

PCA Case No. 2022-49

In the Matter of an *Ad Hoc* Arbitration pursuant to the

**AGREEMENT BETWEEN THE GOVERNMENT OF
THE ISLAMIC REPUBLIC OF IRAN
AND
THE GOVERNMENT OF THE AZERBAIJAN REPUBLIC
ON THE RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

Between

MOHAMMAD REZA KHALILPOUR BAHARI

Claimant

and

THE REPUBLIC OF AZERBAIJAN

Respondent

CLAIMANT'S POST-HEARING BRIEF

6 May 2025

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PART I: INTRODUCTION

1. With the close of the evidentiary Hearing, the Tribunal has a substantial factual record to evaluate. The Parties' submissions and witness and expert testimony have addressed an exhaustive range of disputed facts and issues. This Post Hearing Brief (**PHB**) is intended to assist the Tribunal as it considers the extensive record in these proceedings. First, the Brief provides high-level perspective and considerations arising from the Hearing, and how these relate to the Parties' competing positions in this dispute. It then more fully discusses Mr. Bahari's claim within the context of the Hearing, with a specific focus on the Tribunal's questions to the Parties.¹
2. Mr. Bahari has submitted considerable evidence to substantiate his claims, essentially making his entire life and investments in Azerbaijan open for consideration by Azerbaijan and the Tribunal. In response, Azerbaijan aggressively pushed numerous alternative defense narratives of what purportedly happened to Mr. Bahari and his investments. Azerbaijan nonetheless failed to adduce sufficient credible evidence to support these defense assertions. Indeed, Azerbaijan put forward very limited documentation, largely from unidentified sources, and its document production was abysmally deficient. Similarly, Azerbaijan's fact witnesses largely did not have direct and contemporaneous knowledge about key events at issue. Those Government individuals with critical knowledge were empty chairs and did not appear at all.²
3. Over a week and half of oral testimony, the Tribunal heard very little testimony from Azerbaijan's witnesses or experts that supported its defense theories. In fact, it became increasingly apparent that Azerbaijan's witnesses were unreliable, and critical elements of Azerbaijan's defense theories were revealed as patently untrue:
 - a. Mr. Kerimov testified that Government officials are prohibited from undertaking private commercial activity – but that Minister Heydarov did so regardless. This

¹ Claimant notes for good order that per the Tribunal's directions, it has updated Claimant Exhibits **C-94** and **C-241** on the PCA's Box account, as well as Claimant's Opening Presentation (**CP-1**) and demonstratives (**CD-1** to **CD-4**). For ease of reference, Claimant also includes with this PHB a complete table of defined terms.

For the further sake of good order, Claimant notes that, per PO1 ¶ 7.7, the fact that Claimant did not call certain Azerbaijan witnesses or expert does not mean that he accepts the contents of that witness statement or expert opinion.

² See e.g., **CD-1** "Witnesses Involved in Construction Phase of Coolak Baku and Caspian Fish or with Direct Knowledge of Funding."

situation confirms that Minister Heydarov would necessarily be seen as not just an ordinary businessman but as operating under color of authority. This is confirmed by Mr. Kerimov's actions to hide Minister Heydarov's "private" commercial activity, leaving only his public official persona remaining. This testimony directly contradicts and defeats Azerbaijan's attribution defense.

- b. Messrs. Kerimov and Hasanov's testimonies contradicted Azerbaijan's narrative that Minister Heydarov made the entire capital investment to construct and equip Caspian Fish. Mr. Kerimov's testimony on this point was particularly erratic and dissembling. He testified that everyone – including Minister Heydarov – initially thought Caspian Fish cost USD 56 million, until Mr. Kerimov's alleged audit concluded it cost only USD 18 million. However, he could then not explain how Minister Heydarov could not know how much he personally had invested in the project. Worse, when Mr. Kerimov was asked what documents Minister Heydarov provided for the purported audit to determine how much was spent, he stated he was never provided with any documents.
 - c. Mr. Hasnaov was extremely uncomfortable and was evasive when asked who owned and controlled Caspian Fish. Even though he held management positions for 14 years at the company since 2000, he professed no knowledge of Mr. Bahari's shareholding interest in the company. He also could not, or would not, say where the capital investment came from or who profits were paid to.
 - d. Messrs. Zeynalov and H. Aliyev both conceded that Coolak Baku was to cost USD 28 million as a completed project; that ASFAN produced its own beer using the exact same equipment at the exact same facility as Coolak Baku; and neither could confirm that ASFAN or anyone other than Mr. Bahari made capital investments in the facility. This fully contradicts Azerbaijan's jurisdictional defense that Mr. Bahari only invested USD 1.4 million in Coolak Baku and that it was never operational.
 - e. Mr. Zeynalov was shown to have played an active role in fraudulently stripping Mr. Bahari's interest in Coolak Baku and was evasive and uncomfortable when asked about Mr. Bahari's expulsion from the Caspian Fish grand opening ceremony.
4. The Hearing further revealed the extent to which Azerbaijan deliberately withheld documents and engaged in an obstructionist approach to evidence. In fact, Azerbaijan,

including its counsel and witnesses, had full access to the Caspian Fish archives. In Mr. Zeynalov's case, he was explicitly given access by Azerbaijan's counsel:

- a. For example, Azerbaijan produced no audited financials in response to Claimant's Document Request No. 60 – despite its access to the Caspian Fish archives, and even though Mr. Hasanov explicitly confirmed the existence of such financials, and that he submitted them both internally and to the Government. Mr. Parvizi also testified that Azerbaijan granted him access to such records.
 - b. Despite Azerbaijan's full access to the archives, its counsel purposely restricted Mr. Hasanov's access to documents from 2001 and 2002 and only about Mr. Bahari's ownership, ensuring he could not see (or be cross-examined on) Caspian Fish's financial position after that time.
5. The Tribunal must consider the appropriate consequences and inferences from this conduct and:
 - a. Account for Azerbaijan's evidentiary obstruction when weighing the Parties' evidence and whether each has met its burden of proof as to the merits;
 - b. Grant Claimant's requested adverse inferences;³ and
 - c. Account for Azerbaijan's conduct when considering quantum – especially given the lack of financial data due to Azerbaijan's obstructionist behavior.
6. The Hearing also demonstrated that as a direct result of its empty chair strategy combined with its obstructionist conduct, Azerbaijan failed to meet its burden to prove the facts it alleges in support of its defenses. This self-inflicted damage is evident throughout:
 - a. Azerbaijan chose not to put Messrs. Aliyev or Heydarov forward to rebut Mr. Bahari's testimony regarding his ouster from Caspian Fish and eventual expulsion from Azerbaijan. It presents no other credible witness to rebut Mr. Bahari's case;
 - b. Azerbaijan failed to put forward a single witness to corroborate the purported 2001 share sale; and
 - c. It chose not to put Minister Heydarov forward to speak to about his alleged capital investment in Caspian Fish. Of note, Minister Heydarov himself (a Government

³ SoRJJ ¶¶ 29-86, Appendix C.

official) refused to produce requested documents from Gilan Holding/Khazri Solutions.

7. Overall, the Hearing established that Azerbaijan's factual defense contains material discrepancies and is unreliable.
8. Conversely, the Tribunal heard oral testimony from Mr. Bahari and his witnesses that was entirely consistent with the facts underlying Mr. Bahari's claims and the substantial evidence that he has put forward:
 - a. Mr. Bahari displayed the strong emotions of someone who has experienced significant loss and harm and could finally tell his story.
 - b. Mr. Bahari was forthright and consistent about the facts and circumstances that support his claims. He testified credibly to being forced to leave Azerbaijan against his will, and how Azerbaijan's threats negatively impacted his ability to regain his investments over the years.
 - c. Azerbaijan largely avoided questioning Mr. Bahari on central factual pillars of its defense, particularly the purported sale of his shares in Caspian Fish BVI in September 2001. Clearly, Azerbaijan was uninterested in having that defense narrative considered in further detail. This is because the sale never took place and is completely contradicted by the Caspian Fish BVI corporate records. No amount of advocacy can overcome the plain evidence in that contemporaneous record, which remains the best evidence as to ownership of the shares when the Treaty entered into force.
 - d. As discussed in this PHB, Claimant witnesses who were directly involved with the construction and development of Caspian Fish and Coolak Baku provided oral testimony that was entirely consistent with Mr. Bahari's claims and their respective witness statements. This included Mr. Dieter Klaus, who gave oral testimony about the funding of Mr. Bahari's projects in Azerbaijan.
 - e. Mr. Moghaddam attested to the multiple assaults against him in April and June 2001 and June 2002, and his subsequent 2009 arrest and criminal conviction on false drug distribution charges. These assaults were the direct result of his association with and assistance to Mr. Bahari.

- f. Azerbaijan's counter-narrative that Mr. Moghaddam was an unreliable convicted felon requires the Tribunal to believe that Mr. Moghaddam, who in 2009 was a 52-year-old father and businessman with no prior criminal history at all, sold drugs out of his home. It also requires the Tribunal to ignore Azerbaijan's well-documented use of false drug charges to silence anyone perceived to have adverse interests to the Government or its ruling families. Finally, it requires the Tribunal to believe that Mr. Moghaddam's criminal conviction had no connection at all to Mr. Bahari's case, and that each of the three prior incidents in 2001 and 2002 also did not happen. Azerbaijan's narrative should be seen for what it is: an impeachment strategy to sow doubt into Mr. Moghaddam's credible testimony about his repeated unlawful treatment by Azerbaijan's authorities.
 - g. Likewise, Azerbaijan largely avoided delving into what happened to Mr. Abdulmajidov and Ms. Ramazanova because of their assistance to Mr. Bahari in developing his claim against Azerbaijan. This is because the couple's treatment fits Azerbaijan's well-documented pattern of intimidation and threats against anyone who assisted Mr. Bahari in regaining his investments, including through these proceedings.
- 9. Mr. Bahari has conducted an exhaustive search to present documents and witnesses that are directly relevant to the issues in dispute. This, again, stands in stark comparison to Azerbaijan's unwillingness to confront the truth by withholding key potential witnesses, and indeed obstructing and hiding documents that are indisputably available and relevant.
- 10. Overall, for Mr. Bahari, the Hearing further demonstrated that:
 - a. There is chronological consistency to Mr. Bahari's story. The presents a coherent timeline of events about his investments in Azerbaijan, and the actions taken against him which culminated in the taking of his investments;⁴
 - b. Mr. Bahari's claim also presents a cogent narrative arc that describes the sequence of events that led to the taking of his investments. Each factual element of Mr. Bahari's account nests within a coherent narrative whole; and
 - c. Mr. Bahari's evidence is consistent, reliable, and importantly, substantiated.

⁴ See, e.g., SoRJJ pp. 136-153, chronology of events.

11. With the close of the Hearings, the Parties have fully aired their respective factual accounts. Ultimately the competing narratives boil down to this question: *does the story make sense?*
 - a. Has Mr. Bahari fabricated an investment claim out of whole cloth? Has he deceived the Tribunal, his own lawyers, and third-party funder, in a complex, multi-year scheme to defraud Azerbaijan? Was he willing to place multiple associates and even his family at risk to pursue this ploy? Are President Aliyev, Minister Heydarov, and Azerbaijan just innocent victims in this?
 - b. Or, did Messrs. Aliyev and Heydarov see an opportunity to seize a valuable investment when they partnered with Mr. Bahari? Did they first wait until Mr. Bahari completed Caspian Fish, then utilize their immense powers and deploy the full coercive capabilities of the Azeri State to ultimately seize Mr. Bahari's investments for themselves? Did they rely on State powers to force Mr. Bahari out of his own grand opening ceremony, place him under house arrest, then expel him? Did Messrs. Aliyev and Heydarov abuse their official positions to ultimately place Caspian Fish in the hands of their children? Is such conduct wholly and entirely consistent with Azerbaijan's widely reported kleptocratic system of governance?
12. As the Tribunal considers the factual evidence presented in support of the Parties' respective positions, it should keep in mind their overall logical consistency and coherence.
13. Mr. Bahari submits that, on the preponderance of evidence, the record in this Arbitration establishes that his factual narrative and evidence are by far the most likely to be true and correct. As a result, the Tribunal can and should find that Azerbaijan breached its obligations to Mr. Bahari and his investments under the Treaty.

PART II: JURISDICTION AND ADMISSIBILITY

I. MR. BAHARI IS A PROTECTED INVESTOR UNDER THE TREATY

14. Mr. Bahari is an Iranian national and a qualifying investor under Article 1(2)(a) of the Treaty.⁵

II. MR. BAHARI HAS PROTECTED INVESTMENTS UNDER THE TREATY

15. Mr. Bahari has established through the following submissions that he made protected investments in Azerbaijan, as defined under Article 1(1) of the Treaty and international law:
- a. Statement of Claim, ¶¶ 434-40;
 - b. Statement of Reply, ¶¶ 751-794; and
 - c. Statement of Rejoinder on Jurisdiction, ¶¶ 391-432.⁶
16. Additionally, Claimant repeats and relies on its Opening Presentation and arguments reaffirming the qualifying investments under Article 1(1) of the Treaty.⁷
17. This section: (A) further demonstrates that Mr Bahari's investments meet the definition of "investment" in Article 1(1) of the Treaty; and (B) explains why the approval requirement in Article 9 of the Treaty did not apply to Mr. Bahari's investments as Azerbaijan contends.

A. MR. BAHARI MADE QUALIFYING INVESTMENTS IN AZERBAIJAN

1. Mr. Bahari Made Qualifying Investments in Caspian Fish

18. Mr. Bahari's qualifying investments in Caspian Fish for the purpose of his claims under the Treaty consisted of:

⁵ Notice of Arbitration ¶ 114; SoC ¶ 433.

⁶ Claimant's Statement of Rejoinder on Jurisdiction contained factual discussions relevant to Claimant's investments: Coolak Baku (Part III, Section I); Caspian Fish (Part III, Sections II and III); Ayna Sultan (Part III, Section IV); and Persian Carpets (Part III, Section V).

⁷ **CP-1** Claimant's Opening Slide Presentation, e.g., slides 6-14, 34-35, 55-58, etc.

- a. Ownership of equity (40%) of Caspian Fish BVI⁸ and the related rights to profits/dividends from the Caspian Fish business operation in Azerbaijan (via 40% equity) whether that business is run through the representative office or otherwise;⁹
 - b. contractual rights to a share of the profits generated by the business in Azerbaijan pursuant to the Shareholders Agreement, Clause 6;¹⁰
 - c. the equipment and constructed immovable property of the Caspian Fish business operation in Azerbaijan;¹¹
 - d. the industrial and technical process design of the Caspian Fish business operation in Azerbaijan;¹²
 - e. the good will and know-how of the Caspian Fish business operation in Azerbaijan¹³; and
 - f. rights under the Caspian Fish exploitation licenses.¹⁴
19. Each of Mr. Bahari's investments in Caspian Fish can be considered as standalone or alternative qualifying investments, which Mr. Bahari maintained at all relevant times, contrary to Azerbaijan's various theories and allegations.
- a. Mr. Bahari Retained his Shareholding in Caspian Fish BVI at All Relevant Times**
20. Mr. Bahari has proven that, prior to the measures, he owned 40% of Caspian Fish BVI. His investment in Caspian Fish BVI was evidenced by *inter alia* his Share Certificate in the company¹⁵ and the company's various registration records.¹⁶
21. Mr. Bahari constructed and financed Caspian Fish for more than two and a half years. He invested USD 56 million in the project for the purchase of equipment and construction of

⁸ **CLA-001** Treaty, Art. 1.1(i)-(ii).

⁹ **CLA-001** Treaty, Art. 1.1(ii).

¹⁰ **CLA-001** Treaty, Art. 1.1(ii), (v).

¹¹ **CLA-001** Treaty, Art. 1.1(iii).

¹² **CLA-001** Treaty, Art. 1.1(iv).

¹³ **CLA-001** Treaty, Art. 1.1(iv).

¹⁴ **CLA-001** Treaty, Art. 1.1(v).

¹⁵ **C-006** Mr. Bahari's Share Certificate in Caspian Fish Co. Inc. dated 5 March 1999.

¹⁶ See e.g., **C-109** Caspian Fish Co. Inc. Registers and Datasheet at pp. 9-10 dated 3 May 2007.

immovable property, and provided industrial and technical process design, as well as goodwill and know-how.¹⁷

22. Azerbaijan does not dispute Mr. Bahari's shareholding in Caspian Fish BVI. Rather, it alleges that Mr. Bahari's 40% shareholding in Caspian Fish does not qualify as a protected investment under the Treaty because, allegedly, Mr. Bahari sold his shareholding in September 2001 for USD 4.5 million.¹⁸
23. Prior to the Hearing, Claimant demonstrated that:
 - a. Respondent has provided no corroborating witness evidence supporting the authenticity of the share sale despite having access to the people allegedly involved, including Minister Heydarov and Mr. Khanghah. Equally, Azerbaijan has produced no corroborating documentary evidence, such as bank records or other documents in support of the alleged sale in 2001 and associated payments.¹⁹
 - b. The position taken by Azerbaijan is wholly inconsistent with the Arbitral record. In particular, the corporate records of Caspian Fish BVI make no reference, and in fact fully contradict, the alleged share sale transaction,²⁰ including the alleged Stock Transfer Form.²¹
 - c. Similarly, if Mr. Khanghah had believed that Mr. Bahari sold his stake in Caspian Fish BVI in September 2001, then there is no explanation for the events concerning and terms of the Forced Sale Agreement and Dubai meeting of 15 June 2002 — which Azerbaijan does not dispute occurred. This was entirely inconsistent with Mr. Bahari's shares already having been sold.²²
 - d. Both Parties' forensic experts characterized the signature of Mr. Bahari in documents that purportedly underly the share sale as **unverifiable**.²³

¹⁷ SoC ¶¶ 79-83, ¶ 436; SoR, ¶¶ 214-225.

¹⁸ See e.g., SoD ¶ 101; SoRJ ¶¶ 447-463.

¹⁹ SoR ¶¶ 437-441; SoRJJ ¶¶ 287-321.

²⁰ SoR ¶¶ 376-406; SoRJJ ¶¶ 334-341.

²¹ **C-121** Purported Instrument of Transfer, undated; **R-129** Stock Transfer Form, Undated.

²² SoR ¶¶ 418-424.

²³ Briggs Report ¶¶ 4.5, 4.16, 4.27.5; Morrissey Report ¶¶ 1.5.24, 3.2.9, 3.3.9, 4.1.3. See also SoR ¶¶ 364-368, 407-417; SoRJJ ¶¶ 324-327, 340(e),

24. At the Hearing Mr. Bahari attested that there was no such sale, confirming that the alleged Buyer and Seller Agreement for the shares between Mr. Khanghah and Mr. Bahari dated 20 September 2001 (**R-50**) was forged.²⁴ R-50 is a *prima facie* forgery — the document was not notarized, it includes no witness names or signatures, and the names of the contracting parties are incorrectly spelled.²⁵
25. Mr. Bahari further explained that the alleged sale is absurd — it would have been illogical for him to sell his shares for USD 4.5 million after spending “[REDACTED]”²⁶
26. Azerbaijan produced **no further evidence** at the Hearing supporting its claim that the purported share sale documents were authentic.
27. For completeness, although not addressed at the Hearing, the purported receipt of USD 1.5 million from Mr. Bahari dated 5 November 2002 (**R-51**) is also forged and equally suspect. This single-page document misspells Mr. Bahari’s name, and there is no notarization or witness that could confirm Mr. Bahari’s signature.²⁷ As with all of the purported share sale documents, Claimant requested Azerbaijan to provide information as to the source and/or provenance of **R-51**, but Azerbaijan declined.²⁸ Both Parties’ forensic experts questioned the authenticity of Mr. Bahari’s signature on **R-51**.²⁹
28. As to the other purported receipt of funds to Mr. Bahari (**R-52**),³⁰ it is similarly riddled with material indications of inauthenticity.³¹ In particular, the first page of R-52 makes no mention of a sale of shares and is unsigned. It also records payment for a sum of USD 2 million in cash to multiple people in Azerbaijan but not to Mr. Bahari, who both Parties agree was in Dubai at the alleged time payment was made.
29. As for what R-52 does show, Mr. Bahari explained at the Hearing that he was reimbursed for debts owed to him, but never paid to sell his shares:

²⁴ Transcript of Hearing on Jurisdiction and Merits, Day 2, 102:15-21.

²⁵ Transcript of Hearing on Jurisdiction and Merits, Day 2, 102:24-25; 103:1-3.

²⁶ Transcript of Hearing on Jurisdiction and Merits, Day 2, 103:14-25; 104:1-22.

²⁷ SoR ¶¶ 409-410.

²⁸ **C-387** Letter from Claimant’s Counsel to Quinn Emanuel regarding sources of exhibits, 13 January 2024; **C-388** Letter from Quinn Emanuel to Claimant’s Counsel, 26 January 2024.

²⁹ Morrissey Report, ¶ 3.6.1-3.6.9; Briggs Report ¶ 1.8.

³⁰ **R-52** Receipt for payment of USD 2 million signed by Mr Bahari (Undated).

³¹ SoR ¶¶ 410-417.

- a. The manuscript section of R-52 at page 3 (translated at page 2) was written by Mr. Bahari and is undated.³² This page of the document is a receipt he signed for a reimbursement of debts incurred in 1999 or 2000.³³
 - b. As to the debts, Azerbaijan questioned Mr. Bahari about paragraphs 16 to 18 and 21 of his third witness statement,³⁴ in which he attested that around 1996 or 1997 Minister Heydarov transferred USD 4.5 million to him for a shareholding interest in Coolak Baku, which was ultimately not concluded.
 - c. Mr. Bahari's oral testimony clarified that he initially agreed with Minister Heydarov to accept the USD 4.5 million for a 7.5% interest in Coolak Baku (putting the total value of the company at USD 60 million), but Arif Pashayev did not want Minister Heydarov as a partner and therefore the sale to Minister Heydarov did not go through. Had Minister Heydarov acquired that interest his name would have been listed as one of the joint venture owners of Coolak Baku.³⁵
 - d. Mr. Bahari nonetheless retained Minister Heydarov's USD 4.5 million to offset debts that Minister Heydarov had to Mr. Bahari. Mr. Bahari attested that Minister Heydarov, as well as Ilham Aliyev and Arif Pashayev, would borrow from and lend sums to Mr. Bahari from time to time. Unlike today, Messrs. Aliyev, Heydarov, and Pashayev did not have an enormous amount of wealth and cash on hand at that time.³⁶
30. Accordingly, neither R-52 nor any other documents mentioning that Mr. Bahari received funds while he was in Azerbaijan³⁷ has anything to do with a share sale.
31. Respondent's concocted story that Mr. Bahari sold his 40% shareholding in Caspian Fish BVI is both unsupported and contradicted by documentary and witness testimony. On the preponderance of evidence, the Tribunal can and should find that Mr. Bahari maintained

³² Bahari WS2 ¶ 21(f).

³³ Bahari WS3, ¶¶ 17-18.

³⁴ Transcript of Hearing on Jurisdiction and Merits, Day 3, 1112:18-19.

³⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 109:19-24, 110, 111:1-8.

³⁶ Transcript of Hearing on Jurisdiction and Merits, Day 3, 111:13-25, 112:1-18. See Day 5, 113:18-20.

³⁷ See e.g., **R-53** Email from Mr Bahari to A Kalantarli copied to President's Office dated 4 December 2023. See also Bahari WS3 ¶ 21; SoR ¶¶ 434-435, 437(d).

and possessed qualifying investments arising from his 40% shareholding ownership in Caspian Fish BVI at all relevant times.

b. The Caspian Fish Shareholders Agreement Is Authentic and Unchallenged

32. Mr. Bahari's contractual rights under the Caspian Fish Shareholders Agreement are a qualifying investment under the Treaty retained by Mr. Bahari at all relevant times.³⁸ According to the Agreement, Mr. Bahari had the contractual right to 40% of Caspian Fish's profits, the power and authority to manage and represent Caspian Fish, and the guarantee that Caspian Fish had been issued all necessary permits and concessions.
33. The Shareholders Agreement's status as a qualifying investment is wholly independent of any factual determination about (a) the fabricated sale of Mr. Bahari's shares in Caspian Fish BVI, since the contracting parties are different than the BVI shareholders; and (b) the involvement of Chartabi Contracting in the construction of Caspian Fish or the other Projects (as further discussed below).
34. Azerbaijan argues that the Shareholders Agreement does not constitute a protected investment, alleging that it contains "suspect indications" and is inauthentic.³⁹ Again, Azerbaijan has failed to produce any factual evidence in support of this assertion, despite having direct access to the other three contracting parties (Messrs. Aliyev, Heydarov, and Khanghah).
35. Notably, the correspondence from Minister Heydarov, which is the only time Minister Heydarov makes an "appearance" in this Arbitration, does not mention the Shareholders Agreement.⁴⁰ This is despite being a known issue when the correspondence was submitted into evidence. Thus, Respondent's challenge to authenticity is entirely unfounded and must be rejected on this basis alone.
36. Respondent's only attempt to manufacture a question about the authenticity of the Shareholders Agreement was through the forensic expert opinion of Ms. Briggs. However, on cross-examination Ms. Briggs confirmed that her views on President Aliyev's

³⁸ **C-004** Caspian Fish Shareholders Agreement; **CLA-001** Treaty, Art. 1(ii), (v).

³⁹ SoD ¶ 233; SoRJ ¶ 185.

⁴⁰ **R-304** Letter from Mr Kamaladdin Heydarov to Quinn Emanuel dated 25 October 2024.

signatures were inconclusive and that she could not “ [REDACTED]

[REDACTED]”⁴¹ Remarkably, Ms. Briggs then attested that:

- a. Azerbaijan only provided her with two known signatures of President Aliyev; that two signatures was “ [REDACTED]” from a forensic standpoint; and that notwithstanding her requests for additional signatures, she was told by Azerbaijan’s counsel that no more signatures were available for her review.⁴² This is despite hundreds of examples of President Aliyev’s authentic signature being readily available in government documents. Moreover, the two examples that were provided to Ms. Briggs were Mr. Bahari’s own evidence, **C-8** and **C-89**,⁴³ which Respondent appears to accept as authentic.
 - b. In Ms. Briggs’ opinion, if Azerbaijan really wanted to know about the authenticity of a signature, it would have provided as many known signatures as possible and certainly more than two.⁴⁴
37. As to the signature of Minister Heydarov, Ms. Briggs attested that she was provided only four known signatures samples, despite a similar request for more signatures,⁴⁵ and these were also not enough to form a reliable opinion on his signature in relation to the Shareholders Agreement.⁴⁶
38. Azerbaijan’s purposeful restriction of known signatures for analysis was a clear attempt to manipulate Ms. Briggs’ opinion about the authenticity of President Aliyev’s and Minister Heydarov’s signatures on the Shareholders Agreement. The Tribunal should take this into consideration when determining Azerbaijan’s good faith towards evidence in this Arbitration and these proceedings more generally.
39. As to the 27 April 1999 date typed on the Shareholders Agreement,⁴⁷ Ms. Briggs’ opinion is that when the document was signed it was resting on top of the Vereinsbank account

⁴¹ Transcript of Hearing on Jurisdiction and Merits, Day 7, 170:23-24.

⁴² Transcript of Hearing on Jurisdiction and Merits, Day 7, 171-176.

⁴³ Briggs Report, ¶ 6.1.22.

⁴⁴ Transcript of Hearing on Jurisdiction and Merits, Day 7, 174:15-22; 176:19-25.

⁴⁵ Transcript of Hearing on Jurisdiction and Merits, Day 7, 181:2-15.

⁴⁶ Transcript of Hearing on Jurisdiction and Merits, Day 7, 179:12-23.

⁴⁷ Transcript of Hearing on Jurisdiction and Merits, Day 7, 182:16-21; 184:1-25.

opening form dated 13 November 2000 (**C-7**), suggesting that the two documents were signed at the same time.⁴⁸

40. Azerbaijan has asserted that this establishes that the Shareholders Agreement and the Vereinsbank document were both signed on 13 November 2000.⁴⁹ That there could be a disconnect between the date on the face of the Shareholders Agreement and the date the Shareholders Agreement was signed means nothing. Documents may be signed after they are dated or post-dated.
41. And at the Hearing, Mr. Bahari explained that upon further reflection and discussions with his son, and in light of the 25 years that have passed since he signed the Shareholders Agreement and the Vereinsbank document, he considered it possible that the two documents were signed at the same time, in November 2000.⁵⁰ This change was, in part, because Mr. Bahari had seen that the number “1” had been written to start the date at the top of the Shareholders Agreement, indicating that it was probably from 2000.⁵¹
42. Mr. Bahari distinctly remembered signing these documents at SOCAR, that President Aliyev twice “██████████” the Shareholders Agreement before signature, and that all four signatories signed the documents at the same time.⁵² Mr Bahari also explained that he brought German bankers to Azerbaijan because President Aliyev said he could not travel to Germany to open the Caspian Fish Vereinsbank account. A photograph of the German bankers at Caspian Fish (**C-509**),⁵³ which is dated 2000 on the reverse,⁵⁴ also indicated to Mr. Bahari that the Vereinsbank document and Shareholders Agreement might have been signed together.
43. Finally, Ms. Ramazanova gave oral testimony that she and her husband Mr. Abdulmajidov were harassed and assaulted because Azerbaijan thought they possessed images of the Shareholders Agreement.⁵⁵ This confirms Azerbaijan was aware of and concerned about the Shareholders Agreement prior to this Arbitration being initiated. If the Shareholders

⁴⁸ Briggs Report, ¶ 6.1.20; SoRJ ¶ 8(c),

⁴⁹ SoRJ ¶¶ 8(c).

⁵⁰ Transcript of Hearing on Jurisdiction and Merits, Day 2, 14:10-25; 15; 16:1; 19:11-18.

⁵¹ Transcript of Hearing on Jurisdiction and Merits, Day 2, 18:9-18; 22:2-8.

⁵² Transcript of Hearing on Jurisdiction and Merits, Day 2, 14:18-25; 15:1-3.

⁵³ Bahari WS3 ¶ 12.

⁵⁴ Transcript of Hearing on Jurisdiction and Merits, Day 2, 23:4-25.

⁵⁵ Transcript of Hearing on Jurisdiction and Merits, Day 4, 106, 107, 108:1-11.

Agreement was not authentic, then Azerbaijan would not have engaged in the extreme and sustained harassment and assaults on Ms. Ramazanova and Mr. Abdulmajidov on multiple occasions with the clear goal of retrieving the Shareholders Agreement.⁵⁶

44. In view of the Parties' respective positions and Ms. Briggs' clarifying testimony, there continues to be no basis to conclude that the Shareholders Agreement is not authentic. The Tribunal should determine that the Shareholders Agreement is a qualifying investment held by Mr. Bahari at all relevant times.

c. Mr. Bahari Invested Substantial Capital in the Caspian Fish Factory and Business

45. Mr. Bahari's investment in the equipment and construction of immovable property of the Caspian Fish business operation in Azerbaijan is a qualifying investment under the Treaty retained by Mr. Bahari at all relevant times.⁵⁷
46. Mr. Bahari has demonstrated that he invested substantial capital for the construction and equipping of the Caspian Fish facility. This has been established through documents that Mr. Bahari was able to retain and locate after he was expelled from Azerbaijan, including: (i) invoices; (ii) agreements and contracts with third-parties; (iii) payment confirmations; (iv) bank receipts and statements; and (v) various shipping documents (e.g., airway bills, bills of lading, certificates of origin, packing lists, etc.).⁵⁸
47. Secretariat concluded that in total, Mr. Bahari submitted evidence of USD 44.418 million in capital investment in Caspian Fish, but considered this to be potentially understated because: (a) it was widely reported that the total foreign investment in Caspian Fish was USD 56 million; and (b) the documents that were available and reviewed indicated that other supplies, equipment, and materials were likely purchased, shipped, and/or delivered to Azerbaijan for the project but are not available.⁵⁹ Further, Secretariat considered that payment by Mr. Bahari can be confirmed or reasonably inferred for a significant majority of the amounts tabulated (89.5%).⁶⁰

⁵⁶ Ramazanova WS1 ¶¶ 26, 29, 31-34, 38; and Abdulmajidov WS1 ¶¶ 15-16, 20, 22-29, 35-38.

⁵⁷ **CLA-001**, Treaty Art. 1.1(iii).

⁵⁸ SoC ¶¶ 79-89; SoR ¶¶ 214-225; SoRJJ ¶¶ 244-260.

⁵⁹ SoR ¶ 216; Secretariat First Report, Sections 3.B and 5.C.

⁶⁰ SoR ¶ 219; Secretariat Second Report, Table 2, Appendix D2.

48. Mr. Bahari also relies on:

- a. the Chartabi Contract for Caspian Fish (**C-92**), which is supported by *inter alia* a letter dated 9 April 2024 from Mr. Samad Chartabi, the brother of Mr. Ahad Chartabi and the CEO of Chartabi Metalworking Industries, which confirmed that Mr. Bahari engaged Mr. Ahad Chartabi for projects in both Iran and in Azerbaijan.⁶¹ Mr. Samad Chartabi declined to appear as a witness in the Arbitration due to his concerns about retribution from Azerbaijan.⁶² This letter, sealed with the company stamp, was submitted in lieu of providing testimony in these proceedings. (See discussion below at **Part. III, §III, C** regarding corroborating evidence of Chartabi Contracting and why the Chartabi Contracts should be afforded weight.)
- b. A letter dated 7 January 2019 signed by Mr. Ahad Chartabi confirming Mr. Bahari paid him in full for the works under all three Chartabi Contracts (**C-86**).⁶³ It is not contested that this 2019 letter is an original document signed by Mr. Ahad Chartabi.⁶⁴
- c. A copy of a check dated 30 September 2000 issued from Mr. Bahari's Coolak Shargh bank account at Iran Bank Melli to Mr. Ahad Chartabi for approximately USD 25 million for [REDACTED] (**C-281**).⁶⁵
 - i. Mr. Bahari's second witness statement and his oral testimony addressed the circumstances surrounding that check being issued to Mr. Chartabi, and how he came into possession of a copy of the check from the son of his former accountant who resided in Azerbaijan.⁶⁶
 - ii. Following questions from Respondent's Counsel and the Tribunal, Mr. Bahari also explained why he was able to issue that check from the

⁶¹ **C-280** Letter from Samad Chartabi, the CEO of Chartabi Metalworking Industries, 9 April 2024.

⁶² Bahari WS2 ¶ 21(b); Transcript of Hearing on Jurisdiction and Merits, Day 3, 137:23-25, 138:1-21.

⁶³ **C-086** Letter from Chartabi Contracting confirming cost of construction works, 7 January 2019.

⁶⁴ SoR ¶ 141.

⁶⁵ **C-281** Iran Bank Mellat Check from Coolak Shargh to Ahad Chartabi dated 30 September 2000

⁶⁶ Bahari WS2 ¶ 21(b); Transcript of Hearing on Jurisdiction and Merits, Day 3, 90-93.

Coolak Shargh bank account at Iran Bank Melli, despite Respondent's attempts to challenge the transaction.⁶⁷

- d. A letter dated 31 March 2024 from Ahad Ghazaei, the former Iranian Ambassador to Azerbaijan during the period when Mr. Bahari was investing in Azerbaijan (**C-279**).⁶⁸ Ambassador Ghazaei confirms that Mr. Bahari implemented, launched, performed, and personally invested in Caspian Fish. He also confirms that he visited and approved and certified the investment on behalf of the Iranian Government.
 - e. Contemporaneous reporting and statements by the then-President of Azerbaijan (**C-91**) and the Government that Caspian Fish was built with foreign investment.⁶⁹
49. As Claimant discussed in the Hearing, the documentary evidence overwhelmingly establishes Mr. Bahari was the capital investor.⁷⁰
50. Three Claimant witnesses with direct experience and knowledge also provide further evidence confirming that it was Mr. Bahari who made the capital investment in Caspian Fish.
- a. Mr. Chin Kwee Hay is the founder and director of Victroplex. He submitted two witness statements that discussed *inter alia* the sale of equipment to Mr. Bahari and its related installation at Caspian Fish (and Coolak Baku) and payments received by him.⁷¹ Mr. Hay attested at the Hearing that:
 - i. he received payment from Mr. Bahari via Mr Bahari's account at Commerzbank, and he was not paid from an account at AtaBank.⁷²
 - ii. Mr. Bahari provided a small sum of cash payments to Mr. Hay in Baku.⁷³
 - b. Mr. Naser Tabesh Moghaddam was Mr. Bahari's in-country manager in Azerbaijan. He submitted two witness statements that discussed, *inter alia*,

⁶⁷ Transcript of Hearing on Jurisdiction and Merits, Day 3, 94-102:1-6.

⁶⁸ **C-279** Letter from Ambassador Ahad Ghazaei to Diamond McCarthy LLP, 31 March 2024.

⁶⁹ **C-091** President Aliyev speech at opening of Caspian Fish Co; see e.g. Second Secretariat Report, pp. 18-19, Table 5; CP-1, p. 1.22; **C-062** Dieter Klaus Photograph – Heydar Aliyev Plaque.

⁷⁰ See **CP-1** Claimant's Opening Slide Presentation, slide 1.22; **CD-4**.

⁷¹ Hay WS1 ¶¶ 9-13.

⁷² Transcript of Hearing on Jurisdiction and Merits, Day 3, 29:9-25, 30, 31, 32:1-12.

⁷³ Transcript of Hearing on Jurisdiction and Merits, Day 3, 36:1-23.

payments that were made for the construction and equipment of Caspian Fish.⁷⁴ Mr. Moghaddam attested at the Hearing that he received funds to pay for equipment and other expenses for Caspian Fish and Coolak Baku from "[REDACTED]"

[REDACTED]⁷⁵

- c. Mr. Dieter Klaus was Mr. Bahari's personal banker at Commerzbank AG during the periods in question. Mr. Klaus has submitted two witness statements that discuss, *inter alia*, his oversight and experience managing Mr. Bahari's bank accounts at Commerzbank, including a bank account dedicated to Mr. Bahari's projects in Azerbaijan. At the Hearing he attested that:
- i. Mr. Bahari was one of his major personal clients and a significant client of Commerzbank as a whole;⁷⁶
 - ii. a specific dedicated account at Commerzbank ([REDACTED]) was established for Mr. Bahari's projects in Azerbaijan, namely Coolak Baku and then Caspian Fish;⁷⁷
 - iii. he knew which project – Coolak Baku or Caspian Fish – payments from this dedicated Azerbaijan project account were for based on the time frame of each project: up to 1997 was for Coolak Baku and then from 1997 was the bigger project, Caspian Fish;⁷⁸
 - iv. based on his discussions with Mr. Bahari at that time, Mr. Klaus understood that it was Mr. Bahari who was developing Coolak Baku and Caspian Fish, and he was the one financing it all.⁷⁹
 - v. he never saw any third party transfers into the dedicated Azerbaijan project account, which he would have recalled because, if there had been, he would have run into compliance issues with Commerzbank;⁸⁰ and

⁷⁴ Moghaddam WS1 ¶¶ 42-47; Moghaddam WS2 ¶ 13.

⁷⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 170:23-25, 171:1-4.

⁷⁶ Transcript of Hearing on Jurisdiction and Merits, Day 4, 159:5-7, 14-17.

⁷⁷ Transcript of Hearing on Jurisdiction and Merits, Day 4, 167:4-9, 14-21; 168:2-17.

⁷⁸ Transcript of Hearing on Jurisdiction and Merits, Day 4, 181:23-25; 182:1-9.

⁷⁹ Transcript of Hearing on Jurisdiction and Merits, Day 4, 168:19-25.

⁸⁰ Transcript of Hearing on Jurisdiction and Merits, Day 4, 169:1-11.

vi. he did not recall any incoming payments from AtaBank and was unfamiliar with the bank overall.⁸¹

d. In response to questions from the Tribunal, Mr. Klaus:

- i. Clarified that non-Commerzbank accounts that carried out transfers to fund Mr. Bahari's accounts were also owned by Mr. Bahari,⁸² and these were primarily other German banks, including HypoVereinsbank⁸³ (for reference, the account opened with the Caspian Fish Shareholders Agreement and for Caspian Fish was at Vereinsbank⁸⁴);
- ii. confirmed that while he was not personally aware of the total USD 56 million being invested in Caspian Fish, it was plausible based on the amount of money moved in and out of the dedicated Azerbaijan project account, with individual transactions of USD4-5 million quickly adding up.⁸⁵ However, Mr. Klaus was not Mr. Bahari's personal accountant, so he did not know the total sums being spent;⁸⁶
- iii. confirmed he was not involved with transactions from Mr. Bahari's accounts in Iranian banks.⁸⁷ (not all of the sums Mr. Bahari spent on Coolak Baku or Caspian Fish originated from his Commerzbank account, i.e. the check dated 30 September 2000 issued from Mr. Bahari's Coolak Shargh bank account at Iran Bank Melli to Mr. Ahad Chartabi for approximately USD 25 million for [REDACTED]⁸⁸); and as Mr. Moghaddam testified, any cash payments that were made from funds derived from sales of soft drinks imported from Iran); and
- iv. explained that, at the request of Mr. Bahari, he spoke with Commerzbank to seek to obtain "[REDACTED]" about Mr. Bahari's accounts at the bank. However, despite three different

⁸¹ Transcript of Hearing on Jurisdiction and Merits, Day 4, 171:10-12, 15-19; 186:16-25; 187; 188:1-16.

⁸² Transcript of Hearing on Jurisdiction and Merits, Day 4, 180:22-25; 181:1-6.

⁸³ Transcript of Hearing on Jurisdiction and Merits, Day 4, 181:7-14.

⁸⁴ **C-007** Vereinsbank Opening of Account Statement dated 13 November 2000.

⁸⁵ Transcript of Hearing on Jurisdiction and Merits, Day 4, 185:9-16.

⁸⁶ Transcript of Hearing on Jurisdiction and Merits, Day 4, 185:17-25; 186:1-2.

⁸⁷ Transcript of Hearing on Jurisdiction and Merits, Day 4, 189:23-25; 190:1-19.

⁸⁸ **C-281** Iran Bank Mellat Check from Coolak Shargh to Ahad Chartabi dated 30 September 2000.

instances where Mr. Klaus visited the bank, Commerzbank said none of the documents were available due to the document retention policies Commerzbank maintained. Mr. Klaus also advised Mr. Bahari to request that his lawyers make an official request to the bank, which was also ultimately unsuccessful.⁸⁹

51. In response to Mr. Bahari's significant weight of evidence, Azerbaijan does not dispute that **someone** paid for the construction and equipping of Caspian Fish or that this required a considerable amount of money. Rather, Azerbaijan contends that it was not Mr. Bahari but Minister Heydarov (or Gilan Holding) that provided all the capital investment, and that Mr. Bahari's 40% shareholding in Caspian Fish BVI represented "sweat equity", not monies invested.
52. But Azerbaijan has produced no primary evidence supporting these assertions. Instead, it proffered two witnesses that purportedly have some limited, second-hand knowledge about this issue:⁹⁰ Mr. Tahir Kerimov, the Managing Director of Caspian Fish from 2001-2002, who submitted two statements; and Mr. Sabutay Hasanov, the Chief Accountant and Managing Director of Caspian Fish between 2000 and 2014, who also submitted two statements.
53. Remarkably, Mr. Kerimov's oral testimony was that Minister Heydarov was unaware of the amounts spent and had no documentation to support any investment in Caspian Fish:
 - a. Mr. Kerimov stated "[REDACTED]"⁹¹ but was unaware of the actual cost.⁹²
 - b. In response to questions from the Tribunal, Mr. Kerimov stated that Minister Heydarov did not have any documents evidencing or supporting his alleged investment in Caspian Fish: "[REDACTED]"⁹³ This is despite

⁸⁹ Transcript of Hearing on Jurisdiction and Merits, Day 4, 190:20-25; 191:1-11.

⁹⁰ See e.g., SoRJJ ¶¶ 184-199.

⁹¹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 124:15-16; 129:18-21.

⁹² Transcript of Hearing on Jurisdiction and Merits, Day 5, 130:2-25; 131:1-25.

⁹³ Transcript of Hearing on Jurisdiction and Merits, Day 5, 149:20-21.

Mr. Kerimov purportedly performing an audit (which is unavailable) to determine how much was spent on the equipment and construction of the plant.⁹⁴

54. If Minister Heydarov had in fact been the person who ultimately paid for the construction and equipment of Caspian Fish, it is simply not credible that he did not know what that amount was or that there were no documents substantiating such investments when Mr. Kerimov performed his audit.
55. Likewise, Mr. Hasanov's oral testimony provides no support for Azerbaijan's contention that Minister Heydarov provided all the capital for the construction and equipment of Caspian Fish. Mr Hasanov's evidence was that:
- a. he had no personal knowledge of Minister Heydarov or Gilan Holding investing in or owning Caspian Fish;⁹⁵
 - b. he was not aware of any documents showing that Gilan Holding owned Caspian Fish;⁹⁶ and
 - c. he was completely unaware of who provided any outside money to Caspian Fish and, in turn, to whom the profits were paid; he only knew of such person or persons as the [REDACTED]" or the [REDACTED]"⁹⁷ and was adamant that he did not know who these were.⁹⁸
56. It is simply not credible that Mr. Hasanov was unable to provide this information. For example, Mr. Hasanov confirmed that during his tenure with Caspian Fish, he was legally required to file reports with the Government about changes in the company's shareholding, ownership, and other corporate records concerning the LLC.⁹⁹ He would necessarily need to know information about the [REDACTED] or [REDACTED]" to file those reports (these reports were never produced by Azerbaijan, despite the Tribunal's orders to do so¹⁰⁰).

⁹⁴ Transcript of Hearing on Jurisdiction and Merits, Day 5, 147:12-25, 148, 149, 150:1-17.

⁹⁵ Transcript of Hearing on Jurisdiction and Merits, Day 5, 148:11-18, 149:1-13.

⁹⁶ Transcript of Hearing on Jurisdiction and Merits, Day 6, 20:21-22.

⁹⁷ Transcript of Hearing on Jurisdiction and Merits, Day 6, 43:16-25, 44, 46.

⁹⁸ Transcript of Hearing on Jurisdiction and Merits, Day 6, 43:22-25, 44:19-23, 47:13-15.

⁹⁹ Transcript of Hearing on Jurisdiction and Merits, Day 6, 55:15-24.

¹⁰⁰ PO6, Claimant's Document Production Request No. 63.

57. As to Gilan Holding, it cannot have invested in the construction and equipping of Caspian Fish before 2001, because it did not exist until ***it was incorporated in 2005***.¹⁰¹ Further, Mr. Hasanov confirmed that based on his experience, Gilan Holding could not have maintained a bank account in Azerbaijan before it was incorporated.¹⁰²
58. In conclusion, even if the Tribunal concludes it cannot rely on the Chartabi Contracts as evidence that Mr. Bahari paid for the construction and equipping of Caspian Fish (discussed below, at **Part. II, §III, C**), the evidence produced by Mr. Bahari conclusively establishes that: (i) Mr. Bahari made payments for the construction and equipping of Caspian Fish, and was not just contributing “sweat” as maintained by Azerbaijan; and (ii) there is no evidence whatsoever that Minister Heydarov provided any, much less *all* (as Respondent asserts), of the capital for constructing and equipping Caspian Fish.

2. The Hearing Conclusively Established that Coolak Baku and Shuvalan Sugar Is a Qualifying Investment

59. Mr. Bahari’s 75% participation under the Coolak Baku JVA (which owned both the Coolak Baku and the Shuvalan Sugar projects) and his contractual right to share of profits of businesses are qualifying investments under the Treaty.¹⁰³
60. Azerbaijan does not dispute the existence of the Coolak Baku JVA or Mr. Bahari’s 75% participation thereunder. Instead, it alleges that Mr. Bahari did not comply with his commitments under the Coolak Baku JVA, by failing to make the necessary capital investment in the technology and equipment required to produce beer and soft drinks, and that the Coolak Baku “facility was never completed (or operational)”¹⁰⁴ and that Shuvalan Sugar did not exist.¹⁰⁵
61. Mr. Bahari’s evidence establishes that he invested substantial capital for the construction and equipping of Coolak Baku and Shuvalan Sugar. This has been established through documents that Mr. Bahari was able to retain and locate after he was expelled from Azerbaijan, including: (i) invoices; (ii) agreements and contracts with third-parties; (iii)

¹⁰¹ SoRJJ ¶ 237; **C-416** State Register Data of Commercial Entities, Result for TIN Search #1400725191. See SoR ¶ 344; **C-318** and **C-319**, Letters from Khazri Solutions, 10 May 2024.

¹⁰² Transcript of Hearing on Jurisdiction and Merits, Day 6, 19:12-25, 20:1-12; 43:3-8.

¹⁰³ **C-001** Coolak Baku Joint Venture Agreement, 23 January 1998; **CLA-001**, Treaty Art. 1.1(i)-(ii), (v).

¹⁰⁴ SoRJ ¶ 305.

¹⁰⁵ SoRJ ¶ 315.

payment confirmations; (iv) bank receipts and statements; and (v) various shipping documents.¹⁰⁶

62. Similar to Caspian Fish, Mr. Bahari also relies on the Chartabi Contracts for Coolak Baku and Shuvalan Sugar (**C-84** and **C-85**); Mr. Ahad Chartabi's letter confirming payment for construction (**C-86**); the Iran Bank Melli Check from Coolak Shargh to Ahad Chartabi dated 30 September 2000 (**C-281**); the letter from Samad Chartaby, the CEO of Chartabi Metalworking Industries confirming Chartabi Contracting's work (**R-280**); and Ambassador Ghazaei's correspondence confirming Mr. Bahari's investments in Azerbaijan (**C-279**).
63. As to the specific issue of beer production, Mr. Bahari relies on, *inter alia*, a 26 April 1999 license that Coolak Baku received from the Ministry of Agriculture to produce beer,¹⁰⁷ which is a business right conferred by law.¹⁰⁸
64. For Shuvalan Sugar, Mr. Bahari also relies on a Certificate of Purchase from Ahan Sanat for works as of 10 September 1998 relating to "[REDACTED]" in the amount of USD 2,736,910.¹⁰⁹
65. In addition to Mr. Bahari, four Claimant witnesses provided consistent, first-hand testimony about Mr. Bahari's investment in Coolak Baku and Shuvalan Sugar and its productivity before and after Mr. Bahari was expelled from Azerbaijan.
66. As previously discussed above, Mr. Klaus gave oral testimony about Mr. Bahari's capital investments in Coolak Baku.
67. Mr. Elchin Suleymanov attested at the Hearing that:
 - a. he was involved with the installation of soft drink and beer equipment at Coolak Baku from 1996 to 1998;¹¹⁰
 - b. he is personally aware that Coolak Baku produced beer around 1998,¹¹¹

¹⁰⁶ SoC ¶¶ 51-56, 62-67; SoR ¶¶ 121-129; SoRJJ ¶¶ 88-111; see **CP-1** Claimant's Opening Slide Presentation, p. 2.20-21.

¹⁰⁷ **C-083** Coolak Baku License, 26 April 1999.

¹⁰⁸ SoR ¶ 777.

¹⁰⁹ **C-376** Ahan Sanat Certificate of Purchase for Works Performed, 1 July 2019; SoR ¶ 147.

¹¹⁰ Transcript of Hearing on Jurisdiction and Merits, Day 4, 36:9-25; 37:1-11.

¹¹¹ Transcript of Hearing on Jurisdiction and Merits, Day 4, 4-10.

- c. the quality of beer produced at Coolak Baku was very good, “[REDACTED]” because of the technology from Bavaria that Mr. Bahari implemented.¹¹²
68. Mr. Suleymanov was not asked about Shuvalan Sugar at the Hearing but has provided written testimony that he performed welding and assembled a sugar pressing machine at Shuvalan Sugar, along with German workers and others from Coolak Baku.¹¹³
69. Mr. Moghaddam was not asked about Coolak Baku or Shuvalan Sugar at the Hearing but has provided written testimony about the capital invested and the productivity of these businesses.¹¹⁴
70. Claimant also relies on the witness statement of Mr. Shahbaz Khalilov for his testimony about his direct experience with the construction and installation of equipment at Coolak Baku¹¹⁵ and Shuvalan Sugar.¹¹⁶ Mr Khalilov was due to attend the Hearing and had travelled to The Hague but was forced to leave The Hague after Azerbaijan threatened him and his family with drastic consequences if he appeared to testify. As the Tribunal is aware, only weeks earlier Azerbaijan indirectly threatened Mr. Bahari’s third-party funder.¹¹⁷ The tribunal in *OOO Manolium Processing v. The Republic of Belarus*, held that “[i]f a witness is unable or unwilling to testify due to actions of the other party, this will violate the party’s right to be heard and to present its case before the tribunal.”¹¹⁸ That reasoning applies equally here. Mr. Bahari maintains that in the circumstances, and to ensure his right to be heard, Mr. Khalilov’s statement should be given its full weight.¹¹⁹
71. Perhaps unsurprisingly given the foregoing, Azerbaijan’s evidence at the Hearing does not support the bare assertion that Mr. Bahari did not invest in Coolak Baku or Shuvalan Sugar or that neither of these facilities were operational. Azerbaijan relies on two “witnesses,” Mr. Rasim Zeynalov and Mr. Habib Aliyev, for support.

¹¹² Transcript of Hearing on Jurisdiction and Merits, Day 4, 37:12-25; 38:1-8; see, e.g., **SEC-182** Eul & Gunther Invoice and Shipping Documents, 1999 (addressed to “[REDACTED]”).

¹¹³ Suleymanov WS1 ¶¶ 22-25.

¹¹⁴ Moghaddam WS1 ¶¶ 25-28; Moghaddam WS2 ¶¶ 11-14.

¹¹⁵ Khalilov WS ¶¶ 10-16.

¹¹⁶ Khalilov WS ¶¶ 17-23.

¹¹⁷ Claimant’s letter to the Tribunal, dated 20 December 2024; Tribunal Letter to the Parties dated 7 January 2025, providing findings and decisions on harassment and intimidation of Claimant’s Third-Party Funder.

¹¹⁸ PCA Case No. 2018-06, in its Decision on Claimant’s Interim Measures Request, 7 December 2018, ¶ 167.

¹¹⁹ Transcript of Hearing on Jurisdiction and Merits, Day 9, 7:11-15; 8-9; 10:1-10; see Procedural Order No. 1 ¶ 7.7

72. Mr Zeynalov made two statements and provided the following oral testimony at the Hearing:

- a. He claimed he was managing the renovation of the facility, but when pressed on what this actually entailed, said [REDACTED].¹²⁰
- b. He admitted that the beer production equipment at Coolak Baku was installed by 1998,¹²¹ which is consistent with Mr. Zeynalov's own video evidence of Coolak Baku dated from April 2003 that shows the beer production facilities were equipped and operational.¹²²
- c. He admitted that the facility did produce soft drinks at one point (although alleged this was only [REDACTED]).¹²³
- d. He stated that Mr. Bahari only invested approximately USD 500,000 in Coolak Baku,¹²⁴ but was unable to give any explanation as to how he knew this.
- e. He said there was some beer production at Coolak Baku, but not very much.¹²⁵ When asked how ASFAN could produce beer in 2005, without having made additional capital investment in the facility beforehand, Mr. Zeynalov responded that ASFAN had made an investment. However, he had never mentioned this in his written statements,¹²⁶ there is no documentation to support this assertion, and as discussed below, Mr. Habib Aliyev contradicted this.

73. Mr. Habib Aliyev also gave two statements and appeared at the Hearing. His evidence was that:

- a. He was not formally involved with ASFAN until 2003,¹²⁷ well after Mr. Bahari had made his investments in Coolak Baku and well after Mr. Bahari had been expelled

¹²⁰ Transcript of Hearing on Jurisdiction and Merits, Day 5, 186:8-17.

¹²¹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 229:9-25; 230:1-25.

¹²² **R-292** Video of Coolak Baku provided by Mr Zeynalov dated 30 April 2003.

¹²³ Transcript of Hearing on Jurisdiction and Merits, Day 5, 229:9-25; 230:1-25.

¹²⁴ Transcript of Hearing on Jurisdiction and Merits, Day 5, 219:21-25; 220:1-15.

¹²⁵ Transcript of Hearing on Jurisdiction and Merits, Day 5, 228:5-7.

¹²⁶ Transcript of Hearing on Jurisdiction and Merits, Day 5, 225:8-25; 226; 227; 228:1-17.

¹²⁷ Transcript of Hearing on Jurisdiction and Merits, Day 6, 135:20-23.

from Azerbaijan. Before that, he had attended the Coolak Baku facility only “[REDACTED]” to accompany his father, Mr. Adil Aliyev.¹²⁸

- b. Despite being elected to the board of Coolak Baku, Mr. Aliyev denied ever having any involvement at Coolak Baku.¹²⁹
 - c. He understood that USD 28 million was the amount that Mr. Bahari was to invest to complete Coolak Baku.¹³⁰ ASFAN provided the property for the facility and Mr. Bahari was responsible for the purchase and installation of equipment, the renovation and construction of the facility.¹³¹
 - d. ASFAN was producing beer at the Coolak Baku facility as early as 2004, using equipment that still belonged to the Coolak Baku joint venture.¹³²
74. As ASFAN was able to produce beer in 2004 using equipment and technology from the Coolak Baku joint venture, without any additional capital investment from ASFAN, it necessarily follows that Mr. Bahari made the necessary USD 28 million investment in Coolak Baku.
75. It is also clear from his testimony that Mr. Aliyev had a very limited understanding and involvement with Coolak Baku and the accuracy of the positions in his witness statements is thus unreliable at best.
76. As discussed in **Part. IV, §III** (quantum), Azerbaijan was ordered to produce financial documents, tax records, records of licenses and permits, and other evidence relating to Coolak Baku’s profitability (including Shuvalan Sugar) responsive to Claimant Document Requests.¹³³
77. Overall, the oral testimony given at the Hearing by both Parties’ witnesses establishes that Mr. Bahari made the necessary investments into Coolak Baku (and Shuvalan Sugar)

¹²⁸ Transcript of Hearing on Jurisdiction and Merits, Day 6, 136:9-13.

¹²⁹ Transcript of Hearing on Jurisdiction and Merits, Day 6, 149:10-25; 150:1-23.

¹³⁰ Transcript of Hearing on Jurisdiction and Merits, Day 6, 144:23-25; 145; 146:1-4.

¹³¹ Transcript of Hearing on Jurisdiction and Merits, Day 6, 163:8-19; 165:1-9.

¹³² Transcript of Hearing on Jurisdiction and Merits, Day 6, 168:5-24.

¹³³ SoRJJ ¶ 123; Claimant’s Document Request 140 (licenses, permits, etc. re: for sale of alcohol, soft drinks, and other products), Request 141 (Coolak Baku tax records); Request 143 (documents related to export exhibits R-73 to R-76); Request 154 (tax records for Shuvalan Shirmiyat JSC); Request 159 (licenses, permits, etc. granted to ASFAN); Request 161 (Zeynalov tax records 2003 to present); Request 162 (property records for 25 Safar Aliyev land plot)).

under the JVA, and that the facilities were equipped and operational. Accordingly, there can be no challenge on this basis to Mr. Bahari's possessing a qualifying investment in Coolak Baku and Shuvalan Sugar.

3. Ayna Sultan Is a Qualifying Investment

78. As demonstrated in Claimant's submissions,¹³⁴ the Ayna Sultan property is a qualifying investment under the Treaty.¹³⁵ Mr. Bahari has provided evidence that he invested in the property to build a prestigious office building that would be the headquarters for his various Azerbaijan businesses.¹³⁶ In support, he has produced a Technical Passport, which is an Azeri government-issued document that, among other things, shows that the Government privatized a specific piece of real property that is capable of ownership by a foreign individual.¹³⁷ In response to the only question put to him on this topic at the Hearing, Mr. Bahari attested that Azerbaijan issued him Technical Passport, thereby granting him ownership over the property.¹³⁸
79. As the circumstances have become clearer in this Arbitration, Claimant has significantly explained Azerbaijan's wrongful conduct in relation to the Ayna Sultan property,¹³⁹ and further discusses that conduct in the context of the Hearing below.

4. The Persian Carpets Are a Qualifying Investment

80. As demonstrated in Claimant's submissions,¹⁴⁰ Mr. Bahari's antique Persian Carpets are a qualifying investment under the Treaty.¹⁴¹ At the Hearing Mr. Bahari attested that he purchased the Persian Carpets to develop and build the world's largest Persian carpet

¹³⁴ SoC ¶¶ 95-100, 439; SoR ¶¶ 784-790; SoRJJ ¶¶ 342-386.

¹³⁵ **CLA-001**, Treaty Art.1(1)(iii).

¹³⁶ Bahari WS1 ¶ 48.

¹³⁷ **C-016** Ayna Sultan Registration Voucher and Technical Passport – 29 May 1996.

¹³⁸ Transcript of Hearing on Jurisdiction and Merits, Day 3, 132:17-25.

¹³⁹ SoR ¶ 471-544; SoRJJ ¶¶ 342-386.

¹⁴⁰ SoC ¶¶ 101-122, 439; SoR ¶¶ 791-794 ; SoRJJ ¶¶ 387-389.

¹⁴¹ **CLA-001**, Treaty Art.1(1)(iii).

museum in Baku.¹⁴² Mr. Moghaddam, who was directly involved with the purchasing of the carpets, attested that they were extremely rare and valuable.¹⁴³

81. The protection certificate issued by the Ministry of Culture (**R-36**) demonstrates that as of 26 July 2002 Azerbaijan had permanently taken 264 of Mr. Bahari's Persian Carpets without allowing him any opportunity engage in or contest that decision.¹⁴⁴ Despite agreeing to produce relevant documents,¹⁴⁵ Azerbaijan failed to produce any documents or record of these 264 carpets, including for consideration by the Parties' respective experts¹⁴⁶ The inference from Azerbaijan's deficient document production is that these carpets have significant value. (see **Part. IV, §III** on quantum below.)

B. THE TREATY IS APPLICABLE TO MR. BAHARI'S INVESTMENTS

82. The Parties have extensively briefed and submitted multiple expert legal opinions on the application of the Treaty and its Article 9 to Mr. Bahari's investments.¹⁴⁷ The following discussion is therefore confined to Respondent's submissions on this topic at the Hearing.¹⁴⁸
83. Overall, Respondent continues to argue for an interpretation of Article 9 that results in an empty promise of protection under the Treaty for Iranian investors and a resulting imbalance between the Treaty's contracting parties. This interpretation not only contravenes Article 31 of the VCLT, but also undermines the Treaty's object and purpose and Respondent's obligation to protect Iranian investments in Azerbaijan. Respondent cannot rewrite the Treaty's terms and its obligations to meet its specific goals in the current Arbitration.

¹⁴² Transcript of Hearing on Jurisdiction and Merits, Day 3, 147:2-25, 148, 149:1-14.; see Bahari WS1 ¶¶ 50-66; Bahari WS2 ¶ 27.

¹⁴³ Transcript of Hearing on Jurisdiction and Merits, Day 3, 171:6-20; 17:9-25; 178:1-4.

¹⁴⁴ **R-36** Protection Certificate granted by the Ministry of Culture of the Republic of Azerbaijan for No. 300 issued on 26 July 2002

¹⁴⁵ PO6, Claimant Document Production Request No. 176.

¹⁴⁶ Transcript of Hearing on Jurisdiction and Merits, Day 1, 37:3-23.

¹⁴⁷ SoD ¶¶ 127-157; SoR ¶¶ 795-858; SoRJ ¶¶ 204-253; SoRJJ ¶¶ 476-506; First Schill Legal Opinion; Second Schill Legal Opinion; First Vandeveld Report; Second Vandeveld Report.

¹⁴⁸ **Tribunal Hearing Question no. 1:** [REDACTED]

84. At the Hearing, Claimant explained why Mr. Bahari's investments had all the approvals needed pursuant to the Treaty. In particular, (i) investments which existed prior to the entry into force of the Treaty were covered investments by virtue of Article 12(1) and, therefore not subject to the approval requirement in Article 9; (ii) alternatively, Article 9 is not applicable because it was never operationalized by Azerbaijan; and (iii) in the further alternative, and in any event, Azerbaijan did approve his investments.¹⁴⁹ These arguments are addressed in turn.

1. Investments Covered by Article 12(1) Are Not Subject to Article 9

85. Azerbaijan contended at the Hearing that, even though Article 12(1) of the Treaty provides that "[REDACTED]
[REDACTED] those existing investments were still required, after the Treaty entered into force, to obtain approvals as set out in Article 9 of the Treaty in order to enjoy the benefit of the Treaty.¹⁵⁰
86. Properly interpreted in accordance with the customary international law rule reflected in Article 31 of the VCLT, investments covered by virtue of Article 12(1) are not subject to the approval requirement in Article 9.
87. On the ordinary meaning of its words, Article 12(1) says "It", i.e. "this Agreement", "shall apply to investments existing at the time of entry into force" without qualification and without reference to Article 9. Had Azerbaijan and Iran intended pre-entry-into-force investments under Article 12 to be subject to the requirements of Article 9, they could have said so in the text, including by modeling the language from the 1987 ASEAN Agreement, or making specific reference to Article 9 approval.¹⁵¹ For example, this language was employed in Iran's 2001 BIT with Morocco – a treaty virtually contemporaneous with the one at issue.¹⁵²
88. The fact that Article 12 of the Treaty is silent on approval requirements under Article 9 for pre-existing investments should lead the Tribunal to conclude that the Parties' omission was deliberate. Additionally, that reading aligns with the consistent investment treaty

¹⁴⁹ See Transcript of Hearing on Jurisdiction and Merits, Day 9, 52-63.

¹⁵⁰ Transcript of Hearing on Jurisdiction and Merits, Day 1, 188:12-13. **Tribunal Hearing Question no. 1:** [REDACTED]

¹⁵¹ First Schill Opinion ¶¶ 54, fn. 65, 277. See also Question by Sir Daniel at Transcript of Hearing on Jurisdiction and Merits, Day 9, 60:11-25; 61:1-18.

¹⁵² First Schill Opinion ¶ 54, fn. 63.

policy and practice of Azerbaijan, which has been to agree to protect pre-existing investments subject to the condition that they have been made in accordance with host State law.¹⁵³

89. Additionally, requiring Article 9 approval for an investment made pre-entry-into-force when no domestic treaty approval requirement existed would render Article 12(1)(3) superfluous and contravene the principle of effective interpretation (*effet utile*).¹⁵⁴ Articles 9 and 12 of the Treaty must be read together and the better view is that Article 12(1)(3) is a “grandfather” clause – a provision that exempts facts of long duration from prospective regulatory requirements in a new legal regime.¹⁵⁵
90. As explained in Claimant’s closing submissions and in Professor Schill’s legal opinions,¹⁵⁶ there could be no Article 9 approval requirement because there was no equivalent Azerbaijan domestic treaty approval requirement:



91. As Azerbaijan had no domestic treaty approval requirement when Mr. Bahari’s investments were made,¹⁵⁸ there could not have been such a requirement when Mr. Bahari made his investments.¹⁵⁹

¹⁵³ First Schill Opinion ¶¶ 187-195, 278.

¹⁵⁴ Second Schill Opinion ¶ 75.

¹⁵⁵ Transcript of Hearing on Jurisdiction and Merits, Day 9, 54:11-15.

¹⁵⁶ Transcript of Hearing on Jurisdiction and Merits, Day 9, 52:13-17.

¹⁵⁷ Second Schill Opinion, ¶ 88.

¹⁵⁸ First Schill Opinion, ¶¶ 73-74, noting that “[redacted]”, citing Mustafayev Report, ¶ 40 and WS Valiyev, ¶¶ 34-37; see also Second Schill Legal Opinion, ¶ 75.

¹⁵⁹ First Schill Opinion, ¶¶ 31-33; see also Transcript of Hearing on Jurisdiction and Merits, Day 9, 61:20-25; 62:1-19.

92. Azerbaijan offered no legal arguments at the Hearing supporting its claim that Article 9 was meant to supersede Article 12 and require all existing Iranian investors in Azerbaijan to retroactively obtain approvals for their investments when the Treaty entered into force.

2. Alternatively, Article 9 Is Not Applicable Because It Was Never Operationalized by Azerbaijan

93. Azerbaijan's retroactive approval theory is all the more absurd since the Ministry described in Article 9 of the Treaty as the "competent authority" was abolished by Presidential Decree on 24 June 1997, several months after the conclusion of the Treaty in October 1996 *and almost five years before the Treaty entered into force* on 20 June 2002.¹⁶⁰ This fact is undisputed.
94. In addition, it is undisputed that, prior or subsequent to the entry into force of the Treaty:
- a. Azerbaijan did not update Article 9;
 - b. Azerbaijan adopted no domestic legislation establishing a new "*competent authority*";
 - c. Azerbaijan never designated a replacement competent authority under Article 9;
 - d. Azerbaijan never notified Iran (or Iranian investors) that a purported successor competent authority to the MFER had assumed the role of "competent authority" under Article 9.¹⁶¹
95. There has never been a competent authority in the Azerbaijani Government for the purposes of Article 9. The notion of approval being available is illusory, which is why Respondent's Counsel stated that it is "[REDACTED] under the Treaty."¹⁶²¹⁶³
96. Instead, Azerbaijan argued that the competent authority under Article 9 endured through a theory of alleged succession.¹⁶⁴ However, as Professor Schill explains, the competent authority under Article 9 cannot be understood to be any of the successor ministries

¹⁶⁰ **C-233** Decree of the President of the Republic of Azerbaijan "on the abolition of the Ministry of Trade and the Ministry of Foreign Economic Relations and the establishment of a new Ministry" (Act No. 607 of 24 June 1997).

¹⁶¹ First Schill Opinion ¶ 269.

¹⁶² Transcript of Hearing on Jurisdiction and Merits, Day 1, 177:12-14.

¹⁶³ See *also* First Schill Opinion ¶ 214.

¹⁶⁴ Transcript of Hearing on Jurisdiction and Merits, Day 1, 177:25, 178, 179:1-17, 189:25, 190, 191, 192:1-10.

Azerbaijan has sought to rely on in these proceedings. While these ministries may arguably be functional successors to the MFER under Azerbaijani law, for purposes of Article 9 it remains relevant that naming the specific ministry as the competent authority serves the necessary purpose of allowing Iran and Iranian investors to inform themselves of whom the go-to authority for approval is.¹⁶⁵ This purpose aligns with the rule-of-law character of BITs and the need for transparency and legal certainty and predictability that flows from the duty to provide foreign investors with fair and equitable treatment, all of which is undermined if a State can unilaterally abolish and then never replace a competent authority expressly named in a treaty, without informing the other contracting State or its investors.¹⁶⁶

97. Against the background of both Iran's and Azerbaijan's consistent BIT practice, it is inconceivable that the approval requirement in Article 9 could have been intended to permit excluding the application of the Treaty to a specific investment for lack of approval in the absence of a domestic framework that determines the procedures and requirements for an investor to apply for and be granted, or be refused, approval of its investment.¹⁶⁷
98. Respondent's response to this predicament was that none of this is actually problematic because an Iranian investor could have simply written to the Government, explained that it wished to avail itself of the Treaty, and that would have sufficed.¹⁶⁸ Indeed, Respondent argued that "[REDACTED]
[REDACTED]",¹⁶⁹ apparently because "[REDACTED]
[REDACTED]
[REDACTED]"¹⁷⁰ This cannot be a serious position and speaks volumes about the material flaws in Respondent's argument.
99. If Azerbaijan's accepted and established practice concerning interpretation and application of Article 9 of the Treaty truly were as it now maintains, it would not have waited

¹⁶⁵ Second Schill Opinion ¶ 119.

¹⁶⁶ First Schill Opinion ¶ 282.

¹⁶⁷ First Schill Opinion, ¶¶ 209-213, 240-250, 279-280; Second Schill Opinion ¶ 32.

¹⁶⁸ Transcript of Hearing on Jurisdiction and Merits, Day 1, 173:15-19; 176:14-18.

¹⁶⁹ Transcript of Hearing on Jurisdiction and Merits, Day 1, 178:15-16.

¹⁷⁰ Transcript of Hearing on Jurisdiction and Merits, Day 1, 177:4-7.

until the Hearing to make this submission. The details of the process would have been well-established and set out in its written pleadings, but they are nowhere to be seen.¹⁷¹

100. Further, as discussed by Professor Schill, Article 9 cannot be understood as a provision that permits the approval process and decision-making relating to foreign investments by the respective host State's competent authority to be entirely discretionary.¹⁷² A change to the competent authority listed in Article 9 of the Treaty has international consequences; and has to be understood as a designation, which has an international character and is not purely an internal discretionary matter.¹⁷³
101. Even assuming arguendo that Azerbaijan's hypothetical is what Mr. Bahari or any Iranian investor should have done,¹⁷⁴ Mr. Bahari did in fact apply to the Ministry of Justice, as an Iranian investor making an investment in Azerbaijan, and received the necessary approvals under Azerbaijani domestic law.¹⁷⁵ There is no indication that the Ministry of Justice, as a "[REDACTED]"¹⁷⁶ or even "[REDACTED]"¹⁷⁷ considered it necessary or appropriate to "[REDACTED]"¹⁷⁸ upon receipt of those applications. Respondent's hypothetical was belied by its practice.
102. Taking a different tack, Respondent referred to Iran's legislation that "[REDACTED]"¹⁷⁹ and that "[REDACTED]"¹⁸⁰ Respondent argued that "[REDACTED]"¹⁸¹ to grant protections to an investor, particularly the ability to closely scrutinize someone with "[REDACTED]"¹⁸¹ But Azerbaijan does not have, and has never had, this

¹⁷¹ See Second Schill Opinion ¶ 95.

¹⁷² First Schill Opinion, ¶¶ 279-280; *compare* with Transcript of Hearing on Jurisdiction and Merits, Day 1, 180:11-15.

¹⁷³ Second Schill Opinion ¶ 95.

¹⁷⁴ Transcript of Hearing on Jurisdiction and Merits, Day 1, 178:15-23.

¹⁷⁵ See SoC ¶¶ 441-442; **C-003** Charter of Representative Office of Caspian Fish Co., Inc. dated 27 April 1999; **C-004** Shareholders Agreement for Caspian Fish Co. Inc. dated 27 April 1999; **C-001** Coolak Baku Joint Venture Agreement dated 23 January 1998; **C-016** Ayna Sultan Registration Voucher and Technical Passport, 29 May 1996, pp. 3-6 of the PDF.

¹⁷⁶ Transcript of Hearing on Jurisdiction and Merits, Day 1, 177:4.

¹⁷⁷ Transcript of Hearing on Jurisdiction and Merits, Day 1, 178:15-16.

¹⁷⁸ Transcript of Hearing on Jurisdiction and Merits, Day 1, 177:4-7.

¹⁷⁹ Transcript of Hearing on Jurisdiction and Merits, Day 1, 180:20-23.

¹⁸⁰ Transcript of Hearing on Jurisdiction and Merits, Day 1, 181:4-8.

¹⁸¹ Transcript of Hearing on Jurisdiction and Merits, Day 1, 182:7-13.

type of legislation.¹⁸² Thus, this comparison only further demonstrates that Azerbaijan did not consider Article 9 approval as an essential part of the Treaty or its related policy decisions.¹⁸³

103. In any event, Respondent's new argument overlooks that it did scrutinize and perform due diligence on Mr. Bahari and his Iranian background when he was investing in Azerbaijan, as evidenced by Azerbaijan's own documents, his close partnerships with senior Government officials, and the Ministry of Justice approvals.¹⁸⁴
104. Respondent's recent accusations about Mr. Bahari's purported connections to the Iranian government are wholly unsubstantiated, false, and slanderous (including the allegation at the Hearing that Mr. Bahari's advisor, Dr. Reza Tabrizi, is an Iranian agent¹⁸⁵). Regardless, it remains unclear what relevance those accusations have to this Arbitration besides Respondent's repeated attempts to disparage Mr. Bahari and frustrate his claim by *inter alia* indirectly threatening his third-party funder and witnesses on the eve of the Hearing.¹⁸⁶

3. In Any Event, Mr. Bahari's Investments Were Approved by Azerbaijan

105. As set out above, if, contrary to Mr. Bahari's primary case, an investment covered by the Treaty by virtue of the last sentence of Article 12(1) is subject to the approval requirement in Article 9, what that approval requires must be interpreted in light of the context of Article 9 at the time the Treaty was concluded and entered into force, and in light of the Treaty's object and purpose as reflected in paragraphs 1-3 of the preamble and Article 2(1).

¹⁸² First Schill Opinion, ¶¶ 73-74, noting that "[redacted]", citing Mustafayev Report, ¶ 40 and WS Valiyev, ¶¶ 34-37.

¹⁸³ First Schill Opinion, ¶ 248.

¹⁸⁴ SoC ¶¶ 441-442; SoR ¶¶ 115, 857; C-275 Confirmation from the Iranian Embassy in the Republic of Azerbaijan that Mr. Bahari is working in Coolak Shargh, 13 July 1995; see also C-329 [Respondent Document Production - 127_03] Letter from Iranian Government for presentation to the Embassy of Azerbaijan in Iran re soft drink production, 19 February 1995; C-276 Letter from Bank Refah Kargaran to the Embassy of Republic of Azerbaijan, 27 February 1996; C-277 Data related to Coolak Shargh from the Ministry of Commerce of Islamic Republic of Iran, 20 February 1998.

¹⁸⁵ Transcript of Hearing on Jurisdiction and Merits, Day 2, 1:9-25; 2-6:1-16.

¹⁸⁶ Claimant's letter to the Tribunal, dated 20 December 2024; Tribunal Letter to the Parties dated 7 January 2025, providing findings and decisions on harassment and intimidation of Claimant's Third-Party Funder.

106. As already noted, it is not disputed that the MFER was abolished by Presidential Decree on 24 June 1997,¹⁸⁷ and that no replacement authority or process was nominated under the Treaty or otherwise under domestic legislation. In the circumstances, where the “*competent authority*” listed in Article 9 no longer existed, any requirement for approval in its first sentence must be interpreted in light of such approval processes as there were in place.
107. Mr. Bahari took care to comply with Azerbaijani laws relevant to his investments at the time they were made.¹⁸⁸ In particular, he sought and obtained approval of his investments through competent authorities of the Azeri Government. This included the Ministry of Justice, which was specifically empowered and responsible under Azerbaijan’s Law on the Protection of Foreign Investments to review, approve, and register foreign investments in the form of or participation in corporate bodies.¹⁸⁹
108. Mr. Bahari and his investments were in full compliance with the laws and regulations of Azerbaijan, and they had been reviewed and approved by the competent authorities of the Azeri Government as foreign investments of an Iranian national in Azerbaijan. This is exactly what is contemplated in paragraphs 1-3 of the preamble, Article 2(1), and Article 9 of the Treaty.
109. To conclude, Tribunal has jurisdiction *rationae materiae* over Claimant’s investments and its jurisdiction is not precluded by reason of Article 9.

¹⁸⁷ **C-233** Decree of the President of the Republic of Azerbaijan “on the abolition of the Ministry of Trade and the Ministry of Foreign Economic Relations and the establishment of a new Ministry” (Act No. 607 of 24 June 1997).

¹⁸⁸ See SoC ¶¶ 441-442; SoR ¶¶ 115, 857; **C-003** Charter of Representative Office of Caspian Fish Co., Inc. dated 27 April 1999; **C-004** Shareholders Agreement for Caspian Fish Co. Inc. dated 27 April 1999; **C-001** Coolak Baku Joint Venture Agreement dated 23 January 1998; **C-016** Ayna Sultan Registration Voucher and Technical Passport – 29 May 1996, PDF pp. 3-6; **C-275** Confirmation from the Iranian Embassy in the Republic of Azerbaijan that Mr. Bahari is working in Coolak Shargh, 13 July 1995; see also **C-329** [Respondent Document Production - 127_03] Letter from Iranian Government for presentation to the Embassy of Azerbaijan in Iran re soft drink production, 19 February 1995; **C-276** Letter from Bank Refah Kargaran to the Embassy of Republic of Azerbaijan, 27 February 1996; **C-277** Data related to Coolak Shargh from the Ministry of Commerce of Islamic Republic of Iran, 20 February 1998.

¹⁸⁹ SoC ¶¶ 382-385, 397; **C-212** Foreign Investment Law, Art. 18; see **C-213** Decree on Application of the Former State Registration Law dated 17 December 1996, No. 521: provides that the power of the “relevant executive authority” referred to in Art. 18 of **C-212** Foreign Investment Law shall be exercised by the Ministry of Justice.

III. RESPONDENT'S ADMISSIBILITY OBJECTION BASED ON CHARTABI CONTRACTING IS INAPPROPRIATE, UNPROVEN, AND TIME-BARRED

110. The Admissibility Objection advanced by Respondent at the eleventh hour of this Arbitration argued for the first time that Mr. Bahari's claims should be dismissed in their entirety as inadmissible on the alleged basis that Bahari sought to perpetrate a fraud on the Tribunal by submitting documents with the Statement of Claim that he represented to be the Chartabi Contracts but were, in fact, signed documents created for these proceedings because Mr. Bahari lost the original versions of the Chartabi Contracts.¹⁹⁰
111. This Objection must be rejected for two reasons, as expanded below.¹⁹¹ *First*, and most fundamentally, there was no fraud on the Tribunal. Mr. Bahari has admitted, long before the Hearing, that it was an error to submit the Chartabi Contracts without explaining that they represented an attempt to recreate the originals. Both Azerbaijan and the Tribunal were on notice of that fact since at least Claimant's Statement of Reply.
112. *Second*, and at the same time, Azerbaijan's request for the dismissal of the claims based on the Chartabi Contracts is, effectively, a jurisdictional challenge which should be dismissed as time-barred under Article 23(2) of the governing UNCITRAL Arbitration Rules.
113. *Finally*, Mr. Bahari maintains that the Tribunal can rely on the Chartabi Contracts as evidence of Mr. Bahari's employment and payment of a general contractor on Caspian Fish, Coolak Baku, and Shuvalan Sugar projects and the related issue of quantum.

A. THERE IS NO FRAUD ON THE TRIBUNAL OR ABUSE OF PROCESS

1. There Is No Basis to Find Mr. Bahari's Claim Is Inadmissible Based on the Evidence of Chartabi Contracting

114. The Admissibility Objection is rife with vigorous accusations that in putting forward Chartabi Contracting as the general contractor on his projects Mr. Bahari has sought to "perpetrate a fraud on the Tribunal," his witnesses "participated in the fraud on the

¹⁹⁰ Respondent's Post Hearing Admissibility Objection, ¶¶ 8-61.

¹⁹¹ Tribunal Hearing Question no. 7: [REDACTED]

Tribunal,” his experts acted with “blind faith” on Claimant’s evidence, and numerous documents Claimant produced “are pure forgeries.”¹⁹²

115. Azerbaijan’s hyperbolic allegations of widespread fraud and unclean hands are unsubstantiated and fall manifestly short of the evidentiary standard required for the Tribunal to entertain such a serious accusation. There is no credible basis for the assertion that Mr. Bahari – or any individual associated with him in these proceedings – engaged in fraudulent conduct in this Arbitration.
116. Moreover, no international court or tribunal has ever ruled a claim inadmissible on the grounds of the provenance of certain pieces of evidence. Rather, the authorities Azerbaijan relies on all uniformly stand for the proposition that an investment will not be afforded protection if it has been created or performed in violation of national laws or international principles of good faith. This is not the situation alleged against Claimant.
- a. In *Hamester v. Ghana* the respondent challenged the tribunal’s jurisdiction on the basis that the investment at issue was not made in compliance with the host State laws, as required by applicable BIT, and “the investment was tainted with substantial fraud, both in its initiation and in its performance throughout the years.”¹⁹³
 - b. *Phoenix Action v. Czech Republic* recognised that an investment not performed in good faith could not benefit from the protection of an investment treaty.¹⁹⁴
 - c. In *Europe Cement v. Turkey* and *Cementownia v. Turkey* the tribunal held that the claimants attempted to initiate arbitration despite not legitimately owning their alleged investments.¹⁹⁵

¹⁹² Respondent’s Post Hearing Admissibility Objection, ¶¶ 7, 28, 33, and 41.

¹⁹³ *Gustav F W Hamester GmbH & Co KG v. Republic of Ghana*, ICSID Case No. ARB/07/24, Award, 18 June 2010, ¶ 96 (**CLA-032**). See also ¶ 123, summarizing *Phoenix Action, Ltd. v. Czech Republic*, ICSID Case No. ARB/06/5, Award, April 15, 2009, ¶ 101.

¹⁹⁴ Respondent’s Post Hearing Admissibility Objection, ¶¶ 86(b), 91; *Phoenix Action, Ltd. v. Czech Republic*, ICSID Case No. ARB/06/5, Award, April 15, 2009 (**CLA-099**), ¶ 101.

¹⁹⁵ Respondent’s Post Hearing Admissibility Objection, ¶¶ 86(c); *Europe Cement Investment & Trade S.A. v. Turkey*, ICSID Case No. ARB(AF)/07/2, Award, 13 August 2009, (**RLA-144**); *Churchill Mining and Planet Mining v Indonesia*, ICSID Case No. ARB/12/40 and 12/14, Award, 6 Dec. 2016, (**RLA-300**), ¶ 499.

- d. In *Inceysa Vallisoletana v. El Salvador* the claimants provided false information to obtain the investment.¹⁹⁶
 - e. In *Churchill Mining v. Indonesia* the tribunal held that an investment premised on fraudulent and unlawful means could not be afforded protection under international public policy.¹⁹⁷
 - f. In *Plama Consortium Limited v. Bulgaria* the tribunal held that an investment obtained by deceitful conduct is contrary to the principle of good faith that is part of international law.¹⁹⁸
117. At no time prior to or in this Arbitration has Respondent alleged that Mr. Bahari's investments in Azerbaijan were obtained, created, or performed unlawfully, in bad faith, or by deceitful conduct. On that basis alone, Respondent's authorities are wholly distinguishable and do not support the Admissibility Objection.
118. In fact, Azerbaijan concedes that the authorities it relies on provide no support, noting that "the falsified documents in the cases described above differ in nature and purpose from the Purported Chartabi Contracts...[.]"¹⁹⁹ Attempting to square this circle, Respondent submits that because the Chartabi Contracts are central to Mr. Bahari's case concerning the alleged financing of his investments, the Tribunal should find that the principle purpose of the Admissibility Objection is the same.²⁰⁰ Not so.
119. The Chartabi Contracts were submitted as one piece of evidence to corroborate the overall amount Mr. Bahari spent on constructing the Projects. That has been the consistent position prior to the Admissibility Objection,²⁰¹ including Azerbaijan's statement that
 [REDACTED]
 [REDACTED]"²⁰²

¹⁹⁶ Respondent's Post Hearing Admissibility Objection, ¶¶ 86(a), 97; *Churchill Mining and Planet Mining v. Indonesia*, ICSID Case No. ARB/12/40 and 12/14, Award, 6 Dec. 2016, (RLA-300), ¶ 496.

¹⁹⁷ *Churchill Mining and Planet Mining v. Indonesia*, ICSID Case No. ARB/12/40 and 12/14, Award, 6 December 2016, (RLA-300), ¶ 528.

¹⁹⁸ *Plama Consortium Limited v. Bulgaria*, ICSID Case No. ARB/03/24, Award, August 27, 2008, RLA-304, ¶¶ 143-144

¹⁹⁹ Respondent's Post Hearing Admissibility Objection, ¶ 101.

²⁰⁰ Respondent's Post Hearing Admissibility Objection, ¶ 101.

²⁰¹ See e.g., Respondent's Document Inspection Requests dated 17 May 2024, Request No. 2, p. 2.

²⁰² Respondent's Document Inspection Requests dated 17 May 2024, Request No. 2, p. 2.

120. Additionally, reliance on *Europe Cement v. Turkey* and *Churchill Mining v. Indonesia* for the proposition that Mr. Bahari somehow did not act in good faith in these proceedings or has unclean hands is equally unavailing.

a. In *Europe Cement v. Turkey*, the claimant submitted copies of share certificates and share purchase agreements that allegedly evidenced its ownership in the investments at issue. When the tribunal ordered the claimant to produce the originals of those documents to test their authenticity, the claimant failed to produce them.²⁰³ Despite this manifest difference, Respondent contends that *Europe Cement* “directly parallels” the current circumstances, concluding that because “Mr. Bahari cannot provide the ‘originals’ of the Purported Chartabi Contracts and presents only the alleged ‘versions’ fabricated in 2019,” he has acted in bad faith. That is incorrect – the Chartabi Contracts are not evidence of an investment, Mr. Bahari cannot produce the originals because of Azerbaijan’s breaches of the Treaty, and Mr. Bahari has acted with transparency and full candor.

b. Likewise, *Churchill Mining v. Indonesia* is distinguishable. As Respondent notes, the tribunal dismissed the claim as inadmissible after determining that mining licenses obtained during the performance of the investment were forged.²⁰⁴ Again, the investor’s specific conduct in the performance and oversight of the investment was at issue and the documents at issue went directly to that conduct. That is not analogous to the facts or issues in this Arbitration.

121. The Chartabi Contracts are not an “essential element” of Mr. Bahari’s claims. He made numerous qualifying investments in Azerbaijan that are entitled to protection under the Treaty, and none of which turns on the Chartabi Contracts.

2. Mr. Bahari Has Not Engaged in Fraud or Abuse of Process

122. Even if (*quod non*) it were accepted that holding an entire claim inadmissible could be an appropriate remedy where certain pieces of evidence are found to be fabricated, the facts do not support that conclusion in this case.

²⁰³ *Europe Cement Investment & Trade S.A. v. Turkey*, ICSID Case No. ARB(AF)/07/2, Award, 13 August 2009, (RLA-144), ¶ 141.

²⁰⁴ Respondent’s Post Hearing Admissibility Objection, ¶103; *Churchill Mining and Planet Mining v. Indonesia*, ICSID Case No. ARB/12/40 and 12/14, Award, 6 December 2016, (RLA-300), ¶ 557.

123. The principles concerning the treatment of fraud allegations in the cases cited in support can be summarized as follows:
- a. “[T]he Respondent carries the burden of proving forgery and fraud, which proof will be measured on a standard of balance of probabilities.”²⁰⁵ This also reflects the basic rule in Article 24(1) of the UNCITRAL Arbitration Rules that: “Each party shall bear the burden of proving the facts relied on to support his claim or defence.”
 - b. “[T]he graver the charge the more confidence must there be in the evidence relied on.”²⁰⁶
 - c. A tribunal “will affirm the evidence of an abuse only ‘in very exceptional circumstances.’”²⁰⁷
 - d. In assessing a claim of fraud, all available evidence on record must be taken into account and weighed in the context of all relevant circumstances.²⁰⁸
 - e. Intention (*mens rea*) has been held to be a relevant factor in determining whether an investment should be afforded protection.²⁰⁹
124. The evidence does not support a finding of fraud or abuse of process. Mr. Bahari’s actions were not in bad faith, and he did not intend to deceive. Mr Bahari has never contested that the Chartabi Contracts are not the original contemporaneous contracts.²¹⁰ He fully accepts that his submission of the Chartabi Contracts absent further explanation was a mistake.

²⁰⁵ *Churchill Mining and Planet Mining Pty Ltd v. Republic of Indonesia*, ICSID Case No. ARB/12/40 and 12/14, Award, 6 December 2016, (RLA-300), ¶ 244. See also *Mercuria Energy v. Poland*, SCC Case No. V 2019/126, Award, (RLA-325), ¶ 626 and *Rand Investments v Serbia*, ICSID Case No. ARB/18/8, Award, (RLA-267), ¶ 464.

²⁰⁶ *Lao Holdings v. Laos (I)*, ICSID Case No. ARB(AF)/12/6, Award, 6 Aug. 2019, (RLA-301), ¶ 110; *Libananco v. Turkey*, ICSID Case No. ARB/06/8, Award, 2 Sept. 2011, (RLA-302), ¶ 125.

²⁰⁷ *Renée Rose Levy de Levi v. Republic of Peru*, ICSID Case No. ARB/10/17, Award (CLA-130), ¶ 186. See also *Mercuria Energy v. Poland*, SCC Case No. V 2019/126, Award, (RLA-325), ¶ 626; *Rand Investments v Serbia*, ICSID Case No. ARB/18/8, Award, (RLA-267), ¶ 464.

²⁰⁸ *Churchill Mining and Planet Mining Pty Ltd v. Republic of Indonesia*, ICSID Case No. ARB/12/40 and 12/14, Award, 6 December 2016, (RLA-300), ¶ 244.

²⁰⁹ *Phoenix Action, Ltd. v. Czech Republic*, ICSID Case No. ARB/06/5, Award, April 15, 2009 (CLA-099), ¶ 105, discussing *Fraport v. The Philippines*.

²¹⁰ See e.g., Transcript of Hearing on Jurisdiction and Merits, Day 3, 64:12-16.

125. Mr Bahari has been transparent and forthright responding to queries about the provenance of the Chartabi Contracts. After Azerbaijan’s Defense challenged the authenticity of the Chartabi Contracts:²¹¹
- a. Mr. Bahari made the hard copies available without hesitation for Azerbaijan and its forensic expert to inspect.²¹²
 - b. Mr. Bahari stated without reservation that the Chartabi Contracts, previously submitted as documentary evidence with the Statement of Claim, were not the originals he was forced to leave in Azerbaijan when he was expelled.²¹³
 - c. As to the complaint in the Admissibility Objection of confusion arising from pages missing from the hard copies that were initially provided for inspection,²¹⁴ these were promptly produced. Additionally, Azerbaijan’s attempt to create controversy associated with the Chartabi Contracts,²¹⁵ as with the so-called “*term sheets*,”²¹⁶ is unavailing. The fact that Mr. Bahari’s quantum expert was provided a version of the Caspian Fish Chartabi Contract (**SEC-07**) that did not include one particular page that was in the version of the Caspian Fish Chartabi contract in evidence (**C-092**, p. 6) was a mistake.²¹⁷ The additional English page was created by Claimant’s prior counsel as an internal working summary and was inadvertently included in **C-092**.
126. To ensure complete transparency regarding the circumstances of the Chartabi Contracts as evidence in this Arbitration, Claimant’s counsel submitted a statement to the Tribunal and Respondent explaining that there was a misunderstanding between Mr. Bahari and his Counsel about the provenance of the Contracts.²¹⁸ The basis for this misunderstanding was openly discussed by Mr. Bahari during his oral testimony at the Hearing.

²¹¹ SoD ¶ 90.

²¹² Claimant’s Objections to Respondent’s Document Inspection Requests dated 22 May 2024, Request No. 2, pp. 2-3.

²¹³ Bahari WS2 ¶ 21(b).

²¹⁴ Respondent’s Post Hearing Admissibility Objection, ¶¶ 65(c)-(d).

²¹⁵ See e.g., Respondent’s Post Hearing Admissibility Objection, ¶¶ 66, 69.

²¹⁶ Respondent’s Post Hearing Admissibility Objection, ¶ 69(a)(b).

²¹⁷ Question from Sir Daniel at Transcript of Hearing on Jurisdiction and Merits, Day 9, 77:10-24.

²¹⁸ **C-380** Earnest Statement p. 1.

127. *First*, in advance of initiating an arbitration in 2019, Mr. Bahari was advised by his prior counsel that a signed copy of the original Chartabi contracts would be sufficient.²¹⁹ Mr. Bahari also testified that he and Mr. Ahad Chartabi signed an exact copy of what was done in Baku and his counsel said that [REDACTED]²²⁰ Mr. Bahari relied on that advice in his prior arbitration and continued to do so in the initial phase of this Arbitration. For the sake of good order, Claimant reconfirms that the without prejudice withdrawal of the prior arbitration had nothing to do with the Chartabi Contracts.²²¹
128. *Second*, Mr. Bahari's oral testimony is that he considers the reissued Chartabi Contracts to be the equivalent of the originals and therefore intended no fraud whatsoever in originally submitting them.²²²
- a. [REDACTED]
- b. [REDACTED]
129. Mr. Bahari is not a lawyer and does not fully understand evidentiary concerns. Azerbaijan acknowledged this:

[REDACTED]

²¹⁹ Transcript of Hearing on Jurisdiction and Merits, Day 3, 65:3-5; 142:25, 143:1-6.

²²⁰ Transcript of Hearing on Jurisdiction and Merits, Day 3, 67:4-7; see also 63:11-15.

²²¹ Transcript of Hearing on Jurisdiction and Merits, Day 9, 63:23-25, 43:1-25, 44:1-16.

²²² Transcript of Hearing on Jurisdiction and Merits, Day 3, 74:12-18.

²²³ Transcript of Hearing on Jurisdiction and Merits, Day 3, 66:4-9.

²²⁴ Transcript of Hearing on Jurisdiction and Merits, Day 3, 66:17-20.

²²⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 67:8-14.

130. For Mr. Bahari, the “authenticity” of the Chartabi Contracts is that he did enter them with Chartabi Contracting, and Mr. Ahad Chartabi confirmed in writing that he had entered into three construction contracts and was fully paid.²²⁶
131. *Third*, Mr. Bahari’s oral testimony demonstrated why he considered and continued to refer to the Chartabi Contracts as “[REDACTED]”²²⁷ stating that these are: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]²²⁸
132. *Finally*, the process that Mr. Bahari and Mr. Ahad Chartabi employed to reissue the Chartabi Contracts demonstrates that the Contracts reflect the understanding of the people who performed the work under the contracts and the contracting parties. Mr. Bahari’s oral evidence is that Mr. Ahad Chartabi had a text that he brought to Mr. Bahari to confirm, which was the same as the original Chartabi contracts.²²⁹ There were a number of engineers who worked on the projects that assisted Mr. Ahad Chartabi in putting the Chartabi Contracts together, and it took 21 days to collect all of the information.²³⁰ Mr. Bahari further explained that none of the people at Chartabi Contracting who carried out the work was willing to testify in the Arbitration, stating that [REDACTED]
[REDACTED]²³¹ and reminding the Tribunal of the threats against Messrs. Suleymanov and Khalilov on the eve of their oral testimony.
133. In view of Mr. Bahari’s oral testimony and the corroborating evidence in support, Mr. Bahari’s conduct vis-à-vis the Chartabi Contracts does not come close to any level of the alleged fraud on the Tribunal or bad faith amounting to an abuse of process that the Admissibility Objection relies on.
134. Further, there has been no harm to Azerbaijan since (a) Mr. Bahari has been transparent and forthright about the circumstances surrounding the reissuing of the Chartabi

²²⁶ **C-086** Letter from Chartabi Contracting confirming cost of construction works, 7 January 2019.

²²⁷ Transcript of Hearing on Jurisdiction and Merits, Day 3, 67:4-5; 73:5-16. See also **C-380** Earnest Statement, p. 1, ¶ 7 and Question from Mr. Shore at Transcript of Hearing on Jurisdiction and Merits, Day 9, 79:23-25, 80:1-19.

²²⁸ Transcript of Hearing on Jurisdiction and Merits, Day 3, 64:7-11.

²²⁹ Transcript of Hearing on Jurisdiction and Merits, Day 3, 74:12-18.

²³⁰ Transcript of Hearing on Jurisdiction and Merits, Day 3, 76:23-25; 77:1-23; 85:2-12.

²³¹ Transcript of Hearing on Jurisdiction and Merits, Day 3, 81:2-5

Contracts; and (b) the reason Mr. Bahari does not have the original contracts is entirely due to Azerbaijan's actions.

3. Mr. Bahari Has Produced Substantial Evidence of Chartabi Contracting's Involvement in the Projects

135. At the same time, Mr. Bahari has produced substantial documentary evidence corroborating the facts underlying Chartabi Contracts he submitted — i.e. that Chartabi contracting was the general contractor onsite, that there were contracts with Chartabi Construction, and Mr. Bahari made full payment under the contracts.²³²
136. In addition to Mr. Bahari, three witnesses submitted sworn statements discussing direct knowledge and first-hand, contemporaneous experience with Chartabi Contracting on the Projects:
- a. Mr. Moghaddam states that Mr. Bahari hired Chartabi Contracting to carry out the construction services on all the Projects.²³³
 - b. Mr. Suleymanov states that the general contractor and engineer on the Projects was an Iranian company, Chartabi Contracting.²³⁴
 - c. Mr. Khalilov states that a general contracting company overseen by a Mr. Ahad Chartabi was engaged by Mr. Bahari on the Projects.²³⁵
137. The presence of Chartabi during the construction of Caspian Fish was also affirmed by the oral testimony of Mr. Sulymanov and Ms. Ramazanova:
- a. Responding to questions from the President, Mr. Sulymanov confirmed that Mr. Ahad Chartabi was managing the construction process for Caspian Fish:



²³² **C-086** Letter from Chartabi Contracting confirming cost of construction works, 7 January 2019; **C-281** Iran Bank Mellat Check from Coolak Shargh to Ahad Chartabi dated 30 September 2000 (see Bahari WS2, ¶ 21(b); Transcript of Hearing on Jurisdiction and Merits, Day 3, 90-93, 94-102:1-6); **C-280** Letter from Samad Chartabi, the CEO of Chartabi Metalworking Industries, 9 April 2024 (see Bahari WS2, ¶ 21(b); Transcript of Hearing on Jurisdiction and Merits, Day 3, 137:23-25, 138:1-21).

²³³ Moghaddam WS1 ¶¶ 30, 37, 45; Moghaddam WS2 ¶ 13.

²³⁴ Suleymanov WS, ¶¶ 10, 30, 32, 48.

²³⁵ Khalilov WS, ¶¶ 11, 17, 28-29.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- b. Mr. Suleymanov also confirmed that Mr. Ahad Chartabi was at least one of the people managing construction on Coolak Baku along with Mr. Bahari:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²³⁶ Transcript of Hearing on Jurisdiction and Merits, Day 4, 41:20-25, 42:1-9.

²³⁷ Transcript of Hearing on Jurisdiction and Merits, Day 4, 42:10-25, 43:1-14.

- c. Mr. Bahari's secretary at Caspian Fish during the relevant period, Ms. Konul Ramazanova (who in her statement did not discuss Chartabi Contracting or Mr. Ahad Chartabi or any aspect of the Caspian Fish construction), was asked by the President if she [REDACTED]” Ms. Ramazanova responded that she knew Mr. Chartabi (aka “[REDACTED]”) who was [REDACTED] and that she thought he was [REDACTED]

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138. Additionally, Mr. Tom Gaines of Secretariat, an independent expert on construction, concluded that a general contractor was required for the project management and construction of Caspian Fish,²³⁹ based on the project's “[REDACTED]”²⁴⁰ and that the project described in Article 1 of the Caspian Fish Chartabi contract was generally what was ultimately completed.²⁴¹ Asked at the Hearing about the Chartabi contracts, Mr. Gaines also affirmed that his opinion stands even if the Tribunal were to find that the Caspian Fish Chartabi contract was found evidentially unreliable.
139. Mr. Gaines also confirmed that even if he only relied on witness evidence and photographs of Caspian Fish, he “[REDACTED]”²⁴² namely, that both the Scope report and Parvizi report were unreliable.²⁴³

4. Respondent Purposefully Curtailed Witness and Documentary Evidence About Chartabi Contracting

140. Azerbaijan, its counsel, and its fact witnesses have had direct access to records retained *inter alia* in Government ministries, Caspian Fish, and personal files. Claimant has argued throughout this Arbitration that instead of a transparent and good faith disclosure of documents, Respondent has curated a truncated mix of cherry-picked and dubious

²³⁸ Transcript of Hearing on Jurisdiction and Merits, Day 4, 127:20-25, 128:1-12.

²³⁹ Secretariat Construction Report, ¶ 4.29.

²⁴⁰ Transcript of Hearing on Jurisdiction and Merits, Day 8, 52:13-16.

²⁴¹ Secretariat Construction Report, ¶ 1.3. See also Claimant Rejoinder, ¶¶ 278-286.

²⁴² Transcript of Hearing on Jurisdiction and Merits, Day 8, 63:3-7.

²⁴³ Transcript of Hearing on Jurisdiction and Merits, Day 8, 15-17.

documents, the source of which Respondent has repeatedly refused to reveal for unexplained reasons.

141. As further discussed in Section **Part. IV, §III** on quantum, Mr. Hasanov testified at the Hearing that Azerbaijan curtailed his search for documents relevant to Caspian Fish.²⁴⁴ This restriction is particularly concerning because Mr. Hasanov's two witness statements were submitted to provide his knowledge about Caspian Fish from 2000 to 2014, when he was the Chief Accountant and then Executive Director. Considering Mr. Hasanov's managerial role, it is reasonable to expect that he would have been asked to conduct a diligent and thorough search for documents relevant to issues in his statements and in dispute between the Parties about *inter alia* the operation, management, and finances of Caspian Fish over this 14-year period.
142. Limiting the scope of Mr. Hasanov's search in the Caspian Fish archives to 2001, and only in relation to Mr. Bahari's alleged sale of shares, fails to satisfy the duty of good faith and candor that Azerbaijan and its counsel are to uphold in these proceedings.
143. Additionally, Mr. Zeynalov gave oral evidence that he was granted access to Caspian Fish's archives by Azerbaijan and a Caspian Fish representative.²⁴⁵ As Mr. Zeynalov is the **only** witness for Respondent who was allegedly present during construction of the Projects, and he is the **only** witness who contends there was no general contractor on Caspian Fish, it is reasonable to expect that Mr. Zeynalov's review of the Caspian Fish archives would have been more complete.
144. A party and its counsel cannot simply stick their collective heads, and those of their witnesses, in the ground to avoid identifying facts and documents that are unhelpful. Such willful blindness is highly objectionable and must have consequences.
145. The Tribunal should also be concerned and fully consider the implications of Azerbaijan's decision not to produce a single witness with direct and first-hand knowledge about the construction of the Projects **despite having direct access** to such people.
- a. Prior to filing its Defense, Azerbaijan's counsel interviewed numerous people in Azerbaijan about their work on the construction of the Projects.²⁴⁶ It is entirely

²⁴⁴ Transcript of Hearing on Jurisdiction and Merits, Day 6, 53:1-9. See also Day 6, 57:6-11.

²⁴⁵ Transcript of Hearing on Jurisdiction and Merits, Day 5, 180:12-14; see also *id.* Day 5, 180:15-20; *id.* Day 5, 180:25-183:1-6.

²⁴⁶ Suleymanov WS1 ¶ 53; Transcript of Hearing on Jurisdiction and Merits, Day 4, 31:24-25, 32:1-10; 34:1-11.

reasonable to infer that those interviews touched on the issue of whether there was a general contractor for the Projects and who that general contractor was.

- b. None of these interviewed workers, with direct and firsthand knowledge of issues in dispute, appeared as a witness for Azerbaijan in this Arbitration. The glaring question is, why not?
- c. The Tribunal can and should conclude that these workers either did not tell Respondent's Counsel what it or its client wanted to hear; or they were unwilling to provide sworn written statements and oral testimony that was false (even though Mr. Zeynalov clearly encouraged them to talk negatively about Mr. Bahari and his projects²⁴⁷). If Respondent's obdurate fraud allegations against Mr. Bahari and his evidence had any semblance of truth, surely at least one of those interviewed workers would have been a witness for Azerbaijan.

146. The sole exception is Mr. Elchin Suleymanov, who appears as a witness for Mr. Bahari.²⁴⁸ There is no dispute that Respondent's counsel interviewed Mr. Suleymanov in Baku days before submitting the Defense:



147. The reality is that Mr. Suleymanov told Azerbaijan's counsel what he knew to be the truth about Mr. Bahari's good character and treatment of the workers on the Projects.²⁵⁰ Respondent obviously did not care for these facts. Not only has Azerbaijan ignored relevant facts that contradict its defense, but it has actively sought to suppress those facts

²⁴⁷ Suleymanov WS1 ¶¶ 52, 54, 61; Transcript of Hearing on Jurisdiction and Merits, Day 4, 32:11-15, 32:22-24, 33:1-3, 33:11-20.

²⁴⁸ Suleymanov WS1 ¶¶ 55-61.

²⁴⁹ Transcript of Hearing on Jurisdiction and Merits, Day 4, 34:15-25.

²⁵⁰ Transcript of Hearing on Jurisdiction and Merits, Day 4, 33:11-20.

by threatening, assaulting, or jailing almost all of Claimant's fact witnesses for because of their support for Mr. Bahari and his claim.

148. For example, Mr. Suleymanov's oral testimony is that when he submitted his witness statement with Claimant's Reply he was immediately threatened:

[REDACTED]

149. Azerbaijan's threats against Mr. Suleymanov continued immediately before he testified at the Hearing, when his family in Azerbaijan received threats that he would be accused of treason and jailed if he testified.²⁵² Ms. Ramzanova and Mr. Abdulmajidov were also indirectly threatened only days before they testified.²⁵³
150. In exerting undue pressure and threats against Claimant's witnesses, Respondent has not acted in the required good faith.²⁵⁴ For Azerbaijan to now seek to turn the tables on Mr. Bahari and frame the totality of his witness evidence about Chartabi Contracting as fraudulent is reprehensible.

²⁵¹ Transcript of Hearing on Jurisdiction and Merits, Day 4, 4:19-25; 5:1-15.

²⁵² Transcript of Hearing on Jurisdiction and Merits, Day 1, 239:18-25, 240:1-13; Claimant's letter to the Tribunal, dated 20 January 2025.

²⁵³ Claimant's letter to the Tribunal dated 11 January 2025.

²⁵⁴ *OOO Manolium Processing v. The Republic of Belarus*, PCA Case No. 2018-06, Decision on Claimant's Interim Measures Request, 7 December 2018, (**RLA-232**), ¶ 163 ("It is a basic premise of both domestic and international dispute resolution that parties have a duty to refrain from any behaviour which could be seen as an attempt to exert undue influence or pressure on a witness or a potential witness. This could be regarded as a general principle of law recognized by civilized legal systems.").

151. For completeness, Azerbaijan tendered Messrs. Zeynalov and H. Aliyev as allegedly having knowledge about the construction of the Projects, but only Mr. Zeynalov was even present during construction, and neither provided helpful or reliable oral testimony at the Hearing. None of Azerbaijan's other witnesses advance its case either:

a. Mr. Rudman (who did not appear at the Hearing) states that when he started at Caspian Fish in the summer of 2000 the construction of the Plant was complete.²⁵⁵

b. Mr. Hasanov gave oral evidence that when he was first at Caspian Fish in October 2000 the main construction work was already done,²⁵⁶ that he did not know who built the main buildings of Caspian Fish,²⁵⁷ but that [REDACTED]

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c. Mr. Kerimov gave oral evidence that in February 2001 when he joined Caspian Fish construction was complete,²⁵⁹ and that he [REDACTED]

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152. Accordingly, it is readily apparent that Azerbaijan not only put forward witnesses who have no real knowledge about issues in dispute, but it actively sought to suppress additional persons and documents from being entered into the evidential record.

153. In this respect, Azerbaijan's immediate and precise arguments that the Chartabi Contracts were not the original versions strongly suggest that Azerbaijan is currently in possession of the actual originals, which allowed it to make informed accusations as early as the Defense. Although difficult to establish with certainty at this phase of the proceedings, if true, this is a profoundly serious and purposeful omission. The Statement of Defense specifically stated that.

a. Azerbaijan challenged the "pristine" condition of the contracts. This is despite other evidence being in similar condition and no such challenge raised;

²⁵⁵ Rudman WS ¶¶ 5-6.

²⁵⁶ Transcript of Hearing on Jurisdiction and Merits, Day 6, 30:22-25, 31:1.

²⁵⁷ Transcript of Hearing on Jurisdiction and Merits, Day 6, 31:8-12.

²⁵⁸ Transcript of Hearing on Jurisdiction and Merits, Day 6, 32:22-23.

²⁵⁹ Kerimov WS1 ¶ 9; Transcript of Hearing on Jurisdiction and Merits, Day 5, 95:23-25 to 96:1-5.

²⁶⁰ Transcript of Hearing on Jurisdiction and Merits, Day 5, 121:12-13.

- b. Azerbaijan took issue with the type of pen that was used despite only having an electronic version; and
 - c. Azerbaijan questioned how Mr. Bahari could have retained these originals but did not challenge Mr. Bahari's ability to retain and preserve other original documents from the same period.²⁶¹
154. Additionally, Mr. Bahari and Respondent's own witnesses have consistently stated that the original Chartabi contracts were required to be filed with and maintained by Azerbaijan.
- a. Mr. Bahari has stated that the original versions of the Chartabi Contracts were left behind in Azerbaijan when he was expelled under duress.²⁶²
 - b. Both Parties' witnesses have testified that under Azerbaijan law the construction contracts for Caspian Fish, as well as Coolak Baku and Shuvalan Sugar, were filed with the Government,²⁶³ and at the "[REDACTED]"²⁶⁴
 - c. Mr. Bahari testified that copies of the contracts would be with the tax office.²⁶⁵
155. Accordingly, there is sufficient support for an inference that Azerbaijan has the original versions of the Chartabi Contracts and leveraged that unknown fact in these proceedings in an attempt to discredit Mr. Bahari.

B. AZERBAIJAN'S OBJECTION SHOULD BE DISMISSED AS UNTIMELY

156. Azerbaijan was careful in its oral submissions on the last day of the Hearing to frame this objection as one of admissibility, not jurisdiction.²⁶⁶ No doubt this was because Article

²⁶¹ SoD ¶ 90.

²⁶² Transcript of Hearing on Jurisdiction and Merits, Day 3, 64:1-2, 66:10. See Bahari WS1 ¶ 76.

²⁶³ Transcript of Hearing on Jurisdiction and Merits, Day 3, 66:12-13, 63:18-22 ([REDACTED]).

²⁶⁴ Transcript of Hearing on Jurisdiction and Merits, Day 3, 63:18, 74:19-22 ([REDACTED]).

²⁶⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 71:4-10.

²⁶⁶ Transcript of Hearing on Jurisdiction and Merits, Day 9, 91:1-4, 92:16-25; See also Claimant's reaction to this oral submission: Day 9, 146:20-25, 147-149, 149:1-22.

23(2) of the UNCITRAL Rules requires that a “[p]lea that the arbitral tribunal does not have jurisdiction shall be raised no later than in the statement of defense...[.]”²⁶⁷

157. Azerbaijan asserted that it raised this issue at the first available opportunity, but this is not supported by the record.²⁶⁸ It is accepted that Azerbaijan disputed the authenticity of the Chartabi Contracts in its Defense, but it did not allege fraud on the Tribunal.²⁶⁹ At that time, Azerbaijan’s challenge to authenticity was based on specific and detailed critiques of: (a) Mr. Bahari’s ability to retain the alleged original versions; (b) the pristine condition of the Chartabi Contracts; and (c) what Azerbaijan said were questionable similarities between the Contract signatures.²⁷⁰
158. By the time it filed its Rejoinder on 29 October 2024, Azerbaijan had full possession and knowledge of the facts that are alleged to form the basis of the new plea,²⁷¹ but Azerbaijan only requested that “[t]he Purported Chartabi Contracts...be disregarded in their entirety.”²⁷²
159. Between Azerbaijan’s Rejoinder and the start of the Hearing, no additional facts or evidence were adduced about the Chartabi Contracts that could support the introduction of the new admissibility plea out of time. The only new evidence concerning the Chartabi Contracts was the witness statement of Mr. Shahbaz Khalilov submitted with Mr. Bahari’s Rejoinder on 10 December 2024. Amongst other topics, Mr. Khalilov stated that Chartabi Contracting was the general contractor for Coolak Baku,²⁷³ Shuvalan Sugar,²⁷⁴ and Caspian Fish.²⁷⁵ Mr. Khalilov’s testimony only related to his experience at these Projects: it did not address the Chartabi Contracts or their provenance.
160. In the circumstances, Azerbaijan chose not to assert fraud on the Tribunal as an objection to the admissibility of Mr. Bahari’s claim in a timely manner, and to do so on the last day

²⁶⁷ Terms of Appointment, Section 9.1.2.

²⁶⁸ Transcript of Hearing on Jurisdiction and Merits, Day 9, 150:4-24, 151:2-5.

²⁶⁹ SoD ¶ 90.

²⁷⁰ Respondent’s Post Hearing Admissibility Objection, ¶ 65.

²⁷¹ SoRJ ¶¶ 21-40.

²⁷² SoRJ ¶ 8(a).

²⁷³ Khalilov WS1 ¶ 11.

²⁷⁴ Khalilov WS1 ¶ 17.

²⁷⁵ Khalilov WS1 ¶ 28.

of the Hearing is unfair and an abuse of process. The objection should be rejected accordingly.

C. THE CHARTABI CONTRACTS SHOULD BE CONSIDERED AS CORROBORATING EVIDENCE

161. As to the distinct question of whether the Chartabi Contracts should be given weight as corroborating evidence of the quantum of investment in Caspian Fish, Coolak Baku, and Shuvalan Sugar, Mr. Bahari submits they should, for the following reasons:
- a. As set out in **Part. II, §III, A, 4**, above, ample evidence supports the existence of the Contracts.
 - b. The Chartabi Contracts represent accurate accounts of the Contracts and their content. Mr. Bahari's oral evidence is that Mr. Ahad Chartabi had a text that he brought to Mr. Bahari to confirm, which was the same as the original Chartabi contracts.²⁷⁶ There were a number of engineers who worked on the Projects that assisted Mr. Ahad Chartabi in putting the Chartabi Contracts together, and it took 21 days to collect all of the information.²⁷⁷
162. In the alternative, should the Tribunal conclude that it cannot place any weight on the Chartabi Contracts, there is sufficient evidence to support the finding that Mr. Bahari made the entire capital investment in Caspian Fish, Coolak Baku, and Shuvalan Sugar, as set out above in **Part. II, §II, A** that Mr Bahari invested USD 56 million in the construction and equipping of Caspian Fish and USD 28 million in the construction and equipping of Coolak Baku and Shuvalan Sugar (See **Part. IV, §III**, below on quantum).

IV. THE CONDUCT MR. BAHARI COMPLAINS OF IS ATTRIBUTABLE TO AZERBAIJAN

A. STATE ORGANS OF AZERBAIJAN CARRIED OUT NUMEROUS ACTS OF MISCONDUCT AGAINST MR. BAHARI

163. As further discussed at Part II.V.B below, Azerbaijan has breached its international obligations through various actions and omissions. This conduct is described in greater

²⁷⁶ Transcript of Hearing on Jurisdiction and Merits, Day 3, 74:12-18.

²⁷⁷ Transcript of Hearing on Jurisdiction and Merits, Day 3, 76:23-25; 77:1-23; 85:2-12.

detail in Claimants discussion on expropriation at PART III § II below. For convenience, the attributable conduct includes the following:²⁷⁸

164. Pre-entry into force conduct:²⁷⁹

- a. From September 2000 onwards, Azerbaijan Obscured and Erased Mr. Bahari's Ownership of Caspian Fish LLC in Government Records and Documents.²⁸⁰
- b. Government Security Forces Forcibly Removed Mr. Bahari from the Caspian Fish Grand Opening Ceremony on 10 February 2001.²⁸¹
- c. The Government security forces subsequently put Claimant under house arrest for weeks without ever charging him with any crime.²⁸²
- d. Azerbaijan Prevented Mr. Bahari from Entering the Caspian Fish Facilities from 10 February 2001 Onwards.²⁸³
- e. Azerbaijan Threatened Mr. Bahari, Which Put Him in Great Fear for his Life.²⁸⁴
- f. Azerbaijan Expelled Mr. Bahari From Its Territory Against His Will on or about March 2001.²⁸⁵
- g. Government Security Forces Intimidated, Threatened, and Physically Assaulted Mr. Bahari's In-Country Manager, Mr. Moghaddam, in April and June 2001.²⁸⁶
- h. On 15 June 2002, President Aliyev and Minister Heydarov Attempted to Coerce Mr. Bahari Into Selling His Caspian Fish Shares, Using Threats of Tax Debts.²⁸⁷

165. Post-entry into force conduct:²⁸⁸

²⁷⁸ Claimant's Rejoinder on Jurisdiction, ¶ 523; Claimant's Overview Chart in Response to Tribunal's Question no. 6, dated 21 February 2025, column 3.

²⁷⁹ *Infra* PART III, §II. B.

²⁸⁰ *Infra* PART III, §II. B. 1.

²⁸¹ *Infra* PART III, §II. B. 2.

²⁸² *Infra* PART III, §II. B. 3.

²⁸³ *Infra* PART III, §II. B. 4.

²⁸⁴ *Infra* PART III, §II. B. 5.

²⁸⁵ *Infra* PART III, §II. B. 6.

²⁸⁶ *Infra* PART III, §II. B. 7.

²⁸⁷ *Infra* PART III, §II. B. 8.

²⁸⁸ *Infra* PART III, §II. C.

- a. From 2000 onwards, Azerbaijan Obscured and Erased Mr. Bahari's Ownership of Caspian Fish LLC in Government Records and Documents (focusing on conduct undertaken post-entry into force).
- b. In late June 2002 (following the 15 June 2002 Dubai meeting), Government security forces unlawfully detained Mr. Moghaddam and interrogated him about Mr. Bahari's investments.²⁸⁹
- c. In July 2002, the Azerbaijan Ministry of Culture permanently retained and dispossessed more than half of Mr. Bahari's Persian Carpets, without providing Mr. Bahari an opportunity to be involved or object to this Government decision.
- d. In 2004, Azerbaijan thwarted Mr. Bahari and his Turkish lawyer's efforts to investigate and bring an action against Messrs. Aliyev and Heydarov.
- e. In 2005 and 2006, Azerbaijan's courts enabled the stripping of Mr. Bahari's rights to and control over the assets of Coolak Baku by permitting litigation carried out in his absence and issuing absurd results. This resulted in a denial of justice for Mr. Bahari.
- f. In 2009, Azerbaijan escalated its threats against Mr. Bahari and his in-country manager/agent, Mr. Moghaddam, by convicting and imprisoning Mr. Moghaddam on falsified drug charges.²⁹⁰
- g. In 2014, following Claimant's unsuccessful October 2013 negotiations in Baku, a Government representative of Minister Heydarov threatened Mr. Bahari to stop contacting Minister Heydarov, or else Mr. Bahari would "[REDACTED]"
- h. In 2019, the State Committee for Property Issues blocked Mr. Bahari's attempts (through Mr. Allahyarov) to determine the disposition of his investment in Ayna Sultan.²⁹¹
- i. In 2021, Government security forces initiated a sustained campaign of harassment, threats, and physical violence against Ms. Ramazanova and Mr. Abdulmajidov, after the couple assisted Claimant in investigating the status of Caspian Fish by taking pictures of the facility. Government agents engaged in this

²⁸⁹ *Infra* PART III, §II. C. 3.

²⁹⁰ *Infra* PART III, §II. C. 4.

²⁹¹ *Infra* PART III, §II. C. 5.

campaign in part because they believed the couple possessed a copy of the Caspian Fish Shareholders Agreement. The campaign of harassment continued through the January 2025 Hearing, including improper threats against the families and associates of Mr. Abdulmajidov and Ms. Ramazanova.²⁹²

- j. In 2022, the Office of the Prosecutor General (Mr. Mammadov) issued a criminal summons against Mr. Abdulmajidov, accusing him of having a business relationship with Mr. Bahari and together manufacturing drugs at Caspian Fish. The Criminal Summons specifically stated that Mr. Bahari was wanted in Azerbaijan.²⁹³
 - k. In 2024, Azerbaijan engaged in a campaign against Mr. Bahari's Third Party Funder, seeking to pressure the Funder to cut off funding support of Mr. Bahari's Claim.
 - l. In 2025, at the Hearing on the merits, Azerbaijan put undue pressure on two of Claimant's witnesses, Messrs. Suleymanov and Khalilov, with the result that Mr. Khalilov declined to testify at the January 2025 Hearing and returned to Azerbaijan from The Hague to avoid harassment and arrest by Azeri authorities.
166. Various Azeri State organs are responsible for the above conduct, including but not limited to: (i) the Azeri security forces (including the police and State Border Service); (ii) the Ministry of Justice (including the General Prosecutor's office); (iii) the Azeri courts; (iv) the State Tax Service; (v) the Ministry of Economy; (vi) the State Customs Committee; (vii) the Ministry of Emergency Situations; (viii) the Ministry of Culture, (ix) the State Committee for Property Issues; (x) Minister Heydarov; and (xi) President Aliyev. All of these entities constitute organs of the Azerbaijani State, and their conduct is attributable to Azerbaijan.²⁹⁴

²⁹² *Infra* PART III, §II. C. 6.

²⁹³ *Infra* PART III, §II. C. 7.

²⁹⁴ See Claimant Overview Chart in Response to Tribunal's Question No. 6, dated 21 February 2025, column 3.

**B. THE ACTS COMPLAINED OF ARE ATTRIBUTABLE BECAUSE THEIR
AUTHORS ARE STATE ORGANS²⁹⁵**

167. The conduct described above is attributable to Azerbaijan because all the entities and individuals involved are organs of the Azerbaijani State for the purposes of ARSIWA Article 4.
168. *First*, Respondent does not deny that State security forces, the various Ministries that comprise the executive branch, the General Prosecutor's office, and the Azerbaijani Courts are State organs under Article 4, such that their conduct is attributable to Azerbaijan.²⁹⁶ Further, the Parties also agree that Minister Heydarov was an organ at all applicable times.²⁹⁷ Respondent also concedes President Aliyev was an organ post-2003. Claimant claims but Respondent disagrees that, as a senior member of SOCAR's leadership, who used SOCAR's office in pursuit of his business dealings, Aliyev's actions pre-2003 were also attributable to Azerbaijan. In its Rejoinder, Claimant explained that the Tribunal need not find that President Aliyev was a State organ prior to 2003 to find that Azerbaijan breached the Treaty because Respondent concedes that Minister Heydarov was a state organ at the relevant times, and the significant acts carried out against Mr. Bahari by the Government were predominantly undertaken by him or with his involvement.²⁹⁸ For the avoidance of any doubt, Claimant maintains President Aliyev's pre-2003 conduct remains attributable as a State organ.²⁹⁹
169. Where the Parties disagree is on whether, in the instant case, the actions of Minister Heydarov (and President Aliyev) are attributable to Azerbaijan. The disagreement exists because Respondent claims that Minister Heydarov's (and President Aliyev's) involvement in Mr. Bahari's investments must be seen as purely private business endeavors. Claimant rejects that claim. In a nutshell, Claimant's position is that the conduct complained of is properly characterized as acts of State organs (attributable pursuant to Article 4 ARSIWA), which also constitute *ultra vires* conduct (attributable under Article 7 ARSIWA).

²⁹⁵ This Section answers the **Tribunal Hearing Question nos. 4 and 5**.

²⁹⁶ SoRJ ¶ 121, fn. 280.

²⁹⁷ SoRJ ¶ 121, fn. 280.

²⁹⁸ SoRJJ ¶¶ 511-513.

²⁹⁹ SoC ¶ 469; SoR ¶¶ 880-886; SoRJJ ¶ 521.

170. At the Hearing, the Tribunal invited the parties to expand on the difference between *ultra vires* conduct that is attributable, and merely private acts of State officials that are not.³⁰⁰ First, Claimant submits that the proper terminology is “purely private” acts, rather than “merely private,” because this is the expression the ARSIWA Articles primarily use. The reference to “merely private” conduct appears only once, in the commentary to Article 4. This distinction is important: “purely private” implies that if there is **any** measure of governmental authority in the conduct, it is not purely private, and therefore it is attributable to the state.
171. Second, in response to the Tribunal’s question, the ARSIWA and its commentary indicates that:
- a. under Article 4, an organ’s conduct that would normally be attributable is not, if that conduct is taken in a purely private capacity; and
 - b. under Article 7, an organ’s acts remain attributable even if *ultra vires*, unless these acts are so far removed from the organ’s official functions that they cannot be considered as having been taken in an official capacity.³⁰¹
172. As Claimant’s counsel explained at the Hearing,³⁰² the notions of *ultra vires* acts that are attributable and purely private acts that are unattributable are conceptually distinct,³⁰³ but in some scenarios hard to distinguish.³⁰⁴ This is because of the overlap between the notions of purely private acts (Article 4) and actions so far removed from official functions as to be unattributable (Article 7).
173. While not entirely clear, Respondent’s defense appears to be that Minister Heydarov’s conduct is unattributable **both** because it is purely private (under Article 4), and because it is so far removed from Minister Heydarov’s functions that it must be considered as not taken in an official capacity (under Article 7).

³⁰⁰ **Tribunal Question No. 4.**

³⁰¹ ILC ARSIWA (**CLA-037**), Art. 4 and Art. 7.

³⁰² Transcript of Hearing on Jurisdiction and Merits, Day 9, 21:17.

³⁰³ ILC ARSIWA (**CLA-037**), Art. 4, Comment 13 (“The case of purely private conduct should not be confused with that of an organ functioning as such but acting *ultra vires* or in breach of the rules governing its operation. In this latter case, the organ is nevertheless acting in the name of the State: this principle is affirmed in article 7”).

³⁰⁴ ILC ARSIWA (**CLA-037**), Art. 4, Comment 13 (“In applying this test [to distinguish between purely private conduct and *ultra vires* conduct taken in an official capacity], of course, each case will have to be dealt with on the basis of its own facts and circumstances”).

174. Respondent has the legal burden to prove that the “purely private conduct” and the “official capacity” carve-outs apply. The concept of purely private conduct (the “**Purely Private Carve-Out**”) appears only in the commentary accompanying the ARSIWA. There is no customary rule formulated in the Articles themselves exempting “purely private” conduct from attribution to the State. Thus, the Purely Private Carve-Out on which Respondent relies is best understood as an **exception** to the default rule that the conduct of State organs is attributable, and not a constitutive element of the rule itself.³⁰⁵
175. Indeed, ARSIWA Article 4, while setting out the default rule of attributability for conduct of State organs, does not contain any requirement that the conduct in question be undertaken in an official capacity. This contrasts with Article 5, which does with respect to actors who are not themselves State organs but are empowered with State authority.³⁰⁶ This distinction is not an accident; there is no requirement that a State organ undertake an act in his official capacity for that act to be attributable under Article 4, even if that State organ is an individual.
176. Likewise, the rule consecrated by Article 7 is that unlawful or unauthorized conduct of State organs remains attributable. The exception to that rule is when the *ultra vires* acts in question are not taken in an official capacity. As the commentary under Article 7 puts it:
- cases where officials acted in their capacity as such, albeit unlawfully or contrary to instructions, must be distinguished from cases where the conduct is so removed from the scope of their official functions that it should be assimilated to that of private individuals, not attributable to the State.³⁰⁷
177. The net result is that it is for Respondent to establish that, despite Minister Heydarov and President Aliyev being State organs, their conduct is not attributable – either because that conduct was purely private (for the purposes of Article 4), or because it was unauthorized and so far removed from these organs’ official functions as to be treated as purely private (for the purposes of Article 7). Respondent has failed to do so.

³⁰⁵ Transcript of Hearing on Jurisdiction and Merits, Day 9, 99:25, 100, 101, 102:1-8.

³⁰⁶ ILC ARSIWA (**CLA-037**), Art. 5 (“The conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of the governmental authority shall be considered an act of the State under international law, **provided the person or entity is acting in that capacity** in the particular instance”) (emphasis added).

³⁰⁷ ILC ARSIWA (**CLA-037**), Art. 7, Comment 7 (emphasis added).

178. Respondent has offered no reason why the relevant conduct is purely private or otherwise too remote from Messrs. Heydarov's and Aliyev's official functions. As explained by Claimant's counsel:

[REDACTED]

179. The correct view is that Messrs. Heydarov's and Aliyev's conduct is not purely private and is not so far removed from their functions as to become unattributable, because it was taken under color of their respective offices, exercising apparent powers that no private party would have. The ARSIWA commentary indeed makes clear that actions taken under color of authority are attributable to the State:

- a. With respect to the Purely Private Carve-Out under Article 4 the commentary states: "Where such a person acts in an **apparently** official capacity, or **under colour of authority**, the actions in question will be attributable to the State".³⁰⁹
- b. Under Article 7 the commentary then confirms: "In the words of the Iran-United States Claims Tribunal, the question is whether the conduct has been "carried out by persons **cloaked with governmental authority**".³¹⁰ The commentary further explains that an organ is "cloaked with government authority" if it is acting under "**apparent authority**".³¹¹

180. That language is derived from a discussion under Article 4 of several cases that dealt with acts that (i) were undertaken under cover of military officers' uniform and making use of means placed at their disposal because of their status³¹² and (ii) misuse of an official position.³¹³

181. Applying this here, and as Claimant's counsel explained in closing, Messrs. Heydarov and Aliyev both acted under apparent authority:

³⁰⁸ Transcript of Hearing on Jurisdiction and Merits, Day 1, 104:7-10.

³⁰⁹ ILC ARSIWA (**CLA-037**), Art. 4, Comment 13.

³¹⁰ ILC ARSIWA (**CLA-037**), Art. 7, Comment 7.

³¹¹ ILC ARSIWA (**CLA-037**), Art. 7, Comment 8 ("[] whether the organs concerned are "purportedly or apparently carrying out their official functions, and not the private actions or omissions of individuals who happen to be organs or agents of the State. In short, the question is whether they were acting with apparent authority.").

³¹² *Caire (France) v. United Mexican States*, Mixed Commission, Award, 7 June 1929 (**RLA-264**).

³¹³ *Mallén (United Mexican States) v United States of America*, Mixed Commission, Award, 27 April 1927 (**RLA-130**).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

182. In its Overview Chart Responsive to Tribunal Question 6,³¹⁵ Respondent relies on the commentary under Article 7 of the ARSIWA³¹⁶ (on *ultra vires* acts) and on two cases³¹⁷ to argue that Minister Heydarov's conduct was non-attributable. Essentially, Respondent's argument is that, because Minister Heydarov was "[REDACTED] [REDACTED]" that private business interest is so far removed from his official duties, his conduct does not constitute *ultra vires* conduct attributable to

³¹⁴ Transcript of Hearing on Jurisdiction and Merits, Day 9, 29:5-30:11.

³¹⁵ Overview Chart Responsive to Tribunal Question no. 6 dated 21 February 2025, row 1, column 4.

³¹⁶ ILC ARSIWA (CLA-037), Art. 7, comment 7. "The central issue to be addressed in determining the applicability of article 7 to unauthorized conduct of official bodies is whether the conduct was performed by the body in an official capacity or not. Cases where officials acted in their capacity as such, albeit unlawfully or contrary to instructions, must be distinguished from cases where the conduct is so removed from the scope of their official functions that it should be assimilated to that of private individuals, not attributable to the State."

³¹⁷ The John Bensley Case (RLA-263) and the Mallen Case (RLA-130).

Azerbaijan under Article 7. From that, Azerbaijan infers that the conduct is also purely private for the purposes of Article 4.

183. This argument fails because Azerbaijan focuses on the incorrect conduct. Azerbaijan defines Messrs. Heydarov's and Aliyev's "conduct" as their entrepreneurial activities as private businesspersons. Rather, the "conduct" is their recourse to using the coercive powers of their official State functions to order government security forces to arrest Mr. Bahari and his associates, expel him from the country, and rely on the continued threat of these same powers flowing from their official positions to keep Mr. Bahari from returning and regaining his investments. This is conduct undertaken with sufficient apparent authority as to fall within its authors' official capacity for the purposes of Article 7 and be considered not purely private under Article 4.
184. Further, the notion that Minister's Heydarov's private entrepreneurial activities should be considered entirely disconnected from his governmental functions has been severely undermined by the testimony of Respondent's fact witness Mr. Kerimov, which underscored how porous the divide was between governmental functions and private business dealings in Azerbaijan in the late 1990's early 2000's.
185. *First*, Mr. Kerimov revealed that Azerbaijan tapped the private sector experience of businessmen like Minister Heydarov by entrusting them with governmental functions:

[REDACTED]

[REDACTED]

³¹⁸ Transcript of Hearing on Jurisdiction and Merits, Day 5, 117:5-20.

186. In other words, Mr. Kerimov explained that officials like Minister Heydarov owed their governmental functions to their private sector activities, the two being intrinsically linked.
187. *Second*, Mr. Kerimov testified that, because government officials were prohibited from running private businesses, Minister Heydarov had to hide his involvement in Caspian Fish. Mr. Kerimov thus painted the picture of government official Heydarov **artificially** distancing himself from his involvement in Caspian Fish, including by having Mr. Kerimov lie to the press.



188. In short, as Claimant has argued since the outset of this case, in Azerbaijan the boundary between the private and the governmental is blurred.³²⁰ Respondent should not be allowed to hide behind the fig leaf of a barely perceptible line separating private activities from public functions, particularly when that ‘blurring of the lines’ is of the Respondent’s own making. This latter point is highlighted by the ARSIWA commentary under Article 7:

The problem of drawing the line between unauthorized but still “official” conduct, on the one hand, and “private” conduct on the other, may be avoided if the conduct complained of is **systematic or recurrent**, such that the **State knew or ought to have known** of it and should have taken steps to prevent it.³²¹

189. In sum, Minister Heydarov’s and President Aliyev’s conduct bore both private and governmental elements. It was taken under the color of the authority conferred by their Governmental functions but utilized to further private interests. This changes nothing to the fact that, as State organs, their conduct was attributable because it was not purely private.

³¹⁹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 120:16-23.

³²⁰ See e.g., Allan & Makarenko Report dated 17-18 June 2024.

³²¹ ILC ARSIWA (**CLA-037**), Article 7, Comment 8.

V. THE TEMPORAL SCOPE OF THE TREATY DOES NOT PRECLUDE MR. BAHARI'S CLAIMS

A. THIS TRIBUNAL HAS JURISDICTION OVER PRE-TREATY BREACHES OF CUSTOMARY INTERNATIONAL LAW³²²

190. Azerbaijan argues that this Tribunal lacks jurisdiction because the key conduct complained of occurred before the Treaty's entry into force.³²³ While this is factually incorrect, Mr. Bahari also showed this argument fails because Azerbaijan also committed breaches of the MST **before** the Treaty's entry into force. The broad wording of the Treaty's arbitration provision (Article 10) covers not only post-entry into force Treaty breaches, but also pre-entry into force customary international law breaches.³²⁴
191. In its summary chart,³²⁵ Respondent does not deny that the Treaty's arbitration provision covers pre-entry into force breaches of customary international law. Instead, Azerbaijan alleges, **only**, that Mr. Bahari did not particularize his MST claim because it [REDACTED]
[REDACTED]³²⁶ Azerbaijan is mistaken.
192. *First*, leaving aside the fact that Mr. Bahari has claimed breaches of general international law in addition to (and as distinct from) treaty breaches since the Notice of Arbitration,³²⁷ Azerbaijan's allegation that MST was first discussed in Mr. Bahari's Rejoinder is incorrect. Azerbaijan itself discussed that customary international law standard in its own Statement of Defence, and it did so at length.³²⁸
193. *Secondly*, it is equally incorrect to state that Mr. Bahari "[REDACTED]"
[REDACTED]³²⁹ As explained by Claimant's counsel during the Hearing, Mr. Bahari **adopts** Azerbaijan's own definition of the MST as described in the

³²² This Sections answers Tribunal Question no. 2(i).

³²³ See SoRJ ¶ 153. See also SoD ¶¶ 51 et seq.; Tr. Day 1, 192:23-203:17.

³²⁴ See, e.g., SoRJJ ¶¶ 433-448.

³²⁵ Respondent's Summary Chart, n. 3.

³²⁶ Respondent's Summary Chart, n. 3.

³²⁷ See NoA, ¶ 133(b) (relief) ([Claimant requests ...] "a declaration that the Republic of Azerbaijan has breached its obligations under the Treaty **and international law** with respect to Claimant's investments in the Republic of Azerbaijan.") (emphasis added). See also SoRJJ ¶ 434, n. 762.

³²⁸ See, e.g., SoD ¶¶ 381, 427.

³²⁹ Respondent's Summary Chart, n. 3.

Statement of Defence, which definition sets out a clear, workable, legal threshold.³³⁰ Azerbaijan defines the MST as follows:

the minimum standard of treatment of fair and equitable treatment **is infringed by conduct** attributable to the State and harmful to the claimant if the conduct **is arbitrary, grossly unfair, unjust or idiosyncratic**, is discriminatory and exposes the claimant to sectional or racial prejudice, **or involves a lack of due process leading to an outcome which offends judicial propriety**...In applying this standard it is relevant that the treatment is in breach of representations made by the host State which were reasonably relied on by the claimant.³³¹

194. Put simply, this Tribunal is perfectly capable of evaluating Claimant's MST claim by assessing whether Azerbaijan's treatment of Mr. Bahari was "arbitrary", or "grossly unfair", or "unjust or idiosyncratic", or whether it "involves a lack of due process leading to an outcome which offends judicial propriety."
195. Thus, as explained at the Hearing, "[REDACTED]"
[REDACTED]
[REDACTED]³³² Claimant submits Azerbaijan's treatment of Mr. Bahari evidently amounts to a breach of MST, as discussed further below.³³³
196. Significantly for jurisdictional purposes, Azerbaijan does not contest that the broad wording of Article 10 confers on this Tribunal jurisdiction over breaches of customary international law pre-dating entry into force. Indeed, Article 10 refers to a "dispute...with respect to an investment," which may be referred to arbitration.³³⁴
197. That language needs to be interpreted in accordance with the principles of treaty interpretation of the VCLT. Thus, Article 10 must be read "in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object and purpose."³³⁵

³³⁰ See Transcript of Hearing on Jurisdiction and Merits, Day 1, 79:20-80:7.

³³¹ SoD ¶ 383 (citing *Waste Management, Inc. v. United Mexican States*, ICSID Case No. ARB(AF)/00/3, Award, 30 April 2004, (CLA-86), ¶ 98) (emphases added).

³³² Transcript of Hearing on Jurisdiction and Merits, Day 1, 80:5-7.

³³³ See Part III, §I, B.

³³⁴ Treaty (CLA-001), Article 10 (emphases added).

³³⁵ See Vienna Convention on the Law of Treaties (1969), (RLA-22), Art. 31.1.

198. As explained in Claimant's Rejoinder as well as at the Hearing, Article 10 is drafted in the broadest possible terms, both as to the types of international law breaches it covers, and as to the timing of such breaches.³³⁶
199. That broad wording ("with respect to an investment") does not limit the Tribunal's jurisdiction to disputes relating to Treaty breaches. Instead, this Tribunal has jurisdiction over any dispute *relating* to an investment, irrespective of whether the breached obligation is conventional or customary.³³⁷
200. Article 10 is also silent as to the timing of the alleged breaches. At the same time, under Article 12, the Treaty expressly applies to investments made **before** its entry into force.³³⁸ Reading temporal limitations into Article 10 of the Treaty would be nonsensical considering Article 12. As explained by Claimant's counsel during the Hearing:

[REDACTED]

Reading temporal limitations into Article 10 of the Treaty would also counter the Treaty's object and purpose, which is to favor the protection of investments, **prior** to and post entry into force, a point conceded by Azerbaijan.³⁴⁰

201. *Finally*, Mr. Bahari's interpretation of Article 10 has broad support both among leading academic authorities and investment law authorities.³⁴¹ Claimant previously pointed out the *Tekfen and TML v. Libya* award,³⁴² which is particularly instructive because the

³³⁶ See SoRJJ ¶¶ 433-448; Tr. Day 1, 77:18:22 ([REDACTED]).

³³⁷ See SoRJJ ¶ 437; Transcript of Hearing on Jurisdiction and Merits, Day 1, 80:9-20.

³³⁸ Treaty (CLA-001), Article 12.1.

³³⁹ Transcript of Hearing on Jurisdiction and Merits, Day 1, 77:9-14.

³⁴⁰ Transcript of Hearing on Jurisdiction and Merits, Day 1, 189:2-5 [REDACTED]

³⁴¹ See SoRJJ, ¶¶ 440-447; Transcript of Hearing on Jurisdiction and Merits, Day 1, 80:21-82:6 (listing academic authorities and case law in support).

³⁴² See *Tekfen TML Joint Venture v Libya (II)*, ICC Case No. 21371/MCP/DDA, Final Award, 11 February 2020, (CLA-338) ¶ 7.4.2 (emphases added).

applicable arbitration clause (Art. 8 of the Libya-Turkey BIT) is substantially similar to Article 10 of the Iran-Azerbaijan BIT.³⁴³

202. In sum, this Tribunal has jurisdiction over pre-treaty breaches of customary international law, and Claimant has articulated a claim for breach of the MST.

B. THE TRIBUNAL HAS JURISDICTION OVER AZERBAIJAN'S CONTINUOUS AND COMPOSITE BREACH OF THE TREATY

203. For completeness, and as fully set out in Claimant's submissions,³⁴⁴ the Tribunal also has jurisdiction over an act or omission by Azerbaijan that started before the Treaty entered into force but which constitutes a breach because of its continuous character or the existence of composite acts extending beyond entry into force. This is established by ARSIWA Articles 14 and 15,³⁴⁵ and is applicable to all the Treaty's standards of protection that Azerbaijan has breached.
204. As discussed in the below **Part III Sections A to C** Azerbaijan's wrongful conduct continued and was repeated in different forms, uninterrupted, since its offending conduct is known to have first started in or around September 2000, and well past entry into force. Even today, Azerbaijan has not discontinued or remedied wrongful conduct that is not in conformity with its obligations under the Treaty.

C. AZERBAIJAN COMMITTED A NUMBER OF BREACHES PRE-ENTRY INTO FORCE OF THE TREATY

205. Because the Tribunal has jurisdiction over pre-entry into force breaches of customary international law, all of Azerbaijan's adverse actions taken against Mr. Bahari between September 2000 and the entry into force of the Treaty on 20 June 2002 qualify as breaches of MST.
206. These breaches are discussed in detail at **PART III** below dealing with the merits of the case, with a particular focus on oral testimony at the Hearing. For convenience, and to specifically answer the Tribunal's Question no. 2(i) [REDACTED]

³⁴³ Libya-Turkey BIT, (CLA-339), Article 8.

³⁴⁴ SoR ¶¶ 710-730; SoRJJ ¶¶ 449-461.

³⁴⁵ ARSIWA (CLA-037), Art. 14 and 15,

[REDACTED],³⁴⁶
the pre-entry into force breaches include all of those listed in paragraph 164 above.

207. As discussed, Mr. Bahari has met his burden of proof to prove each of these breaches; while Azerbaijan fails to adequately rebut them and meet its corresponding burden of proof.

D. THE DISPUTE BETWEEN THE PARTIES CRYSTALIZED AFTER THE TREATY ENTERED INTO FORCE

208. As discussed above, Article 10 of the Treaty provides this Tribunal with jurisdiction over a dispute regardless of whether it arose pre- or post-entry into force.³⁴⁷ In any event, the evidence in this Arbitration establishes that the dispute between Mr. Bahari and Azerbaijan crystalized after the Treaty entered into force on 20 June 2002.
209. Respondent's opening statement repeated its position that "[REDACTED]".³⁴⁸ This is important to Respondent because its legal position is that the critical date for jurisdiction of the Tribunal is the date of a dispute, not the date of breach of the Treaty.³⁴⁹ This is beside the point, as the dispute post-dates the entry into force of the Treaty.
210. The legal standard governing when a dispute crystallizes into a justiciable investment dispute is well-settled and should not be subject to serious controversy. In response to Tribunal's Question 3,³⁵⁰ Claimant incorporates herein his prior submissions on the legal definition.³⁵¹ It is noteworthy that in its previous pleadings Respondent has largely avoided engaging with the applicable legal definition of a dispute.³⁵²
211. Respondent's argument that a dispute arose before the Treaty entered into force via the expropriation of Mr. Bahari's investments in the Forced Sale Agreement on 15 June 2002 necessarily requires admitting that President Aliyev and Minister Heydarov were acting in

³⁴⁶ Tribunal Questions for Parties' Oral Closing Remarks and/or Post-Hearing Briefs, Question no. 2(i).

³⁴⁷ SoR ¶¶ 1077-1096; SoRJJ ¶¶ 462-465.

³⁴⁸ Transcript of Hearing on Jurisdiction and Merits, Day 1, 195:1-3.

³⁴⁹ Transcript of Hearing on Jurisdiction and Merits, Day 1, 196:7-25; 197:1-3.

³⁵⁰ **Tribunal Hearing Question no. 3:** [REDACTED]

³⁵¹ See SoRJJ ¶¶ 466-467.

³⁵² See SoRJ ¶¶ 167-168.

their capacity as State organs, rather than as purely private individuals.³⁵³ This stands in marked contrast to Respondent's submissions throughout this Arbitration and should be regarded as an implicit, if not express, admission of attribution.

212. Nonetheless, there could not have been a dispute before the Treaty entered into force because it remained unclear to Mr. Bahari whether President Aliyev and Minister Heydarov were responsible for his expulsion and what would happen to his investments in Azerbaijan.³⁵⁴ In that circumstance, there could not have been an exchange of communication between opposing parties as to their differing positions, as the definition of dispute requires.³⁵⁵ Rather, in 2001 and early 2002 Mr. Bahari was attempting to determine what exactly happened and why.³⁵⁶ He was not yet in a dispute with Azerbaijan.
213. At the 15 June 2002 Dubai meeting, Mr. Bahari became aware that his former partners were seeking to impose a forced sale on him.³⁵⁷ This was a unilateral offer by Messrs. Aliyev, Heydarov, and Khanghah, made to Mr. Bahari, under duress, which he rejected and to which he made a counteroffer. Again, that is not a dispute under any definition. It does not rise to the level of permanence and concreteness that is required, nor does it represent any response to Mr. Bahari's diverging position.³⁵⁸
214. After that meeting, at the end of June 2002, Mr. Moghaddam was seized and detained for one week by Government security forces and interrogated about what Mr. Bahari planned to do.³⁵⁹ Once Mr. Bahari learned of Mr. Moghaddam's detention and interrogation, he considered this a threat for having refused to sell Caspian Fish.³⁶⁰
215. As discussed in Claimant's submissions and closing argument, Mr. Bahari fixes the date of the dispute as having crystalized on 1 January 2003. This is the date on which he was reasonably forced to understand that there was no acceptance or discussion forthcoming about his ownership and control of Caspian Fish, Coolak Baku, the Persian Carpets, and

³⁵³ SoR ¶ 734.

³⁵⁴ SoR ¶ 738; Bahari WS1 ¶¶ 77-80.

³⁵⁵ SoRJ ¶ 169.

³⁵⁶ Bahari WS1 ¶¶ 77-80.

³⁵⁷ Bahari WS1 ¶ 81.

³⁵⁸ SoRJJ ¶ 467-474

³⁵⁹ Moghaddam WS1 ¶¶ 73-78; Transcript of Hearing on Jurisdiction and Merits, Day 3, 191:19-25.

³⁶⁰ Bahari WS1 ¶ 85.

Ayna Sultan, and no reasonable prospect that his investments would be returned.³⁶¹ There was then a permanent deprivation of his investments in Azerbaijan.

216. In the alternative, Claimant submits that the Tribunal could find that a dispute arose at various points in time after 1 January 2003, including:

- a. In 2004 when Mr. Bahari retained a Turkish lawyer, Mr. Serhat Kilic, to investigate legal proceedings in Azerbaijan and engage with various organizations in there, following which Mr. Kilic returned to him having failed to successfully negotiate.³⁶²
- b. In April 2009 when Mr. Bahari gave Professor Hooshang Amirahmadi a power of attorney to negotiate on his behalf in Azerbaijan with senior Government officials, and Professor Amirahmadi advised Mr. Bahari that his efforts were not well received by the Government.³⁶³

217. Overall, Claimant's factual position and supporting evidence regarding the existence and timing of the dispute must be accepted, as it constitutes the sole evidence on the record. Respondent has not presented any evidence addressing the relevant facts and circumstances concerning the dispute's origination. Furthermore, Respondent declined to engage with this issue during its cross-examination of Mr. Bahari at the Hearing, despite its prior assertion that it would put Mr. Bahari to proof on this very issue.³⁶⁴

³⁶¹ Claimant Rejoinder ¶ 475; Transcript of Hearing on Jurisdiction and Merits, Day 9, 41:3-25; 42:1-7.

³⁶² Bahari WS1 ¶¶ 86-87; SoC ¶¶ 187-189.

³⁶³ Bahari WS1 ¶ 92; Bahari WS2 ¶ 33; SoR ¶¶ 502-509; **C-353** Claimant Translation of R-152, Power of Attorney issued by Mr. Bahari to Mr. Amirahmadi, dated 20 April 2009; Transcript of Hearing on Jurisdiction and Merits, Day 9, 42:8-21.

³⁶⁴ SoRJ ¶ 168.

PART III: MERITS

I. AZERBAIJAN'S CONTINUOUS PRE- AND POST-ENTRY INTO FORCE CAMPAIGN AGAINST MR. BAHARI BREACHED ITS FET AND FPS OBLIGATIONS³⁶⁵

A. AZERBAIJAN'S PRE-ENTRY INTO FORCE CONDUCT WAS OF A CONTINUOUS NATURE AND BECAME A BREACH OF FET/FPS ON THE DAY THE TREATY CAME INTO FORCE

218. The FET and FPS standards are susceptible of being violated through continuous conduct. Starting in or around late 2000 or early 2001, Azerbaijan facilitated and engaged in a sustained, concerted campaign against Mr. Bahari, the ultimate goal of which was to separate him from his investments and ensure that the fruits of his efforts could be unlawfully taken over, unchallenged, and retained by Messrs. Aliyev and Heydarov.³⁶⁶ For general context and reference, the Tribunal may find helpful the overall chronology of events detailed in Claimant's Statement of Rejoinder³⁶⁷ and provided with Claimant's Opening Slide Presentation.³⁶⁸
219. Azerbaijan seeks to artificially narrow the scope and impact of its pre-entry into force breaches by characterizing them as discrete, one-off events.³⁶⁹ Thus, Mr. Bahari's expulsion from Azerbaijan was not of a "'continuing' character,"³⁷⁰ and a so-called single "instance of assault or brief period of detention...cannot amount to a 'continuous' act."³⁷¹ This characterization is both legally and factually unsound.³⁷²
220. The adverse actions taken against Mr. Bahari were (i) repeated; (ii) formed part of an overall, concerted campaign to ultimately wrest his investments from him; (iii) and, critically, continued well after the entry into force of the Treaty.³⁷³

³⁶⁵ This Section answers the **Tribunal Hearing Questions nos. 2(ii) and 6.**

³⁶⁶ SoR ¶¶ 710-724; SoRJ ¶¶ 449-457; Transcript of Hearing on Jurisdiction and Merits, Day 1, 82:22-25, 83-87; **CP-1** Claimant's Opening Slide Presentation, slide 6.09.

³⁶⁷ SoRJ pp. 136-153.

³⁶⁸ **CP-1**, Claimant's Opening Slide Presentation, Appendix, pp. 1-7.

³⁶⁹ SoR ¶ 707.

³⁷⁰ SoRJJ ¶¶ 156, 156(d).

³⁷¹ SoRJJ ¶¶ 156, 156(e).

³⁷² Transcript of Hearing on Jurisdiction and Merits, Day 1, 84-85, 86:1; SoR ¶¶ 708-709; SoRJ ¶¶ 455-457.

³⁷³ Transcript of Hearing on Jurisdiction and Merits, Day 1, 84-85, 86:1.

221. Thus, all of the pre-entry into force breaches described at **Section II.B** below not only qualify as breaches of customary international law under Claimant's MST claim, but equally qualify as FET/FPS breaches, because they were of a continuous nature and went on well past the entry into force of the Treaty. **Section II.C** below goes on to describe those post-entry into force breaches.

B. AZERBAIJAN CARRIED OUT REPEATED AND CONTINUOUS BREACHES AGAINST MR. BAHARI PRIOR TO THE ENTRY INTO FORCE OF THE TREATY³⁷⁴

222. This factual section describes Azerbaijan's continuous pre-entry into force adverse actions taken against Mr. Bahari, which not only breach MST under customary international law,³⁷⁵ but also FET and FPS. The following sections also answer the Tribunal's question regarding [REDACTED]

1. From September 2000 onwards, Azerbaijan Obscured and Erased Mr. Bahari's Ownership of Caspian Fish LLC in Government Records and Documents

223. Claimant's has written at length about Azerbaijan's malfeasance with respect to Caspian Fish LLC³⁷⁶ and describes that conduct in greater detail in Claimant's discussion on expropriation at **Part III §II** below and so does not repeat it here. For clarity, Azerbaijan's conduct includes acts carried out both pre-entry and post-entry into force.

2. Government Security Forces Forcibly Removed Mr. Bahari from the Caspian Fish Grand Opening Ceremony on 10 February 2001

224. Ample evidence, including consistent witness statements³⁷⁷ and oral testimony at the Hearing³⁷⁸ confirms Mr. Bahari's narrative that he was expelled from the Opening

³⁷⁴ This Section answers the **Tribunal Hearing Question no. 8**.

³⁷⁵ *Supra*, Part II. §V. C.; **Tribunal Hearing Question no. 2(i)**.

³⁷⁶ SoC ¶¶ 254-291; SoR ¶¶ 288-304, 320-338; **R-57; R-116; R-382**.

³⁷⁷ Bahari WS1 ¶¶ 67-72; Bahari WS2 ¶¶ 29-30; Moghaddam WS1 ¶¶ 55-58; Klaus WS1 ¶¶ 21-48; Hay WS1 ¶ 13; Suleymanov WS1 ¶¶ 41-42; Ramazanov WS1 ¶¶ 12-15; Khalilov WS ¶¶ 34-36.

³⁷⁸ Transcript of Hearing on Jurisdiction and Merits, Day 2, 138:3-25, 139:1-24 (Mr. Bahari's testimony); Transcript of Hearing on Jurisdiction and Merits, Day 3, 178:6-25, 179:1-25 (Mr. Moghaddam's testimony). *See also* SoC ¶¶ 132-143.

Ceremony of Caspian Fish. Azerbaijan has failed to rebut this evidence, for which reason alone Mr. Bahari's version of events must be taken as true.

225. For instance, Ms. Ramazanova's Witness Statement directly corroborates Mr. Bahari's testimony: she recalls that he was [REDACTED] [REDACTED]³⁷⁹ –whom Mr. Bahari identified as plainclothes Government security forces.³⁸⁰ It is uncontested that such Government security forces were numerous at the event,³⁸¹ and Ms. Ramazanova appears in the footage from the Opening Ceremony.³⁸² During an hour-plus cross-examination, Azerbaijan declined to question Ms. Ramazanova on this point, leaving it unchallenged.³⁸³
226. Other witnesses also corroborate Mr. Bahari's testimony by confirming that, as the owner, he was expected to give a speech, and that it was highly unusual that he did not do so.³⁸⁴ Azerbaijan did not cross-examine anyone else on this point, completely conceding the issue. Indeed, when Mr. Moghaddam sought to address the event, he was interrupted by Azerbaijan and not allowed to finish.³⁸⁵
227. Other people associated with Mr. Bahari were also removed from the grand opening ceremony. Mr. Chin Kwee Hay described how the equipment suppliers Mr. Bahari had invited to attend the grand opening ceremony were asked to leave the Caspian Fish premises by Government security agents.³⁸⁶ When questioned about this at the Hearing, Mr. Hay testified that he and other suppliers from Germany and Japan were removed during the middle of the ceremony, sent back to their hotels, and then provided airplane tickets home by security agents.³⁸⁷

³⁷⁹ Ramazanova WS1 ¶ 14.

³⁸⁰ Bahari WS1 ¶¶ 69-70.

³⁸¹ Klaus WS1 ¶¶ 37-42, Exhibits **C-063** – **C-067**; Khalilov WS ¶ 35.

³⁸² See Transcript of Hearing on Jurisdiction and Merits, Day 1, 62:11-19; **CP-1**, Claimant's Opening Slide Presentation, Slide 5.02.

³⁸³ Transcript of Hearing on Jurisdiction and Merits, Day 4, pp. 87-124.

³⁸⁴ Suleymanov WS1 ¶ 41; Klaus WS1 ¶ 44; Klaus WS2 ¶ 5; Khalilov WS ¶ 36.

³⁸⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 182:2-4.

³⁸⁶ Hay WS1 ¶ 13.

³⁸⁷ Transcript of Hearing on Jurisdiction and Merits, Day 3, 33, 34, 35:1-3.

228. Mr. Bahari's medical emergency and subsequent hospitalization³⁸⁸ is also consistent with and corroborates the traumatic experience of his forced removal – and it is inconsistent with Azerbaijan's defense theory that Mr. Bahari willingly left the event on his own accord. Azerbaijan's position on this has shifted over time: it first produced documents stating Mr. Bahari was never hospitalized at Neftchilar hospital;³⁸⁹ Azerbaijan then provided contradictory evidence via Mr. Zeynalov's first Witness Statement, who recalled Mr. Bahari was indeed hospitalized at Neftchilar hospital (but provided internally inconsistent testimony that he could not recall precisely when, yet at the same time was "certain" it was not in the days following the grand opening).³⁹⁰ At the Hearing, Mr. Bahari gave repeated accounts of his hospitalization; Azerbaijan never contested Mr. Bahari's explicit testimony on that point³⁹¹
229. Azerbaijan fails to put forward anyone other than Mr. Zeynalov who could contest Mr. Bahari's account of the events. Azerbaijan repeatedly asserts that it has "[REDACTED]"³⁹² but that is not true: Azerbaijan had a full opportunity to present witness statements from Messrs. Aliyev, Heydarov, or one or more Government security official, each of whom could have spoken directly on the issue, or provided testimony denying the event – but elected not to.³⁹³
230. Azerbaijan's sole witness who directly addresses the issue, Mr. Zeynalov, actually confirms Mr. Bahari's unusual absence.³⁹⁴ When questioned by the Tribunal, he conceded that this absence was "[REDACTED]"³⁹⁵ Upon further probing by the Tribunal, Mr. Zeynalov became visibly uncomfortable and stated:
- [REDACTED]

³⁸⁸ SoC ¶ 136; Bahari WS1 ¶ 73; Bahari WS2 ¶¶ 29-30; Moghaddam WS1 ¶¶ 56-59; Ramazanova WS1 ¶ 16; Transcript of Hearing on Jurisdiction and Merits, Day 2, 34:4-6, 48:24, 57:9-11, 144:13-21; Day 3, 152:3-5.

³⁸⁹ SoR ¶ 310; Claimant's Document Production Request no. 206 "[REDACTED]"; C-292 Letter from Neftchilar Hospital dated 22 May 2024.

³⁹⁰ Zeynalov WS1 ¶ 36.

³⁹¹ See, e.g., Transcript of Hearing on Jurisdiction and Merits, Day 2, 57:7-14.

³⁹² SoD ¶¶ 257(a); SoRJ ¶ 437.

³⁹³ SoR ¶ 305.

³⁹⁴ Zeynalov WS1 ¶ 36.

³⁹⁵ Transcript of Hearing on Jurisdiction and Merits, Day 5, 245:15-18.

231. Mr. Bahari submits that Mr. Zeynalov is well aware that Messrs. Aliyev and/or Heydarov had removed Mr. Bahari but refused to – or was afraid to – confirm this in oral testimony in front of three Azeri officials.³⁹⁷
232. Azerbaijan's cross-examination of Mr. Bahari entirely avoided questioning him about his actual ouster from Caspian Fish by Government security forces. Rather, it focused on an oblique and tenuous speculation that Mr. Bahari could not have been forcibly removed, with Mr. Janke Hansen substituting him for the speech, "[REDACTED]"
[REDACTED]
[REDACTED]
[REDACTED]³⁹⁸ However, Mr. Bahari explained that to his knowledge at the time, Mr. Hansen himself was not aware of his role in Mr. Bahari's removal, but rather was simply told Mr. Bahari was not available to give the speech and that Mr. Bahari had asked Mr. Hansen to do so.³⁹⁹ Mr. Bahari therefore did not consider Mr. Hansen to be a knowing or culpable participant. Thus, the fact that Mr. Hansen gave the speech, and that Mr. Bahari later associated himself with him, does nothing to disprove that Mr. Bahari was forced out of Caspian Fish by Government security forces.
233. Mr. Bahari also testified that just prior to the Grand Opening, Messrs. Aliyev and Heydarov requested that he appoint a foreigner to explain the equipment to President Heydar Aliyev during the facility tour, and that he identified Mr. Hansen.⁴⁰⁰ For avoidance of possible confusion, this was a separate event from the actual speech in the grand hall, which Mr. Bahari expected to give himself. Mr. Bahari had no prior knowledge that Mr. Hansen would also give *his* speech.⁴⁰¹
234. Azerbaijan's defense regarding Mr. Bahari's removal thus relies entirely on Mr. Hansen's role in giving the grand opening speech. Azerbaijan could have called Mr. Hansen to

³⁹⁶ Transcript of Hearing on Jurisdiction and Merits, Day 5, 246:4-11, 246:12-16.

³⁹⁷ Transcript of Hearing on Jurisdiction and Merits, Day 5, p. 2 of PDF (listing attendance of [REDACTED] of Azerbaijan's Embassy to the Netherlands).

³⁹⁸ Transcript of Hearing on Jurisdiction and Merits, Day 2, 150: 8-16.

³⁹⁹ Transcript of Hearing on Jurisdiction and Merits, Day 2, 150:17-24.

⁴⁰⁰ Transcript of Hearing on Jurisdiction and Merits, Day 2, 138: 3-25, 139: 1-10.

⁴⁰¹ Transcript of Hearing on Jurisdiction and Merits, Day 2, 143: 1-25, 144: 1-25.

provide clarifying testimony – but did not. Mr. Hansen provided only a written affidavit with zero evidentiary value.⁴⁰² For example, Mr. Hansen’s affidavit states that he was “[REDACTED]”⁴⁰³ but fails to identify this mysterious “[REDACTED]” He also states he was paid USD 2,000 to give the speech,⁴⁰⁴ but fails to identify who paid him. Separately, Mr. Hansen advances allegations of Mr. Bahari’s “[REDACTED]” to inflate project costs, take “[REDACTED]” and use a number of bankers who would cover for him, including Mr. Dieter Klaus.⁴⁰⁵ Once again, Mr. Hansen’s affidavit provides zero supporting evidence for these allegations – no inflated invoices, no proof of secret commissions, no examples of letters of recommendations and why their contents might be misleading. Indeed, Mr. Hansen’s accusations are both conveniently specific to Azerbaijan’s allegations in this Arbitration, while remaining entirely generic on the details. The Hansen Affidavit thus fails to provide a single detailed illustration of any alleged misconduct on any given project. Even putting aside Mr. Hansen’s non-availability as a witness, it is impossible to rebut or even address these vague, non-specific allegations, for which reason, in response to the Tribunal’s question, they should be accorded no weight at all.⁴⁰⁶

235. Finally, Azerbaijan advances a wholly unsupported inference that “Mr. Bahari was not present [at the grand opening] because in light of Mr. Rudman’s investigation, Mr. Bahari was instructed by Minister Heydarov not to attend and, no doubt mortified that his mismanagement was about to be uncovered, he acquiesced.”⁴⁰⁷ This is pure attorney-fabricated speculation, unsupported by any factual evidence whatsoever.⁴⁰⁸ Mr. Rudman himself makes no such statement. It should be noted that Mr. Rudman was unavailable to be cross-examined, though Mr. Bahari reserved the right to do so at a later date if necessary.⁴⁰⁹ It should also be noted that this position was advanced for the first time in

⁴⁰² **R-114** Affidavit of Mr Janke Hansen dated 10 November 2023

⁴⁰³ **R-114** Affidavit of Mr Janke Hansen dated 10 November 2023, ¶ 3.

⁴⁰⁴ **R-114** Affidavit of Mr Janke Hansen dated 10 November 2023, ¶ 3.

⁴⁰⁵ **R-114** Affidavit of Mr Janke Hansen dated 10 November 2023, ¶ 4; see Transcript of Hearing on Jurisdiction and Merits, Day 9, 81:2-17.

⁴⁰⁶ Transcript of Hearing on Jurisdiction and Merits, Day 9, 81:2-18.

⁴⁰⁷ SoRJ ¶ 437.

⁴⁰⁸ SoRJJ ¶¶ 315-321.

⁴⁰⁹ See Claimant email to PCA for onward transmission to the Tribunal dated 22 January 2025 (noting Claimant’s reservation of rights to call Mr. Rudman for cross-examination should the Tribunal believe Mr. Rudman’s statement to cover factual allegations relevant to its determination of the dispute).

Azerbaijan’s Rejoinder – and that it was completely untested or even addressed by Azerbaijan during the evidentiary Hearing. When Mr. Bahari was cross-examined about whether Minister Heydarov was purportedly concerned about Mr. Bahari’s mismanagement, he attested that “ [REDACTED] ”⁴¹⁰ Azerbaijan failed to put Minister Heydarov forward to testify to his satisfaction with Mr. Bahari, and even to have him address the topic in his lone letter in the record,⁴¹¹ and thus has not borne its burden to prove its defense.

236. Azerbaijan’s defense on this major breaching event leaves Claimant’s core evidence uncontested: against his will, Government security forces expelled Mr. Bahari from his own Grand Opening Ceremony. Whether this was at the direction of Minister Heydarov, President Aliyev, an act by the Government security officers, or a so-called “private” act that Government security officers permitted to happen, this action is directly attributable to Azerbaijan and resulted in a breach of multiple Treaty provisions.

3. Government Security Forces Put Mr. Bahari Under House Arrest for Weeks Without Officially Charging Him

237. Mr. Bahari has also met his burden of proof on his house arrest through consistent witness statements⁴¹² and oral testimony.⁴¹³ Mr. Bahari specifically notes the presence of Government security agents outside his home who would not let him out, and that he was never formally charged with any crime.⁴¹⁴ Mr. Moghaddam corroborates this with his recollection of plainclothes police outside Mr. Bahari’s home who would not allow him inside.⁴¹⁵
238. Azerbaijan’s defense on this point once again employs an inconsistent empty chair approach. Other than blanket denials,⁴¹⁶ it puts forward no official documents from any Government agency that rebut Mr. Bahari’s testimony; in fact, Azerbaijan does not even

⁴¹⁰ Transcript of Hearing on Jurisdiction and Merits, Day 2, 78:21-24, 105:9-10.

⁴¹¹ **R-304** Letter from Mr Kamaladdin Heydarov to Quinn Emanuel, dated 25 October 2024.

⁴¹² Bahari WS1 ¶¶ 73-74; Moghaddam WS1 ¶ 60. See *also* SoC ¶¶ 149-151.

⁴¹³ Transcript of Hearing on Jurisdiction and Merits, Day 2, 30:12-13; 34:13-19.

⁴¹⁴ Bahari WS1 ¶ 74.

⁴¹⁵ Moghaddam WS1 ¶ 60.

⁴¹⁶ See, e.g., SoD ¶¶ 259(a)-(d).

state whether it bothered to search through police or State security records, or whether it interviewed any Government officials..

239. Azerbaijan attempts to gap-fill the resounding silence from its lack of Government officials by again relying on ancillary witnesses and the Hansen Affidavit. Apart from Mr. Zeynalov, these witness testimonies do not directly address (or rebut) Mr. Bahari's house arrest, but rather, focus on his alleged continued work at Caspian Fish for a period of time after the grand opening ceremony:

- a. Mr. Zeynalov goes only so far as stating he does "[REDACTED]"⁴¹⁷
- b. Mr. Kerimov testifies that he saw Mr. Bahari at Caspian Fish in February or March 2001.⁴¹⁸ This testimony is particularly incoherent and unconvincing: Mr. Kerimov states that he was appointed (by Minister Heydarov⁴¹⁹) as Director of Caspian Fish around late February 2001, replacing Mr. Bahari in this role.⁴²⁰ Yet at the same time, Mr. Kerimov alleges that Mr. Bahari continued working there for "[REDACTED]"⁴²¹ On cross-examination, Mr. Kerimov could not explain what, exactly, Mr. Bahari was allegedly working on, given that Mr. Kerimov had taken over Mr. Bahari's position as Director.⁴²² Mr. Kerimov stated that Mr. Bahari "[REDACTED]"⁴²³ and was directed by Mr. Khanghah to "[REDACTED]" building the factory because it was not yet finished.⁴²⁴ This nebulous explanation directly contradicts Respondent's own evidence that Caspian Fish was completed by summer of 2000,⁴²⁵ and that only minor work (e.g., a fence) remained by Fall

⁴¹⁷ Zeynalov WS1 ¶ 36. See also SoD ¶¶ 37(a), 259(a)-(d).

⁴¹⁸ Kerimov WS1 ¶¶ 9-22.

⁴¹⁹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 96:10-18; 97:23-25.

⁴²⁰ Transcript of Hearing on Jurisdiction and Merits, Day 5, 96:23-25, 97:1-9.

⁴²¹ Kerimov WS1 ¶ 11.

⁴²² Transcript of Hearing on Jurisdiction and Merits, Day 5, 98:25; 99, 100.

⁴²³ Transcript of Hearing on Jurisdiction and Merits, Day 5, 99:2-12.

⁴²⁴ Transcript of Hearing on Jurisdiction and Merits, Day 5, 99:8-11; 99:15-25; 100:1-5.

⁴²⁵ SoD ¶ 249; Rudman WS ¶¶ 5-6. See also SoRJ ¶¶ 272-277 (nearly all of Respondent's witnesses arrived after completion of works in summer 2000); Transcript of Hearing on Jurisdiction and Merits, Day 8, 45-48 (Gaines testimony on completion of works).

2000.⁴²⁶ Mr. Kerimov, it should be recalled, admitted that he publicly lied about Minister Heydarov being an investor in Caspian Fish.⁴²⁷ He also enjoyed the patronage of the Aliyev family, including job positions and contracts⁴²⁸ - information he withheld in his witness statements.⁴²⁹ Thus, the Tribunal should accord no weight to Mr. Kerimov's implausible testimony that Mr. Bahari worked at Caspian Fish for a time following the grand opening ceremony.

- c. Mr. Hasanov alleges that he saw Mr. Bahari "[REDACTED]" the grand opening.⁴³⁰ This testimony is equally implausible. It is directly at odds with Mr. Bahari's hospitalization in the days immediately following his ouster from Caspian Fish – a fact otherwise unchallenged by Azerbaijan.⁴³¹ Moreover, Mr. Hasanov is an unreliable witness who, among many other issues, falsely testified he did not know who owned Gilan Holding,⁴³² but under questioning from the Tribunal changed his answer and admitted that he did in fact know in 2000 that it was owned by Minister Heydarov.⁴³³ He then could not reconcile this admission with the fact that Gilan Holding was not incorporated until 2005.⁴³⁴
- d. Mr. Hansen's affidavit includes a one-sentence statement that he saw Mr. Bahari at the Hyatt in the days following the ceremony.⁴³⁵ His submitted hotel receipt does not "[REDACTED]" Mr. Bahari's alleged presence there.⁴³⁶ No other Respondent evidence corroborates Mr. Hansen's affidavit or explains why Mr. Bahari would be at a hotel. The alleged timing of the meeting (between 10 and 13 February 2001) is flatly inconsistent with Mr. Bahari's hospitalization. Again, Mr. Hansen did not

⁴²⁶ Transcript of Hearing on Jurisdiction and Merits, Day 6, 29:2-21 (Hasanov testimony).

⁴²⁷ SoRJJ ¶ 182, **SEC-207**, Mammedov, An Error Crept into the MNS Message, 11 July 2002 (denying Minister Heydarov was a shareholder or owner of ICCI or Caspian Fish); Kerimov WS1 ¶ 20 (providing his "[REDACTED]" that Minister Heydarov funded Caspian Fish); Kerimov WS2 ¶ 36; Transcript of Hearing on Jurisdiction and Merits, Day 5, 111:16-25, 112-121 (explaining why he lied to the press about Minister Heydarov's ownership).

⁴²⁸ SoR ¶¶ 61-62; Transcript of Hearing on Jurisdiction and Merits, Day 5, 73-80.

⁴²⁹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 73:14-25; 74:1-13.

⁴³⁰ Hasanov WS1 ¶ 14; SoD ¶ 259(d).

⁴³¹ *Supra* at ¶ 228.

⁴³² Transcript of Hearing on Jurisdiction and Merits, Day 6, 12:12-16.

⁴³³ Transcript of Hearing on Jurisdiction and Merits, Day 6, 13:13-25, 14, 15:1-24.

⁴³⁴ Transcript of Hearing on Jurisdiction and Merits, Day 6, 19:22-25, 20, 21:1.

⁴³⁵ **R-114** Affidavit of Mr Janke Hansen, 10 November 2023, ¶ 3.

⁴³⁶ SoR ¶ 309; SoD ¶ 259(d); **R-126** Invoice from Park Hyatt Baku to the LLC, 13 February 2001.

have sufficient conviction in his assertions to be put to proof and his affidavit holds zero evidentiary value.



240. Most critically, the testimony from these non-Government witnesses is completely inconsistent with Azerbaijan's theory of Mr. Bahari as an alleged fraud. Were it true that Mr. Bahari left because he was asked to after his alleged fraud was discovered, it is simply implausible that he would have been allowed to continue working in any capacity after the grand opening.
241. Azerbaijan's cross-examination of Mr. Bahari on this point principally focused on the fact that the 2019 Winston & Strawn-drafted Notice of Arbitration did not mention a house arrest.⁴³⁷ But what was or was not included in that Notice cannot be a basis to determine the veracity of a given fact. A Notice of Arbitration is only a preliminary document, as evidenced by the fact that the UNCITRAL Rules require a Notice to contain only "[a] brief description of the claim."⁴³⁸ Azerbaijan's entire line of cross-examination on this point is premised on a legally and logically untenable position.
242. Once again, Azerbaijan's defense on this matter leaves Claimant's core evidence intact: following his unexpected expulsion from his own grand opening event, Mr. Bahari experienced a serious medical event, was hospitalized, then subsequently put into a period of house arrest in his own home by Government security forces.
243. As attested by multiple Claimant witnesses, Mr. Bahari's period of house arrest was enforced by Government security personnel and thus directly attributable to Azerbaijan. As such, Azerbaijan's actions breached various provisions of the Treaty.

4. Azerbaijan Prevented Mr. Bahari from Entering the Caspian Fish Facilities from 10 February 2001 Onwards

244. As a consequence of his house arrest, Mr. Bahari was prevented from entering the Caspian Fish facilities from the grand opening until the date of his expulsion from Azerbaijan several weeks later. Although factually related, Azerbaijan's placement of Mr. Bahari into house arrest and its prevention of Mr. Bahari from entering Caspian Fish qualify as two separate and distinct breaches.

⁴³⁷ Transcript of Hearing on Jurisdiction and Merits, Day 2, 34:10-22; see **R-54** Notice of Arbitration, 5 April 2019, ¶ 39.

⁴³⁸ UNCITRAL Rules 2013, Article 3(3)(e).

245. Mr. Bahari testified that following his expulsion from Caspian Fish, he never again set foot there.⁴³⁹ Azerbaijan also prevented Mr. Suleymanov from entering Caspian Fish and he also never allowed back in after the grand opening event.⁴⁴⁰ As detailed below, in the weeks and months following the grand opening ceremony, Azerbaijan also threatened and assaulted Mr. Moghaddam, effectively preventing him from entering Caspian Fish or even gathering information about it.⁴⁴¹ Thus, Azerbaijan prevented Mr. Bahari and his staff from entering his business, which was a critical preliminary step in the eventual permanent loss of his investment.
246. As already discussed, Azerbaijan's witness testimonies that Mr. Bahari worked at Caspian Fish for some time following his 10 February 2001 expulsion are not credible – and they are inconsistent with Azerbaijan's theory that Minister Heydarov allegedly uncovered Mr. Bahari's fraud and mismanagement of the construction and asked him to step down and leave the project.⁴⁴²
247. Azerbaijan further puts forward a number of documents that purport to show that Mr. Bahari was transacting business on behalf of Caspian Fish in the days and weeks following the grand opening ceremony – thus allegedly proving he was working onsite.⁴⁴³ Mr. Bahari has addressed these documents at length in his written submissions and pointed out their numerous inconsistencies.⁴⁴⁴
248. Mr. Kerimov's cross-examination further highlighted these inconsistencies and their unreliability as evidence:
- a. Mr. Kerimov could not explain why the alleged Caspian Fish letter to Caviar House dated 26 March 2001⁴⁴⁵ was signed by Mr. Bahari, yet referred to Mr. Bahari in the third person in the body of the text ('


⁴³⁹ Bahari WS1 ¶ 75.

⁴⁴⁰ Suleymanov WS1 ¶ 42.

⁴⁴¹ *Infra* PART. III, §I, B, 7.

⁴⁴² *Supra* ¶ 235.

⁴⁴³ SoD ¶¶ 259(c), 264(d), citing to **R-59, R-60, R-61, R-64, R-127, R-157**; SoRJ ¶ 84(a), fn. 159.

⁴⁴⁴ SoR ¶ 314(a)-(f); SoRJJ ¶ 332.

⁴⁴⁵ **R-59** Letter from Caspian Fish to Caviar House, 26 March 2001.

[REDACTED]).⁴⁴⁶ Mr. Kerimov also could not explain why the letter was signed Mr. Bahari as “[REDACTED],” when Mr. Kerimov held that role – or why Mr. Bahari was negotiating a sale with Caviar House at all, given that this would have fallen under Mr. Kerimov’s responsibilities as newly-appointed Director.⁴⁴⁷

- b. Likewise, Mr. Kerimov could not explain why a contract was allegedly signed by Mr. Bahari and Mr. Khanghah with Caviar House on 7 April 2001,⁴⁴⁸ when Mr. Kerimov was Managing Director; nor could he explain why the body of the letter referred only to a meeting between Mr. Khanghah and Mr. Valluet of Caviar House, but not Mr. Bahari despite his alleged signature.⁴⁴⁹ Indeed, Mr. Kerimov ultimately conceded [REDACTED]

[REDACTED]⁴⁵⁰ Of course, Mr. Bahari denies his involvement in any of the correspondence put forward by Azerbaijan.⁴⁵¹

In other words, Azerbaijan’s exhibited correspondence is directly at odds with Mr. Kerimov’s testimony about taking over as Managing Director of Caspian Fish immediately following the grand opening ceremony. This, combined with complete lack of any Government testimony relating to this time period, fails to rebut Mr. Bahari’s testimony that he never again set foot in Caspian Fish.

249. It bears noting that Mr. Bahari’s alleged signature on the 7 April 2001 Caviar House document is particularly unconvincing, bearing [REDACTED] of the known [REDACTED]

⁴⁴⁶ Transcript of Hearing on Jurisdiction and Merits, Day 5, 104:9-21, 105:1-18. See *also* SoR ¶ 314(c) and Morrissey Report ¶¶ 3.6.1-3.6.6 (noting variance in Mr. Bahari’s alleged signature).

⁴⁴⁷ Transcript of Hearing on Jurisdiction and Merits, Day 5, 105: 11-25, 106:1-5.

⁴⁴⁸ **R-157** Contract between Caspian Fish LLC and Caviar House, 7 April 2001; SoR ¶ 314(f); Morrissey Report ¶¶ 3.11.1-3.11.7 (noting variance in Mr. Bahari’s alleged signature).

⁴⁴⁹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 106:7-25, 107, 108, 109:1-20.

⁴⁵⁰ Transcript of Hearing on Jurisdiction and Merits, Day 5, 109:17-20 (emphasis added).

⁴⁵¹ Bahari WS2 ¶ 30; SoR ¶ 315.

Bahari signatures.⁴⁵² The same goes for the other correspondences produced by Respondent,⁴⁵³ as revealed by even the most cursory layman's review.

250. Indeed, if Mr. Bahari had stayed behind for several months, the Caspian Fish archives would have held numerous records of Mr. Bahari transacting business, or undertaking construction works as Mr. Kerimov alleges. Azerbaijan's inability to produce a comprehensive record demonstrates the falsity of its theory.
251. Even if the Tribunal were convinced that Mr. Bahari did appear for a limited period of time at the Caspian Fish facilities, or wrote a handful of correspondences, this would not overcome the essential point, which is that Mr. Bahari was not allowed permitted back to the facilities – and that this action was perpetrated by Government security forces who had put Mr. Bahari under house arrest. This amounted to a breach of the provisions of the Treaty – again, separate from Azerbaijan's unlawful placement of Mr. Bahari under house arrest with no formal criminal charges.

5. Azerbaijan Threatened Mr. Bahari, Which Put Him in Great Fear for his Life

a. Mr. Bahari Gave Credible Testimony Regarding His Fear, While Azerbaijan's Defense Theories Are Not Credible

252. Mr. Bahari's forced removal from the Caspian Fish facility and the subsequent hostile Government actions discussed above put Mr. Bahari in fear of his life⁴⁵⁴ and prevented him from returning to Azerbaijan to reclaim and enjoy the fruits of his investment.
253. At the Hearing, Mr. Bahari testified explicitly to his state of fear:

- a. When questioned [REDACTED]
[REDACTED], Mr. Bahari responded, [REDACTED]
[REDACTED]⁴⁵⁵

⁴⁵² **R-157** Contract between Caspian Fish LLC and Caviar House, 7 April 2001; Morrissey Report ¶¶ 3.11.1-3.11.2.

⁴⁵³ **R-60** Letter from Caspian Fish Co Azerbaijan to "DFT GmbH", 26 March 2001 **R-61** Letter from Caspian Fish Co Azerbaijan to Baader, 29 March 2001 **R-64** Letter from Mr Rolf Klawitter of Kühne and Nagel (AG and Co) KG to Caspian Fish, 14 February 2001; SoR ¶¶ 314(b)-(d).

⁴⁵⁴ Bahari WS1 ¶¶ 70, 85, 94, 98; Bahari WS2 ¶¶ 32-33, 34-35. See also SoC ¶¶ 15, 135-136, 150, 181, 309-310; SoR ¶¶ 561, 595-596, 620, 659, 697-701, 873(a)(b), 894, 947, 1047.

⁴⁵⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 46:23-25, 47:1-2.

- b. When questioned [REDACTED],
Mr. Bahari responded, [REDACTED]

456

- c. When questioned [REDACTED]
[REDACTED], Mr. Bahari answered [REDACTED]

457

254. On cross-examination, Azerbaijan attempted three defense theories to counter Mr. Bahari's testimony regarding his great fear: *first*, that the 2019 Notice of Arbitration implied that Mr. Bahari had left voluntarily;⁴⁵⁸ *second*, that Mr. Bahari could not have been afraid since he came back in 2013 to meet Minister Heydarov;⁴⁵⁹ and *third*, that Mr. Bahari freely left Azerbaijan because he was focused on his Qeshm project.⁴⁶⁰

- a. The first defense theory is based on a textual reading of the 2019 Notice of Arbitration filed by Winston & Strawn. As explained above regarding Mr. Bahari's period of house arrest, what was or was not included in that 2019 Notice cannot be a basis to determine the veracity of a given fact and Azerbaijan's entire line of cross-examination is untenable.⁴⁶¹
- b. As to the second defense theory, Mr. Bahari testified that he was indeed afraid to return to Azerbaijan in 2013 (consistent with his Witness Statement⁴⁶²) but was given assurances by influential Turkish and Russian businessmen with connections to the Azeri Government, and even by an Azeri Ambassador, that he

⁴⁵⁶ Transcript of Hearing on Jurisdiction and Merits, Day 3, 47:6-11.

⁴⁵⁷ Transcript of Hearing on Jurisdiction and Merits, Day 3, 47:12-17. *See also* Day 2, 32:22-24 [REDACTED]
[REDACTED] Transcript of Hearing on Jurisdiction and Merits, Day 2, 40:1-12 (noting fear that Azerbaijan can reach him even in other countries); Day 2 71:7-10 (noting fear of returning to Azerbaijan in 2013); Day 3, 45:3-8 (noting Dr. Kousedghi used the word "[REDACTED]"); Day 3, 46-47:25-2 [REDACTED]
[REDACTED].

⁴⁵⁸ Transcript of Hearing on Jurisdiction and Merits, Day 2, 29:21-25; 30-35, 36:1-7.

⁴⁵⁹ Transcript of Hearing on Jurisdiction and Merits, Day 2, 168:1-25, 169:1-8; 171:13-25; 172:1.

⁴⁶⁰ Transcript of Hearing on Jurisdiction and Merits, Day 2 91:4-6. *See also* Transcript of Hearing on Jurisdiction and Merits, Day 2, 79:10-12, 20-23.

⁴⁶¹ *Supra* at ¶ 241.

⁴⁶² Bahari WS1 ¶ 95

would be given safe passage. Indeed, Mr. Bahari noted that the Ambassador filled out Mr. Bahari's visa himself using a ballpoint pen. The handwritten entry visa is indeed unusual, as these are typically computer-issued and entirely typewritten.⁴⁶³ Mr. Bahari explained that this was because Azerbaijan did not have his passport and the Azeri Ambassador had to visit him in person to take his passport and affix and fill out sections of the visa by hand.⁴⁶⁴ This was all done at the instruction of Minister Heydarov.⁴⁶⁵ (It also bears noting that Mr. Bahari submitted document requests to the State Border Service for information relating to this 2013 visa. Azerbaijan objected to this; the Tribunal denied the request as not sufficiently specific and as failing to establish the relevance and materiality of such information.)⁴⁶⁶ Finally, Azerbaijan's line of questioning to rebut Mr. Bahari's fear is limited to this 2013 travel period – and says nothing about the fear he experienced prior to that.

- c. Relatedly, in the same portion of testimony, Mr. Bahari quashed Azerbaijan's theory that he had not provided his expired passports to his Counsel because they would allegedly prove his free entry and exits to/from Azerbaijan following the grand opening.⁴⁶⁷ Azerbaijan premised this on the fact that Mr. Bahari had a copy of his 2013 visa to enter Azerbaijan, but did not present the full expired passport.⁴⁶⁸ However, Mr. Bahari explained that he had taken photos of this visa for his own protection during his visit and had sent copies to a few people to let them know that he was traveling to Azerbaijan.⁴⁶⁹ He further explained that the old passports had been surrendered to Iran upon renewal and issuance of a new passport.⁴⁷⁰
- d. Azerbaijan's third theory that Mr. Bahari willingly left his Caspian Fish investment in order to focus on his Qeshm fish powder plant project is completely speculative,

⁴⁶³ Transcript of Hearing on Jurisdiction and Merits, Day 2, 71, 72:1-8.

⁴⁶⁴ Transcript of Hearing on Jurisdiction and Merits, Day 2, 71:19-25; 72:1-8.

⁴⁶⁵ Transcript of Hearing on Jurisdiction and Merits, Day 2, 76:9-20.

⁴⁶⁶ PO6 Annex 1, Claimant's Request nos. 196 and 199.

⁴⁶⁷ Transcript of Hearing on Jurisdiction and Merits, Day 2, 67:1-6.

⁴⁶⁸ Transcript of Hearing on Jurisdiction and Merits, Day 2, 69:12-23; 72:16-21; 72:24-25; 73:1-6; 76:24-25; 77:1-11; **C-183** Azerbaijan visa for Mr. Bahari, 7 October 2013.

⁴⁶⁹ Transcript of Hearing on Jurisdiction and Merits, Day 2, 69:21-23; 73:12-24.

⁴⁷⁰ Transcript of Hearing on Jurisdiction and Merits, Day 2, 67:6-9; Transcript of Hearing on Jurisdiction and Merits, Day 3, 185:10-13 (Moghaddam testimony that he also had to turn in his Iranian passport).

with no evidentiary support in the record. Mr. Bahari roundly rejected this line of questioning by explaining that he would never have abandoned his crown jewel investment in Caspian Fish – which included a valuable caviar fishing and processing activity – for Qeshm, which was focused on much lower-value processed fish powder and fish oil products for livestock feed.⁴⁷¹ As he stated, it made no sense to give one up for another: [REDACTED]

[REDACTED]⁴⁷² Certainly, there is no reason why Mr. Bahari had to give up Caspian Fish in order to run Qeshm, and but for Azerbaijan’s breaching acts, he could very well have run multiple businesses inside and outside Azerbaijan – indeed, Mr. Bahari testified that “[REDACTED]

[REDACTED]”⁴⁷³ Azerbaijan’s Counsel also tried to suggest that Iran did not want the owner of Qeshm “[REDACTED]

[REDACTED]”⁴⁷⁴ This line of questioning is equally speculative, without a shred of evidentiary support; Mr. Bahari roundly rejected this too: “[REDACTED]

[REDACTED]
[REDACTED]”⁴⁷⁵

255. In sum, none of Azerbaijan’s indirect attacks disprove the heart of Mr. Bahari’s testimony, which any person can intuitively grasp: Government organs deploying the full coercive power of the State took Mr. Bahari’s investments and expelled him from the country; any rational individual would have experienced great fear and helplessness at such abusive misuse of raw State power by State officials. Such fear is clearly attributable to Azerbaijan as no ordinary or private business partner or individual would be able to instill such fear and intimidation with complete impunity.
256. Azerbaijan’s threatening conduct towards Mr. Bahari comprises a separate standalone breach of Treaty provisions, as this prevented Mr. Bahari from returning to look after his investments. Stated a different way, even if Azerbaijan had not proactively expelled Mr.

⁴⁷¹ Transcript of Hearing on Jurisdiction and Merits, Day 2, 87:11-6; 98:7-16; Moghaddam WS1 ¶ 80 (referencing Gheshm Fish Powder Plant); **R-133** Dastchin Information Centre for Livestock, Poultry, and Fishery profile on Qeshm Fish Processing Company accessed 8 December 2023.

⁴⁷² Transcript of Hearing on Jurisdiction and Merits, Day 2, 91:7-10.

⁴⁷³ Transcript of Hearing on Jurisdiction and Merits, Day 2, 87:14-16.

⁴⁷⁴ Transcript of Hearing on Jurisdiction and Merits, Day 2, 98:23-25, 99:1-2.

⁴⁷⁵ Transcript of Hearing on Jurisdiction and Merits, Day 2, 101:8-10.

Bahari from its territory (a breach of its own), he very likely would have left regardless, under extreme duress. Azerbaijan's threatening conduct amounts to a breach that is separate and independent of Mr. Bahari's expulsion from the country.

b. There Is Further Evidence That Azerbaijan's State Organs Made Two Specific Threats Against Mr. Bahari in the Pre-Entry Into Force Period

257. Within the pre-entry into force period, State organs of Azerbaijan further made two specific threats against Mr. Bahari. These two specific threats are nested within the overall hostile Government actions taken against Mr. Bahari that put him in fear of his life, but given their specificity, can be considered as separate breaching actions.

258. As to the first specific threat: After Mr. Bahari was put into a Government vehicle and driven off the Caspian Fish premises, Mr. Bahari reached Ilham Aliyev and had a conversation by phone. Mr. Bahari testified that President Aliyev told him he did not want an Iranian at Caspian Fish, and that President Aliyev's tone was '[REDACTED]

[REDACTED]"⁴⁷⁶

a. Mr. Bahari's testimony is consistent with his overall narrative of events. This conversation was immediately followed by Mr. Bahari's hospitalization, underscoring the high stress this caused.⁴⁷⁷ As discussed above, Mr. Bahari testified at length that Azerbaijan's actions put him in fear of his life,⁴⁷⁸ consistent with his written testimony.⁴⁷⁹

b. A threatening call coming from the son of the then-sitting President and heir apparent to the Presidency⁴⁸⁰ carries exceptional weight. As noted by the Allan & Makarenko Report, every action taken by the dominant Aliyev coalition '[REDACTED]

[REDACTED]"⁴⁸¹

⁴⁷⁶ Bahari WS1 ¶¶ 70-71. See also SoC ¶ 135.

⁴⁷⁷ Bahari WS1 ¶ 72; Bahari WS2 ¶ 28.

⁴⁷⁸ Transcript of Hearing on Jurisdiction and Merits, Day 2, 32:22-24, 71:7-13; Day 3, 45:3-8, 46:23-25, 47.

⁴⁷⁹ Bahari WS1 ¶¶ 70, 85, 94, 98; Bahari WS2 ¶¶ 32-33, 34-35; see also SoC ¶¶ 15, 135-136, 150, 181, 309-310; SoR ¶¶ 561; 595-596; 620; 659; 697-701, 873(a)(b), 894, 947, 1047.

⁴⁸⁰ Ilham Aliyev ascended to the Presidency just two years later, in 2003. SoC ¶ 187.

⁴⁸¹ Allan & Makarenko Report ¶ 21.

- c. Faced with evidence of this extraordinary event, Azerbaijan's sole rebuttal "evidence" on this point is a blatant misreading of an interview Mr. Bahari gave in 2019, in order to suggest he gave inconsistent accounts of the grand opening events over time. Azerbaijan incorrectly quotes Mr. Bahari as saying that he was "[REDACTED]" following his ouster from Caspian Fish.⁴⁸² That is not what the interview says. Mr. Bahari's actual interview says as follows: "[REDACTED]"
[REDACTED]
[REDACTED]
[REDACTED]"⁴⁸³ What the security officers told Mr. Bahari (presumably in order to convince him to leave) is not the same as Mr. Bahari saying that he actually did later meet President Aliyev at a country house location. Mr. Bahari never says this actually happened, and it is highly misleading, if not deceitful, for Azerbaijan to assert this.
- d. Azerbaijan elected not to provide a statement from President Aliyev denying the conversation took place. Instead, Azerbaijan once again put forward a pro forma denial that "[REDACTED]"
[REDACTED]"⁴⁸⁴ This is an astonishing statement: Azerbaijan opts to hide behind the legal conceit that President Aliyev was a private individual and as such, refuses to provide a denial from him that could corroborate its blanket denial of the event. From an evidentiary point of view, this defense posture is untenable, as Azerbaijan could have obtained testimony from President Aliyev without waiving its "private party/capacity" attribution defense (as it did with other Government witnesses such as Ms. Balakishiyeva, Mr. Mammadov, or Mr. Kalantarli – and as it partly did by exhibiting the 25 October 2025 letter signed by Minister Heydarov ⁴⁸⁵). Azerbaijan must bear the consequences of its empty chair tactic: it fails to provide any evidence to support its denial of President Aliyev's threatening conversation and thus fails to meet its burden of proof as to that factual denial. The truth of the matter is that the

⁴⁸² SoD ¶¶ 258; **R-124** Extract of transcript of Mr Bahari's interview on Azerbaijan Saati with Mr Ganimat Zahid, 6 April 2019.

⁴⁸³ **R-124** Extract of transcript of Mr Bahari's interview on Azerbaijan Saati with Mr Ganimat Zahid, 6 April 2019.

⁴⁸⁴ SoD ¶ 258.

⁴⁸⁵ **R-304** Letter from Mr Kamaladdin Heydarov to Quinn Emanuel, 25 October 2024.

conversation did take place; this explains Azerbaijan's silence on the issue; not coincidentally, it likely explains why Azerbaijan did not cross-examine Mr. Bahari on the subject.

- e. Thus, Mr. Bahari's evidence of President Aliyev's threats stands unrebutted. The threats are attributable to Azerbaijan because President Aliyev was an organ of the state; or, alternatively, had the ability to call on the coercive powers of the state at any time, as he had just done in forcibly removing Mr. Bahari from Caspian Fish. The threats therefore breach various Treaty provision.

259. As to the second specific threat: Mr. Bahari provided testimony that during his period of hospitalization and house arrest, Dr. Kousedghi visited and told him his life was in danger and that the Iranian Embassy could not guarantee his safety or that of his family.⁴⁸⁶ Mr. Moghaddam confirmed that Dr. Kousedghi visited Mr. Bahari at the hospital.⁴⁸⁷

- a. Azerbaijan could have performed an official review of Government records and provided an official statement that it held no accounts of any such plot against Mr. Bahari. Azerbaijan chose not to do so, thus failing to provide any convincing rebuttal evidence. Azerbaijan must accept the evidentiary consequences of its empty chair defense.
- b. Instead, Azerbaijan contested Mr. Bahari's evidence by providing a letter from former Minister Namig Abbasov (Senior)⁴⁸⁸ and a witness statement from his son, Mr. Anar Abbasov (Junior; who does not appear to be a Government official), alleging that this letter "██████" with his verbal conversation with his father.⁴⁸⁹ As with the Hansen Affidavit, Claimant had no opportunity to put Mr. Abbasov Senior to proof on his recollections; as such, the Tribunal should accord little to no evidentiary weight to this letter. As for Mr. Abbasov Junior, his statement amounts to pure hearsay evidence. Given the low evidentiary value of this witness statement, Claimant elected not to spend valuable time cross-examining him. However, Claimant notes here the deliberate ambiguity concerning who drafted

⁴⁸⁶ Bahari WS1 ¶ 74. See also SoC ¶¶ 144-150.

⁴⁸⁷ Moghaddam WS1 ¶ 59.

⁴⁸⁸ **R-65** Letter from N Abbasov to Quinn Emanuel dated 14 December 2023.

⁴⁸⁹ Abbasov WS ¶ 6.

Mr. Abbasov Senior's letter for his signature.⁴⁹⁰ Mr. Abbasov Junior references receiving a letter from Quinn Emanuel, explaining its contents to his father, and that his father then "[REDACTED]"⁴⁹¹ Given Mr. Abbasov Senior's self-professed ill health, it appears that his letter may have been drafted by Azerbaijan or its Counsel and presented as such to Mr. Abbasov Senior for his signature. If so, this would make the letter even more unconvincing as factual "evidence."

- c. Azerbaijan contested the inclusion of Dr. Kousedghi's witness statement due to his inability to appear at the Hearing.⁴⁹² Claimant stands by his assertion Azerbaijan appears to have interfered with Dr. Kousedghi's ability to appear as a witness in these proceedings.⁴⁹³ Notwithstanding the withdrawal of Dr. Kousedghi's testimony due to his unexplained absence, Mr. Bahari provided oral testimony on this point that was consistent with his own prior written statements:⁴⁹⁴ he testified that Dr. Kousedghi "[REDACTED]"⁴⁹⁵ When asked whether Dr. Kousedghi used the word "[REDACTED]" or similar, Mr. Bahari answered "[REDACTED]"⁴⁹⁶
- d. Azerbaijan's characterization of the assassination plot as a "[REDACTED]"⁴⁹⁷ is ironically tone-deaf, given its publicly-reported track record.⁴⁹⁸ Given that track record, and given that Caspian Fish involved the powerful Aliyev and Heydarov families,⁴⁹⁹ it is, in fact, well within the realm of probability that Azerbaijan considered and/or plotted to assassinate Mr. Bahari. Azerbaijan's casual dismissal of Mr. Bahari's testimony is not an appropriate factual basis to rebut the evidence.

⁴⁹⁰ Abbasov WS ¶¶ 5-6; **R-65** Letter from N Abbasov to Quinn Emanuel dated 14 December 2023.

⁴⁹¹ Abbasov WS ¶¶ 5-6.

⁴⁹² Respondent letter to the Tribunal dated 14 January 2025.

⁴⁹³ Claimant letter to Tribunal re Dr. Kousedghi dated 1 December 2024; Claimant letter to Tribunal detailing search efforts for Dr Kousedghi, dated 10 January 2025.

⁴⁹⁴ Bahari WS1 ¶ 74. See also SoC ¶¶ 144-148.

⁴⁹⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 45:3-6; see *generally* Day 3, 44-48.

⁴⁹⁶ Transcript of Hearing on Jurisdiction and Merits, Day 3, 45:7-8.

⁴⁹⁷ SoD ¶¶ 14(b), 15.

⁴⁹⁸ See, generally, SoC PART III.IV (discussing Azerbaijan's human rights abuses).

⁴⁹⁹ See SoC III.(F)-(G).

260. The ample overall evidence of Azerbaijan's serial threats against Mr. Bahari reinforces the likelihood that there was, indeed, a serious assassination plot against Mr. Bahari. Even if the Tribunal does not accept this, the overall evidence of threats separate from any assassination plot suffices and amount to a breach. In sum, Mr. Bahari was confronted with the full coercive powers of Azerbaijan; objectively and subjectively, this put Mr. Bahari in great fear for his life and that of his family, which understandably prevented him from returning to look after his investments.
261. Any assassination attempt on Mr Bahari's life, whether it was carried out or only rose to the level of serious threat, is attributable to Azerbaijan as either being directly behind the assassination plot or failing to take reasonable steps to stop the threats of harm to Mr. Bahari.

6. Azerbaijan Expelled Mr. Bahari From Its Territory Against His Will on or about March 2001

262. Mr. Bahari provided consistent testimony regarding his expulsion from Azerbaijan on or about March 2001: Government agents came to his home, presented him with a set of airplane tickets, as well as his family's passports, then escorted him to the airport, with Rasim Zeynalov driving the family.⁵⁰⁰ Once again, his oral testimony at the Hearing was consistent with his written testimony.⁵⁰¹
263. It is important to note the underlying logic of Mr. Bahari's narrative on this point. While Azerbaijan has sought to create much noise and obfuscation around the exact date of his departure, even on its own case and evidence, Mr. Bahari permanently left the country by December 2001,⁵⁰² never setting foot there again save for his brief visit in 2013. As Mr. Bahari himself testified, no rational person would willingly walk away from multiple valuable investments: [REDACTED]
- [REDACTED]⁵⁰³ This narrative consistency more than meets Mr. Bahari's burden to prove his expulsion by a preponderance standard. Conversely, Azerbaijan attempts to explain this away with its theory of a September 2001 sale of his

⁵⁰⁰ Bahari WS1 ¶ 75, Bahari WS2 ¶ 31; Moghaddam WS1 ¶ 62. See also SoC ¶ 152.

⁵⁰¹ Transcript of Hearing on Jurisdiction and Merits, Day 2, 37:13-22; 45:14-17; 50:7-17.

⁵⁰² **R-58** at p. 3 of PDF (purportedly showing departure from Azerbaijan to UAE on 24 December 2001, with next arrival on 10 October 2013 and departure on 22 October 2013, with no other records of entry thereafter).

⁵⁰³ Transcript of Hearing on Jurisdiction and Merits, Day 3, 46:23-25, 47:1-2.

Caspian Fish shares – but that theory is thoroughly disproven by the evidence.⁵⁰⁴ Azerbaijan also cannot account for Mr. Bahari leaving behind Coolak Baku,⁵⁰⁵ as well as his carpets and his Ayna Sultan property.⁵⁰⁶ In short, Azerbaijan’s defense theory that Mr. Bahari simply left of his own accord and was willing to leave behind investments worth tens of millions of USD runs counter to basic common sense and fails to meet the preponderance standard.

264. Mr. Bahari’s testimony about his expulsion is also contained within a remarkably consistent overall narrative relaying the steps which ultimately led to the taking of his investments. His ouster from Azerbaijan in 2001 logically and consistently follows from his removal from Caspian Fish, the threatening conversation with President Aliyev, his hospitalization, the assassination threats, and his house arrest. The eventual permanent taking of his investments in Caspian Fish and its placement in the hands of the Aliyev and Heydarov children⁵⁰⁷ completes the story of Azerbaijan’s taking.
265. At the Hearing and in its briefs, Azerbaijan attacked various tangential aspects of Mr. Bahari’s testimony. It is important to note that Azerbaijan’s defense strategy is largely limited to an (unsuccessful) attempt to introduce inconsistencies in Mr. Bahari’s testimony. This defense strategy not only fails as such; it also conspicuously fails to positively present any convincing factual evidence. Indeed, Azerbaijan’s only actual proffered evidence on the issue of Mr. Bahari’s expulsion include Mr. Zeynalov’s testimony – who, as discussed, is a discredited witness whose entire testimony should be discounted – and the State Border Service letter at **R-58**, which is not an actual official log of entry/exit records, and thus unreliable. The remainder of Azerbaijan’s defenses on this point do not advance any evidence, but rather, amount to speculative theories largely without basis in fact or evidence.

⁵⁰⁴ SoR PART II, § III, D: SoRJJ PART III, § III; see *infra* PART II, § II(A)(1)(a).

⁵⁰⁵ Transcript of Hearing on Jurisdiction and Merits, Day 6, 144:23-25; 145; 146:1-4 (Mr. Aliyev testifying that it was his understanding that USD 28 million was the amount that Mr. Bahari was to invest to complete Coolak Baku); Day 6, 168:5-24 (Mr. Aliyev testifying that ASFAN was producing beer at the Coolak Baku facility as early as 2004, and that this was using equipment that still belonged to the Coolak Baku joint-venture); Day 5, 229:9-25; 230:1-25 (Mr. Zeynalov admitting that the beer production equipment at Coolak Baku was installed by 1998, and that the facility did produce soft drinks at one point). See also Day 4, 4-10. (Claimant’s witness, Mr. Suleymanov providing evidence that he is personally aware that Coolak Baku produced beer around 1998).

⁵⁰⁶ Bahari WS1 ¶¶ 48-66; Bahari WS2 ¶ 27; SoC III, A, 5-6; SoR PART II, §§ IV-V; SoRJJ PART III, §§ IV-V.

⁵⁰⁷ SoC III, F-G; SoR ¶¶ 282 d) e) f), 369.

266. Rasim Zeynalov's Testimony: Mr. Zeynalov's testimony should be discounted entirely: he testified that Mr. Bahari left Azerbaijan with his family "[REDACTED]"; that he did not drive Mr. Bahari to the airport, and that the vehicle was not accompanied by Government security officials.⁵⁰⁸ Mr. Bahari flatly refuted this testimony.⁵⁰⁹ As noted above, Mr. Zeynalov lied under oath about (*inter alia*) Coolak Baku's capacity to produce beer⁵¹⁰ and the fact that it was operational; he was shown to have defrauded Mr. Bahari,⁵¹¹ making him a particularly unreliable witness whose testimony lacks any credibility.
267. Alleged Inconsistencies with the State Border Service "Records": Azerbaijan cross-examined Mr. Bahari on the alleged inconsistencies between his testimony that he and his family left Azerbaijan around March 2001, and the State Border Service letter at **R-58** which purports to show that he and his family had entries and exits to/from Azerbaijan throughout 2001.⁵¹² Mr. Bahari refuted the accuracy and/or reliability of the entry/exit dates contained in the letter.⁵¹³ Moreover:
- a. The letter issued by the State Border Service at **R-58** is not an official record or log of entry/exits; as such, it is not an authentic document and it is not reliable evidence.⁵¹⁴ Rather, it is a self-produced, self-serving, non-contemporaneous document created by Azerbaijan specifically for the purposes of the Arbitration – in short, it amounts to advocacy, not actual evidence. Mr. Bahari underlined the unreliability of this evidence when he testified that [REDACTED]
[REDACTED]
[REDACTED]⁵¹⁵ As noted in Claimant's Closing Remarks, this self-serving letter is no evidence at all.⁵¹⁶

⁵⁰⁸ Zeynalov WS1 ¶ 42; See also Bahari WS1 ¶ 75.

⁵⁰⁹ Bahari WS2 ¶ 31.

⁵¹⁰ Transcript of Hearing on Jurisdiction and Merits, Day 5, 228:5-7.

⁵¹¹ *Infra* ¶ 337.b.

⁵¹² Transcript of Hearing on Jurisdiction and Merits, Day 2, 53-69.

⁵¹³ Transcript of Hearing on Jurisdiction and Merits, Day 2, 53-69 (*passim*).

⁵¹⁴ SoR ¶¶ 318-319, fn. 448, 568. See also Transcript of Hearing on Jurisdiction and Merits, Day 1, 66:2-23 (Claimant Opening Remarks); **CP-1** Claimant's Opening Slide Presentation, slide 5.11; Respondent request to Tribunal dated 21 January 2025 to submit new alleged passport information for Ms. Yana Valeryevna Bokoyeva, and discussion of same at Hearing, Transcript of Hearing on Jurisdiction and Merits, Day 3, 1:10-22; 2:23-25, 3, 4, 5:1-13; 6:15-25, 7:1-22; 8:20-25, 9:1-9, 12-25; 10:1-13. See also Moghaddam WS2 ¶ 23 ("[REDACTED]").

⁵¹⁵ Transcript of Hearing on Jurisdiction and Merits, Day 2, 53:25, 54:1-2.

⁵¹⁶ Transcript of Hearing on Jurisdiction and Merits, Day 9, 46:4-14.

- b. It is significant that Azerbaijan chose to present alleged entry/exit evidence in this manner and format, when it could have submitted the actual log data (with appropriate source and chain of custody information). Azerbaijan acknowledged as much on the very first day of the Hearing, when it made a pro forma offer to produce screenshots of State Border Service database searches – to which the Tribunal asked why this was not done from the outset.⁵¹⁷ This was, of course, no more than a belated and performative gesture, given Azerbaijan previously refused to provide any information on the issue⁵¹⁸ and was content to rely on **R-58** for the bulk of the Arbitration. But in offering potentially more reliable evidence, Azerbaijan effectively admitted the evidentiary inadequacy of **R-58**. Azerbaijan further underscored this inadequacy when it also attempted to introduce alleged visa entry/exit records for Ms. Bokoyeva (Mr. Bahari's ex-wife) in the course of the Hearing.⁵¹⁹
- c. Of note, the Tribunal should roundly reject Azerbaijan's argument that the Tribunal should draw some adverse inference due to Claimant's objection to the submission of new evidence.⁵²⁰ Claimant's objection was based on justified due process concerns – Azerbaijan's trial by ambush attempt to introduce eleventh-hour alleged evidence.⁵²¹
- d. In fact, there is a recurring pattern of Azerbaijan presenting such self-serving documents or information, without producing actual underlying contemporaneous records. This includes Ms. Balakishiyeva's discussion of visitor logs at the State Committee on Property Issues, which she describes to allege that Mr. Allahyarov never visited the agency. However, she fails to produce the actual visitor logs themselves.⁵²² Similarly, Mr. Mammadov describes his investigation into the Criminal Summons issued against Mr. Abdulmajidov and his conclusion that the

⁵¹⁷ Transcript of Hearing on Jurisdiction and Merits, Day 1, 164:1-24.

⁵¹⁸ See PO6 Annex 1 at Claimant's Document Request no. 1, pp. 310-312 (Azerbaijan objection to Claimant request for documents relating to **R-58**).

⁵¹⁹ Respondent request to Tribunal dated 21 January 2025 to submit new alleged passport information for Ms. Yana Valeryevna Bokoyeva, and discussion of same at Hearing, Transcript of Hearing on Jurisdiction and Merits, Day 3, 1:10-22; 2:23-25, 3, 4, 5:1-13; 6:15-25, 7:1-22; 8:20-25, 9:1-9, 12-25; 10:1-13.

⁵²⁰ Transcript of Hearing on Jurisdiction and Merits, Day 9, 137:24-25, 138:1-3.

⁵²¹ Transcript of Hearing on Jurisdiction and Merits, Day 9, 152:10-25.

⁵²² Balakishiyeva WS ¶ 13; Transcript of Hearing on Jurisdiction and Merits, Day 5, 57:8-20; Day 9, 46:21-25, 47:1 (Closing Remarks).

Summons was falsified by Mr. Abdulmajidov. Mr. Mammadov never produces any evidence of the underlying investigation and its conclusions (if indeed any such investigation ever took place) and asks the Tribunal to simply believe him on his investigation's conclusions regarding his own conduct.⁵²³ Mr. Kerimov alleged he undertook an audit of Caspian Fish and uncovered Mr. Bahari's mismanagement, but failed to produce the actual audit and even conceded he had been given no documentation for this audit.⁵²⁴

- e. Substantively, the State Border Service letter contains significant gaps⁵²⁵ and unexplained discrepancies. One major discrepancy is how Azerbaijan was able to collect Mr. Bahari's alleged entry/exit information in 2001, especially when, by Azerbaijan's own admission, there was a three-year record retention rule for hard copy data prior to September 2001.

- i. According to **R-58**, prior to April 2000, all border crossing information was "[REDACTED]"⁵²⁶ On 20 April 2000, some limited entry/exit information began to be automated as part of a pilot project;⁵²⁷ the pilot project data was later integrated into the full automated system called "IAMAS."⁵²⁸ IAMAS was rolled out beginning on 1 September 2001.⁵²⁹ However, IAMAS was only implemented at Baku Airport starting on 10 September 2001 (moreover, workstations took some time to be installed at all airport checkpoints, from 10 September 2001 until 14 June 2008).⁵³⁰ At border checkpoints where the automated system had not yet been installed, border crossing information continued to be captured in hard copy

⁵²³ Mammadov WS1 ¶¶ 28-37; Transcript of Hearing on Jurisdiction and Merits, Day 5, 40:15-25, 41, 42, 43, 44:1-17; SoRJ ¶ 597; SoR ¶¶ 623-655; Claimant Letter to the Tribunal dated 29 April 2024, p. 5; Evidentiary Hearing 10 April 2024, Tr. 35:4-23. See also Transcript of Hearing on Jurisdiction and Merits, Day 9, 47:2-10 (Closing Remarks).

⁵²⁴ Kerimov WS1 ¶ 19; Transcript of Hearing on Jurisdiction and Merits, Day 5, 148:19-25, 149, 150:1-17.

⁵²⁵ SoD ¶ 264(a), FN 720 (acknowledging possible gaps due to "[REDACTED]"); SoRJ ¶ 445 (acknowledging same); SoR ¶ 318 (noting, for example, no exit records for Gloria Bahari, who moved to UAE and passed away there).

⁵²⁶ **R-58** Letter from the State Border Service of the Republic of Azerbaijan to the SSPI, 2 November 2023, ¶ 1.

⁵²⁷ **R-58** Letter from the State Border Service of the Republic of Azerbaijan to the SSPI, 2 November 2023, ¶ 1.

⁵²⁸ **R-58** Letter from the State Border Service of the Republic of Azerbaijan to the SSPI, 2 November 2023, ¶ 2.

⁵²⁹ **R-58** Letter from the State Border Service of the Republic of Azerbaijan to the SSPI, 2 November 2023, ¶ 2.

⁵³⁰ **R-58** Letter from the State Border Service of the Republic of Azerbaijan to the SSPI, 2 November 2023, ¶ 2.

only.⁵³¹ Critically, for checkpoints where the automated system had not yet been installed, “[REDACTED]

”⁵³²

- ii. This information raises a significant number of issues, because (1) the contested dates of Mr. Bahari’s (and his family’s) movements are largely prior to 10 September 2001, that is, prior to the start of the IAMAS implementation at Baku Airport; and (2) all of Mr. Bahari and his family’s international destinations required travel via Baku Airport. Prior to 10 September 2001, Baku Airport border records were presumably kept in hard copy only and thus would have been destroyed by no later than 2004. Azerbaijan fails to explain how or where it was able to capture Mr. Bahari’s alleged movements via Baku Airport pre-September 2001, when by its own admission those movements were recorded in hard copy only and would have been destroyed by 2004. While it is possible that some pre-September 2001 movements might have been captured from the pilot program dataset, the letter does not state this: the only positive statement is that Baku Airport only implemented automated recording on 10 September 2001. Because Azerbaijan did not submit the actual logs, it is impossible to verify or reconcile this major discrepancy. This severely undercuts the evidentiary value of **R-58**.

- f. In another discrepancy, the State Border Service entry/exit “data” are contradicted by Mr. Zeynalov’s testimony. Mr. Zeynalov testified that he travelled back and forth to Dubai to speak to Mr. Bahari about the goings-on at Coolak Baku [REDACTED].⁵³³ It cannot both be the case that Mr. Bahari was present in Azerbaijan throughout 2001 and that Mr. Zeynalov had to travel to Dubai in 2001 in order to meet with Mr. Bahari. Logically, if Mr. Bahari were present in Azerbaijan and Mr. Zeynalov needed to speak with him, the meetings would have occurred in Baku, with no need for travel all the way to Dubai. Thus, either Mr. Zeynalov is lying about his

⁵³¹ **R-58** Letter from the State Border Service of the Republic of Azerbaijan to the SSPI, 2 November 2023, ¶ 2.1.

⁵³² **R-58** Letter from the State Border Service of the Republic of Azerbaijan to the SSPI, 2 November 2023, ¶ 2.1 (emphasis in original) (presumably referring to pre-September 2001 hard copy records).

⁵³³ Transcript of Hearing on Jurisdiction and Merits, Day 5, 201:2-5 (Zeynalov response to question [REDACTED]).

supposed meetings with Mr. Bahari, or the alleged 2001 entry/exit records are incorrect, or both.

- g. In sum, **R-58** is a highly problematic and entirely unreliable document, and the Tribunal should give it no evidentiary weight. Having relied heavily on this letter, Azerbaijan fails to meet its burden of proof to prove its allegation that Mr. Bahari was not expelled from its territory and instead left willingly.

268. Allegation that Mr. Bahari Chose to Go to the UAE: On cross-examination, Azerbaijan sought to suggest that Mr. Bahari had a choice in going to the UAE as opposed to Iran or elsewhere. Mr. Bahari stated that he did not recall, but that it did not matter whether he had a say in the destination and that [REDACTED]

[REDACTED]⁵³⁴ This concisely highlights the false inference that if Mr. Bahari had been given a choice of destination, he must have left willingly. That is not so.

269. Alleged Inconsistencies with the 2019 Notice of Arbitration: Azerbaijan attempts to undermine Mr. Bahari's testimony that he was expelled around March 2001 by once again referencing the 2019 Notice of Arbitration (prepared by Winston & Strawn), which references an expulsion date of February 2001, as opposed to March 2001.⁵³⁵ As already noted above,⁵³⁶ what was or was not included in that 2019 Notice cannot be a basis to determine the veracity of a given fact, particularly considering that the difference Azerbaijan focuses on here is a one month discrepancy.

270. Mr. Bahari's Departure Due to Alleged Business Dispute: Azerbaijan advances the theory of Mr. Bahari's alleged mismanagement and fraud being uncovered as the real reason he willingly left Azerbaijan.⁵³⁷ This has been discussed above as entirely speculative.⁵³⁸ It is simply not credible that any such alleged dispute would have coincidentally (and conveniently for Azerbaijan) come to a head exactly on the grand opening day, leading Mr. Bahari to willingly leave on that very day. This theory of a dispute also clashes with

⁵³⁴ Transcript of Hearing on Jurisdiction and Merits, Day 2, 51:8-11.

⁵³⁵ Transcript of Hearing on Jurisdiction and Merits, Day 2, 44:5-25, 45, 46:1-2; **R-54** Notice of Arbitration, 5 April 2019, ¶ 39.

⁵³⁶ *Supra* at ¶¶ 241, 254.a.

⁵³⁷ Transcript of Hearing on Jurisdiction and Merits, Day 2, 78:1-6.

⁵³⁸ *Supra* at ¶ 235.

Azerbaijan's witness testimony that Mr. Bahari then continued to work at Caspian Fish throughout February and March.⁵³⁹

271. Mr. Bahari's Departure Due to Alleged Investments Abroad. Azerbaijan similarly advances the theory that Mr. Bahari willingly left his Caspian Fish investment in order to focus on his Qeshm fish powder plant project.⁵⁴⁰ This speculative theory is also addressed above.⁵⁴¹ Again, it makes no sense that Mr. Bahari would have left a valuable investment behind to focus on another one, and he would have been perfectly capable of running both Caspian Fish and Qeshm.⁵⁴²
272. Despite casting a barrage of defense theories to discredit Mr. Bahari's story, Azerbaijan fails to rebut his testimony that he was expelled from the country against his will. Again, Mr. Bahari gave clear, narratively consistent, and credible evidence that Azerbaijan forced him out of the country: he amply meets the preponderance standard and his burden to prove this breach; conversely, Azerbaijan's hodgepodge of arguments and alleged evidence are conflicting, internally inconsistent or filled with discrepancies, or plain speculative. Azerbaijan thus fails to disprove Mr. Bahari's testimony and evidence. Mr. Bahari's expulsion is directly attributable to Azerbaijan and amounts to a breach under the provisions of the Treaty.

7. Government Security Forces Intimidated, Threatened, and Physically Assaulted Mr. Bahari's In-Country Manager, Mr. Moghaddam, in April and June 2001

273. Mr. Moghaddam gave a detailed account of the multiple episodes of intimidation, threats, and physical assaults on him following Mr. Bahari's ouster from Caspian Fish in 2001.⁵⁴³ In the pre-entry into force period, this included two episodes of physical assault by plainclothes Government security personnel around late April 2001 and mid-2001.⁵⁴⁴

⁵³⁹ *Supra* at ¶ 235.

⁵⁴⁰ Transcript of Hearing on Jurisdiction and Merits, Day 2, 78:1-6, 87:20-25, 90:25, 91:1-6.

⁵⁴¹ *Supra* at ¶ 254.d.

⁵⁴² Transcript of Hearing on Jurisdiction and Merits, Day 2, 87:14-16.

⁵⁴³ Moghaddam WS1 ¶¶ 64-66; Moghaddam WS2 ¶¶ 21-23; Bahari WS1 ¶ 77; Bahari WS2 ¶ 35; SoC ¶¶ 157-160; SoR ¶ 565 (a)(b)(c); Transcript of Hearing on Jurisdiction and Merits, Day 3, 184:16-25, 185:1-3, 185:21-25, 186:1-13, 187:6-7.

⁵⁴⁴ Moghaddam WS1 ¶ 64; Moghaddam WS2 ¶¶ 21-23.

274. Azerbaijan's cross-examination of Mr. Moghaddam on his 2001 assaults relied heavily on the State Border Service letter at **R-58**.⁵⁴⁵ For the same reasons discussed above,⁵⁴⁶ this letter does not provide authentic, reliable, and verifiable contemporaneous log data and holds no evidentiary value. Despite sustained cross-examination on this point, Mr. Moghaddam was steadfast: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁵⁴⁷
275. Aside from **R-58**, Azerbaijan relied on the written testimony of Mr. Moghaddam's ex-wife, Ms. Kristina Izmaylova, to rebut Mr. Moghaddam's evidence.⁵⁴⁸ That testimonial evidence is not credible and Mr. Bahari elected not to cross-examine Ms. Izmaylova due to the limited evidentiary relevance of her testimony. Ms. Izmaylova is not only estranged from Mr. Moghaddam, but she holds Azeri citizenship and maintains her domicile and a continuous presence in Azerbaijan.⁵⁴⁹ She thus may have a motive to testify against him (including, for example, the matter of a '[REDACTED]
[REDACTED]' that has apparently held up finalization of the couple's divorce since their separation in 2007);⁵⁵⁰ alternatively, she may have been pressured to provide that testimony. Claimant weighed the limited utility of a cross-examination against existing time constraints and opted to focus on more important Respondent witnesses.⁵⁵¹
276. When cross-examined on Ms. Izmaylova's witness statement in which she stated that she did not recall Mr. Moghaddam being assaulted,⁵⁵² Mr. Moghaddam maintained that when he came home, his wife [REDACTED]⁵⁵³ Elsewhere, Ms. Izmaylova's testimony makes conclusory statements helpful to Azerbaijan's case but not founded in fact. Thus, on the topic of Mr. Moghaddam's conviction for selling drugs, she states that it did not

⁵⁴⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 182:10-25, 183, 184, 185:1-16.

⁵⁴⁶ *Supra* at ¶ 267.

⁵⁴⁷ Transcript of Hearing on Jurisdiction and Merits, Day 3, 183:8-13.

⁵⁴⁸ Izmaylova WS ¶¶ 7-8; SoR ¶ 569.

⁵⁴⁹ SoR ¶ 569.

⁵⁵⁰ Izmaylova WS ¶ 6.

⁵⁵¹ See PO1 ¶ 7.7 (the fact that Claimant did not call certain Respondent witnesses or experts does not mean that he accepts the contents of that witness statement or expert opinion).

⁵⁵² Transcript of Hearing on Jurisdiction and Merits, Day 3, 189:24-25, 190:1-5; Izmaylova WS ¶ 9.

⁵⁵³ Transcript of Hearing on Jurisdiction and Merits, Day 3, 190:6-7.

“[REDACTED]” her that he would be accused of selling drugs, yet at the same time conceded she had never actually seen him doing so.⁵⁵⁴

277. Azerbaijan also insinuated that Mr. Moghaddam could not have been assaulted by Government security forces because around August 2001 (shortly after his two 2001 assaults), he met Mr. Almazin, whom Mr. Moghaddam believed to be the Baku head of police and a senior judge. Azerbaijan suggested that Mr. Moghaddam would not have met with a police authority after his experiences.⁵⁵⁵ Mr. Moghaddam replied that he knew Mr. Almazin and “[REDACTED]”⁵⁵⁶ Thus, the meeting with Mr. Almazin does not preclude the April 2001 and June 2002 events.
278. Mr. Moghaddam was a trusted manager for Mr. Bahari at both Caspian Fish and Coolak Baku.⁵⁵⁷ The assaults against Mr. Moghaddam were directly related to Mr. Bahari, as the assaulting Government security officials referenced Mr. Bahari and Caspian Fish.⁵⁵⁸ These assaults were part of the overall campaign of intimidation and threats against Mr. Bahari that put him in fear and prevented him from returning to Azerbaijan to recover his investments.⁵⁵⁹
279. Overall, Mr. Moghaddam’s testimony regarding his assaults by State security stayed consistent, and importantly, credibly fits within the narrative logic and chronology of the overall campaign against Mr. Bahari that dispossessed him of his investments. The assaults are directly attributable to Azerbaijan through the involvement of its State security forces and amount to a breach of the Treaty provisions.

⁵⁵⁴ Izmaylova WS ¶ 7; SoR ¶ 569.

⁵⁵⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 188:2-5; 180:3-15 (Tribunal President’s question to Mr. Moghaddam).

⁵⁵⁶ Transcript of Hearing on Jurisdiction and Merits, Day 3, 189:16-18.

⁵⁵⁷ Moghaddam WS1 ¶¶ 28, 32, 40, 43, 45, 48, 47, Moghaddam WS2 ¶¶ 11-15.

⁵⁵⁸ Moghaddam WS1 ¶¶ 75-77; Moghaddam WS2 ¶¶ 22; SoC ¶¶ 185-186, 461; SoR ¶ 565(c).

⁵⁵⁹ SoR ¶ 561; Moghaddam WS2 ¶¶ 35.

8. On 15 June 2002, President Aliyev and Minister Heydarov Attempted to Coerce Mr. Bahari Into Selling His Caspian Fish Shares, Using Threats of Tax Debts

280. Mr. Bahari has described at length the circumstances of the 15 June 2002 meeting, in which Mr. Khanghah, on behalf of Messrs. Aliyev and Heydarov, presented Mr. Bahari with terms of a forced sale of his shares in Caspian Fish.⁵⁶⁰
281. The terms of this agreement were clearly coercive, as the proposed sale price of USD 4.5 million came nowhere near compensating Mr. Bahari for his efforts and USD 56 million investment.⁵⁶¹ Critically, Mr. Khanghah put pressure by stating that if Mr. Bahari did not agree to the terms, he would be pursued for unspecified tax debts – a threat which could only be carried out by the Azeri State apparatus. Mr. Bahari understood this as a clear threat.⁵⁶²
282. At the Dubai meeting, Mr. Khanghah clearly acted as an agent of Messrs. Aliyev and Heydarov. Azerbaijan contested that Mr. Khanghah was an agent of Messrs. Aliyev and Heydarov.⁵⁶³ However, Mr. Khanghah was clearly negotiating for the entire sale of Caspian Fish (as well as Coolak Baku), which would require the participation of Messrs. Aliyev and Heydarov, who each held a 25% shareholding stake.⁵⁶⁴ Even on Azerbaijan's own evidence, Messrs. Aliyev and Heydarov were clearly more important figures than Mr. Khanghah, who was a minority shareholder. Further, as a private individual, Mr. Khanghah did not have the power to threaten or resolve any purported tax issues.⁵⁶⁵ Finally, Azerbaijan's position that Mr. Khanghah was not an agent of Messrs. Aliyev and Heydarov is inconsistent with its theory of an alleged September 2001 share sale. The September 2001 Purported Sale Agreement was supposedly negotiated by Mr. Khanghah as Buyer;⁵⁶⁶ at the same time, Azerbaijan alleges that Minister Heydarov and/or Gilan Holding became the owner of Caspian Fish.⁵⁶⁷ While Azerbaijan remains silent on this

⁵⁶⁰ Bahari WS1 ¶¶ 80-84; Bahari WS2 ¶¶ 21(f); SoC ¶¶ 165-184, 593-595; SoR ¶¶ 418-424, 738-739, 1085(d)(e)(f); SoRJJ 472-474 ¶¶ 472-474; **C-17**.

⁵⁶¹ Bahari WS1 ¶¶ 80-84; Bahari WS2 ¶¶ 21(f); SoC ¶¶ 165-184, 593-595; SoR ¶¶ 418-424, 738-739, 1085(d)(e)(f); SoRJJ 472-474 ¶¶ 472-474; **C-17**.

⁵⁶² SoC ¶¶ 180-181.

⁵⁶³ SoD ¶¶ 41-42.

⁵⁶⁴ SoC ¶¶ 176-184.

⁵⁶⁵ SoC ¶ 181.

⁵⁶⁶ **R-50** Buyer and Seller Agreement between Mr Bahari and Mr Khanghah, 20 September 2001.

⁵⁶⁷ SoRJ ¶ 401(c); **C-318** Letter from Khazri Solutions, 10 May 2024.

point, under its defense theory, it follows that Mr. Khanghah would have negotiated the alleged sale on behalf of Minister Heydarov. This highlights, once again, the internal inconsistencies between Azerbaijan's various factual defenses.

283. Mr. Bahari ultimately did not sign the agreement,⁵⁶⁸ but instead proposed a counteroffer in a handwritten addendum.⁵⁶⁹ Nevertheless, the June 2002 Forced Sale Meeting put Mr. Bahari under significant duress,⁵⁷⁰ and the event carried explicit threats of retribution if he were to reject the agreement.⁵⁷¹
284. Significantly, although it had two full days to cross-examine Mr. Bahari, Azerbaijan did not question Mr. Bahari at all on the details of this critical June 2002 event. Similarly, Azerbaijan failed to put up a single witness (including but not limited to Messrs. Aliyev and Heydarov, who could have spoken to any alleged sale) to counter Mr. Bahari's description of the June 2002 meeting or to discuss the overall alleged sale. Azerbaijan barely cross-examined Mr. Bahari on the topic of the sale.⁵⁷² Azerbaijan's omission is striking, considering how much stock it previously put into its theory of a sale. Whatever the reason, Mr. Bahari's testimony on the June 2002 meeting stands unchallenged.
285. As such, the June 2002 Forced Sale Agreement meeting is attributable to Azerbaijan and amounts to a breach of the Treaty provisions.

**C. AZERBAIJAN CARRIED OUT REPEATED AND CONTINUOUS
BREACHES AGAINST MR. BAHARI AFTER THE ENTRY INTO FORCE OF
THE TREATY**

286. This section describes Azerbaijan's post-entry into force breaches, which are relevant to Mr. Bahari's FET and FPS claim, but also for his expropriation claim (discussed further below).⁵⁷³

⁵⁶⁸ SoC ¶ 184.

⁵⁶⁹ SoC ¶¶ 173-175.

⁵⁷⁰ SoR ¶¶ 439-440 (noting coercion and duress), 740, 1085(e), 1103, 1109.

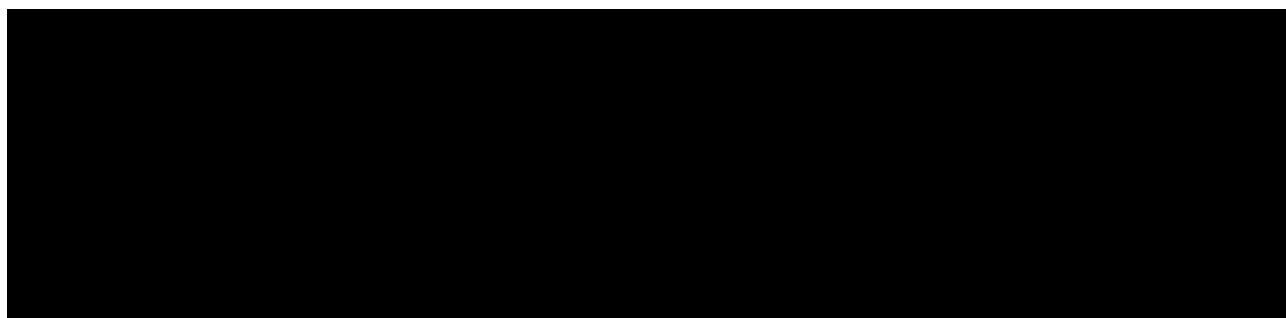
⁵⁷¹ Bahari WS1 ¶ 83.

⁵⁷² Transcript of Hearing on Jurisdiction and Merits, Day 2, 102:15-25, 103, 104:1-22.

⁵⁷³ Tribunal Hearing Question no. 2(ii) [REDACTED]

1. The Post-Entry Into Force Breaches Are Significant for Several Reasons.

287. Azerbaijan's conduct against Mr. Bahari did not stop after the entry into force of the Treaty on 20 June 2002: rather, it carried on in a sustained, continuous manner, thus bringing the pre-entry into force breaches into the post-entry into force period, and resulting in a violation of the FET and FPS provisions of the Treaty. It is important to understand that Azerbaijan's acts against Mr. Bahari produced in him sustained, continuous, and escalating intimidation and fear over the years. By way of recall, this was represented by Slide 6.09 of Claimant's Opening Remarks presentation:



(Excerpt from **CP-1** Claimant's Opening Slide Presentation, slide 6.09.)

288. For the purpose of post-entry into force breaches, the date of total loss of Mr. Bahari's investments for expropriation purposes (i.e., 1 January 2003), does not impact his FET and FPS claims. For breach of FET and FPS, as a factual and practical matter, certain of Azerbaijan's conduct was continuous and cumulative (including but not limited to his State exclusion from Azerbaijan and his business interests in Azerbaijan); certain conduct commenced prior to 1 January 2003 and continued thereafter. It is the cumulation and continuation of that unlawful conduct, including beyond 1 January 2003, that gives rise to breach of Azerbaijan's FET and FPS obligations under the Treaty. Therefore, the date of the total loss of 1 January 2003 relates to the expropriation standard and the valuation date; it does not affect the factual continuity of Azerbaijan's ongoing conduct and thus does not limit or otherwise operate to preclude Mr. Bahari's substantive rights under the FET and FPS standards.
289. Azerbaijan's post-entry into force conduct is highly relevant for the Tribunal's analysis for three reasons:
- a. Continuous FET/FPS Breaches: First, as noted, these post-entry into force breaches show the sustained and continuous nature of Azerbaijan's campaign against Mr. Bahari that establish Claimant's FET and FPS claims, as well as the

unlawful expropriation. Indeed, the continuity of Azerbaijan's campaign against Mr. Bahari has carried on until very recently, even during the course of these proceedings.

- b. Corroborative/Propensity Evidence: Second, because these post-entry into force breaches are nested within an overall continuous campaign of adverse actions and intimidation against Mr. Bahari, they are highly corroborative of the pre-entry into force breaches described below. If the Tribunal is convinced, for example, that Azerbaijan intimidated Mr. Timur Abdulmajidov and Ms. Ramazanova, and that it issued a bogus Criminal Summons as part of this intimidation campaign, this makes it significantly more likely than not that Azerbaijan also took similar actions against Messrs. Bahari and Moghaddam in the pre-entry into force period. In short, the post-entry into force breaches form corroborative and propensity evidence to help prove the pre-entry into force breaches. (For avoidance of doubt, Claimant maintains that there is sufficient standalone proof of the pre-entry into force breaches even without corroborative proof of the post-entry into force conduct.)
- c. Delay Due to Fear and Intimidation Over the Years: Finally, the post-entry into force breaches lasted over the course of many years, with some events even taking place as recently as during the course of these proceedings. Mr. Bahari thus experienced continued intimidation and fear of returning to Azerbaijan and reclaiming his investments. To a large extent, these continued post-entry into force breaches help explain why it took Mr. Bahari a number of years before he filed his investment claim against Azerbaijan.⁵⁷⁴

2. Azerbaijan Carried Out Continuous Breaches Against Mr. Bahari Into 2025 and These Proceedings

- 290. As noted in Claimant's Overview Chart in Response to Tribunal's Question No. 6 submitted 21 February 2025, Azerbaijan engaged in a series of post-entry into force breaches. These are listed in full in paragraph 165 above.⁵⁷⁵
- 291. As should be evident from the above, Azerbaijan has never relented in its campaign of intimidation, threats, and assaults against Mr. Bahari and his associates. This

⁵⁷⁴ Transcript of Hearing on Jurisdiction and Merits, Day 3, 149:16-25, 150-151, 152:1-13 (Tribunal question regarding why Mr. Bahari took time to bring his claim). Bahari WS1 ¶¶ 86, 100.

⁵⁷⁵ See *supra* Part II, §IV. A for full list of pre- and post-entry into force breaches.

extraordinary campaign is directly connected to Mr. Bahari's investments and his efforts to regain them over the years. Incredibly, Azerbaijan's misconduct has carried on right into these proceedings, before the Tribunal's eyes. Azerbaijan's acts of interference with the proceedings reveal its impudence and belief that it is answerable to no one – including this Tribunal.

292. Claimant will not revisit every of the post-entry into force breaches in detail, as these have been amply briefed. Instead, the sub-sections that follow will focus on those breaches which were discussed at the Hearing.

3. In late June 2002 (Following the 15 June 2002 Dubai Meeting), Government Security Forces Unlawfully Detained Mr. Moghaddam and Interrogated Him About Mr. Bahari's Investments

293. This end June 2002⁵⁷⁶ event is significant, as it occurred in the immediate post-entry into force period (i.e., after 20 June 2002).
294. As with Mr. Moghaddam's pre-entry into force 2001 assaults (in April and June 2001), Azerbaijan relied heavily on the State Border Service letter at **R-58** to suggest that Mr. Moghaddam was not in the country in June 2002 and could not have been detained or interrogated⁵⁷⁷ For the same reasons discussed above,⁵⁷⁸ this letter does not provide authentic, reliable, and verifiable contemporaneous log data and holds no evidentiary value.
295. Thus, relying on alleged data at **R-58** that Mr. Moghaddam left Azerbaijan in May 2002, Azerbaijan sought to get Mr. Moghaddam to admit that he was "[REDACTED]"⁵⁷⁹ Mr. Moghaddam remained steadfast and refused to admit that the events had not happened, noting that "[REDACTED]"⁵⁸⁰ Azerbaijan's efforts to introduce doubt into the exact date of Mr. Moghaddam's detention and interrogation should be rejected, because they are entirely premised on the unreliable "data" contained in **R-58**. Absent other evidence, Mr.

⁵⁷⁶ Moghaddam WS1 ¶ 73 (placing the detention and interrogation "[REDACTED]").

⁵⁷⁷ Transcript of Hearing on Jurisdiction and Merits, Day 3, 182:10-25, 183, 184, 185:1-16, 193:21-25, 194, 195:1 2.

⁵⁷⁸ *Supra* ¶ 267.

⁵⁷⁹ Transcript of Hearing on Jurisdiction and Merits, Day 3, 194:3-5.

⁵⁸⁰ Transcript of Hearing on Jurisdiction and Merits, Day 3, 194:10-13.

Moghaddam's recollection that the events occurred in late June 2002 should stand as unchallenged.

296. Mr. Moghaddam's testimony is consistent with the sequence of events in 2002: namely, his detention and interrogation occurred immediately after the 15 June 2002 Dubai meeting. If, as Azerbaijan suggests, Mr. Moghaddam had traveled to Dubai on 23 May 2002, only returning on 20 September 2002,⁵⁸¹ he would have surely met Mr. Bahari (who was also in Dubai) and informed him about his detention and interrogation. He would also presumably have known about the 15 June 2002 meeting in Dubai, which Mr. Moghaddam was not aware of at the time it occurred.⁵⁸² This would have impacted Mr. Bahari's dealings with Mr. Khanghah at the 15 June 2002 Dubai meeting. Yet, Mr. Bahari has no such recollection, and his witness statement clearly places his conversation with Mr. Moghaddam about his detention and interrogation after the 15 June 2002 meeting.⁵⁸³ It is more logical that Mr. Moghaddam's detention and interrogation occurred immediately after the 15 June 2002 meeting and were a means to continue to pressure Mr. Bahari, who had just refused the terms of the Forced Sale Agreement.
297. Azerbaijan also exhibited the 2022 Notice of Arbitration, which noted that Mr. Moghaddam's June 2002 detention and interrogation lasted 25 days and took place within the Ministry of Information.⁵⁸⁴ Azerbaijan sought to highlight the inconsistency between that document and Mr. Moghaddam's testimony. The Notice of Arbitration was drafted early on in 2022, when Claimant's development of the case was in its early stages. Obviously, upon further interviews and fact-finding, the facts evolved and inevitable inaccuracies corrected; this is reflected in Mr. Moghaddam's first witness statement. Accordingly, Mr. Moghaddam testified that the information in the Notice of Arbitration was not accurate, and reiterated the facts as expressed in his witness statement.⁵⁸⁵
298. Thus, Mr. Moghaddam's testimony regarding his late June 2002 detention and interrogation stayed consistent and fits credibly within the narrative logic and chronology

⁵⁸¹ **R-58** Letter from the State Border Service of the Republic of Azerbaijan to the SSPI, 2 November 2023, p. 4 of PDF; Transcript of Hearing on Jurisdiction and Merits, Day 3, 193:21-25, 194, 195:1-2.

⁵⁸² Transcript of Hearing on Jurisdiction and Merits, Day 3, 193:1-8.

⁵⁸³ Bahari WS1 ¶ 85.

⁵⁸⁴ Transcript of Hearing on Jurisdiction and Merits, Day 3, 190:22-25, 191:1-17.

⁵⁸⁵ Transcript of Hearing on Jurisdiction and Merits, Day 3, 191:17-25, 192:1-10.

of Azerbaijan's overall campaign against Mr. Bahari, including the 15 June 2002 Forced Sale meeting in Dubai.

4. In 2009, Azerbaijan Escalated Its Threats by Convicting and Imprisoning Mr. Moghaddam on Falsified Drug Charges

299. Mr. Moghaddam has provided written testimony that his conviction for sale of drugs was falsified.⁵⁸⁶ As noted, Azerbaijan has a well-documented track record of using falsified drug charges as a means to suppress individuals who go against the interests of the Government.⁵⁸⁷ On cross-examination, Mr. Moghaddam reiterated that he was falsely convicted,⁵⁸⁸ and that his ex-wife lied about his drug use.⁵⁸⁹
300. Mr. Moghaddam testified that he had been making inquiries about Mr. Bahari's investments around 2008 and 2009, which led to his arrest and conviction.⁵⁹⁰ When questioned by the Tribunal about the 2009 period, Mr. Moghaddam confirmed once again that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁵⁹¹
301. On further questioning by the Tribunal, Mr. Moghaddam confirmed that Azerbaijan's actions against him were escalatory, resulting a harsh sentence and his deportation. He further confirmed that this was because early on, Azerbaijan had wanted him to leave, but he kept coming back and inquiring about Mr. Bahari's investments:

[REDACTED]

⁵⁸⁶ Moghaddam WS1 ¶¶ 83-85; Moghaddam WS2 ¶¶ 25-30; Bahari WS1 ¶ 92; SoR ¶¶ 569-571.

⁵⁸⁷ Application for a Preliminary Order and Interim Measures, 12 March 2024, ¶ 80; SoR ¶¶ 621(e), 624(j). See e.g. C-420 Advocate Statement for A. Timur, 13 January 2022; C-421 Prosecutor General Summons for A. Timur, 26 April 2022.

⁵⁸⁸ Transcript of Hearing on Jurisdiction and Merits, Day 3, 197:5-6.

⁵⁸⁹ Transcript of Hearing on Jurisdiction and Merits, Day 3, 202:3-10.

⁵⁹⁰ Moghaddam WS1 ¶¶ 82-83.

⁵⁹¹ Transcript of Hearing on Jurisdiction and Merits, Day 3, 205:

schemes against me, there were plots and conspiracies against me.⁵⁹²

302. Mr. Moghaddam confirmed that because he kept coming back, Azerbaijan continued to take increasingly escalatory actions against him, resulting in the bogus drug charges and the resulting long prison sentence.⁵⁹³
303. As Mr. Moghaddam testified, these escalatory actions, resulting in his 2009 conviction, were taken explicitly because of his association with Mr. Bahari and because he continued to inquire about the investments on behalf of Mr. Bahari. Azerbaijan's actions were thus taken as much to deter Mr. Bahari as they were aimed at Mr. Moghaddam. The 2009 conviction of Mr. Moghaddam – Mr. Bahari's only eyes and ears in Azerbaijan – was a significant escalation of Azerbaijan's conduct against Mr. Bahari.

5. In 2019, the State Committee for Property Issues blocked Mr. Bahari's attempts (Through Mr. Allahyarov) to Determine the Disposition of his Investment in Ayna Sultan

304. Mr. Allahyarov provided written testimony regarding the State Committee for Property Issues' ("SCPI") actions to block him from learning the disposition of the Ayna Sultan investment.⁵⁹⁴ He broadly confirmed his written testimony at the Hearing.⁵⁹⁵
305. Mr. Allahyarov was uncomfortable and unwilling to reveal the identity of the SCPI representative he met, as disclosure would cause him significant " [REDACTED] difficulties.⁵⁹⁶ This is consistent with his written testimony, in which he stated that the representative told him not to inquire further or else he would [REDACTED]⁵⁹⁷ and that for his [REDACTED] he discontinued any further inquiry and refrain[ed] from starting legal proceedings in Azerbaijan on Mr. Bahari's behalf."⁵⁹⁸

⁵⁹² Transcript of Hearing on Jurisdiction and Merits, Day 3, 206:8-15.

⁵⁹³ Transcript of Hearing on Jurisdiction and Merits, Day 3, 206:22-25, 207:1.

⁵⁹⁴ Allahyarov WS1 ¶¶ 10-13; Allahyarov WS2 ¶¶ 3-4; Bahari WS1 ¶ 99; SoC ¶¶ 319-324; SoR ¶¶ 600-602; C-068.

⁵⁹⁵ Transcript of Hearing on Jurisdiction and Merits, Day 4, 53-87.

⁵⁹⁶ Transcript of Hearing on Jurisdiction and Merits, Day 4, 53:4-10; 54:8-17; see also Day4,78:16-21, 79:3-11.

⁵⁹⁷ Allahyarov WS1 ¶ 12.

⁵⁹⁸ Allahyarov WS1 ¶ 13.

306. Azerbaijan denies that the SCPI ever received Mr. Allahyarov's letter dated 14 January 2019 inquiring into the status of Mr. Bahari's properties.⁵⁹⁹ On cross-examination, Ms. Balakishiyeva conceded that she failed to provide any of the underlying log results that would corroborate her assertion that she had found no record of the 2019 letter.⁶⁰⁰ Ms. Balakishiyeva also testified to the existence of a hard copy registration book that would log such data, but again conceded she had not provided copies of that log.⁶⁰¹ In other words, the Tribunal must take Ms. Balakishiyeva at her word, even though she also admitted that the logs were readily available.⁶⁰² What is more, Ms. Balakishiyeva conceded that the record keeping involved human data entry, but implausibly testified that any human error [REDACTED]⁶⁰³
307. Once again, this is an example of a troubling recurring pattern Azerbaijan presenting self-serving documents or information, without producing actual underlying contemporaneous records. Claimant submits that Mr. Allahyarov's 2019 letter⁶⁰⁴ stands as prima facie proof that he inquired about Mr. Bahari's investments and further, that this corroborates the events at his subsequent in-person meeting at the SCPI. The SCPI's obstruction of Mr. Allahyarov's efforts are in line with Azerbaijan's overall actions to thwart Mr. Bahari from regaining his investments. Conversely, Ms. Balakishiyeva's testimony is unreliable, given her unwillingness or inability to provide the actual log records proving that the 2019 letter was never sent, and thus that Mr. Allahyarov's conversation never took place.

6. In 2021, Government Security Forces Initiated a Sustained Campaign of Harassment, Threats, and Physical Violence Against Ms. Ramzanova and Mr. Abdulmajidov

308. Azerbaijan's campaign of intimidation and attacks on Ms. Ramzanova and Mr. Abdulmajidov is fully set out in Claimant's Provisional Measures Application dated 12 March 2024, as well as the interim evidentiary hearing held on 9-10 April 2024.⁶⁰⁵

⁵⁹⁹ SoD ¶¶ 364-68; SoR ¶¶ 600-601; Allahyarov WS1 ¶ 10; Balakishiyeva WS1 ¶ 13; **C-68** Letter from Allahyarov to Chairman of State Committee for Property Issues.

⁶⁰⁰ Transcript of Hearing on Jurisdiction and Merits, Day 5, 57:8-20.

⁶⁰¹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 65:10-25.

⁶⁰² Transcript of Hearing on Jurisdiction and Merits, Day 5, 66:2-5.

⁶⁰³ Transcript of Hearing on Jurisdiction and Merits, Day 5, 61:21-22. *See also* 61:12-24.

⁶⁰⁴ **C-68** Letter from Allahyarov to Chairman of State Committee for Property Issues.

⁶⁰⁵ *See also* SoR ¶¶ 603-616.

309. As noted, this campaign against the couple was initiated specifically because they agreed to assist Mr. Bahari in finding out the disposition of Caspian Fish in 2021.⁶⁰⁶ The facts provide compelling corroborating evidence of Azerbaijan's motives, means, and opportunities to coercively interfere with Mr. Bahari's efforts to regain his investments and, indeed, prepare for his claim in this Arbitration. In other words, Azerbaijan's actions against Ms. Ramazanova and Mr. Abdulmajidov make it significantly more likely that the prior pre-entry into force acts also occurred.⁶⁰⁷ These acts also amount to evidence of Azerbaijan's continuous breach of Treaty provision.⁶⁰⁸
310. At the Hearing, Ms. Ramazanova provided testimony consistent with her written statements, including her confirmation that Azerbaijan's harassing campaign against her was due to her screenshot copy of the Shareholders Agreement on her phone and more generally her connection to Mr. Bahari.⁶⁰⁹ Ms. Ramazanova also confirmed that following her receipt of a threatening call while on vacation in Turkey, she and her husband decided to not return to Azerbaijan, and instead seek asylum in a third country.⁶¹⁰
311. Azerbaijan's cross-examination did nothing to rebut this testimony. Counsel for Azerbaijan spent much time delving into the granular details of exactly how Ms. Ramazanova and Mr. Abdulmajidov took pictures of Caspian Fish during their 2021 visit⁶¹¹ (presumably to impeach their story that they went to assist Mr. Bahari) and equally spent much time asking Ms. Ramazanova about the specifics of her trip to Turkey and London⁶¹² (presumably to advance Azerbaijan's cynical theory that the couple leveraged Mr. Bahari in order to seek asylum). However, none of the questioning impeached Ms. Ramazanova's testimony.
312. As regards Mr. Abdulmajidov, Azerbaijan's Counsel continued its strategy of trying to highlight alleged inconsistencies between the couple's witness testimonies in the Arbitration and their asylum application.⁶¹³ Claimant's written submissions have already addressed Azerbaijan's cynical misreading of the Asylum Decision dated 12 April 2023 to

⁶⁰⁶ SoR ¶¶ 611-616.

⁶⁰⁷ SoR ¶ 604(a).

⁶⁰⁸ SoR ¶ 604(c).

⁶⁰⁹ Transcript of Hearing on Jurisdiction and Merits, Day 4, 106:1-8; 107:2-9; 108:7-11.

⁶¹⁰ Transcript of Hearing on Jurisdiction and Merits, Day 4, 110:8-21; 111; Ramazanova WS ¶ 52.

⁶¹¹ Transcript of Hearing on Jurisdiction and Merits, Day 4, 97:11-25, 98, 99, 100, 101:1-11; 140:13-25, 141, 142, 143:1-13.

⁶¹² Transcript of Hearing on Jurisdiction and Merits, Day 4, 110:5-23, 111, 112, 113:1-6.

⁶¹³ Transcript of Hearing on Jurisdiction and Merits, Day 4, 137:16-25, 138, 139, 140:1-10.

speculate not only that Mr. Abdulmajidov and Ms. Ramazanova were fabricating a story in order to obtain asylum, but that they “[REDACTED]” the Criminal Summons as part of this ploy.⁶¹⁴ This theory, based on alleged minor inconsistencies in the asylum process that the couple undertook without assistance of counsel,⁶¹⁵ is unconvincing. Nothing in Mr. Abdulmajidov’s cross-examination changed this.

7. In 2022, the Office of the Prosecutor General Issued a Bogus Criminal Summons Against Mr. Abdulmajidov

313. Claimant’s written submissions have set out the facts relating to the Office of the Prosecutor General’s (OPG) issuance of the Criminal Summons to Mr. Abdulmajidov.⁶¹⁶ By way of summary:

- a. The allegations in the 26 April 2022 Criminal Summons are absurd on their face: they accuse Mr. Abdulmajidov of collaborating with Mr. Bahari to manufacture drugs at Caspian Fish.⁶¹⁷ At the time Mr. Bahari was still at Caspian Fish, Mr. Abdulmajidov would have been 7 years old.⁶¹⁸
- b. The Criminal Summons was issued by Gasim Mammadov, a Government agent specifically tasked with the political persecution of individuals with interests perceived as adverse to Azerbaijan.⁶¹⁹
- c. Azerbaijan’s explanation for the Criminal Summons is an improbable defense that Mr. Abdulmajidov and Ms. Ramazanova forged the document as part of a ploy to seek asylum. This defense is based on a remarkably tenuous and misleading reading of the couple’s asylum documents.⁶²⁰
- d. It is further based on equally tenuous and unconvincing allegations of forgery based on a comparison to a sample of just two documents, submitted by Mr. Mammadov himself – the individual accused of issuing the bogus Criminal

⁶¹⁴ SoR ¶¶ 626-630. See also **C-428** (Quinn Emanuel Letter to the Tribunal dated 19 March 2024 at ¶ 2).

⁶¹⁵ Provisional Measure Application dated 12 March 2024 ¶ 62.

⁶¹⁶ SoR PART 2, § VI, H, 3-4; see also Provisional Measure Application dated 12 March 2024 ¶ 53; **C-241**.

⁶¹⁷ SoR ¶¶ 618-622.

⁶¹⁸ SoR ¶ 611(I); Ramazanova WS ¶ 62; Abdulmajidov WS ¶¶ 69-71; Bahari Provisional Measures WS ¶¶ 18-22.

⁶¹⁹ SoR ¶¶ 623-625; Transcript of Hearing on Jurisdiction and Merits, Day 5, 5:15-25, 6 (Mammadov cross-examination); **C-245**, Complaint by the Netherlands Helsinki Committee to the International Association of Prosecutors regarding the Prosecution Service of Azerbaijan.

⁶²⁰ SoR ¶¶ 626-630.

Summons.⁶²¹ At his cross-examination, Mr. Mammadov could not satisfactorily explain why he only provided two sample subpoenas, when there were likely many more samples in his possession.⁶²² Mr. Mammadov also reconfirmed that he himself was in charge of investigating the Criminal Summons: [REDACTED]

[REDACTED]”⁶²³ As explained at the Interim Measures Hearing, this amounted to the proverbial fox guarding the henhouse⁶²⁴ and automatically invalidates any conclusions by Mr. Mammadov.

314. At the Hearing, Mr. Mammadov confirmed his witness statement theory that Mr. Abdulmajidov and Ms. Ramazanova took a document from a criminal case filed numbered [REDACTED] and forged the Criminal Summons with a case file number of [REDACTED].⁶²⁵ According to his witness statement, the actual cases under numbers [REDACTED] and [REDACTED] do not involve the couple and relate to altogether different criminal matters.⁶²⁶ When questioned, he conceded that he had not provided those actual cases in order to corroborate that they were different criminal matters – not even in redacted form – and thus, the Tribunal had to simply take him at his word.⁶²⁷
315. Remarkably, in two full days of cross-examination of Mr. Bahari and during extensive cross-examination of Mr. Abdulmajidov, Azerbaijan never once brought up the Criminal Summons or asked about its contents. Azerbaijan spent four pages’ worth of transcript cross-examining Mr. Abdulmajidov on the specifics of exactly how he took pictures at Caspian Fish during his 2021 visit,⁶²⁸ but did not ask a single question regarding the defense theory that Mr. Abdulmajidov and Ms. Ramazanova forged the Criminal Summons as part of their alleged asylum ploy.⁶²⁹

⁶²¹ SoR ¶¶ 631-659.

⁶²² Transcript of Hearing on Jurisdiction and Merits, Day 5,25:1-14.

⁶²³ Transcript of Hearing on Jurisdiction and Merits, Day 5,30:23-25; see also 28:22-25; 30:18-25; 31:1-8.

⁶²⁴ Interim Measures Hearing dated 10 April 2024, Tr. 35:9-10.

⁶²⁵ Transcript of Hearing on Jurisdiction and Merits, Day 5,34:3-7, 38:8-25, 39, 40, 41, 42:1-14; Mammadov WS1 ¶ 35(a)-(d).

⁶²⁶ Mammadov WS1 ¶ 35(b), (c).

⁶²⁷ Transcript of Hearing on Jurisdiction and Merits, Day 5,40:4-25, 41:1-25.

⁶²⁸ Transcript of Hearing on Jurisdiction and Merits, Day 4,140-144.

⁶²⁹ **C-428** Quinn Emanuel Letter to the Tribunal dated 19 March 2024. See also SoR ¶¶ 626-659.

D. MR. BAHARI MAINTAINS HIS FPS AND EFFECTIVE MEANS CLAIMS ON THE BASIS OF THE MFN CLAUSE OF THE TREATY⁶³⁰

316. During Closing Remarks, Claimant's Counsel answered in the affirmative⁶³¹ to the Tribunal's Question no. 9⁶³² that he maintains his FPS claim and Effective Means claim.
317. Mr. Bahari's position on these claims is set out in his written briefs.⁶³³ For avoidance of doubt, Claimant's Rejoinder on Jurisdiction, which focused on jurisdictional issues, did not discuss FPS or Effective Means, but Claimant did not abandon those claims. Likewise, Claimant maintains his moral damages claim.⁶³⁴

II. AZERBAIJAN EXPROPRIATED MR. BAHARI'S INVESTMENT IN CASPIAN FISH IN BREACH OF ARTICLE 4⁶³⁵

318. Mr. Bahari has established through the following submissions that Azerbaijan engaged in an unlawful composite expropriation of Mr. Bahari's investments in Caspian Fish: Statement of Claim, ¶¶ 574-616; and Statement of Reply, ¶¶ 725-730, 1077-1096; and Rejoinder, ¶¶ 458-461. Mr. Bahari repeats and additionally relies on related opening and closing arguments at the Hearing.⁶³⁶
319. The following addresses specific issues raised at the Hearing and in the Tribunal's Questions on issues related to Azerbaijan's unlawful expropriation.⁶³⁷

⁶³⁰ This section answers the Tribunal Hearing Question 9: [REDACTED]

⁶³¹ Transcript of Hearing on Jurisdiction and Merits, Day 9, 63:6-18.

⁶³² This Section answers the Tribunal Hearing Question no. 9.

⁶³³ SoC § VIII.B (FPS); SoR PART V § I.D. (Effective Means), PART V § II (FPS).

⁶³⁴ SoC § IX.G; SoR PART VII § V.

⁶³⁵ This Section answers the Tribunal Hearing Questions nos. 2(ii) and 6.

⁶³⁶ Transcript of Hearing on Jurisdiction and Merits, Day 1, 87:22-25, 88-91, 92:1-8.

⁶³⁷ This Section answers the Tribunal Question no. 2(ii): [REDACTED]

320. As stated in Claimant's Statement of Reply and at the Hearing, Claimant only asserts a claim for Respondent's unlawful expropriation of Mr. Bahari's investments in Caspian Fish.⁶³⁸

A. AZERBAIJAN ENGAGED IN A COMPOSITE INDIRECT EXPROPRIATION

321. Azerbaijan's acts and omissions resulted in the unlawful composite (or creeping) expropriation of Mr. Bahari's investments in Caspian Fish that began as early as September 2000, continued after the Treaty entered into force on 20 June 2002, and crystalized on 1 January 2003.⁶³⁹ It is well accepted that acts giving rise to a composite expropriation may begin to occur before a treaty enters into force.⁶⁴⁰

1. Azerbaijan's Campaign to Erase Mr. Bahari's Ownership and Interests in Caspian Fish

322. As discussed in Mr. Bahari's prior submissions, evidence in this Arbitration demonstrates that Azerbaijan's campaign to separate Mr. Bahari from his investments in Caspian Fish began as early as September 2000, when Mr. Bahari's partners in Caspian Fish (Messrs. Aliyev, Heydarov, and Khanghah) formed Caspian Fish LLC without Mr. Bahari's knowledge, approval, or purposeful participation.⁶⁴¹ For example, Caspian Fish BVI's foundational resolution to form Caspian Fish LLC was unauthorized under the company's charter because the Board of Directors meeting excluded Mr. Bahari and did not fulfill the required quorum.⁶⁴²
323. Claimant's opening statement and presentation at the Hearing further discussed how the Ministry of Justice accepted and affirmed founding documents of Caspian Fish LLC that clearly misstate or altogether remove reference to Caspian Fish BVI.⁶⁴³ This included the complete erasure of Caspian Fish BVI from the LLC's founding tax document (**R-382**)⁶⁴⁴

⁶³⁸ SoR ¶ 1079; Transcript of Hearing on Jurisdiction and Merits, Day 1, 88:1-4.

⁶³⁹ SoC ¶ 582.

⁶⁴⁰ SoC ¶ 604; Reply ¶ 1084; *Pey Casado v. Chile*, ICSID Case No ARB/98/2, Award [English translation and French original], 8 May 2008 (**RLA-135**), ¶¶ 611, 618.

⁶⁴¹ See SoR ¶ 1085(a).

⁶⁴² See SoR ¶¶ 290-294; **C-290** Minutes of the Meeting of the Board of Directors of Caspian Fish Co Inc., 15 August 2000; **C-389** Applebys Legal Opinion, 18 June 2024.

⁶⁴³ Transcript of Hearing on Jurisdiction and Merits, Day 1, 48:17-25; 49-54:1-11; **R-056** Application to the Ministry of Justice for the registration of the LLC, 29 August 2000 **R-057** Charter of the LLC, 11 September 2000.

⁶⁴⁴ Transcript of Hearing on Jurisdiction and Merits, Day 1, 52:23-25, 53:1-9.

and the May 2002 “[REDACTED]” registration certificate from the Ministry of Justice (C-317, compare with R-116).⁶⁴⁵ These events are relevant to the composite expropriation because Caspian Fish BVI’s status as the parent and founding company of the LLC should have been established and apparent in Government records. Erasing records of Caspian Fish BVI – and leaving only Caspian Fish LLC – ultimately enabled Messrs. Aliyev, Heydarov, and Khanghah with the ability to take Mr. Bahari’s interest in the company, as well as conceal their own.⁶⁴⁶

324. The oral testimony of Mr. Sabutay Hasanov demonstrated this resulting erasure of Mr. Bahari’s ownership of Caspian Fish and that of his business partners.

a. Despite being the chief accountant and then executive director of Caspian Fish from 2000-2014, Mr. Hasanov gave oral testimony that he had never seen any document that showed Mr. Bahari had an ownership interest in Caspian Fish.⁶⁴⁷ In fact, he was surprised to learn that Mr. Bahari owned any interest in the company.⁶⁴⁸

b. He also denied knowledge of who any of the owners and investors were, repeatedly referring to the investors and owners of Caspian Fish as anonymized and unknown [REDACTED].⁶⁴⁹ This is particularly relevant because Mr. Hasanov confirmed that he filed various updates with the Azerbaijan Government about changes in the LLC’s shareholding, ownership, and other corporate activities.⁶⁵⁰

325. How and when Azerbaijan removed information about Mr. Bahari’s ownership of Caspian Fish from Government records is largely unknown because Azerbaijan chose not to comply with the Tribunal’s document production orders for Caspian Fish LLC.⁶⁵¹

326. Claimant’s Document Production Request No. 63 required Azerbaijan to produce:

[REDACTED]

⁶⁴⁵ Transcript of Hearing on Jurisdiction and Merits, Day 1, 53:10-25, 54:1-11.

⁶⁴⁶ *Infra* Part III, §II. B. 1.

⁶⁴⁷ Transcript of Hearing on Jurisdiction and Merits, Day 6, 10:22-25; 11:1-16.

⁶⁴⁸ Hasanov WS1 ¶ 22 [REDACTED]

⁶⁴⁹ Transcript of Hearing on Jurisdiction and Merits, Day 6, 43:16-25; 44; 46:15-25; 47:1-8.

⁶⁵⁰ Transcript of Hearing on Jurisdiction and Merits, Day 6, 55:15-19.

⁶⁵¹ Transcript of Hearing on Jurisdiction and Merits, Day 1, 54:12-25; 55; 56:1-7. Claimant’s Document Production Request No. 58, 59 and 63.

- [REDACTED]
327. Azerbaijan did not produce a single responsive document or provide any explanation for its failure to do so (Azerbaijan likewise failed to produce any document or provide any explanation for Claimant's Requests No. 58 and 59 relating to the LLC despite the Tribunal's order). What Azerbaijan chose to produce is correspondence addressed to Respondent's Counsel stating that Minister Heydarov refused to respond to the inquiries about the LLC.⁶⁵³
328. Pursuant to paragraph 6.7 of PO1, the Tribunal can and should infer that Azerbaijan possesses documents about the shareholding, ownership, and other aspects of Caspian Fish LLC that would be adverse to the interests of Azerbaijan, including inferring that such documents would establish that Respondent's acts and omissions vis-à-vis Mr. Bahari's investments were in breach of its Treaty commitments.⁶⁵⁴ As previously mentioned, this is particularly appropriate considering Mr. Hasanov's confirmation that such data was filed with the Government.⁶⁵⁵ Clearly Respondent possesses highly relevant documents that it does not want to make available.

2. Mr. Bahari Retained Control and the Economic Benefit of his Investments After the Treaty Entered Into Force

329. As discussed in the preceding section, Azerbaijan's campaign against Mr. Bahari and his investments in Azerbaijan continued at the direction of President Aliyev and Minister Heydarov when Mr. Bahari was unlawfully detained and expelled from the 10 February 2001 Caspian Fish opening ceremony; subjected to house arrest; received threats against his life; and was ultimately forced to leave Azerbaijan in late March 2001.⁶⁵⁶
330. During the first part of 2001 and through mid-2002, the status of Mr. Bahari's investments in Caspian Fish (and his other investments in Azerbaijan) was in a state of flux, with Mr. Bahari engaged in a sustained effort to protect his investments, including discussions

⁶⁵² Claimant's Document Production Request No. 63.

⁶⁵³ **C-319.** See *also* Claimant's Document Production Request No. 41 and the Decision by the Tribunal in PO6, Annex 1, p. 77.

⁶⁵⁴ See SoRJJ, **Appendix A – Claimant's Requested Adverse Inferences**, no. 6, pp. 10-14.

⁶⁵⁵ Transcript of Hearing on Jurisdiction and Merits, Day 6, 55:15-19.

⁶⁵⁶ See *also* SoR ¶ 1085(b)-(c).

between Mr. Bahari and Minister Heydarov about the status of Caspian Fish and to understand the underlying reasons and persons responsible for Mr. Bahari's expulsion from Azerbaijan.⁶⁵⁷ Mr. Moghaddam, who remained in Baku, also was unclear on the status of Mr. Bahari's investments and whether the situation would be resolved.⁶⁵⁸

331. Minister Heydarov ultimately proposed to purchase Mr. Bahari's investments in Azerbaijan. Accordingly, Minister Heydarov sent Mr. Khanghah to meet Mr. Bahari in Dubai on 15 June 2002 and present him with terms. The terms were essentially a forced sale of Mr. Bahari's [REDACTED]

[REDACTED]⁶⁵⁹

332. The meeting and forced sale agreement demonstrate that at that specific time, 15 June 2002, Mr. Bahari continued to possess his BVI shareholding in Caspian Fish, his contractual rights under the Shareholders Agreement, and a sufficient level of control and ownership over the Caspian Fish facility to warrant the proposed deal that Messrs. Aliyev, Heydarov, and Khanghah put on the table.

333. Mr. Bahari's refusal to accept the forced sale terms and his counteroffer changed the circumstances and prompted Government security forces to detain Mr. Moghaddam in late June 2002 to interrogate him about Mr. Bahari and his investments. Respondent's attack on Mr. Moghaddam was clearly unlawful and an additional step in the continuing campaign and composite acts that ultimately resulted in Mr. Bahari's investments in Caspian Fish being expropriated, as well as to force Mr. Bahari to relinquish his investments in Azerbaijan.⁶⁶⁰

334. Except for the attack on Mr. Moghaddam in late June 2002, it is not fully known what specific steps Azerbaijan took to fully deprive and permanently effect the expropriation of Mr. Bahari's investments in Caspian Fish between the Treaty entering into force on 20 June 2002 and 1 January 2003. What is clear, however, is that at some point a few weeks or months after the Dubai meeting there was shift by Azerbaijan toward completing a permanent and substantial deprivation of Mr. Bahari's investments.

⁶⁵⁷ SoC ¶¶ 165-167; Reply ¶ 592; Bahari WS1 ¶¶ 71, 77, 78, 79-84.

⁶⁵⁸ Moghaddam WS1 ¶¶ 66.

⁶⁵⁹ **C-017** Forced Sale Agreement dated 15 June 2002.

⁶⁶⁰ Moghaddam WS1 ¶¶ 73-77.

3. Azerbaijan Has Sought to Hide the Completing Steps of its Expropriation During the Latter-Half of 2002

335. It is evident that Azerbaijan has deliberately sought to hinder both Claimant and the Tribunal from understanding specific Government acts and omissions that culminated in the unlawful expropriation of Caspian Fish, as well as its breach of FET and FPS. As previously discussed, this deliberate obfuscation is exemplified, in part, by Respondent's failure to comply with the Tribunal's document production orders for Caspian Fish LLC. It is further evidenced by Respondent's refusal to present any fact witnesses with knowledge of the pertinent events.
336. Respondent has maintained this pattern of limiting information, and bad faith and unlawful conduct, for the past two decades in breach of the Treaty and has no hesitation doing the same in these arbitral proceedings despite its obligation to act in good faith. To allow Respondent to benefit from this obstructionist behavior would be highly inequitable and an affront to the international arbitration process itself.
337. In any event, on an objective basis, there is corroborating evidence of deliberate efforts to remove and impair Claimant's control and ownership over his investments in Azerbaijan in the weeks and months after Mr. Bahari made his counteroffer in Dubai and after the Treaty entered into force:
- a. In relation to Caspian Fish, a Caspian Fish BVI Director's Resolution purportedly dated 3 September 2002 increased the share capital of Caspian Fish from USD 1,000,000 to USD 56,000,000 shares at USD 1 par value.⁶⁶¹ The resolution is signed by Mr. Khanghah alone.⁶⁶² While the measure did not take effect until 27 November 2006,⁶⁶³ this demonstrates that by the autumn of 2002, Messrs. Aliyev, Heydarov, and Khanghah had begun to put into motion steps to diminish and ultimately strip Mr. Bahari's shareholding interests in the BVI entity and Caspian Fish LLC.
 - b. In relation to Coolak Baku, on 22 June 2002, Mr. Zeynalov used his revoked Power of Attorney to represent Mr. Bahari as Coolak Baku's general director and elect

⁶⁶¹ **C-124** Caspian Fish Co. Inc. Director's Resolution in writing - 3 September 2002.

⁶⁶² SoC ¶¶ 220-223.

⁶⁶³ SoR ¶400(c).

new board members and a new chairman of Coolak Baku.⁶⁶⁴ Then, on 30 November 2002, Mr. Zeynalov used his revoked Power of Attorney to again represent Mr. Bahari as Coolak Baku's general director, and issued a corporate decision ordering Mr. Bahari to pay a USD 400,000 tax debt, subject to the sale of Mr. Bahari's assets and stake in Coolak Baku.⁶⁶⁵ Notably, the tax debt that Mr. Zeynalov put into motion in November 2002 was originally threatened against Mr. Bahari with the forced sale agreement in Dubai.⁶⁶⁶ Only Azerbaijan would have had the power to apply or resolve that tax debt.

- c. Likewise, on 26 July 2002 Azerbaijan issued a Protection Certificate for Mr. Bahari's Persian Carpets.⁶⁶⁷ By that Certificate, the Azerbaijan Ministry of Culture permanently retained and dispossessed more than half of Mr. Bahari's Persian Carpets, which were part of the counteroffer in Dubai. Mr. Bahari was of course not consulted and had no opportunity to be involved or object to this Government decision.

- 338. The above events directly relate to the taking of Mr. Bahari's investments from July to November 2002 and are not a coincidence.
- 339. Claimant has thus identified 1 January 2003 as the date when Azerbaijan's continuous acts can be considered to have crystalized into a composite expropriation of Mr. Bahari's investments in Caspian Fish. By this date, having received no response to his counteroffer or further engagement by Messrs. Aliyev, Heydarov, and Khanghah about his investments in Caspian Fish, Mr. Bahari reasonably considers that he was substantially and permanently denied the control and economic benefit of his investments in Caspian Fish.
- 340. In the alternative, should the Tribunal determine that the evidence is insufficient to establish 1 January 2003 as the date on which Respondent's composite expropriation of Caspian Fish crystallized, Azerbaijan's subsequent and continued campaign of harassment and intimidation, combined with Mr. Bahari's complete inability to return to Azerbaijan to enforce his rights in Caspian Fish LLC and under the Shareholders

⁶⁶⁴ **C-520** Minutes of Meeting of the founders of Coolak Baku dated 22 June 2002. See *also* SoR ¶¶ 165-173; SoRJJ ¶ 128.

⁶⁶⁵ **R-029**; SoRJJ ¶ 127.

⁶⁶⁶ *Infra* Part. III, §I, B, 8.

⁶⁶⁷ **R-36** Protection Certificate granted by the Ministry of Culture of the Republic of Azerbaijan for No. 300 issued on 26 July 2002.

Agreement, or otherwise manage and assert control over the company, must ultimately be deemed to constitute a crystallization of the expropriation at a later date in 2003 or 2004, before Mr. Bahari retained the Turkish lawyer, Mr. Serhat Kilic, to investigate legal proceedings in Azerbaijan in 2004.⁶⁶⁸

341. As discussed below, the date of the expropriation is relevant to the valuation of Mr. Bahari's loss; it is not relevant to the Tribunal's jurisdiction since on any view Mr. Bahari maintained his ownership and right to economic benefits from Caspian Fish via his shares in the BVI and the Shareholders Agreement when the Treaty entered into force.

B. THE TAKING OF MR. BAHARI'S INVESTMENTS OCCURED AFTER THE TREATY ENTERED INTO FORCE

342. As discussed, President Aliyev and Minister Heydarov considered Mr. Bahari to continue to retain control, ownership, and the economic benefit of his investment in Caspian Fish as of 15 June 2002. Otherwise, there would have been no need for them to make the forced sale agreement. It was only after the events of the Dubai meeting that Azerbaijan took the final measures to permanently and substantially deprive Mr. Bahari of the use of the economic value and rights of his investments in Caspian Fish. By 1 January 2003, Azerbaijan's acts and omissions had resulted in an unlawful composite expropriation of Mr. Bahari's investments in Caspian Fish. Azerbaijan's denial of that expropriation is both unreasonable and unavailing.
343. While the circumstances of an expropriation are decided on a case-by-case basis, prior investment treaty case authorities demonstrate that the conditions for a composite expropriation of Mr. Bahari's investments in Caspian Fish were met on 1 January 2003.
344. *First*, in considering an alleged expropriation tribunals have frequently relied on the unity of the investment principle, assessing the impact of State measures on the investment as a whole and not upon its component parts.⁶⁶⁹ As explained in *Electrabel v. Hungary*, "the

⁶⁶⁸ Bahari WS1 ¶¶ 86-87.

⁶⁶⁹ *Telenor Mobile Communications AS v. Republic of Hungary*, ICSID Case No. ARB/04/15, Award, 13 September 2006 (CLA-325), ¶ 67.

test for expropriation is applied to the relevant investment as a whole, even if different parts may separately qualify as investments for jurisdictional purposes.”⁶⁷⁰

345. *Second*, an expropriation requires a permanent deprivation.⁶⁷¹ *Santa Elena v. Costa Rica* explained that this occurs when “events demonstrate that the owner was deprived of fundamental rights of ownership and it appears that this deprivation is not merely ephemeral.”⁶⁷² In addition to permanence, numerous investment tribunals have affirmed that a “substantial deprivation” is critical to a finding of an indirect expropriation.
346. *Third*, as previously discussed in Claimant’s submissions,⁶⁷³ the loss of economic benefit is central to the assessment of whether there has been a permanent or substantial deprivation that gives rise to an expropriation.⁶⁷⁴ In *Fireman’s Fund v. Mexico*, the tribunal stressed that “[t]he taking must be a substantially complete deprivation of the economic use and enjoyment of the rights to property, or of identifiable distinct parts thereof (i.e., it approaches total impairment).”⁶⁷⁵ Indeed, the severity of the economic impact has been held as a decisive criterion in deciding whether an indirect expropriation has occurred.⁶⁷⁶
347. Here, the investment held by Mr. Bahari is his interests in Caspian Fish comprised of *inter alia* ownership and control via Caspian Fish BVI, contractual rights under the Shareholders Agreement, and the equipment and immovable property in the plant itself. The Treaty’s

⁶⁷⁰ *Electrabel S.A. v. The Republic of Hungary*, ICSID Case No. ARB/07/19, Decision on Jurisdiction, Applicable Law and Liability, 30 November 2012 (CLA-062), ¶ 6.58

⁶⁷¹ *LG&E v. Argentina*, Decision on Liability of 3 October 2006 (CLA-072), ¶ 193 (“Generally, the expropriation must be permanent, that is to say, it cannot have a temporary nature, unless the investment’s successful development depends on the realization of certain activities at specific moments that may not endure variations”); *Fireman’s Fund Insurance Company v. United Mexican States*, ICSID Case No. ARB(AF)/02/01, Award of 17 July 2006 (CLA-146), ¶ 176(d) (holding that one of the elements of an expropriation is that “[t]he taking must be permanent, and not ephemeral or temporary”).

⁶⁷² *Compañía del Desarrollo de Santa Elena S.A. v. Republic of Costa Rica*, ICSID Case No. ARB/96/1, Award, 17 February 2000 (CLA-155), ¶ 77; see also Transcript of Hearing on Jurisdiction and Merits, Day 1, 92:20-93:3.

⁶⁷³ See SoC ¶¶ 596-614.

⁶⁷⁴ *Metalclad Corporation v. The United Mexican States*, ICSID Case No. ARB(AF)/97/1, Award, 30 August 2000 (CLA-148), ¶ 103

⁶⁷⁵ *Fireman’s Fund Insurance Company v. United Mexican States*, ICSID Case No. ARB(AF)/02/01, Award, 17 July 2006 (CLA-146), ¶ 176(c).

⁶⁷⁶ *Burlington Resources, Inc. v. Republic of Ecuador*, ICSID Case No. ARB/08/5, Decision on Liability, 14 December 2012 (CLA-144), ¶ 397 (“what appears to be decisive, in assessing whether there is a substantial deprivation, is the loss of the economic value or economic viability of the investment.”); *UP and C.D Holding Internationale (formerly Le Cheque Dejeuner) v. Hungary*, ICSID Case No. ARB/13/35, Award, 9 October 2018 (CLA-101), ¶ 305 (“Even if shares remain legally held by a claimant, if a State’s measures result in the loss of the shares’ economic value, this may be considered an indirect expropriation.”).

expropriation protections in Article 4 applies to the entirety of Mr. Bahari's investments in Caspian Fish.⁶⁷⁷

348. Mr. Bahari's expulsion from Azerbaijan in late March 2001, and the resulting physical separation from Caspian Fish and his other investments, is a contributing factor to the ultimate taking. But because Mr. Bahari's investments in Caspian Fish are comprised of his ownership and control of the company via his shares in Caspian Fish BVI and in his contractual rights under the Shareholders Agreement, his physical expulsion from Azerbaijan did not immediately dispossess or substantially deprive him of those investments, by which he continued to derive control and economic benefit.
349. As of at least 15 June 2002, Mr. Bahari continued to possess and had not been substantially deprived of his useful rights and economic benefit in Caspian Fish derived from his ownership and control of the company via his shares in the BVI and in his contractual rights under the Shareholders Agreement. If that were not the case, Messrs. Aliyev, Heydarov, and Khanghah would not have considered it necessary to compensate Mr. Bahari in exchange for those rights via the forced sale agreement.
350. After the Dubai meeting, the scales clearly tipped. Messrs. Aliyev, Heydarov, and Khanghah did not respond to Mr. Bahari's counteroffer and did not engage with him further on the status of his investments. A decision was made to complete and make permanent the overall dispossession of Mr. Bahari's investments in Caspian Fish. Further, the economic benefits derived from Mr. Bahari's ownership and contractual rights was permanently and substantially dispossessed and frustrated because there was no longer a prospect of Mr. Bahari's returning to Azerbaijan to benefit from or enforce any of those rights. Based on the corroborating evidence discussed above, that decision was made in or around the summer and autumn of 2002 and most likely crystallized by 1 January 2003.

⁶⁷⁷ *Burlington Resources Inc. v. Republic of Ecuador*, ICSID Case No. ARB/08/5, Decision on Liability, 14 December 2012 (CLA-144), ¶¶ 257, 260, 398.

PART IV: REPARATION AND DAMAGES

I. AZERBAIJAN'S CONDUCT CAUSED MR. BAHARI'S LOSS

351. Respondent's summary chart in response to the Tribunal's Question 6 maintains the artificial distinction Azerbaijan has leaned on throughout the Arbitration: Azerbaijan asserts that any loss to Mr. Bahari was caused by the actions of third parties, and not by Azerbaijan itself.⁶⁷⁸ In doing so, Azerbaijan continues to ignore that these so-called third parties are the President of the country and Minister of Emergency Situations, President Aliyev and Minister Heydarov.⁶⁷⁹ In other words, Azerbaijan's case on causation is merely a restatement of its case on attribution, which is addressed *supra*⁶⁸⁰ and in Mr. Bahari's prior pleadings.⁶⁸¹

II. MR. BAHARI IS ENTITLED TO FULL COMPENSATION FOR HIS LOSSES

A. MR. BAHARI IS ENTITLED TO RECOVER DAMAGES EQUIVALENT AS MUCH AS POSSIBLE TO THE FULL VALUE OF HIS INVESTMENTS

352. As a matter of international law, Mr. Bahari is entitled to full compensation for the loss of the entire value of his investments in Azerbaijan. The principle of full reparation, as set out by the PCIJ in the *Factory at Chorzów*, provides that Mr. Bahari is entitled to reparation designed to "reestablish the situation which would, in all probability, have existed" if Respondent had not breached its international law obligations.⁶⁸² Thus, although Secretariat was instructed to assume Mr. Bahari's investments were expropriated,⁶⁸³ the damages Secretariat computed are applicable whether the Tribunal finds that Azerbaijan's conduct amounted to an expropriation (of Caspian Fish only)⁶⁸⁴ or interference with the rights of fair and equitable treatment amounting to the deprivation of all of his

⁶⁷⁸ See Respondent's Summary Chart, pp. 2-3, 9, 14, 18.

⁶⁷⁹ See SoRJJ ¶¶ 278-287.

⁶⁸⁰ See *supra* Part II, §IV.

⁶⁸¹ See SOC, § VII; SOR Part III & Part IV § IV; SoRJJ Part V.

⁶⁸² *Chorzów Factory* Judgment No. 13 (CLA-162), at 47.

⁶⁸³ See Transcript of Hearing on Jurisdiction and Merits, Day 8, 210:19-211:24.

⁶⁸⁴ See Transcript of Hearing on Jurisdiction and Merits, Day, 1 234:22-235:13.

investments.⁶⁸⁵ As Mr. Sequeira explained, if the Tribunal finds in respect of any breach

[REDACTED]
[REDACTED]⁶⁸⁶ and the damages Secretariat calculated are appropriate.

353. Likewise, although Mr. Bahari needs to prove his entitlement to damages by the preponderance standard, “Claimant only needs to provide a basis upon which the Tribunal can, with reasonable confidence, estimate the extent of the loss”⁶⁸⁷ and “some degree of estimation will be required when considering counterfactual scenarios,” which “of itself, does not mean the burden of proof has not been satisfied.”⁶⁸⁸ This is all the more true where, as here, Respondent’s conduct during the course of the Arbitration has actively impeded access to necessary documentation and foreclosed the possibility of a more appropriate valuation methodology.

354. Indeed, the most appropriate way to value an operating company is via an income approach that captures the value of the tangibles and intangibles of the business by computing its value based on its cash flows, as both damages experts agree.⁶⁸⁹ As Mr. Sequeira explained during the Hearing, [REDACTED]

[REDACTED]
[REDACTED]⁶⁹⁰ Dr. Shi agreed:

[REDACTED]
[REDACTED]

As Dr. Shi explained, [REDACTED]
[REDACTED]

⁶⁸⁵ See *Rumeli v. Kazakhstan*, Award, 29 July 2008 (CLA-052); *Sempra Energy International v. Argentine Republic*, ICSID Case No. ARB/02/16, Award, 28 September 2007 (CLA-160), ¶ 403.

⁶⁸⁶ See Transcript of Hearing on Jurisdiction and Merits, Day 8, 210:19-211:20.

⁶⁸⁷ *Lemire v. Ukraine*, ICSID Case No. ARB/06/18, Award, 28 March 2011 (CLA-181), ¶ 246.

⁶⁸⁸ *Hrvastka v. Slovenia*, ICSID Case No. ARB/05/24, 17 December 2015 (CLA-166), ¶ 175

⁶⁸⁹ See First Secretariat Report, ¶ 2.6 & Section 4D; Transcript of Hearing on Jurisdiction and Merits, Day 8, 233:17-23.

⁶⁹⁰ Transcript of Hearing on Jurisdiction and Merits, Day 8, 177:18-24.

⁶⁹¹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 236:5-11.

[REDACTED]
[REDACTED]
[REDACTED]⁶⁹²

355. Both experts also agreed that the reason an income approach is not available to value Mr. Bahari's investments is the lack of information in the record.⁶⁹³ As discussed in the next section, this deficiency is the direct result of Azerbaijan's conduct in the Arbitration. In light of that, awarding Mr. Bahari only his proportionate share of sunk costs under a cost approach, or even awarding him Amounts Invested when a market approach is available, would represent an impermissible windfall to Azerbaijan. Azerbaijan should not benefit from any uncertainty in the documentary record that results from its own malfeasance.

B. AZERBAIJAN'S CONDUCT IN PREVENTING ACCESS TO DOCUMENTS SHOULD NOT INURE TO ITS BENEFIT

356. Mr. Bahari has maintained from the outset of the Arbitration that Azerbaijan has access to the archives of Caspian Fish, which contain numerous documents from both the construction of the company and its early operations prior to his expulsion from Azerbaijan.⁶⁹⁴ The Hearing confirmed that he was correct: Respondent's witnesses admitted that they had been granted access to the offices and records of Caspian Fish by Respondent and its counsel, asked to search those records, and instructed to limit their searches to specific time periods. Azerbaijan's and its counsel's frequent explanation that they were unable to locate certain files, particularly those dated after 2003 – the date after which they asked all party witnesses to avoid searching – is thus an evident falsehood.
357. Azerbaijan and Dr. Shi relied heavily on the limited documents related to the financial performance of Caspian Fish that were provided by its fact witnesses, particularly Mr. Hasanov and Mr. Zeynalov. In aid of providing that information, each of those witnesses admitted at the Hearing to having been given access to the archive at Caspian Fish to search for files. Mr. Zeynalov confirmed that he was provided access to the Caspian Fish archive by [REDACTED] with [REDACTED]

⁶⁹² Oxera Second Report, ¶ 2.22.

⁶⁹³ Transcript of Hearing on Jurisdiction and Merits, Day 8, 177:18-24; 236:5-11.

⁶⁹⁴ See, e.g., SOC ¶¶ 82, 153, 650; Bahari WS1 ¶ 39; SOR ¶¶ 27, 39-41; SoRJJ ¶ 19.

[REDACTED]⁶⁹⁵ He testified that he [REDACTED] that [REDACTED] and that he spent [REDACTED]⁶⁹⁶ And he testified that the files were organised [REDACTED] by year, and that he [REDACTED]⁶⁹⁷ When pressed, he revealed that he had not taken that time, nor been instructed to take that time, to look through everything in the archive.⁶⁹⁸ Rather, he looked for things that appeared relevant to him from the first few years of the company and provided those with his witness statements.⁶⁹⁹

358. Mr. Hasanov's testimony was even more damning. He confirmed that he had also been provided access to the Caspian Fish archive and that he only searched for documents from 2001 (what he called the [REDACTED]) on instruction from counsel:

[REDACTED]
[REDACTED]
[REDACTED]

Azerbaijan and its counsel thus deliberately obscured and limited the documentary record available to both Parties. Having secured access to the archives in Caspian Fish, which are evidently voluminous, counsel instructed the witnesses, whom they accompanied, to search only for documents from 2001 through 2002.

359. This is not only bad faith conduct by a party in an arbitration proceeding, but also flies in the face of Azerbaijan's document production obligations. Azerbaijan was ordered to produce, *inter alia*, the following by the Tribunal:

- a. Claimant's Document Request No. 117: [REDACTED]
[REDACTED]
[REDACTED]

⁶⁹⁵ Transcript of Hearing on Jurisdiction and Merits, Day 5, 180:12-14.

⁶⁹⁶ Transcript of Hearing on Jurisdiction and Merits, Day 5, 180:15-20.

⁶⁹⁷ Transcript of Hearing on Jurisdiction and Merits, Day 5, 180:21-181:6.

⁶⁹⁸ Transcript of Hearing on Jurisdiction and Merits, Day 5, 181:22-23.

⁶⁹⁹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 183:2-6.

⁷⁰⁰ Transcript of Hearing on Jurisdiction and Merits, Day 6, 53:5-9.

[REDACTED]

b. Claimant's Document Request No. 120: [REDACTED]

c. Claimant's Document Request No. 122: [REDACTED]

d. Claimant's Document Request No. 123: [REDACTED]

360. Azerbaijan produced nothing in response to these document requests and provided no explanation as to why.⁷⁰⁵ Instead it produced documents from various years predominantly after 2003, none of which included financial statements or performance data, in response to the Claimant's Request 60. All of those documents, however, were deemed unreliable by both Parties' quantum experts. Having assessed those documents, Dr. Shi concluded that they could not be relied on [REDACTED]

⁷⁰¹ Annex 1 to PO6, pp. 183-185.

⁷⁰² Annex 1 to PO6, pp. 188-190.

⁷⁰³ Annex 1 to PO6, pp. 192-193.

⁷⁰⁴ Annex 1 to PO6, pp. 193-195.

⁷⁰⁵ See Procedural Order No. 1, ¶ 6.7 [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]⁷⁰⁶ Secretariat likewise reviewed those documents and noted, rather presciently, that it was [REDACTED]
[REDACTED] and observed that the documents themselves were riddled with issues and red flags.⁷⁰⁷

361. Nor is it reasonable to assume that the documents Azerbaijan was ordered to produce could not be found because they simply do not exist. None of the documents produced by Azerbaijan included [REDACTED]
[REDACTED]⁷⁰⁸ Mr. Hasanov testified at the Hearing, however, that he had prepared and filed financial statements with the Government of Azerbaijan on behalf of Caspian Fish.⁷⁰⁹ And in fact, the record reflects that these documents do exist: Azerbaijan granted Mr. Parvizi access to them. As Mr. Parvizi testified, he [REDACTED]
[REDACTED]
[REDACTED]⁷¹⁰ Although that data was provided to him only in aggregated form, it was provided to him⁷¹¹ and to him alone.

362. The same issue persists with respect to documents regarding construction of Caspian Fish. As Mr. Gaines testified at the Hearing, [REDACTED]
[REDACTED]⁷¹² He noted that it would be reasonable to assume [REDACTED]
[REDACTED] and that the [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁷¹³ Azerbaijan undertook to search for licensing and permit

⁷⁰⁶ Oxera Second Report, ¶ 4.28; *see also* Transcript of Hearing on Jurisdiction and Merits, Day 8, 263:18-264:12.

⁷⁰⁷ *See* Second Secretariat Report, § 3C.

⁷⁰⁸ Second Secretariat Report, ¶ 3.71. *See also infra* ¶¶ 382-384.

⁷⁰⁹ Transcript of Hearing on Jurisdiction and Merits, Day 6, 48:10-21.

⁷¹⁰ Transcript of Hearing on Jurisdiction and Merits, Day 8, 104:11-13.

⁷¹¹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 102:11-103:17.

⁷¹² Transcript of Hearing on Jurisdiction and Merits, Day 8, 43:21-44:1.

⁷¹³ Transcript of Hearing on Jurisdiction and Merits, Day 8, 44:6-45:3.

documents and related files for the purposes of constructing the Caspian Fish facility,⁷¹⁴ but failed to produce any such files.

363. In failing to produce any documents evidently located in the Caspian Fish archive, Azerbaijan ensured that neither Party's expert on quantum had access to true or accurate information on the historical performance of Caspian Fish. Dr. Shi noted in her Second Report that she requested [REDACTED]

[REDACTED]⁷¹⁵ And during the Hearing, she confirmed she would have preferred to have access to financial reporting, including tax files and balance sheets, and preferably to audited versions of any financial reports.⁷¹⁶ Instead of any of that, she confirmed, the "[REDACTED]" data she had to approximate Caspian Fish's performance as of the valuation date of 1 January 2003 was a single financial statement from December 2003, not prepared in accordance with proper accounting standards, that did not include all of the information a financial statement should include.⁷¹⁷

364. And Azerbaijan's obfuscatory conduct was not limited to Caspian Fish. Azerbaijan failed to produce a single financial statement or document concerning operations for Coolak Baku or Shuvalan Sugar at all, despite being ordered to produce at least the following:

a. Claimant's Document Request No. 140: [REDACTED]

b. Claimant's Document Request No. 141: [REDACTED]

⁷¹⁴ Claimant's Document Request Nos. 106 and 124; see also Annex 1 to PO6, pp. 169-171, 195-196.

⁷¹⁵ Oxera Second Report, ¶ 4.19.

⁷¹⁶ Transcript of Hearing on Jurisdiction and Merits, Day 8, 263:2-13

⁷¹⁷ Transcript of Hearing on Jurisdiction and Merits, Day 8, 251:7-25; see also *infra* ¶¶ 382-384.

⁷¹⁸ Annex 1 to PO6, pp. 220-222.

⁷¹⁹ Annex 1 to PO6, pp. 222-225.

- c. Claimant's Document Request No. 143: [REDACTED]
- d. Claimant's Document Request No. 154: [REDACTED]
- e. Claimant Document Request No. 159: [REDACTED]

365. Azerbaijan's self-serving failure to produce any of these documents cannot inure to its benefit either. As Mr. Bahari has testified, he kept documents relevant to Coolak Baku in his office at Coolak Baku, which was taken over by ASFAN, which operated the factory after Mr. Bahari's expulsion from the country in 2001.⁷²³ And the files at Coolak Baku were not the only source available to Azerbaijan: Mr. Aliyev testified at the Hearing that he searched his father's files from ASFAN and Coolak Baku, and provided some to counsel.⁷²⁴
366. The result of Azerbaijan's deliberate obscuring of documents should not be that it receives the benefit of those gaps in the record, which would be the result if the Tribunal adopts a costs approach based on the documents in the record to award damages to Mr. Bahari. To the contrary, the result of Azerbaijan's failure to abide by its disclosure obligations before the Tribunal, the Claimant, and even its own damages expert should be at minimum the adverse inferences requested by Claimant in his Rejoinder on Jurisdiction.⁷²⁵ To be fair to Mr. Bahari, however, the true result of Azerbaijan's misconduct should be the award of damages under the market scenario set out in the following section.

⁷²⁰ Annex 1 to PO6, pp. 228-229.

⁷²¹ Annex 1 to PO6, pp. 247-248.

⁷²² Annex 1 to PO6, pp. 255-256.

⁷²³ Bahari WS1 ¶ 29.

⁷²⁴ Transcript of Hearing on Jurisdiction and Merits, Day 6, 133:3-135:18.

⁷²⁵ See SoRJJ Appendix A; *see in particular* Requests 1, 2, and 5.

C. FULL COMPENSATION TO MR. BAHARI INCLUDES INTEREST RUNNING FROM THE TIME OF HIS LOSS

367. Respondent maintained at the Hearing that Mr. Bahari allegedly [REDACTED] [REDACTED] on his investment treaty claims and thus that he is not entitled to pre-award interest prior to 8 September 2017.⁷²⁶ As Mr. Bahari has testified, however, he only [REDACTED] [REDACTED]⁷²⁷ It would unreasonably punish Mr. Bahari to deny him interest over a period through which Azerbaijan continued to violate his right to Fair and Equitable Treatment and harass the representatives he asked to pursue his interests to not award him interest for that time period.
368. Likewise, Respondent asserted – and cross-examined Secretariat accordingly – that the interest rate Secretariat employs to calculate the interest owed to Mr. Bahari is [REDACTED] and [REDACTED] particularly Secretariat's use of the US Prime Rate.⁷²⁸ As Secretariat explained, however, [REDACTED] [REDACTED]⁷²⁹ With respect to the rate Secretariat employs, Mr. Sequeira explained that, while the US prime rate + 2% is [REDACTED] [REDACTED] of the rates the Tribunal could apply, it is a commercial rate available to borrowers both in and outside the United States.⁷³⁰ And, in terms of the rate itself, Mr. Sequeira explained that the prime rate + 2% [REDACTED] [REDACTED] [REDACTED] [REDACTED]⁷³¹
369. The LIBOR/SOFR spread as suggested by Dr. Shi, by contrast, represents an artificially low rate for a commercial borrower, which is why Secretariat added a premium to LIBOR in its models. As Mr. Sequeira explained, in response to questioning that accused him of setting the rate based on a preconceived view of the target damages claim, [REDACTED] [REDACTED]

⁷²⁶ Transcript of Hearing on Jurisdiction and Merits, Day 1 232:22-233:1.

⁷²⁷ Bahari WS1, ¶ 100; see also Transcript of Hearing on Jurisdiction and Merits, Day 3, 154:13-19 .

⁷²⁸ Transcript of Hearing on Jurisdiction and Merits, Day 1, 233:2-13.

⁷²⁹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 193:20-194:19.

⁷³⁰ Transcript of Hearing on Jurisdiction and Merits, Day 8, 194:23-197:4.

⁷³¹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 196:12-16.

[REDACTED]

[REDACTED]⁷³² Nevertheless, Mr. Sequeira did acknowledge that LIBOR + 2% could be considered a commercially reasonable rate, but LIBOR/SOFR alone would not,

[REDACTED]

[REDACTED]⁷³³

370. Thus, any true compensation to Mr. Bahari must include interest running from the date of his loss through the date of the award, and at a commercial rate rather than one unavailable in the market.

III. THE QUANTUM OF MR. BAHARI'S LOSSES

371. Secretariat computed damages to Mr. Bahari for the loss of his investments based on a market approach and, where the market approach could not be implemented, based on the amounts he invested in each project. As explained at the Hearing, this results in a valuation of Caspian Fish based on either a market approach or amounts invested, a valuation of Coolak Baku and Shuvalan Sugar based on amounts invested, and a valuation of Mr. Bahari's carpet collection and Ayna Sultan property based only on a market approach.⁷³⁴ As confirmed at the Hearing, each of these calculations is supported by the evidence, appropriate, and even conservative. Mr. Bahari has thus established the specific amounts that should be awarded to him in compensation for his losses.

A. DAMAGES TO MR. BAHARI FOR CASPIAN FISH, COOLAK BAKU, AND SHUVALAN SUGAR

372. The Tribunal's Question 7 [REDACTED]

[REDACTED]

[REDACTED]⁷³⁵ As Claimant's counsel explained at the Hearing, there are three scenarios, ordered from most to least probable

⁷³² Transcript of Hearing on Jurisdiction and Merits, Day 8, 197:5-25.

⁷³³ Transcript of Hearing on Jurisdiction and Merits, Day 8, 198:1-8.

⁷³⁴ See generally **CP-1** Claimant's Opening Slide Presentation, slides 1.06-1.11 and 8.06.

⁷³⁵ Tribunal's Question 7(i)(b).

to award Mr. Bahari adequate compensation, under which the Tribunal can grant compensation to Mr. Bahari for his losses, as follows:⁷³⁶

- a. Under **Option 1**, the Tribunal should award Mr. Bahari the 40% market valuation for Caspian Fish calculated by Secretariat and the USD 28 million it cost Mr. Bahari to build Coolak Baku and Shuvalan Sugar;⁷³⁷
- b. Under **Option 2**, the Tribunal should award Mr. Bahari the USD 56 million it cost him to build Caspian Fish and the USD 28 million it cost him to build Coolak Baku and Shuvalan Sugar;⁷³⁸ and
- c. Under **Option 3**, the Tribunal should award Mr. Bahari damages based on the amounts invested in all three companies that he can establish through documents.⁷³⁹

As explained at the Hearing, in light of the evidence and the considerations of fair market value, the first option is the most reasonable and appropriate. The others are presented only in the event the Tribunal is not inclined to accept the market approach for Caspian Fish as calculated by Secretariat.

373. As Claimant's counsel likewise noted during the Hearing, only the third option requires the Tribunal to even consider the Chartabi Contracts and whether or not they constitute sufficient evidence of the costs of construction.⁷⁴⁰

1. Mr. Bahari Is Entitled to the Market Valuation of Caspian Fish

374. Under Option 1, Mr. Bahari is entitled to a share, proportionate to his 40% shareholding in Caspian Fish,⁷⁴¹ of the market valuation of the company as of 1 January 2003. As noted above, although a DCF approach would be most preferable in light of the fact that Caspian Fish was, at that time, an operating company, a DCF approach is unavailable due to the lack of documentation of Caspian Fish's operating performance. Thus with respect to the best methodology available to compute Mr. Bahari's losses, even Dr. Shi agreed during

⁷³⁶ **CP-2** Claimant's Presentation of Quantum of Damages Excluding Chartabi Contracts.

⁷³⁷ Transcript of Hearing on Jurisdiction and Merits, Day 9, 71:8-73:11.

⁷³⁸ Transcript of Hearing on Jurisdiction and Merits, Day 9, 73:12-20.

⁷³⁹ Transcript of Hearing on Jurisdiction and Merits, Day 9, 73:21-74:5.

⁷⁴⁰ See Transcript of Hearing on Jurisdiction and Merits, Day 9, 71:11-12; 71:15-16; 73:18-20.

⁷⁴¹ See Shareholders Agreement dated 27 April 1999 (**C-004**). .

the Hearing that a market approach would be better to value an operating company than a cost approach.⁷⁴²

a. Secretariat's Enterprise Value to Capacity Multiple is Appropriate

375. Secretariat computes its market valuation on the basis of an enterprise value to capacity multiple, which takes information the damages experts *did* have available – the company's processing capacity – and estimates a value range for Caspian Fish based on that capacity.⁷⁴³ As Mr. Sequeira explained, the limited evidence presented regarding Caspian Fish establishes that, as of the valuation date of 1 January 2003, Caspian Fish had essentially four revenue streams: (i) the main processing line, which produced filleted fish for sale; (ii) the canning line, which canned fish for sale; (iii) fish meal, produced as a byproduct but sold as foodstock; and (iv) the sturgeon side, which harvested and sold caviar.⁷⁴⁴ Of these, the harvesting and sale of caviar was the most significant revenue driver for Caspian Fish. As Mr. Sequeira explained, while [REDACTED] on cash flows for Caspian Fish, what evidence there is in the record suggests that the cash flows tied to caviar production are [REDACTED]⁷⁴⁵
376. Respondent took issue with the comparable companies selected by Secretariat for use in its market valuation, alleging that Secretariat failed to account for [REDACTED] in its comparable companies.⁷⁴⁶ Although Azerbaijan alleges that relying on a capacity multiple [REDACTED] because it captures the total capacity of a company, including capacity unrelated to a fishing business, Mr. Sequeira dispelled this assertion, explaining that capacity is a more important driver of profitability in the case of Caspian Fish because a significant portion of its revenues would have come from only one portion of the business. Indeed, [REDACTED]
[REDACTED]
[REDACTED] In the case of Caspian Fish, revenue would come from both fish processing on the production line and manual processing of caviar, which Mr. Sequeira concluded made the companies Secretariat selected particularly comparable and even

⁷⁴² See Transcript of Hearing on Jurisdiction and Merits, Day 8, 233:17-23.

⁷⁴³ Secretariat Report, ¶ 2.9; see also Transcript of Hearing on Jurisdiction and Merits, Day 1, 118:12-119:2.

⁷⁴⁴ Transcript of Hearing on Jurisdiction and Merits, Day 8, 202.

⁷⁴⁵ Transcript of Hearing on Jurisdiction and Merits, Day 8, 182:22-183:2.

⁷⁴⁶ Transcript of Hearing on Jurisdiction and Merits, Day 1, 230:7-24.

conservative: [REDACTED]

[REDACTED]⁷⁴⁷

377. Dr. Shi acknowledged at the Hearing that she had not done an analysis of her own to determine what companies might be proper comparators, apart from a belated suggestion, raised for the first time at the Hearing, that Khazarbaliq might be a better company than any of the companies identified by Secretariat.⁷⁴⁸ That suggestion fails for three reasons. First, Dr. Shi asserts that Khazarbaliq is [REDACTED]⁷⁴⁹ Dr. Shi, however, takes issue with the comparable companies identified by Secretariat for being larger than Caspian Fish, which she suggests makes them not comparable because their risk profiles are different.⁷⁵⁰ Second, the record is devoid of any actual operating information on Khazarbaliq apart from the assertions made about it in Mr. Sultanov's witness statement, which is the only source on which Dr. Shi relies for her own data on that company, including its purported value as of the early 2000s.⁷⁵¹ Third, what the record does reflect is that as of 2008, Khazarbaliq was reported to be selling all of its caviar production to Caspian Fish for distribution,⁷⁵² suggesting the companies diverged in different directions at some point between 2000 and 2008.
378. In implementing their market approach, Secretariat employ a capacity figure of 300 tonnes per day of production.⁷⁵³ As explained at the Hearing, however, although Azerbaijan disputed that this was the actual processing capacity of Caspian Fish, Azerbaijan set a floor of 120 tons of processing capacity per day in its own analysis.⁷⁵⁴ If the Tribunal considers that to be a more appropriate figure, it can be easily taken into account by replacing the capacity figure in Table 13 of Secretariat's Second Report.

⁷⁴⁷ Transcript of Hearing on Jurisdiction and Merits, Day 8, 180:1-14.

⁷⁴⁸ Transcript of Hearing on Jurisdiction and Merits, Day 8, 321:22-322:25.

⁷⁴⁹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 224:4-9.

⁷⁵⁰ Oxera Second Report, ¶ 5.36; Transcript of Hearing on Jurisdiction and Merits, Day 8, 324:9-325:1.

⁷⁵¹ See Oxera Second Report, ¶ 4.15, n. 307; *id.* ¶ 4.25, n. 321; *id.* ¶ 5.41, nn. 408, 410; *id.* Appendix 6; see also Opening Presentation of Dr. Min Shi, slide 14.

⁷⁵² **SEC-226** Eurasia Net, Azerbaijan Ready for Sturgeon Fishing Ban Though Reluctant to Follow Russia, 2 May 2008.

⁷⁵³ See Secretariat Report, ¶ 3.16; Secretariat Second Report, § 3(A)(vi).

⁷⁵⁴ Transcript of Hearing on Jurisdiction and Merits, Day 9, 72:18-23.

379. Dr. Shi's main critique of the value derived via the capacity multiple employed by Secretariat is outcome based: she asserts that it [REDACTED]
[REDACTED]⁷⁵⁵ As compared to a total investment value of USD 56 million for Caspian Fish, however, as will be discussed in the next section, the USD 118m derived by Secretariat for the value of Caspian Fish based on its capacity is proportionate. Indeed, as Dr. Shi herself explained, looking only to the cash invested into a business, such as the USD 56 million invested into Caspian Fish, undervalues it as an operating business [REDACTED]

[REDACTED]⁷⁵⁶

b. Secretariat's Market Valuation is the Best Available

380. Dr. Shi suggested in her Second Report that a revenue multiple would be more appropriate to employ than a capacity multiple.⁷⁵⁷ Counsel for the Respondent adopted this position, asking Mr. Sequeira during the Hearing whether a cash flow methodology would be more appropriate. As Mr. Sequeira explained, however, a revenue multiple is not a cash flow multiple and it fails to account for the profitability of a company, particularly a company such as Caspian Fish with high margins in a single product line.⁷⁵⁸ Indeed, as Mr. Sequeira explained, in the case of Caspian Fish:

[REDACTED]

381. Dr. Shi's second report does not explain why she considers an enterprise value/revenue multiple to be more appropriate than a capacity multiple. At the Hearing, however, she explained for the first time that [REDACTED]

⁷⁵⁵ Transcript of Hearing on Jurisdiction and Merits, Day 8, 319:20-320:8.

⁷⁵⁶ Transcript of Hearing on Jurisdiction and Merits, Day 8, 216:15-23.

⁷⁵⁷ See Oxera Second Report, ¶ 5.87.

⁷⁵⁸ Transcript of Hearing on Jurisdiction and Merits, Day 8, 181:2-7.

⁷⁵⁹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 181:20-182:8.

██████████⁷⁶⁰ Thus, based on an assumption that Caspian Fish was ██████████ she suggests that the revenue multiple is appropriate. This assertion that Caspian Fish was a loss-making enterprise is, however, wrong. Dr. Shi based that assumption on two sources: her own review of the two financial statements submitted by Mr. Hasanov with his witness statements, each a single page long, and ██████████ ██████████ of Azerbaijan's witnesses.⁷⁶¹ As became evident at the Hearing, however, neither of the so-called financial statements on which Dr. Shi (and Mr. Hasanov) relied results from any sort of proper accounting system at all and Respondent's witnesses' assertions are belied by the documentary record.

382. Indeed, even prior to the Hearing, Dr. Shi explained that the financial information she had seen, which covered only years 2001 and 2003, exclusive of 2002, included ██████████
██████████⁷⁶² As Mr. Hasanov himself explained during the Hearing, when he arrived at Caspian Fish, ██████████
██████████ and he ██████████
██████████⁷⁶³

383. During discussion of the financial data contained in **R-013** and **R-305** during the Hearing, Claimant's counsel showed Dr. Shi Mr. Hasanov's testimony regarding the accounting system at Caspian Fish. First, Dr. Shi agreed that exhibit R-013 contains a single page of financial information,⁷⁶⁴ which makes it incomplete and unreliable as a financial statement. Second, with respect to exhibit R-305, Dr. Shi explained that she took the figure labeled ██████████ as the revenue figure for that year, rather than ██████████
██████████⁷⁶⁵ because the figure for goods sold, which amounted to 3,873,857 as of December 2003, was more in line with data from November 2003 that showed USD 3.7 million in revenues, whereas the purported revenue figure was too low.⁷⁶⁶ In other words, Dr. Shi had to bend over backwards to use the data provided in **R-305**, because the document itself did not make sense. Noting this inconsistency in terminology,

⁷⁶⁰ Transcript of Hearing on Jurisdiction and Merits, Day 8, 223:2-5.

⁷⁶¹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 320:21-321:11.

⁷⁶² Oxera Second Report, n. 467.

⁷⁶³ Transcript of Hearing on Jurisdiction and Merits, Day 6, 6:20-24.

⁷⁶⁴ See Transcript of Hearing on Jurisdiction and Merits, Day 8, 264:22-265:24.

⁷⁶⁵ See **R-305** Financial summary of Caspian Fish, 1 January 2004.

⁷⁶⁶ Transcript of Hearing on Jurisdiction and Merits, Day 8, 267:21-268:3.

Dr. Shi stated that the 2003 accounting was still [REDACTED]

[REDACTED]⁷⁶⁷ Thus, in her own words, [REDACTED]

[REDACTED]⁷⁶⁸

384. With respect to Dr. Shi's reliance on the testimony of Messrs. Hasanov and Kerimov regarding the performance and outlook of Caspian Fish, that testimony is contradictory and belied by the documentary record. As became evident during the Hearing, Caspian Fish had every reason to expect strong profits in the early 2000s:

a. Mr. Kerimov, who became the director of Caspian Fish in 2001 following Mr. Bahari, explained that the company was already exporting caviar in 2001.⁷⁶⁹

b. Mr. Hasanov, who began his career at Caspian Fish as chief accountant and later succeeded Mr. Kerimov as director of the company, explained the company had cash flows [REDACTED]

[REDACTED]⁷⁷⁰ He also confirmed that by 2007 Caspian Fish was [REDACTED] producing cash flows, and [REDACTED]⁷⁷¹

c. As Mr. Parvizi, Respondent's expert on the fishing industry explained in his Report, Caspian Fish was the first important player to enter the Azerbaijan market since 1954.⁷⁷² Mr. Parvizi confirmed at the Hearing that Caspian Fish was [REDACTED]⁷⁷³

d. Mr. Kerimov, who is a self-described expert on fishing, also submitted a memorandum that he prepared while at the company that anticipated having 45,000 tonnes of sprat and Akhcha available for production at Caspian Fish.⁷⁷⁴ That same memorandum described installing a new canning machine to produce

⁷⁶⁷ Transcript of Hearing on Jurisdiction and Merits, Day 8, 267:3-20.

⁷⁶⁸ Transcript of Hearing on Jurisdiction and Merits, Day 8, 267:18-20.

⁷⁶⁹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 101:20-102:16.

⁷⁷⁰ Transcript of Hearing on Jurisdiction and Merits, Day 6, 43:18-21.

⁷⁷¹ Transcript of Hearing on Jurisdiction and Merits, Day 6, 45:23-24.

⁷⁷² Parvizi Report, p. 27.

⁷⁷³ Transcript of Hearing on Jurisdiction and Merits, Day 8, 149:22-150:5.

⁷⁷⁴ **R-246** Report prepared by Mr Tahir Kerimov for Mr Heydarov about the works and problems at Caspian Fish; see Transcript of Hearing on Jurisdiction and Merits, Day 8, 124:6-128:18.

20-25 million cans of fish.⁷⁷⁵ When Claimant showed this document to Mr. Parvizi at the Hearing, he reviewed it and agreed the document [REDACTED]

[REDACTED]⁷⁷⁶

- e. Contracts concluded by Caspian Fish in the time period immediately before and immediately following the valuation date also suggest it was a well-poised company. A joint operation agreement between Caspian Fish and Neftchala Fish Combine dated 10 October 2002 provided that Caspian Fish would receive 97% of the profit of the venture, which would capitalize on Caspian Fish's capital and equipment and Neftchala Fish Combine's fishing rights.⁷⁷⁷ Pursuant to Article 6.2 of that same agreement, [REDACTED]

[REDACTED]⁷⁷⁸ A subsequent service letter requesting CITES certification for export from Caspian Fish to Caviar Centre INC of Canada on 2 April 2003 provided for the export of the quota allocated to Neftchala, distributed by Caspian Fish according to the joint operation agreement, of 2.36 tons of sturgeon, 4.0 tons of Acipenser, and 0.64 tons of beluga for the year 2002.⁷⁷⁹ The export agreement noted that that quota [REDACTED] for 2002.⁷⁸⁰

385. As Mr. Sequeira explained at the Hearing, an *ex ante* valuation of a company must account for risks and expectations known at the time of the valuation. Thus, with respect to the risk of export quotas (and even the eventual ban on exports of caviar) as of 2003, Mr. Sequeira explained that the expert's task is to account for how the company might have mitigated that risk; with respect to Caspian Fish, he explained that

[REDACTED]

⁷⁷⁵ Report prepared by Mr Tahir Kerimov for Mr Heydarov about the works and problems at Caspian Fish (R-246); see Transcript of Hearing on Jurisdiction and Merits, Day 8, 124:6-128:18.

⁷⁷⁶ Transcript of Hearing on Jurisdiction and Merits, Day 8, 128:9-10.

⁷⁷⁷ R-433 Joint operation agreement between "Caspian Fish Co Azerbaijan" LLC and "Neftchala Fish Combine" OJSC [Respondent's Document Production, 68_7], Articles 3 and 4.

⁷⁷⁸ R-433 Joint operation agreement between "Caspian Fish Co Azerbaijan" LLC and "Neftchala Fish Combine" OJSC [Respondent's Document Production, 68_7], Articles 6.1 and 6.2.

⁷⁷⁹ R-343 Internal "Service Letter" of the Ministry of Ecology and Natural Resources regarding the export of caviar to "Caviar Centre INC" [Respondent's Document Production, 68_7], p.1.

⁷⁸⁰ R-343 Internal "Service Letter" of the Ministry of Ecology and Natural Resources regarding the export of caviar to "Caviar Centre INC" [Respondent's Document Production, 68_7], p.1.

[REDACTED]

386. Dr. Shi testified that she was [REDACTED] Caspian Fish [REDACTED] [REDACTED] in the early 2000s [REDACTED] [REDACTED] and that she was informed the company was never able to create its own fish farm.⁷⁸² These assertions are also belied by the record:

- a. As Mr. Sequeira explained, numerous documents discussed the [REDACTED]
[REDACTED]
[REDACTED]⁷⁸³
- b. In the 2009 report Claimant's counsel showed Dr. Shi, USAID described Caspian Fish as the [REDACTED]
[REDACTED]⁷⁸⁴
- c. In an August 2012 interview, Mr. Khanghah, then styled as the "[REDACTED]" of Caspian Fish Co., explained that Caspian Fish had [REDACTED]
[REDACTED]
[REDACTED] which would [REDACTED]⁷⁸⁵
- d. A June 2014 report on the AZ Group group of companies noted that Caspian Fish in fact had a sturgeon farm with [REDACTED]
[REDACTED] with a current volume of fish of [REDACTED] as of June [REDACTED] and that summer would also [REDACTED]⁷⁸⁶

387. Mr. Parvizi's prediction that CITES quotas and the collapse of the sprat industry would destroy Caspian Fish after 2006 is likewise disproved by the factual record: as USAID

⁷⁸¹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 199:7-207:18.

⁷⁸² Transcript of Hearing on Jurisdiction and Merits, Day 8, 221:11-18.

⁷⁸³ Transcript of Hearing on Jurisdiction and Merits, Day 8, 182:13-21.

⁷⁸⁴ **SEC-221** USAID, Aquaculture Action Plan, June 2009, p. 14.

⁷⁸⁵ **SEC-222** The Business Year, The Sea's Riches Revealed, 2012, p. 3.

⁷⁸⁶ **SEC-020** The Business Year, Renaissance Man, 24 June 2014, pp 2-3.

explained, although Caspian Fish was originally built to process sprat, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁷⁸⁷

388. Nor does Dr. Shi's assertion – again based on the witness testimony of Messrs Hasanov and Kerimov – that Caspian Fish had [REDACTED]⁷⁸⁸ hold water. As Dr. Shi explained in her second report, Mr. Hasanov located and submitted an unsigned memorandum he had prepared in 2003, which she wrote [REDACTED]
[REDACTED]⁷⁸⁹ As is evident from a review of that memorandum, however, the issues faced by the company related to its management, not its design. For example, of 5242312355.2kg of roe purchased by the company in 2003, 25194136.5kg were [REDACTED]⁷⁹⁰ Likewise, while the memorandum explained the company was operating at a loss, it asserted the [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁷⁹¹ At the Hearing, Dr. Shi agreed these were operational issues.⁷⁹²

389. Thus, there is no legitimate justification in the record for the Tribunal to employ Dr. Shi's revenue multiple in lieu of the capacity multiple derived and utilized by Secretariat to value Caspian Fish. Even if it were appropriate, however, there is no valuation calculated via a revenue multiple on which the Tribunal could rely. Dr. Shi herself explicitly acknowledges in her report that the valuation she calculates using that multiple does not [REDACTED]
[REDACTED]⁷⁹³ In addition, and more fundamentally, there is no appropriate revenue figure from 1 January 2003 on which the Tribunal could base a revenue multiple, as the only figure Dr. Shi can find is based on a document generated by a company with "no accounting system."

⁷⁸⁷ **SEC-221** USAID, Aquaculture Plan, June 2009, p. 14.

⁷⁸⁸ Transcript of Hearing on Jurisdiction and Merits, Day 8, 221:11-18.

⁷⁸⁹ Second Oxera Report, ¶ 5.31.

⁷⁹⁰ **R-253** Unsigned memorandum from Mr Sabutay Hasanov to Mr Ahmad, pp. 1-2.

⁷⁹¹ **R-253** Unsigned memorandum from Mr Sabutay Hasanov to Mr Ahmad, p. 2.

⁷⁹² See Transcript of Hearing on Jurisdiction and Merits, Day 8, 250:10-256:8.

⁷⁹³ Oxera Second Report, ¶ 5.91; Transcript of Hearing on Jurisdiction and Merits, Day 8, 321:22-322:25.

390. Dr. Shi's other valuation of Caspian Fish, her adjustment of an ex post valuation conducted by AZ Valuation of the assets of the closed factory, which she characterizes as a market valuation, is similarly unreliable. She acknowledged at the Hearing that that valuation fails to account for the value of the entire Caspian Fish property, as it excludes the value of an occupied building on the premises, and, as Mr. Suleymanov testified that individuals are selling the equipment of Caspian Fish now that it has closed, she likewise acknowledged that the valuation likely does not account for the facility as built by Mr. Bahari.⁷⁹⁴
391. For these reasons, under Option 1, Mr. Bahari claims for 40% of the market value of Caspian Fish as of 1 January 2003 as calculated by Secretariat, or USD 118,800,000.

2. Mr. Bahari is Entitled to Recover his Total Investment into Caspian Fish

392. Under Option 2, Mr. Bahari is entitled to recover the total sum of his investment into Caspian Fish, or USD 56 million. As Dr. Shi acknowledged during cross-examination, it is a [REDACTED] that the record contains a lot of evidence that Caspian Fish was built with USD 56 million in foreign investment.⁷⁹⁵ As noted above, accepting this figure does not require the Tribunal to consider the reliability of the Chartabi Contracts at all.⁷⁹⁶
393. During the Hearing Mr. Kerimov, who claims to have become the managing director of Caspian Fish right after its opening ceremony, conceded that he and other representatives of the company had repeatedly and publicly stated that the cost of building Caspian Fish was USD 56 million.⁷⁹⁷ In an effort to explain away that fact, however, he suggested that while he and Minister Heydarov, as well as [REDACTED] [REDACTED] they learned otherwise after he conducted an audit.⁷⁹⁸ The result of the audit that Mr. Kerimov allegedly performed is his assertion that the total cost to build Caspian Fish, including construction of the physical plant and all equipment, was between USD 18 and 20 million.⁷⁹⁹ Mr. Bahari submits that that figure must serve as the absolute floor of any damages awarded to Mr. Bahari for Caspian Fish.

⁷⁹⁴ Transcript of Hearing on Jurisdiction and Merits, Day 8, 325:2-328:9.

⁷⁹⁵ Transcript of Hearing on Jurisdiction and Merits, Day 8, 242:13-18.

⁷⁹⁶ See *supra* ¶ 373.

⁷⁹⁷ Transcript of Hearing on Jurisdiction and Merits, Day 5, 122:1-123:24.

⁷⁹⁸ Transcript of Hearing on Jurisdiction and Merits, Day 5, 129:18-130:1.

⁷⁹⁹ See Kerimov WS, ¶ 19.

394. Notwithstanding that neither Azerbaijan more broadly nor Mr. Kerimov himself was ever able to produce this supposed audit,⁸⁰⁰ this attempt to explain away the evidence reveals a fundamental contradiction in the Respondent's case: if Minister Heydarov in fact contributed all of the funds to Caspian Fish, how would he not have known how much was spent on its construction?
395. When confronted with this contradiction during the Hearing, Mr. Kerimov did not have an answer for the Tribunal. Rather, he testified in response to questioning from the Tribunal that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁸⁰¹ This explanation could account for why Mr. Kerimov did not know the total amount spent, but certainly does not explain how Minister Heydarov – or any other [REDACTED]
[REDACTED] – did not know how much construction cost. If Minister Heydarov paid for the construction with personal funds, certainly he would have known how much he spent.
396. Mr. Kerimov's *ex post facto* attempt to claim that his own and others' consistent statements that Caspian Fish benefited from USD 56 million in foreign investment was a lie cannot be credited. To the contrary, the repetition of that figure, by multiple individuals representing both Azerbaijan and Caspian Fish, indicates its accuracy:
- a. As then-President Aliyev stated at the opening ceremony of Caspian Fish, [REDACTED]
[REDACTED]
[REDACTED]⁸⁰²
 - b. In 2002, Mr. Kerimov stated in a press conference that [REDACTED]
[REDACTED]⁸⁰³

⁸⁰⁰ See *supra* ¶¶ 359-360, 364.

⁸⁰¹ Transcript of Hearing on Jurisdiction and Merits, Day 5, 147:12-150:17.

⁸⁰² **SEC-009** Transcript of Heydar Aliyev's Speech at the Caspian Fish Commissioning Ceremony, 10 February 2001, p. 1.

⁸⁰³ **SEC-206** AssA Irada, Caspian Fish Co Azerbaijan refutes MNB press release, 10 June 2002, p. 1.

- c. In that same year, he explained that [REDACTED]
[REDACTED]⁸⁰⁴
- d. In 2007, when Mr. Khanghah filed a Directors Resolution of Caspian Fish Co. Inc. (BVI) increasing the authorized capital of the company, he made the authorized capital USD 56,000,000.⁸⁰⁵ The authorized capital of the company remained USD 56 million through 2023 when it was dissolved.⁸⁰⁶
- e. Presentations of Caspian Fish made to foreign governments in 2007 and 2008 presented its total investment as USD 56 million.⁸⁰⁷
- f. The Caspian Fish website in 2013 acknowledged that Caspian Fish was [REDACTED]
[REDACTED]
[REDACTED]⁸⁰⁸
- g. Public reporting in 2018 referred to Caspian Fish as [REDACTED]
[REDACTED]
[REDACTED]⁸⁰⁹
397. The evidence therefore conclusively establishes that USD 56 million was the total cost of building Caspian Fish. In its summary chart in response to the Tribunal's Questions, Azerbaijan asserted that Secretariat adopted that USD 56 million figure [REDACTED]
[REDACTED] and that this [REDACTED]
[REDACTED]⁸¹⁰ This cannot be countenanced. Secretariat based their adoption of the USD 56 million figure of foreign investment in Caspian Fish on the documentary record that was created by Azerbaijan itself in its public statements. Relying on that is demonstrative of neither pre-determination nor bias towards Mr. Bahari.

⁸⁰⁴ **SEC-207** Mammedov, An Error Crept into the MNS Message, 11 July 2002.

⁸⁰⁵ **C-124** Caspian Fish Co. Inc. Director's Resolution in writing.

⁸⁰⁶ **C-152** BVI Register of Companies Search Report Caspian Fish Co. Inc., p. 1.

⁸⁰⁷ **SEC-011** Azertac, Tajik President Visited Caspian Fish Co. in Baku, 13 August 2007; **SEC-012** Azertac, Swiss President Familiarizes Himself with 'Caspian Fish Co. Azerbaijan' Corporation, 11 May 2008.

⁸⁰⁸ **SEC-015** Caspian Fish Website, History of Foundation, 25 February 2013 (accessed from the Wayback Machine).

⁸⁰⁹ **SEC-028** BastaInfo, Kamaladdin Heydarov sells his famous company, 26 March 2018.

⁸¹⁰ Respondent's Summary Chart, p. 3.

398. Nor can there be a dispute following the Hearing that the entire cost of building Caspian Fish – *i.e.* USD 56 million – was borne entirely by Mr. Bahari. Notwithstanding the fundamental contradiction in Respondent’s argument that Minister Heydarov was the source of funding, Respondent’s attempts to discredit the evidence that Mr. Bahari paid for the expenses of Caspian Fish through his accounts at Coolak Shargh failed as a matter of fact at the Hearing.⁸¹¹ Dr. Shi likewise acknowledged that contemporaneous evidence, such as the reporting from 2001, is less trustworthy than contemporary evidence,⁸¹² such as Minister Heydarov’s lone letter claiming he provided the financing for Caspian Fish.⁸¹³
399. Thus under Option 2 Mr. Bahari claims for the total amount he invested in construction of Caspian Fish, or USD 56,000,000.

3. Mr. Bahari is Entitled to Recover the Total Cost of Construction of Coolak Baku and Shuvalan Sugar

400. Under both Options 1 and 2, Mr. Bahari is entitled to recover the entire and agreed cost of constructing Coolak Baku and Shuvalan Sugar, which is USD 28 million. As Mr. Aliyev conceded on cross-examination, [REDACTED]
[REDACTED]⁸¹⁴ Dr. Shi acknowledged that she had no reason to dispute this testimony.⁸¹⁵ And, as is the case if the Tribunal takes the USD 56 million figure for construction of Caspian Fish, accepting that Coolak Baku and Shuvalan Sugar cost USD 28 million to build does not require consideration of the Chartabi Contracts at all.⁸¹⁶
401. Nor, again, can there be any dispute that Mr. Bahari bore the entirety of the capital expenditures for Coolak Baku and Shuvalan Sugar. Mr. Aliyev confirmed that Mr. Bahari was solely responsible for capital contributions in building Coolak Baku,⁸¹⁷ and that ASFAN’s lone contribution to Coolak Baku was the property on which it stood.⁸¹⁸

⁸¹¹ See *supra* Part II, § I. .

⁸¹² Transcript of Hearing on Jurisdiction and Merits, Day 8, 236:22-237:11.

⁸¹³ Transcript of Hearing on Jurisdiction and Merits, Day 8, 239:7-240:1.

⁸¹⁴ Transcript of Hearing on Jurisdiction and Merits, Day 7, 145:1-146:4.

⁸¹⁵ Transcript of Hearing on Jurisdiction and Merits, Day 8, 298:9-300:19.

⁸¹⁶ See *supra* ¶ 373.

⁸¹⁷ Transcript of Hearing on Jurisdiction and Merits, Day 6, 163:15-19; *id.* 165:2-9.

⁸¹⁸ Transcript of Hearing on Jurisdiction and Merits, Day 6, 163:8-14.

4. At a Minimum Mr. Bahari is Entitled to Recover the Amounts Invested that can be Established by Evidence

402. Under Option 3, Mr. Bahari is entitled to recover the total amount substantiated in the record for his expenditures on each of Caspian Fish, Coolak Baku, and Shuvalan Sugar.

a. Mr. Bahari is Entitled to Recover his Amounts Invested

403. As Secretariat explained during the Hearing, the Amounts Invested approach that they employ is not a pure costs approach. Instead, it accounts for the total expenditure made by Mr. Bahari for each of Caspian Fish on the one hand and Coolak Baku and Shuvalan Sugar on the other, which is taken to be representative of the total amount of his proportionate shareholding in each business. Thus what Mr. Bahari contributed to Caspian Fish is taken as a proxy for 40% of its value, while what he paid for Coolak Baku and Shuvalan Sugar is taken to be 75% of each of those businesses.

404. A true costs approach, by contrast, would require computing the value of every input into the business, including the tangible and intangible assets contributed by all investors into the company, and then taking the claimant's proportional share as an estimation of value.⁸¹⁹ In concrete terms, this would require taking the value of not only the plant construction and equipment contributed by Mr. Bahari, but also the land and permits and licenses contributed by his partners in each of Caspian Fish, Coolak Baku, and Shuvalan Sugar.⁸²⁰ This alone illustrates the impossibility of valuing Mr. Bahari's investments via a pure cost approach, because not only were Mr. Bahari's investments operating companies and thus not fit to be valued on a cost basis, as discussed above, the record is also devoid of information on the value of the permits, licenses, and land contributed to each project.

405. Thus, although both Parties' experts agree that a pure costs approach is inappropriate to value an operating business, as Mr. Sequeira explained at the Hearing, an Amounts Invested approach in the unique circumstances of this case might serve at a minimum as an appropriate proxy. Ordinarily, the value of inputs like permits and licenses [REDACTED]

[REDACTED]⁸²¹ In the case of an investor who contributed capital to obtain operations permits or licensing, an Amounts Invested approach would therefore not account for value. But as Mr. Sequeira explained

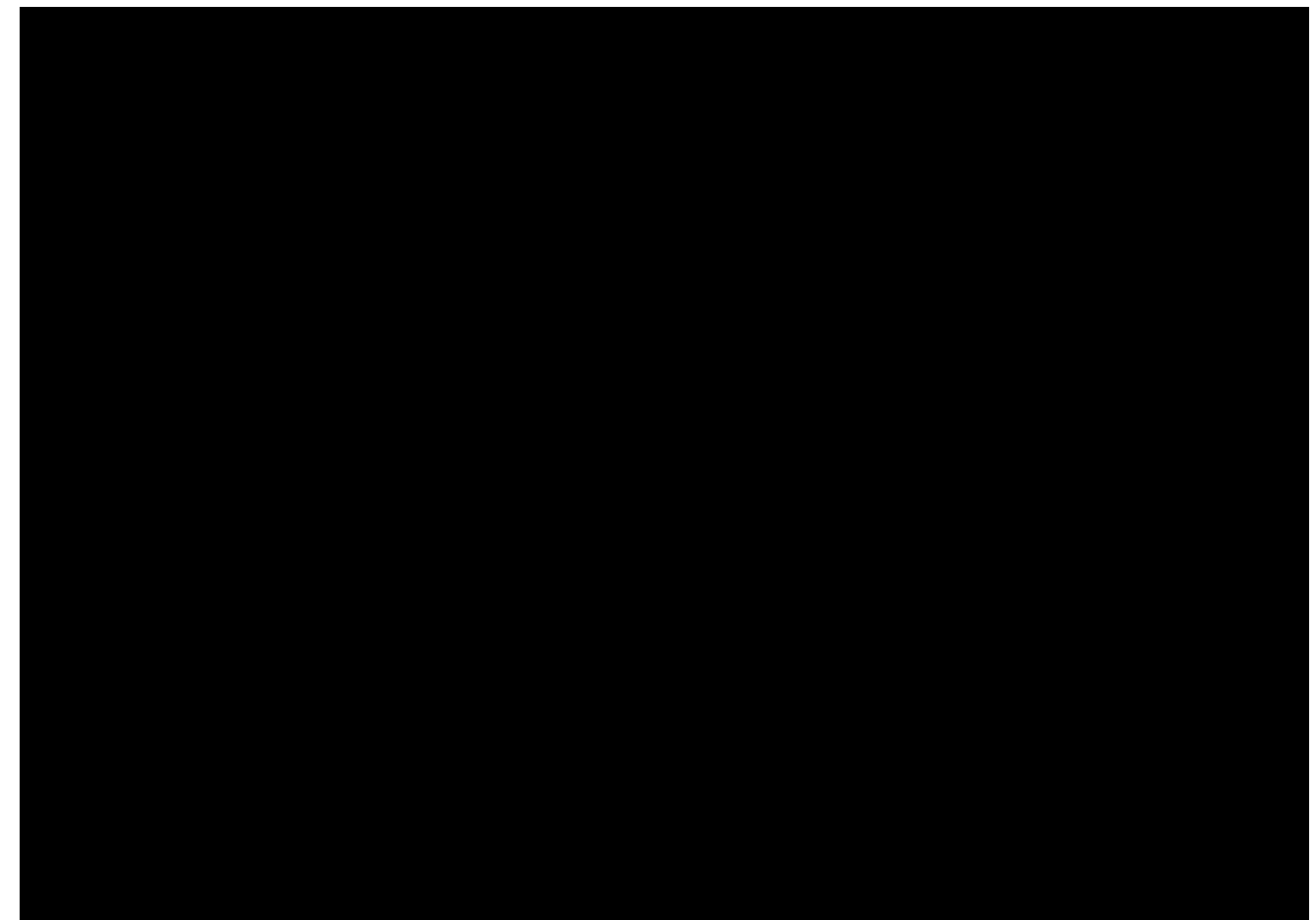
⁸¹⁹ See Transcript of Hearing on Jurisdiction and Merits, Day 8, 207:19-208:25; *id.* 234:9-236:4; *id.* 328:16-330:7.

⁸²⁰ Transcript of Hearing on Jurisdiction and Merits, Day 8, 207:19-208:25.

⁸²¹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 209:1-210:19.

at the Hearing, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁸²² Thus, the Amounts Invested approach stands as a sector-specific multiple that forms a [REDACTED]⁸²³

406. The following table, which reproduces columns C-E of Secretariat's Appendix D.2,⁸²⁴ referred to during the Hearing by both Parties,⁸²⁵ incorporates Dr. Shi's comments on each of the exhibits relied on by Secretariat (except the Chartabi contracts), and summarizes the Claimant's comments following the Hearing based on oral testimony, with references to the transcript where appropriate.⁸²⁶



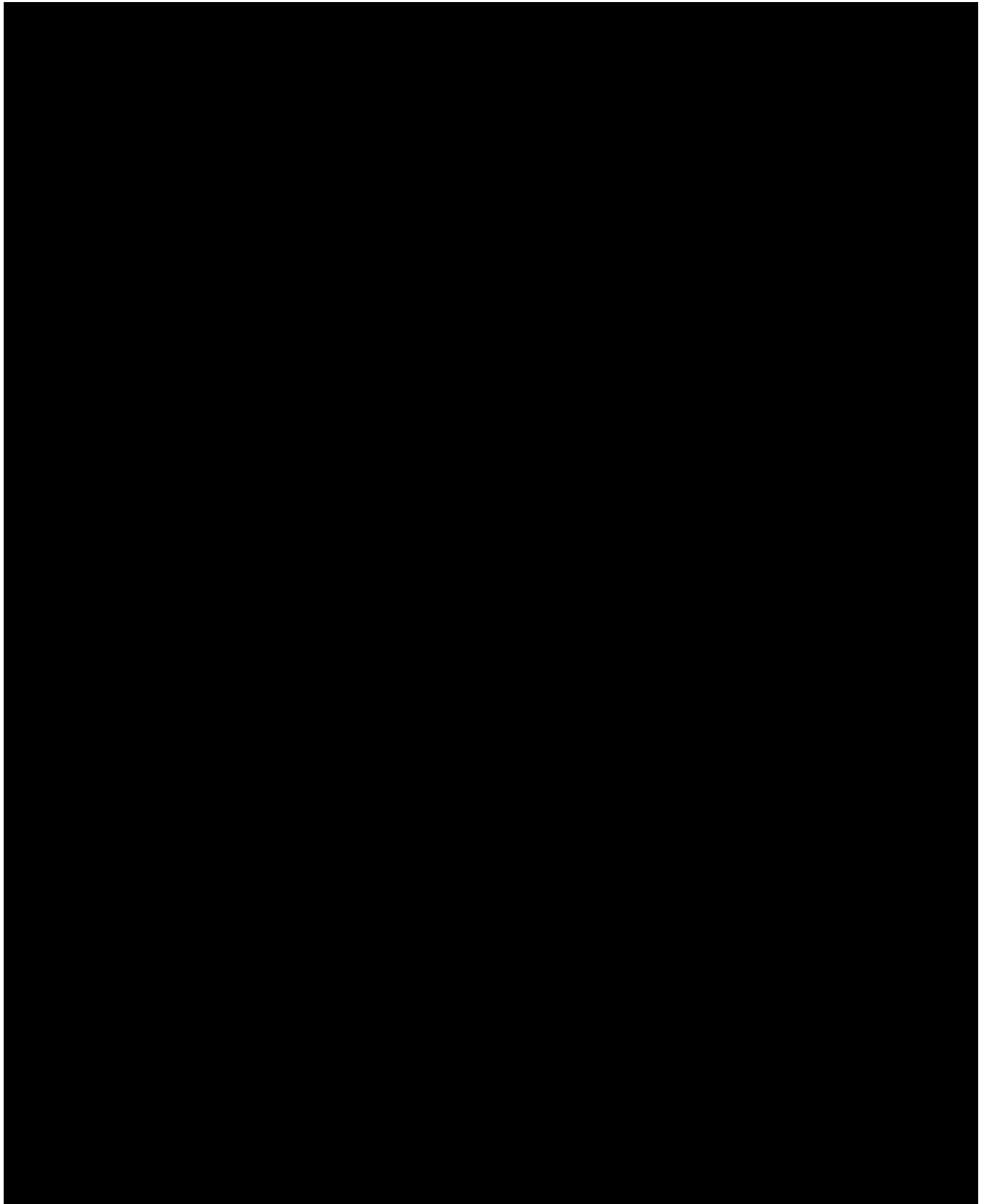
⁸²² Transcript of Hearing on Jurisdiction and Merits, Day 8, 209:1-210:19 (emphasis added).

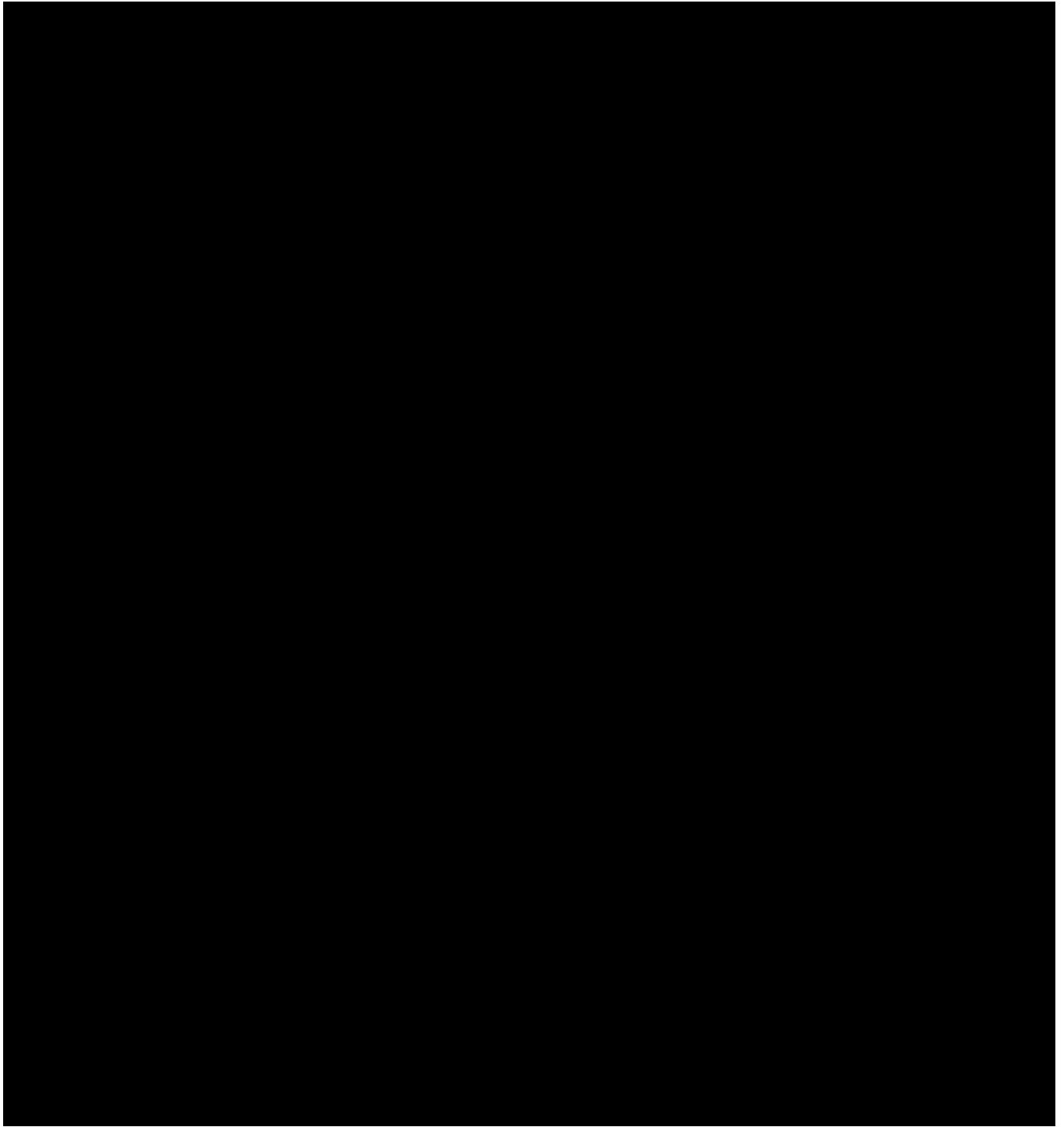
⁸²³ Secretariat Report, ¶¶ 4.25, 4.28, 5.52.

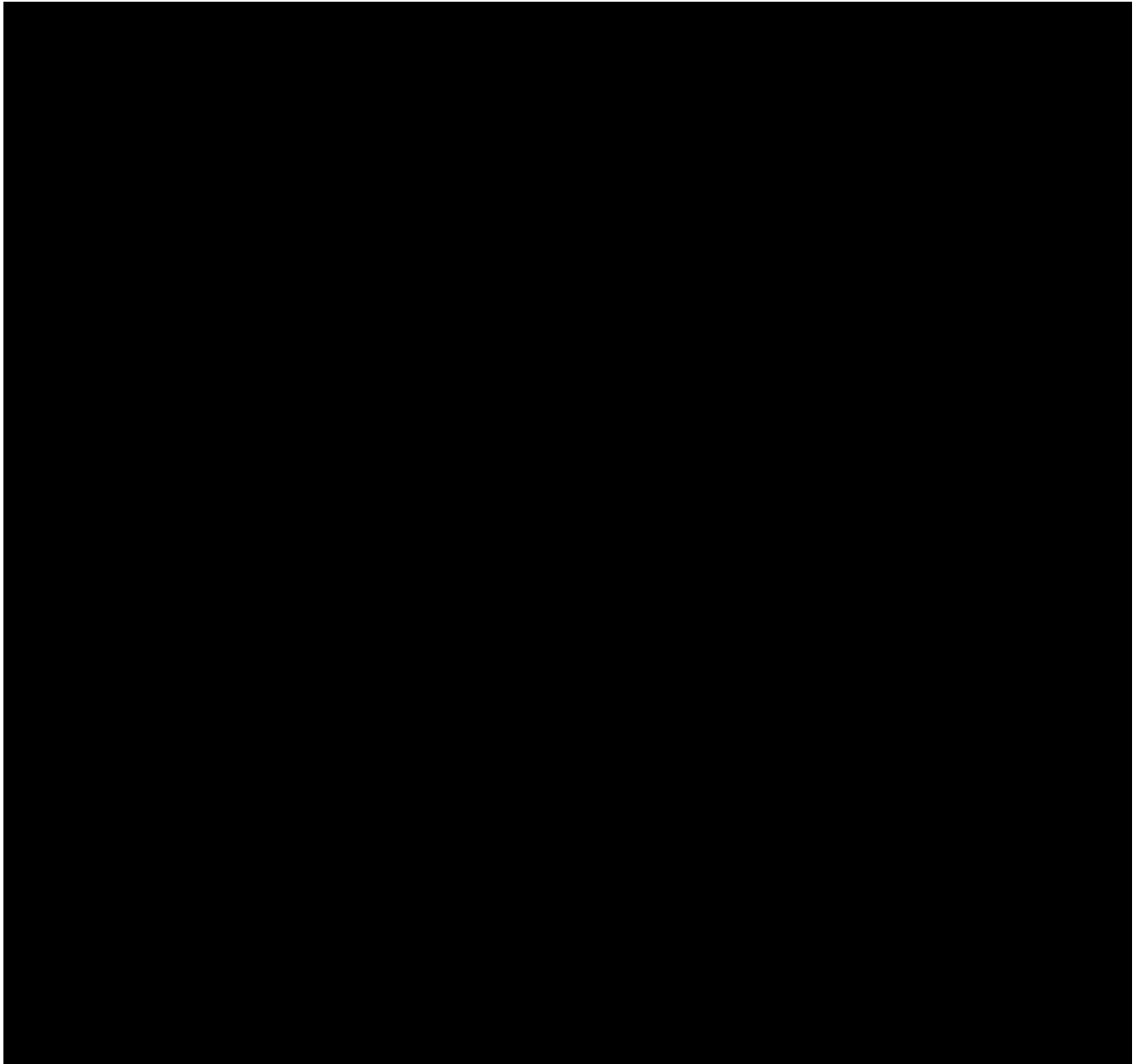
⁸²⁴ See Secretariat Second Report, Appendix D.2 (updated), lines 5, 9-68.

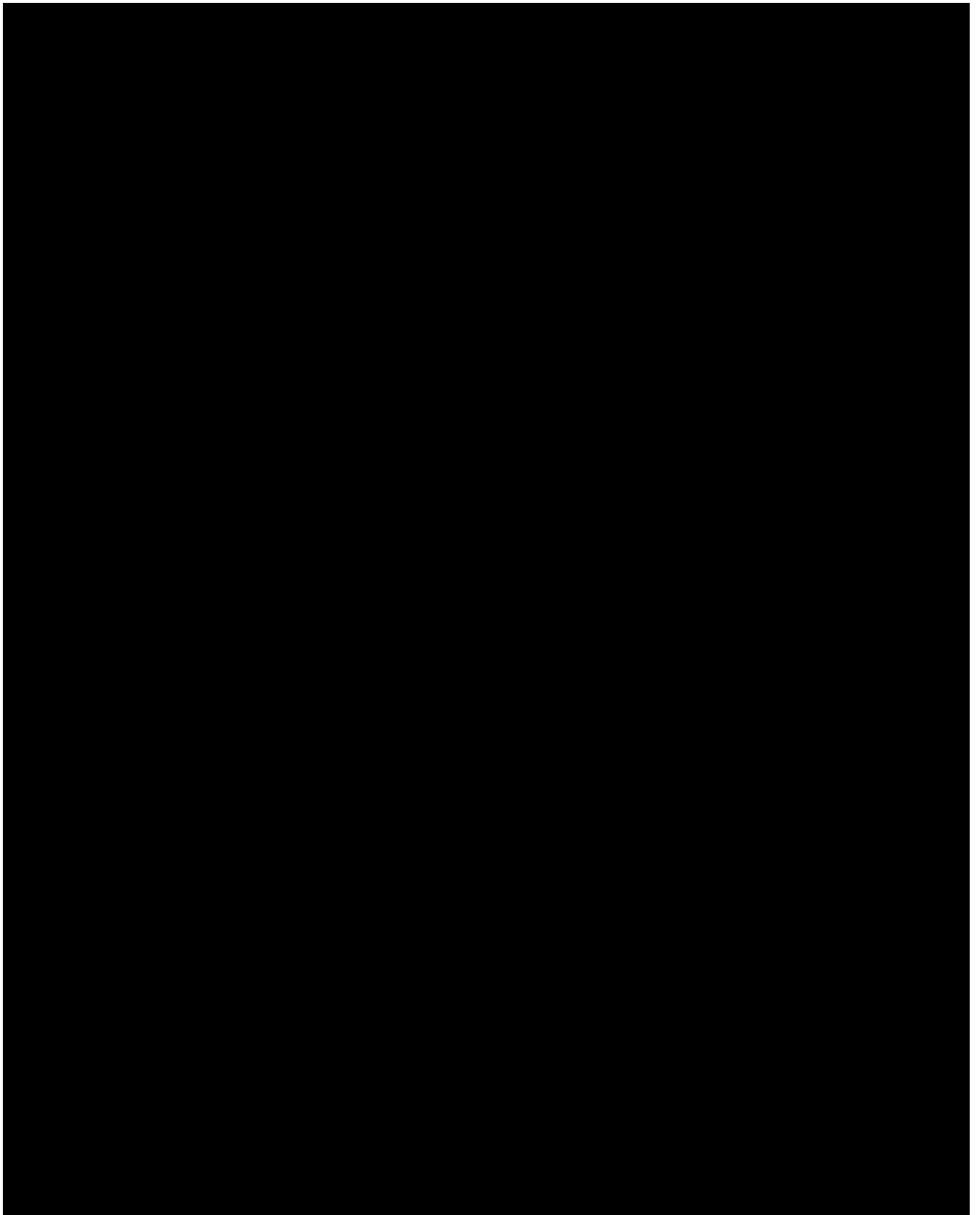
⁸²⁵ See Transcript of Hearing on Jurisdiction and Merits, Day 8, 187:3-10; *id.* 256:23-257:15.

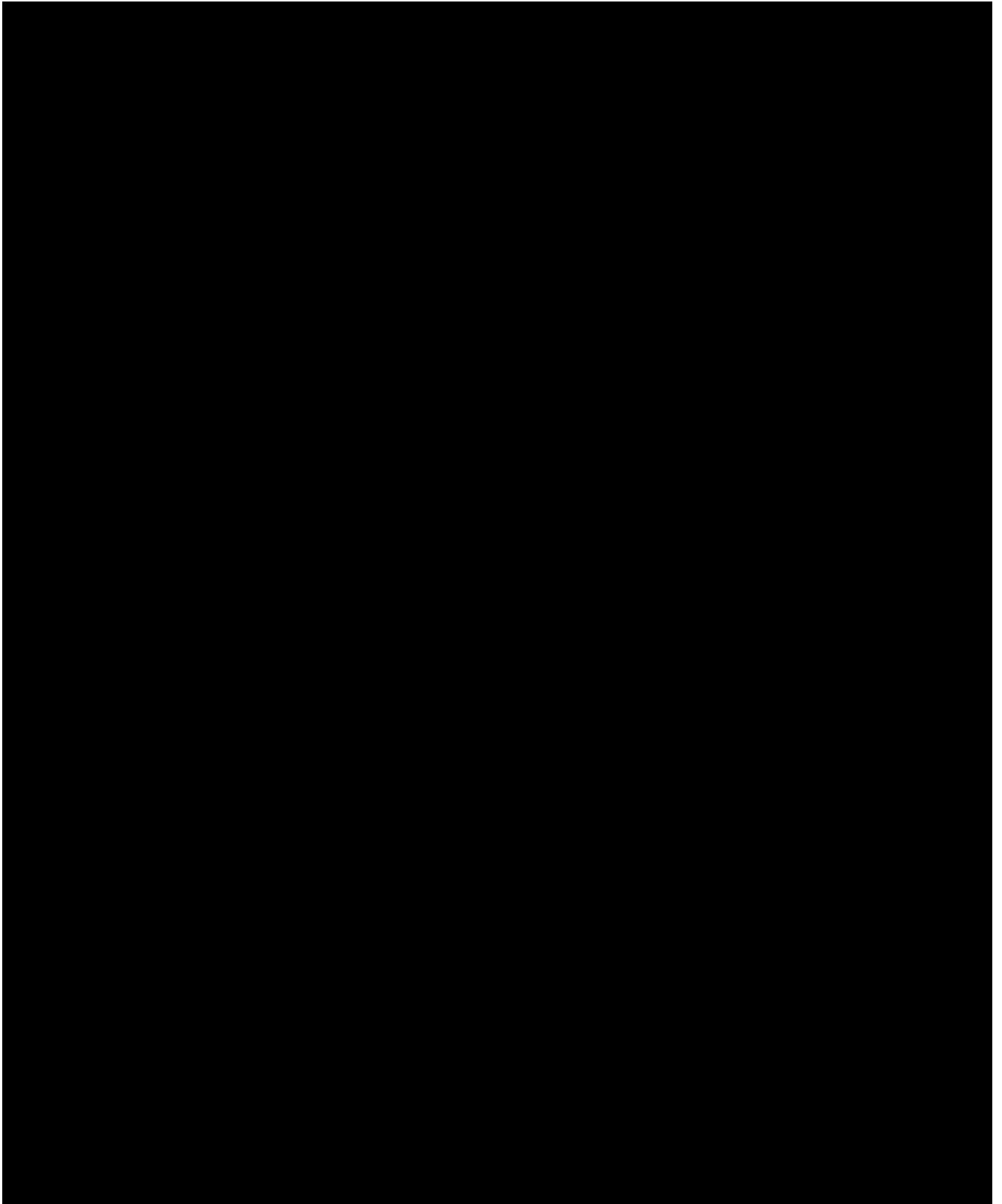
⁸²⁶ See Second Secretariat Report, Appendix D.2; *see also* Secretariat Second Report § 7.

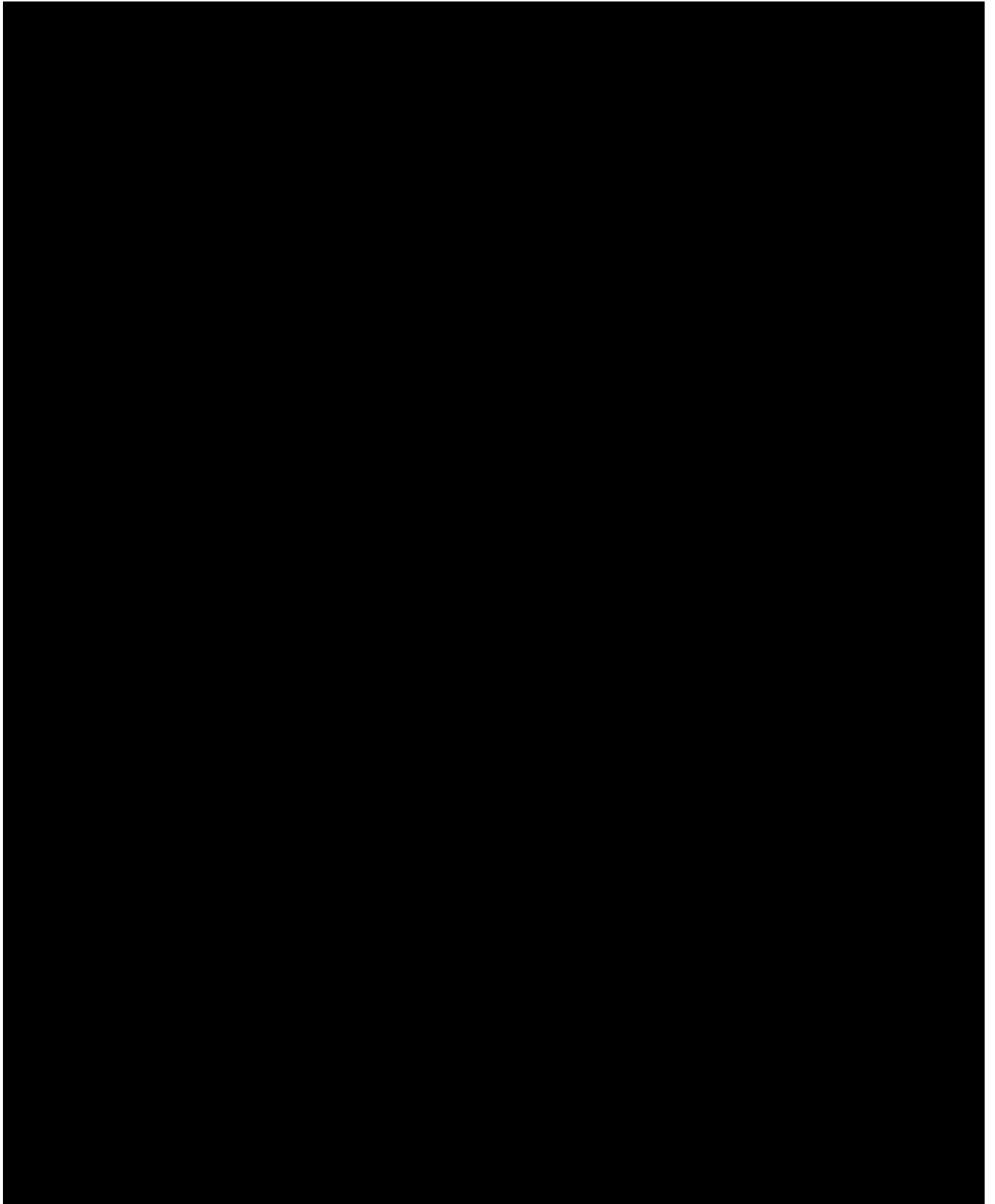


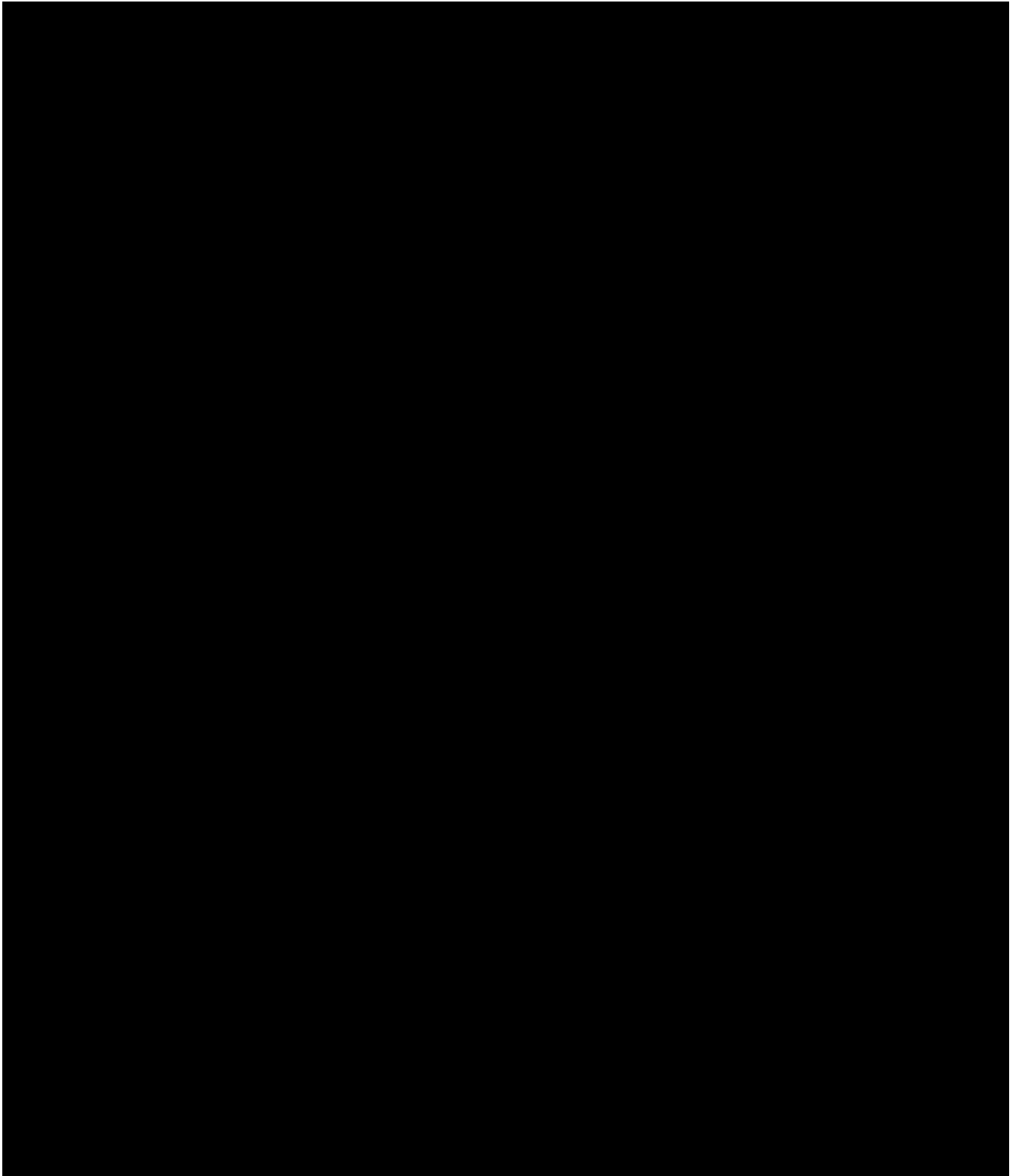


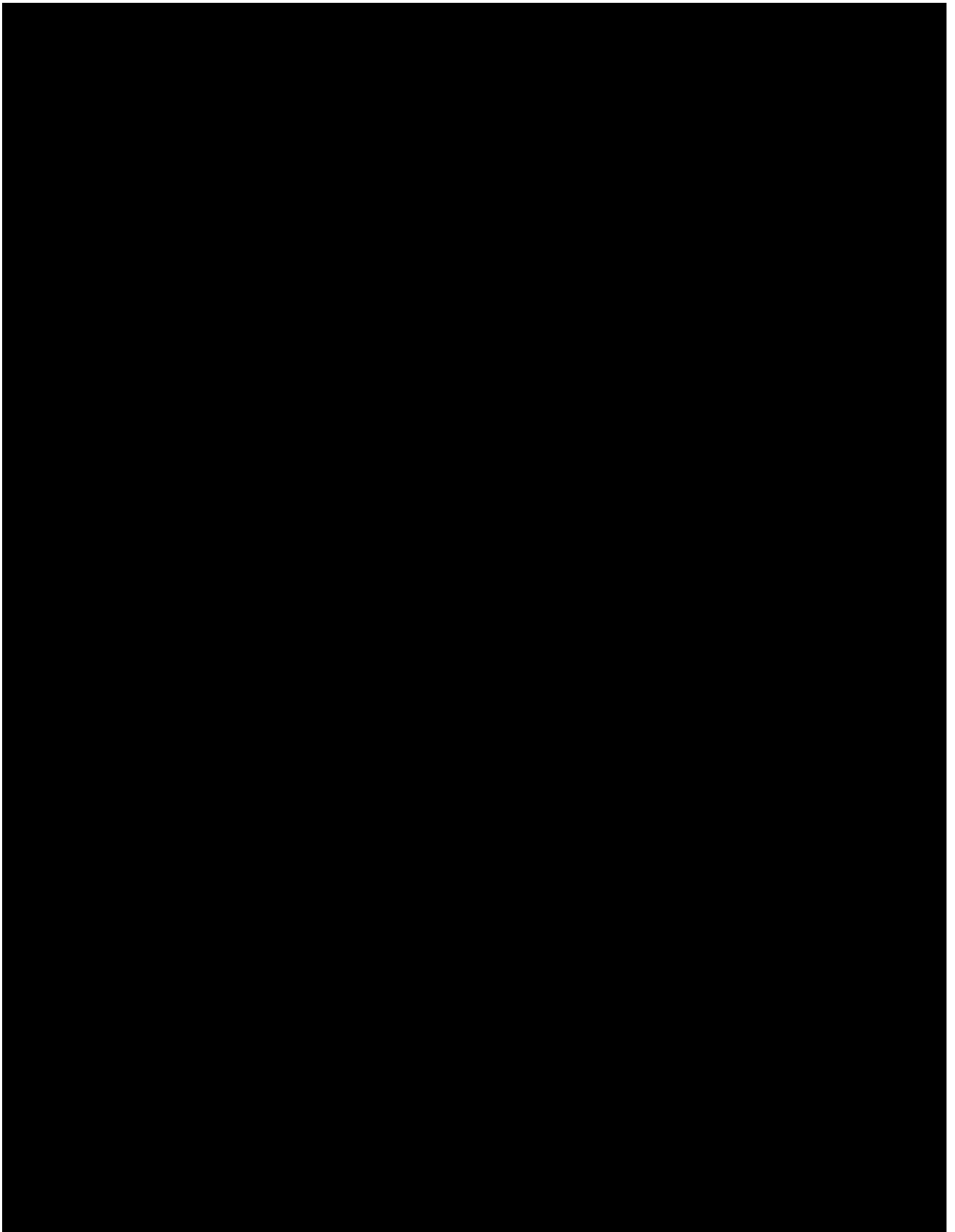


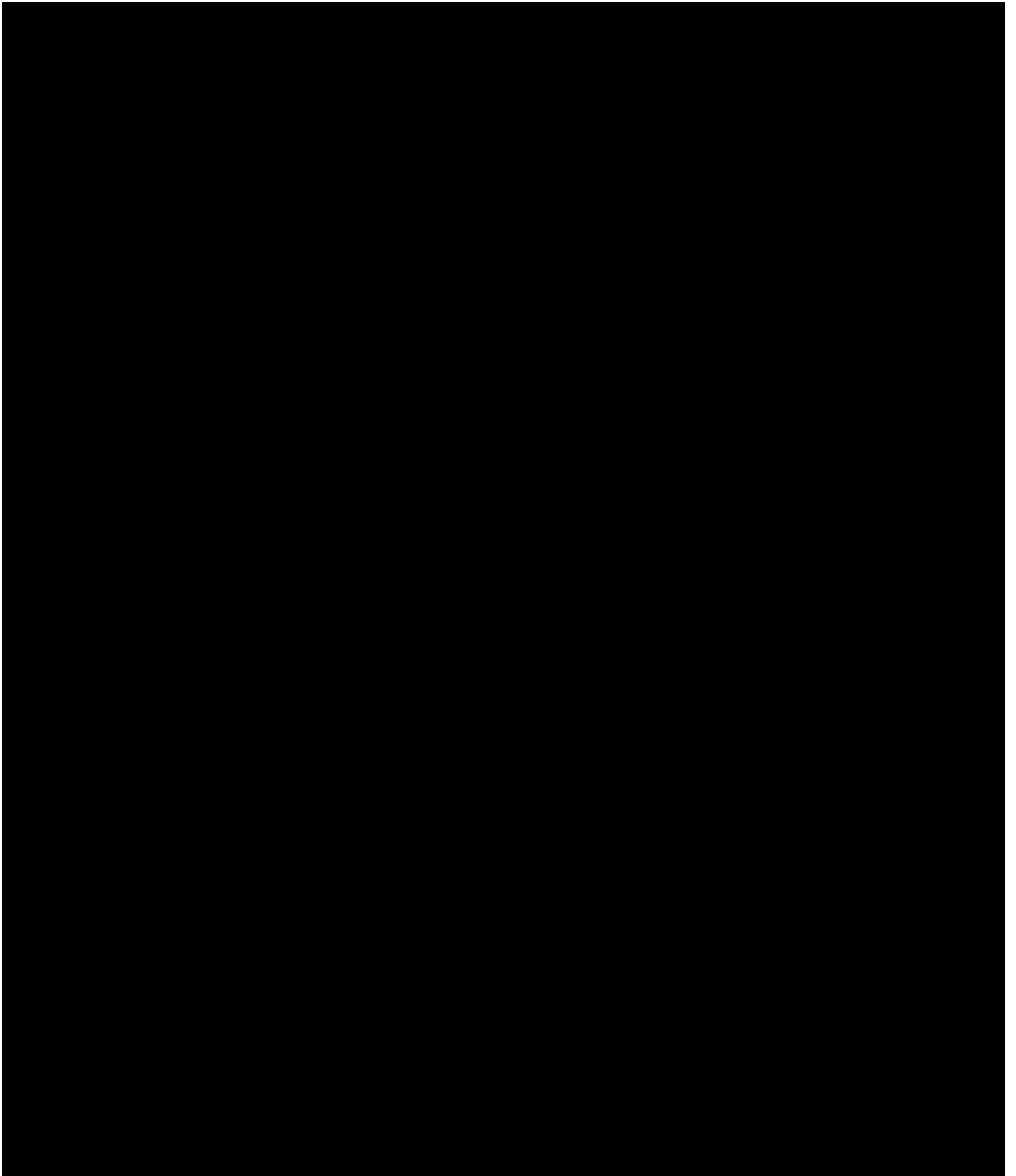


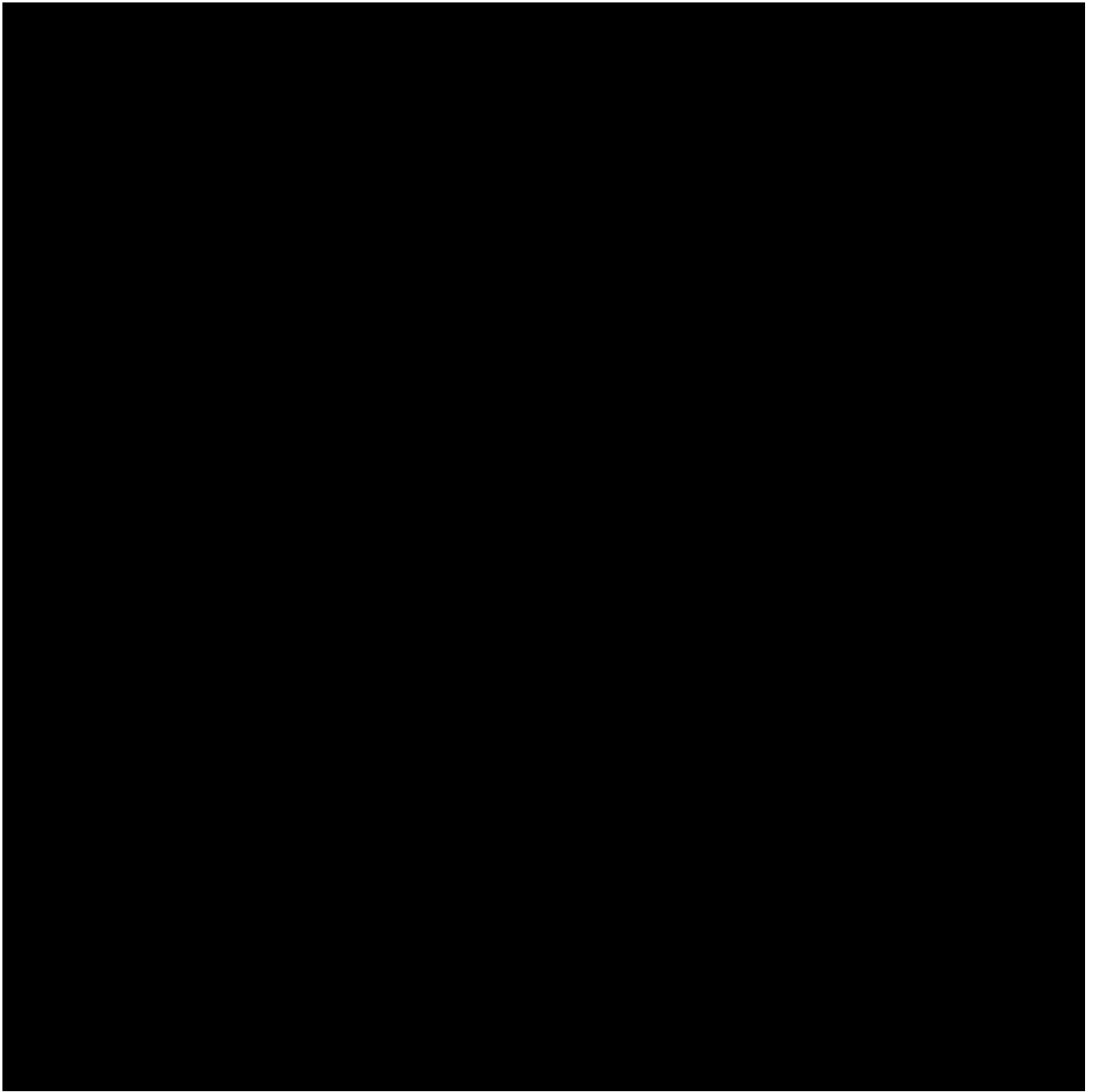












407. In reviewing the evidence on which Secretariat relied, several considerations regarding Dr. Shi's treatment of that evidence are important to bear in mind. First, and most important, while Dr. Shi disputed the evidence that some invoices reviewed by Secretariat were either connected to Mr. Bahari or associated with his investments, she did so solely from the standpoint of a valuation professional. As she noted in her report, she [REDACTED]

[REDACTED] 827 Likewise, at the Hearing she reiterated on several occasions that the Tribunal would be free to draw logical inferences from the documents: [REDACTED] 828

408. Second, with respect to invoices for Caspian Fish in particular, Dr. Shi explained that she applied a [REDACTED] from that she adopted for Coolak Baku and Shuvalan Sugar:

[REDACTED] 829 Thus, with

⁸²⁷ Oxera Second Report, ¶ 2.44.

⁸²⁸ See e.g., Transcript of Hearing on Jurisdiction and Merits, Day 8, 289:16-18.

⁸²⁹ Oxera Second Report, Appx. 4, p. 201 (emphasis in original).

respect to any documents which Dr. Shi refused to include in her own assessment of amounts invested based on her not having seen evidence of payment by Mr. Bahari, the Tribunal is free to include those in its own calculations based on the evidence which came to light at the Hearing that Mr. Bahari did in fact cover all costs for Caspian Fish.⁸³⁰ In that same vein, although Dr. Shi disputed that Mr. Bahari was sufficiently in control of Coolak Shargh during the time of construction of Coolak Baku and Caspian Fish that checks issued by Coolak Shargh could be treated as checks written by Mr. Bahari for his other investments, she could not dispute the testimony given by Mr. Bahari himself that Coolak Shargh remained in his control and served as his primary source of issuing checks.⁸³¹

409. Third, however much Azerbaijan might want to cast Secretariat's analysis as [REDACTED] and biased,⁸³² cross-examination of Dr. Shi at the Hearing revealed several significant instances in which her assessment of the documentary record favored Respondent's evidence without justification:

- a. First, Dr. Shi determined that certain documents which Secretariat considered showed materials and equipment for Coolak Baku could not be believed because import records provided by Azerbaijan for Coolak Baku over the requisite time period showed only USD 0.8 million in imports.⁸³³ At the same time, however, she did consider documentation, including an invoice and shipment confirmation, for equipment for Eul & Gunther as credible, despite the fact that its importation into Azerbaijan was not included on those records.⁸³⁴ Her reliance on those import records to exclude other invoices is, therefore, inconsistent with her own analysis. As she conceded in the Hearing, her conclusion would be weakened if it turned out those records are, as Mr. Bahari has asserted since they were first produced,⁸³⁵ incomplete.⁸³⁶

⁸³⁰ See *supra* Part II § I.

⁸³¹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 316:8-319:13 (referring to **SEC-297**, **C-276**, and **C-281**).

⁸³² See Respondent's Overview Chart, p. 3.

⁸³³ See, e.g., Oxera Second Report, Appx. 3, pp. 185-186, .

⁸³⁴ Transcript of Hearing on Jurisdiction and Merits, Day 8, 276:22 to 283:22.

⁸³⁵ See, e.g., SoRJJ ¶¶ 115-116.

⁸³⁶ Transcript of Hearing on Jurisdiction and Merits, Day 8, 285:2-187:4.

- b. Second, Dr. Shi treated certain sets of documentation as incomplete for including only latter pages of an invoice or order confirmation, e.g. the DFT invoice issued to Mirinda for equipment sold to Coolak Baku.⁸³⁷ With respect to equipment provided by AR-S, however, she considered the documentation sufficient despite that it included only some pages of the invoice.⁸³⁸
- c. Third, Dr. Shi refused to account for bank documents showing payments to DFT on the basis that they did not show processing by the bank.⁸³⁹ She did, however, include in her calculations payments from an Atabank account Respondent claims was associated with Caspian Fish that had no such processing information.⁸⁴⁰ When confronted with this at the Hearing, Dr. Shi noted that it [REDACTED]⁸⁴¹ make that artificial distinction.
- d. Fourth, Dr. Shi admitted during the Hearing that she had relied heavily on Respondent's fact witnesses for her information. As explained *supra*, Dr. Shi's assessment that Caspian Fish was a loss-making enterprise was based entirely on witness testimony belied by the documentary record.⁸⁴² Her second report referred to Mr. S Hasanov 120 times and Mr. Kerimov 80 times.
- e. Fifth, although Dr. Shi opined, based on fact witness testimony from witnesses for Azerbaijan, that it was not clear that all of the purchases made for Caspian Fish were commercially necessary, she confirmed on cross-examination that she is unable, on the basis of her own expertise, to say so.⁸⁴³ In fact, the only witness Azerbaijan put forward in this arbitration who claims to be an expert on the fishing industry is Mr. Kerimov,⁸⁴⁴ of whom Mr. Parvizi admitted to not being aware,⁸⁴⁵

⁸³⁷ Oxera Second Report, Appx. 3, pp. 186-187.

⁸³⁸ Oxera Second Report, Appx. 3, pp. 187-188; Transcript of Hearing on Jurisdiction and Merits, Day 8, 280:24-281:11.

⁸³⁹ Oxera Second Report, Appx. 4, pp. 196-197.

⁸⁴⁰ Oxera Second Report, Appx. 5.

⁸⁴¹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 316:2-4.

⁸⁴² See *supra* ¶¶ 381-389.

⁸⁴³ Transcript of Hearing on Jurisdiction and Merits, Day 8, 256:9-258:18.

⁸⁴⁴ Transcript of Hearing on Jurisdiction and Merits, Day 5, 161:11.

⁸⁴⁵ Transcript of Hearing on Jurisdiction and Merits, Day 8, 124:12-13; 125:15-126:6.

despite his apparently exhaustive survey of experts on the Azerbaijani fishing industry.

- f. Finally, none of the other evidence on which Dr. Shi relied in disputing the commercial justification for the expenditures for Caspian Fish accounted for by Secretariat held up to cross-examination at the Hearing. Dr. Shi relied in part on Mr. Hasanov's testimony that Mr. Bahari allegedly ██████████ Minister Heydarov for invoices incurred for Caspian Fish.⁸⁴⁶ On cross-examination, however, Mr. Hasanov confirmed that the basis for his assumption that Mr. Bahari had ██████████ invoices was that Mr. Bahari would not share documents with him when he was unofficially hired to work at Caspian Fish.⁸⁴⁷ In her own- cross-examination, Dr. Shi admitted that she had no evidence of inflated invoices other than witness testimony claiming that to be the case.⁸⁴⁸ Second, Dr. Shi relied on Mr. Kerimov's testimony that the equipment Mr. Bahari installed at Caspian Fish was second hand and had to be painted to look new, but he walked that testimony back in his second statement and again at the Hearing.⁸⁴⁹ Indeed, testimony elicited at the Hearing indicated that Mr. Hay sold only new equipment to Mr. Bahari for use at Caspian Fish, and that Mr. Bahari negotiated lower prices for the equipment he purchased than was originally quoted.⁸⁵⁰
410. Mr. Bahari thus submits that the Tribunal should take into account all of the documents relied on by Secretariat in computing a valuation of Caspian Fish, Coolak Baku, and Shuvalan Sugar.

b. Mr. Bahari is Entitled to Recover the Cost of Construction

411. With respect to the costs of construction, as explained above, Mr. Bahari maintains that the Chartabi Contracts submitted into the record are true reproductions of the original contracts and may be relied on as such. Furthermore, Mr. Bahari submits that awarding him the value of the respective Chartabi Contracts is the only option that awards him compensation for all three contracts in their totality, for the reasons explained below.

⁸⁴⁶ Oxera Second Report, Appx. 4, pp. 186-187.

⁸⁴⁷ Transcript of Hearing on Jurisdiction and Merits, Day 6, 9:10-14.

⁸⁴⁸ Transcript of Hearing on Jurisdiction and Merits, Day 8, 259:11-13.

⁸⁴⁹ See Transcript of Hearing on Jurisdiction and Merits, Day 5, 132:3-133:14.

⁸⁵⁰ Transcript of Hearing on Jurisdiction and Merits, Day 8, 259:14-262:11.

412. If the Tribunal is not inclined to treat the Chartabi Contracts as reliable, however, the record before the Tribunal allows for several other options to be considered:

- a. First, and regardless of the Contracts themselves, the Tribunal can award Mr. Bahari the total cost of construction undertaken by Chartabi Contracting based on the letter submitted by Ahad Chartabi as exhibit **C-086**.⁸⁵¹ That letter confirms, independent from the contracts, that Caspian Fish cost USD 28,800,000 to build, Coolak Baku cost USD 4,155,000 to build, and Shuvalan Sugar cost USD 3,650,000 to build.⁸⁵²
- b. Second, the Tribunal can award Mr. Bahari the value of the check he issued through his Coolak Shargh account for USD 25 million to Chartabi Contracting, in satisfaction of the balance on all three contracts.⁸⁵³ Mr. Bahari confirmed at the Hearing that he was in full control of the accounts held by Coolak Shargh at that time, and that he used the Coolak Shargh account for his expenses in Azerbaijan.⁸⁵⁴ Given that the check neither covers the entire value of the Chartabi Contracts nor specifies for which project it was intended, however, awarding Mr. Bahari only the value of the check fails to account for the total cost of construction.
- c. Third, the Tribunal could award Mr. Bahari at minimum the amount that Mr. Parvizi asserts should have been the cost of construction for Caspian Fish based on the Scope Report, which, as adjusted at the Hearing, amounts to USD 11,676,506 accounting for contingency and a 30% margin for uncertainty.⁸⁵⁵ Although Dr. Shi adopted the figure of USD 8,981,928 as calculated by Dr. Parvizi, she confirmed that she followed [REDACTED]⁸⁵⁶ And in his own cross-examination, Mr. Parvizi opined that the [REDACTED] 11.6 million, *i.e.* the figure inclusive of uncertainty, [REDACTED]⁸⁵⁷ In the Claimant's estimation, this figure is underestimated, as it does not account

⁸⁵¹ See **C-086** Letter from Chartabi Contracting confirming cost of construction works.

⁸⁵² See **C-086** Letter from Chartabi Contracting confirming cost of construction works.

⁸⁵³ **SEC-295** Check for IRR 43.7 billion, 30 September 2000; Oxera Second Report, Appx. 2, pp. 183-184.

⁸⁵⁴ Transcript of Hearing on Jurisdiction and Merits, Day 3, 94:25-102:6.

⁸⁵⁵ Parvizi Presentation, slide 26; Transcript of Hearing on Jurisdiction and Merits, Day 8, 146:14-24.

⁸⁵⁶ Transcript of Hearing on Jurisdiction and Merits, Day 8, 302:11-303:4.

⁸⁵⁷ Transcript of Hearing on Jurisdiction and Merits, Day 8, 146:19-24.

for any soft costs, such as manpower, supervision, and other indirect costs associated with construction.⁸⁵⁸ It likewise suffers for Mr. Parvizi's having failed to actually liaise with Scope in the preparation of their report, which is based entirely on Scope Consulting's – an entity that never appeared for cross-examination – supposed expertise in construction in Azerbaijan, which is captured in a single page report that is both unsubstantiated and unreliable.⁸⁵⁹ Finally, although awarding Mr. Bahari the amount for construction found in the Scope Report would account for the costs of construction of Caspian Fish, neither Scope nor Mr. Parvizi (nor, for that matter, Dr. Shi) computed a cost to construct either Coolak Baku or Shuvalan Sugar.⁸⁶⁰

c. Mr. Bahari is Entitled to No Less Than his Proportionate Share of Sunk Costs in Each Project

413. As explained above, awarding Mr. Bahari damages on the basis of a costs approach awards him neither fair market value nor full recovery. If the Tribunal is not inclined to award his amounts invested, however, the costs approach is the absolute minimum to which he is entitled. Implementing it would require computing the value of the assets of each complete company, including tangible assets, intangible assets, and property, and then computing Mr. Bahari's proportionate share. On the basis of the record before the Tribunal, such an approach is impossible to implement in its entirety, as the record contains no valuation of the land and intangible costs associated with each of Caspian Fish, Coolak Baku, and Shuvalan Sugar. (To be clear, the AZ Valuation Report considered by Dr. Shi does include a value for the land plot at Caspian Fish of 9,500,000 manat.⁸⁶¹ This is, however, a valuation as of 2022, and is therefore an *ex post* figure that cannot be applied to the value as of 2003.)
414. Nevertheless, if the Tribunal is inclined to take such an approach, it should take the total sum resulting from the amounts invested for each of the three companies above, regardless of whether the evidence on the record proves that Mr. Bahari personally paid for those expenditures, adopting a figure for the costs of construction, and adding to that

⁸⁵⁸ Transcript of Hearing on Jurisdiction and Merits, Day 8, 141:17-143:14.

⁸⁵⁹ Transcript of Hearing on Jurisdiction and Merits, Day 8, 99:8-102:8; *id.* 138:8-139:2.

⁸⁶⁰ Transcript of Hearing on Jurisdiction and Merits, Day 8, 269:4-271:4.

⁸⁶¹ See **R-289** Extracts from Valuation Report for Caspian Fish prepared by AZ Valuation Service, p. 2.

sum the additional figures reflected in documents submitted by the Respondent, in particular:

- a. The records of supposed payments from an Atabank account associated with Caspian Fish, which were submitted by Respondent as exhibit **R-420**. Dr. Shi reviewed those documents in Appendix 5 to her Second Report and computed the total value as between USD 1.8 million and USD 2,129,555.⁸⁶² The range reflects Dr. Shi's observation that evidence of a second payment for a PET bottle production machine from Nissei was not provided;⁸⁶³ at the Hearing, Dr. Shi accepted that it could be inferred from the shipment confirmation that the second payment was made.⁸⁶⁴
 - b. The import records of sugar destined for Coolak Baku and Shuvalan Sugar, which Respondent submitted as exhibits **R-73 – R-76** for the years 1996-1999. Dr. Shi assessed these records in her first report and noted the total value of imports for granulated sugar over that time period was USD 1,180,408.⁸⁶⁵ At the Hearing, she accepted that these imports could be treated as being for Coolak Baku, though she alleged she had read the sugar was resold by Mr. Bahari.⁸⁶⁶ As Mr. Bahari has previously explained, however, that allegation is false, and if even if it were true, the same document that alleges Mr. Bahari was reselling imported sugar alleges he did so to use the money for the purchase of beer equipment and installation,⁸⁶⁷ meaning these are nevertheless expenditures for the business.
415. Accounting for these figures alongside the cost of construction and the total amounts reflected on the invoices considered by Secretariat, the Tribunal would then award Mr. Bahari 40% of the value of Caspian Fish and 75% of the value of both Coolak Baku and Shuvalan Sugar under a costs approach, plus interest.

⁸⁶² See Oxera 2, Appx. 5; Oxera Opening Presentation, Slide 8; [Dr. Shi's] analysis of Caspian Fish's other payment documents (**OX-73**).

⁸⁶³ See Oxera Second Report, Appx. 5, p. 214.

⁸⁶⁴ Transcript of Hearing on Jurisdiction and Merits, Day 8, 307:20-311:13.

⁸⁶⁵ Oxera Report, Table 2.1, p. 17.

⁸⁶⁶ Transcript of Hearing on Jurisdiction and Merits, Day 8, 297:24-298:8.

⁸⁶⁷ See SoRJJ ¶¶ 134(d) – 134(e) & nn. 226-229; see also **R-26** Letter from ASFAN to Mr. Bahari, p. 2.

B. DAMAGES OWED TO MR. BAHARI FOR HIS CARPETS AND AYNÄ SULTAN

416. As noted above, the only damages that the Tribunal can award to Mr. Bahari for either his carpets or his property at Ayna Sultan are based on a market approach.
417. With respect to Mr. Bahari's Carpets, Mr. Bahari testified at the Hearing that the ledger he kept recording his collection reflected the [REDACTED] payment he made to intermediaries rather than the full price he paid for each carpet.⁸⁶⁸ Mr. Moghaddam corroborated this in his own testimony, explaining that Mr. Bahari gave him substantial sums to purchase carpets, including between USD 50,000 and 100,000 per carpet,⁸⁶⁹ far above the commission amount listed for each carpet in the ledger.⁸⁷⁰ When this was put during the Hearing to Mr. Hasanov, Azerbaijan's expert on carpet valuation, he admitted that absent the ability to inspect the carpets or review photographs of them, the lack of reliable price information on the ledger means that he would be unable to value the carpets at all and would be confined to [REDACTED]⁸⁷¹ Thus, as Mr. Iselin explained, his model for determining a market valuation of the carpets is the best way to determine their worth.⁸⁷²
418. With respect to Ayna Sultan, Secretariat computed a valuation as of 1 January 2003 based on a sale of the property carried out on 6 October 2004 for AZM 1.15 billion, which Secretariat converted to USD 235,000 as of the valuation date. Dr. Shi further adjusted this in her second report to account for inflation and fluctuations in the exchange rate, reducing the amount to USD 214,788.⁸⁷³ Mr. Bahari adopts Dr. Shi's calculation of the damages for Ayna Sultan.

* * *

⁸⁶⁸ Transcript of Hearing on Jurisdiction and Merits, Day 3, 116:8-117:15.

⁸⁶⁹ Transcript of Hearing on Jurisdiction and Merits, Day 3, 171:6-20.

⁸⁷⁰ See Iselin Report, Appx. A, Column 5.

⁸⁷¹ Transcript of Hearing on Jurisdiction and Merits, Day 7, 336:18-25.

⁸⁷² Transcript of Hearing on Jurisdiction and Merits, Day 7, 235:10-239:8.

⁸⁷³ See Oxera Opening Presentation, slide 20.

419. As a result of the foregoing, the following chart summarizes the damages owed to Mr. Bahari, plus interest:

Investment	Option 1		Option 2		Option 3*	
	Methodology	Amount	Methodology	Amount	Methodology	Amount
Caspian Fish	Market	118,800,000	Amounts Invested	56,000,000	Amounts Invested	15,618,000
Persian Carpets	Market	3,981,333	Market	3,981,333	Market	3,981,333
Coolak Baku	Amounts Invested	28,000,000	Amounts Invested	28,000,000	Amounts Invested	10,840,000
Shuvalan Sugar	Amounts Invested		Amounts Invested		Amounts Invested	2,737,000
Ayna Sultan	Market	214,688	Market	214,788	Market	214,788
Total due to Mr. Bahari, Plus Interest		USD 150,996,021.00		USD 88,196,121.00		USD 33,391,121.00

* The amount reflected here is Secretariat's computation of the amounts invested in Caspian Fish and Shuvalan Sugar, exclusive of construction costs, which are addressed supra in Part IV, Section II(A)(4)(b). If the Tribunal is minded to apply a true costs approach for Mr. Bahari's investments in Caspian Fish, Coolak Baku, and Shuvalan Sugar, that valuation will need to account for, in addition to the amounts invested by Mr. Bahari, additional expenditures reflected in the record for each of these businesses, as summarized above, prior to accounting for Mr. Bahari's ownership stake in each enterprise.

420. The total amount to be awarded to Mr. Bahari, therefore, depends on which approach the Tribunal opts to take. For the reasons explained above, however, only Option 1 allows Mr. Bahari even a semblance of true recovery, acknowledging that he is claiming the value of operating companies, for which a cost approach (even Secretariat's Amounts Invested approach) fails to capture full market value. In addition to this damages figure, Mr. Bahari also claims interest, compounded from 1 January 2003 to present, based on the US prime + 2% rate at maximum and LIBOR + 2% at minimum. Both Parties' quantum experts confirmed their availability to assist in this calculation at the Hearing,⁸⁷⁴ should their assistance be needed.

⁸⁷⁴ See Transcript of Hearing on Jurisdiction and Merits, Day 8, 213:21-214:7; 330:8-14.

PART V: REQUEST FOR RELIEF

421. For the foregoing reasons, Mr. Bahari respectfully requests that the Tribunal enter an Award in his favor and against Azerbaijan as follows:

- a. a declaration that the dispute is within the Tribunal's jurisdiction and competence, and that Mr. Bahari's claims are admissible;
- b. a declaration that Azerbaijan has breached its obligations under the Treaty and international law with respect to Mr. Bahari's investments in Azerbaijan;
- c. an order directing Azerbaijan to compensate Mr. Bahari for his losses resulting from Azerbaijan's breaches of the Treaty for an amount equivalent to the above Option 1 discussed *supra* at paragraph 372 (and as determined by applicable pre-Award interest), which may be supplemented in a subsequent report, plus post-Award interest until the date of full and effective payment, at a commercially reasonable rate, compounded annually;
- d. an order directing Azerbaijan to compensate Mr. Bahari for moral damages of USD 10 million, or five (5) percent of the total material damages awarded, whichever is greater, plus post-Award interest until the date of full and effective payment, at a commercially reasonable rate, compounded annually;
- e. an order directing Azerbaijan to bear all arbitration costs and attorneys costs and expenses incurred by the Mr. Bahari in connection with these proceedings on a full indemnity basis, together with interest thereon at a commercially reasonable rate, compounded annually; and
- f. an order for such other and further relief as the Tribunal deems just and proper in the circumstances.

Dated: 6 May 2025

*Respectfully submitted on behalf of Claimant
Mohammad Reza Khalilpour Bahari*

s/ Paul Cohen

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APPENDIX A
CLAIMANT'S LIST OF DEFINED TERMS

TERM	MEANING
4 April 2005 Judgment	Judgment of the Economic Court of Azerbaijan, 4 April 2005, Exhibit R-105
1961 Harvard Draft Convention	1961 Harvard Draft Convention on the International Responsibility of States for Injuries to Aliens, Exhibit CLA-266
2006 Resolution	Undated Director's Resolution of Caspian Fish BVI containing transactions through 8 December 2006, Exhibit C-122
Abdulmajidov WS	Witness Statement of Abdulmajidov Timur dated 19 June 2024
AIMROC	Azerbaijan International Mineral Resources Operating Company Ltd.
AFF	Azerbaijan Fish Farm LLC
Ayna Sultan	1,000 m2 property on Ziya Bünyadov Street, Baku; owned by Mr. Bahari and a claimed Investment
Arblos	Arblos Management Corp., a Panamanian company
AHL Companies	Arblos Management Corp.; Hising Management SA; and Lynden Management Group Inc.
Aliyev WS1	First Witness Statement of Mr. Habib Aliyev dated 21 December 2023
Aliyev WS2	Second Witness Statement of Mr. Habib Aliyev dated 24 October 2024
Allahyarov WS1	Witness Statement of Mr. Yusuf Allahyarov dated 17 April 2023
Allahyarov WS2	Second Witness Statement of Mr. Yusuf Allahyarov dated 13 June 2024
Allan & Makarenko Expert Report	The Expert Report of Duncan Allan, M.B.E., and Dr. Tamara Makarenko, dated 17-18 June 2024
Antitrust Law	Law of the Republic of Azerbaijan on "Antitrust Activity" dated 4 March 1993, #526, Exhibit C-218

ARHAD	Arhad Ltd.
ARSIWA	Articles on the Responsibility of States for Internationally Wrongful Acts, Exhibit CLA-37
ASFAN	ASFAN LTD, Coolak Baku JVA partner; <i>and/or</i> ASFAN LTD LLC, Tax Identification (TIN) Number 1400395441, incorporated 5 May 2003, with address at 25 Safar Aliyev Street, Baku
Authorized Fund	Initial capital fund for Coolak Baku JVA
Azeri Laundromat Scandal	Corruption scandal involving Azerbaijan's use of \$2.9 billion Government slush fund to launder money and influence European politicians
Azerbaijan	Republic of Azerbaijan
Bahari WS1	Witness Statement of Mohammad Reza Khalilpour Bahari dated 19 April 2023
Bahari WS2	Second Witness Statement of Mohammad Reza Khalilpour Bahari dated 21 June 2024
Bahari WS3	Third Witness Statement of Mohammad Reza Khalilpour Bahari dated 10 December 2024
Baku-Shamakhi Land Plot	Plot of land on the Baku-Shamakhi Highway, location of Caspian Fish facility
Balakishiyeva WS	Witness Statement of Ms. Yegana Balakishiyeva dated 20 December 2023
BCA 2004	BVI Business Companies Act 2004 (as further amended)
BIT or Treaty	Agreement Between the Government of the Islamic Republic of Iran and the Government of the Republic of Azerbaijan on the Reciprocal Promotion and Protection of Investments, signed 28 October 1996, with entry into force on 20 June 2002
Briggs Report	Expert Report of Ms. Elisabeth Briggs dated 29 October 2024
BVI	British Virgin Islands
BVI Counsel	Appleby (BVI) Limited
BVI Court	The Commercial Division of the Eastern Caribbean Supreme Court in the Territory of the Virgin Islands
Carnivore	Carnivore Capital Markets Limited, a BVI entity

Casplan Fish	Caspian Fish Co. Inc. (BVI), incorporated 5 March 1999
Casplan Fish (BVI)	Same as above
Casplan Fish Co. Azerbaijan	Caspian Fish BVI's representative office
Casplan Fish MMC	Caspian Fish Co. Azerbaijan MMC, incorporated in Azerbaijan under Tax Identification Number (TIN) 3100064091
Chartabi Contracting	Chartabi Contracting Services
Charter	Charter of the representative office of Casplan Fish (BVI) in Azerbaijan dated 27 April 1999
Claimant	Mohammad Reza Khalilpour Bahari; Mr. Bahari
Claimant's Summary Chart	Claimant's Overview Chart Responsive to Tribunal's Question 6, dated 21 February 2025
Coolak Baku	Coolak Baku Co., a joint venture established under the laws of Azerbaijan, with address at 25 Safar Aliyev Street, Baku, Azerbaijan
Coolak Baku JVA	Amended joint venture agreement dated 23 January 1998, Exhibit C-001
Coolak Shargh	Coolak Shargh, an Iranian soft drink company
Criminal Summons	Criminal Summons of 26 April 2022, Exhibit C-241
Current Investment Activity Law	Investment Activity Law (1995) was replaced by the Law of the Republic of Azerbaijan on "Investment Law" dated 22 June 2022, Exhibit C-211
Data Sheet	Caspian Fish BVI Registers and Data Sheet dated 3 May 2007, Exhibit C-109
Decision Granting the Extension	Decision Granting the Application for extension of time to file a Cassation Appeal of the Consolidated Appeal Judgment, Exhibit R-174 ; C-356
Decision Granting the Gambarova Appeal	21 January 2010 Grant of Gambarova's appeal, Exhibit R-153 ; C-357
Decision Returning the Cassation Appeal	26 May 2010 The Court of Appeals' remand of the Alleged Bahari Cassation Appeal, Exhibit R-159 ; C-358
FAO	The Food and Agriculture Organization of the United Nations
FHCS	Forbes Hare Corporate Services Limited

First NPO Application	Norwich Pharmacal Order application dated 15 February 2023
Forced Sale Terms	Document presented to Mr. Bahari by Mr. Khanghah dated 15 June 2002
Foreign Investment Law	Law on the Protection of Foreign Investments, Law No. 57 of 1992, Exhibit C-212
Former State Registration Law	Law of the Republic of Azerbaijan on “State Registration of Legal Entities” dated 6 February 1996, Exhibit C-105
FRP Advisory	FRP Advisory Trading Limited
G.A. Gambora Appeal	Appeal of the Second 2004 Judgment in favor of Mr. Pashayev, Exhibit C-305
Gaines Report	Expert Report of Mr. Tom Gaines, dated 10 December 2024
Gambar Summons	Summons related to the case of an imprisoned journalist, Afgan Mukhtarli, Exhibit C-394
Gambarova Appeal of Alleged Bahari Cassation Appeal	9 November 2009 Mrs. Gambarova’s renewed appearance and appeal of the Decision Granting the Extension
Globex	Globex International LLP, an English LLP
Government	Republic of Azerbaijan
Hamza	Hamza Kerimov
Hasanov Report	First Expert Report of Mr. Rza Hasanov, dated 21 December 2023
Hasanov Second Report	Second Expert Report of Mr. Rza Hasanov, dated 24 October 2024
Hasanov WS1	First Witness Statement of Mr. Sabutay Hasanov dated 21 December 2023
Hasanov WS2	Second Witness Statement of Mr. Sabutay Hasanov dated 29 October 2024
Hay WS	Witness Statement of Mr. Chin Kwee Kay dated 26 May 2024
Hising	Hising Management SA, a Panamanian company
IBCA	BVI International Business Companies Act (1984)
ICCI	ICCI Limited, a BVI entity

ILC	International Law Commission
Initial Directors	Initial Directors of Caspian Fish, Messrs. Bahari and Khanghah
INL	International N.A.T. Limited (BVI)
Intigam	Intigam Aliyev
Investment Activity Law	Law of the Azerbaijan Republic on Investment Activity, Law No. 952 of 1995, Exhibit C-210
IRR	Iranian Rials
Iselin Report	First Expert Report of Mr. William Iselin, dated 20 April 2023
Iselin Second Report	Second Expert Report of Mr. William Iselin, dated 20 June 2024
Jordans	Jordans Trust Company (BVI) Limited
JVA	Joint Venture Agreement
Kaveh	Kaveh Tabriz (a/k/a Kaveh, a/k/a Kaveh Pharmaceutical Industries)
Kazakhstan-Azerbaijan BIT	Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Azerbaijan on the promotion and protection of investments
Kazimova	Solmaz Kazimova
Kerimov WS1	First Witness Statement of Mr. Tahir Kerimov dated 21 December 2023
Kerimov WS2	Second Witness Statement of Mr. Tahir Kerimov dated 25 October 2024
Khalilov WS	Witness Statement of Mr. Shahbaz Khalilov dated 5 December 2024
Klaus WS1	Witness Statement of Dieter Klaus dated 11 April 2023
Klaus WS2	Second Witness Statement of Mr. Dieter Klaus dated 17 May 2024
Lacey	Lacey Enterprises SA, a Panamanian entity
Lanisten	Lanisten International SA, a Panamanian company

Law on Enterprises	Law of the Republic of Azerbaijan on “Enterprises” dated 1 July 1994, Exhibit C-214
LOU	Letter of Understanding
Lynden	Lynden Management Group Inc., a Panamanian company
Mehrinfar Report	Expert Report of Dr Mahnaz Mehrinfar dated 21 December 2023
MFER	Ministry of Foreign Economic Relations
MNS	Ministry of National Security
Mammadov WS1	First Witness Statement of Mr. Qesim Mammadov dated 5 April 2024
Mammadov WS2	Second Witness Statement of Mr. Qesim Mammadov dated 28 October 2024
Moghaddam WS1	First Witness Statement of Tabesh Moghaddam dated 18 April 2023
Moghaddam WS2	Second Witness Statement of Mr. Tabesh Moghaddam dated 21 June 2024
Morgan	Morgan & Morgan Trust Corporation
Morrissey Report	Expert Report of Ms. Angela Morrissey, dated 20 June 2024
Mirinda	Mirinda Limited
Mr. Bahari	Mr. Mohammad Reza Khalilpour Bahari
MST	Minimum Standard of Treatment under customary international law
Museum	Planned museum to display Mr. Bahari’s antique Persian Carpets
Mustafayev Report	Expert Report of Mr. Altay Mustafayev dated 22 December 2023
NFF	Neftchala Fish Factory

Nasimi District Warehouse	Warehouse in the Nasimi District of Baku, which stored the shipments from Coolak Shargh, and later the Persian Carpets
Nida	Nida Civic Movement
Nissei	Nissei ASB Machine Co.
Novruzov	Shahin Novruzov
OCCRP	Organized Crime and Corruption Reporting Project
OECD	2004 Organization of Economic Cooperation and Development
OPG	Office of the Prosecutor General
Oxera Report or Oxera	First Expert Report of Dr. Min Shi of Oxera, dated 22 December 2023
Oxera Second Report	Second Expert Report of Dr. Min Shi of Oxera, dated 29 October 2024
Parvizi Report	Expert Report of Mr. Farhad Parvizi, dated 29 October 2024
Persian Carpets	508 antique carpets purchased by Mr. Bahari, plus 7 modern carpets commissioned by Mr. Bahari for Caspian Fish
PO6	Tribunal's Procedural Order No. 6 dated 9 April 2024
Provisional Measures Application	Ex Parte Application for Provisional Measures 12 March 2024
Purported IOT	Purported instrument of transfer
Ramazanova WS	Witness Statement of Ms. Konul Mahmud Ramazanova dated 19 June 2024
Registered Agents	Registered agents
Regulation on the Ministry of Economic Development	Regulation on the Ministry of Economic Development approved by the Decree of the President #495 dated 11 June 2001, Exhibit C-227
Regulation on the Ministry of Trade	Regulation on the Ministry of Trade approved by the Decree of the President. Exhibit C-225
Respondent's Summary Chart	Respondent's Overview Chart Responsive to Tribunal's Question 6, dated 21 February 2025

Rudman WS	Witness Statement of Mr. Ernst Rudman dated 15 October 2024
Safar Aliyev Land Plot	Grant to the Coolak Baku JVA of a production area covering 4,030 square meters and located at 25 Safar Aliyev Street, Baku
Schill First Opinion	Professor Schill's Legal Opinion on the Application of Article 9 of the Azerbaijan-Iran Bilateral Investment Treaty dated 14 June 2024
Schill Second Opinion	Professor Schill's Second Legal Opinion
Second NPO Application	Norwich Pharmacal application dated 9 March 2023, Exhibit C-106
Secretariat Report	First Expert Report of Secretariat, dated 21 April 2023
Second Secretariat Report	Second Expert Report of Secretariat, dated 21 June 2024
Shareholders Agreement	Shareholders agreement for Caspian Fish (BVI) dated 27 April 1999 between Messrs. Bahari, Aliyev, Heydarov and Khanghah, Exhibit C-004
Shuvalan Sugar	Sugar refinery located in Shuvalan settlement of Baku; a separate business line under Coolak Baku
Shuvalan Shirniyat	Shuvalan Shirniyat JSC, Tax Identification Number (TIN) 1200132211, incorporated 26 April 2005, with address at Baku City, Khazar District, Shuvalan Stg, Almaz Ildirim (Shuvalan Quarter), Ev Dalan 1, AZ1044
SoC	Mr. Bahari's Statement of Claim dated 21 April 2023
SOCAR	The State Oil Company of the Azerbaijan Republic
SoD	Azerbaijan's Statement of Defense dated 22 December 2023
SoR	Mr. Bahari's Statement of Reply dated 21 June 2024
SoRJ	Azerbaijan's Statement of Rejoinder dated 29 October 2024
SoRJJ	Mr. Bahari's Statement of Rejoinder on Jurisdiction dated 10 December 2024
Southmead	Southmead Management Limited, a BVI entity
Steer Report	Expert Report of Robert Alan Steer dated 17 June 2024

STS	State Tax Service
Suleymanov WS	Witness Statement of Mr. Elchin Suleymanov dated 30 May 2024
Treaty or BIT	Agreement Between the Government of the Islamic Republic of Iran and the Government of the Republic of Azerbaijan on the Reciprocal Promotion and Protection of Investments, signed 28 October 1996, with entry into force on 20 June 2002
UBO	Ultimate beneficial owner
UK-Azerbaijan BIT	Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Azerbaijan Republic for the Promotion and Protection of Investments
UNCTAD	United Nations Conference on Trade and Development
Vandeveld Report	Expert Report of Professor Kenneth J Vandeveld dated 20 December 2023
Vandeveld Second Report	Second Expert Report of Professor Kenneth J Vandeveld, dated 25 October 2024
Vereinsbank	Vereins und Westbank AG in Hamburg, Germany
Victroplex	Victroplex House of Machinery SDN. BHD
Zeynalov WS1	First Witness Statement of Mr. Elchin Suleymanov dated 21 December 2023
Zeynalov WS2	Second Witness Statement of Mr. Elchin Suleymanov dated 29 October 2024