

**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  
MOTION FOR RECONSIDERATION OF MAY 11, 2016 ORDER**

**EXHIBIT 3**

Franjo Zaja  
First Witness Statement  
On behalf of Defendant  
Dated 27 August 2015  
Exhibit "FZ1"

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
COMMERCIAL COURT

CL-2014-000070

**B E T W E E N :**

- (1) ANATOLIE STATI
- (2) GABRIEL STATI
- (3) ASCOM GROUP S.A.
- (4) TERRA RAF TRANS TRADING LTD

Claimants

- and -

**THE REPUBLIC OF KAZAKHSTAN**

Defendant

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**FIRST WITNESS STATEMENT OF FRANJO ZAJA**

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I, **FRANJO ZAJA**, of TGE Gas Engineering GmbH, located at Mildred-Scheel-Straße 1, 53175 Bonn, Germany, **WILL SAY:**

**A. Introduction**

1. I am an engineer employed by TGE Gas Engineering GmbH ("TGE"). I was personally involved in the construction of the LPG Plant in Borankol, Kazakhstan ("the LPG Plant"), which I understand is relevant to this dispute.

2. Unless I indicate otherwise, the facts and matters set out in this Witness Statement are within my knowledge or derived from documents which I identify. Where I rely on what others have told me, I identify the source of information which is true to the best of my knowledge, information, and belief. There is now produced and shown to me a paginated bundle of copy documents marked "FZ1" which is annexed hereto and to which I make reference throughout in the form FZ1/page.

**B. The LPG Plant Contract**

3. On 31 January 2006, Tractebel Gas Engineering GmbH (the predecessor of TGE) entered into a contract with (i) Azalia Limited ("**Azalia**") and (ii) Ascom Group SA ("**Ascom**") for the engineering, procurement of equipment and materials, and consultancy and project management services relating to the LPG Plant ("**the LPG Plant Contract**"). I was personally involved in the performance of the LPG Plant Contract, in my capacity as senior site electrical and instrumentation engineer.

4. The scope of the equipment that was to be delivered under the LPG Contract) is set out in the Preamble and in Item 3 of the LPG Plant Contract.<sup>1</sup> The Scope of Delivery includes:

- (1) one gas de-carbonisation and de-sulphurisation unit;
- (2) one LPG recovery unit; and
- (3) one sales gas compression unit (together, "**the TGE Scope of Delivery**").

5. TGE was the main supplier of equipment for the LPG Plant, and the components delivered by TGE constitute the core and most cost-intensive components of the LPG Plant.

6. The total contract price for the LPG Plant Contract, including the TGE Scope of Delivery and the associated services, was EUR 28.38 million (approximately USD 34.4 million). This contract price was never amended.

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<sup>1</sup> Extracts from LPG Plant Contract at FZ1/1-2

7. As of October 2008, the TGE Scope of Delivery had been fully completed by TGE, and the components delivered by TGE incorporated into the LPG Plant. As stated in the letter from Ascom to TGE dated 12 March 2009,<sup>2</sup> construction of the LPG Plant was eventually stopped. At that time, the main equipment had been delivered and incorporated. The LPG Plant was approximately 80-90% complete.
8. In February 2010 I made a site visit to the LPG Plant and prepared a report, in which I noted that no major equipment was stored on site; that the LPG Plant was mostly completed; and that no major components were missing.

**C. Perkwood Investment Limited and the Perkwood Agreement**

9. TGE, in its capacity as the supplier of the core components of the LPG Plant, interacted with all other major suppliers of the LPG Plant at an operational level. In performing my responsibilities, I have never encountered a company named Perkwood Investment Limited ("**Perkwood**").
10. I have now seen an agreement between Perkwood and Tokinneftegaz ("**TNG**") dated 17 February 2006 accompanied by a number of annexes of different dates ("**the Perkwood Agreement**").<sup>3</sup> A number of these annexes appear to overlap with the TGE Scope of Delivery, and refer to equipment that had been delivered by TGE:
  - (1) Annex 2, dated 27 March 2006,<sup>4</sup> is identical to the TGE Scope of Delivery. The components it lists were fully delivered by TGE at a price of EUR 28,380,000.00 (USD 34,447,644.00). I cannot explain the price of USD 93,095,908.99 indicated in Annex 2 of the Perkwood Agreement.
  - (2) Annex 14, dated 2 December 2008,<sup>5</sup> also refers to components included within the TGE Scope of Delivery and which had been delivered by TGE by October 2008 at a price of USD 34,447,644.00. The goods named under No. 1 to 3 (heat exchangers of stainless steel cold area, gas turbo compressors Solar and

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<sup>2</sup> Letter from Ascom to TGE dated 12 March 2009 at **FZ1/3**

<sup>3</sup> Perkwood Agreement dated 17 February 2006 at **FZ1/4-96**

<sup>4</sup> Perkwood Agreement dated 17 February 2006, Annex 2 at **FZ1/15**

<sup>5</sup> Perkwood Agreement dated 17 February 2006, Annex 14 at **FZ1/44**

turboexpander Mafi-Trench) of Annex 14 are parts/components of the goods named in Annex 2 under No. 2 (LPG recovery unit) and 3 (Sales gas compression unit). No. 1 and 3 of Annex 14 are components within No. 2 of Annex 2. No. 2 of Annex 14 is a component within No. 3 of Annex 2. I cannot explain the price of this Annex, or why such an order should have been placed in December 2008.

**Statement of Truth**

I believe that the facts stated in this Witness Statement are true.

Signed:



**Franjo Zaja**

Date: 27 August 2015