

09:54:45 1

Tuesday, 18 November 2008

2 (10.30 am)

3 MR SALOHIDDIN MIRZOEVICH MIRZOEV (continued)

4 Cross-examination by MR DOCTOR (continued)

5 MR JUSTICE TOMLINSON: Good morning, Mr Mirzoev.

6 A. Good morning.

7 MR JUSTICE TOMLINSON: Yes, Mr Doctor.

8 MR DOCTOR: Thank you, my Lord.

9 Mr Mirzoev, would you look at H54/175, and in
10 the English at 23, the last paragraph on the page.

11 This paragraph is saying that the settlements are
12 made between TadAZ and the companies Ansol and Hamer,
13 taking into account discounts between \$30 and \$250 per
14 tonne, at prices lower than the market prices. It then
15 says that that means losses for the plant.

16 That is written by somebody who does not know that
17 the discounts are applied because of the differing
18 quality of the aluminium sold. Correct?

19 A. No. Well, because the fact this is described here, at
20 page 176, as he says, is also reflected in the act of
21 8 June, page 8 in the Russian version.

22 Q. Just one moment. Do you have out there the act of the
23 8 June?

24 A. Yes. Parallel.

25 Q. What volume are you looking at?

10:35:23 1 THE INTERPRETER: He needs assistance in identifying what
2 volume it is.

3 MR DOCTOR: Can you just tell me what you are looking at,
4 Mr Mirzoev? What is that bundle of papers you have
5 brought into the witness box?

6 A. This is the act of 8 June.

7 Q. May I just have a look at that, please?

8 A. You are welcome.

9 Q. The question is: can I please have a look at
10 the document that you have brought into the witness box?

11 A. Well, this is the same document. It is dated the 8th.
12 (Pause).

13 Q. Mr Mirzoev, what is that bundle of documents?

14 A. This is my copy of documents, including three acts: an
15 interim act, the act of 1 November, then also one of
16 8 June, the act of 8 June.

17 Q. So you would now like to look at the act of 8 June?
18 Would you please look at the one in the bundles that
19 we have in front of us, which is in H85 at page 33, and
20 the English is at 22.

21 A. This is the act that has been referred to.

22 Q. Yes. What did you --

23 A. I simply wanted to explain that at page 176, there is
24 a reference to a discount supplied to aluminium for
25 sales, only for Ansol and Hamer. Whereas the act of

10:40:10 1 8 June, at page 40, has a table listing some other
2 companies too.

3 Q. Right. And that is what you want to draw our attention
4 to?

5 A. No, I would like to draw your attention to the fact that
6 it is not true that this calculation is unrealistic. If
7 aluminium was sold at a discount, below production
8 costs, these discounts should be considered as losses
9 for the enterprise. That is what is said.

10 Q. Well, Mr Mirzoev, the page at H85/40 -- well, it would
11 be 39 and in the English, 28, shows that they are
12 precisely talking about the discounts from the LME
13 price?

14 A. Correct.

15 Q. Well, let's leave it there then.

16 Now, the loss for the period that is referred to in
17 the November act is said to be \$2,138,544 for a period
18 from May 2003 to some date in 2004, and that is the --

19 A. Yes.

20 Q. Sorry -- and that is the one item taken from the
21 November act about the prices which is referred to in
22 the letter to the President and the letter to
23 the General Prosecutor. Do you recall that?

24 THE INTERPRETER: Now Mr Mirzoev would like me to repeat
25 what has just been said.

10:44:37 1 A. As we already discussed yesterday, there was no
2 reference in the letter to the President about alumina
3 replacement costs and discounts.

4 MR DOCTOR: Just concentrate on the questions, Mr Mirzoev.
5 I am asking you to confirm that that is the only item
6 about the prices which is included in the letter to
7 the President and you can have a look at it, if you want
8 to remind yourself, at H59/78 and in the English at 72.

9 Do you see the reference in the middle of the page
10 to the head physician of the hospital of Tursunzade
11 town?

12 A. Yes.

13 Q. You do. Now, keeping that open there, have a look at
14 H54/175, and in the English at 23.

15 MR JUSTICE TOMLINSON: Sorry, Mr Doctor, you have lost me.
16 This need not be translated. Where is the reference to
17 the head physician of the hospital?

18 MR DOCTOR: My Lord, in the letter to the President it is
19 about in the middle of the page at H59/72. It is not
20 a letter; it is just a reference to the head physician.
21 Then in H54, it is at page 23.

22 MR JUSTICE TOMLINSON: Oh, I am so sorry, yes. You mean in
23 the text of the letter. I thought it was going to be
24 addressed to him. I remember that one. The daily rate.
25 Yes, I remember this one now.

10:47:16 1 MR DOCTOR: The chief doctor and the other one says "head
2 physician".

3 MR JUSTICE TOMLINSON: Yes, we were at cross-purposes. And
4 now we are going to H54/23?

5 MR DOCTOR: Yes.

6 The letter to the President, Mr Mirzoev, contains
7 a brief summary of the passage in the November report
8 concerning some money paid to the head physician of the
9 plant. Do you see that?

10 A. Yes.

11 Q. And then the letter to the President goes on to refer to
12 this loss of \$2,138,500, caused by the fact that
13 aluminium had been sold at discount prices. That is
14 a reference to the passage at the bottom of page 175 of
15 H54, and in the English, the last paragraph of page 23,
16 of H54. Is that correct?

17 A. Page 23?

18 Q. No. In the Tajik, it is at the bottom of page 175. In
19 the English it is at page 23.

20 A. Yes.

21 Q. And in your witness statement, at paragraph 37, you
22 confirm that the President is informed about significant
23 faults which have been uncovered by the SFCC, or
24 FinControl.

25 A. Correct.

10:50:33 1 Q. Now, don't put the letter to the President away, I will
2 come back to that in moment. I just want you to look at
3 the letter to the Prosecutor, which is almost identical.

4 That is at H59/114.1, and the English is at
5 114.1.01. Do you see that there is a reference to
6 the passage regarding the head physician of the
7 hospital?

8 A. Yes.

9 Q. And that is followed by the passage about the losses of
10 \$2,138,500 because the aluminium was sold at prices
11 lower than those on the LME.

12 A. Yes.

13 Q. Now, these two documents, you confirmed the letter to
14 the Prosecutor was received by the Prosecutor on
15 20 December, and we can see that the President received
16 his summary also on 20 December.

17 We can see that from page H59/114, with
18 the translation at H59/113.

19 MR JUSTICE TOMLINSON: Sorry, Mr Doctor, I have not been
20 following. You referred to the witness' statement.
21 I am just going to address this to Mr Rosen.

22 Mr Rosen, when I went back in bundle D1A to
23 Mr Mirzoev's witness statement, the witness statement in
24 my bundle appears to have been changed since
25 yesterday -- you need not translate this -- in that my

10:54:12 1 marked-up version has disappeared and there is
2 a completely virgin unmarked copy, possibly with further
3 references.

4 MR ROSEN: I do apologise, my Lord. I wonder whether
5 someone has been rather over-assiduous in putting in
6 the cross-referenced copy, which I got I think yesterday
7 morning, or maybe last thing on Friday, and has
8 erroneously put that in your Lordship's bundle.

9 MR JUSTICE TOMLINSON: I think your learned junior has some
10 light to shed on this.

11 MR ROSEN: Yes. A paralegal apparently replaced your
12 Lordship's copy with the cross-referenced copy and that
13 is your Lordship's copy.

14 MR JUSTICE TOMLINSON: I am sure it was done with the best
15 of intentions but it is absolutely intolerable. It is
16 covered with my own annotations, which (a) are private
17 and confidential to me and (b) are useful, and if I am
18 going to have my documents removed in that manner,
19 we shall be in an absolute shambles. So will you please
20 make sure that that never happens again. I really do
21 regard that as, as I say, just intolerable.

22 Thank you. It also has very serious implications if
23 my documents, my marked-up documents are going to be
24 retained on your side of the court.

25 I am sorry, Mr Doctor. You carry on.

10:55:59 1 MR DOCTOR: Thank you, my Lord.

2 Mr Mirzoev, the document at H59/114, with
3 a translation at 113, that is the front page of
4 the report which was made to the President, is it not?

5 A. Well, except that this is not the front page. This is
6 like a covering page showing that this document has been
7 recorded at TadAZ as an incoming document.

8 Q. Well, I am coming to that, but let's just look at
9 the actual document. It has what appears to be
10 the signature of the President on it, with the date
11 20 December 2004, and he appears to have indicated that
12 he has reviewed or seen a document N60460.

13 Do you see that?

14 A. Yes.

15 Q. And, in fact, that is the document, for some reason
16 unknown to anybody, including Mr Sharipov, that is
17 the document he identifies as being the President's
18 signature on a copy of the act of revision. Do you know
19 anything about that?

20 A. No.

21 Q. Well, have a look at H59/75.

22 Do you have H59/75? I just want to look at
23 the Tajik version. The left-hand side of that page is
24 in fact a copy of the document at H59/114.

25 A. Yes.

10:59:57 1 Q. And it appears to be attached to -- it is either
2 attached or it is a book placed flat on the photocopying
3 machine and the right-hand side is a document which
4 begins 60640, and the President has erroneously
5 transposed the numbers from 60640 to 60460?
6 A. Well, I cannot comment on this. It may well be that one
7 number is just an incoming reference number and
8 the other one is the outgoing reference number. But
9 I cannot say exactly what it can be.
10 Q. Well, the document at H59/75, do you see it has a TadAZ
11 reference number at the bottom left-hand corner?
12 A. Yes.
13 Q. And that same reference number is on with a different
14 sub-number; that one has sub-number 2 and sub-number 1
15 is at H59/74 and H59/76 is the third page of that
16 document. Is that right?
17 A. Yes.
18 Q. And that in fact is the document from your committee of
19 FinControl that was sent to the President on 16 December
20 2004.
21 A. Yes.
22 Q. And the translation of that document, certainly of pages
23 H59/74 and H59/76, is at pages H59/69 and 70.
24 The document was apparently sent to TadAZ and
25 received by them on 28 December. I say that because, as

11:05:20 1 you pointed out, at H59/114 there is a stamp of TadAZ.

2 A. Yes. Can I explain it?

3 Q. Well, it says: "Incoming 432, 28/12/2004". What would
4 you like to explain?

5 A. This document has nothing to do with the document at
6 H59/74. Because the document at H59/74 was compiled by
7 the state committee for financial control and sent to
8 the President on 16 December. But the document at
9 H59/74 shows that indeed the President of the Republic
10 of Tajikistan has been familiarised with this document.

11 As to the letter from the state financial control
12 committee, it follows that the President familiarised
13 himself with it on 20 December. Now, on the right-hand
14 corner of this document, you can see the signature of
15 the Prime Minister, so it has nothing to do with
16 the President. There is no signature by the President
17 here. So this incoming reference number may refer to
18 a Prime Minister's document.

19 Now, the fact that there is an incoming date with
20 TadAZ's reference, it means that TadAZ received this
21 document, but there is no way an act could have been
22 sent to TadAZ via the President.

23 Q. Yes. Mr Mirzoev, are you saying that the Prime
24 Minister's signature is on the document on H59/75 on the
25 right-hand side?

11:09:37

1 A. Yes.

2 Q. And on the left-hand side is the signature of
3 the President, is it not?

4 A. Well, it could be. I do not know. I am only basing my
5 opinion on the surname stated here, and then there is
6 the reference to the Prime Minister at the top of
7 the page. I am not familiar with these gentlemen's
8 signatures.

9 Q. Well, Mr Mirzoev, the document on the left of H59/75 is
10 identical to the document on H59/114 and there is
11 a translation which is identified as the signature as
12 the President, "E Rakhmonov".

13 Are you disputing that?

14 A. Well, if you translate what it says here, it means that
15 the President of the Republic of Tajikistan has been
16 familiarised with something, but what exactly he was
17 familiarised with, you can't tell from this handwriting.
18 If this handwritten inscription refers to the documents
19 from the financial control committee, then indeed it
20 means that the President has been familiarised with
21 a document issued by the financial control committee.

22 But how come there is a signature from Mr Sharipov,
23 director of TadAZ, and how come there is a stamp from
24 TadAZ? This, I cannot explain.

25 Well, it may also be the following: that is, this

11:12:51 1 document was forwarded to TadAZ after the President had
2 been familiarised with it.

3 Q. Yes, Mr Mirzoev. That is precisely what appears to have
4 happened and we can see that the letter from FinControl
5 is addressed to the President. It is addressed to
6 Mr ESH Rakhmonov, President of Republic of Tajikistan,
7 which is at H59/74; translation at 71.

8 That document has the number on it 60640, in
9 the stamp at the bottom right-hand corner, and in fact,
10 according to the translation at page 70, it actually has
11 a stamp of the staff of the President at the bottom of
12 the page.

13 A. Yes.

14 Q. So, it was sent to him on 16 December, he has signed his
15 name as having it passed over his desk or having read it
16 on 20 December, and it was then sent on to TadAZ.

17 A. Maybe.

18 Q. Would you have a look at H59/77 to 79? This particular
19 version comes from the miscellaneous files at TadAZ.
20 It is marked at the bottom with the English word
21 "redacted", which means that something has been covered
22 up. Do you know what has been covered up?

23 A. I cannot say.

24 Q. Now, the first time the November act of revision
25 surfaced in the proceedings which commenced in

11:16:45 1 the High Court here, in 2005, was on 23 June 2005, and
2 only a Tajik version was produced, without a
3 translation.

4 The translation -- you are just going to have to
5 take this from me, Mr Mirzoev, but I am going to put it
6 to you and then ask you a question about it --
7 the translation was referred to for the first time and
8 was attached to a witness statement of a Mr Voukolov,
9 which was dated 20 July 2005.

10 When the proceedings first began on 12 May 2005,
11 there was no reference to this document at all. But
12 the court was told, Mr Mirzoev, that Ansol and Hamer had
13 been supplying alumina to TadAZ at double the market
14 price. And what I am going to suggest to you is this:
15 when that document was produced to the court, that is
16 the November act, it was produced in a version which had
17 inserted at least the paragraph at the bottom of
18 H154/175 or, in the English, H54/23. I am talking about
19 the paragraph which is second from the bottom of 175 and
20 second from the bottom of 23, which refers to paying
21 double the price.

22 So either you, Mr Mirzoev, or somebody who had
23 access to that document inserted that paragraph, and
24 I am offering you an opportunity of dealing with that
25 proposition.

11:21:28 1 A. Well, this paragraph was never inserted by anybody. It
2 has already been said before that at H59/77, there is
3 a mark saying "redacted", right? "Covered up", as you
4 explained. If by covering up, you mean the continuation
5 of the page, then if you read what it says on this page
6 and then the next page, not a single word is missing in
7 between.

8 It says here in the Tajik version that this amount
9 was transferred as payment for the education of the
10 children of employees and these costs were attributed to
11 the costs of the enterprise, and these amounts should be
12 deducted from their salaries, meaning the employees'
13 salaries.

14 So if you check this page and the next one, there is
15 nothing missing there, not even a letter, to speak
16 nothing of a word.

17 Q. Mr Mirzoev, you are following and you have followed my
18 question, that I am not asking you about the letter at
19 H54/77. I am asking you and have been asking you about
20 the act of revision itself, and specifically at H54,
21 page 175, and in the English at page 23.

22 THE INTERPRETER: Yes. So it is the page 175 in the Russian
23 version, as he says, and 23 in English, yes.

24 A. Yes, I have been following you but it also explained at
25 great length the meaning of "redacted" at H59/77. This

11:25:14 1 is why I gave you this explanation.

2 As to H54/175, we discussed it with you at great
3 length, and I can repeat once again: you know, in
4 addition to references to replacement costs of alumina
5 and discounts for the sale of aluminium, there are also
6 references before that to overpaid salaries and
7 the payment of certain amounts to the head physician,
8 Rakhmatullaev.

9 I would like to draw your attention to the fact that
10 even in the previous few pages, there are references to
11 TadAZ's losses from certain operations. There are some
12 unjustified costs in dealings with other organisations,
13 payment of funds to persons who are not TadAZ employees,
14 including some persons who are registered as Ansol
15 employees, Goldzberg and Garpinyuk.

16 Once again, this refers to costs that have had a
17 damaging effect on TadAZ. And then there are references
18 to TadAZ's losses incurred during the purchase and sales
19 of alumina. But, as I have already explained before,
20 there is more detailed information about all of this in
21 a document at H85/40.

22 As we discussed in the previous couple of days, at
23 H54, pages 175 to 176, there is an example illustrating
24 the way alumina was bought and sold. It even says that
25 in the absence of certain documents, there was no

11:30:28 1 possibility to have a thorough and detailed audit.
2 However, at H85/40, you can see more detailed examples
3 of how alumina was purchased, under contracts, under
4 Customs declarations, each of which contained
5 a comparison with the prices indicated by
6 the manufacturers.

7 Q. Right. Now, Mr Mirzoev, you have taken part in this
8 attempted deception of the court by coming here to tell
9 the court that you destroyed the diskette of
10 the November act of revision for security reasons.

11 A. The disc was indeed destroyed for security reasons but
12 not for the purpose of deceiving anybody. At the time,
13 neither I nor anybody else knew that there would be any
14 such court proceedings. What reason would I have to
15 deliberately deceive the court?

16 Q. And one last proposition I want to put to you: this
17 original act of revision of November was not finalised
18 or presented to anybody before about the middle
19 of December 2004?

20 A. I do not remember the exact date but after the act was
21 returned by Mr Toshov, and after the situations
22 described before, the act was presented to Mr Sharipov,
23 where Mr Sharipov put his signature and date. You can
24 have a look at that document.

25 Q. And the version that was given to Mr Sharipov and which

11:34:33 1 he claimed to have read on 14 December, as well as
2 the version described in the letter sent to
3 the President and the version sent to the Public
4 Prosecutor on 20 December, were all a version which did
5 not contain at least that paragraph which I have pointed
6 out to you, second from the bottom of page H54/175 and
7 in the translation at 22.

8
9 A. This paragraph was indeed in the version sent to
10 Mr Sharipov on 14 December. Well, these paragraphs
11 cover about one and a half pages. Then, the number of
12 pages would have been reduced, and all the copies
13 available at TadAZ and the General Prosecutor's office
14 have 97 pages each.

15 MR DOCTOR: I have no further questions.

16 MR JUSTICE TOMLINSON: Mr Gillis, I think you have no
17 questions.

18 MR ROSEN: My Lord, I have no re-examination. Does your
19 Lordship have any further questions?

20 Questions from THE JUDGE

21 MR JUSTICE TOMLINSON: Yes, I have one or two.

22 Mr Mirzoev, you have described how you destroyed
23 the diskette and you say it was thrown away for security
24 reasons and to keep the contents of the documents
25 a secret.

11:38:08 1 A. Yes.

2 MR JUSTICE TOMLINSON: And you have also described to me
3 how, on 1 November, you provided one hard copy of the
4 1 November act of revision to Mr Toshov.

5 A. Yes.

6 MR JUSTICE TOMLINSON: Now I think that you knew when you
7 did that that Mr Kucharov no longer worked at TadAZ. Is
8 that right?

9 A. Yes.

10 MR JUSTICE TOMLINSON: Indeed, it was your understanding
11 that he had taken a role as a director of a cotton plant
12 owned by Ansol in Tursunzade?

13 A. Yes. Yes, I received such information or rumours from
14 TadAZ employees.

15 MR JUSTICE TOMLINSON: And your 1 November act of revision
16 drew attention to what you thought were examples of
17 overcharging by Ansol?

18 A. Yes.

19 MR JUSTICE TOMLINSON: I would just like you to look at your
20 witness statement again, if you would, please, so that
21 I can remind you of what you said at paragraph 23 about
22 the interim act of 20 September. And I would just like
23 you to read to yourself, to familiarise yourself, with
24 paragraph 23 of your witness statement, if you would
25 just read it.

11:41:35 1 A. I have just read it. Yes. Thank you.

2 MR JUSTICE TOMLINSON: You there refer to the fact that you
3 did not authorise Mr Ermatov to make copies of the
4 interim act.

5 A. Yes.

6 MR JUSTICE TOMLINSON: Presumably you refer to that because
7 the interim act, like the act of 1 November, was
8 a secret and confidential document?

9 A. Yes.

10 MR JUSTICE TOMLINSON: And I assume, but tell me if I am
11 wrong, that when you handed one copy of the 1 November
12 act to Mr Toshov, you did not give him authority to make
13 copies of that document.

14 A. Can I answer your question?

15 MR JUSTICE TOMLINSON: Please do.

16 A. When I handed the act of 20 September to Mr Ermatov,
17 it was not in November, it was prior to that. I do not
18 remember exactly when, but it was certainly after
19 20 September. And when I gave this act to Mr Ermatov in
20 Mr Ermatov's office, we discussed the contents of the
21 interim acts briefly. I asked Mr Ermatov not to copy
22 this document and not distribute it.

23 But then, just a day after this conversation,
24 the deputy director came to see me. If I am not
25 mistaken his surname is Kholov(?), an elderly person.

11:44:53 1 He had a copy of the interim act and he wanted to
2 discuss certain details of it with me. This was
3 followed by a visit to my office by another boss, like
4 their construction manager or something, Mr Jabirov.
5 And then I realised that no matter what I could say,
6 I may forbid them to copy this document, they will do it
7 for their own use.

8 This is why I realised I had absolutely no guarantee
9 that the act of November will not be duplicated either.

10 MR JUSTICE TOMLINSON: Does it follow from that that you did
11 not ask Mr Toshov not to copy it; or did you simply have
12 no discussion with him on that topic at all?

13 A. I do not remember exactly whether I discussed
14 the subject of not copying this document with him, but
15 after the first occasion, I thought it didn't make sense
16 to discuss it with him.

17 MR JUSTICE TOMLINSON: Now, we have already established that
18 Mr Kucharov, as you knew, was no longer working for
19 TadAZ.

20 A. Yes.

21 MR JUSTICE TOMLINSON: And he was no longer working for
22 the State of Tajikistan. On the contrary, he was
23 working for Ansol, who you suspected -- and I will put
24 it neutrally -- of having been involved in inappropriate
25 dealings with TadAZ.

11:48:39 1 A. Yes.

2 MR JUSTICE TOMLINSON: And the act of 1 November was

3 a secret document.

4 A. Well, any audit reflected in a document dealing with

5 a state or a private organisation should be confidential

6 and secret and kept by that particular organisation.

7 MR JUSTICE TOMLINSON: Did you consider that if the document

8 were shown to Mr Kucharov, that secrecy might be

9 compromised?

10 A. Well, as I have said before, because we have already had

11 this precedent with the interim acts, it could well be

12 that any other document could be duplicated or copied.

13 MR JUSTICE TOMLINSON: And that might have the result that

14 Ansol would get to know the contents of the act of

15 revision before the Public Prosecutor and indeed

16 the President of the State himself?

17 A. Not just Ansol; any other person would have gotten to

18 know the contents of the act, if it was copied.

19 MR JUSTICE TOMLINSON: Now, you anticipated or you hoped, as

20 I understand it, that Mr Toshov would pass the document

21 both to Mr Ermatov and to Mr Kucharov within

22 a relatively short period of time because you hoped to

23 have it back within a few days.

24 A. Yes.

25 MR JUSTICE TOMLINSON: And given the length of the document,

11:52:10 1 it would be inevitable, wouldn't it, if your timescale
2 were to be achieved, that Mr Toshov would have to make
3 copies, at least two copies of the document; well, at
4 least one copy so that Mr Ermatov could look at
5 the document and Mr Kucharov could look at the document
6 at the same time?

7 A. Well, they could have reviewed this document together.

8 MR JUSTICE TOMLINSON: Of course, they could have done. But
9 it is 97 pages long, closely argued, and it would take
10 anyone, even someone who knew about the matters it
11 described, some time to read.

12 A. Yes.

13 MR JUSTICE TOMLINSON: And at the time when you handed it to
14 Mr Toshov, Mr Ermatov was not at the plant and
15 Mr Kucharov was working at the cotton plant.

16 A. Well, yes, I did hear that Mr Kucharov was working at
17 the cotton plant, but I had no precise confirmation of
18 that.

19 MR JUSTICE TOMLINSON: At all events, you would have
20 understood that the most likely thing to happen would be
21 that Mr Toshov would make at least one copy of the act
22 of revision, and pass either the original to Mr Ermatov,
23 or the copy to Mr Ermatov and the other copy to
24 Mr Kucharov?

25 A. Well, it is possible, it could even have happened, but

11:55:28 1 I am not aware of that. Nobody advised me of that.

2 MR JUSTICE TOMLINSON: I follow that. But if you had

3 thought about it, when you were handing over

4 the document to Mr Toshov, that is what you would have

5 expected to happen, isn't it?

6 A. Well, not quite so. Now, if Mr Kucharov had requested

7 it directly, or if he had asked it to be done through

8 Mr Toshov, I would have presented a copy to him with

9 pleasure, but with a note saying that this is a copy and

10 not the original.

11 MR JUSTICE TOMLINSON: Yes. Thank you very much indeed,

12 Mr Mirzoev.

13 Does anyone have anything arising out of that? Is

14 there any reason why this witness should not be

15 released?

16 Mr Mirzoev, thank you very much indeed for coming to

17 London to give your evidence. You are now free to

18 leave.

19 A. Can I say a few words to the court?

20 MR JUSTICE TOMLINSON: Certainly.

21 A. I am not going to take up a lot of your time. Well,

22 based on what we have been discussing in the last three

23 days, the discussion centred on the question of the

24 authenticity of certain documents, on the way it was

25 unjustified to write off the costs attributed to ACIP,

11:58:50 1 and the replacement costs of alumina and the prices of
2 aluminium.

3 But I must state that the acts prepared by ourselves
4 also referred to other shortcomings identified at TadAZ
5 that were never discussed here. But I hope that they
6 were translated for you. For instance, as far as losses
7 from unjustified costs are concerned, because
8 non-reimbursed losses for the previous few years, that
9 is historical losses, amounted to 525 million somonis.

10 But in addition to that, TadAZ also incurred other
11 unjustified costs, including the sponsoring or assisting
12 financially other companies.

13 Also, reporting and accounting practices at TadAZ
14 were not appropriate. As a result, for a long period of
15 time, TadAZ's financial resources were used by other
16 companies. Aloutrans is one such example: \$1,840,000
17 since 2002. Now, there was a mutual settlement with
18 Ansol and Sibal, and several other companies.

19 Also, our act reflected a comparison of
20 forex transactions, with invoices presented by Ansol to
21 TadAZ on allegedly transferred funds, and this resulted
22 in an unjustified increase to TadAZ's debt by
23 \$6 million.

24 Then there are various facts of unjustified loans to
25 other companies from TadAZ. This also resulted in

12:03:50 1 unjustified debts, when loans were then transferred to
2 other companies in the case of on-lending. And then,
3 when interest was heaped up on interest, TadAZ's debt
4 increased accordingly.

5 When our audit commission carried out an inventory,
6 we discovered a shortage of physical assets at more than
7 600,000 somonis. Despite the fact that, according to
8 TadAZ's financials, even before the audit was carried
9 out, there were data testifying to the shortage of
10 materials, for which specific persons were responsible,
11 also for the amount of over 600,000 somonis.

12 This is why I thought it appropriate to draw your
13 attention to some other facts contained in our act.

14 MR JUSTICE TOMLINSON: Thank you very much.

15 MR ROSEN: Could Mr Mirzoev be released, my Lord?

16 MR JUSTICE TOMLINSON: Unless Mr Doctor wants to ask
17 a question.

18 MR DOCTOR: My Lord, could I ask the witness what he has
19 been reading from?

20 A. They were from --

21 MR DOCTOR: Mr Mirzoev, listen to the question. You have
22 two pieces of paper lying in front of you there, which
23 you have been reading from. What are they?

24 A. These are my references to specific pages in the act.
25 There is page 66, page whatever, and then --

12:07:14 1 MR DOCTOR: These are two handwritten notes by yourself?
2 A. This is what I have done myself, right now, using my own
3 pen. You can check it.
4 MR DOCTOR: When did you prepare that?
5 A. Before the court hearing.
6 MR DOCTOR: Thank you
7 MR JUSTICE TOMLINSON: Right. May the witness now be
8 released? Thank you. Thank you very much, Mr Mirzoev.
9 A. Can I leave? Thank you.
10 MR JUSTICE TOMLINSON: Certainly.
11 MR ROSEN: Can I give your Lordship one reference in
12 relation to your Lordship's questions?
13 MR JUSTICE TOMLINSON: Yes.
14 MR ROSEN: The order in relation to Mr Kucharov being
15 discharged from his position as chief accountant is
16 16 November 2004, and it is at H56/82.
17 MR JUSTICE TOMLINSON: Thank you, that is very helpful.
18 MR ROSEN: My Lord, a matter has arisen as far as all
19 parties are concerned and we would be very grateful if
20 your Lordship would rise now until 2 o'clock.
21 MR JUSTICE TOMLINSON: Yes, right. I will do that.
22 I do not want to raise the temperature unnecessarily
23 about the removal of my documents, and I understand that
24 things happen in an overzealous manner. But, Mr Rosen,
25 could you cause a check to be made to make sure that no

12:08:59 1 other documents of mine have been removed.

2 MR ROSEN: My Lord, I believe it is already in hand. Your
3 Lordship is not raising the temperature at all. It is
4 a matter which I take extremely seriously. When I have
5 checked on the position, I will report back to your
6 Lordship.

7 MR JUSTICE TOMLINSON: I don't need to enlarge on it, but it
8 just so happens that, apart from anything else, one of
9 the most basic things one does is to annotate a witness
10 statement where there are corrections or qualifications
11 made in chief to the nature of the statement. But it so
12 happens that this one is quite heavily annotated with
13 a lot of my own notes and cross-references and to be
14 deprived of it is disappointing.

15 MR ROSEN: I can imagine.

16 MR JUSTICE TOMLINSON: You want me to rise until 2 o'clock?

17 MR ROSEN: If your Lordship would.

18 MR JUSTICE TOMLINSON: Is there anything that I ought to be
19 looking at before 2 o'clock, apart from the things that
20 are on the agenda anyway?

21 MR ROSEN: My Lord, I do not think so.

22 (12.11 pm)

23 (Discussion in chambers)

24 (Court adjourned until 11.00 am

25 on Wednesday 19 November 2008)

12:10:07

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INDEX

MR SALOHIDDIN MIRZOEVICH MIRZOEV	1
(continued)	
Cross-examination by MR DOCTOR (continued)	1
Questions from THE JUDGE	17

