Penalties of KPM and TNG or not being paid from it.

20 And it's not an open topic, and it's something --  
21 it's a kind of information that is only available for  
22 people who work with these issues, and it's something  
23 that must have been there before 2010.

24 Q. So that information is not available to the trust  
25 management?

17:08 1 A. Not to me personally. The trust manager is KazMunaiGas.

2 MR FLEURIET: I have no further questions.

3 THE CHAIRMAN: Any questions from respondent's side?

4 MR TIRADO: No, sir, no further questions.

5 THE CHAIRMAN: Any questions from my colleagues?

6 MR HAIGH: Just briefly, Mr Chairman.

7 (5.08 pm)

8 Questions from THE TRIBUNAL

9 MR HAIGH: Mr Khalelov, can you tell me to whom you report  
10 in the course of your duties?

11 A. KazMunaiGas. Are you speaking about KMT reporting or  
12 are you speaking about me personally?

13 MR HAIGH: No, I'm referring to the duties that you perform  
14 in relation to the trust that you've described for the  
15 subjects that are referred to in your witness statement.

16 As you perform your duties, I assume you report to  
17 somebody in that regard. Who is that?

18 A. We report to KazMunaiTeniz; we have monthly reports.

19 And besides, internally I have a direct chief, who is  
20 vice general director responsible for production, and  
21 the general director as well is my superior to whom  
22 I report.

23 MR HAIGH: Should I assume that those persons you've just  
24 mentioned give you your instructions from time to time  
25 as to how you should conduct yourself?

17:10 1 A. That's correct.

2 MR HAIGH: Do you know who may set policy or make  
3 policy-type decisions as to whether to, for example, pay  
4 a tax or pay a penalty? Who makes those decisions?

5 A. Ministry of Oil and Gas.

6 MR HAIGH: Thank you very much.

7 TH CHAIRMAN: Alright, that seems to conclude the  
8 E testimony. Thank you very much, Mr Khalelov.

9 That concludes the examination of witnesses, except  
10 the one on Thursday morning, I understand. We would now  
11 turn to examination of experts. It's a bit late to  
12 start that, I suppose. But I would like to know --  
13 perhaps we could all take a look at item 4 of our  
14 agenda, which has taken up the joint suggestion from the  
15 parties on how to proceed with the experts. My question  
16 is now: in which order do we examine whom?

17 MR SMITH: Mr Chairman, it's my understanding that by  
18 agreement of the parties, if that's acceptable to the  
19 Tribunal, we will examine Professor Olcott first in the  
20 morning, then Mr Balco second. Those are both  
21 respondent experts.

22 We will then conduct the examination of the  
23 representatives of Ryder Scott, to be followed by the  
24 representatives of Gaffney Cline. Once the parties'  
25 examinations are concluded, it is our proposal that

17:12 1           those experts then be conferenced on geology and  
2           petroleum engineering issues.

3           That will then be followed by the examination of  
4           FTI, followed then by the examination of Deloitte, and  
5           then conferencing of the valuation experts. And then we  
6           will at some point handle, I guess, within that context,  
7           the additional fact witness as he is available.

8   THE CHAIRMAN: Is that agreed, or any further comments from  
9           the other side?

10   DR NACIMIENTO: That order is agreed.

11           I have just the additional comment referring to what  
12           I said at the beginning of the hearing with regard to  
13           the revised FTI statement and FTI report: respondent  
14           will not be in a position to fully address it in this  
15           hearing, and we will make then also a written request to  
16           be granted that opportunity, followed possibly also by  
17           a further hearing.

18   THE CHAIRMAN: Yes. No, I'm quite aware of this, and we  
19           understand that. But of course, as you know, we have  
20           two rounds of post-hearing briefs in which there's ample  
21           opportunity really to pick these things up. But I do  
22           understand that at the hearing you cannot do that.

23   DR NACIMIENTO: Absolutely.

24   THE CHAIRMAN: Absolutely. Alright. That would mean that  
25           tomorrow morning we start with Professor Olcott, right?

17:13 1 MR SMITH: Yes, Mr Chairman.

2 Can we raise one other procedural issue, and  
3 I believe we are also in agreement with our counterparts  
4 here, and that is to renew our plea perhaps for some  
5 additional time that is available over the next two-day  
6 period. Both sides are running preciously short on  
7 time, and we have a good deal of experts to handle and  
8 complicated issues. So, in discussions over the break  
9 with counsel for the respondent, each side would like to  
10 request at least two hours of additional time per side  
11 once their time has expired for expert examinations.

12 MR FLEURIET: I think we are down to about two hours per  
13 side now, so that would --

14 TH CHAIRMAN: The Tribunal Secretary will make the  
E calculation with your people and I'll put it on the  
15 record tomorrow morning where we are.  
16

17 An additional four hours right now may not be  
18 possible, I don't know. We will see how far you get  
19 with the experts. But as I told you before, we are  
20 definitely here on Thursday, and we will have a witness  
21 to hear on Thursday. But probably by tomorrow we will  
22 have a better idea of how far we get. We are flexible  
23 up till 5.30 Thursday evening.

24 MR SMITH: Mr Chairman, it would be very helpful, since we  
25 are preparing for cross-examinations of witnesses, to



17:15 1 know how much time we will be permitted to spend with  
2 them on cross-examination. It will be more difficult on  
3 the fly if we learn --  
4 THE CHAIRMAN: No, I understand.  
5 MR SMITH: That's the reason for the request this evening.  
6 THE CHAIRMAN: For that, we would need a calculation of  
7 where we are by this evening.  
8 DR NACIMIENTO: I think we know approximately.  
9 MR SMITH: I think we're very clear, yes.  
10 DR NACIMIENTO: It's two hours each, which would be the  
11 morning tomorrow actually.  
12 THE CHAIRMAN: Of course, what you are excluding is that we  
13 start asking questions, and we cannot guarantee you  
14 that. That is why I am hesitant to tell you now that  
15 you have two additional hours; then you rely on that,  
16 and then Thursday we are in difficulties.  
17 So there should be room for -- if we proceed as we  
18 have done so far, which was rather smoothly, and with  
19 relatively few questions from our side, I think I am  
20 rather optimistic. Whether it really ends up as two  
21 hours for each side, I doubt a little bit.  
22 So I don't want to be in a difficulty on Thursday  
23 afternoon that you say, "Well, we calculated all that  
24 in." Calculate it shorter, because everybody knew there  
25 were eight hours, and I am aware that you cannot do it

17:16 1 on the fly, as you say, but please do not rely on the  
2 two hours that you have. I cannot give you that,  
3 because we have a time limit on Thursday anyway.  
4 MS SIMPSON: I have a question from the back row. The  
5 witness-conferencing, will that come from the Tribunal's  
6 time or from the parties' time? Because I think  
7 an answer to that could maybe help everyone evaluate how  
8 much time may be needed.

9 THE CHAIRMAN: Well, it does not really change the question  
10 of the total time available. Even if we count it for  
11 the Tribunal, it does not mean that we have more time  
12 available until Thursday evening.

13 So why don't we -- we'll discuss it ourselves as  
14 well. The issue is taken, but for the time being,  
15 I would not like to give you a promise and then not be  
16 able to keep it. Alright.

17 MR HAIGH: Mr Chairman, I wonder, would it be feasible, do  
18 you suppose, if we could give an indication to the  
19 parties likely this evening? At least an indication, if  
20 not an exact ruling.

21 THE CHAIRMAN: From what I said, I'm actually rather  
22 optimistic that an additional hour is available for each  
23 side. I'm more hesitant about the two hours, because  
24 that really would mean that we cannot ask questions, and  
25 we don't want to be in that position.

