

IN ACCORDANCE WITH THE PROVISIONS OF  
THE TREATY OF THE EURASIAN ECONOMIC UNION OF 29 MAY 2014  
UNDER THE 2013 UNCITRAL ARBITRATION RULES

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In the Matter of Arbitration between:	:	
	:	
OOO MANOLIUM PROCESSING,	:	
	:	
Claimant,	:	PCA Case No.
	:	2018-06
and	:	
	:	
THE REPUBLIC OF BELARUS,	:	
	:	
Respondent .	:	
	:	Volume 3

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EVIDENTIARY HEARING

Wednesday, July 31, 2019

Peace Palace  
Japanese Room  
Carnegieplein 2  
2517 KJ  
The Hague, Netherlands

The hearing in the above-entitled matter convened  
at 9:32 a.m. before:

MR. JUAN FERNÁNDEZ-ARRESTO, President

DR. STANIMIR A. ALEXANDROV, Co-Arbitrator

PROF. BRIGITTE STERN, Co-Arbitrator

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1 P R O C E E D I N G S  
 2 PRESIDENT FERNÁNDEZ-ARMESTO: Good morning.  
 3 This is the third day in the Hearing between  
 4 Manolium-Processing as Claimant and the Republic of Belarus  
 5 as Respondent.  
 6 Is there any point of order at this stage?  
 7 Mr. Hanessian.  
 8 MR. HANESSIAN: Not for Claimant, Mr. President.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: For Respondent?  
 10 MS. ZAGONEK: Not for Respondent.  
 11 PRESIDENT FERNÁNDEZ-ARMESTO: Very good.  
 12 TRAVIS TAYLOR, CLAIMANT'S WITNESS, CALLED  
 13 PRESIDENT FERNÁNDEZ-ARMESTO: So, we call  
 14 Mr. Travis Taylor.  
 15 Good morning, Mr. Taylor.  
 16 THE WITNESS: Good morning.  
 17 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Taylor, you are  
 18 here as an expert. You know that, as an expert, you have a  
 19 duty of objectivity, of underlining those aspects which are  
 20 favorable to the Party which has appointed you but also  
 21 those which are unfavorable. And that your basic duty is  
 22 to the Tribunal.  
 23 THE WITNESS: I understand.  
 24 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Taylor, I think  
 25 you have made a presentation.

1 And would you like to introduce the Expert, or  
 2 should I give him the floor for his presentation?  
 3 MR. HANESSIAN: It is fine with us if you give  
 4 him the floor.  
 5 THE WITNESS: Mr. President, would you like me to  
 6 read the Declaration?  
 7 PRESIDENT FERNÁNDEZ-ARMESTO: No. I don't know  
 8 why the Declaration is there because I think it comes from  
 9 other type of procedures. So, not really.  
 10 I think it is enough. I mean, we know each  
 11 other. I think it is enough that I record what your duties  
 12 are.  
 13 So, we have to give a number. That is important.  
 14 It is H-5.  
 15 So, Mr. Taylor, you have the floor.  
 16 THE WITNESS: Thank you, Mr. President.  
 17 Good morning to you and the Members of the  
 18 Tribunal. For the next 25 minutes or so, I'm going to talk  
 19 about, or provide to you, a summary of my analysis and  
 20 conclusions.  
 21 I'm going to talk a little bit about the  
 22 Investment Object as of January 2015. Then I'm going to  
 23 discuss the value associated with the loss of the New  
 24 Communal Facilities as of the same date.  
 25 And then I'll provide some details on pre-Award

1 interest and an updated calculation of pre-Award interest  
 2 through to 31 July 2019.  
 3 So, moving on to Section 1, the Summary of  
 4 Analysis and Conclusions, I'm on Slide 4 now.  
 5 So, the Experts agree on the damages framework.  
 6 Mr. Qureshi and myself have valued the alleged damages  
 7 under two alternative bases, lost profits--firstly, lost  
 8 profits of the Investment Object which Claimant was unable  
 9 to achieve due to termination of the Investment Contract  
 10 and, secondly, the loss of the New Communal Facilities.  
 11 These would have been provided to Respondent in  
 12 exchange for the land on which the Investment Object was to  
 13 be built.  
 14 So, at Slide 5, the Experts agree on the standard  
 15 of value and the valuation methodology. We agree that the  
 16 standard of value should be Fair Market Value, and Fair  
 17 Market Value contemplates a hypothetical and Willing Seller  
 18 and a hypothetical and Willing Buyer. We also agree on the  
 19 Valuation Date for the purposes of our Second Reports, and  
 20 that is, we've adopted 27th of January 2015.  
 21 In terms of the valuation methodology,  
 22 importantly, there's some common ground there as well. So,  
 23 we adopt--Mr. Qureshi and myself adopt a mixture of market  
 24 income and Cost Approaches.  
 25 So, for the New Communal Facilities, we both

1 adopt a Cost Approach, and for the Investment Object, we  
 2 split the Investment Object out because it's a mixed-use  
 3 development, and we value the components underlying the  
 4 mixed-use property and adopt a range of market and Income  
 5 Approaches. And we adopt the same approach under each  
 6 circumstance, which I think is very helpful.  
 7 Moving on to the summary tables on Slide 6. So,  
 8 this just summarizes the position of myself and Mr. Qureshi  
 9 with respect to the Investment Object and the Communal  
 10 Facilities. You can see with the Investment Object I have  
 11 a discounted loss of just under 17 million. Mr. Qureshi  
 12 has no loss being assessed to the Claimant.  
 13 The key differences there are difference of about  
 14 100 million in the Sales Value and about 100 million in the  
 15 construction costs.  
 16 PRESIDENT FERNÁNDEZ-ARMESTO: Sorry, can you  
 17 repeat this slowly?  
 18 THE WITNESS: Sure. Sorry.  
 19 So, in the Investment Object, you can see here  
 20 that the Sales Value--I'm coming up with a Sales Value of  
 21 about 100 million more than Mr. Qureshi for the Investment  
 22 Object.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 24 THE WITNESS: And on the Construction Costs,  
 25 Mr. Qureshi is coming out with a value broadly about

1 100 million higher than me. He also--we'll talk about it  
2 later, but he also assumes a land rental cost, which I was  
3 instructed not to include.

4 On the New Communal Facilities, my overall loss  
5 assessed is 20.4 million. This includes the library  
6 payment of 1 million. Mr. Qureshi's loss is 11.2 million,  
7 and he doesn't include the library payment--the library  
8 payment in that amount.

9 The key difference there, of course, is the Bus  
10 Depot. That's the biggest difference, the top line of the  
11 New Communal Facilities.

12 PRESIDENT FERNÁNDEZ-ARMESTO: Sorry for a  
13 question.

14 THE WITNESS: Sure.

15 PRESIDENT FERNÁNDEZ-ARMESTO: When you say  
16 "nominal loss," that is for Mr. Qureshi? I mean, you have  
17 a nominal profit.

18 THE WITNESS: Yes, that's correct. Yes. And  
19 that's before discounting. That's right.

20 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah, because--

21 THE WITNESS: Correct.

22 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. Yours is in  
23 positive. It's 155 million positive, and you discount  
24 that.

25 THE WITNESS: Correct. Mr. Qureshi's position,

1 for Construction Cost was the 2019 Colliers Report, which  
2 has contemporaneous Minsk construction data from 2012  
3 through 2018.

4 And you see on the table on the right there on  
5 Slide 8, that breaks down the various components of the  
6 Investment Object giving a Sales Value and Construction  
7 Cost and the loss. I will say, just on the Construction  
8 Costs, Mr. Qureshi's source, which I'll come on to, doesn't  
9 allow that level of granularity to be able to put these  
10 tables side by side, but I'll come on to that.

11 PRESIDENT FERNÁNDEZ-ARMESTO: What capitalization  
12 rate did you use?

13 THE WITNESS: I beg your pardon?

14 PRESIDENT FERNÁNDEZ-ARMESTO: Sorry. The  
15 capitalization rate. You see, because I see the retail and  
16 office areas--

17 THE WITNESS: Yes.

18 PRESIDENT FERNÁNDEZ-ARMESTO: --you used a  
19 completely different approach, and you used a  
20 capitalization rate.

21 THE WITNESS: Exactly right. So, what we did was  
22 we came up with a--in terms of the income was based on what  
23 rent you might achieve on a monthly basis, on a per square  
24 meter base, and I then we looked at, again, Colliers  
25 property reports for the region or for Belarus, in

1 because of the termination of the Contract, it actually  
2 saved the Claimant from incurring a loss of 61 million,  
3 yeah.

4 Section 2, Slide 8, this is an overview of the  
5 methodology that I adopted for the Valuation of the  
6 Investment Object.

7 As I said before, the Investment Object is a  
8 mixed-use property development. There was insufficient  
9 comparable properties to be able to do an analysis of--on  
10 that basis. So, as I said before, the approach that  
11 Mr. Qureshi and I adopted was to split the mixed-use  
12 property into the various components: Residential, hotel,  
13 parking, et cetera.

14 To calculate the Sales Value, I used a mix of  
15 income and Market Approaches, as did Mr. Qureshi. So, for  
16 the retail and the office components, I applied a Sales  
17 Value per square meter, using an estimated annual income  
18 and capitalization rate.

19 For the residential, the hotel and conference  
20 areas and also the parking areas, I used a Sales Value per  
21 square meter, or in the case of the hotel, a value per  
22 room. And then once we had the Sales Value, we subtract  
23 the Construction Costs as of the Valuation Date. And we  
24 adopt a construction period of 45 months from January 2015  
25 through September 2018. And the primary--my primary source

1 particular, and they had a yield of about 13.5 percent,  
2 which is quite--

3 PRESIDENT FERNÁNDEZ-ARMESTO: Yield is 13.5?

4 THE WITNESS: Yes.

5 PRESIDENT FERNÁNDEZ-ARMESTO: But that is in  
6 Belarusian rubles? Belarusian rubles.

7 THE WITNESS: Yes, I believe so. So, it's  
8 13.5 percent.

9 PRESIDENT FERNÁNDEZ-ARMESTO: Because you did  
10 your calculation in Belarusian rubles?

11 THE WITNESS: Yes. And converted to U.S.  
12 dollars. Yes.

13 PRESIDENT FERNÁNDEZ-ARMESTO: And is that proper?  
14 I mean, can you apply--because it's a huge yield. I mean,  
15 13.5 is--for real estate is a very, very high yield.

16 THE WITNESS: Yes. Sorry.

17 PRESIDENT FERNÁNDEZ-ARMESTO: I mean, what would  
18 be--a London retail and office area, what are you, 4,  
19 5 percent yields now?

20 THE WITNESS: I think that is probably fair as  
21 well. And I think what we also saw within Central Europe  
22 and Eastern Europe, the yields were more like 7 to  
23 10 percent. So, in my First Report, I assumed 10 percent.  
24 So, that gave a capitalization rate of--because it's the  
25 inverse; right.

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1 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 2 THE WITNESS: So, it's ten times. And  
 3 Mr. Qureshi was able to find Colliers Report which  
 4 suggested 13.5 or 14.5 percent. So, the capitalization  
 5 number comes down, so I think that gives a multiplier of  
 6 about 7 or 6 or something like that.  
 7 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 8 THE WITNESS: So, it's more conservative having a  
 9 higher yield.  
 10 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. The higher  
 11 the yield, the more conservative the value is.  
 12 THE WITNESS: The higher the yield, the more  
 13 conservative the value will be.  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: Of course. With  
 15 the very low yields you now have in London, you get a very,  
 16 very high property value.  
 17 THE WITNESS: That's correct, Mr. President.  
 18 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. So, it is  
 19 that by using 13.5, you are on the conservative side?  
 20 That's your point?  
 21 THE WITNESS: That is my point.  
 22 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you. Thank  
 23 you. Very helpful.  
 24 THE WITNESS: Just moving on to Slide 9, this  
 25 provides a summary of this Sales Value by each component of

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1 the Investment Object. You'll see the key areas of  
 2 difference are the retail, the hotel, and the residential  
 3 areas, which account for about 90 percent of the difference  
 4 in the valuations between myself and Mr. Qureshi.  
 5 Mr. Qureshi also assigns a value to retail parking in  
 6 his--I beg your pardon.  
 7 I assign a value to retail parking, and  
 8 Mr. Qureshi considers that retail parking is included  
 9 within his valuation of the Retail Area. And then you'll  
 10 see there's minor differences between the office area and  
 11 residential parking, where Mr. Qureshi does assign a value  
 12 to parking separately.  
 13 So, just coming onto the Retail Area, which is  
 14 one of the main areas of difference between myself and  
 15 Mr. Qureshi. Hopefully we agree on the methodology and the  
 16 majority of the assumptions with one exception. So, the  
 17 Retail Area is split between a shopping center and a  
 18 shopping mall, and we agree on the space and the  
 19 capitalization rates and the yield, which we just  
 20 discussed.  
 21 But what we don't disagree on is the rental rate  
 22 for the shopping mall. And this is largely driven by  
 23 assumptions around how big the individual shops within the  
 24 mall will be, because I think what Mr. Qureshi and I both  
 25 agree on is that the smaller the shop, the higher the rent

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1 will be on a per square meter basis. Mr. Qureshi  
 2 implicitly assumes that the shopping mall would be composed  
 3 of stores of greater than 100 square meters, and my view is  
 4 that there is evidence which suggests that the stores are  
 5 going to be typically much smaller than that, which result  
 6 in a higher rental per square meter.  
 7 Moving on to the residential area on Slide 11, we  
 8 agree--again, agree on the approach. It's just the sales  
 9 price per square meter that we disagree on. My source for  
 10 this is the 2019 Colliers Report which has contemporaneous  
 11 data prior to the Valuation Date, and I take the bottom of  
 12 that range. And this figure also falls within  
 13 Mr. Qureshi's preferred source, which is a Minsk Cadastre  
 14 Report from 2014. Mr. Qureshi suggested I'm confusing net  
 15 and gross amounts here, but we can come to that, if need  
 16 be. So, it's just a case of different sources for that  
 17 particular component.  
 18 The hotel and conference center on Slide 12, the  
 19 Experts agree on the methodology, which is applying a value  
 20 per room, but unfortunately we disagree on the number of  
 21 rooms and the value per room.  
 22 With respect to the number of rooms, there's a  
 23 number of documents in the record where there's different  
 24 information as to whether the rooms might be for 240, 250,  
 25 or 310. There's references to 500 persons and other

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1 things. But what I took was what I believe to be the  
 2 latest document, which is from October 2011, which gives  
 3 the net area calculation for the entire Investment Object.  
 4 And Mr. Qureshi has also taken that particular document for  
 5 all of his calculations for the area calculations for the  
 6 Investment Object. And that document refers to 310 rooms.  
 7 So, I took that.  
 8 For the average price per room, we rely upon the  
 9 same source document. It's just a matter of how you filter  
 10 the data. Mr. Qureshi includes a lot of hotels from  
 11 developed markets such as Germany and the U.K. He also  
 12 limits the data set by excluding hotels with less than 150  
 13 rooms and those with over 350 rooms. In my filtering  
 14 exercise, I take away the room requirements, so it could be  
 15 any room, but I focus very much on Central and Eastern  
 16 Europe, where possible, so I exclude developed market.  
 17 Just on the retail parking, as I said before,  
 18 Mr. Qureshi disagrees with separately valuing the retail  
 19 parking. I apply what I consider to be a fairly modest  
 20 amount. When you compare it to Mr. Qureshi's valuation of  
 21 the residential parking spaces, and in the context of the  
 22 Construction Cost of 45.2 million, what I'm saying is that  
 23 there will be a recovery of 14 million.  
 24 The retail parking relates to about 1,700  
 25 underground parking spaces, and these would have serviced

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1 the shopping centers and the shopping mall, but also the  
2 hotel and conference center and the office components of  
3 the Investment Object. And what we see in the record is  
4 that parking is very much sold separately with respect to  
5 office real estate, and also hotels in some circumstances.  
6 But as an overall comment, I would say that what we had  
7 here was underground parking in a prime real estate  
8 location in Minsk. And I think Mr. Qureshi also concedes  
9 that that could also be a source of revenue from parking  
10 fees. So, I think, when you compare it to the average  
11 retail metrics that we use to value the retail component, I  
12 think it warrants some value on that basis alone.

13 Just moving on to the Construction Cost for the  
14 Investment Object. So, the Experts disagree on the best  
15 source and inclusion of land fees, which I mentioned  
16 earlier. As I said before, I use a 2019 Colliers Report to  
17 assess the Investment Object component costs, and that has  
18 contemporaneous Minsk construction data, cost data from  
19 2012 through 2018. In respect to the hotel cost, it didn't  
20 have reliable data for that, so I've used another source  
21 for Construction Costs data for the hotel and conference  
22 center.

23 Mr. Qureshi uses an April 2011 document, which I  
24 call the "Schedule Graphic." I think he calls it the  
25 "Construction Schedule," and then he estimates 2015 to 2018

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1 costs by adjusting for actual and projected inflation and  
2 exchange rate changes.

3 As I said before, Mr. Qureshi includes one-time  
4 land fees or rental costs associated with the Investment  
5 Object, which I have excluded.

6 Slide 15 is just to show you that, whilst  
7 Mr. Qureshi inflates a value from 2011, or cost estimates  
8 from 2011, this coincided with a period of significant  
9 devaluation of the Belarusian ruble. So, for example, in  
10 2011, one U.S. dollar bought 4,000 rubles, and then by  
11 2014, it bought over 10,000. We also see inflation hitting  
12 high, 50 percent, in 2011 and 2012. So, it required some  
13 level of adjustment under Mr. Qureshi's methodology.

14 So, Slide 16. So, I view the 2011 Schedule  
15 Graphic as an inadequate source for Construction Costs.  
16 So, I relied also on this document for the purposes of my  
17 First Report, but then I was provided with a 2019 Colliers  
18 Report, which I considered to be a more reliable source.

19 As a result of the inflation and foreign exchange  
20 adjustments, these indexing, if you like, accounts for  
21 two-thirds of Mr. Qureshi's Construction Costs. And we  
22 both have criticized the reliability of this 2011 Schedule  
23 Graphic. I've said that it requires significant foreign  
24 exchange and inflationary adjustment. Importantly, we  
25 don't know what inflation assumption was built into the

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1 Schedule Graphic as well. And it doesn't--as I said  
2 before, it doesn't correlate to the individual components  
3 exactly of the Investment Object, the residential, the  
4 office, the hotel and conference, et cetera, et cetera. It  
5 lumps components in together, so it's very difficult to  
6 test the reasonableness of the conclusions.

7 Mr. Qureshi makes a number of criticisms of the  
8 document itself, and overall he said that he did not  
9 consider it to be a reasonable basis for the assessment of  
10 the Construction Costs. On the other hand, I think the  
11 2019 Colliers Report addresses many of the limitations of  
12 the 2011 Schedule Graphic. It provides contemporaneous  
13 data to the Valuation Date, so there's no need for an  
14 inflationary adjustment. The Construction Costs are in  
15 U.S. dollars, so no foreign exchange adjustment is  
16 required.

17 There is also, importantly, there is evidence to  
18 suggest that there were design changes after April 2011,  
19 which is the date of the document that Mr. Qureshi uses.  
20 So, Mr. Qureshi is unable to take account of design  
21 changes; whereas, because I use a later document for the  
22 area calculations, they are implicitly taken into account  
23 in my methodology.

24 And the other thing I will say is that, whilst  
25 Mr. Qureshi criticizes the use of the 2019 Colliers Report,

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1 we both use other Colliers Reports extensively throughout  
2 each of our analysis.

3 Slide 17 is just some brief comments--I'll make  
4 them brief--on the Discount Rate. I use a weighted average  
5 Cost of Capital of 13 percent. Mr. Qureshi uses a Cost of  
6 Equity of 15.68 percent. He uses a Cost of Equity on the  
7 basis that the Project was funded entirely by equity and  
8 not any debt funding. He also applied a small  
9 capitalization premium to take into account the smaller  
10 size of Manolium. I would just say that I think both of  
11 those contradict the idea that we are valuing this on a  
12 Fair Market Value standard being a hypothetical and Willing  
13 Buyer and Seller. I also, I think, these days the idea of  
14 a small capitalization premium has largely been debunked by  
15 Professor Damodaran and others. I'm just saying it no  
16 longer applies in many people's eyes, especially not  
17 outside--especially it doesn't apply outside the U.S.

18 So, that's all I'll say about that, with one  
19 proviso. So, what I did do is take Mr. Qureshi's Cost of  
20 Equity and then imputed a level of industry debt funding,  
21 and that came up with an implied weighted average Cost of  
22 Capital of 12.46, and that even includes the small  
23 capitalization premium, which I dispute. And that 12.46 is  
24 still below my Discount Rate of 13 percent, which I view as  
25 being a conservative estimate.

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1 PRESIDENT FERNÁNDEZ-ARMESTO: But do you work  
2 into your model any leverage, or are you assuming that it  
3 is all equity financed?  
4 THE WITNESS: In a Discounted Cash Flow model,  
5 there is no debt funding.  
6 PRESIDENT FERNÁNDEZ-ARMESTO: No debt funding?  
7 THE WITNESS: No.  
8 PRESIDENT FERNÁNDEZ-ARMESTO: You just discount  
9 by 30 percent--13 percent?  
10 THE WITNESS: Correct.  
11 ARBITRATOR ALEXANDROV: And you used the word  
12 "implied" as opposed to "actual," to make sure it is not  
13 actual.  
14 THE WITNESS: On the bottom line there,  
15 Dr. Alexandrov?  
16 ARBITRATOR ALEXANDROV: The bottom line of  
17 Slide 17.  
18 THE WITNESS: Yes.  
19 ARBITRATOR ALEXANDROV: When you say "imply," you  
20 want to make sure we don't think it is "actual."  
21 THE WITNESS: Yes. So, just to be clear on that,  
22 so I've taken Mr. Qureshi's Cost of Equity of 15.68 percent  
23 and I've decided, okay, if we assume a normal level of  
24 debt, so I took industry debt weighting and assumed a Cost  
25 of Debt, and then also what implied--what the average cost

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1 of capital would that be. So, I'm trying to compare what  
2 that would look like compared to my 13 percent, so  
3 Mr. Qureshi continued to use 15.68 percent.  
4 Just to summarize--  
5 PRESIDENT FERNÁNDEZ-ARMESTO: Sorry, let us get  
6 this.  
7 THE WITNESS: Sorry.  
8 PRESIDENT FERNÁNDEZ-ARMESTO: Adjusting  
9 Mr. Qureshi's Cost of Equity for debt financing indicates  
10 an implied WACC. Mr. Qureshi's Cost of Equity is 15.68?  
11 THE WITNESS: Correct.  
12 PRESIDENT FERNÁNDEZ-ARMESTO: And you say 12.46  
13 would result if we applied a debt--the average debt  
14 financing in the industry, then the cost--the WACC would go  
15 down from 15.68 to 12.46?  
16 THE WITNESS: That's correct.  
17 PRESIDENT FERNÁNDEZ-ARMESTO: Is that your  
18 argument?  
19 THE WITNESS: My argument is exactly right. So,  
20 if you turn to Mr. Qureshi's Cost of Equity into a weighted  
21 average cost of capital--  
22 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
23 THE WITNESS: --by taking--I think he lists some  
24 comparable companies. I've used those comparable companies  
25 and their debt structure and took that weighting and turned

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1 his cost of equity into a weighted average cost of capital  
2 to double check the accuracy of my weighted average cost of  
3 capital.  
4 PRESIDENT FERNÁNDEZ-ARMESTO: So, it is just--  
5 THE WITNESS: It's a-cross check.  
6 PRESIDENT FERNÁNDEZ-ARMESTO: It's a-cross check.  
7 THE WITNESS: Exactly.  
8 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. Because you  
9 are using 13 percent as Cost of Equity, not as cost of  
10 financing? You are not put--  
11 THE WITNESS: Yes, no, you're right.  
12 PRESIDENT FERNÁNDEZ-ARMESTO: In your Discount  
13 Rate, it is all equity-based?  
14 THE WITNESS: That's right, because we are not  
15 taking off debt funding in the Discounted Cash Flow Model.  
16 PRESIDENT FERNÁNDEZ-ARMESTO: Which is unusual.  
17 Because if there is one industry which has financing, it is  
18 real estate. I mean, my experience in real estate  
19 financing in eastern Europe is you always have leverage.  
20 THE WITNESS: And Mr. President--  
21 PRESIDENT FERNÁNDEZ-ARMESTO: No one does it--not  
22 even the wealthiest Russians do it all with equity. You  
23 always get some mortgage financing, and there are--so at  
24 least 50 percent debt financing is, I would say, is the  
25 rule of the market.

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1 THE WITNESS: And, Mr. President, that is--I  
2 agree with you. And that's precisely why I disagreed with  
3 starting--your starting position shouldn't be the Cost of  
4 Equity. It should be a market rate.  
5 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. So, in  
6 any case, your Discount Rate should be lower if you factor  
7 in financing? It gets your Discount Rate.  
8 THE WITNESS: It would do, but--it would do, yes.  
9 PRESIDENT FERNÁNDEZ-ARMESTO: It would do. And  
10 would increase the value of the Property?  
11 THE WITNESS: Exactly. Exactly.  
12 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. Thank  
13 you.  
14 THE WITNESS: Thank you.  
15 So, this is the last slide on the Investment  
16 Object, and it is just a summary, and I would just say  
17 that, in my Opinion, Mr. Qureshi's conclusion that the  
18 Investment Object would be worth less than cost is highly  
19 unlikely, given the location. And I would expect that an  
20 investor willing to spend at least 15 million on public  
21 buildings just to be allowed to develop the land would only  
22 do so with a reasonable expectation of a profit.  
23 And we saw on Monday that Respondent recently  
24 sold the right to develop the land at auction for just  
25 under 9 million. Therefore, the successful bidder in that

1 scenario, presumably considers the Fair Market Value to be  
2 higher than 8.87 million.

3 Now, I accept that what was proposed under  
4 that--the new development may differ from the Investment  
5 Object, but I still think the transaction is highly  
6 relevant for this exercise. And I think, arguably, because  
7 of the history of the site and why we're here today, there  
8 is an argument that that 8.87 million might be a depressed  
9 figure. So, the Fair Market Value may even be higher than  
10 that.

11 PRESIDENT FERNÁNDEZ-ARMESTO: So, summing up what  
12 you say is to build this Project, you need \$250 million of  
13 financing? In your model of equity?

14 THE WITNESS: Yes.

15 PRESIDENT FERNÁNDEZ-ARMESTO: And you would make  
16 400 million by selling it?

17 THE WITNESS: Correct.

18 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. Thank  
19 you.

20 ARBITRATOR ALEXANDROV: Can I ask, so, your Fair  
21 Market Value is 69?

22 THE WITNESS: That's right.

23 ARBITRATOR ALEXANDROV: How do you reconcile that  
24 with the 8.9?

25 THE WITNESS: It is a good question, and one of

1 the payment was made. On the Bus Depot, Mr. Qureshi  
2 adjusts costs for completion and an inflation based on 2005  
3 and 2006 cost estimates, and these cost estimates are made  
4 in 1991 prices. I apply the cost presented by the 2016  
5 Ministry of Finance audit Report, which is supported by two  
6 other audit Reports.

7 So, Mr. Qureshi's estimation methodology involves  
8 significant inflation adjustments. So, he starts with a  
9 figure for the--and we're talking about the Bus Depot here.  
10 I should be clear. So, he starts with a figure of 8.5,  
11 8.6 million rubles in 1991 prices. Then he applies an  
12 indexing factor of 2,865 times to come up with the  
13 equivalent 2010 price of 24.6 billion rubles.

14 So, consequently, inflation adjustments account  
15 for 99.7 percent of Mr. Qureshi's costs. He also makes  
16 adjustments for what he considers to be incomplete parts of  
17 the Bus Depot, I should add.

18 So, in my view, the 2016 Ministry of Finance  
19 audit Report is the most reliable source for determining  
20 the Depot costs. It was an audit performed by the  
21 Respondent's Finance Ministry. It reflects costs that were  
22 actually incurred. So, there is no estimation required.  
23 It reflects design revisions, so by Mr. Qureshi taking 1991  
24 prices based on 2005 estimates, any design change after  
25 that time cannot be taken into account as far as I know in

1 the answers--

2 PRESIDENT FERNÁNDEZ-ARMESTO: No. I think that  
3 the answer is not correct. The Fair Market Value is not  
4 69. It is the profit. Your Fair Market Value is 400?

5 THE WITNESS: No. The Fair Market Value after  
6 taking off costs is the 69 million.

7 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. Okay.

8 THE WITNESS: Yeah. So, Dr. Alexandrov, so,  
9 coming back to your question, so the--I would say one thing  
10 is that what I said before is that arguably because of the  
11 history of the particular land plot, you could argue that  
12 that 8.87 million is, perhaps, tainted, that in normal  
13 circumstances throughout the history of the land plot that  
14 that figure may be higher, and then, of course, there is  
15 differences in timing. So, our Valuation Date is 2015.  
16 There's new circumstances here as well.

17 ARBITRATOR ALEXANDROV: Thank you.

18 THE WITNESS: Okay. So, just moving on and we're  
19 through most of it, but we'll come on now to Section 3,  
20 which is the loss of the New Communal Facilities. This,  
21 again, is the summary of the position of myself and  
22 Mr. Qureshi. You can see here that the key areas of  
23 difference are the Bus Depot and the Library payment.

24 I view the Library payment as a factual matter  
25 for the Tribunal. I don't think there is any doubt that

1 his methodology.

2 The audit that I refer to involved multiple  
3 Government entities and conformed to audit regulations. It  
4 involved inspections of physical structures and underlying  
5 documentation, and it was largely corroborated by two other  
6 audit Reports, which I'll show you now on Slide 22.

7 So, there were three separate independent and  
8 contemporaneous audit Reports of the Claimant's expenditure  
9 on the Depot. Starting with the Paritet-Standart Report in  
10 2012. This didn't value the Bus Depot separately. It gave  
11 a total value for the New Communal Facilities. And it came  
12 out with a value of--it was 18.3 million, and then 300,000,  
13 I think, was an accrual which hadn't actually been paid but  
14 was--seemed to be of--been incurred versus the Ministry of  
15 Finance Report which gave an overall value for the New  
16 Communal Facilities of 19.4 million.

17 Just to be clear, these numbers exclude the  
18 1 million Library payment. And, again, the  
19 Paritet-Standart Report conformed with Belarus'  
20 requirements. It also noted that costs were incurred by  
21 the Claimant which were not included in the original cost  
22 estimate, so I don't think Mr. Qureshi's approach can  
23 capture those costs.

24 Then we come to the registration and Cadastre  
25 Agency Report dated 16th of June 2015. That came out with



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1 the Depot cost of 14.3 million, involved specialists  
2 specifically trained in the field of construction  
3 technology examinations, and, again, it was complied with  
4 all of the local audit requirements.

5 And then, finally, the Ministry of Finance audit  
6 Report dated 22nd of February 2016, concluded upon Depot  
7 costs of 15.7 million. Again, it conformed with all local  
8 audit requirements, involved inspections and measurements,  
9 and it concluded also that there was no over- or  
10 understating of the volume of works found.

11 So, that's--are there any questions on New  
12 Communal Facilities? Otherwise, I'll move on to the last  
13 couple of slides, which is pre-Award interest, Section 4.

14 So, this is now Slide 24. Just to be clear, on  
15 my approach to pre-Award interest for the Investment  
16 Object, I calculated pre-Award interest from the assumed  
17 Valuation Date of 27th of January 2015. And then for the  
18 New Communal Facilities, I adopted four different  
19 Approaches. One from that Valuation Date, and then the  
20 second approach was to--sorry.

21 PRESIDENT FERNÁNDEZ-ARMESTO: Can you go a little  
22 bit slower?

23 THE WITNESS: Sorry.

24 PRESIDENT FERNÁNDEZ-ARMESTO: Because I don't  
25 want what the Court Reporter is thinking about you, but

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1 she's trying to catch everything you say, and I myself have  
2 a difficulty.

3 THE WITNESS: Sure.

4 PRESIDENT FERNÁNDEZ-ARMESTO: You seem Spaniard  
5 by the speed of your delivery. And if you can go a little  
6 bit slower it gives us more time to digest the information.

7 THE WITNESS: Sure. I understand.

8 So, my approach to the pre-Award interest, for  
9 the Investment Object from the assumed Valuation Date of  
10 27th of January 2015. Now, this table on the left is the  
11 New Communal Facilities. So, I got four different  
12 approaches for pre-Award interest, four different  
13 alternatives.

14 One is from the Valuation Date, the same as the  
15 Investment Object. The second approach was I calculated  
16 pre-Award interest from the date that the facilities were  
17 transferred to Respondent according to the Claimant's case.  
18 The third approach was to calculate pre-Award interest from  
19 an assumed expropriation date of 27th of January 2017. And  
20 the final approach was to calculate pre-Award interest from  
21 the dates that the expenses were incurred for each of the  
22 New Communal Facilities.

23 The chart on the right compares my preferred rate  
24 of pre-Award interest to that of Mr. Qureshi, which I'll  
25 come on to now. And I'm now on Slide 25. The issue that

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1 the Experts have here is that the basis stipulated by the  
2 EEU Treaty for pre-Award interest does not exist, so, the  
3 Experts have to determine an alternative base.

4 The Treaty says that the rate should be a Belarus  
5 interbank rate in U.S. dollars, up to six months and  
6 above--must be above LIBOR. What I use was a six-month USD  
7 LIBOR and then I applied a premium of 6.5 percent, and that  
8 6.5 percent is the Belarus country default spread as  
9 calculated by Professor Damodaran. Mr. Qureshi used a  
10 Belarus interbank blended rate of greater than 60 days,  
11 which is a mix of USD and euros.

12 In my view, Mr. Qureshi's preferred rate doesn't  
13 meet the Treaty requirements because it involves a blend of  
14 euro currency and, because of the different inflation  
15 expectations and history between the euro and the USD, I  
16 believe that the euro depresses the rate. And what we've  
17 seen recently is that the--Mr. Qureshi's preferred rate has  
18 now dipped below the US LIBOR rate. And, again, that is in  
19 contravention with the stipulations of the Treaty because  
20 it must be above LIBOR.

21 My preferred rate, Mr. Qureshi says that the  
22 spread calculation used by Professor Damodaran uses 10-year  
23 bonds, and is inconsistent with the six-month terms. He  
24 doesn't provide any evidence that spreads differ depending  
25 on the Bond maturity. There may be some difference, but

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1 what I would say is that, by using 6.5 percent, I think it  
2 is conservative, because what I set out in my Second Report  
3 is that Professor Damodaran notes that the spread increases  
4 to, you know, 8.5 percent over the--since 2014 for a number  
5 of years. So, I think my approach remains the best.

6 And, finally, on Slide 26, I provide an update of  
7 pre-Award interest through to 31st of July for the  
8 Investment Object and for the New Communal Facilities under  
9 the four different Approaches I just described earlier.

10 Thank you very much.

11 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you. Thank  
12 you, Mr. Taylor.

13 Is there any follow-up question from Claimant?

14 MR. HANESSIAN: No, Mr. President.

15 PRESIDENT FERNÁNDEZ-ARMESTO: Very good.

16 Are you ready? Or--

17 MR. HANESSIAN: Well, I had thought--and we  
18 discussed this at the end of the day, that both Experts--I  
19 know this is a little unusual, but I thought the Agreement  
20 was both Experts would make presentations. Was that--I  
21 know that and you are looking at me like it is unusual, but  
22 I--is that--

23 PRESIDENT FERNÁNDEZ-ARMESTO: That both Experts.  
24 Yeah, I'm open to any innovation. What is your proposal?

25 MR. KHVALEI: The proposal is that Mr. Qureshi

1 will now make presentation, and after that the Respondent  
 2 will start with cross-examination of Mr. Taylor, and after  
 3 that, we will do cross-examination of Mr. Qureshi, because  
 4 we thought the Tribunal will benefit from hearing of  
 5 Mr. Qureshi's position from himself, and it is relevant to  
 6 the question put to Mr. Taylor on cross-examination.

7 PRESIDENT FERNÁNDEZ-ARMESTO: Mrs. Zagonek, how  
 8 do you feel about this proposal?

9 MS. ZAGONEK: It wasn't our intention to do it  
 10 that way. We thought it would be--and I don't believe it  
 11 states so precisely in the Procedural Order Number 2. It  
 12 was our intention that there would be a presentation by  
 13 Mr. Taylor and then he would be cross-examined, and then  
 14 the Respondent's Expert would make a presentation and then  
 15 be cross-examined. But if the Tribunal will find it more  
 16 helpful to do it the way proposed by the Claimant, then we  
 17 are happy to oblige. Otherwise, we would propose to  
 18 proceed with the cross-examination of Mr. Taylor.

19 PRESIDENT FERNÁNDEZ-ARMESTO: To be very frank,  
 20 this is an innovation. I have never done it this way. I  
 21 don't think the Procedural Order Number 2 was intended to  
 22 do that, but it may be a good. It may be to try--I don't  
 23 know. Let us--it could be good so, we have the two  
 24 positions first and we have them fresh, and then you start.  
 25 Mr. Taylor then comes back to the stand and you start with

1 him and then you follow up and if there are any wrap-up  
 2 questions from both Parties. So, it's an innovation.

3 I am in your hands. It was certainly not the  
 4 Tribunal's intention to do this, but maybe, since they are  
 5 very similar presentations, and the Experts do agree on a  
 6 number of issues, maybe it is helpful? Shall we try it?

7 MS. ZAGONEK: We don't mind. We weren't  
 8 expecting it, but if the Tribunal would like to be an  
 9 innovator this morning, we are happy to join in the  
 10 innovation.

11 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. Very good.  
 12 So, five minutes' break so Mr. Qureshi can take the stand,  
 13 and we see how this works. And we will have then "The  
 14 Hague system" of Expert examination.

15 MS. ZAGONEK: Almost like hot-tubbing, but not  
 16 quite.

17 PRESIDENT FERNÁNDEZ-ARMESTO: Not quite.  
 18 (Brief recess.)

19 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. We  
 20 resume the Hearing, and we do so in order to examine  
 21 Mr. Qureshi, the Expert Witness for Respondent.

22 ABDUL SIRSHAR QURESHI, RESPONDENT'S WITNESS, CALLED

23 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Qureshi, good  
 24 morning to you. Thank you, and thank you for your  
 25 readiness to try this alternative system of examination.

1 Mr. Qureshi, I have the same advice to give to  
 2 you as I did to Mr. Taylor.

3 You are here as an expert. As an expert, you  
 4 have a duty towards the Tribunal, a duty of objectivity of  
 5 underlining those aspects which are favorable but also  
 6 those which are not favorable to the Party which appointed  
 7 you.

8 Are you aware of your duties?

9 THE WITNESS: I am aware, yes.

10 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Qureshi, you  
 11 have presented a presentation, and we will give it a  
 12 number, which is H-6. And except if Mrs. Zagonek has any  
 13 other questions, I would give the floor to the Expert.

14 MS. ZAGONEK: I don't have any questions. Thank  
 15 you.

16 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Qureshi, you  
 17 have the floor, and please make your presentation.

18 DIRECT PRESENTATION

19 THE WITNESS: Good morning to the Distinguished  
 20 Tribunal, Respondent's counsel, Claimant's counsel. Good  
 21 morning, everyone.

22 Yes, very innovative and very happy to oblige  
 23 both Parties and the Tribunal on coming on a bit earlier.

24 I prepared a presentation. I will aim to do it  
 25 within, say, around 20, 25 minutes. So, I'll try and be

1 efficient. I think a lot of the things Mr. Taylor has  
 2 already set out.

3 There's some things I agree on and some things I  
 4 disagree on. I will focus primarily on the things that we  
 5 disagree, which I think are important to the Tribunal, to  
 6 be helpful to you.

7 So, there are two heads of claim that I have  
 8 focused on in my presentation. The first one is in  
 9 relation to the lost profits of the Investment Object, and  
 10 then we have the loss of the New Communal Facilities.

11 In the presentation, I will go through the  
 12 details of each component of our assessments, and focusing,  
 13 as I said, primarily on where I disagree with Mr. Taylor.

14 I would, maybe, as a starting point, comment  
 15 that, in relation to the Investment Object itself, I  
 16 believe that Mr. Taylor's assessment is overstated, but my  
 17 primary position here is the fact that I believe that the  
 18 calculation in itself and the whole idea is speculative.

19 Why do I say that? I say that for a number of  
 20 factors.

21 Number one, the actual construction of the  
 22 Investment Object had not commenced. Number two, the  
 23 Claimant himself, as much as runs a number of businesses,  
 24 is not used to running such construction projects. And I  
 25 would even go further to say this was a complex

1 construction project. It wasn't straightforward.

2 Number 3, time was clearly not on the side of the  
3 investor here. In the years of Valuation Date between 2014  
4 and 2015, there was a depression in the market. There was  
5 a crisis in the market. It's clearly seen that prices were  
6 falling.

7 So, over the time, whereas I heard Mr. Taylor say  
8 "Why would anyone enter into such an investment?" maybe at  
9 one point in time it made sense, but at the time of the  
10 Valuation Date, it did not.

11 So, for me, the fact that the market was  
12 depressed, the fact that Construction Costs were increasing  
13 is very relevant as to why this Project didn't get off the  
14 ground.

15 And maybe the observation I have here,  
16 considering what Mr. Taylor is saying, reading his Reports,  
17 listening to the Opening Presentations we had the pleasure  
18 to listen to on Monday, from both sides, I come to the view  
19 that we--and you'll hear this in more detail a bit later in  
20 my presentation--but why is it that I'm relying on a  
21 document which I've already said on record, okay, it may  
22 not be what I would expect, but it's the best there is.

23 Mr. Taylor has a different view and relies on a  
24 different source. But if this was a project that was  
25 genuinely going to get off the ground, there's certain

1 Valuation Dates used by Mr. Taylor. And, as you're aware,  
2 there was a change between Mr. Taylor's First Report and  
3 Second Report, in terms of that Valuation Date.

4 My overriding principle in any loss-of-profits  
5 calculation is to place the Claimant back in the position  
6 it would have been in but for the breach, or alleged  
7 breach. So, I will--in the same way that Mr. Taylor has  
8 done, I will maybe focus on the same components that he has  
9 calculated, and I will, at the same time, focus on what I  
10 believe are our differences.

11 I try to here--and apologies. It may look a bit  
12 complex here in terms of the table, but let me just run you  
13 through what we have in front of you.

14 This is a list of the revenues and the cost  
15 projections between Mr. Taylor, in his First Report at the  
16 original Valuation Date and his Second Report, with a new  
17 Valuation Date. You'll know that's the furthest to the  
18 left. It is setting out that the total selling price, if  
19 we look at the total, was \$556 million. And this reduced  
20 to \$339 million by the time of the Second Report.

21 Now, the reason for this decrease was primarily  
22 due to the fact that Mr. Taylor accepted my comments and  
23 accepted my sources from my First Report, mainly in  
24 relation to retail and hotel areas.

25 In relation to the Cost Projection, there was a

1 things I would have expected.

2 I would have expected a detailed business plan.  
3 I would have expected a detailed assessment about revenue.  
4 I would have expected a more detailed assessment about  
5 Construction Costs, which I haven't seen these documents,  
6 which is why my primary position is I believe this  
7 Investment Object loss is speculative.

8 In relation to the loss of the New Communal  
9 Facilities, the Tribunal will be happy to know that we both  
10 agree there is a value. So, that's the good news. As is  
11 usual in these case, there's a disagreement as to what that  
12 value is.

13 Again, I think there's a confusion here that  
14 costs incurred equals value. That may not necessarily be  
15 the case, and in this situation, I believe it's not.

16 So, our approaches that we've set out here,  
17 between myself and Mr. Taylor, is very much focused upon  
18 Mr. Taylor saying, okay, these costs purportedly were  
19 incurred, and has taken it from certain authority audits.  
20 However, no valuation was done. Mine, I feel my approach  
21 is closer to assessing what the value would have been.

22 Saying that, let me just move on then.

23 So, instructions: Basically I was instructed to  
24 comment on Mr. Taylor's Report and to make my own  
25 assessment based on the documents available, but at both

1 reduction from 265 million to 243 million. So, in the end,  
2 the actual lost profits Mr. Taylor has calculated between  
3 his two Reports has reduced from 146 million to 69 million.

4 My numbers stay fairly consistent in terms of the  
5 fact, the bottom line, but that is only consistent on the  
6 components above, in terms of the sales area, which I have  
7 basically changed from 330 million in my First Report, to  
8 316 million, to 299 million.

9 So, more or less, these are equivalent and  
10 similar and primarily changing, due to the Valuation Date  
11 and maybe some small changes. The Construction Costs,  
12 again, mainly because of the change in the Valuation Date.  
13 So, for me, between my Reports, I've been consistent.

14 So, as I've already said, because of the lack of  
15 detailed Business Plan and costing the Investment Object,  
16 the fact that the company was not specialized in developing  
17 such a complex project and because of the drop in the  
18 market around the time of the Valuation Date, I believe  
19 this Investment Object was speculative in nature. In any  
20 case, I still will go on to look at what Mr. Taylor did  
21 assess.

22 Mr. Taylor relies upon the 2019 Colliers Report,  
23 which understates--from my perspective, understates the  
24 Construction Costs, Investment Object, and renders  
25 Mr. Taylor's Sales Value for the residential area and

1 parking lots unsupported.  
 2 Mr. Taylor's selection of comparable companies  
 3 used as a basis for the Sales Value per room in the hotel  
 4 area is unsupported, and I will explain further on this  
 5 point. And I have quite a big concern that the valuing of  
 6 the Retail Area parking areas--or retailor parking areas,  
 7 is double-counting and, in fact, is already covered under  
 8 the retail sales value calculation.  
 9 So, how do we compare in terms of what we've  
 10 done? I believe that the Construction Schedule provides  
 11 the best available data as it was. It is not what I would  
 12 expect, but it is the best we have if I'm asked to actually  
 13 make a calculation.  
 14 Why do I believe it's the best that we have? It  
 15 was prepared and signed by the Claimant. It's prepared  
 16 before the construction and, thus, I believe, the most  
 17 contemporaneous, and was prepared specifically for the  
 18 Investment Object, i.e., this complex project; whereas,  
 19 Mr. Taylor's assessment uses--which I believe is--the 2009  
 20 Colliers Report is unreliable.  
 21 Why do I believe it's unreliable? It is not  
 22 stated what--the source of methodology is basically  
 23 unknown. This is not a usual report that Colliers  
 24 prepares. This was a report prepared specifically for  
 25 these Proceedings.

1 Now, when I see that, I get more guarded, so I'm  
 2 not clear how Mr. Taylor was able to satisfy himself that  
 3 this source of information is reliable.  
 4 There is no explanation on the type of costs  
 5 included within these Construction Costs. The Projects  
 6 listed appear not comparable. This is basically a document  
 7 with two pages of writing and tables and a lot of pictures.  
 8 And the pictures don't seem to be aligned with  
 9 the actual tables themselves. And the ranges provided for  
 10 the Construction Costs and the retail prices appear--or  
 11 sales prices appear too wide.  
 12 As I said, I'm not clear how Mr. Taylor has  
 13 satisfied himself, apart from just taking at face value  
 14 this Report. And I believe that the market situation 2014  
 15 is not clear how to satisfy himself that the Report in 2019  
 16 is contemporaneous for what happened in 2014 and 2015.  
 17 Now, I make the point around the types of costs  
 18 because, in construction, there's different types of costs  
 19 that are included, and it's the norms in certain countries.  
 20 And it is not really clear, in terms of such work such as  
 21 external works, landscaping, professional fees, developers'  
 22 internal costs, financing--et cetera, et cetera--listed are  
 23 included in these costs or not.  
 24 Specifically, the Construction Costs of the  
 25 residential real estate, the premium market, and mass

1 market have different year-on-year dynamics. If you look  
 2 at these tables, if you look at this Colliers Report--and  
 3 I'll probably urge the Tribunal to look at it in its own  
 4 time--you'll see there's a strange deviation in terms of  
 5 how these costs are calculated.  
 6 You would expect costs of sand, concrete, metal,  
 7 to be really growing the same way, but there's a different  
 8 dynamic, which gives me more concern about this Colliers  
 9 Report.  
 10 Construction Costs for the residential area,  
 11 according to Mr. Taylor's basis of the 2019 Colliers Report  
 12 have decreased 77 percent, and the Construction Costs have  
 13 increased twice, compared to his First Report. There is no  
 14 real explanation about how Mr. Taylor was able to jump from  
 15 one number to another number between his two Reports, and,  
 16 as I said, the Colliers Report very much lacks the  
 17 characteristics of what was its basis.  
 18 And as you'll see, the graph at the bottom sets  
 19 out Mr. Taylor's Construction Costs calculation for the  
 20 various components. And as you'll see, it goes up and down  
 21 between the two Reports and no real explanation.  
 22 I would also focus on the fact that the parking  
 23 area of 53 million, furthest to the right in the table, was  
 24 something that was newly introduced in the Second Report as  
 25 a component is--the costs are higher than the revenues that

1 would be generated, which I also have concerns about.  
 2 It just tells me about the unreliability of this  
 3 Report.  
 4 PRESIDENT FERNÁNDEZ-ARRESTO: Your point is that  
 5 this Colliers Report was prepared specifically for this  
 6 Arbitration? Is that your--  
 7 THE WITNESS: That is my understanding, yes.  
 8 PRESIDENT FERNÁNDEZ-ARRESTO: That is your  
 9 understanding.  
 10 THE WITNESS: Okay. So, in terms of the specific  
 11 components, you'll see in this table, which is very similar  
 12 to Mr. Taylor's table, in terms of--there's lots of ticks  
 13 in terms of my assessments and Mr. Taylor's assessment  
 14 where we disagree in relation to the components.  
 15 Mr. Taylor has already set out in terms of the number of  
 16 rooms, which I have provided some analysis in my Report  
 17 about why I believe it should be 250 rooms. Mr. Taylor has  
 18 stated his source for 310 rooms. In terms of the  
 19 comparable used in order to arrive at the revenue--or the  
 20 price per room calculation, I use the third quartile using  
 21 40 transactions, and I filter it appropriately to this  
 22 situation.  
 23 Mr. Taylor, on the other hand, uses two  
 24 comparables: He uses Intercontinental in Prague, and he  
 25 uses the Hotel Bristol in Poland. Now, I would say that

1 these numbers are too high, anyway, in order to compare  
 2 ourselves with a prime hotel in Minsk. But the secondary  
 3 point is--well, as well as using only two transactions as a  
 4 comparable. I also say that I'm not clear how we get from  
 5 \$309,000 per room, and \$291,000 per room, which is shaded  
 6 here, to Mr. Taylor's number of \$250,000 per room. So,  
 7 this is not clear to me how we actually make that leap of  
 8 faith. My number, by the way, is closer to \$200,000 per  
 9 room. No need to stay on this slide. As you see, there is  
 10 nice ticks everywhere, so I think we're in agreement on  
 11 this one, on office area.

12 In relation to Retail Area, maybe the Tribunal  
 13 would like to focus on the key difference we have here, and  
 14 that is in relation to we agree on the monthly rent for the  
 15 shopping center of EUR 35, or I accept, certainly, what  
 16 Mr. Taylor has put forward, but we disagree on the monthly  
 17 rent for the shopping mall, where in my assessment I said  
 18 it should be EUR 45 square meter, and Mr. Taylor has said  
 19 EUR 70. And you'll see at the bottom I have just set out  
 20 helpfully a list of where our sources come from and how  
 21 it's changed over time.

22 Mr. Taylor does not really explain why he does  
 23 not use the EUR 45 per square meter as the most  
 24 contemporaneous data. You'll notice, though, he does use  
 25 the Colliers 2014 Q1 Report for his source for the shopping

1 center, but then ignores it for the shopping mall.

2 You'll see there a large actually reduction in  
 3 Mr. Taylor's retail revenue from 387 million to  
 4 224 million, and this is primarily due to accepting my view  
 5 that we should treat the shopping mall and the shopping  
 6 center separately. So, that seemed to be accepted at that  
 7 point.

8 Residential area, we have a difference in terms  
 9 of the average price per net area. Mr. Taylor's price per  
 10 square meter for the residential area I believe is  
 11 unsupported and overstated. I use the Minsk Cadastre data,  
 12 and Mr. Taylor yet, again, uses 2019 Colliers Report, which  
 13 I think you'll understand why it's important that the  
 14 Tribunal does look at this document.

15 Mr. Taylor's assumption that the price per square  
 16 meter of prestige residential area in the Minsk is in line  
 17 with the values in the Colliers Report. I believe this is  
 18 incorrect. I also notice in Mr. Taylor's presentation he  
 19 makes the assumption that I provide such a wide range.  
 20 This is also not quite characterizing what I've done  
 21 because, very much, I have taken the averages from those  
 22 reports.

23 In relation to the parking area, for the  
 24 residential parking lots, you will notice, and I highlight,  
 25 that I have come up with a higher number than Mr. Taylor.

1 So, that's certainly good news for the Claimants. But I  
 2 fundamentally believe that, in relation to the pricing for  
 3 the Retail Area, this should have already been covered.  
 4 So, I have a concern that there may be some double-counting  
 5 on behalf of Mr. Taylor. Again, Mr. Taylor uses the  
 6 Colliers 2019 Report as his source. Just have a time  
 7 check. Okay.

8 So, loss of the New Communal Facilities.

9 ARBITRATOR ALEXANDROV: Before you engage in that  
 10 topic, can I ask you a question on the Investment Object  
 11 valuation? It's pretty much the same question I asked  
 12 Mr. Taylor. There was a recent transaction of 8.9 million,  
 13 and I would have thought--I mean, this is a lawyer's  
 14 approach, not a valuator's approach, but one could take  
 15 that number, adjust it if there's a difference in terms of  
 16 what exactly is being projected to be built, adjust it for  
 17 time, and--in other words, use a recent transaction with  
 18 respect to pretty much the same asset as a benchmark, or at  
 19 least as a basis for a sensitivity analysis.

20 And what is incorrect with that logic? Why is it  
 21 that it hasn't been done by you or Mr. Taylor?

22 THE WITNESS: Yeah, I think you make the point of  
 23 the same asset. And I would agree with you if we were  
 24 looking at the same type of project, but these two projects  
 25 are not comparable. So, we can't really say--land is about

1 how you use it and what will be built on it, what will be  
 2 the revenue projections. So, for me, we're not comparing  
 3 apples with apples, so, therefore, we need to be very  
 4 cautious around comparing and taking this number as a  
 5 starter. Plus, this is not--Mr. Taylor is making the point  
 6 of Fair Market Value, but here we're taking a transaction  
 7 in relation to a certain investor who is taking upon these  
 8 terms. And we don't know--I'm certainly not aware of the  
 9 details. But your point in principle is right, it's just a  
 10 matter of comparability.

11 ARBITRATOR ALEXANDROV: On your point about--you  
 12 made that point earlier about the lack of experience of  
 13 Manolium. To what extent is that relevant? Because when  
 14 you look at the Fair Market Value, it is a Willing Seller,  
 15 Willing Buyer. So, presumably, the Fair Market Value as of  
 16 a date certain would be influenced, not necessarily by the  
 17 experience of Manolium, but by the experience of the Buyer.  
 18 So, if an experienced Buyer would show up and would pay  
 19 8.9 million for the asset that was in the possession of  
 20 Manolium, they would pay based on their experience, not on  
 21 the base of the lack of experience of Manolium.

22 THE WITNESS: Yeah, I think that's a good  
 23 question. I did make the point that, in all loss profit  
 24 calculations I've conducted, you look to place the Claimant  
 25 back in position they would have been in but for the

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1 breach. We take Fair Market Value in terms of certain  
2 standards, but, for me, that is overriding from my  
3 perspective. So, if we are to place the Claimant back in  
4 the position they would have been in but for the breach,  
5 then I think it is important to assess the specifics of  
6 this case, including--maybe I'll highlight now--it is not  
7 in my presentation, but certainly Mr. Taylor's point around  
8 discount rates and whether to use cost of equity or not for  
9 exactly that reason.

10 ARBITRATOR STERN: Maybe just a precision in your  
11 answer to my colleague. You said that if it were the same  
12 asset, it would be appropriate to take this into account,  
13 but don't we have here a problem of ex post information?

14 THE WITNESS: You're talking like a Valuation  
15 Expert, very much so. And so, yes, you're quite right,  
16 from a perspective of keeping to the principles of  
17 using--not using hindsight, you are quite correct. So,  
18 it's just a matter of how this may help the Tribunal or  
19 not--

20 ARBITRATOR STERN: Okay. Thank you.

21 THE WITNESS: --in your deliberations. So, loss  
22 of New Communal Facilities. I think we'll just focus on  
23 the Depot, if that's okay. I think that seems to be where  
24 we do differ. And I have set out there the difference  
25 between myself and Mr. Taylor.

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1 Mr. Taylor uses this Ministry of Finance  
2 memorandum and assesses the loss as 20.4 million before  
3 interest. Mr. Taylor's assessment of the loss of the New  
4 Communal Facilities is unsupported. In my view, for the  
5 purpose that we are here today, the Ministry of Finance  
6 memorandum is not a reliable source because, the review of  
7 the Minister of Finance was performed on a sample basis  
8 only, and the sampling was pretty minimal. The  
9 measurements performed do not confirm the extent of the  
10 work actually done. The method and extent of the  
11 compliance analysis to the as-built documentation is not  
12 really clear. It includes \$1.3 million, which it describes  
13 as management construction fee, which is not really clear  
14 what is that. And the Minister of Finance uses the  
15 Cadastre Agency Report, which I've shown in my Report that  
16 there are some duplications in there.

17 So, from my view, I do not believe Mr. Taylor has  
18 independently--performed any independent analysis on that  
19 Minister of Finance memorandum and analyzed the supporting  
20 documentation.

21 He also does not explain this \$1.3 million  
22 difference in relation to the management construction fee.

23 I'm not sure how much you're going to see this  
24 because the writing is a bit small, so apologies for that.  
25 I'll do my best to explain the timeline here. And I think

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1 that was the purpose here, and maybe the Tribunal is  
2 already familiar with the documents themselves. So, I  
3 start with the cost estimate, which I use, which is back in  
4 2005-2006. Then we have the Construction Schedule from  
5 2011, and then we have three important reports. I see  
6 Mr. Taylor has added a Fourth Report here. Sorry, I have  
7 five reports listed here. Mr. Taylor has an extra one that  
8 he refers to, the Cadastre Agency Report, the sense of a  
9 Pricing Report and Ministry of Finance memorandum.

10 I made the point when I started my presentation  
11 that I believe that costs don't necessarily equal value.  
12 None of these three reports was a valuation exercise in  
13 relation to the New Communal Facility. An audit is an  
14 audit, and it sets out--it does not have to say very clear  
15 in terms of what the scope was, what they really did, and  
16 how they compared their numbers to the as-built or what  
17 should have been built. So, for me, I don't see these  
18 three reports as being relevant for the purpose of  
19 understanding the value of the New Communal Facility.

20 The Belcommunproject Report, which is a later  
21 report from 2018, sets out what was different. And I use  
22 that as a basis primarily to show--to understand--and I  
23 very much wanted to know what is easily understandable that  
24 was not done as part of my assessment and calculation. Is  
25 my method the perfect way of doing it? No, it is not, but,

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1 based on the documents we have and based on my instruction  
2 to assess what the New Communal Facilities was valued at,  
3 this was the best I had (18).

4 So, what would have been a very good set of  
5 documents to understand is why there's a difference between  
6 my assessment and Mr. Taylor's assessment. So, what I am  
7 saying is a value or best close way of calculating the  
8 value, and Mr. Taylor is looking at costs incurred, which  
9 he states. Now, in theory, they should--or they could be  
10 the same, but I think it involves a little analysis to  
11 understand. And what is missing here is an analysis of why  
12 we have a difference, why the primary documents in relation  
13 to the building of the New Communal Facilities have not  
14 been provided.

15 I think they would shed a lot of light in terms  
16 of understanding why myself and Mr. Taylor have different  
17 numbers on the table. So, in terms of my assessment, I  
18 have calculated the Depot and Road using the primary design  
19 documents, the cost estimates, and then, as I said,  
20 excluded the Belcommunproject. For the Pull Station, I was  
21 instructed by counsel to accept the Act of Acceptance.

22 Some members of my team did visit the site, and  
23 there are some pictures. I will tell you that I did not  
24 visit, but certainly there are some pictures on file in  
25 relation to the pictures of the site, just to understand in

1 a simple way to a humble accountant in terms of what may be  
 2 missing. And the cost estimates that I used for my basis  
 3 were also relied upon by the Minister of Finance. And I  
 4 make the point, Mr. Taylor says--admits that my approach  
 5 may not have been unreasonable if the construction of the  
 6 New Communal Facilities had not been performed or if there  
 7 had been no reliable record of costs incurred by the  
 8 Claimant. So, it's some acknowledgment that the approach I  
 9 took did make sense.

10 So, in conclusion, lost profits of the Investment  
 11 Object. Considering that the construction of the  
 12 Investment Object had not started, my assessment would, in  
 13 principle, this would be a lost profits speculative in  
 14 nature. Mr. Taylor's assessment of lost profits is  
 15 partially unsupported and overall overstated.

16 PRESIDENT FERNÁNDEZ-ARMESTO: I am looking at  
 17 your photographs here in SQ-93, and what it looks like  
 18 in a time warp. It looks finished to say I think that--I  
 19 heard a number of 85 percent. It looks 85 percent  
 20 finished, and then, like in a time warp, since the photos  
 21 are 2018. So, it had been in this time warp situation for  
 22 how many years? Since 2012, 2013, when construction  
 23 stopped. It had been like in a time warp for seven years.  
 24 Would that be a fair summary of the situation which you can  
 25 derive from the photograph?

1 THE WITNESS: No. I think Mr. Chairman is quite  
 2 correct. I mean, unfortunately I didn't have access to a  
 3 time machine, so I had to do best I can based on once I was  
 4 instructed, but the point you are making is fair in terms  
 5 of, well, what would have happened in between the two  
 6 dates. I take that point.

7 PRESIDENT FERNÁNDEZ-ARMESTO: It was never--no  
 8 one ever in these six, seven years actually finished and  
 9 commissioned the building?

10 THE WITNESS: But I think that was the purpose of  
 11 the Belcommunproject, which they were trying to assess what  
 12 was the cost, what still needed to be done, and I do recall  
 13 that our visit wasn't together, but it was--I think we were  
 14 there maybe around the same time.

15 PRESIDENT FERNÁNDEZ-ARMESTO: And the last  
 16 photographs, I can take you to--or maybe the last  
 17 photograph is that is the Pull Station. I'm asking you  
 18 SQ-93, the last photograph, which is--how can--can we have  
 19 that, can someone project that on the screen? Is that  
 20 technically possible? SQ-93, last page.

21 Well done. Last photograph.

22 ARBITRATOR ALEXANDROV: It's the blue roof  
 23 paragraph.

24 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. The blue  
 25 roof. That would be the Pull Station?

1 THE WITNESS: Offhand, without reference to my  
 2 Report, I can't comment on that and give you an answer.

3 PRESIDENT FERNÁNDEZ-ARMESTO: Okay.

4 THE WITNESS: I can come back to you later, if  
 5 you wish.

6 PRESIDENT FERNÁNDEZ-ARMESTO: I'm sure someone in  
 7 the room will be able to give us the appropriate  
 8 information.

9 MS. ZAGONEK: It's the Checkpoint.

10 PRESIDENT FERNÁNDEZ-ARMESTO: It's the  
 11 Checkpoint. Okay. The Checkpoint. And the  
 12 Checkpoint--that is now new to me. There was one building  
 13 which was--that is a part of the Depot?

14 MS. ZAGONEK: It's where you enter the--

15 PRESIDENT FERNÁNDEZ-ARMESTO: Okay.

16 MS. ZAGONEK: It's--I'll say it in Russian (in  
 17 Russian) Checkpoint.

18 (Comments off microphone.)

19 PRESIDENT FERNÁNDEZ-ARMESTO: But from our  
 20 valuation point of view, it forms part of the Depot?

21 MS. ZAGONEK: Correct. It's a component of the  
 22 Depot, yeah.

23 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. So,  
 24 it's not the Pull Station. Very good. Please.

25 THE WITNESS: Okay. Can we get the presentation

1 back. I'm just wrapping up here, so don't worry, everyone.

2 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you. Very  
 3 efficient.

4 THE WITNESS: Okay. So, in conclusion, the  
 5 Investment Object, speculative in nature, unsupported in my  
 6 view, and I think I've already explained the components of  
 7 that. I do believe the 2019 Colliers Report is unreliable  
 8 for the various places that Mr. Taylor has used it, which  
 9 is why my assessment is lost profits is zero.

10 In relation to the lost Communal Facilities,  
 11 Mr. Taylor's assessment of loss is, I believe, unsupported  
 12 and overstated. Mr. Taylor's has not performed an  
 13 independent analysis to confirm the costs within the  
 14 Ministry of Finance Memorandum, and I assess the loss, use  
 15 of the cost estimates, which also relied upon by the  
 16 Ministry of Finance, and had Manolium completed the  
 17 construction of the Depot, this construction would have  
 18 been, on average, 31 percent lower.

19 That concludes my presentation.

20 PRESIDENT FERNÁNDEZ-ARMESTO: And you do accept  
 21 Mr. Taylor's point that, in your valuation of the new  
 22 Communal--of the Depot, basically, because on the rest of  
 23 the items, there is a very small difference.

24 You accept his point that because you take  
 25 numbers from very old numbers from the internal cost

1 projections of Claimant and you have--then apply very high  
 2 inflation, that of your final number, your final number is  
 3 highly dependent on having used the proper inflation rate,  
 4 and he says 90-something percent of your final number at  
 5 the end is inflation?

6 THE WITNESS: Well, I disagree with Mr. Taylor.

7 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. It's an  
 8 important point.

9 THE WITNESS: Yes. And a good question because  
 10 we are not talking about inflation only. We are talking  
 11 about price indexes. Price indexes, how is it calculated?  
 12 It's calculated based on market data of how prices have  
 13 changed, and this is a standard methodology adopted. Not  
 14 just in Belorussia, but across a lot of the CIS countries.

15 So, you use standard costings, which then on a  
 16 month-by-month basis you, you know, things like sand to  
 17 water, to cement sort of ratios is calculated as a basket  
 18 of goods, and over time this is reassessed in terms of what  
 19 the costs will be and indexes is a portion, and this is  
 20 publicly available.

21 So, the whole construction industry uses this as  
 22 a basis to estimate costs. So, for me, I think it is a bit  
 23 not quite correct to call it "I'm adopting inflation."

24 PRESIDENT FERNÁNDEZ-ARMESTO: Okay.

25 THE WITNESS: This is about a basket of goods.

1 So, this is about an equation to market prices for those  
 2 sets, say, salaries or building a wall or whatever it may  
 3 be. This is clearly set out in terms of a standard way of  
 4 costing. So, it is not about--

5 PRESIDENT FERNÁNDEZ-ARMESTO: So, maybe I  
 6 have--can you explain to us how you took your--it's an  
 7 early--let's look at the dates.

8 THE WITNESS: The cost estimates were prepared in  
 9 2005-2006.

10 PRESIDENT FERNÁNDEZ-ARMESTO: Yes.

11 THE WITNESS: For the Investment Object.

12 PRESIDENT FERNÁNDEZ-ARMESTO: No, I'm not looking  
 13 at the Investment Object.

14 THE WITNESS: What are you looking at?

15 PRESIDENT FERNÁNDEZ-ARMESTO: I'm looking at the  
 16 Depot.

17 THE WITNESS: Okay. Yeah.

18 PRESIDENT FERNÁNDEZ-ARMESTO: Because it is  
 19 similar. You used--let us get it exact, so that I put the  
 20 right question to you.

21 THE WITNESS: Yes.

22 PRESIDENT FERNÁNDEZ-ARMESTO: It is in  
 23 Mr. Taylor's Page 21. Now, maybe you can get it in paper.  
 24 Do you have your paper copy of?

25 THE WITNESS: Yeah.

1 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you. So, if  
 2 you go to Page 21 on the right side, Mr. Taylor says  
 3 "Mr. Qureshi's estimation methodology involves significant  
 4 inflation adjustments." This is why I use the word  
 5 "inflation."

6 And he says that you went from a 1991 prices of  
 7 18.5 million, and then--rubles, Belarusian rubles, you  
 8 multiplied it by an indexing factor of almost three, and  
 9 you got then--no, by an indexing factor of 2,865, and you  
 10 got to 2010 prices of 24 billion, and he says it is  
 11 99.97 percent of your adjustments are due to inflation.  
 12 And I was just struck whether you agree with this or not.

13 THE WITNESS: I disagree with this. Basically,  
 14 for me, I have taken the primary design documentation for  
 15 the Depot which was prepared in 1991 prices because that is  
 16 how it is done in Belorussia. From there there's an  
 17 indexing assessed, and I have indexed it according to--and  
 18 this index is created, as I've already made the point,  
 19 according to market prices.

20 So, unfortunately everything we buy nowadays, if  
 21 you go to the shop, you know, how much of that is  
 22 inflation? How much of it--what are you buying? So, end  
 23 of the day my--what I'm comfortable with is the fact is  
 24 based on market prices, and it cannot be any different to  
 25 the cost actually paid by the Claimant.

1 PRESIDENT FERNÁNDEZ-ARMESTO: Can I ask you, more  
 2 specifically, prices--there is, say, an inflation rate.  
 3 You have an inflation rate also for Construction Costs.  
 4 So, that is a weighted rate. You can also do it  
 5 differently. You have individual, say, cement has a  
 6 different price movement than personnel costs. So, did  
 7 you--what is the structure you used in this adaptation from  
 8 1991 prices to 2010 prices?

9 Did you each individual price item separately  
 10 projected from '99 to 2010, say, for example, cement you  
 11 had in the--in your price structure in 1991 100 tons of  
 12 cement, so if cement had then a price, you had a separate  
 13 indicator for the price movement of cement, and then you  
 14 took that cement into 2010 prices and for steel and for  
 15 work and for itemized, or did you just use a blended move  
 16 in increase in the construction prices in Belarus, or did  
 17 you use the standard inflation rate of Belarus?

18 THE WITNESS: No. Inflation rate was not used,  
 19 and you're quite right, this is itemized. There were  
 20 specific line items, and there's a construction index for  
 21 each of these line items. It is quite detailed.

22 PRESIDENT FERNÁNDEZ-ARMESTO: And that is what  
 23 you did?

24 THE WITNESS: Yes. Yes.

25 PRESIDENT FERNÁNDEZ-ARMESTO: I have a final



1 question for you. And this is one of your instructions.  
 2 In Page 19 of your presentation, you say for the Pull  
 3 Station, which was completed and commissioned "I was  
 4 instructed by Respondent's counsel to use the cost  
 5 specified in the Act of Acceptance." Now, did you compare  
 6 the costs in the Act of Acceptance with the costs which  
 7 came out of the three Reports from the Ministry of Finance  
 8 from the Cadastre and the other Report?  
 9 I have a feeling that they were very close to the  
 10 numbers in the Act of Acceptance, and I would then ask you,  
 11 isn't that an indication that these undermine your argument  
 12 that, for the Depot, there should be quite a  
 13 different--that there should be a significant difference  
 14 between value and cost because your whole discussion is, at  
 15 the end, is a terminological discussion about that the  
 16 value is different from the cost, but I have a feeling  
 17 that, for the Pull Station, the numbers were pretty close.  
 18 THE WITNESS: No. And I think that is why they  
 19 were close, so there's less issue, and I'm willing to  
 20 accept what Mr. Taylor has--  
 21 PRESIDENT FERNÁNDEZ-ARRESTO: And why don't you  
 22 extend that then to the Depot?  
 23 THE WITNESS: Because we have a lot of open  
 24 questions from my exercise.  
 25 PRESIDENT FERNÁNDEZ-ARRESTO: Because the Depot

1 is not totally finished? That is your argument?  
 2 THE WITNESS: It is not finished is one point,  
 3 time has passed is another point, and the reason why--I  
 4 mean, the construction indexes was going up because price  
 5 of these goods was getting more expensive and especially  
 6 then you're translating into dollars.  
 7 PRESIDENT FERNÁNDEZ-ARRESTO: Can you repeat  
 8 that? Sorry.  
 9 THE WITNESS: So, there were two factors, there's  
 10 a construction indexes. So, I'm putting it, okay, what was  
 11 the market prices as denoted by these indexes for the  
 12 components. You bring it up to the date of the  
 13 construction, and then I'm then providing, in order to get  
 14 it to dollars, I have to provide an exchange rate. So, I  
 15 have to exchange it into dollars.  
 16 But what I'm not clear is why we have this  
 17 difference either. And the reason why I'm not clear is I  
 18 don't know what is in the \$15 million for the Depot. If I  
 19 had a breakdown of the primary documents, I think we could  
 20 maybe come to a view. But because those documents are  
 21 missing, and Mr. Taylor hasn't analyzed it, so we have a  
 22 little standoff, shall we say.  
 23 PRESIDENT FERNÁNDEZ-ARRESTO: Any question?  
 24 Thank you. Thank you. Thank you very much, Mr. Qureshi.  
 25 So, we will now go the way we had. And so, we will call

1 Mr. Taylor, and we will then call you back, Mr. Qureshi, at  
 2 the end. Thank you. Thank you for your presentation.  
 3 MR. KHVALEI: Shall we go for a break, 15  
 4 minutes, I think is right time?  
 5 PRESIDENT FERNÁNDEZ-ARRESTO: Yeah, maybe we go  
 6 for--shall we go now for the 15-minute break?  
 7 MS. ZAGONEK: Yes, we're happy to.  
 8 PRESIDENT FERNÁNDEZ-ARRESTO: Very good.  
 9 MR. HANESSIAN: Mr. President, just so there is  
 10 no confusion, counsel may speak or may not speak with the  
 11 respective Experts during the break?  
 12 (Comments off microphone.)  
 13 MR. HANESSIAN: The burden of leadership.  
 14 PRESIDENT FERNÁNDEZ-ARRESTO: I mean, it is  
 15 discussed. You have been speaking all through the night.  
 16 How do you feel?  
 17 MS. ZAGONEK: I think it would be appropriate not  
 18 to.  
 19 PRESIDENT FERNÁNDEZ-ARRESTO: Okay. Not to.  
 20 Please do not speak to your respective Experts. Thank you.  
 21 MR. HANESSIAN: Okay. Very good.  
 22 (Brief recess.)  
 23 PRESIDENT FERNÁNDEZ-ARRESTO: We resume the  
 24 Hearing, and we call Mr. Taylor and we give the floor to  
 25 Respondent.

1 TRAVIS TAYLOR, CLAIMANT'S WITNESS, RECALLED  
 2 MS. ZAGONEK: Thank you. And this morning  
 3 Mr. Taylor will be cross-examined by my colleague,  
 4 Mr. Alexander Sysoev.  
 5 PRESIDENT FERNÁNDEZ-ARRESTO: Very good.  
 6 MR. SYSOEV: Good morning, Members of the  
 7 Tribunal. Thank you.  
 8 While--the Tribunal has already done most of my  
 9 work, so I expect that my cross-examination will be as  
 10 short as possible.  
 11 CROSS-EXAMINATION  
 12 BY MR. SYSOEV:  
 13 Q. Good afternoon, Mr. Taylor.  
 14 A. Good morning.  
 15 Q. My name is Alexander Sysoev, and I represent the  
 16 Republic of Belarus in these Proceedings.  
 17 First of all, thank you for your presentation and  
 18 for you coming today to the Hearing. I will ask you a  
 19 number of questions regarding your damages analysis, and I  
 20 will first concentrate on the lost profits assessment and  
 21 then turn to the New Communal Facilities loss.  
 22 You can see four bundles in front of you.  
 23 A. Yes.  
 24 Q. On this point, you can see the names which are  
 25 this, Volume 1, Volume 2, Volume 3, and Volume 4.

1 Do you see it?

2 A. Yes, I do. Thank you.

3 Q. Volume 1 contains your Expert Reports followed by  
4 the appendices. Volume 2 contains two Expert Reports of  
5 Mr. Qureshi, again, followed by the appendices. Volume 3  
6 contains some, but not all, exhibits to Mr. Qureshi's and  
7 your Expert Reports. And Volume 4 contains some, but,  
8 again, not all, exhibits to the Parties' pleadings  
9 submitted in these Proceedings.

10 When necessary, I will refer to the particular  
11 volume and tab, and each volume has an index of documents.

12 Mr. Taylor, your First Report was prepared in  
13 April 2017, to support the pre-arbitration process; is that  
14 right?

15 A. That's correct.

16 Q. And in your Second Report, you say that a lot of  
17 additional information has been made available to you after  
18 your First Report; is that correct?

19 A. That's correct.

20 Q. Am I right in understanding that, in relation to  
21 the Investment Object, you consider that, at least in some  
22 areas, Mr. Qureshi has provided certain contemporaneous  
23 documents and analyses?

24 A. Mr. Qureshi, certainly, in his First  
25 Report--because it was a significant amount of time after

1 A. I have not been provided with Financial  
2 Statements, no.

3 Q. And you have not been provided with a detailed  
4 Construction Schedule for the Investment Object?

5 A. The closest would be the 2011 Schedule Graphic  
6 that Mr. Qureshi relies upon.

7 Q. Was this Construction Schedule detailed?

8 A. I would not regard it as detailed, no.

9 Q. And you have not been provided with a detailed  
10 forecast of costs to construct the Investment Object?

11 A. Other than what is in that Schedule Graphic, no.

12 Q. Mr. Taylor, in your First Report--and I refer to  
13 Paragraphs 541 and 542. It is Volume 1, Tab 1.

14 Do you see it?

15 A. Yes, I do.

16 Q. You relied on that Construction Schedule of  
17 April 2011 as the cost forecast for the Investment Object?

18 A. That's correct. In my First Report, I relied  
19 upon the same source as Mr. Qureshi.

20 Q. As we have heard from your presentation earlier  
21 today, you said that there is evidence--and I refer to  
22 Slide 11 of your presentation, if I'm not mistaken--you say  
23 that that there is evidence there might be, likely, design  
24 change in the Investment Object.

25 A. I haven't got that in front of me, but I accept

1 my First Report, as I recall. Mr. Qureshi certainly  
2 provided some helpful documentation. And, as he mentioned  
3 in his direct presentation, I adopted some of those  
4 assumptions, particularly around the Retail Area, which was  
5 the big change.

6 And the main change was, as I mentioned earlier,  
7 the Retail Area was split between a shopping center and a  
8 shopping mall, and we agreed that it was appropriate to  
9 split rental rates between those two areas of the retail  
10 facilities. That was the main change, but there were  
11 certainly others.

12 Q. And in your Second Report, you make the updated  
13 damages analysis only as at the 27th of January 2015; is  
14 that correct?

15 A. That's correct.

16 Q. That's because the Claimant has now instructed  
17 you to update your damages analysis as at the original  
18 Valuation Date?

19 A. Yes. Counsel instructed me to adopt the revised  
20 Valuation Date.

21 Q. Thank you.

22 Mr. Taylor, am I right in understanding that the  
23 Claimant has not given you its Financial Statements and  
24 Financial Statements of its subsidiary,  
25 Manolium-Engineering?

1 that that's correct.

2 Q. What is this evidence?

3 A. If you look at the earlier architectural design  
4 documentation, you can see reference to facilities that  
5 were--that do not appear to be contemplated in the net area  
6 calculation, which Mr. Qureshi and I rely upon.

7 Q. So, the last available evidence in the case file  
8 is their calculation, the evidence regarding the design of  
9 the Investment Object?

10 A. As far as I'm aware, the most recent document for  
11 the Investment Object is Exhibit TT-10, which outlines the  
12 area of the various components of the Investment Object.  
13 Mr. Qureshi and I relied upon that document in its  
14 entirety, apart from Mr. Qureshi did not take on the  
15 310-room assumption for the hotel.

16 And what I'm saying to you, earlier on, there was  
17 an ACP Architecture document dated from 2010, which  
18 contemplated many other components of the Investment  
19 Objects which are not reflected in TT-10.

20 And I'm happy to take you to those areas.

21 Q. Mr. Taylor, just to be clear, is the area  
22 calculation, which is Exhibit TT-10--is, in your opinion,  
23 the last available evidence of the design of the Investment  
24 Object?

25 A. That is what I've assumed.

1 Q. Mr. Taylor, you do know that the 2019 Colliers  
2 Report was created specifically for these Proceedings; am I  
3 right?

4 A. My understanding is that Claimant's counsel  
5 requested it to assist these Proceedings, yes.

6 Q. Mr. Taylor, you did not find this Report. It was  
7 provided to you by the Claimant; is that correct?

8 A. It was provided to me by Claimant's counsel,  
9 correct.

10 Q. Mr. Taylor, did you give any instructions or  
11 raise inquiries or otherwise interact with Colliers in  
12 connection with this Report?

13 A. Sorry. Could you repeat the question?

14 Q. Did you give any instructions or otherwise  
15 interact with Colliers in connection with this 2019 Report?

16 A. I gave no instructions, and I had no interaction  
17 with Colliers at all.

18 Q. Do you know what the Claimant's instructions were  
19 to Colliers?

20 A. I don't.

21 Q. The 2019 Colliers Report contains the analysis of  
22 Construction Costs and Sales Values on the residential,  
23 retail, hotel, office, and parking real estate; is that  
24 correct?

25 A. If you could take me to the document, I can

1 confirm that.

2 Q. If I may refer you to Volume 3.  
3 PRESIDENT FERNÁNDEZ-ARMESTO: TT-69.

4 MR. SYSOEV: Yes, Mr. President. TT-69. It is  
5 Volume 3, Tab 2.

6 THE WITNESS: Tab 5?

7 MR. SYSOEV: Apologies. It is Tab 5. You have  
8 found it, I see.

9 THE WITNESS: I have found it. Thank you.

10 BY MR. SYSOEV:

11 Q. So, I will repeat my question.

12 The 2019 Colliers Report contains the analyses of  
13 Construction Costs and Sales Values only of residential,  
14 retail, hotel, office, and parking real estate; is that  
15 correct?

16 A. Yes, that is what it provides.

17 Q. Don't you find the segments of real estate  
18 presented in the 2019 Colliers Report look remarkably  
19 similar to the components of the Investment Object as in  
20 the area calculation, Exhibit TT-10?

21 A. Well, it certainly covers the components of the  
22 Investment Object, but there is a lot of additional detail  
23 in this document. For example, there's completely  
24 different classes of office premises; there's different  
25 construction methodologies for the residential. But, yes,

1 most of the components--all of the components of the  
2 Investment Object would be reflected in here in one way or  
3 another.

4 Q. Would you agree that, apart from lower classes of  
5 office real estate and apart from lower classes of  
6 residential mass market real estate, all other segments of  
7 real estate in the Colliers Report are almost identical to  
8 the components of the Investment Object?

9 A. Yes. I mean, I don't find that particularly  
10 strange. I mean, I think it would be--I mean, this is what  
11 Colliers does; it compiles data for these types of asset  
12 classes.

13 Q. Mr. Taylor, the key area of refine since your  
14 First Report involves the projected Construction Costs for  
15 the Investment Object; is that correct?

16 A. It is correct in that--well, from a  
17 quantum--total quantum point of view, there wasn't much  
18 difference between my First Report and Second Report in  
19 terms of Construction Costs, but the way the Construction  
20 Cost was segregated into the individual components, that  
21 was a change from my First Report.

22 Q. If I may refer you to your Second Report?

23 A. Sure.

24 Q. It's Volume 1, Tab 2, Paragraph 3.2.2.

25 A. 3.2.2?

1 Q. Yes.

2 A. Okay. I'm there.

3 Q. I quote one sentence from that paragraph: "The  
4 key area of refinement since my First Expert Report  
5 involves the projected Construction Costs for the  
6 Investment Object."

7 A. Sorry. I'm looking at my First Report.  
8 What tab?

9 Q. It is Volume 1, Tab 2.

10 A. I apologize.

11 Yes. I think that's consistent with what I just  
12 said.

13 Q. And, yet, the difference in total Construction  
14 Costs between the First Report and your Second Report is  
15 not that different?

16 A. Not in total, but there was some additional  
17 assumptions and critiques that Mr. Qureshi made of my  
18 Construction Costs, using the Schedule Graphic.

19 Q. Mr. Taylor, let me repeat my question.

20 The total Construction Costs of the Investment  
21 Object presented in your First Report and the total  
22 Construction Costs of the Investment Object presented in  
23 your Second Report are quite similar.

24 The difference is only 22 million--approximately  
25 22 million; is that correct?

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1 A. That's the difference. That's what I said  
2 earlier, yeah.

3 Q. Thank you.

4 Mr. Taylor, do you admit that 2019 Colliers  
5 Report itself is not a contemporaneous document?

6 A. The document itself is not contemporaneous, but,  
7 importantly, the Minsk construction data from 2012 to 2018,  
8 I would regard as contemporaneous.

9 Q. Of course, historical data presented in the 2019  
10 Colliers Report for the year of 2014 and prior years would  
11 have been available to the Parties around the new Valuation  
12 Date; would you agree?

13 A. I would agree that the data between 2012 through  
14 2014 would have been largely available, and I assume that  
15 it would be largely available to the Parties.

16 Q. And, similarly, these data should have been  
17 available to you at the time you were working on the First  
18 Report?

19 A. In an ideal world, absolutely.

20 Q. Could you please rephrase your answer or clarify?

21 A. Ideally, it would have been very helpful to have  
22 had that data when I prepared my First Report, but it  
23 wasn't available.

24 Q. Mr. Taylor, you may know that we asked the  
25 Claimant's counsel a number of questions about the 2019

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1 Q. And there is also nothing in the 2019 Report  
2 about the methodology used by Colliers?

3 A. Well, I think there is, actually. I mean, it  
4 talks about using their own research and using the specific  
5 properties that they identify at the back of TT-69.

6 And, as I said, what I tried to do--and I think  
7 it is outlined in my Second Report--where there was other  
8 documents or third-party sources, I tried to make sure I  
9 corroborated the values that were used in the 2019 Colliers  
10 Report.

11 So, for example, in terms of Construction Costs  
12 for the hotel and conference center, there was a very wide  
13 range of values for Construction Costs. And I was able to  
14 find a separate document, an IMEA 2014 Report, which I  
15 found to be a more reliable source for Hotel and  
16 Construction Costs. And then I came back to the Colliers  
17 Report, and I was satisfied that that number fell within  
18 the Colliers range.

19 Similarly, for example, with retail, we had the  
20 other Colliers Reports which had been accepted, and we used  
21 those primarily to value the retail component of the  
22 Investment Object.

23 So, once I had those, I came back, and I compared  
24 the values used in the 2019 Colliers Report. And I was  
25 able to see that, actually, in the 2019 for the Sales Value

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1 Colliers Report. For example, we inquired about its  
2 origin. Now, we know the origin, the methodology used, the  
3 data analyzed, the authors and the instructions.

4 These questions are listed in Paragraph 146 of  
5 our letter to the Claimant's counsel, dated 22nd of  
6 March 2019. It is Exhibit R-229, Pages 3 and 4.

7 I give this reference for the Tribunal, but I am  
8 happy for the letter to be shown to you, but I think it is  
9 not necessary.

10 The Claimant's answer, to be precise,  
11 Mr. Khvalei's answer to these questions was short. And I  
12 quote this Exhibit R-230. It is in Volume 4, Tab 47 in the  
13 folders in front of you.

14 I quote that: "The 2019 Colliers Report was  
15 prepared, as you know, under the Claimant's request, and  
16 contains sufficient information."

17 So, I'm hoping that you will help us and the  
18 Tribunal to find out more about the 2019 Colliers Report.

19 A. Well, I'm not sure I can provide any more  
20 information than I've already given you. I was given the  
21 Colliers Report by Claimant's counsel. I had no  
22 interaction with Colliers myself. I wasn't involved in  
23 giving Colliers any instructions on what to prepare.

24 It was--what I did do was look for information to  
25 be able to corroborate the values in the Colliers Report.

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1 for the retail component, it was conservative.

2 You know, there are other examples. You can  
3 point to Mr. Qureshi's valuation of the residential  
4 parking. He used another source from the Respondent, some  
5 Respondent entity. So, I looked at what the value for the  
6 parking bay was for prime residential. And, again, looking  
7 at the 2019 Colliers source, it was conservative.

8 So, wherever possible, wherever there's other  
9 indicators of value, I tried to make sure that the Colliers  
10 Report was appropriate. So, any suggestion that I just  
11 took this document and took the information wholesale,  
12 without undertaking any contemporaneous checking, is not  
13 accurate.

14 Q. Mr. Taylor, I have quite a lot of questions to  
15 you to get through, and for the sake of time, I will ask  
16 you to answer my questions in a yes-or-no answer, if  
17 possible.

18 PRESIDENT FERNÁNDEZ-ARMESTO: I don't think the  
19 Expert was in any way making unnecessary explanations. You  
20 asked a question, and he gave a reasonable explanation of  
21 the additional sources he had used.

22 So, to the extent--I mean, we all like to have to  
23 be quickly through the examination, but it is in the nature  
24 that sometimes things can be answered with a "yes" or "no,"  
25 and sometimes some additional information is--justification

1 is required.  
 2 MR. KHVALBI: With regard to the Colliers  
 3 Report--because, frankly, I don't think it is appropriate  
 4 to put these questions to our Expert--I need to provide  
 5 some explanations.  
 6 This Colliers Report, indeed, was prepared  
 7 specifically--  
 8 PRESIDENT FERNÁNDEZ-ARRESTO: Why don't we--I'm  
 9 sure we'll come back to the Colliers Report, but I think it  
 10 would not be fair now to Respondent's counsel. They are in  
 11 the middle of the cross-examination.  
 12 So, let's go on. It's going very well, and we  
 13 have all the time in the world.  
 14 BY MR. SYSOEV:  
 15 Q. Mr. Taylor, apart from the methodology, do you  
 16 know what kind of Construction Costs were included in  
 17 Colliers' analysis?  
 18 A. Could you expand upon the question?  
 19 What do you mean?  
 20 Q. Well, for example, let me refer you to Page 2,  
 21 Paragraphs 1 and 2 of TT-69. It is Volume 3, Tab 5.  
 22 A. Sorry. Yes, where are you?  
 23 Q. Page 2, Paragraphs 1 and 2 on the top of that  
 24 page.  
 25 I will quote, just for the record: "Also, while

1 in many countries the Construction Costs include the  
 2 commission on the local market, it is typical to commission  
 3 and sell shell and core. In the recent years, the  
 4 developers of large residential projects don't make even  
 5 core."  
 6 And Paragraph 2: "Hotel segment is an exception,  
 7 where investors consider Construction Cost of fully  
 8 equipped properties."  
 9 So, my question is: Would you agree that this is  
 10 the--these are all costs which are included in the  
 11 Construction Costs analysis in the 2019 Colliers Report?  
 12 A. It says what is says in relation to the first  
 13 paragraph, when you said, "In the recent years, the  
 14 developers of large construction residential projects don't  
 15 even make core."  
 16 So, I take that to mean recent years being 2017,  
 17 2018, which is not relevant to the exercise.  
 18 Q. Sure, but do you know what kind of works are  
 19 included in the shell and core stage of a building?  
 20 A. I can take the--all I'm doing is taking the  
 21 statistics from this Report. In most cases, for  
 22 Construction Costs, I've taken the very top of the range as  
 23 a conservative measure.  
 24 And I would also just add that, if you look at  
 25 the other Colliers Reports which Mr. Qureshi and I both

1 rely upon, there is no discussion around the construction  
 2 materials or methods or anything else, and they have been  
 3 accepted by both of us.  
 4 Q. If there's a shell and core stage only.  
 5 Do you know how much money a developer has to  
 6 inject to get a building ready for use?  
 7 A. Well, you're assuming that they are not even  
 8 making core.  
 9 Is that what you are assuming?  
 10 Q. We are talking about the first part of  
 11 Paragraph 1, which is about shell and core. I don't go  
 12 into the last part of the paragraph regarding residential  
 13 buildings, which are not even in core stage.  
 14 A. We agree that that's not relevant.  
 15 Q. My question relates to the shell and core stage  
 16 of a building.  
 17 A. I'm not an engineer or an architect. I can't  
 18 give you a figure on additional costs to fit out a  
 19 property. All I can say is I'm confident this remains the  
 20 best source of Construction Costs immediately prior to the  
 21 Valuation Date.  
 22 Q. As we have heard from your presentation earlier  
 23 today, you said, answering to Mr. President's question,  
 24 that you calculated Construction Costs in Belarusian rubles  
 25 and then converted it to U.S. dollars; is this correct?

1 A. Well, for my First Report, that's right. For  
 2 this--for my Second Report, my updated Report, I took  
 3 Construction Costs from this document, and they are in U.S.  
 4 dollars, just to be clear.  
 5 Q. And you did not convert from Belarusian rubles?  
 6 A. No. These are U.S. dollars.  
 7 Q. Are prices of construction works and materials in  
 8 Belarus always expressed in U.S. dollars?  
 9 A. I would think that there would be a combination.  
 10 Q. And not always?  
 11 A. Beg your pardon?  
 12 Q. Not always?  
 13 A. Not always. There would be, certainly, local  
 14 currency, and some U.S. dollars, I would expect.  
 15 Q. Do you know what exchange rate was used by  
 16 Colliers in its Report?  
 17 A. I don't, but I would assume that they would be  
 18 using an annual average or something of that nature.  
 19 Q. The 2019 Colliers Report, again, Exhibit TT-69,  
 20 does not contain any explanation of the key characteristics  
 21 of the Project--of the Projects used as a basis of the  
 22 Colliers analysis.  
 23 Would you agree with that?  
 24 A. So, your question is that the 2019 Colliers  
 25 Report does not reflect the Investment Object?

1 Is that the question?

2 Q. I will try to rephrase my question.

3 A. Sorry.

4 Q. The 2019 Colliers Report on Pages 3 and the  
5 following pages contains pictures and references to some  
6 projects?

7 A. Right.

8 Q. The 2019 Colliers Report does not contain any  
9 explanation of the key characteristics of this Project; is  
10 that right?

11 A. They don't contain details of the specific  
12 pictures of these Projects.

13 Q. Of the Projects?

14 A. Right. So, no, they don't break out the  
15 individual financial metrics for each of the Projects that  
16 they saw or photograph at the end. That's not available by  
17 individual project.

18 Q. Under each Project, there is a link to a website.  
19 Do you see it?

20 A. Yes, I do.

21 Q. Have you checked whether the Projects presented  
22 in 2019 Colliers Report are comparable to the Investment  
23 Object?

24 A. I certainly have clicked on all of the links, and  
25 to the extent they are translated, I was able to translate

1 them, you know. The thing about valuation and damages is,  
2 as most people will appreciate, is that you never find the  
3 perfect comparable company, and we have to do the best we  
4 can. And I think even Mr. Qureshi would accept that  
5 finding comparable evidence of property in Belarus is  
6 difficult, and I would regard these particular projects as  
7 being helpful, very helpful.

8 Q. Mr. Taylor, do you know that some real estate  
9 projects listed in the 2019 Colliers Report were either  
10 completed back in 2012 or remain uncompleted?

11 A. I don't know the specific dates of completion or  
12 anything else for the individual projects.

13 Q. Mr. Taylor, have you read the Second Report of  
14 Mr. Qureshi?

15 A. Yes.

16 Q. And just for the record, I would refer to  
17 Paragraph 35(c) of Mr. Qureshi's Second Report. It  
18 is--sorry, Subparagraph (e), 35(e), RER-2. It is Volume 2,  
19 Tab 2.

20 A. Sorry, which paragraph?

21 Q. 35(e). It is on Page 10.

22 A. Yes, I'm there.

23 Q. Do you see the list of projects and the  
24 completion or planned completion dates or years?

25 A. Yes, I do.

1 Q. Do you know that two of the office projects--this  
2 is Paragraph 35(g) of the same Report, that two of the  
3 office projects listed in 2019 Colliers Report were  
4 completed in 2012, and four of the other office projects  
5 are of lower classes?

6 A. Well, I will take Mr. Qureshi's word for it.

7 Q. Mr. Taylor, am I right in understanding that, in  
8 your Second Report, you have not included the costs of  
9 leasing the land for the Investment Project?

10 A. That's correct.

11 Q. And as we have seen from your presentation today,  
12 you have done so on the basis of the Claimant's  
13 instructions?

14 A. That's correct.

15 Q. This is a question of fact and law, but putting  
16 that aside, would you agree that it is not unreasonable to  
17 include lease payments due by a developer as part of its  
18 cash outflows?

19 A. I regard this as, as you say, a factual matter  
20 and a matter of law. I don't have an opinion on it one way  
21 or the other. One thing that has occurred to me is that,  
22 taking these Construction Costs as we do, as I do, from the  
23 Colliers Report, potentially within those costs may be  
24 similar costs. So, I will say that as an aside. But in  
25 terms of the specific query that you're asking about, the

1 rental land, taxes upfront payment, I regard that  
2 completely as a legal issue.

3 Q. Mr. Taylor, in your First Report you valued one  
4 square meter of the planned residential area at USD 1,300  
5 per square meter; is that correct?

6 A. Sorry, could you repeat?

7 Q. Yeah. Let me refer you to your First Report. It  
8 is Volume 1, Tab 2. Apologies. Second Report. It is the  
9 same volume in Tab 2. Paragraph 3.3.9.

10 A. Yes, I'm there.

11 Q. There is a table, Table 5.

12 A. Yes.

13 Q. And in your First Expert Report, you valued the  
14 one square meter of the residential area at USD 1,300; is  
15 that correct?

16 A. That's correct.

17 Q. And in your Second Report, the same table, your  
18 updated assessment is USD 3,481 for one square meter?

19 A. Correct.

20 Q. You reached this figure by converting the price  
21 per gross area in the 2019 Colliers Report, which was USD  
22 2,300; is that correct?

23 A. Yes. I would have taken the lower end of the  
24 Colliers Report for similar property.

25 Q. Let me now refer you to Colliers Report,

1 Exhibit TT-69. It's Volume 3, Tab 5. It is Page 1. There  
 2 is a table, and after the table there is a reference to  
 3 source of data.  
 4 A. Sorry, which--  
 5 Q. It is Volume 3, Tab 5.  
 6 A. I've got it. Yeah. Thank you.  
 7 Q. Page 1, there is a table. Table of Construction  
 8 Costs. And--  
 9 A. You're looking at Construction Costs or Sales  
 10 Value?  
 11 Q. Construction Costs.  
 12 A. Okay.  
 13 Q. Page 1.  
 14 A. Right.  
 15 Q. There is a reference to "source" after the table.  
 16 The font is small, but the source is "National Cadastre  
 17 Agency and Colliers international." Do you see that?  
 18 A. I see that, yeah.  
 19 Q. And in your Second Report you have said--and I  
 20 refer to Paragraph 3.3.6 of your Second Report on Page 16.  
 21 It is Volume 1, Tab 2. In your Second Report you have said  
 22 that the Colliers valuation of the price per gross square  
 23 meter is in line with the valuation of the means Cadastre  
 24 Agency for prestige properties cited by Mr. Qureshi; is  
 25 that correct?

1 A. That's correct, but I do acknowledge that the  
 2 Cadastre Report cited by Mr. Qureshi is treated on a net  
 3 square-meter basis, but the comment is still correct. It  
 4 could have been worded more clearly.  
 5 Q. Thank you. Mr. Taylor, in your First Report you  
 6 have calculated the Sales Value of the Retail Area at  
 7 approximately USD 387 million; is that correct?  
 8 A. Correct.  
 9 Q. And in your Second Report the figure is much  
 10 lower, it was USD 240 million?  
 11 A. Yes. I believe I covered that earlier.  
 12 Q. And if I may refer you to your Second Report,  
 13 Paragraph 3.4.12.  
 14 A. Yes.  
 15 Q. Am I right in understanding that such decrease is  
 16 largely attributable to your selection of lower average  
 17 rental rates and a higher rental yield?  
 18 A. Yes. As I said before, I covered this.  
 19 Q. In your Second Report, you, just like  
 20 Mr. Qureshi, valued separately the shopping center and the  
 21 shopping mall or gallery; is that right?  
 22 A. That's correct.  
 23 Q. This is because you consider it reasonable to  
 24 assume that there would be a mix of tenants; is that right?  
 25 A. That's right. So, as I explained earlier, the

1 shopping center would typically have larger shops which  
 2 corresponds typically to a lower rent per square meter;  
 3 whereas, the shopping mall or--I believe it was called the  
 4 "open gallery"--is typically smaller shops which command a  
 5 higher rental per square meter.  
 6 Q. And you value the gallery or shopping mall using  
 7 the rental rate of EUR 70 per square meter per month; is  
 8 that correct?  
 9 A. That's correct, and it also corresponds to what  
 10 Mr. Qureshi used in his First Report.  
 11 Q. And you rely here on his exhibit as Q-13?  
 12 A. That's correct.  
 13 Q. And, yet, in your Second Report, you found more  
 14 contemporaneous report than 2014 Quarter 1 Colliers Real  
 15 Estate Report?  
 16 A. Yeah. Again, we're talking about Colliers  
 17 Reports here that we're relying upon. I will add that.  
 18 But what Mr. Qureshi relies upon is a later report,  
 19 absolutely. But data doesn't correspond with the size of  
 20 the shops that are appropriate for the open gallery. So,  
 21 if you go to Mr. Qureshi's source, which I'm happy to do,  
 22 it is typically for size of shops of about, I believe it  
 23 was 100 to 200 square meters; whereas, my source, SQ-13--I  
 24 think it's Page 11 or 12 if memory serves--specifically  
 25 talks about boutique shops, and that EUR 70 is more

1 appropriate. So, I certainly considered the more  
 2 contemporaneous document, but it's not relevant.  
 3 Q. Mr. Taylor, let me refer you to Exhibit SQ-13,  
 4 Volume 3, Tab 14.  
 5 A. Yes.  
 6 Q. Do you see it?  
 7 A. I do.  
 8 Q. Let me refer you to Page 11. This is the Report  
 9 on which you rely when calculating the rental rate for the  
 10 shopping gallery?  
 11 A. That's correct.  
 12 Q. And could you please look at the section called  
 13 "demand." It is on the upper half of the page.  
 14 PRESIDENT FERNANDEZ-ARRESTO: Page 11?  
 15 MR. SYSOEV: Page 11, yes, Mr. Arbitrator.  
 16 BY MR. SYSOEV:  
 17 Q. The first paragraph, I will quote for the record:  
 18 "The demand for small areas in retail galleries (up to 50  
 19 square meters and up to 100 square meters) still remains  
 20 high, individual entrepreneurs and domestic retailers from  
 21 the category of small enterprises are interested in such  
 22 areas." And last sentence: "Such areas also attract  
 23 chains selling expensive items, for example, watch shops,  
 24 jewelry shops, mobile phone shops, and some others."  
 25 Would you agree that, according to the 2013

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1 Colliers Report, high-end tenants rent areas up to 100  
2 square meters?

3 A. I think the more instructive source here is, look  
4 at the pie chart on the left of where you're reading from,  
5 and you can see here that the structure of demand for  
6 spaces in modern shopping centers by the number of  
7 applications, you can see there that 39 percent are under  
8 50 square meters, and another 33 percent--so you've got  
9 72 percent of properties in modern shopping centers are  
10 less than 100 square meters. That is quite a number. And  
11 I would argue that that talks about shopping centers. If  
12 you're talking about shopping malls, the space is going to  
13 be a lot smaller.

14 Now, if you want to--if you'd like to go to  
15 Exhibit TT-68, there's a picture of the open gallery, an  
16 architect's impression. And you can get a feel for what  
17 sort of size of shops we're talking about. And I think you  
18 probably agree with me, it was envisaged that these shops  
19 were going to be quite small.

20 Q. Do you assume that all shops in the shopping  
21 gallery would be up to 50 square meters?

22 A. No, I don't. That's why I take the average of  
23 between 40 and 100.

24 Q. But both 40 and 100 represent the rental rate for  
25 areas up to 50 square meters?

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1 A. Exactly, but I think what we're talking about  
2 here is a prime real estate in probably a superior location  
3 to the comparable data. So, I'm very comfortable with  
4 taking the EUR 70 number, which, as I said before,  
5 Mr. Qureshi used himself in his First Report.

6 Q. Mr. Taylor, would you agree that tenants in  
7 shopping mall or gallery would be selling luxury items?

8 A. Amongst others, yes.

9 Q. And would you agree that, according to the 2013  
10 Colliers Report, they would also rent areas up to 100  
11 square meters?

12 A. It is possible. It is possible. But I showed  
13 you the pie graph, and I'm happy with my conclusion.

14 Q. Mr. Taylor, in your First Report, it is Volume 1,  
15 Tab 1, you have calculated the Sales Value of the hotel  
16 area at approximately USD 126 million; is that right?

17 A. That sounds right.

18 Q. For the record, it is Paragraph 5.5.1, Table 4.  
19 And in your Second Report your value has  
20 decreased to about USD 88 million?

21 A. That's right.

22 Q. And these assessments are based on the assumption  
23 that the hotel would have had 310 rooms?

24 A. That's correct.

25 Q. And if the hotel would have had 250 rooms, your

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1 assessment of the Sales Value is USD 71.1 million; is that  
2 right?

3 A. That's correct.

4 Q. In your First Report, when assessing the Sales  
5 Value of the hotel area, you have applied Income Approach  
6 to value in this area; is that right?

7 A. That's correct.

8 Q. And in your Second Report, you maintain that the  
9 Income Approach used in your First Report is reasonable?

10 A. I think what I say is I accept that Mr. Qureshi's  
11 approach of using a value per room is probably more  
12 appropriate, and I adopt that approach as my preferred  
13 approach. I think at the time of undertaking my initial  
14 Report, there was a lack of comparable information for the  
15 room rate. And, again, Mr. Qureshi makes the same point in  
16 his Report that the availability of comparable information  
17 for the hotel and conference center, in particular, is  
18 relatively weak, but on balance, so I decided it was the  
19 right thing to do to try and apply a rate per room.

20 Q. Mr. Taylor, let me refer you to your Second  
21 Report. Volume 1, Tab 2, Paragraph 3.6.2.

22 A. Yes, I'm there.

23 Q. I would quote for the record what you have stated  
24 there. "I agree that hotels generate revenue from multiple  
25 sources, and also agree that, with sufficiently detailed

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1 information, it would be preferable to consider each source  
2 of revenue separately. However, given that sufficiently  
3 detailed information is not available, I consider that the  
4 approach used in my First Report is reasonable."

5 So, you so maintain that your first approach,  
6 which is Income Approach, is still reasonable?

7 A. When the comparable information isn't available,  
8 yes.

9 Q. But in your Second Report, you do apply Market  
10 Approach as was made by Mr. Qureshi?

11 A. Yes, I did.

12 Q. You assume that the hotel would have had 310  
13 rooms. And as we have seen from your presentation today,  
14 Slide 12, you have calculated the Sales Value of the hotel  
15 area on the assumption, among others, that the planned  
16 hotel capacity will be 500 places or persons; is that  
17 right?

18 A. I'm sorry. I missed the last part.

19 Q. Let us just look at Slide 12 of your  
20 presentation.

21 A. Right.

22 Q. Left part. You say there that we based our  
23 assumption on the first two bullet points, June 2010 letter  
24 cites 500 places, and April 2011, Schedule Graphic refers  
25 to 500 persons.



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1 A. Yes. I mean, I think I mentioned in my direct  
2 presentation, there are various documents, 2010, 2011,  
3 which referred to 240 rooms and 250 rooms and 500 persons.  
4 The Schedule Graphic, it may have said 250 rooms as well.  
5 I can't recall.

6 Q. Just to confirm, Mr. Taylor, in your calculation  
7 of the hotel area, you did assume--you based your  
8 calculation on the assumption that the hotel would have had  
9 the capacity of 500 persons or places; is that right?

10 A. No. I base my calculation on 310 rooms. I  
11 didn't place any importance on how many people it was  
12 supposed to accommodate.

13 Q. And your assumption regarding the number of  
14 rooms, as we know, is based on so-called "area  
15 calculations," Exhibit TT-10, produced by ACP engineering  
16 and architecture company; is that right?

17 A. That's correct.

18 Q. This is because you can see that this document is  
19 the best contemporaneous document?

20 A. That's correct. And I also said that Mr. Qureshi  
21 uses that same document for every other calculation.

22 Q. And this document is contemporaneous because it  
23 was produced in October 2011, which is later than any other  
24 documents regarding the capacity of the hotel area; is that  
25 right?

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1 A. That is my understanding. My understanding is it  
2 was attached to an email dated October 2011, which I  
3 believe is Mr. Qureshi's Exhibit SQ-80.

4 Q. Have you seen this email in the native format, in  
5 Outlook format?

6 A. I've seen an exhibit with metadata if that's what  
7 you're referring to.

8 Q. We ask the Claimant's counsel to provide us with  
9 this email in the Outlook format, and there were  
10 attachments including the area calculation in Excel format.  
11 And we searched for properties of these documents,  
12 including the area calculations, and it is Exhibit R-238.  
13 It is Volume 4.

14 PRESIDENT FERNÁNDEZ-ARMESTO: R?

15 MR. SYSOEV: R-238.

16 BY MR. SYSOEV:

17 Q. It is Volume 4, Tab 48.

18 A. Sorry, Tab?

19 Q. Apologies. It is the last document. You can  
20 also see it on the display, actually, if it is easier.

21 A. Yes, I see it.

22 Q. Do you see the date when these area calculations  
23 were last saved and printed?

24 A. Yes, I do.

25 Q. So, they were printed and saved last time on the

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1 3rd of March 2010?

2 A. That's what this exhibit shows. I can't comment  
3 really. I can see it's from ACP, and I assume it relates  
4 to the document you're talking about.

5 Q. So, wouldn't it be reasonable to assume that,  
6 based on these properties, that the area calculations were  
7 prepared not in October 2011, but in March 2010?

8 A. So, again, I think it's probably a factual issue,  
9 but my understanding, as I said previously, was that the  
10 TT-10 area calculation was attached to an October 2011  
11 email, SQ-80, Mr. Qureshi's exhibit. I've assumed that  
12 that is the most contemporaneous document. And both  
13 Mr. Qureshi and I have used that TT-10 for every over  
14 calculation, and I used it for the hotel rooms.

15 Q. Putting the area calculations aside for a moment,  
16 what is, in your opinion, the next best contemporaneous  
17 evidence of the number of rooms in the planned hotel?

18 A. It would be, I guess, in terms of chronological  
19 order, whatever came before the October 2011.

20 Q. In your First Report, you have assumed that the  
21 planned hotel would have been of four to five standard  
22 quality; is this correct?

23 A. Yes. And I update in my Second Report for a  
24 5-star hotel.

25 Q. Do you think that there might be single occupancy

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1 rooms in a 5-star hotel?

2 A. I couldn't comment on the layout of a 5-star  
3 hotel in Minsk, I'm afraid.

4 Q. Mr. Taylor, in your First Report you have  
5 attributed no separate value to the parking area?

6 A. Correct.

7 Q. Is that correct?

8 And in your Second Report--apologies. And this  
9 was because it was your conservative assumption; is that  
10 correct?

11 A. Conservative assumption, but also there wasn't  
12 any data to assist me with coming up with a reliable value  
13 for the parking.

14 Q. But in your First Report you have said nothing  
15 about lack of data; is that right?

16 A. I don't recall, but you are probably right.

17 Q. Let me just refer you to Appendix C of your First  
18 Report. It is Volume 1. After Tab 1 there are Tab A to H,  
19 which are--and for the record, yes, this is Appendix C of  
20 the first Report, CER-1.

21 In Appendix C, Paragraph C1.3, second bullet  
22 point, could you please read out?

23 A. Yes. It says: "As a conservative assumption,  
24 I've attributed no separate value to the parking  
25 components."

1 Q. Mr. Taylor, my question is this: Was the lack of  
2 relevant data the reason why you did not attribute the  
3 separate value of the parking area in your First Report?

4 A. That was the primary reason. And it's also worth  
5 mentioning that Mr. Qureshi didn't assign any parking value  
6 either in his First Report, and then he assigned value to  
7 the residential parking.

8 Q. In your Second Report you have included Fair  
9 Market Value of the parking area separately; is that right?

10 A. Correct.

11 Q. This was made for retail and for residential  
12 areas?

13 A. Correct.

14 Q. Let me now refer you to--and the explanation you  
15 provided was because you have been given the 2019 Colliers  
16 Report which contains this data; is that right?

17 A. That's correct. I relied upon the 2019 Colliers  
18 Report for the Construction Cost and the Sales Value of  
19 parking areas in Minsk.

20 Q. Could you please look at 2019 Colliers Report  
21 once again?

22 PRESIDENT FERNÁNDEZ-ARMESTO: TT-69.

23 MR. SYSOEV: TT-69. It is Volume 3, Tab 5.

24 BY MR. SYSOEV:

25 Q. Is there anything in the tables on pages 1 and 2

1 are sold separately.

2 Q. And you attribute no separate value for parking  
3 for office area in your Second Report; is that right?

4 A. Well, I've attributed a separate value for retail  
5 parking. I've just explained to you that retail parking is  
6 the 1,703 spaces, which were per the architectural  
7 documentation, which is exhibited to my Report. It is very  
8 clear that those 1,703 spaces were also to serve the office  
9 component and the hotel and conference center.

10 Q. Is this common practice to sell separately Retail  
11 Area and parking?

12 A. Not--in terms of retail, I would agree with that.  
13 But as I also said in my direct presentation, you've got  
14 here--when we value--when I value the retail component,  
15 again, I'm taking another Colliers Report, not the subject  
16 of what we talked about here, but a separate Colliers  
17 Report, and we're taking information from Belarus as a  
18 whole to value the retail component.

19 Now, what I would say for this particular asset  
20 is that, here we are dealing with a prime location  
21 underground parking which is well above what you might see  
22 in valuing an average property. Some of the properties  
23 that we use to value the retail component wouldn't even  
24 have car parking. So, that, coupled with the fact that it  
25 was also to serve the office and the hotel, is why I felt

1 that refers to parking area, either construction course or  
2 Sales Values, parking area for retail areas?

3 A. No.

4 Q. So, there is still lack of relevant data of the  
5 Sales Value of the parking area?

6 A. Well, there is Construction Costs for underground  
7 parking. We know that it was assumed that the retail  
8 parking was going to be underground. There is details on  
9 Sales Value for office parking and residential parking as  
10 well. So, I was comfortable that I had enough information.  
11 And as I said, in my direct presentation, the retail  
12 parking, we call it "retail parking," but it was also to  
13 service the office component and also the hotel and  
14 conference center. So, to characterize it as just being  
15 appropriate for the shopping center and the shopping mall  
16 is not totally accurate.

17 Q. Have you proceeded on the assumption that all  
18 parking slots adjacent to the Retail Area would be sold?

19 A. I don't assume that at all. I assume that there  
20 are potential source of revenue at some point in time from  
21 parking fees, but I also assume that some of the parking,  
22 as I just said, is relevant and linked to the office and  
23 the hotel and conference center. And the fact that you've  
24 got here in the Colliers Report separate values for the  
25 office parking would lead you to think that these assets

1 it appropriate to assign some modest value, certainly  
2 modest compared to the price Mr. Qureshi put on the  
3 residential parking.

4 Q. Is the fact that you attribute separate value to  
5 retail parking area, is this fact showing that there might  
6 be a risk of double-counting of the Sales Value of the  
7 Retail Area?

8 A. That's a good question, and it is something I  
9 considered, and Mr. Qureshi raised it. I certainly accept  
10 that in some retail transactions there is possibly an  
11 element of parking within there. So, I do accept there's a  
12 risk of double-counting. And that's why I talk you through  
13 my processes, and I think I've been quite conservative in  
14 the value that I put on it.

15 Q. Mr. Taylor, am I right that the Claimant has  
16 instructed you to perform an assessment of the damages  
17 which include the loss of the New Communal Facilities?

18 A. Yes.

19 Q. The loss of the New Communal Facilities--I know  
20 it moved to the second part of the damages analysis to the  
21 loss of the New Communal Facilities, to be clear.

22 A. Understood.

23 Q. And in your First Report, you have not carried  
24 out a separate assessment of the New Communal Facilities?

25 A. In my First Report, my understanding and

1 instruction was that the value determined by The Ministry  
 2 of Finance 2016 Audit was accepted by both Parties.  
 3 Q. Do you know that the Respondent does dispute this  
 4 memorandum, or this Audit Report?  
 5 A. Yes, I do.  
 6 Q. And, in your Second Report, do you perform a  
 7 separate assessment of the New Communal Facilities?  
 8 A. Not me personally, no. I rely upon three  
 9 contemporaneous and separate audits.  
 10 Q. Mr. Taylor, if it were a construction  
 11 arbitration, would you be satisfied with the contractor's  
 12 valuation based solely, or mostly on accounting records of  
 13 the developer or contractor?  
 14 A. Well, I can only speak for, you know, the facts  
 15 in this particular case, and the underlying records were  
 16 not available to me or to Mr. Qureshi. And what we have is  
 17 a situation where we have three separate audits, 2012,  
 18 2015, and 2016.  
 19 I've read in detail the procedures undertaken in  
 20 full conformance with Belarusian auditing standards, the  
 21 sampling methods they adopted, and I would say that, as a  
 22 Damages Expert, when I see an audit of that nature, I'm  
 23 usually pretty comfortable to take the results of that  
 24 exercise. I certainly have never performed an audit myself  
 25 as a Damages Expert.

1 Q. Mr. Taylor, in your Second Report in  
 2 Paragraph 4.3.12--it is Volume 1, Tab 2.  
 3 A. 4.3.12?  
 4 Q. Yeah. You note there, don't you, that  
 5 Mr. Qureshi's estimation process based on the cost  
 6 estimates may not have been an unreasonable approach if the  
 7 construction of the New Communal Facilities had not been  
 8 performed or if there was no reliable record of the costs;  
 9 is that right?  
 10 A. Well, I think I'm being reasonably charitable. I  
 11 mean, I think, in the absence of, you know, those three  
 12 audit Reports, two of them are undertaken by Respondent  
 13 Ministries, and, in the absence of contemporaneous cost  
 14 data, around the Valuation Date, which is another, I would  
 15 say, superior source of information, then you may be left  
 16 with Mr. Qureshi's methodology. But, you know, I believe  
 17 Mr. Qureshi's methodology for assessing cost or the value,  
 18 however you want to term it, is, let's just say, inferior  
 19 to the approach and conclusions I've reached.  
 20 Q. Now, let us look at Exhibit SQ-91. It is  
 21 Volume 3, Tab 20. This is the partial translation of  
 22 missing parts of the Ministry of Finance memorandum. The  
 23 Claimant has provided only partial translation, and for  
 24 this reason, Mr. Qureshi submitted translation of some  
 25 other parts of the 2016 Ministry of Finance memorandum.

1 Could you please open Exhibit SQ-91, Tab 20,  
 2 Volume 3.  
 3 A. Because this is an additional translation of  
 4 the--  
 5 Q. Of the Ministry of Finance memorandum.  
 6 A. And I understand. Right.  
 7 Q. This is not followed by the Russian text because  
 8 it is already in the record. Please look, for example, at  
 9 Page 6 of this document. Paragraph 3.  
 10 Before I ask you question regarding this  
 11 paragraph, I have this question. In relation to the work  
 12 acceptance certificates analyzed in the 2016 Report, do you  
 13 know how exactly Ministry of Finance analyzed them?  
 14 A. The work completion certificates?  
 15 Q. Yes.  
 16 A. I don't know how exactly they went about doing  
 17 that, no.  
 18 Q. Let us now look at Paragraph 3 on Page 6 of  
 19 Exhibit SQ-91. I will read it out for the record: "We  
 20 reviewed the work completion certificates in relation to  
 21 the Pull Station as of August 2008 which were provided for  
 22 random inspection. In those certificates, the cost of work  
 23 nominated in the current market prices is determined by  
 24 applying the valuation changes indices of certain cost  
 25 components (to their respective cost components' basic

1 value)."  
 2 This analysis was made by the Republican Science  
 3 and Technology Center for Pricing in Construction,  
 4 so-called "RSTC." They summarized their analysis in their  
 5 review, which is Exhibit SQ-64. It is Volume 3, Tab 17.  
 6 Just for the record, when I referred to you and said the  
 7 words "in relation to the Pull Station," that was my  
 8 addition because it was in square brackets, but in that  
 9 paragraph on Page 6, Paragraph 3, Exhibit SQ-91, what was  
 10 discussed is the Pull Station. And turning, now, to  
 11 Exhibit SQ-64.  
 12 PRESIDENT FERNÁNDEZ-ARMESTO: SQ.  
 13 (Comments off microphone.)  
 14 MR. SYSOEV: Yes.  
 15 BY MR. SYSOEV:  
 16 Q. Could you please look, for example, at last  
 17 paragraph on Page 4. So, what is this document--  
 18 PRESIDENT FERNÁNDEZ-ARMESTO: What is SQ-64?  
 19 MR. SYSOEV: SQ-64 is the review of the  
 20 Republican Science and Technology Center, which were  
 21 engaged together with The Ministry of Finance to conduct  
 22 the unscheduled audit of Manolium-Engineering in  
 23 February 2016, and there are signatures in the act of  
 24 inspection of some floor covering results appeared in the  
 25 Ministry of Finance memorandum. But, in Exhibit SQ-64,

1 this is the separate review which was further incorporated  
2 in the memorandum of the Ministry of Finance.

3 BY MR. SYSOEV:

4 Q. Do you see Page 4, last paragraph, and then it  
5 continues on Page 5, the first paragraph. And it says--In  
6 relation to the Depot, it says, that: "In the acts of  
7 completed works for December-March 2012, which were  
8 provided for a sampling check, the cost of completed works  
9 at the current price level was determined by application to  
10 the base cost of cost change indices."

11 Do you see this?

12 A. Yes, I see that.

13 Q. So, in a sense, what the RSTC, Center for Pricing  
14 and Construction, had done is that it applied the same  
15 approach as Mr. Qureshi.

16 Would you agree with that?

17 A. Well, what it's done is is sampled a few  
18 completed works and look like they've gone to the indexes.  
19 It doesn't say what their findings were there.

20 Q. But do you agree that their approach was  
21 essentially the same, in this indices check?

22 A. Well, in one respect of the audit, the more  
23 appropriate thing with these audits is they went through  
24 the accounting records and actually checked what was spent.

25 Q. Mr. Taylor, could you please now look at

1 Report, Page 4.

2 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. I'll just  
3 follow it there. No, I think it's on the screen. For some  
4 reason it looks slightly different. Okay.

5 BY MR. SYSOEV:

6 Q. Last paragraph.

7 A. I've got it.

8 Q. Just for the record I will read it out: "that the  
9 cost of a facility that has been calculated using the  
10 consolidated cost estimate approach may serve as the basis,  
11 in particular, for determining the amount of investments  
12 necessary to cover the price of purchasing the equipment  
13 and its delivery to construction site and also compensating  
14 other expenses provided for by the consolidated cost  
15 estimate."

16 And, further, it says that "the consolidated cost  
17 estimate is the document." It is the next page on Page 5,  
18 "that the consolidated cost estimate is the document that  
19 determines the cost of the construction."

20 Mr. Taylor, would you agree that the  
21 Registration & Cadastre Agency did consider the cost  
22 estimates as a reliable source of Construction Costs?

23 A. No, I don't, not necessarily. I think what this  
24 is just reiterating is that the way that cost estimates are  
25 performed in Belarus, as I understand it is, that the

1 Exhibit C-154. It is Volume 4, Tab 23. Exhibit C-154 is  
2 the Registration & Cadastre Agency Report?

3 A. Yes.

4 Q. Could you please look at Page 4, last paragraph  
5 and Page 5, first paragraph? For the record, the  
6 Registration & Cadastre Agency says there that, the cost of  
7 a facility that has been calculated using the consolidated  
8 cost estimate approach may serve as the basis--

9 PRESIDENT FERNÁNDEZ-ARMESTO: I'm lost.

10 MR. SYSOEV: Last paragraph of Page 4,  
11 Mr. President.

12 (Comments off microphone.)

13 MR. SYSOEV: Yes. Do you see this,  
14 Mr. President? It is on display, and the number of the  
15 page on the top of the relevant page.

16 (Comments off microphone.)

17 PRESIDENT FERNÁNDEZ-ARMESTO: On the top of the  
18 relevant page? No, I don't have it. It is funny. It is  
19 the special Expert. I must have another translation or  
20 another because it's the same document.

21 MR. SYSOEV: That's the Claimant's document.

22 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah, C-154.

23 MR. SYSOEV: 154.

24 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.

25 MR. SYSOEV: The Registration & Cadastre Agency

1 original estimate is made using these indexes, so this is  
2 saying no more than what we know is that this is, you know,  
3 supports SQ-27, which is the cost estimate for the Depot.

4 This doesn't, you know, this doesn't say whether  
5 those cost estimates tie to what was actually spent. And,  
6 as I said to you earlier, what is the most important thing  
7 that comes out of these audit reports is what was actually  
8 spent, and there is no conclusion about here, you know, how  
9 these cost estimates tied to the what was actually spent.

10 Q. Mr. Taylor, as far as we are on Exhibit C-154,  
11 let me ask you a couple of questions regarding this  
12 document. Do you know--I'll say it again.

13 In your Second Report, you have compared the 2016  
14 memorandum, the figures from that memorandum and the  
15 figures from the Registration & Cadastre Agency Report; is  
16 that correct?

17 A. That is correct. I refer to them as "audit  
18 Reports" rather than "memorandums."

19 Q. The "Audit Report?"

20 A. Yes.

21 Q. And you have identified that monthly costs  
22 recorded in these two documents were rarely consistent; is  
23 that right?

24 A. Yes. If you're looking for exact matches on a  
25 month-by-month basis they are rarely exactly the same.

1 Q. Do you know what caused this inconsistency?  
 2 A. Yes, I think I do. I think it is largely down  
 3 to--when comparing the different documents I think it's  
 4 down to the treatment of management costs and how they are  
 5 allocated to a particular Project. So, overheads, just to  
 6 be clear.  
 7 Q. Do you know, Mr. Taylor, that the  
 8 Registration & Cadastre Agency had not been provided with  
 9 the cost estimate throughout?  
 10 A. I can't comment. I don't know.  
 11 Q. Well, just for the record, I would refer to a  
 12 particular page of Exhibit C-154. It is Page 4,  
 13 penultimate paragraph. The last sentence says that "the  
 14 consolidated Construction Cost estimate of the  
 15 street"--which is the Road, as we defined with the Claimant  
 16 in this proceeding--"has not been provided to the Experts."  
 17 A. Sorry, could you show me where you are reading  
 18 that from?  
 19 Q. Page 4.  
 20 A. Yes.  
 21 Q. Penultimate paragraph, last sentence.  
 22 A. Okay. Well, I think this proves my point that,  
 23 you know, whilst it is all very interesting to understand  
 24 what the estimates of construction were, that is not what  
 25 this exercise is about. As I understand it, the whole

1 purpose of this order was to determine what Claimant had  
 2 actually spent.  
 3 Q. Mr. Taylor, do you know that cost estimates in  
 4 Belarus is a document which is, first, looked through and  
 5 approved by Experts and, second, approved by construction  
 6 authority?  
 7 A. I understand the process, I just don't think it's  
 8 relevant to the exercise we're here today for. I mean, for  
 9 example, how does that original cost estimate deal with all  
 10 of the changes that were made to the facilities. It can't.  
 11 So, we're reliant upon looking at the cost that was spent  
 12 and those had been audited by three separate Parties.  
 13 Q. Mr. Taylor, have you been able to review  
 14 Appendix G of Second Report of Mr. Qureshi, which provides  
 15 a list of duplications?  
 16 A. Yes, I have.  
 17 Q. Do these multiple duplications cause doubts as to  
 18 reliable of the Registration & Cadastre Agency Report?  
 19 A. Not in my mind, no, for two reasons. The first  
 20 of which is it wouldn't be uncommon to split the costs  
 21 between the different Projects. I think there is one  
 22 example where there's a Depot and a Road where the exact  
 23 amount has been split. And the second reason is, is there  
 24 ever a quantum? I think I added up Mr. Qureshi's  
 25 duplications, and they came to about \$5,000.

1 Q. Do you know what is the scope of the sample  
 2 analysis made by the Ministry of Finance?  
 3 A. No.  
 4 Q. Let me then refer you, and let us look at  
 5 SQ--Exhibit SQ-64, which we have already touched upon  
 6 earlier. This is, again, the partial translation of the  
 7 Ministry of Finance document.  
 8 A. So, which tab?  
 9 Q. It is Volume 3, Tab 17.  
 10 A. Thank you.  
 11 PRESIDENT FERNÁNDEZ-ARMESTO: SQ-64. Very good.  
 12 MR. SYSOEV: SQ-64. Yes, Mr. Arbitrator.  
 13 BY MR. SYSOEV:  
 14 Q. Do you know, Mr. Arbitrator, how many Contracts?  
 15 A. I think Mr. Qureshi calculated--suggested there  
 16 were three Contracts reviewed.  
 17 Q. Yeah. And do you know that the  
 18 Registration & Cadastre Agency identified at least 472  
 19 Contracts?  
 20 A. Yes.  
 21 Q. Do you consider such sample analysis sufficient  
 22 for determining how much was spent on the construction?  
 23 A. As we've discussed, I don't have details on how  
 24 the sampling process went ahead. What we do know is that  
 25 the audit was undertaken in accordance with Belarusian

1 audit principles, and, again, while the sampling process is  
 2 interesting, and necessary for an audit--I don't dispute  
 3 that--what we're getting to, again, is the costs that were  
 4 incurred.  
 5 Q. There was a sample check measurement. Do you  
 6 agree? Is that correct?  
 7 A. Yes, I do. Yeah.  
 8 Q. And what was verified is only the floor covering  
 9 in the administrative building; is that right?  
 10 A. That's my understanding.  
 11 Q. In your Opinion, if a contractor overstates work  
 12 volumes, for example, what kind of works are most often  
 13 overstated?  
 14 A. Sorry, could you repeat the question?  
 15 Q. Yeah. In your Opinion, if there is a contractor  
 16 who overstates the volume of works he has done, for  
 17 example, it says that it covered 2,000 square meters of  
 18 floor, while, in fact, in reality it was 1,000 square meter  
 19 of floor.  
 20 A. I understand the question.  
 21 Q. Yeah.  
 22 A. Yeah, I mean, to the extent that there was quotes  
 23 for work that wasn't performed or whatever, then there's  
 24 a--there is an opportunity for costs to exceed what was  
 25 originally contracted for or required. But it would also

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1 say that, you know, we've got three separate audit Reports  
2 here. I don't know what the sampling process that  
3 Paritet-Standart undertook, but I know that they concluded  
4 upon a similar number.

5 And, again, to Mr. President's point earlier, the  
6 Pull Station value came up slightly lower than the Letter  
7 of Acceptance, which, again, there is all this evidence  
8 pointing to the same thing and that is that the costs  
9 incurred, you know, are reliable evidence in these audit  
10 Reports.

11 Q. Would you say, Mr. Taylor, that the floor  
12 covering volume is something a contractor can quite easily  
13 understate or overstate?

14 A. I couldn't comment on. I'm not a- you know, I  
15 haven't built any buildings.

16 Q. In relation to the Depot, do you know when,  
17 according to The Ministry of Finance document,  
18 Manolium-Engineering incurred the Construction Costs?

19 A. For the Depot, yes, I do, and I think I--I've got  
20 an appendix to my Second Report, which effectively  
21 summarizes the monthly costs for the Depot.

22 Q. For the record, it was from 2004 to 2013?

23 A. Correct.

24 Q. And, in relation to the work acceptance  
25 certificates regarding the Depot which were reviewed and

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1 Paritet-Standart was undertaken as of  
2 31st of October, 2012. I mean, looking at the completion  
3 certificates is just one part of the process.

4 Q. Thank you, Mr. Taylor.

5 MR. SYSOEV: No further questions. Thank you.  
6 No further questions.

7 THE WITNESS: Okay. Thank you.

8 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. Is  
9 there any redirect for Mr. Taylor?

10 MR. HANESSIAN: There is not. Thank you.

11 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. So, we  
12 will now--it is perfect. Perfect timing. It is 1:00. We  
13 will now break for lunch.

14 MS. ZAGONEK: Yes. May I just say something in  
15 relation to the document that you are seeing?

16 PRESIDENT FERNÁNDEZ-ARMESTO: I think--

17 MS. ZAGONEK: In relation to the translation  
18 we're seeing of the Claimant document, I believe the  
19 Claimant has sent an updated translation in April, and you  
20 may have been looking at your and not the e-bibles. The  
21 e-bibles will contain the correct translations; whereas,  
22 some of your older versions may not.

23 PRESIDENT FERNÁNDEZ-ARMESTO: All the fault of  
24 the Secretary.

25 (Laughter.)

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1 analyzed by The Ministry of Finance, do you know the period  
2 which was reviewed by the--in the Ministry of Finance  
3 document?

4 A. In the Audit Report?

5 Q. In the Ministry of Finance Audit Report.

6 A. Well, I'm assuming that it captured all of those  
7 costs because I've sourced those monthly costs from that  
8 Report.

9 Q. Just for the record, The Ministry of Finance  
10 reviewed only in relation to the Depot, only work  
11 completion certificates for the period from December 2011  
12 and March 2012. It is Exhibit SQ-91. It is Volume 3,  
13 Tab 20, if you want to look at it. Page 7, Paragraph 3.

14 A. Okay.

15 Q. What the auditors say there is that they reviewed  
16 the work completion certificates as of December 2011 to  
17 March 2012 in relation to the Depot, and then they comment  
18 on those four completion certificates.

19 So, just four months were reviewed out of  
20 nine years. Do you consider this sampling approach  
21 sufficiently enough to conclude for sure that how many  
22 costs were incurred?

23 A. So, this is just work completion certificates.  
24 So, they have also looked at the accounting records for the  
25 entire period, and just as Paritet-Standart did, although

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1 PRESIDENT FERNÁNDEZ-ARMESTO: Of course, there  
2 have been some changes and it's probably not changed in the  
3 document. It was the same document, but the paging was  
4 difficult to find. So, thank you for the explanation.

5 So, we will meet at 2:15. 2:15. Is that okay?  
6 Yes. Very good.

7 (Whereupon, at 1:02 p.m., the Hearing was  
8 adjourned until at 2:15 p.m., the same day.)

1 AFTERNOON SESSION  
 2 PRESIDENT FERNÁNDEZ-ARMESTO: We start our  
 3 Hearing again, and we now call Mr. Qureshi, if you are kind  
 4 enough.  
 5 ABDUL SIRSHAR QURESHI, RESPONDENT'S WITNESS, RECALLED  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Qureshi, there  
 7 will now be some questions from Claimant's counsel to you.  
 8 Mr. Hanessian.  
 9 MR. HANESSIAN: Thank you, Mr. President.  
 10 CROSS-EXAMINATION  
 11 BY MR. HANESSIAN:  
 12 Q. Good afternoon, Mr. Qureshi.  
 13 A. Good afternoon.  
 14 Q. So, you have lots of books. The books to your  
 15 right are the books I think we're going to use. The books  
 16 to your left, you can take off the table at your  
 17 convenience, or if convenient.  
 18 And my colleague, Mr. Kennedy, will tell you  
 19 where in the book we are. I don't have that at hand. I'm  
 20 sorry to say.  
 21 The first document I would like you to look at is  
 22 Exhibit C-131.  
 23 (Comments off microphone.)  
 24 Q. C-131. All right.  
 25 Do you have that?

02:28:12 1 correct?  
 2 A. As I said, I'm not aware of the firm. I'll take  
 3 your representation that it's an audit firm.  
 4 Q. Well, at the last paragraph here, on Page 1 of  
 5 the Audit Report, it says: "We conducted the audit in  
 6 accordance with the requirements of the auditing rules of  
 7 the Republic."  
 8 Do you have any reason to think that is not true?  
 9 A. I have no reason to believe that is not true.  
 10 PRESIDENT FERNÁNDEZ-ARMESTO: You both must speak  
 11 up a little bit. You are so polite, but it's a big room,  
 12 and we don't hear you.  
 13 MR. HANESSIAN: All right. Very good. I will  
 14 speak up, and I will try to be polite also.  
 15 BY MR. HANESSIAN:  
 16 Q. Page 2 on the top, the Audit Report says: "The  
 17 audit included examining the required evidence."  
 18 Do you have any reason to think that is not true?  
 19 A. Subject to what is "required evidence," I'm  
 20 certain to believe that they obviously reviewed something,  
 21 yes.  
 22 Q. Well, do you have any reason to think that they  
 23 didn't review what they needed to review under the  
 24 standards and requirements of the auditing rules of the  
 25 Republic?

02:26:17 1 A. I do, yes.  
 2 Q. And I'm going to call this--  
 3 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Hanessian, I  
 4 don't think you have Professor Stern with us. C-131.  
 5 (Comments off microphone.)  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: Please.  
 7 BY MR. HANESSIAN:  
 8 Q. This document is titled "Audit Report," so I  
 9 will, for present purposes, call it an audit report.  
 10 This is the Paritet-Standart Audit Report;  
 11 correct?  
 12 A. Correct, yes.  
 13 Q. And this is dated November 5, 2012; correct?  
 14 A. Correct, yes.  
 15 Q. All right. So far as I can tell, you make one  
 16 reference to this Report, or this Audit Report, in your two  
 17 Reports in this case, but you have no critique of this  
 18 Audit Report whatsoever in your Reports; is that correct?  
 19 A. That's correct, yes.  
 20 Q. Okay. At the bottom of Page 1--and you  
 21 understand Paritet-Standart to be a Belarusian auditor; is  
 22 that correct? Audit firm in Minsk?  
 23 A. I'm not aware of the audit firm.  
 24 Q. You've made no effort to look into their  
 25 credentials or standards in the marketplace; is that

02:29:29 1 A. Well, maybe I'll answer your question then.  
 2 The answer is, I have no reason to believe they  
 3 didn't do what they said they did.  
 4 Q. All right. And just to be clear, what they said  
 5 they did--and we can turn now to Page 4 of the  
 6 documents--they say here, towards the top: "During the  
 7 audit, the following was established: Reflection in the  
 8 accounting records was carried out in accordance with the  
 9 requirements of the legislation of the Republic of  
 10 Belarus." And then they continue to say what they have  
 11 done.  
 12 They cite three guidelines. They say: "The  
 13 following grounds were used as guidelines when reflecting  
 14 the value of the facilities in the accounting records of  
 15 FB Manolium-Engineering."  
 16 And the first is "Resolution MSA Number 10 of  
 17 14 May 2007, as revised, on approval of the instruction on  
 18 the procedures for determining the value of a construction  
 19 object."  
 20 Do you know what "MSA" stands for?  
 21 A. No, I don't.  
 22 Q. The second is the Investment Code of the Republic  
 23 of Belarus. And the third is a law, the Republic of  
 24 Belarus, on accounting and reporting.  
 25 And you have no reason to think that they didn't

02:31:11 1 conduct this in accordance with these three  
 2 provisions--these three standards; correct?  
 3 A. That's correct, yes.  
 4 Q. Now, a little further down on the page they say:  
 5 "The cost of the investor, Manolium-Engineering, consists  
 6 of, (1) the cost of design and construction included in the  
 7 consolidated estimate of budget, (2) costs not included in  
 8 the consolidated estimate but allocated to the value of the  
 9 facilities in accordance with the legislation of the  
 10 Republic of Belarus."  
 11 So, I guess I could ask you if you know what they  
 12 are referring to when they refer to the "consolidated  
 13 estimate budget"?  
 14 A. I'm not sure I'm fully aware what that is  
 15 referring to.  
 16 Q. Okay. If you look at the schedule which follows  
 17 at the bottom of the page, you see they have--well, first  
 18 of all, they are actually referring to "actual" costs;  
 19 correct?  
 20 A. It says "Actual Costs," yes.  
 21 Q. First column is "Belarus ruble," second column is  
 22 "U.S. dollars as of payment date."  
 23 And we won't spend a lot of time on this, but if  
 24 you look at the bottom of the table there, it says--they  
 25 are referring to paid materials in the warehouse,

02:32:37 1 "materials have been paid for but not received."  
 2 If we go to the next--the top of the next page,  
 3 similarly, "paid for in the warehouse, paid for, not  
 4 received." It appears that they have reviewed actual  
 5 payment records; correct?  
 6 A. Correct, yes.  
 7 Q. And then if we go to the last page, they  
 8 conclude: "Thus, as of 1 October 2012, the amount of the  
 9 investments made by FE Manolium-Engineering is  
 10 USD \$18,313,814.90," which exceeds the amount of the  
 11 investments specified in the Investment Contract; correct?  
 12 A. Correct, yes.  
 13 Q. All right. And, again, you don't challenge this  
 14 Audit Report at all; correct?  
 15 A. To be honest, I didn't really pay too much  
 16 attention to this Report because I didn't--my job was to  
 17 critique Mr. Taylor's reports, and I don't really recall  
 18 him focusing on this document. He focused on other  
 19 reports, which I did comment upon, but not one that I  
 20 commented on.  
 21 Q. Well, you do write in your Second Report, at  
 22 Paragraph 177--you write: "Mr. Taylor explains the  
 23 credibility of the Ministry of Finance memorandum."  
 24 That's the February 2016 document that we'll get  
 25 to shortly; correct?

02:34:13 1 Well, I'm not asking you to look at that.  
 2 A. Oh, okay.  
 3 Q. But that's what you mean by "Ministry of Finance  
 4 memorandum"; correct?  
 5 The basis for Mr. Taylor's Report?  
 6 A. Correct, yes. That's right, yes.  
 7 Q. So, what you write is that Mr. Taylor explains  
 8 the credibility of that Report, or audit. And we'll get to  
 9 that shortly. He explains: "The credibility of that  
 10 document is supported by two previous and separate cost  
 11 audit reports conducted by"--and then you say  
 12 "Paritet-Standart in 2012."  
 13 But that's all you say about Paritet-Standart;  
 14 correct?  
 15 A. Correct, yes.  
 16 Q. All right. Why don't we look at the  
 17 February 2016 document now.  
 18 MR. KENNEDY: That is Tab 43 in your binder.  
 19 BY MR. HANESSIAN:  
 20 Q. For the benefit of the Tribunal, perhaps we'll  
 21 use C-160.  
 22 PRESIDENT FERNÁNDEZ-ARMESTO: C-160?  
 23 MR. HANESSIAN: Yes.  
 24 BY MR. HANESSIAN:  
 25 Q. This, unfortunately, doesn't seem to have been

02:35:27 1 translated once and is all in one place. Just for the  
 2 record, there are also different pieces of this at TT-7 and  
 3 SQ-91.  
 4 I know you refer to this as a "memorandum," but  
 5 it uses the word "audit" many, many, many times; correct?  
 6 A. It uses the word audit; correct.  
 7 Q. And then just--it actually says in the upper--in  
 8 the right-hand corner there, after the first paragraph:  
 9 "This audit was commenced on 4 February 2016, completed on  
 10 20 February 2016"; correct?  
 11 A. Correct, yes.  
 12 Q. And in that first paragraph, the third line from  
 13 the bottom, it refers to this as an "unscheduled audit of  
 14 certain aspects of the financial and commercial activities  
 15 of Manolium"; correct?  
 16 A. Correct, yes.  
 17 Q. Now, in the first paragraph, it states the names  
 18 of four people that were involved in what is described as a  
 19 "commission." And maybe I'll just begin at the beginning  
 20 here.  
 21 "In pursuit of an assignment issued by the Prime  
 22 Minister of the Republic of Belarus and acting on the basis  
 23 of an instruction of 3 February 2016 of the Ministry of  
 24 Finance of the Republic of Belarus, this Commission,  
 25 comprising consultants"--and I won't go through their



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02:37:26 1 names, but there are two people of the main controller and  
2 auditor office of the Ministry of Finance of the Republic  
3 of Belarus, and then representatives of the Republican  
4 Unitary Enterprise, Republic Science and Technology Center  
5 for Pricing in Construction, with the Ministry of  
6 Architecture and Construction of the Republic of Belarus.  
7 And it has two more names.

8 And these four people conducted an unscheduled  
9 audit of the activities of Manolium; correct?

10 These are the people involved, as far as you  
11 know?

12 A. Correct, yes.

13 Q. All right. Now, the second line, if we go up a  
14 little bit, starts at the bottom screen that I'm looking  
15 at.

16 It says: "This audit was recorded under Number 3  
17 in the Book of Audits."

18 What is the Book of Audits?

19 A. I'm not aware what the Book of Audits is.

20 Q. Okay. Your CV in this case is Appendix A to your  
21 First Report; correct?

22 A. Sorry. Can you repeat the question?

23 Q. Your curriculum vitae, your CV, your résumé--as  
24 we say where I'm from--is Appendix A to your First Report;  
25 correct?

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02:40:04 1 We will just go through it and page by page for a bit.

2 It says: "The audit was conducted by way of  
3 comparing the records, documents, or facts of certain  
4 operations with the records, documents, or facts of other  
5 related operations, other control activities associated  
6 with review of financial and commercial activities, the  
7 enterprise."

8 And then it says: "This audit included sample  
9 inspection of contracts, Statements of Work performed,  
10 associated expenses, certificates of acceptance of  
11 construction or other special works, design, as-built  
12 documentation, primary records, waybills and consignment  
13 notes, payment orders, and any other documents or  
14 information carriers kept by the company."

15 They looked at information on a particular  
16 accounting software, et cetera.

17 Was any site inspection requested in this case so  
18 you personally would have the opportunity to review the  
19 records and do your own audit?

20 A. Are you asking me whether I had the opportunity  
21 to conduct an audit?

22 Q. I'm asking you whether there was, at any time,  
23 any requests made for you, your firm, anybody on the other  
24 side, to go personally and visit the records of the  
25 Company?

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02:38:42 1 A. Correct, yes.

2 Q. And on the CV, you list 13 countries in which  
3 you've done work over the years; correct?

4 A. Correct.

5 Q. And Belarus is not one of those countries;  
6 correct?

7 A. Correct, yes.

8 PRESIDENT FERNÁNDEZ-ARMESTO: So, you now have 14  
9 countries.

10 THE WITNESS: Doing well.

11 BY MR. HANESSIAN:

12 Q. All right. The next--after the Book of Audits,  
13 it says: "This audit was conducted in accordance with the  
14 Regulation of the Audit Organization and conduct approved  
15 by Decree"--I won't read all this, but--"President of the  
16 Republic of Belarus, on improvement of auditing supervisory  
17 activities in the Republic of Belarus."

18 Do you have any reason to think this audit was  
19 not done in accordance with that provision?

20 A. I'm not fully familiar with that provision.

21 Q. You don't have any reason to think this wasn't  
22 done in full accordance with the law in Belarus; correct?

23 A. I have no reason to believe that.

24 Q. And, actually, on that subject, if we can go,  
25 just briefly, to Page 14 and 15. Let's stay where we are.

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02:41:29 1 A. I requested that I would prefer to have seen the  
2 primary documents in my Report. I'm not aware of any other  
3 requests. They weren't made of me, anyway, or my firm.

4 Q. If we go to Page 2 of what I'll call the "Audit  
5 Report," The Ministry of Finance Audit Report, after--where  
6 it's "subsequently" there, in the top half of the page--I  
7 don't know if this can be blown up, the top half.

8 There you go. Thank you very much.

9 Okay. After the Contract, it says:

10 "Subsequently, the Parties entered into as many as six  
11 additional agreements to the Investment Contract."

12 And the first three of these regard a payment of  
13 USD 1 million; correct?

14 A. Point 3, yes.

15 Q. Well, 1, 2, and 3 all talk about that, I believe.

16 A. Okay. Just give me a moment to read it.

17 Q. Sure.

18 A. All of them refer to \$1 million transfers.

19 Q. All right. And the third one actually specifies  
20 procedure for transferring the money to the Ministry of  
21 Finance; correct?

22 A. Correct. That's what it says.

23 Q. Okay. And that--you've been with us from the  
24 beginning, I believe.

25 That is what we've been referring to here as the

02:43:32 1 "library payment"; is that correct?  
 2 A. Maybe I'm missing the word "library" here, but  
 3 the numbers do ring a bell. So, they are the same numbers.  
 4 I'm not sure if this is referring to it, but I'll take your  
 5 representation it is.  
 6 Q. Okay. I want to focus on the Depot because  
 7 you'll agree with Mr. Taylor that that's the main  
 8 difference between the two of you, with respect to the  
 9 Communal Facilities; correct?  
 10 A. That's correct. We agree on a lot, but we  
 11 disagree on that one, yes.  
 12 Q. Okay. Let me ask that you go to Page--it says  
 13 9-1012 at the bottom.  
 14 A. 9-1013?  
 15 Q. Well, the one I'm looking at says "12."  
 16 A. So, the one that is starting "presented for  
 17 auditing in respect"?  
 18 Q. Exactly. Exactly.  
 19 A. Yeah, okay.  
 20 PRESIDENT FERNÁNDEZ-ARMESTO: Yes?  
 21 MR. HANESSIAN: Yes.  
 22 BY MR. HANESSIAN:  
 23 Q. At the top, the auditors write: "Presented for  
 24 auditing in respect of the facility, trolleybus"--again,  
 25 I'm skipping--"was the as-built documentation confirming

02:45:04 1 compliance of the works performed with the Design Estimate  
 2 Documentation"--skipping a bit--"including as-built  
 3 documentation in respect of works performed by two  
 4 subcontractors."  
 5 Now, in your Report, one of your criticisms of  
 6 this document is that they looked at only, in your view,  
 7 three of the contracts involved--correct?--in terms of the  
 8 sampling that they did?  
 9 A. Correct, yes.  
 10 Q. All right. But those three Contracts constituted  
 11 14 percent of the value of the Project; correct?  
 12 A. They did, yes.  
 13 Q. So, even though it was a small percentage of  
 14 number of contracts, 14 percent is a significant percentage  
 15 of the Actual Value of the works?  
 16 A. Correct, yes.  
 17 Q. Let's go to the next page, please.  
 18 So, here we see in the--I think it's the fourth  
 19 paragraph of Page 13-14--we see a reference to the  
 20 Paritet-Standart Audit; correct?  
 21 A. So, which paragraph?  
 22 Q. I'm sorry. The paragraph beginning "based on the  
 23 agreement of services."  
 24 I'm sorry, are you on Page 13-14?  
 25 A. I am, yes, but it starts different to what's on

02:47:16 1 the screen.  
 2 PRESIDENT FERNÁNDEZ-ARMESTO: I think you will  
 3 find it on Page 9-10, at the bottom. I had the same  
 4 problem.  
 5 MR. HANESSIAN: Okay. I'm sorry.  
 6 THE WITNESS: Okay. Thank you, Mr. President.  
 7 BY MR. HANESSIAN:  
 8 Q. Apologies to you both.  
 9 All right. Do you see it now?  
 10 PRESIDENT FERNÁNDEZ-ARMESTO: "Based on the  
 11 agreement of services entered into."  
 12 MR. HANESSIAN: Correct.  
 13 THE WITNESS: Yes, I see it.  
 14 BY MR. HANESSIAN:  
 15 Q. That's the reference to the Paritet-Standart  
 16 Audit Report that we just looked at; correct?  
 17 A. Correct.  
 18 Q. And then if you skip down a couple of paragraphs  
 19 to the word "noteworthy," the first sentence of the  
 20 paragraph.  
 21 A. Yes.  
 22 Q. Yes, thank you.  
 23 There's a reference to the Court Decision  
 24 regarding contract termination: "The Court didn't take any  
 25 Decision as regards obligations already fulfilled by the

02:48:31 1 Parties as part of the Investment Contract."  
 2 And then the Ministry of Finance auditors write:  
 3 "Noteworthy, in reviewing the claim filed by the Minsk  
 4 Executive Committee and the Communal Unitary Enterprise  
 5 Minsktrans, the Commercial Court of Minsk ruled on  
 6 30 July 2014 to initiate expert examination so as to  
 7 determine the amount of Actual Costs borne by Manolium in  
 8 design and construction of the Communal Facilities. The  
 9 Republican Unitary Enterprise, Minsk City Agency for State  
 10 Registration and Land Cadastre was commissioned to conduct  
 11 an expert examination."  
 12 And then it continues with description of--maybe  
 13 go to the next paragraph.  
 14 "A meeting on the compensation of the investor's  
 15 costs was held on 4 February 2015. Said meeting selected  
 16 to offer to the investor compensation to the extent of the  
 17 documented amounts that were invested directly into the  
 18 establishment of Communal Facilities and to review  
 19 compensation of those costs after the results of the  
 20 estimate are available."  
 21 Here it is. Sorry.  
 22 "It was decided to engage the Republican Unitary  
 23 Enterprise Minsk City Agency for State Registration and  
 24 Land Cadastre to estimate the costs."  
 25 So, this is the origin of the involvement of the

02:50:08 1 Cadastre Agency; correct?  
 2 A. Correct, yes.  
 3 Q. And then the first paragraph on the next page  
 4 talks about the Cadastre Report. And then you see an  
 5 amount at the bottom of that paragraph that was the  
 6 Cadastre amount.  
 7 A. Sorry. You've lost me now.  
 8 Where are we?  
 9 Q. Sorry. I'm now on Page 14-15 of what I thought  
 10 was C-160.  
 11 A. I think we've got different alignments on page  
 12 numbers. So, where does the paragraph start?  
 13 Q. Well, the paragraph begins "the Foreign  
 14 Enterprise, Manolium-Engineering."  
 15 A. Yes.  
 16 Q. That's the Cadastre part which is, in our case,  
 17 Exhibit CL-154; correct?  
 18 A. Correct, yes.  
 19 Q. Now, your Report makes mention of the fact that  
 20 the number that was found by the Cadastre Agency, 18,129,  
 21 is about 1.3 million, I think it is, less than the amount  
 22 that is determined by the Ministry of Finance audit in  
 23 February 2016; correct?  
 24 A. Correct, which I refer to as possibly because of  
 25 the management fees.

02:51:37 1 Q. Right. Indirect costs, one could say; correct?  
 2 A. Management Fees, I think, is what it says, but  
 3 anyway, okay.  
 4 Q. All right. Do you understand that, under  
 5 Belarusian law, to determine the value of an object that is  
 6 a construction object that is not completed, it's  
 7 appropriate to consider construction management costs?  
 8 A. And where is that cited?  
 9 Q. Well, my first question is: Do you know that to  
 10 be true as a matter of Belarusian law?  
 11 A. I'm not aware of that to be true.  
 12 Q. All right. Let us go down the document a little  
 13 bit.  
 14 Right there. Yes.  
 15 We need to go--this is this Instruction  
 16 Number 10. Let's go up a little bit so we can see what  
 17 Instruction Number 10 is.  
 18 The Ministry of Finance auditors write: "The  
 19 procedure for the costs of constructing a facility to be  
 20 determined in order to be reflected in the accounting  
 21 records of the customer and the developer in regard to  
 22 construction activities is determined in the instructions  
 23 on a procedure for determining the costs of constructing a  
 24 facility for accounting purposes, as approved by Resolution  
 25 Number 10 of the Ministry of Construction and Architecture

02:53:07 1 of the Republic of Belarus, as subsequently amended and  
 2 supplemented."  
 3 That's Instruction Number 10.  
 4 Are you familiar with that document?  
 5 A. With the document or with this?  
 6 Q. Well, with Belarusian law.  
 7 A. I'm not familiar with it. I'm reading it.  
 8 Q. Okay. You didn't look into whether--well, let's  
 9 go to the next--I'll make my point, and then I'll ask you  
 10 some questions about it.  
 11 All right. So, according to Clause 11 of  
 12 Instruction Number 10: "The value of a noncompleted  
 13 construction object prior to the commissioning of the  
 14 object consists of the costs posted on Account 08  
 15 (investment in long-term assets) and any costs having  
 16 enlarged the value of the respective object."  
 17 Continuing: "According to Instruction Number 10,  
 18 the following costs are relevant to the costs enlarging the  
 19 value of the an object but not included in the consolidated  
 20 estimate calculation."  
 21 And then it continues: "VAT amounts, land  
 22 amounts, lease payments having accrued, construction  
 23 management costs."  
 24 Do you see that?  
 25 A. Yes, it says that.

02:54:16 1 Q. Okay. So, under Belarusian law, including the  
 2 construction management cost is required to establish the  
 3 value of an uncompleted construction project; correct?  
 4 A. I'm reading this with you, so I can't really  
 5 opine on what is included in there, not included in there,  
 6 because I'm not familiar with the Belarusian accounting  
 7 rules.  
 8 Q. All right. This is the not first time you've  
 9 seen this document; correct?  
 10 A. It's not the first time I've seen it, but also, I  
 11 can't comment on whether this is really--it must be  
 12 included. It doesn't also comment on what percentage  
 13 should be included either.  
 14 Q. You've made no inquiry; correct?  
 15 A. I've made no inquiry.  
 16 Q. And as we said, that's the difference between the  
 17 Cadastre Report and this Report; correct?  
 18 A. That appears to be the difference, yes.  
 19 Q. Just on the next page, please, the yellow on the  
 20 next page.  
 21 And with respect to commissioned objects,  
 22 according to this Instruction Number 10: "The value of the  
 23 object and value of equipment are formed in the accounting  
 24 by the sum of direct and indirect expense, also including  
 25 construction organization and management costs"; correct?

02:55:44 1 A. That's what it says, yes.  
 2 Q. All right. So, then you go down two paragraphs.  
 3 It says: "As follows from the above, the  
 4 documented costs of the foreign enterprise,  
 5 Manoliu-Engineering, directed to the establishment of  
 6 Communal Facilities amount, including the costs of  
 7 construction management, are"--this amount of rubles, which  
 8 is equivalent to 19 million, \$434,679--I'm  
 9 sorry--\$19,434,679; correct?  
 10 A. Correct, yes.  
 11 Q. And that does not include the \$1 million library  
 12 payment we've been discussing; correct?  
 13 A. Correct, yes.  
 14 Q. This is signed in various places by the four  
 15 people that were involved in it, and it's got all the usual  
 16 stamps and such; correct?  
 17 A. Correct, yes.  
 18 Q. Now, your methodology--I think we can be quick  
 19 about this because, from the Tribunal's questions, it's  
 20 clear the Tribunal understands your methodology.  
 21 But your methodology involved taking the original  
 22 estimate for the Project that was done--as I understand it,  
 23 the document itself you've been looking at was created in  
 24 2009, but you understand that the data was compiled in 2005  
 25 and '06; is that correct?

02:57:37 1 Is that a fair characterization?  
 2 A. Yes.  
 3 Q. And it reflects 1991 prices; correct?  
 4 A. Correct. Yes, it does.  
 5 Q. And that is in the legacy of the Soviet days, if  
 6 I can put it that way?  
 7 A. Yes. It's a pretty standard--I've seen across  
 8 CIS and, I understand, a standard within Belarus, within  
 9 the construction industry.  
 10 Q. Now, in those days, 1991 and previously, all  
 11 construction was done by the State; correct?  
 12 A. I can't comment on the history.  
 13 Q. Okay. But, basically, this a State procurement  
 14 schedule; correct?  
 15 A. Correct.  
 16 Q. And a State procurement schedule such as this  
 17 would not be used in a private transaction; correct?  
 18 A. It tends to be used as pretty much a standard in  
 19 terms of estimate costs.  
 20 Q. Well, let's talk about that. Let's back up a  
 21 little bit.  
 22 So, Mr. Taylor calculated the amount of, sort of,  
 23 the multiplier, to get the 1991 numbers that you were  
 24 looking at in the estimate, the 1991 costs to what you  
 25 determined to be the cost of the Project; correct?

02:59:19 1 Let's do it this way. Let's look at Mr. Taylor's  
 2 presentation this morning at Page 21.  
 3 MR. KENNEDY: That is Tab 37, which, I believe,  
 4 is in the first volume.  
 5 THE WITNESS: Okay.  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: 21.  
 7 THE WITNESS: Page what?  
 8 BY MR. HANESSIAN:  
 9 Q. It is Page 21. Sorry.  
 10 A. Thank you.  
 11 Q. We're going to have it on our screen now,  
 12 Page 21.  
 13 So, my point--and I apologize for the redundancy  
 14 for the Tribunal because this was done this morning--but  
 15 you don't dispute Mr. Taylor's math here, that you took  
 16 what you calculated to be less than BYR 8.6 million in 1991  
 17 and have come up with 24--more than BYR 24.5 billion in  
 18 2010; correct?  
 19 A. I haven't double checked these numbers from this  
 20 presentation, but one thing I do take issue with is  
 21 referring to it as "inflation."  
 22 Q. All right.  
 23 A. "Inflation" is a factor, but not the only factor.  
 24 Q. But it's a very significant factor; correct?  
 25 A. It is a significant factor because of what was

03:01:12 1 happening in Belarus. But my point is that it does  
 2 reference to market prices.  
 3 Q. Okay. But you don't dispute this 99.97 percent  
 4 adjustment here?  
 5 A. It looks right, yes, his calculation.  
 6 Q. All right. Now, I'd like to go to your Second  
 7 Report, to Page 48.  
 8 MR. KENNEDY: That is Tab 28.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: 48?  
 10 MR. KENNEDY: Tab 28 in the first binder.  
 11 PRESIDENT FERNÁNDEZ-ARMESTO: Page 48.  
 12 THE WITNESS: Paragraph number or page number?  
 13 PRESIDENT FERNÁNDEZ-ARMESTO: Page 48.  
 14 BY MR. HANESSIAN:  
 15 Q. Sorry. That's not what I want.  
 16 PRESIDENT FERNÁNDEZ-ARMESTO: Not 48.  
 17 BY MR. HANESSIAN:  
 18 Q. Yes. Sorry, your First Report. Apologies to  
 19 everyone.  
 20 Your First Report, Page 45, please.  
 21 MR. KENNEDY: First Report is Tab 1.  
 22 PRESIDENT FERNÁNDEZ-ARMESTO: Page 45 of the  
 23 First Report.  
 24 THE WITNESS: Tab 1 is Navigant's Report.  
 25 MR. KENNEDY: You're right, excuse me. Tab 17 is

03:03:04 1 your First Report.  
 2 THE WITNESS: Tab 17 then?  
 3 MR. KENNEDY: Tab 17, yeah.  
 4 PRESIDENT FERNÁNDEZ-ARMESTO: The screen is on  
 5 Page 35.  
 6 BY MR. HANESSIAN:  
 7 Q. Yeah, 45, please. Yes, at the top is what I'd  
 8 like. Thank you very much.  
 9 All right. So, this just concerns the Depot.  
 10 This is your estimation of the Depot based on your--I'll  
 11 call it the "indexed 1991 prices" if you like; all right?  
 12 So, when you look at the 2005-2006 cost estimate  
 13 on these 1991 prices and you index it to--let's see--to  
 14 2011, your total is \$12.3 million; correct?  
 15 A. Correct, yes.  
 16 Q. All right. So, actually, at the bottom of the  
 17 page--  
 18 A. I'm sorry. I've just spotted there's an error  
 19 right on screen. That 51 billion--  
 20 Q. Yes.  
 21 A. --should actually be about 40 billion. So, I  
 22 think that looks like it's a typo.  
 23 Q. But the dollar figure is correct?  
 24 A. The dollar figure is correct, but I just noticed  
 25 that if you reference Appendix H. I just draw reference to

03:04:41 1 it. I just noticed it.  
 2 Q. All right. Very good.  
 3 With respect to the dollar figure, though, your  
 4 indexing of the original cost estimate gives you a dollar  
 5 figure of \$12.3 million; correct?  
 6 A. Correct, yes.  
 7 Q. And you see at the bottom of the page,  
 8 Mr. Taylor, who is relying on the Ministry of Finance  
 9 Audit, has the value at 15.7; correct?  
 10 A. So, the 12 million was the estimate of the  
 11 calculation if the Depot had been completed.  
 12 Q. Yes. Right. So, you then have a deduction,  
 13 which we'll talk about shortly.  
 14 A. Okay. Sure.  
 15 Q. All right. So, let's take that point.  
 16 So, the 12.3 is if all the work had been  
 17 completed and commissioned; correct?  
 18 A. Correct, yes.  
 19 Q. Whereas the 15.7 number, that's the Ministry of  
 20 Finance Audit number, that's for the actual construction  
 21 that was performed; correct?  
 22 A. Correct, yes.  
 23 Q. Okay. And we discussed that the difference  
 24 between the Cadastre number and the Ministry of Finance  
 25 number of 1.3 was attributable to the management costs;

03:06:06 1 correct?  
 2 A. That accounts for 1 million, yes.  
 3 Q. 1.3 or 1?  
 4 A. \$1.3 million.  
 5 Q. Okay. So, if we take this 15.7 and we take off  
 6 1.3, we have 14.4; correct?  
 7 A. Correct.  
 8 Q. Okay. That's almost 2 million higher than the  
 9 completed value that you're estimating from your use of the  
 10 original estimate as indexed; correct?  
 11 A. Correct, yes.  
 12 Q. So, there could be various explanations for that,  
 13 but one of them can't be that the Cadastre just used the  
 14 original estimate; correct?  
 15 A. Well, the explanation is timing.  
 16 Q. Right. But my point is, none of these auditors  
 17 relied on the estimate as a basis for Construction Costs;  
 18 correct?  
 19 A. They used the--they used it as--they did use it,  
 20 but they used Actual Cost, I agree. Yes.  
 21 Q. Exactly. Very good.  
 22 A. I agree with your points about using Actual  
 23 Costs, but I think the reason for the difference--sorry, if  
 24 I may just continue--the reason for the difference is  
 25 because of the timing and the construction index,

03:07:31 1 indexation. My calculation was until--indexed until  
 2 October 2010 to July 2011; whereas, the Actual Costs were  
 3 incurred in subsequent periods, and, therefore, there was  
 4 an escalation in costs. So, I haven't reconciled it down  
 5 to the cent, but I reckon a lot of it is to do with that  
 6 reason.  
 7 Q. Okay. But the apples-to-apples comparison on  
 8 this page, if we go back up to the top of this page, is  
 9 really--it is your recalculated-number, your USD 7.5  
 10 number; right? Because that's what you say is the value of  
 11 the work that was actual performed; correct?  
 12 A. Correct, yeah.  
 13 Q. So, what we should be comparing is this 7.5 with  
 14 the 15.7 that was audited by the Ministry of Finance;  
 15 correct?  
 16 A. Correct.  
 17 Q. So, your evidence in this case is that your view  
 18 is that these--the work that Manolium did is worth less  
 19 than half of what the Government audited it to be  
 20 February 22, 2016; correct?  
 21 A. Those are the facts and terms I've set out in my  
 22 methodology. I've set out the fact I've calculated it to  
 23 October to July 2011, and those are the numbers we've  
 24 calculated. There is a--sorry. There is a difference, but  
 25 as I explained this morning, I also want to get to the

03:09:08 1 bottom of what that difference is and why that's caused.  
 2 Q. Yes. We're going to get there right now.  
 3 A. Good.  
 4 Q. As I understand it--well, let's get this out of  
 5 the way first. You have a delay figure in your Reports of  
 6 this 31 percent, but you don't actually apply it to the  
 7 numbers that we're looking at; correct?  
 8 A. Correct, yeah.  
 9 Q. So, in fact, these numbers don't have any delay  
 10 component at all; correct?  
 11 A. Just to be precise, which numbers?  
 12 Q. The 12.3 and the 17.5. What you estimated to be  
 13 the total cost to completion is originally estimated using  
 14 your 1991 prices indexed or the value of what you say was  
 15 the actual work, the 7.5. Neither of these--or I guess I  
 16 should say the 7.5, that has no delay component whatsoever;  
 17 correct?  
 18 A. That's correct, yes.  
 19 Q. And just so that we're clear, that 31 percent,  
 20 you say, is because the Project was delayed two years. You  
 21 do this from 2009 to 2011, I think, is the period you're  
 22 covering there with your 31 percent?  
 23 A. I can't remember off the top of my head, but,  
 24 yes.  
 25 Q. We can look it up, but I don't think we need to

03:10:46 1 take the time. So, your 31 percent, though, would only  
 2 apply to cost incurred during that period that your Report  
 3 specifically mentions; correct?  
 4 A. Correct, yes.  
 5 Q. And it would require 100 percent attribution of  
 6 the delays to Manolium; correct?  
 7 A. I think now we're getting to a legal area in  
 8 terms of faults, but I would say I have enough to calculate  
 9 the numbers up to a certain point in time. There is an  
 10 assumption, therefore, that the Depot would have been  
 11 completed in that period, and that's what I've calculated.  
 12 Q. I'm not asking you a legal question. I'm asking  
 13 you a mathematical question, to be clear.  
 14 If you were to apply your 31 percent, you  
 15 wouldn't apply it--because you don't even calculate this.  
 16 You just, if I can say this, you write 31 percent and then  
 17 go to the next thing. But so we're clear, that 31 percent  
 18 is not from inception. That 31 percent would  
 19 begin--perhaps we should look it up--on the month that you  
 20 say the delays began?  
 21 A. Correct. So, it would be for the period after  
 22 July 2011.  
 23 Q. Let's see. Let's look it up. So, this is in  
 24 your Second Report, actually.  
 25 A. Umm-hmm.

03:12:28 1 Q. It's not in your First Report at all, I don't  
 2 think.  
 3 If we go to Paragraph 185 of your Second Report.  
 4 MR. KENNEDY: And your Second Report is at  
 5 Tab 28.  
 6 THE WITNESS: Thank you.  
 7 BY MR. HANESSIAN:  
 8 Q. You have the one paragraph that is titled "Impact  
 9 of the delay in the completion date of the Depot." Sorry.  
 10 So, it's Page 46.  
 11 A. Yes, I've got it.  
 12 Q. You've got it. All right.  
 13 So, you write "I understand from the evidence  
 14 provided to me, the Claimant originally planned to complete  
 15 the construction of the Depot in August 2009. A comparison  
 16 of the average construction prices index in the period when  
 17 the construction was initially planned, and the actual  
 18 period when the construction of the Depot is undertaken,  
 19 according to which the construction prices rose by  
 20 31 percent."  
 21 And then you continue "taking into account only  
 22 construction prices indexes assuming all other facts are  
 23 the same. Had they completed the construction Depot by  
 24 August 2009, Construction Costs would have been on average  
 25 31 percent lower."

03:13:50 1 But what you mean to say there, I think, is that  
 2 the Construction Costs would have been lower beginning on  
 3 August 9; right?  
 4 A. Correct, yes.  
 5 Q. So, you're not referring to the entire project  
 6 here; correct?  
 7 A. Correct, yes.  
 8 Q. And you haven't done that math for us; correct?  
 9 A. No.  
 10 Q. And that's not part of--I'm sorry, if we could  
 11 put the previous slide back.  
 12 Are you aware of any--  
 13 PRESIDENT FERNÁNDEZ-ARRESTO: You have to repeat  
 14 this.  
 15 MR. HANESSIAN: Sure.  
 16 PRESIDENT FERNÁNDEZ-ARRESTO: So, this 31 percent  
 17 applies when? Can you repeat the question?  
 18 MR. HANESSIAN: Yeah, sure.  
 19 PRESIDENT FERNÁNDEZ-ARRESTO: Because I got lost  
 20 with the answer.  
 21 MR. HANESSIAN: I'm sorry.  
 22 PRESIDENT FERNÁNDEZ-ARRESTO: It was me. It may  
 23 have been you--  
 24 MR. HANESSIAN: It's not you.  
 25 PRESIDENT FERNÁNDEZ-ARRESTO: It's not clear to

03:14:37 1 me what the 31 represents and how you apply it and what you  
 2 apply it.  
 3 MR. HANESSIAN: Okay. Let's spend a little more  
 4 time on this. I think that was part of my point, that it  
 5 wasn't very clear in the Report.  
 6 BY MR. HANESSIAN:  
 7 Q. So, we have 185. Again, this is the Second  
 8 Report, 185. Actually, we don't need this. Just stay  
 9 where you are. Let's do it this way.  
 10 What you're saying is this Project took more than  
 11 two years longer than it was supposed to; correct? As you  
 12 understand it. That's what you were told?  
 13 A. As I've been instructed, yes.  
 14 Q. All right. And what you're told is that the  
 15 Construction Costs increased 31 percent between the time it  
 16 was supposed to be finished and the time it was finish, or  
 17 at least the time the work stopped?  
 18 A. Correct, yes.  
 19 Q. Right. So, if that 31 percent is to apply--  
 20 PRESIDENT FERNÁNDEZ-ARMESTO: Let me ask a  
 21 question.  
 22 MR. HANESSIAN: Sure.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: They increased--we  
 24 saw there was a huge inflation in Belarus. They increased  
 25 in local currency or they increased in dollar terms

03:16:54 1 increase in Belarusian rubles.  
 2 PRESIDENT FERNÁNDEZ-ARMESTO: Okay.  
 3 THE WITNESS: It doesn't show the effect of  
 4 dollars here. So, it's just the costs in rubles.  
 5 PRESIDENT FERNÁNDEZ-ARMESTO: In rubles.  
 6 THE WITNESS: In rubles.  
 7 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. That makes  
 8 sense. So, what is your argument now with the 31 percent?  
 9 How should--on what and how should the Tribunal apply the  
 10 31 percent?  
 11 THE WITNESS: I don't think I'm asking the  
 12 Tribunal to apply anything to it. What I'm saying is,  
 13 demonstrating the effect of construction price increases  
 14 because of the delay. Now, you could take from this the  
 15 fact that, if everything had been done on time, then the  
 16 cost would have been less.  
 17 PRESIDENT FERNÁNDEZ-ARMESTO: Yes, but we are  
 18 calculating all the costs in dollars. And in dollars, I  
 19 would assume that in these two years, the ruble has  
 20 depreciated against the dollar. So, we may or may not have  
 21 an impact in dollars. It would be wrong to apply a number,  
 22 a percentage, which is calculated in rubles to a number in  
 23 dollars. Wouldn't you agree with that?  
 24 THE WITNESS: I haven't run those numbers to see  
 25 what that impact would be. So, I can't actually answer

03:15:43 1 31 percent? Because we are making all calculations in  
 2 dollars at the end.  
 3 THE WITNESS: If I may go to my Appendix F,  
 4 because it references of that calculation. Where would I  
 5 find that?  
 6 MR. KENNEDY: Of your first or Second Report?  
 7 THE WITNESS: Second.  
 8 MR. KENNEDY: That is at Tab 34.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: You understand my  
 10 question?  
 11 THE WITNESS: I do. I'm trying to answer it.  
 12 PRESIDENT FERNÁNDEZ-ARMESTO: It looks--I mean,  
 13 31 percent increase in Construction Costs in two years only  
 14 happens in construction booms when there is a period of  
 15 very, very, very high construction. So, there doesn't  
 16 seem--from the evidence we have heard, there doesn't seem  
 17 to have been a construction boom in Belarus. So, I'm  
 18 surprised that prices in dollars could go up 31 percent.  
 19 THE WITNESS: Correct. I mean, if you go to  
 20 Appendix F of my Second Report--  
 21 PRESIDENT FERNÁNDEZ-ARMESTO: We have it there.  
 22 THE WITNESS: Oh, yes, here we go. So, this sets  
 23 out the table. And on the second page you'll see the  
 24 number 31 percent, but this sets out the fact that the  
 25 construction price index reflected the fact that prices

03:18:10 1 your question here now.  
 2 PRESIDENT FERNÁNDEZ-ARMESTO: But in theory, it  
 3 is not proper to apply--to factor a 31 percent increase in  
 4 the price in rubles to say that you should then reduce the  
 5 cost in dollars by 31 percent. I mean, it would not be  
 6 fair to apply one percentage to the other.  
 7 THE WITNESS: But it would be fair, therefore, to  
 8 apply it after the exchange rate adjustment to dollars.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: Okay.  
 10 BY MR. HANESSIAN:  
 11 Q. You've made no calculation?  
 12 A. For which I've made no calculation, yes.  
 13 Q. Nor is there any apportionment of responsibility  
 14 for delay in this case, as far as you know; correct?  
 15 PRESIDENT FERNÁNDEZ-ARMESTO: No. This is  
 16 assuming all the delay corresponds to Claimant.  
 17 BY MR. HANESSIAN:  
 18 Q. Right. Correct.  
 19 Well, you can answer the question.  
 20 A. I'm not aware of the legal discussions on the  
 21 delay.  
 22 Q. Well, it would be a factual discussion, whether  
 23 there's any expert evidence at all apportioning delay to  
 24 one party or the other?  
 25 A. No, I haven't seen any expert evidence on the

03:19:19 1 matter of delay.  
 2 Q. All right. So, if we go back to your First  
 3 Report to Page 45.  
 4 A. Can you remind me the tab, please?  
 5 MR. KENNEDY: Sure. That's at Tab 17.  
 6 BY MR. HANESSIAN:  
 7 Q. All right. So, now I want to explore the  
 8 difference between the--the top, please--your indexing  
 9 value of the 12.3 for the completed works and your 7.5.  
 10 Okay?  
 11 A. Okay.  
 12 Q. So, as I understand it, you took the cost  
 13 estimate that was--and you compared that to a 2018 Report  
 14 that was done by the Belarus Ministry of Housing and  
 15 Utilities Maintenance. And this is--we have two pieces of  
 16 this in the record. SQ-44 and SQ-45; is that correct?  
 17 A. Is that what I refer to as the Belcommunproject?  
 18 Q. You call it the Belcommunproject, but I want to  
 19 be clear that this is--but it's the minutes--it's a federal  
 20 agency; correct? It's a State entity that did these two  
 21 documents, these engineering opinion and architectural  
 22 design, we call it document, so-called document; correct?  
 23 A. What's the tab?  
 24 MR. KENNEDY: It is Tab 66 and 67.  
 25 BY MR. HANESSIAN:

03:23:06 1 A. Sorry?  
 2 Q. Do you know the answer to my question?  
 3 A. Can you repeat your question?  
 4 Q. The purpose of this survey was to record  
 5 accumulated defects and structural damage to the  
 6 construction in the course of mothballing the unfinished  
 7 business; correct?  
 8 A. Yes. It says so on Page 2. Yes. I can read it.  
 9 Q. And so, it's a survey of the technical state of  
 10 the structures in February 2018; correct?  
 11 A. Yes, correct.  
 12 Q. Some six years after the State took possession of  
 13 the Depot; correct?  
 14 A. Correct.  
 15 Q. So, as--and the nomenclature of this document,  
 16 the descriptions of the equipment, the numbering, the  
 17 methodology of this document, if I can put it that way, is  
 18 completely different than the cost estimating document,  
 19 isn't it?  
 20 A. It does reference certain lines from the cost  
 21 estimates.  
 22 Q. So, the lines you gave us--the lines you gave us  
 23 don't reference the cost estimate, do they?  
 24 A. There was a much lengthier document here, so in  
 25 terms of the references, in terms of what related to which

03:21:18 1 Q. So, again, these are SQ-44 and SQ-45. These were  
 2 performed by State agencies; correct? We should start with  
 3 one, I guess, just to be clear.  
 4 A. Correct, yes.  
 5 Q. So, let us start with 44, SQ-44.  
 6 MR. KENNEDY: Which is Tab 66.  
 7 BY MR. HANESSIAN:  
 8 Q. All right. Do you have that?  
 9 A. Yes, I've got it.  
 10 Q. Okay. So, let's first discuss what this is. It  
 11 says on its cover book 2--and the other document is an  
 12 introduction, which we'll look at shortly, but this is a  
 13 172-page document; is that correct?  
 14 A. Correct, yes, I knew--  
 15 Q. Of which you gave us five pages or so, six  
 16 pages--correct?--in English.  
 17 A. Correct.  
 18 Q. And the purpose of this document was to survey  
 19 the constructions due to accumulated defects and structural  
 20 damage to the constructions in the course of mothballing  
 21 the unfinished building, Depot building; correct?  
 22 A. Wait. Are you reading?  
 23 Q. I'm asking you.  
 24 A. You're asking me. Okay. Yes.  
 25 Q. Do you know?

03:24:40 1 line and which equipment.  
 2 Q. All right. Well, my point is--so just for the  
 3 benefit of the Tribunal, there was no attempt by the  
 4 Ministry of Housing and Utilities Maintenance in  
 5 February 2018, which is after this case began, to take the  
 6 cost estimate document and check through the various items  
 7 in the cost estimated to determine which had been completed  
 8 and which had not been completed; correct?  
 9 A. All I know is what they have here. I don't know  
 10 what they--if that happens or not.  
 11 Q. Well, you and your team had access to the  
 12 172-page document; correct?  
 13 A. Correct, yes.  
 14 Q. Do you speak Russian?  
 15 A. No.  
 16 Q. So, you didn't review the documents yourself, I  
 17 take it?  
 18 A. No. I relied on my Russian speaking team to do  
 19 that.  
 20 Q. So, you don't know if the Ministry of Housing and  
 21 Utilities Management people in 2018 used the cost estimate  
 22 document at all in this respect, do you?  
 23 A. No.  
 24 Q. Okay. But what you have done is you have--or  
 25 someone on your team has compared the cost estimate



03:26:03 1 document with the 1991 Soviet methodology, if I can use  
 2 that, list of construction and equipments, and compared it  
 3 to this survey that was done in 2018 of work that was  
 4 necessary to make the building operational; correct?  
 5 A. Correct.  
 6 Q. And if your team was not able to specifically  
 7 match something that the 2018 Ministry of Housing and  
 8 Utilities Maintenance team noted with something in the cost  
 9 estimate, you just assumed it wasn't there and had never  
 10 been built; correct?  
 11 A. No. We assumed it the other way around. I think  
 12 if something was listed as not being there, then we assumed  
 13 it wasn't there. We took a very conservative approach to  
 14 what was not there.  
 15 Q. So, if the team in 2018 is not using the cost  
 16 estimate, not referencing it, why would they specifically  
 17 mention anything in the cost estimate?  
 18 A. But they are referencing the cost estimate. They  
 19 are referring to specifically the items that were not done  
 20 from the cost estimate.  
 21 Q. Well, okay. You can help us with this then. I  
 22 will show you SQ-44, go to Page 5.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Yes. Conclusions?  
 24 MR. HANESSIAN: No. Page 5 of SQ-44.  
 25 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.

03:27:44 1 MR. HANESSIAN: Next page, yeah, for the screen.  
 2 The top, please. All right. So, why don't you find this  
 3 for us in the cost estimate? Do you have--can you tell him  
 4 where the cost estimate is?  
 5 MR. KENNEDY: Yeah. The cost estimate is SQ-27,  
 6 and it's Tab 62 of your binder.  
 7 THE WITNESS: So, you want me to open which tab?  
 8 MR. KENNEDY: 62 is the cost estimate.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: I'm slightly lost.  
 10 What are we trying to do now?  
 11 MR. HANESSIAN: Okay. Our understanding--let me  
 12 find the right place here. Another way of doing this--I'll  
 13 withdraw my homework assignment. Let's look at Appendix  
 14 H--  
 15 PRESIDENT FERNÁNDEZ-ARMESTO: Let us get this  
 16 clear. SQ-44 is a review by the Belarusian authorities of  
 17 the Depot of which we saw some photographs this morning?  
 18 MR. HANESSIAN: Correct.  
 19 PRESIDENT FERNÁNDEZ-ARMESTO: And let me ask the  
 20 Expert so--because you have produced this document. And it  
 21 comes to the conclusions at the end. It's Page 5 and 6.  
 22 And then it gives categories to the different structures,  
 23 the present situation of the construction. And then it  
 24 goes from Category 1 to Category 5, and then it values how  
 25 the building is looking now for the purposes of actually

03:29:42 1 finishing it and commissioning it. Is that the sense of  
 2 that Report?  
 3 THE WITNESS: This is the point of this Report,  
 4 yes. And I conducted a reconciliation for the items that  
 5 are clearly not being done and referenced to the cost  
 6 estimates and the detailed books. And everything is set  
 7 out within my Appendix to my Report. So, I would need--we  
 8 would need to roll up our sleeves and get into that  
 9 Appendix.  
 10 PRESIDENT FERNÁNDEZ-ARMESTO: But somewhere in  
 11 this--in the Russian part of this Report, there is a list  
 12 of items which have not been built?  
 13 THE WITNESS: Correct.  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. Let me ask.  
 15 MR. HANESSIAN: There is no evidence of that in  
 16 this case.  
 17 PRESIDENT FERNÁNDEZ-ARMESTO: Then you--I try to  
 18 understand where we stand, and then you cross-examine him  
 19 because otherwise we will get lost.  
 20 So, you say from here--because, of course, from  
 21 your point is, there was this initial budget in 1991  
 22 rubles, but you say not everything--I cannot simply bring  
 23 that forward in time because a portion of that has not been  
 24 built?  
 25 THE WITNESS: Correct.

03:30:59 1 PRESIDENT FERNÁNDEZ-ARMESTO: And so, you are now  
 2 trying to explore. I have an 85 percent figure in my mind,  
 3 but you are now trying to put a precise number to what has  
 4 not been built?  
 5 THE WITNESS: Yes.  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: And you do that  
 7 taking this Report, and this Report somewhere shows some  
 8 items which have not been built, and then you trace them  
 9 back to the original budget and you exclude them from the  
 10 original budgets?  
 11 THE WITNESS: That is correct.  
 12 PRESIDENT FERNÁNDEZ-ARMESTO: Is that the  
 13 methodology?  
 14 THE WITNESS: That is correct, and I have an  
 15 Appendix which explains that.  
 16 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. And now  
 17 Counsel wants to--now that I understand what we are  
 18 discussing, Counsel wants to examine you about that.  
 19 BY MR. HANESSIAN:  
 20 Q. All right. Where is the English document in the  
 21 2018 Ministry of Housing document that lists the works not  
 22 completed?  
 23 A. If I may go to my Report. There is a bridge here  
 24 explaining each line item here and how I've calculated it.  
 25 Q. Is there such a list in this case in English?

03:32:05 1 A. I will need to go back to my Appendix. This is  
 2 quite complex. It's quite a while since. My team  
 3 conducted a very detailed analysis, so that's why I said,  
 4 we will all need to roll up our sleeves and get into that.  
 5 PRESIDENT FERNÁNDEZ-ARMESTO: Just show us where  
 6 it is and--we will not go through every single item, but if  
 7 it is an annex to your Report, let's have a look at it.  
 8 THE WITNESS: I'm more than happy to do it. And  
 9 by the way, I had no comments--because it was my First  
 10 Report, Mr. Taylor didn't provide any comments to my  
 11 calculation or have any concerns or questions.  
 12 PRESIDENT FERNÁNDEZ-ARMESTO: Just let's see your  
 13 calculation where it is, and let's see if Counsel has some  
 14 questions, and otherwise, if there is any doubt, I'm sure  
 15 they will come up after Hearing, post-Hearing.  
 16 Mr. Qureshi's First Report.  
 17 THE WITNESS: It's my First Report, yes. I'm  
 18 just trying to find the reference for you.  
 19 MR. KENNEDY: I believe it is Tab 25 you're  
 20 looking for.  
 21 THE WITNESS: Okay. Appendix H of my First  
 22 Report.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Yes.  
 24 THE WITNESS: We'll start with Appendix H1.  
 25 BY MR. HANESSIAN:

03:35:12 1 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 2 THE WITNESS: From construction site preparation,  
 3 key construction facilities, et cetera, et cetera. It goes  
 4 all the way down, and we end up with a--on the--if you just  
 5 flip to the next page, please. And then we add--then we  
 6 end up with our 40 billion rubles and our \$12 million,  
 7 which reconciles to the 12 million Mr. Hanessian was  
 8 pointing out was for a complete Depot pricing.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 10 THE WITNESS: Now from there--okay. That's the  
 11 simple bit. From there the second-to-the-right column, if  
 12 you just go back up to the next page--sorry. The earlier  
 13 page, sorry, the other way. Yeah. We have this heading  
 14 called "adjusted costs."  
 15 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 16 THE WITNESS: And adjusted costs are the items of  
 17 what's been done and not done. So, for example--  
 18 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. And that  
 19 gives you the 7 million figure?  
 20 THE WITNESS: And then--yes, exactly. We get to  
 21 the 7 million figure down to the bottom. So, for example,  
 22 construction site preparation--yeah, there is the  
 23 7 million. So, the construction site preparation, BYR 76,  
 24 so I'm saying all that was done.  
 25 PRESIDENT FERNÁNDEZ-ARMESTO: So, let's take the

03:33:59 1 Q. Just to be clear, the question, I think, from the  
 2 President of the Tribunal was simply: Where in the  
 3 documents of the Ministry of Housing and Utilities  
 4 Maintenance Report is a list of the work that was not  
 5 complete?  
 6 A. In order to answer that question, because we go  
 7 to multiple documents, you will see there's multiple  
 8 references in this Appendix, which I'm assuming Mr. Taylor  
 9 did review.  
 10 Q. Just to be clear, you cannot--you can take all  
 11 the time you want to answer the question, but you cannot  
 12 point to any source document that lists the incomplete  
 13 portion or percentage or anything of the kind with respect  
 14 to the Depot; correct?  
 15 PRESIDENT FERNÁNDEZ-ARMESTO: Let us try to  
 16 understand what he did and then we see what the source  
 17 documents are.  
 18 THE WITNESS: Okay. I'm going to have to take  
 19 you step by step through this.  
 20 PRESIDENT FERNÁNDEZ-ARMESTO: Just take one  
 21 example, if you can.  
 22 THE WITNESS: Okay. Well, I'll start with the  
 23 summary on the front page which is a summary of my  
 24 assessment of the costs. Now, the cost estimate on the  
 25 left-hand side, there are 12 item numbers down there.

03:36:26 1 second item, key construction facilities.  
 2 THE WITNESS: Exactly.  
 3 PRESIDENT FERNÁNDEZ-ARMESTO: The cost estimate  
 4 was 4,262.  
 5 THE WITNESS: Yes.  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: And you say only  
 7 incurred 2,691.  
 8 THE WITNESS: Correct.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: How do you--I think  
 10 the question from counsel is why is it 2,691 and not 4,262?  
 11 Because if you look, for example, on the construction site  
 12 preparations, you take 100 percent.  
 13 THE WITNESS: Okay. Now, for this number let's  
 14 jump to Appendix H2.  
 15 PRESIDENT FERNÁNDEZ-ARMESTO: Okay.  
 16 THE WITNESS: There we go. So, on Appendix H2,  
 17 it's a very busy schedule which has--and maybe we'll start  
 18 with the items that are missing. So, we have 292.3. By  
 19 the way, this is per the cost estimate, and in the  
 20 Belcommunproject, it refers to the fact that there are  
 21 certain things that are there. So, actually Mr. Hanessian,  
 22 he pointed out the electrical lifting block with capacity  
 23 one ton, and it references a certain footnote here, and  
 24 I've said 2.3. Okay. That is there. The 7.9 is there,  
 25 3.45 is there.

03:37:43 1 PRESIDENT FERNÁNDEZ-ARMESTO: But these are items  
 2 which are--  
 3 THE WITNESS: Are there.  
 4 PRESIDENT FERNÁNDEZ-ARMESTO: Are there. Okay.  
 5 Which have been built?  
 6 THE WITNESS: Yes.  
 7 BY MR. HANESSIAN:  
 8 Q. I'm sorry to interrupt. I won't interrupt.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: Let's go through  
 10 it. Is it okay.  
 11 MR. HANESSIAN: Mr. Chairman, I just want to say  
 12 he's not showing you any source documents when he's doing  
 13 this.  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: Why don't you ask  
 15 it at the end. So, we understand his methodology and then  
 16 you ask the questions. And then the next one, let's show  
 17 us one which is not there.  
 18 THE WITNESS: Okay. Other components that were  
 19 not constructed. Okay. If you go to Footnote 15.  
 20 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. Yes.  
 21 THE WITNESS: They say out of the 454 cost--  
 22 (Interruption.)  
 23 THE WITNESS: "Out of 454 cost items or  
 24 technological equipment of the production facility only six  
 25 items were constructed as shown in Table H2. Calculated as

03:40:23 1 it is your turn.  
 2 (Interruption.)  
 3 BY MR. HANESSIAN:  
 4 Q. You referenced--let me just hold on one second.  
 5 Let's go to SQ-45.  
 6 MR. KENNEDY: And that's at Tab 67 of your  
 7 binder.  
 8 BY MR. HANESSIAN:  
 9 Q. Where is any reference to anything that is  
 10 missing here?  
 11 (Comments off microphone.)  
 12 Q. SQ-45.  
 13 PRESIDENT FERNÁNDEZ-ARMESTO: Yes.  
 14 BY MR. HANESSIAN:  
 15 Q. Missing according to the original estimate  
 16 document. And maybe you could also compare this to the  
 17 estimate which we have, and you could help us in that  
 18 respect.  
 19 A. As I said, we'll need to roll up our sleeves on  
 20 this just to get there, but I will show you. Okay.  
 21 There--what's not helping here there seems to be a  
 22 misalignment on page numbers of reference and what I have  
 23 here, but let me tell you what I have, anyway. Footnote 16  
 24 of my First Report, Appendix H, Page 4, I refer to electric  
 25 lighting, Page 3, Clause 2.

03:38:59 1 the difference between total cost estimate of technological  
 2 equipment at the production facility." So, here I'm  
 3 referencing a certain point in terms of where I get this  
 4 Number 1279.65. And in order to get--maybe I'll pick an  
 5 easier one to show. Unconstructed components may be on  
 6 Page 4 here.  
 7 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 8 THE WITNESS: It references Footnote 16, which is  
 9 electrical lighting, Page 3, Clause 2, automatization,  
 10 Page 5, et cetera, et cetera. And this exhibit is  
 11 Exhibit SQ-45. So, if you want to follow this through, we  
 12 would need to go to Exhibit 45 for the items that are  
 13 missing.  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: 45. Okay.  
 15 THE WITNESS: From there I took those items and  
 16 went to the cost estimate to say what those amounts were.  
 17 And you'll notice here we have references to that document  
 18 in terms of what is missing, and if you add up those  
 19 numbers, it tells you what was unconstructed.  
 20 PRESIDENT FERNÁNDEZ-ARMESTO: Very good.  
 21 THE WITNESS: And, by the way, each of the  
 22 references are set out here, and I'll just make the point  
 23 again--this has been in my Report since my First Report,  
 24 and there has been no comment to me about this calculation.  
 25 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Hanessian, now

03:43:06 1 If I go to what should be Page 3, but it says  
 2 Page 4 here in this reference, Clause 2, it says here under  
 3 the--on the left-hand side, "lighting rooms in the --  
 4 BY MR. HANESSIAN:  
 5 Q. Not so fast. Let's make sure we're all with you.  
 6 Right. Okay. Page 4, and you're at the bottom? Of the  
 7 left-hand column?  
 8 A. Yeah.  
 9 Q. Okay. Go ahead, please.  
 10 A. It says here "power supply for electrical loads  
 11 of the production facility has been partially implemented,  
 12 integrated transformer is not in place, main distributor  
 13 boxes are not in place, distributed network is implemented  
 14 in wiring in plastic pipes is damaged. Lighting of rooms  
 15 in the production facility is not implemented."  
 16 Q. So, what you've done then is--what your team  
 17 did--is take out all costs as reflected in the estimate  
 18 that relate to these matters; correct?  
 19 A. Correct.  
 20 Q. There is no "I will give them 20 percent credit,  
 21 we'll give them 50 percent credit." You just--those come  
 22 out?  
 23 A. I think we really tried to be conservative and  
 24 not really try to work and out the things that were clearly  
 25 in here that are missing. And if there's something says

03:44:23 1 here "not implemented," we assume it is not implemented.  
 2 Q. But it says "partially implemented." What does  
 3 "partially implemented" mean in this context?  
 4 A. Sorry. I'm not reading "partially implemented."  
 5 I'm reading "lighting of rooms in the production facility  
 6 is not implemented" is what I'm reading.  
 7 Q. Well, the first one says "power supply for the  
 8 electrical loads of production facility has been partially  
 9 implemented."  
 10 A. Okay. But that is a separate line item. I'm  
 11 referring to, now, Footnote 16, electric lighting.  
 12 Q. Wait, wait. I'm sorry.  
 13 A. If you want to follow this through, this is the  
 14 way to do it.  
 15 Q. Yes, yes. Hold on. Can you take us to the  
 16 estimate, so we know what you've kicked out, what you've  
 17 knocked out on this basis, of this lighting of rooms and  
 18 production facilities is not implemented." Do you know  
 19 what "implemented" even means in this context?  
 20 A. It was not there.  
 21 Q. Okay. Well, you will agree with me that the  
 22 purpose of this 2018 Report was not to go through the  
 23 estimate and check off what work was done and what work was  
 24 not done. You'll agree with me to that extent, yes?  
 25 A. Well, it was because it was there to confirm what

03:45:55 1 needed to be done.  
 2 Q. Well, and based on the deterioration of this  
 3 Project over six years during which time anybody could have  
 4 come and taken anything, apparently; correct?  
 5 A. No. And that is a fair point. I agree. It's  
 6 around the security of the facility. So, I will tell you  
 7 that, there has time has passed. I think Mr. Chairman did  
 8 make the point, you know, that time has passed.  
 9 Q. Right. I understand. Please.  
 10 A. I'm trying to do my best in terms of provide a  
 11 calculation. I provided a very detailed calculation and  
 12 I'll make the point again, there was no comment made by  
 13 Mr. Taylor at all to this.  
 14 (Interruption.)  
 15 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Alexandrov has  
 16 taken away my microphone. To make a long story short,  
 17 there is somewhere an 85 percent number, but if your  
 18 calculation, it is a 60 percent number. It is 7 over 12.  
 19 THE WITNESS: Correct.  
 20 PRESIDENT FERNÁNDEZ-ARMESTO: So, you say that  
 21 after doing these calculations, you think it is more  
 22 60 percent than--it is closer to 60 percent than to  
 23 85 percent what has been finalized in the Depot?  
 24 THE WITNESS: Correct.  
 25 PRESIDENT FERNÁNDEZ-ARMESTO: As a great summary,

03:47:06 1 this is correct?  
 2 THE WITNESS: Yes.  
 3 BY MR. HANESSIAN:  
 4 Q. But you have no background in construction,  
 5 engineering, monitoring progress of works or anything of  
 6 that kind; correct?  
 7 A. I'm not a construction engineer, you're right.  
 8 Q. You're not a construction manager, have no  
 9 background in that respect?  
 10 A. Correct.  
 11 Q. And as far as you know, no--well, let us look,  
 12 since the Chairman mentioned this. It is C-16, which I  
 13 think is Tab 47 in your book?  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: C-16.  
 15 MR. KENNEDY: C-316.  
 16 BY MR. HANESSIAN:  
 17 Q. C-316. I apologize. C-316.  
 18 PRESIDENT FERNÁNDEZ-ARMESTO: C-316. Yeah.  
 19 BY MR. HANESSIAN:  
 20 Q. So, in the third paragraph--  
 21 PRESIDENT FERNÁNDEZ-ARMESTO: I'm still not  
 22 there. Sorry.  
 23 MR. HANESSIAN: Sure.  
 24 PRESIDENT FERNÁNDEZ-ARMESTO: Russian. Sorry, I  
 25 must now go back, because I now have it in Russian. And I

03:48:35 1 must get it in English. Sorry. I'm with you. Thank you  
 2 for waiting.  
 3 BY MR. HANESSIAN:  
 4 Q. Paragraph 3, this is a letter from Manolium to  
 5 the Minsk City Executive Committee and the third paragraph  
 6 ends: "Over 85 percent of the construction work at the  
 7 production building of the"--let me start at beginning of  
 8 this paragraph.  
 9 "Most of the public utilities have been built and  
 10 used at no charge directly by Minsktrans for a long time  
 11 now and particular construction work has been completed at  
 12 the administrative and accommodation building of the  
 13 Trolleybus Depot followed by a Checkpoint, together with  
 14 sewage treatment facilities and a heat station. Over  
 15 85 percent of the construction work at the production  
 16 building of the Trolleybus Depot has been completed as  
 17 well." This is a letter of February 20, 2014.  
 18 So, this letter is saying it's not 85 percent of  
 19 the Depot, it's 85 percent of this final production  
 20 building; correct?  
 21 A. But the production building is the largest part  
 22 of the Depot.  
 23 Q. It's the largest part, but there are other pieces  
 24 as we saw this morning from the pictures?  
 25 A. Just smaller.

03:49:45 1 Q. Are you aware of any work that has been done by  
 2 an engineering or construction management firm to determine  
 3 the progress of work that was completed, putting aside your  
 4 exercise with the 2018 document?  
 5 A. As a--sorry, I didn't hear the last bit.  
 6 Q. To determine the "progress of work." You're  
 7 familiar with that term in construction contract disputes?  
 8 A. I am familiar with it, yes.  
 9 Q. Yes. All right. So, are you familiar with any  
 10 progress of works determination in this case, anything that  
 11 contradicts this representation from Manolium?  
 12 A. Well, I'm not aware of any progress Reports, no.  
 13 Q. Aside from your exercise we just discussed, are  
 14 you aware of anything that contradicts this representation?  
 15 A. Well, I'm not sure that is probably the way to  
 16 ask me the question because you're saying does anything  
 17 contradict this. This is a document which I'm not sure I'm  
 18 familiar with. It is from the Claimants saying that  
 19 85 percent has been completed. I don't know the basis of  
 20 how that has been calculated, so for me I'm not sure how  
 21 you want me--you put words in my mouth a little bit.  
 22 Q. Aside from your exercise that we just discussed,  
 23 are you familiar with any other representation in this case  
 24 regarding the extent of the completion of work?  
 25 A. I'm not aware of any exercise to assess the value

03:51:10 1 of the noncommunal--New Communal Facilities.  
 2 Q. Okay.  
 3 PRESIDENT FERNÁNDEZ-ARMESTO: At some stage, we  
 4 will have to break. Do you have a lot to go?  
 5 MR. HANESSIAN: I don't have a lot, but I--it is  
 6 convenient to break now. If it's convenient for the  
 7 Tribunal.  
 8 PRESIDENT FERNÁNDEZ-ARMESTO: Whenever it's  
 9 convenient for you.  
 10 MR. HANESSIAN: That would be fine. That would  
 11 be fine.  
 12 PRESIDENT FERNÁNDEZ-ARMESTO: Is this the end of  
 13 it?  
 14 MR. HANESSIAN: I think this is--we've covered  
 15 this, yes.  
 16 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. How  
 17 long do you have?  
 18 FURTHER CROSS-EXAMINATION  
 19 BY MR. KHVALEI:  
 20 Q. On the same issue, because you might maybe not  
 21 seen this document, but there was certainly a document from  
 22 Mr. Ekavyan to the Minsk City on, if I believe, 18th of  
 23 June 2012 where Mr. Ekavyan also named approximately  
 24 USD 3.5 million. This letter was in response to Minsk City  
 25 letter, so this number on unfinished construction came from

03:52:12 1 Minsk City.  
 2 So, Mr. Ekavyan said well, we are prepared to  
 3 finance this amount if it's final. So, this amount came  
 4 from Minsk City. They concluded at that time what is the  
 5 remaining--what is the value of remaining work. This  
 6 15 percent we are talking about. Are you familiar with  
 7 this letter?  
 8 A. I'm sorry, I'm not familiar with that letter.  
 9 There is a lot of documents in file, so I can't remember  
 10 it.  
 11 Q. Yeah, yeah. We were going to show it to you.  
 12 Can we find it. Yes, this is letter to Ms. Birich, who is  
 13 Deputy Chairman of Minsk Executive Committee. And it is  
 14 dated 18 June 2012. This is at the time when construction  
 15 finished. And at that time--you see Paragraph 1.  
 16 "According to the Works and Funding Schedule, the budgeted  
 17 cost for completing construction amounts to  
 18 BYR 29 billion." And then it is stated "we are ready to  
 19 finance"--can you show it again. Yeah, yeah.  
 20 "We are ready to finance it if it's final."  
 21 So, at that time--not in 2018 where there could  
 22 be some deterioration of work or some equipment could be  
 23 removed. At that time when the Project stopped,  
 24 effectively, there was estimation of works to be completed,  
 25 and so far I haven't seen any document from the Respondent,

03:53:50 1 disputed this number.  
 2 Did you check this number against the exercise  
 3 you did?  
 4 A. No, I didn't.  
 5 MR. KHVALEI: Okay. Thank you.  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. So,  
 7 now, let's break for 15 minutes, it's 15:55. 16:10.  
 8 (Brief recess.)  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: We resume the  
 10 Hearing for the examination of the Expert, Mr. Qureshi, and  
 11 I give the floor to Mr. Hanessian on behalf of Claimant.  
 12 MR. KHVALEI: Mr. President, if I'm allowed, I'll  
 13 continue.  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: Mr. Khvalei.  
 15 Sorry.  
 16 BY MR. KHVALEI:  
 17 Q. Mr. Qureshi, just for me to understand the  
 18 different methodology, if I understood you correctly this  
 19 afternoon, you are saying that the difference in approach  
 20 between the Claimant's approach and your approach is that  
 21 the Claimant took the Ministry of Finance Report as the  
 22 final numbers for cost of New Communal Facilities.  
 23 And your point is that this Report is based on  
 24 Actual Costs, and Market Costs and Actual Costs are not  
 25 necessarily the same; correct?

04:17:18 1 You could spend 20 million, but it doesn't  
 2 really--you cannot sell it for 20 million. You could sell  
 3 it for 10 million; right?  
 4 A. You're--right. It doesn't represent maybe the  
 5 value of your building, yes.  
 6 Q. And you take--which is a fair point. I accept.  
 7 Because standard of compensation under the Treaty is Market  
 8 Value. So, the invested costs, not necessarily, are Market  
 9 Value. I don't want to go into legal issues, but  
 10 generally. Okay.  
 11 And then you take an equivalent of Market Value  
 12 at Belarusian prices--indices of prices published by  
 13 Belarusian authority; right?  
 14 And you're saying that it will be better to  
 15 calculate market price based on these indices because  
 16 indices represent Market Value; right? Correct?  
 17 A. Correct, yes.  
 18 Q. And because of that, Ministry of Finance Report,  
 19 should be listed together not only because of that, but  
 20 mainly because Ministry of Finance used different approach  
 21 and not Market Approach, in your understanding; correct?  
 22 A. The Ministry of Finance basically took the costs.  
 23 Q. Costs, yes, Actual Costs?  
 24 A. Costs, yes.  
 25 Q. Which is not necessarily the value, and value,

04:20:14 1 it to certain documents for certain parts of it. And there  
 2 has been no measurement back to the--for the Ministry of  
 3 Finance Report, anyway--that they haven't done any  
 4 measurements, but I know that there was some level of  
 5 measurements done.  
 6 Q. Now, measurement is a different issue. I'm more  
 7 interested about pricing.  
 8 Do you know that Ministry of Finance normally,  
 9 when they make audit of pricing, is they not only check the  
 10 Actual Costs, but they also check whether the costs are  
 11 reasonable from a perspective of State.  
 12 And reasonable costs from perspective of State  
 13 is, basically, the same what you do with your methodology.  
 14 They take 1991 prices, and they adjust it to the time of  
 15 construction. And they say this is to avoid abuse in  
 16 construction, where you will push sand or concrete on  
 17 higher prices.  
 18 So, they normally say, "Whatever price you pay,  
 19 we do not accept it. We take what should be paid according  
 20 to the indices"?  
 21 A. Yeah. So, that's my point. They are using  
 22 it--that's why I didn't want to use the word "methodology."  
 23 They are using it as part of their work, which is something  
 24 that I use as part of my work to justify what I have done.  
 25 But I think my point there was that the sampling

04:18:43 1 according to you, are indices; right?  
 2 A. It can be.  
 3 Q. Can be?  
 4 A. I will say it can be. I will say the problem  
 5 here is it also may not be because one doesn't equal the  
 6 other one, as I mentioned this morning in my presentation.  
 7 But I think we're on the same wavelength--I  
 8 think.  
 9 Q. Okay. Now, this morning, Respondent's counsel,  
 10 when making examination of Mr. Taylor, I think, tried to  
 11 make the point that the Cadastre Registry Report, Ministry  
 12 of Finance Report is making reference to the same  
 13 methodology, which is used by you, as evidence that this is  
 14 well-established practice in Belarus, to use this  
 15 methodology for valuation of Construction Object.  
 16 You have the same--do you have the same  
 17 understanding?  
 18 A. Yeah, maybe we're overdoing it with the word  
 19 "methodology." Maybe the fact that they recognize the Cost  
 20 Estimates provided and they use it within their work. I  
 21 wouldn't call it a "methodology" because what they've done  
 22 is--you know, they have a whole list of costs. They had  
 23 some documents.  
 24 And then they--as I made the point, okay, they've  
 25 sample checked what I think is not enough, and they checked

04:21:32 1 wasn't--they did very little.  
 2 I take Mr. Hanessian's point of the value being  
 3 the 14 percent, but it was a small number in comparison  
 4 with the whole project, whole Depot.  
 5 Q. Can we see again C-160?  
 6 This is the Ministry of Finance Report.  
 7 PRESIDENT FERNÁNDEZ-ARMESTO: C-160?  
 8 MR. KHVALEI: 160.  
 9 MR. KENNEDY: That's Tab 43.  
 10 BY MR. KHVALEI:  
 11 Q. Just the top of this document.  
 12 I think my colleague, Grant Hanessian, already  
 13 mentioned it, but I want to come back to this issue again.  
 14 One part of the commission of Ministry of Finance  
 15 conducting this Audit and Report were representatives of  
 16 the Republican Unitary Enterprise Republican Science and  
 17 Technology Center for Pricing in Construction with the  
 18 Ministry of Architecture and Construction of the Republic  
 19 of Belarus.  
 20 Do you know what that Unitary Enterprise, which  
 21 is State enterprise, do as their primary function?  
 22 Republican Science and Technology Center for  
 23 Pricing in Construction?  
 24 A. I don't know specifically what this Ministry  
 25 does, or this department.

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04:23:05 1 Q. But this Unitary Enterprise, what is their main  
2 function?

3 A. I don't know.

4 Q. If I tell you that the indices to which you refer  
5 are published by this Unitary Enterprise, these indices for  
6 prices in construction, would you accept my word for it?

7 A. I'm take your representation on that. I have no  
8 reason to disbelieve you.

9 Q. So, my question is pretty simple.

10 This Ministry of Finance Report was done, as we  
11 just established, in essence, in accordance with the same  
12 methodology because they did not only check the actual  
13 spending, but they also checked whether the prices were in  
14 accordance with these indices as established by Belarusian  
15 law. And they had two people from the State company which  
16 published the indices. So, they developed the indices.  
17 They know how to apply the indices.

18 So my question is why you believe that the people  
19 who are responsible for methodology of pricing costs in  
20 construction know more than you how to calculate price for  
21 New Communal Facilities; why you're better than people who  
22 spent all their life in pricing construction in Belarus?

23 A. I'm not saying I'm better than anyone here. I'm  
24 just making the comment that I'm looking at an Audit Report  
25 which sets out what they've done. And what they've done

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04:26:11 1 A. The Belcommun Report?

2 Q. Yeah, the Belcommun Report.

3 Did you check whether as-built documents which  
4 were reviewed by the finance people--whether they were in  
5 the same shape, or they are identical, the scope of work?

6 A. What I tried to--what I tried to do, I think I've  
7 already explained with the Belcommun Report. We looked at  
8 what was obviously not there, take it back to the Cost  
9 Estimates, and made the adjustments accordingly.

10 Q. My point is that there were--I think  
11 Mr. President of the Tribunal made a good point because, at  
12 that time, we were talking about production building, which  
13 was completed 85 percent. So, the remaining was  
14 15 percent. In 2012, there was a letter from Minsktrans  
15 who calculated how much work should be done, and they asked  
16 Manolium whether you are prepared to finance the remaining  
17 work.

18 And Mr. Ekavyan--we saw this letter--said, "We  
19 are prepared if it's final." And as I said, it was  
20 calculated by Minsktrans, not by us. An amount was  
21 3.5 million.

22 And my point is that you made your analysis  
23 disregarding what I believe is key evidence related to why  
24 this 15 percent in 2012 became, suddenly, 60 percent of  
25 reduction of price of Depot. And my question--or

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04:24:46 1 is, they've taken a relatively small sample of the whole  
2 project and looked at costs. They haven't taken it back to  
3 the actual what was built. There's a discrepancy between a  
4 desktop exercise and actually conveying it to what is  
5 actually there.

6 Q. Mr. Qureshi, you said your team was in Belarus,  
7 visited the Project, right, the New Communal Facilities?

8 Did you try to make measurement? If you say that  
9 the measurements were not made, and this is a basis to say  
10 this Report is not correct, did you try yourself to make  
11 the measurement?

12 A. Well, as I've already said, I didn't go myself.  
13 You're right, members of my team did go, but that wasn't an  
14 exercise that I undertook.

15 Q. No. But if you are saying this Report is not  
16 reliable because measurements were not done, why you did  
17 not do yourself?

18 A. But the Belcommun Report sets out what was done  
19 and what was not done, and I've relied upon that to adjust  
20 the numbers as to what was not done.

21 Q. Yeah, but there was as-built documentation, as we  
22 know from this Ministry of Finance Report, and it assumes  
23 as-built documentation represents what is built.

24 Did you check whether as-built documents  
25 correspond to what was done by the 2018 Report?

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04:27:41 1 40 percent, yeah. It was whatever. It was much higher.

2 So, did you try to explain why 15 percent  
3 belonged to 40-or-whatever percent?

4 A. There is certainly a lot of numbers flying  
5 around. I do agree there's this Construction Index,  
6 there's the exchange rate influential. So, there's lots of  
7 things. So, for me to really even try to understand what  
8 is behind a number, I need to know, really, what's behind  
9 it, in order to use it.

10 Q. Of course.

11 A. So, if I have a number, just a piece of paper and  
12 a letter, I'm not saying it is wrong or right. I'm saying  
13 I don't know what's behind it.

14 So, based on what I have, I've really tried to  
15 estimate what was the value of the Project and, really,  
16 with the best intention to try and do that.

17 Q. So, simple answer to what I heard is that you  
18 have not seen this document to which you refer, you have  
19 not analyzed it, and you made your conclusion based on some  
20 other piece of evidence?

21 A. I'm aware of the Project--of the letter.

22 However, I'm not aware of how it was calculated, I think,  
23 is my answer.

24 Q. But Minsktrans is on the Belarusian side; right?

25 So, once they calculated, by 2012, the amount in rubles of

04:28:55 1 remaining core, this is a document in their position.  
 2 Did you try to ask them how they calculated it?  
 3 A. I didn't ask them.  
 4 Q. You didn't. Okay.  
 5 MR. KHVALEI: These are all of my questions.  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you.  
 7 MR. KHVALEI: Our questions. This concludes,  
 8 yeah.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: Is there any  
 10 further questions?  
 11 MR. KHVALEI: No further questions.  
 12 PRESIDENT FERNÁNDEZ-ARMESTO: Very good.  
 13 MR. HANESSIAN: That concludes the  
 14 cross-examination.  
 15 PRESIDENT FERNÁNDEZ-ARMESTO: Oh, that concludes  
 16 the cross-examination. Very good.  
 17 MR. HANESSIAN: Sure. Of course.  
 18 PRESIDENT FERNÁNDEZ-ARMESTO: Very good.  
 19 Do you have--Julia, do you have any further  
 20 questions?  
 21 MS. ZAGONEK: I don't. Thank you.  
 22 PRESIDENT FERNÁNDEZ-ARMESTO: Or your colleague?  
 23 MS. ZAGONEK: No, we don't.  
 24 PRESIDENT FERNÁNDEZ-ARMESTO: Very good.  
 25 So, Mr. Taylor, you are--can you sit there in the

04:32:18 1 which was raised, I think, by Mr. Taylor, and that is how  
 2 to calculate the interest rate.  
 3 Because it says "to be calculated," and now it  
 4 comes: "At the domestic interbank market rate for actually  
 5 provided loans in U.S. dollars for up to six months but not  
 6 below the rate of LIBOR or in the procedure determined by  
 7 agreement between the investor and the Member States."  
 8 And I don't think there is anything agreed. So,  
 9 we have, I think, to look to this: "To be calculated at  
 10 the domestic interbank market rate for actually provided  
 11 loans in U.S. dollars for up to six months but not below  
 12 the rate of LIBOR."  
 13 Mr. Taylor, maybe you start because you addressed  
 14 this in your presentation. What should the Tribunal do  
 15 with this interest rate determination?  
 16 THE WITNESS: (Mr. Taylor) Yes, so this was  
 17 covered on, I think, one slide, in particular, on my direct  
 18 presentation.  
 19 PRESIDENT FERNÁNDEZ-ARMESTO: At the end. We may  
 20 open your slides, if you want.  
 21 THE WITNESS: (Mr. Taylor) Yeah. That is  
 22 probably helpful.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Do you have the  
 24 slide in front of you, Mr. Qureshi?  
 25 THE WITNESS: (Mr. Qureshi) I have it.

04:29:45 1 front row so that you also have--you have the opportunity  
 2 of speaking into the record?  
 3 There may be no--  
 4 (Comments off microphone.)  
 5 TRAVIS TAYLOR and ABDUL SIRSHAR QURESHI,  
 6 EXPERT WITNESSES, RECALLED  
 7 QUESTIONS FROM THE TRIBUNAL  
 8 PRESIDENT FERNÁNDEZ-ARMESTO: Could you put in  
 9 the Protocol Annex 16 to the Treaty of the Eurasian  
 10 Economic Union? It's CL-3. If you can put that to  
 11 Page 29.  
 12 Can you see? Do you have a screen?  
 13 THE WITNESS: (Mr. Qureshi) Yes, I do.  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. Because  
 15 I wanted to discuss with you two issues, one of which was  
 16 raised by Professor Stern. And that's why we are  
 17 calculating everything in dollars.  
 18 The second is the question of interest rate.  
 19 MS. SHMARKO: Which page?  
 20 PRESIDENT FERNÁNDEZ-ARMESTO: It is Page 29.  
 21 MS. SHMARKO: Okay.  
 22 PRESIDENT FERNÁNDEZ-ARMESTO: So, I'm sure you're  
 23 familiar with this provision. This is a provision in the  
 24 Treaty regarding compensation. And let us start with the  
 25 easier question, or with the more--or with the question

04:33:42 1 PRESIDENT FERNÁNDEZ-ARMESTO: It is, I think,  
 2 Slide 25.  
 3 Can we start with the first statement? "The  
 4 basis stipulated by the Treaty does not exist, so Experts  
 5 had to determine alternative bases."  
 6 Now, that is a strong statement of something that  
 7 exists in a very important Treaty. It does not exist in  
 8 financial reality.  
 9 Do you agree with that statement?  
 10 THE WITNESS: (Mr. Qureshi) Yes, I agree with the  
 11 statement. It is unusual.  
 12 PRESIDENT FERNÁNDEZ-ARMESTO: Because you  
 13 think--let me double check with both of you--there is--in  
 14 the domestic interbank market rate for loans in U.S.  
 15 dollars, there is no--in Belarus, there is no interbank  
 16 market for deposits in U.S. dollars.  
 17 Mr. Taylor?  
 18 THE WITNESS: (Mr. Taylor) My understanding, and,  
 19 I believe, it's common ground here, that there is an  
 20 interbank rate, but it's a blended rate of U.S. dollars and  
 21 euros. So, it's not only U.S. dollars.  
 22 And my argument--  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Let me--the Central  
 24 Bank of Belarus publishes an interbank market rate, but it  
 25 is a blended rate of U.S. dollars and euros?



04:35:18 1 THE WITNESS: (Mr. Taylor) That is correct.  
 2 PRESIDENT FERNÁNDEZ-ARMESTO: Is that your  
 3 understanding?  
 4 THE WITNESS: (Mr. Qureshi) It is, yes.  
 5 PRESIDENT FERNÁNDEZ-ARMESTO: And so, how do  
 6 you--it does not--the blending is not explained how they  
 7 blend it or how they--  
 8 THE WITNESS: (Mr. Taylor) No, it is not  
 9 explained.  
 10 So, the problem is--and I outline this in my  
 11 Report--is the combination of the euro with the USD has the  
 12 effect of depressing the rate because of different  
 13 inflation expectations. And we've also seen, as I mention  
 14 below, that recently the interbank rate has dropped below  
 15 the USD six-month LIBOR, which, again, contravenes the  
 16 stipulation of the Treaty, which says it mustn't drop below  
 17 LIBOR.  
 18 So, my view is that that rate doesn't comply with  
 19 the Treaty. So, my--  
 20 PRESIDENT FERNÁNDEZ-ARMESTO: Sorry to interrupt  
 21 you.  
 22 THE WITNESS: (Mr. Taylor) Yeah, sure.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Do we--I mean, do  
 24 you have a rate for--could you give us the rate?  
 25 Do you have the number?

04:37:33 1 the domestic interbank market rate for actually provided  
 2 loans in U.S. dollars in whichever--in Russia, if it's a  
 3 case against Russia, or in Belarus, if it's a case against  
 4 Belarus--and then we must compare it with LIBOR.  
 5 THE WITNESS: (Mr. Taylor) Exactly right.  
 6 So, what I tried to do is, because Belarus is  
 7 rated B3 by Moody's, I looked for other B3-rated countries  
 8 that were issuing bonds in U.S. dollars, but I could not  
 9 find any.  
 10 So, my solution was to start with the six-month  
 11 USD LIBOR and take Professor Damodaran's credit-default  
 12 swap, applying country risk for Belarus.  
 13 PRESIDENT FERNÁNDEZ-ARMESTO: Yes. But let us  
 14 explore this because the domestic interbank market rate for  
 15 actually provided loans in U.S. dollars, so it is for--it  
 16 mimics LIBOR because it's an interbank rate.  
 17 Would you agree with that?  
 18 THE WITNESS: (Mr. Taylor) I would agree. The  
 19 only caveat on that is the liquidity in this rate is very  
 20 small. They also publish the amount of currency that is  
 21 traded. And so, it's not particularly liquid, but I agree,  
 22 in principle, with what you're saying.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: And now the  
 24 interesting question here is, do banks in Belarus, when  
 25 they make deposits among themselves, do they charge a

04:36:33 1 THE WITNESS: (Mr. Taylor) Yeah. So, on Slide 25  
 2 there, I say that in June 2019, the NBB rate--so this is  
 3 the blended rate, National Bank of Belarus.  
 4 PRESIDENT FERNÁNDEZ-ARMESTO: Yes.  
 5 THE WITNESS: (Mr. Taylor) This is on my  
 6 Slide 25.  
 7 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 8 THE WITNESS: (Mr. Taylor) Has an average rate of  
 9 1.7 percent, and the six-month USD LIBOR has an average of  
 10 2.3 percent.  
 11 So, you can see, it has dropped below that rate  
 12 materially.  
 13 PRESIDENT FERNÁNDEZ-ARMESTO: Yes. So, what  
 14 wouldn't--okay.  
 15 You say the NBB rate, in any case, is not what  
 16 the Treaty says?  
 17 THE WITNESS: (Mr. Taylor) Correct. For two  
 18 reasons: One, because it's a blended rate with euros; and  
 19 secondly, because it has now fallen below LIBOR, and the  
 20 Treaty says it cannot fall below LIBOR.  
 21 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. But that's  
 22 the second.  
 23 THE WITNESS: (Mr. Taylor) Sure.  
 24 PRESIDENT FERNÁNDEZ-ARMESTO: So, I think, under  
 25 the Treaty, we must do two things: We must first establish

04:39:04 1 country risk? Because what you are doing is, you are  
 2 putting in the Belarus default spread--and you take it from  
 3 Professor Damodaran--but, in the end, it is the country  
 4 risk.  
 5 And my question, then--I will put the question to  
 6 you--is--and this is an important question--is whether the  
 7 rate which is defined in the Treaty includes or not--it is  
 8 defined as an "interbank rate," and I don't know. It's  
 9 pure ignorance.  
 10 If banks in Belarus or in Russia or in other  
 11 countries to the Treaty--when they lend to each other  
 12 dollars, whether they do it at roughly the same rate as  
 13 LIBOR or they do it at an increased rate because they look  
 14 at the other bank and say, "Well, you are Belarusian. You  
 15 are a risky debtor. So, I will not charge. I could lend  
 16 it in London for LIBOR, but, to you, I will add a spread?"  
 17 And I don't know. It is really a question of  
 18 lack of knowledge.  
 19 THE WITNESS: (Mr. Taylor) Yes, and I have the  
 20 same lack of knowledge. That is my working assumption,  
 21 that there would be a spread.  
 22 MR. KHVALEI: Mr. President?  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Let me finish with  
 24 the Experts. I think this will--because this is the first  
 25 case under this Treaty, and if we get to--if we get, of

04:40:33 1 course, to as far as interest, which we have no idea, but  
 2 it will, of course--if we get there, it would set an  
 3 interpretation of the Treaty. So, it's important that we  
 4 get it right, that we don't get it wrong.

5 Do you have any idea about the interbank market  
 6 in Belarus?

7 THE WITNESS: (Mr. Qureshi) I don't have the  
 8 detailed knowledge that you are asking for here, like  
 9 Mr. Taylor, but I will say that I am using the  
 10 Belarusian-Russian interbank blend rate.

11 Is it perfectly in line with what the Treaty  
 12 says? There's some deviations, but, for me, I've looked at  
 13 the fact whether the mix of USD and euro really makes a  
 14 difference. I hear Mr. Taylor's point around inflation  
 15 expectation, but I really don't think it's, in my view,  
 16 relevant in this case. I think, more or less, it's  
 17 similar.

18 The other point is around that the interbank rate  
 19 should be up to six months, and I think that is also  
 20 relevant, that I've taken a period up to 60 days. So,  
 21 there a difference between us, in terms of interpretation.

22 THE WITNESS: (Mr. Taylor) Just to correct you,  
 23 it is not up to 60 days. Your rate is over 60 days, so you  
 24 don't know your period either. Sorry.

25 THE WITNESS: (Mr. Qureshi) That's all right.

04:43:28 1 months deposits, which is one of the most liquid deposit  
 2 markets?

3 Can someone--can you have a look also? Because I  
 4 think you both will agree that deposits for up to six  
 5 months do not exist. There are deposits either on demand  
 6 or you have them for a month, for three months, or six  
 7 month, but not for up to six months.

8 MR. KHVALEI: Mr. President, I'm afraid Russian  
 9 language says--this is a rate of national interbank market  
 10 on actual provided laws in dollars, U.S. dollars, with the  
 11 term "up" to six months.

12 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. Okay. We  
 13 have to live with that. But I think--would you agree, both  
 14 of you agree, that when we have to--if we have to construe  
 15 it, if we get to the point where we have to construe this  
 16 provision, that the only financially reasonable  
 17 interpretation is it means six months deposits? Mr.  
 18 Taylor?

19 THE WITNESS: (Mr. Taylor) Yes, I think that's a  
 20 reason interpretation, yes.

21 THE WITNESS: (Mr. Qureshi) Yes, I can't think  
 22 how else it could have been defined.

23 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. So, the  
 24 difference between both of you is, you say--both agree that  
 25 there is no six-month interbank deposit rate in U.S.

04:41:59 1 And the Treaty refers to up to six months.

2 The one point will--which I have to say, maybe I  
 3 just focused on it only this week, and I'm grateful for  
 4 Mr. Taylor to bring it up--is the point around dropping  
 5 below LIBOR. And it has to be higher.

6 So, I think that is not something that I had  
 7 factored. And I think that is probably relevant, but I  
 8 still sort of am of the position that the Belarus interbank  
 9 blended rate is the most relevant rate. And, also, it is  
 10 not artificially created. It is something that is  
 11 created--however, the Treaty is clear that it can't drop  
 12 below LIBOR.

13 PRESIDENT FERNÁNDEZ-ARMESTO: So, your point is,  
 14 although it is not a perfect match with the Treaty  
 15 language, since the only rate which exists de facto in  
 16 Belarus is a blended mix of U.S. dollars and euros, you use  
 17 that. That is my first point. You agree with that?

18 THE WITNESS: (Mr. Qureshi) Correct. Agreed.

19 PRESIDENT FERNÁNDEZ-ARMESTO: But then we have  
 20 the next point, and I need, now, the support of the Russian  
 21 speakers, because "for up to six months" does not make any  
 22 sense. You have one month LIBOR, three months LIBOR, six  
 23 months LIBOR, but for up to six months LIBOR does not make  
 24 sense. So, is this a translation problem? Were they  
 25 referring to six months LIBOR, which is one of the--for six

04:45:04 1 dollars in Belarus. You both agree that there a six-month  
 2 interbank blended euros/U.S. dollar rate for interbank  
 3 deposits in Belarus?

4 THE WITNESS: (Mr. Taylor) It's not a six-month  
 5 rate. All it says is "greater than 60 days."

6 PRESIDENT FERNÁNDEZ-ARMESTO: Oh. So, it says  
 7 greater than 60 days?

8 THE WITNESS: (Mr. Taylor) Correct.

9 PRESIDENT FERNÁNDEZ-ARMESTO: You agree with  
 10 that?

11 THE WITNESS: (Mr. Qureshi) Yes.

12 PRESIDENT FERNÁNDEZ-ARMESTO: So, you say the  
 13 best you can take, the best there is, is more than 60-day  
 14 blended rate of euros and U.S. dollar interbank deposits in  
 15 Belarus?

16 THE WITNESS: (Mr. Taylor) Well, Mr. Qureshi says  
 17 that. I say you start with six-month USD LIBOR and add a  
 18 premium.

19 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. So, you  
 20 think--so, it's a completely different approach. So, your  
 21 approach is, you take the best available rate in Belarus,  
 22 which is as closely connected as possible to the Treaty  
 23 language, which you say both of you agree that the one  
 24 which is most closely connected is a rate for more than  
 25 60 days' deposits, interbank deposits, blended euro/U.S.

04:46:18 1 dollar. You take that rate, and then you compare it with  
 2 LIBOR, with six months' LIBOR, I suppose, and that is the  
 3 floor, and you take the higher of the two?  
 4 THE WITNESS: (Mr. Qureshi) Yes. I think that's  
 5 the appropriate approach.  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: Okay.  
 7 THE WITNESS: (Mr. Taylor) But just to be clear,  
 8 that wasn't your methodology, though. You just took the  
 9 interbank rate.  
 10 THE WITNESS: (Mr. Qureshi) No. I agree. I  
 11 think, as I said, I only noticed it this week, and on your  
 12 presentation. So, I think that's a reasonable thing to do  
 13 to take LIBOR as a base. I agree with you.  
 14 THE WITNESS: (Mr. Taylor) Well, I'm saying it's  
 15 LIBOR plus a margin.  
 16 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah. We'll come  
 17 now exactly--I will now try to summarize your position.  
 18 THE WITNESS: (Mr. Taylor) Right.  
 19 PRESIDENT FERNÁNDEZ-ARMESTO: So, I think your  
 20 position is clear, whether it is correct or not in your  
 21 calculations is a little doubt, because you may not have  
 22 taken the LIBOR floor?  
 23 THE WITNESS: (Mr. Qureshi) Correct.  
 24 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. And you say,  
 25 no, the whole thing is nonsense, there is no--in Belarus

04:48:57 1 Treaty, there may have some--because it's unusual that the  
 2 Treaty refers to a rate which both Experts agree does not  
 3 exist. So, I find that this is something which merits some  
 4 additional investigation.  
 5 And then we come to Professor Stern's question,  
 6 and that is the following: The Treaty gives a  
 7 rate--Professor Stern was asking, why are we making all the  
 8 calculations in U.S. dollars? Shouldn't we be making the  
 9 calculations in rubles of Belarusian rubles. And I have no  
 10 answer. And maybe you have a comment on that.  
 11 THE WITNESS: (Mr. Taylor) My comment is: I went  
 12 to the most reliable evidence I had, and that information  
 13 is typically presented in U.S. dollars, both for  
 14 Construction Costs and for Sales Value. As simple as that.  
 15 And by adopting U.S. dollars, from my perspective, it got  
 16 around the issues of inflation and counter CD valuation  
 17 issues. That's the only reason.  
 18 PRESIDENT FERNÁNDEZ-ARMESTO: And--  
 19 ARBITRATOR STERN: Yeah, but the costs are spent  
 20 in rubles? I mean, you don't spend dollars when you buy a  
 21 pipe or whatever. I mean, two bricks to construct, you pay  
 22 in rubles, I imagine. No?  
 23 THE WITNESS: (Mr. Taylor) I agree with you. But  
 24 what I had was contemporaneous information just prior to  
 25 the Valuation Date, which were presented in U.S. dollars.

04:47:25 1 the Treaty rate does not exist, so we must go to LIBOR.  
 2 And you then take six months' LIBOR, and then I'm  
 3 slightly--six months' LIBOR, which is the floor. Up to  
 4 there I can follow it.  
 5 THE WITNESS: (Mr. Taylor) Yes.  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: But then you say,  
 7 well, the six months' LIBOR, which is, what, 2 percent now,  
 8 it's very low. I think 2 percent.  
 9 THE WITNESS: (Mr. Taylor) Yes. Just over.  
 10 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah, a little bit  
 11 over 2 percent. It may have been very close to zero if we  
 12 go back. You say that does not reflect interest rates in  
 13 Belarus or something, or risk in Belarus, and you then add  
 14 the country risk, basically this is--the default spread, if  
 15 I'm not totally mistaken, is one of the measures of  
 16 Professor Damodaran for the country risk?  
 17 THE WITNESS: (Mr. Taylor) That's exactly right.  
 18 And I think, Mr. President, to be fair to what you were  
 19 alluding to earlier, you would need some insight into what  
 20 the rate is actually interbank and the extent to which  
 21 there are these premiums being put on LIBOR. I totally  
 22 accept that. And I don't know the answer to that question.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. So, we  
 24 have--I think for the Post-Hearing Briefs, I think that  
 25 requires--there may be some--in the discussions of the

04:50:48 1 PRESIDENT FERNÁNDEZ-ARMESTO: Do you have any  
 2 comment?  
 3 THE WITNESS: (Mr. Qureshi) I don't have a lot of  
 4 comment because I'm responding to what Mr. Taylor is doing.  
 5 PRESIDENT FERNÁNDEZ-ARMESTO: You also made your  
 6 calculations in U.S. dollars.  
 7 THE WITNESS: (Mr. Qureshi) I did, because in the  
 8 end I was exchanging so we could compare like with like,  
 9 but I hear the points about which is more relevant  
 10 currency. But I assume--I was assuming Mr. Taylor was  
 11 instructed to do so, but I hear that he decided to  
 12 calculate the loss in dollars.  
 13 THE WITNESS: (Mr. Taylor) But from your  
 14 Construction Costs, they were originally in rubles, as I  
 15 understand it. So, did you--I can't remember. In your  
 16 discounted cash-flow analysis, your Construction Costs on  
 17 the Schedule Graphic started in rubles, I believe.  
 18 THE WITNESS: (Mr. Qureshi) Correct, for the  
 19 Investment Object.  
 20 THE WITNESS: (Mr. Taylor) For the Investment  
 21 Object.  
 22 THE WITNESS: (Mr. Qureshi) Correct, yes.  
 23 Because it was the same one you used.  
 24 THE WITNESS: (Mr. Taylor) Right.  
 25 MR. KHVALEI: Mr. President--

04:51:42 1 ARBITRATOR STERN: Just a follow-up question.  
 2 So, who bears the risk of change? The investor or the  
 3 State?  
 4 PRESIDENT FERNÁNDEZ-ARMESTO: The currency  
 5 exchange risk.  
 6 THE WITNESS: (Mr. Qureshi) Well, if we're  
 7 thinking about this--just thinking aloud, if we're going to  
 8 put the Claimant back in the position it would have been in  
 9 but for the breach, you would be trying to put them back  
 10 into--because their losses were made in Belarusian rubles  
 11 at the end day.  
 12 PRESIDENT FERNÁNDEZ-ARMESTO: You must speak up.  
 13 THE WITNESS: (Mr. Qureshi) Their losses were  
 14 made in Belarusian rubles. So, now it's a matter of who  
 15 bears the risk, and I'm not sure I can fully answer that.  
 16 PRESIDENT FERNÁNDEZ-ARMESTO: Just--I think you  
 17 may--I don't think we can get further with the Experts.  
 18 There are two elements which I think merit that you devote  
 19 some attention in your Post-Hearing Brief. The one it says  
 20 in Paragraph 81, freely transferable abroad. And I don't  
 21 know if Belarusian rubles are transferable abroad. And the  
 22 second point, of course, which is very unusual.  
 23 Would you both agree with me that the interest  
 24 rate must be in the same currency as the principal?  
 25 Mr. Taylor?

04:52:57 1 THE WITNESS: (Mr. Taylor) Yes, I would agree.  
 2 THE WITNESS: (Mr. Qureshi) Yes, that would make  
 3 sense.  
 4 PRESIDENT FERNÁNDEZ-ARMESTO: So, I have--I'm  
 5 slightly surprised. And we deliberated on this that the  
 6 Eurasian Economic Union has an interest rate, which is in  
 7 U.S. dollars. So, if the interest rate is based on  
 8 interbank deposits in U.S. dollars, would it make some  
 9 sense that you apply that interest rate, which would be  
 10 very low, 1, 2 percent, 3 percent, to a number in  
 11 Belarusian rubles which has a much higher inflation rate,  
 12 and consequently, the interest rates in Belarusian rubles  
 13 must be much higher?  
 14 THE WITNESS: (Mr. Taylor) Yeah. I would agree.  
 15 I think there needs to be consistency in how you apply it.  
 16 THE WITNESS: (Mr. Qureshi) Yeah, I think I also  
 17 agree with Mr. Taylor. I mean, the symbols may need a bit  
 18 more analysis and thoughts.  
 19 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you. I think  
 20 this is a good summary. That we have a lot of questions,  
 21 and you may wish to leave it.  
 22 Mr. Khvalei, you wanted to say something and I  
 23 took the floor from you. Go ahead.  
 24 MR. KHVALEI: Yes. To answer Professor Stern's  
 25 question. I think there is a legal issue and factual

04:54:23 1 issue, and legal issue which is standard of compensation.  
 2 I don't believe it is appropriate to ask Experts what is  
 3 the legal standard to be applicable for compensation. I  
 4 think the counsel was elaborated on it because we know what  
 5 is the standard of compensation.  
 6 And on the factual side, you know from the story  
 7 we told on Monday, that these investments were not  
 8 generated from Belarus. They were loans in foreign  
 9 currencies, which we have provided to Manolium-Engineering,  
 10 they were converted into Belarusian rubles, and  
 11 Manolium-Engineering still has obligation to repay it back  
 12 in U.S. dollars. And so, I think there is a factual angle  
 13 of it, because initial investment came in dollars and they  
 14 were expected to be returned in dollars to pay back the  
 15 loans. And Manolium-Processing is the Claimant, is the  
 16 foreign company in Belarus. So, I think it all speaks in  
 17 favor of U.S. dollars.  
 18 As to rationale of what Mr. President said, it is  
 19 CAS on formal countries of CIS agreement, but it is it  
 20 established in U.S. dollars strangely; right? I think one  
 21 of the reasons is that in every country which would join  
 22 this Treaty, there was a huge problem with inflation. So,  
 23 to have local indicate Russian ruble, Belarusian ruble,  
 24 Kazakhstan tenge, you can always have drops of the  
 25 currency. So, they decided to stick to more stable

04:55:55 1 currency, which is U.S. dollars. This is an explanation  
 2 from my side.  
 3 PRESIDENT FERNÁNDEZ-ARMESTO: Yes. Very. You  
 4 may wish to address that in your Post-Hearing Brief.  
 5 Is there any further question, Dr. Alexandrov?  
 6 Please.  
 7 ARBITRATOR ALEXANDROV: I actually had a couple  
 8 of questions on a different matter, but both Experts  
 9 addressed them. And I'm grateful. So, I'm satisfied I  
 10 have those answers.  
 11 I have two questions arising out of this  
 12 discussion that you had with the President, and one is, I  
 13 was confused, I thought. When I prepared, I had understood  
 14 something else. You both seem to be discussing pre-award  
 15 interest. Are you making a distinction pre-award and  
 16 post-award interest? Because the Treaty says until the  
 17 date of payment.  
 18 THE WITNESS: (Mr. Taylor) I don't make a  
 19 distinction. I guess my working assumption would it would  
 20 be the same rate, pre-award and post-award. That would be  
 21 my working assumption.  
 22 THE WITNESS: (Mr. Qureshi) Yeah, I'm not quite  
 23 know how to do it any other way, so I agree with  
 24 Mr. Taylor.  
 25 ARBITRATOR ALEXANDROV: So, your agreement is

04:57:16 1 pre-award and post-award. Your positions are the same with  
 2 respect--  
 3 THE WITNESS: (Mr. Qureshi) As an Expert, I mean,  
 4 it seems logical. I don't know if there's any Legal  
 5 Arguments on both sides as to why it should be anything  
 6 else.  
 7 MR. KHVALEI: I can explain where it came from.  
 8 THE WITNESS: (Mr. Qureshi) Thank you.  
 9 ARBITRATOR ALEXANDROV: I'm satisfied. I am  
 10 familiar with the Legal Arguments. So, I really don't need  
 11 to get into that. I was asking the Experts of their  
 12 position, and I understand that their position is pre-award  
 13 and post-award. They have the same views as Experts.  
 14 And my second question is: Do you recall if  
 15 there is anywhere in the record or in your materials,  
 16 anything about the sovereign borrowing rate of the Republic  
 17 of Belarus?  
 18 THE WITNESS: (Mr. Taylor) I'm not aware of  
 19 anything in the record.  
 20 THE WITNESS: (Mr. Qureshi) I can't recall it.  
 21 I'd have to check.  
 22 ARBITRATOR ALEXANDROV: You don't need to. I can  
 23 look for it myself. I was just trying to see if you  
 24 remembered and had considered that for any purpose. Thank  
 25 you very much.

04:58:31 1 Thank you.  
 2 PRESIDENT FERNÁNDEZ-ARMESTO: Is there any  
 3 follow-up question from counsel? Otherwise we would thank  
 4 the Experts and dismiss them.  
 5 Any further question?  
 6 MR. KHVALEI: No.  
 7 MS. ZAGONEK: Not from the Respondent.  
 8 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you. Thank  
 9 you very much. It has been extremely helpful, and it's a  
 10 pity we cannot show your presentations on a screen because  
 11 it is the way Experts should make their presentation. It's  
 12 not always like that. Sometimes you see some very  
 13 unobjective statements and positions of Experts. It's a  
 14 pleasure when both Experts really adhere to their standards  
 15 of conduct. So, congratulations and thank you very much.  
 16 It has been very helpful.  
 17 THE WITNESS: (Mr. Taylor) Thank you.  
 18 THE WITNESS: (Mr. Qureshi) Thank you.  
 19 ARBITRATOR ALEXANDROV: And on the record, thanks  
 20 to the President, we avoided a physical altercation.  
 21 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. Thank  
 22 you. You can stay with us, but you are, of course, welcome  
 23 now to leave.  
 24 (Witness steps down.)  
 25 POST-HEARING MATTERS

04:59:30 1 PRESIDENT FERNÁNDEZ-ARMESTO: And so, I think it  
 2 is now the time to wrap up. And the first thing we have  
 3 before I forget is, I must give the floor to our Secretary  
 4 because of the issue of transparency. So, you have the  
 5 floor.  
 6 SECRETARY GORIATCHEVA: Thank you. Just among  
 7 housekeeping issues, just to recall on transparency, there  
 8 was an agreement between the Parties in the Terms of  
 9 Appointment that the basic case details would be published  
 10 on the website of the PCA, which was done at the time.  
 11 There was also an agreement to the application of the  
 12 UNCITRAL Rules on transparency, which provided that a  
 13 number of documents should be made available to the public  
 14 on the UNCITRAL transparency registry.  
 15 Now, those documents were never transmitted to  
 16 the UNCITRAL transparency registry, which is what I wanted  
 17 to raise.  
 18 Specifically, pursuant to Article 3 of the  
 19 Transparency Rules, the documents to be published include  
 20 the Notice of Arbitration; the Response to the Notice; all  
 21 of the Parties' subsequent written statements, but  
 22 excluding attachments, a list of all exhibits attached to  
 23 the Parties' written statements; Hearing transcripts, as  
 24 well as Orders, Decisions, and Awards of the Tribunal  
 25 pursuant to Article 7 of the Transparency Rules. The

05:00:58 1 publication of these documents is subject to redaction of  
 2 confidential and protected information.  
 3 And so, in this context, the concrete proposal to  
 4 comply with the requirements of the Transparency Rules  
 5 would be that the PCA prepare a full list of all the  
 6 documents in the record that would fall under this  
 7 mandatory publication requirement. We would communicate  
 8 this list to the Parties for their review, giving the  
 9 Parties an opportunity to identify any necessary redactions  
 10 of confidential or protected information.  
 11 If there are any disagreements, those would be  
 12 resolved by the Tribunal, and then the PCA would proceed to  
 13 transmit those documents to the UNCITRAL repository. Under  
 14 the Rules, the publication is only on the UNCITRAL  
 15 repository, but if the Parties would agree, then these  
 16 would also be published on the PCA website.  
 17 And so, concretely, with the President's  
 18 permission, I would invite the Parties maybe already to  
 19 tell us if this procedure would be agreeable, and, if so,  
 20 then you might give an indication of how long you would  
 21 need to look at the documents in order to identify  
 22 redactions.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: So, basically where  
 24 we stand is, you know, because of the UNCITRAL Rules and it  
 25 is--there is a mandatory provision, and the Secretary of

05:02:29 1 the PCA is proposing that we go through this procedure.  
 2 There is the possibility of redaction. And to be able to  
 3 redact, we need first to have a set of documents, and then  
 4 you must have some time to think about if you want any  
 5 redaction or not. And then if there is--you must agree on  
 6 the redactions. If you agree, that's fine. If you don't  
 7 agree, then we would have to settle that, and then it would  
 8 be deposited in the depository of the UNCITRAL and the  
 9 website of the PCA, I suppose.  
 10 And so, that also applies to the--first to all  
 11 the documents or submissions you have made. It will also  
 12 apply to the award. So, after the award, there will be  
 13 also a procedure for redacting parts of the award. And I  
 14 suppose the Tribunal will not be functus officio until this  
 15 has been published, so we still have the power to decide  
 16 whether the redaction is proper or not.  
 17 So, I think that basically the questions are when  
 18 would you like to do this, and how long would you like?  
 19 Your proposal was that you would send a list with all the  
 20 documents which, in your opinion, have to be disclosed?  
 21 SECRETARY GORIATCHEVA: We could provide a list  
 22 on the basis of what's listed in Article 3 of the  
 23 Transparency Rules, of the concrete documents. Next week,  
 24 perhaps.  
 25 PRESIDENT FERNÁNDEZ-ARRESTO: Next week. And so,

05:05:34 1 Now, Post-Hearing matters. We will be  
 2 deliberating tomorrow. We will come back with  
 3 some--Dr. Alexandrov is reminding me we asked for some  
 4 documents from both, I think, the accounts of Manolium and  
 5 from you some documents. Maybe we can have a check on  
 6 where we stand on them and when we could expect them.  
 7 MR. KHVALEI: Mr. President, we have already  
 8 balance sheet on Russian, but we need to translate it into  
 9 English. We'll do it tonight.  
 10 PRESIDENT FERNÁNDEZ-ARRESTO: No. No urgency.  
 11 Let your people relax after the Hearing. In God's name.  
 12 There is no hurry whatsoever. Next week, by the end  
 13 of--let me ask directly with the person who does it. By  
 14 the end of next week is fine?  
 15 MS. MALTSEVA: Yes.  
 16 PRESIDENT FERNÁNDEZ-ARRESTO: It gives you time  
 17 to relax over the week.  
 18 (Comments off the record.)  
 19 PRESIDENT FERNÁNDEZ-ARRESTO: So, end of next  
 20 week. Is end of next week also convenient for the Republic  
 21 of Belarus for these documents which were outstanding?  
 22 MS. ZAGONEK: I'm in a slightly different  
 23 position. I am much more in a better position to produce a  
 24 document today and to explain to the Tribunal, just so you  
 25 understand, the chronology of the various letters you

05:04:10 1 do the Parties have any idea?  
 2 MR. KHVALEI: Mr. President, I think we--at least  
 3 on the Claimant's side, we need to have second thought  
 4 about it, because, yes, there agreement between the  
 5 Parties, but I think it will be useful if the Parties  
 6 communicate, again, about the scope of potential  
 7 publication. And then before Ms. Goriatcheva will do the  
 8 award, I think it will be better to confirm what the  
 9 Parties have in mind to be published and then follow the  
 10 procedure as suggested.  
 11 MS. ZAGONEK: On behalf of the Respondent, this  
 12 proposal by the Claimant's counsel sounds reasonable. I  
 13 think we should speak and then--  
 14 PRESIDENT FERNÁNDEZ-ARRESTO: Come back to us.  
 15 MS. ZAGONEK: --then come back to the Tribunal.  
 16 PRESIDENT FERNÁNDEZ-ARRESTO: You may wish also  
 17 to have a look at the Treaty because it has some language  
 18 which is rather imperative. Let me say it in a neutral way  
 19 like that.  
 20 MS. ZAGONEK: We are all aware of that.  
 21 PRESIDENT FERNÁNDEZ-ARRESTO: So, yeah. Very  
 22 good.  
 23 So, it is we add it to the list of to-dos, and  
 24 you will keep an eye that it is properly complied with.  
 25 So, transparency, I make a note. Very good.

05:07:17 1 requested. And I can confirm that, as to the other  
 2 documents referred to in that--in R-140, we have requested  
 3 them, but they are from different authorities. So, we  
 4 will, as soon as we receive them, then we will get them.  
 5 On those, I'm afraid, I don't have any powers to  
 6 commit to next week because I don't have that document.  
 7 But the document that I do have I'm happy to produce now.  
 8 PRESIDENT FERNÁNDEZ-ARRESTO: Okay. Why don't  
 9 you do that?  
 10 MS. ZAGONEK: Okay.  
 11 PRESIDENT FERNÁNDEZ-ARRESTO: Now or at the end  
 12 of the Hearing, whatever is more relevant.  
 13 MS. ZAGONEK: Now is fine. I just want to  
 14 explain what it is.  
 15 PRESIDENT FERNÁNDEZ-ARRESTO: Very good.  
 16 MS. ZAGONEK: Because there are several  
 17 documents, and that's the document that Dr. Alexandrov has  
 18 asked and that's the instruction of the Council of  
 19 Ministers. This instruction, in turn, refers to a document  
 20 that is already on the record, which is R-137, and R-137,  
 21 you will remember--or you may remember--is the instruction  
 22 of the Council of Ministers of January 2016, and that's the  
 23 one you see referred to in the document I've just  
 24 distributed, which is 39/1078.  
 25 Now, that document is described in the Defence

05:08:36 1 at 290, and that is the document by which the Council of  
2 Ministers instructed The Ministry of Finance to undertake  
3 the audit that resulted in the famous 2016 memorandum. And  
4 so, the document we just submitted is yet another  
5 instruction of the Council of Ministers dated 9th of  
6 February.

7 It follows up on the instruction I've just told  
8 you about, the R-137, and in this new instruction, the  
9 Council of Ministers instructs the Ministry of Finance to  
10 update it on the results of orders on how the situation is  
11 going. It is also directed at the Minsk City, and so the  
12 Exhibit R-140 is the Response to that inquiry.

13 And the Tribunal may remember from the Defence,  
14 which is in 283 to 291, that this is--has all been  
15 generated by the letters from Mr. Dolgov of  
16 12 November 2015 to the President, because he asked the  
17 President to meet, and then to discuss the Project. That's  
18 the one where he says otherwise if there is no meeting,  
19 I'll go to Stockholm arbitration. And then in  
20 November 2015, on 23rd, I believe, the Prime Minister  
21 instructs the Minsk City to inform the Government whether  
22 it is necessary to have that meeting.

23 And then on 26th November 2015, the Minsk City  
24 tells the Ministry of Economy that it is not necessary  
25 because there were internal discussions with the

05:11:27 1 (Comments off microphone.)

2 MS. ZAGONEK: I understand that in two weeks we  
3 should be in a position to tell you whether we have it or  
4 whether we need more time. So, I think that is probably a  
5 fair indication. It's a different authority to the one  
6 from which this document comes. So, hence the difference  
7 in approach.

8 PRESIDENT FERNÁNDEZ-ARRESTO: Very good. We must  
9 give a number. I suppose it is better if we give it an R  
10 number to this document, so that we don't get confused. It  
11 would be R--

12 MS. ZAGONEK: Just one second.

13 (Comments off microphone.)

14 MS. ZAGONEK: Yes, R-243.

15 PRESIDENT FERNÁNDEZ-ARRESTO: 243. Very good.  
16 R-243. Yeah.

17 Very good. So, in two weeks we will know more  
18 where these documents are?

19 MS. ZAGONEK: You may even have them, but at  
20 least in which case you'll also know.

21 ARBITRATOR ALEXANDROV: We will also know.

22 MS. ZAGONEK: That is correct, Dr. Alexandrov.

23 PRESIDENT FERNÁNDEZ-ARRESTO: Very good. Very  
24 good. And you will by the end of next week produce the  
25 balance sheets.

05:10:13 1 authorities about potential acquisition of the New Communal  
2 Facilities. And so, the Minister of Economy then passes  
3 this message on, and that's the Exhibit R-130, and so there  
4 are a series of communication follow, which led to the  
5 Council of Ministers instructing the Ministry of Finance to  
6 carry out the order.

7 So, I just wanted to put that in context because  
8 there are lots of instructions and letters going around and  
9 it is not always immediately apparent which one is  
10 generated by what.

11 ARBITRATOR ALEXANDROV: If I could ask you maybe  
12 you could tell us now more or less when you'll be able to  
13 submit the other documents. One reason is obviously for  
14 us. The other is, depending on that date, we may decide to  
15 determine the date of the Post-Hearing Briefs, because they  
16 may want to comment on those documents in their  
17 Post-Hearing Brief.

18 MS. ZAGONEK: Okay.

19 ARBITRATOR ALEXANDROV: So, it would be useful as  
20 some point to know more or less when.

21 MS. ZAGONEK: Well, I can tell you that we  
22 requested it on Monday as soon as it was raised. As to how  
23 long it might take for us at least to know how long we will  
24 need to produce it. If I may take literally a minute or  
25 two to consult with my colleagues.

05:13:16 1 MR. KHVALEI: No, we will do it today.

2 PRESIDENT FERNÁNDEZ-ARRESTO: Sorry?

3 MR. KHVALEI: My colleagues promised to do it  
4 tonight.

5 PRESIDENT FERNÁNDEZ-ARRESTO: But we don't want  
6 them. We will not receive them. We will not look at them  
7 until the end of next week.

8 Very good.

9 Post-hearing, how do we go about post-hearing and  
10 finalizing this procedure?

11 MR. KHVALEI: Well, Mr. President, I think in  
12 agreement between the counsel is that in order to commit to  
13 certain deadlines, we would like to understand further the  
14 scope of the Post-Hearing Briefs. Which we also understand  
15 will be available next Monday.

16 So, what we agree to with the Respondents is that  
17 we would like to first see what would be the questions from  
18 the Tribunal and then we will come back with our proposal  
19 regarding Post-Hearing Briefs. But we certainly will take  
20 into account the suggestion from the Tribunal to have it  
21 consequential rather than simultaneous. So, it will be the  
22 Claimant Post-Hearing Briefs, and then Respondent  
23 Post-Hearing Brief.

24 PRESIDENT FERNÁNDEZ-ARRESTO: It will be.

25 MR. KHVALEI: It will be first the Claimant

05:14:35 1 Post-Hearing Brief and then the Respondent Post-Hearing  
 2 Brief. This is what we expect and agreed.  
 3 PRESIDENT FERNÁNDEZ-ARMESTO: Very good.  
 4 MR. KHVALEI: And a Cost Submission, I think,  
 5 will follow after that.  
 6 PRESIDENT FERNÁNDEZ-ARMESTO: Yeah.  
 7 MR. KHVALEI: Also, one question that I think we  
 8 have not discussed is whether we will be involved in a  
 9 nasty exercise of commenting on Submission of Costs of the  
 10 other Party.  
 11 PRESIDENT FERNÁNDEZ-ARMESTO: The Submission of  
 12 Costs would be after the last Post-Hearing Brief, say two  
 13 weeks thereafter.  
 14 MR. KHVALEI: Yes. One question we will need to  
 15 sort out between counsel whether we want to comment on  
 16 Submission of Costs on the other Party, but we will discuss  
 17 and come back with it.  
 18 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. Yes.  
 19 Sorry.  
 20 MS. ZAGONEK: Yes, I'm happy to confirm that  
 21 Mr. Khvalei has accurately reflected our agreement. Thank  
 22 you.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Very good. So,  
 24 there only is one point which is not true in the summary  
 25 given by Mr. Khvalei is that we have not promised the

05:17:25 1 would first ask for permission and you will explain why  
 2 either you want to make another substantive submission or  
 3 you want to make any new submission of evidence.  
 4 We will then hear the other Party and then we  
 5 will decide. But no sua sponte new submissions nor new  
 6 evidence sua sponte. Let's all agree on that, because  
 7 otherwise that creates havoc in the procedure.  
 8 As regards the Costs Submission, what we would  
 9 request is that you make an affidavit from Chief Legal  
 10 Counsel to each of the Parties setting forth itemizing the  
 11 costs and under your responsibility, but without further  
 12 invoices or just an affidavit from both of you.  
 13 Does that sound reasonable?  
 14 MR. KHVALEI: Yeah, I think having respectful  
 15 counsel on the Respondent's side, we could rely on the  
 16 representation on costs.  
 17 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you. So,  
 18 that takes us close. Am I forgetting anything?  
 19 (Comments off microphone.)  
 20 MS. ZAGONEK: I'm just making eyes at you.  
 21 PRESIDENT FERNÁNDEZ-ARMESTO: Am I forgetting  
 22 anything? Nothing else?  
 23 (Comments off microphone.)  
 24 PRESIDENT FERNÁNDEZ-ARMESTO: Well, yeah. All  
 25 the H documents, I think I have said it, but--and I think

05:15:44 1 questions by Monday. We have promised it by next week, and  
 2 next week, as your colleague knows, goes until Friday of  
 3 next week, not until Monday. So, I don't think, to be very  
 4 frank, that the questions will be ready on Monday. It is  
 5 practically impossible. And whether it will be ready in  
 6 the course of next week.  
 7 And so, I understand that you will then speak to  
 8 each other, looking for dates and you will speak first and  
 9 you will speak thereafter. And that then a couple of weeks  
 10 after these submissions, you will have a simultaneous Costs  
 11 Submission, is roughly your summary.  
 12 MS. ZAGONEK: Yes.  
 13 MR. KHVALEI: Yes. With one small reservation,  
 14 Mr. President. Of course, giving the Respondent the  
 15 opportunity to file Post-Hearing Brief after our  
 16 Post-Hearing Brief, we want to make small reservation. If  
 17 we see something which we would not expect today, then we  
 18 will reserve our right to make a small comment on it.  
 19 PRESIDENT FERNÁNDEZ-ARMESTO: Let me comment. I  
 20 see this is always the risk of successive submissions.  
 21 They have advantages. They have disadvantages. But let us  
 22 all agree on the following: The procedure is now closed.  
 23 No new evidence except for the evidence with which the  
 24 Tribunal has requested. No new submissions except in very  
 25 unusual circumstances, and then what you would do is you

05:19:03 1 you have mostly done it, but all the H documents, please,  
 2 do send them in electronic format.  
 3 (Comments off microphone.)  
 4 PRESIDENT FERNÁNDEZ-ARMESTO: Oh, what do  
 5 we--yes, corrections to the Transcript is a good point.  
 6 Thank you.  
 7 This is one of the most absurd, time-consuming  
 8 and expensive, senseless activities in the world. Probably  
 9 the only similar thing is to stand guard in a coat, in the  
 10 middle of Siberia, waiting for someone to attack. It is a  
 11 senseless activity. It is a senseless activity because now  
 12 the quality of the Transcript is very, very high. So, my  
 13 point is, when you prepare your Post-Hearing Briefs, let's  
 14 not do it.  
 15 So, my first point is, let's not do a change in  
 16 Page 66 of the Transcript, that a comma is in--a full stop  
 17 instead of a comma, or that the name is wrong. It is a  
 18 senseless exercise.  
 19 If you find that there is somewhere in the  
 20 Transcript, in a part of the Transcript which is really  
 21 important, which you want to refer to, which is important  
 22 evidence, which is wrong, which is plainly wrong, I would  
 23 kindly ask you that you speak with each other and that you  
 24 try to sort that out. If you cannot sort that out, then  
 25 come back to us.



05:20:47 1 And we must have a cutoff date, which should be  
 2 20 days before the Post-Hearing Briefs, three weeks before  
 3 the first Post-Hearing Brief. After that you cannot make  
 4 any further requests or protests about the Transcript.  
 5 I find this much more--my experience is that this  
 6 default rule is never used, that, in fact, the important  
 7 parts of the Transcript are always correct, and we avoid  
 8 unnecessary cost and unnecessary expense.  
 9 Would that make sense? I look first to Claimant.  
 10 MR. KHVALEI: Mr. President, yes, with two  
 11 reservations. First, with regard to the deadline, I  
 12 propose not to establish such a deadline at all or why it  
 13 is so. Because normally you start to read Transcript when  
 14 you prepare Post-Hearing Brief. But what we agreed with  
 15 Ms. Julia is that, if we detect something which is really  
 16 important, and we have audio recording as well, and we  
 17 agree between us that correct translation would be like  
 18 this, we could simply refer to correct translation.  
 19 Without not necessarily changing the records of Transcript.  
 20 This is my first reservation. My second  
 21 reservation, Mr. President's remark to regard to Siberia is  
 22 not entirely correct.  
 23 PRESIDENT FERNÁNDEZ-ARMESTO: Sorry?  
 24 MR. KHVALEI: Your remark was to get to Siberia  
 25 and having somebody on guard in the middle of Siberia and

05:23:43 1 Transcript as it was in English, I believe is excellent,  
 2 and actually reading it, I haven't had anything to  
 3 criticize it for, but Mr. Khvalei quite rightly says we  
 4 have an issue of translation interfering with that, and we  
 5 have agreed that we will communicate amongst ourselves if  
 6 there is something that we have noticed, we have the  
 7 opportunity to listen.  
 8 As to the deadline it would be unhelpful if we do  
 9 use the guerilla tactics, so on the basis that we won't,  
 10 I'm happy to do away with the deadlines.  
 11 PRESIDENT FERNÁNDEZ-ARMESTO: On that promise--  
 12 MR. KHVALEI: I promise not to use guerilla  
 13 tactics.  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: With that promise  
 15 and understanding that is fine with the Tribunal.  
 16 So, anything else? Very good. So, there is  
 17 nothing else to say that. Thank you very much. It has  
 18 been a very helpful Hearing. It is always--it's these  
 19 Hearings just prove the--how important orality is, and as  
 20 always I have three heartfelt Thanks, one is to our Court  
 21 Reporter, the other is to our excellent interpreters, they  
 22 really were very important, and the third is, of course, to  
 23 the junior members of the team who are the ones who  
 24 actually worked, so that their partners could shine. To  
 25 them, they deserve at least a week holiday.

05:22:21 1 it is not entirely correct because a lot of danger is  
 2 coming from Siberia. Believe me.  
 3 PRESIDENT FERNÁNDEZ-ARMESTO: Okay. Well then,  
 4 what about in the north somewhere close to the Arctic  
 5 Circle?  
 6 MR. KHVALEI: Yeah, you know, sometimes danger  
 7 coming not from outside people but traveling inside people,  
 8 so.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: I was not--it has  
 10 no political connections. Yeah. I was trying to find a  
 11 very, very boring and senseless activity.  
 12 MR. KHVALEI: Well, also, they may disagree with  
 13 it.  
 14 PRESIDENT FERNÁNDEZ-ARMESTO: Would you agree  
 15 shall we do away with the--in the spirit of cooperation,  
 16 because why do you put normally a deadline? Because you  
 17 don't want it a day before the filing of the Post-Hearing  
 18 Brief, the other Party comes up with 25--I mean, I have  
 19 seen these guerilla tactics, with 25 issues and there are  
 20 some colleagues who do this just to harass the other party  
 21 when it is finalizing the submission. But since this is a  
 22 bona fide relationship, if Respondent is fine, we just do  
 23 away with the deadline.  
 24 MS. ZAGONEK: Yes, Mr. President. We haven't  
 25 found any "guerillas" on our side. And I think the

05:25:21 1 Thank you very much. And enjoy, if you can stay  
 2 in this beautiful city, and enjoy a little bit of The Hague  
 3 in the morning, in the sunshine, then that would be a great  
 4 for all of you. Thank you. Goodbye.  
 5 MR. KHVALEI: Yeah, we would like--we also would  
 6 like to thank the Tribunal for patience and for listening  
 7 to us and giving us opportunity to present our oral  
 8 arguments.  
 9 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you.  
 10 MS. ZAGONEK: And I second that. A heartfelt  
 11 thank you from our slightly bigger team than the Claimants  
 12 and from our clients as well. Thank you.  
 13 PRESIDENT FERNÁNDEZ-ARMESTO: Thank you. Very  
 14 much appreciated.  
 15 (Whereupon, at 5:26 p.m., the Hearing was  
 16 concluded.)  
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## CERTIFICATE OF REPORTER

I, Dawn K. Larson, RDR, CRR, CRC, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

  
DAWN K. LARSON