INTERNATIONAL CENTRE FOR THE SETTLEMENT OF INVESTMENT DISPUTES

In the Matter of Arbitration : 
Between: : 
GABRIEL RESOURCES LTD. and GABRIEL : 
RESOURCES (JERSEY) LTD., : 
Claimants, : Case No. : ARB/15/31 : 
and : 
ROMANIA, : 
Respondent. : 
HEARING ON THE MERITS

Wednesday, December 4, 2019

The World Bank Group
1225 Connecticut Avenue, N.W.
C Building
Conference Room C3-150
Washington, D.C.

The hearing in the above-entitled matter came on at 9:00 a.m. before:

PROF. PIERRE TERCIER, President of the Tribunal
DR. HORACIO A. GRIGERA NAÓN, Co-Arbitrator
PROF. ZACHARY DOUGLAS, Co-Arbitrator
ALSO PRESENT:

MS. SARA MARZAL YETANO  
Secretary to the Tribunal

MS. MARIA ATHANASIOU  
Tribunal Assistant

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MS. ALEXANDRA DOBRIN
ALSO PRESENT:

Attending on behalf of the Claimants:

MS. ABBY COHEN SMUTNY
MR. DARRYL LEW
MR. BRODY GREENWALD
MR. PETR POLÁŠEK
MR. HANSEL PHAM
MR. FRANCIS VASQUEZ JR.
MR. ANDREI POPOVICI
MS. GABRIELA LOPEZ
MR. FRANCIS LEVESQUE
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MS. OANA-MIRUNA URECHE
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MS. ANGELICA-IULIANA HOGAȘ-PINTILIE
MR. CORNEL POPA (via video for Prof. Birsan)
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Represent Gabriel Resources Ltd.:

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MR. RICHARD BROWN
MR. DANIEL KOCHAV
MS. RUTH TEITELBAUM

Representing Roşia Montană Gold Corporation:

MR. MIHAI BOTEA
APPEARANCES: (Continued)

Attending on behalf of the Respondent:

DR. VEIJO HEISKANEN
MR. MATTHIAS SCHERER
MS. NORADÈLE RADJAI
MS. LORRAINE de GERMINY
MR. CHRISTOPHE GUIBERT de BRUET
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CONTENTS

PAGE

PRELIMINARY MATTERS..................................... 719

WITNESSES:

DRAGOS TANASE

Direct examination by Mr. Greenwald.................... 728
Cross-examination by Dr. Heiskanen...................... 769
by Ms. Radjai.............................................. 818
Redirect examination by Mr. Greenwald............... 1045
Questions from the Tribunal.............................. 1049
PROCEEDINGS

PRESIDENT TERCIER: Good morning, ladies and gentlemen. It is my honor to open the third day of the Hearing, First Session of the Hearing in the ICSID Arbitration Case 15/31 between Gabriel Resources Limited and Gabriel Resources (Jersey) Limited versus Romania. I hope you had a pleasant evening, and again, for the third time, I express that you will have a very serene and constructive day.

I have a few points before starting with the examination of Mr. Tănase. First point, I would like again to thank our Court Reporters for the Transcripts that they have prepared and that we have received.

I would like also to note receipt of the list of issues and rebuttal document prepared by Claimants. You have received it. I would like to thank both Parties for having sent the electronic version of their Opening Statements.

I would like to thank Sara for having made the report of the time used and the time remaining; used by Claimants, five hours 31 minutes; by Respondent, six hours 13 minutes; and by the Arbitral
Tribunal, one hour and five minutes.

We have received Claimants' letter concerning the request to add Mr. Pierre Amariglio as a participant.

Have you a comment on your side, Respondent?

DR. HEISKANEN: Yes.

If he is a member of Gabriel's Board or an employee of Gabriel, we have no objection, but if he is merely a shareholder of the Company, we do have an objection.

PRESIDENT TERCIER: Respondent--Claimants?

MS. COHEN SMUTNY: He is an employee of a shareholder.

PRESIDENT TERCIER: Good. In that case, no objection.

DR. HEISKANEN: Then we have an objection. If he's an employee of the Shareholder, he's not an employee of Gabriel. Gabriel is the Party to this arbitration, not Tenor Capital. This is now a confidential hearing, as we have agreed, and he cannot be considered a party representative.

PRESIDENT TERCIER: Claimants?
MS. COHEN SMUTNY: My understanding is that there are no formal rules about who can be a party representative, and if the Party designates a person to be its representative, that that's--that's acceptable.

PRESIDENT TERCIER: Respondent?

DR. HEISKANEN: We understand that he has already identified himself for purposes of this Hearing as a representative or somebody who is associated with Tenor Capital when he signed up for the Hearing.

PRESIDENT TERCIER: Okay.

(Tribunal conferring.)

PRESIDENT TERCIER: Okay. We have considered both Parties' argument.

This Hearing is a confidential hearing. Indeed, we do not see reasons for Mr. Amariglio to be in the room, so we would like him to leave. It's not that we have distrust, but it is just for application of the rule. He's not here. Okay, good.

MS. COHEN SMUTNY: He's not in the room. We understood that that was dependent upon your decision,
so that's fine.

    PRESIDENT TERCIER: Okay, good. That's fine.

    Next point for me, you remember that I asked you whether Ms. Mocanu and Ms. Şerban could possibly be present already this week?

    DR. HEISKANEN: Yes, Ms. Şerban will be available Friday.

    PRESIDENT TERCIER: Okay. So, I'll ask our Secretary to see how she could now prepare a new updated version of the program so that we can discuss it.

    And you remember also that we still have one issue for us to decide; it is the request for the European Commission that you have received now.

    SECRETARY MARZAL YETANO: Yes. I confirm that I received a letter late yesterday, and I have not been able to transmit it yet.

    Sorry.

    PRESIDENT TERCIER: Okay. I'm not worried. It will come. It is not urgent, but in any case, once we have received it, we would be happy to take a few minutes to have your last argument concerning their
participation so that the Tribunal could decide. We have informed the EC that we would decide this week, okay?

Good. I have nothing else.

On your side, have you another point you would like to raise?

MS. COHEN SMUTNY: Nothing further.

PRESIDENT TERCIER: Okay. On your side?

DR. HEISKANEN: Yes, simply to indicate that there is a new person on the Respondent's side attending the Hearing, Professor Dragoș, legal expert of the Respondent. And we also have Mr. Găman and Mr. Ariton attending because the Claimants have indicated that Mr. Tănase will be providing rebuttal evidence during the direct examination on their evidence.

PRESIDENT TERCIER: Thank you very much. You remind me politely that I should have started with this, so we take note of the new attendees.

And on your side, no new--nobody joined the club?
MS. COHEN SMUTNY: No, no.

PRESIDENT TERCIER: Good. In that case, we may proceed.

DRAGOS TĂNASE, CLAIMANTS' WITNESS, CALLED

PRESIDENT TERCIER: Good morning, Mr. Tănase.

I don't know how to spell your name. I do my best. How would you?

THE WITNESS: Good morning. I think you are pronouncing it fine.

PRESIDENT TERCIER: Okay, fine. Good. You know that you will be heard in this procedure as a witness. You had already had opportunity to do that. I would like to introduce the Members of the Arbitral Tribunal that you already know. On my left-hand side, Professor Horatio Grigera Naón, and on my right-hand side, Professor Zachary Douglas. My name is Pierre Tercier; I'm new, you know that because I've replaced Ms. Teresa Cheng. You know the Secretary of the Tribunal, and on her left side is the Assistant to the Tribunal, Ms. Maria Athanasiou.

You will be heard as a witness. May I ask you to read the Declaration, yes, that you have in
front of you.

THE WITNESS: I solemnly declare upon my honor and conscience that I shall speak the truth, the whole truth, and nothing but the truth.

PRESIDENT TERCIER: Okay. Good.

Just a few words before starting. You know already how it will go. I will come to it in a moment. There will first be direct examination. It is--I will again explain; it goes a little bit further than what is usual; then you have the cross-examination, and then the redirect, and the Arbitral Tribunal have the right at any time to ask you questions.

You have prepared for these proceedings three Witness Statements. The first that was for the first phase and the Provisional Measures was dated 28th of July 2016; the second for this on the merits was the 30th of June 2017; and the third, for the 2nd of November 2018. Have you these documents before you?

THE WITNESS: Yes, I have the documents in front of me.

PRESIDENT TERCIER: Okay. Can you confirm
the content of these Witness Statements, or do you
wish to make amendments?

THE WITNESS: I confirm the content of the
Witness Statements. I have no amendments to make at
this point.

PRESIDENT TERCIER: Good. So, you know that
this is your testimony. You know the procedure.

I said a moment ago that the direct will be a
little bit special because, for reasons that were
connected to the way the documents have been
submitted, it has been agreed that the counsel for
Claimants have the right to ask you also questions of
documents that have been submitted very recently,
so-called "rebuttal documents." So, that will be the
first part. Then again, as I said, cross and
redirect.

For the benefit of the Transcript, I invite
you first to answer concisely to the questions, and
secondly to avoid to speak/interrupt the speaker, in
order to avoid overlap, possible overlapping of
statements, okay?

THE WITNESS: Okay.
PRESIDENT TERCIER: Good.

THE WITNESS: I understand.

PRESIDENT TERCIER: Can you in just a few words tell us what was your involvement in this case when you joined Gabriel and then what was your position very shortly, just in order to refresh our memory; everything in your statement we know that, but just in order to introduce yourself.

THE WITNESS: Thank you.

So, I'm Romanian. I joined the Project in 2008 as Vice President of Finance, and then in a few months I became the General Manager of Rosia Montana Gold Corporation in Romania.

I reported at the time to Gabriel Resources CEO Alan Hill.

Then I spent my last, basically from 2008 to 2018 I was General Manager as of RMGC.

In 2018, in August, I was appointed as CEO of Gabriel Resources.

And since August 2018, I have a double capacity, CEO of Gabriel Resources and General Manager of Rosia Montana Gold Corporation.
PRESIDENT TERCIER: Very good.

Okay. No question from my co-Arbitrators, in the benefit of time, I give the floor to counsel for Claimants.

MR. GREENWALD: Thank you, Mr. President.

DIRECT EXAMINATION
PRESIDENT TERCIER: Thank you very much.

In that case, on Respondent's side, who will lead the cross-examination?

DR. HEISKANEN: Mr. President, I will start, and then Ms. Radjai will have a few questions.

PRESIDENT TERCIER: Okay.

DR. HEISKANEN: But let's make the hard copy binders available to Mr. Tanase first.

MR. GREENWALD: And we will wait for Mr. Ariton, too, and Mr. Găman.

DR. HEISKANEN: Yes.

PRESIDENT TERCIER: Thank you.

(Pause.)

MR. GREENWALD: Do you have a copy for us?

(Comment off microphone.)

DR. HEISKANEN: The Tribunal's ruling on this issue, the hard copy, as you will recall, will be made available to this Witness, and both the Tribunal and
counsel on the other side will be relying on the
electronic documents. This is simply a matter of
logistics. The service provider we have here in
Washington, D.C. is not simply able to provide at
short notice, or at reasonable notice, this form of
documentation.

MR. GREENWALD: Well, one observation is, at
least can we have an index of the documents that are
in there before we begin?

And second observation is, as we've discussed
with you both by e-mail and earlier in the Hearing,
we're not going to be providing binders to Respondent
to have Respondent not reciprocate and provide binders
to the Claimants.

Again, going back to what we said on the
first day, we want the Parties to play by the same
rules.

PRESIDENT TERCIER: Okay. We have a problem
now. We cannot really copy three volumes in order to
satisfy.

One point would be the first request would be
to have a copy of the list of exhibits that will be
submitted. I think this should be--

DR. HEISKANEN: That we can make available. We can refer back to the Tribunal's ruling on this issue. As you will, this was discussed during the pre-hearing conference, and the Claimants' position at the time was that they will be using electronic documents during the examination of our witnesses. The Respondent's position was that we will be--we reserve the right to use cross-examination binders, and the Tribunal's ruling on the issue was that if the Respondent or if either Party uses cross-examination binders, they will be made available to the Witness and to the Court Reporter. And that is the ruling we are complying with.

There has been communication between counsel and whether we would be able to make available at additional copies of the cross-examination binders to the Claimants' counsel. We indicated that we will try to do that as a matter of courtesy on the understanding or on the condition that the service provider will be able to make a sufficient number of hard copies. That was possible for Mr. Henry
yesterday. It was not possible because of the volume for Mr. Tanase.

This is a matter that was discussed during the pre-hearing conference.

MS. COHEN SMUTNY: There are a number of concerns. One of them is when Claimants made the proposal to proceed with an electronic record, it would have been an agreed record, and it would have been an agreed of set of iPads that would have--and both Parties would have been able to see what happens when you hit a certain tab. Claimants' counsel is concerned to know what is exactly behind those tabs that the Witness is being asked to look at.

I think if the Claimants' counsel are not having a copy exactly of this binder and we need to pull it up, someone from our team needs to be able to verify what is actually put in Mr. Tanase's binder that he's looking at. This is a basic due-process issue that I think should be well-understood by counsel that before you show Claimants or a Party's witness a document, counsel for that party should be able to see the same thing, so that one sees what the
Witness precisely is looking at.

That's a large part of the issue.

DR. HEISKANEN: Mr. President, I can add to that, that these are just exhibits which are on record. They will be also shown to the Tribunal and to the Witness electronically on the screen, so exactly the same document.

MS. COHEN SMUTNY: No, no, no because the Party—a witness has to be able to, when it looks at a document not only look at a paragraph. A witness is given a copy of a full exhibit so that a witness can look and familiarize him or herself with the document that's put in front of the person. So looking at a little couple of lines on the screen is not sufficient for these purposes. It aids others to follow, but that's not the answer to the fundamental question.

PRESIDENT TERCIER: Okay. I think we cannot now suspend the Hearing and wait until we have another document—sorry, yeah?

MR. LEW: Can I make a suggestion?

PRESIDENT TERCIER: Yes.

MR. LEW: Which is, one of the challenges, of
course, for counsel is to know what documents are being shown, and if there's not a binder, there seem to be a lot of documents. If we could get the index of the documents and allow us time to pull them up electronically because, as you know, it takes time to find a document in the record, and the questions may just go on, and we won't be able to keep up with the documents as the questions are being asked, so that may require a few minutes for us to be able to identify and then pull up electronically on a laptop the documents that are being--

PRESIDENT TERCIER: Okay. So, we have now to decide in order to make this Hearing take place. I would like, really, to have a copy of the list of the documents that will be submitted.

DR. HEISKANEN: We are happy to provide an index. That's not the issue.

I just refer the Tribunal back to its ruling in Procedural Order Number 25, Paragraph 48, and that is the ruling on the basis of which we have operated. As you will recall, the Parties at the time had a different approach to the cross-examination of
witnesses. The Claimants' approach that they will be relying on electronic documents only and that there will be no need for hard copies at all. The Respondent reserves the right to use hard-copy documents for examination of witnesses.

And again, as I indicated, the same exhibits that the Witness has in these binders will also be shown on the screen as we are in exactly the same passages on which we will be asking questions.

PRESIDENT TERCIER: Okay. I suggest the following:

First, could you provide--this really must not be a complicated task--a copy as soon as possible, a copy of the list, you have a lot of people, if one of them can now prepare the list or index of the document that you will have, is possible.

DR. HEISKANEN: As I indicated, the list is available, and we will make a copy available to the Claimants' counsel.

PRESIDENT TERCIER: Thank you.

Secondly, when you receive the document in the bundle, indeed we will have the reference to the
exhibit, and we will wait until we have it. I will
give green light because I'm certainly the one who is
the slower in the group until we have it so that
everybody has the electronic version. That is what
you wish to have.

Now, the third question would be whether
there is a discrepancy between the document that is in
the file and the document that is on the
screen--first, I already trust that will not be the
case; and, secondly, the Witness himself could check
with the version that you have in paper and the
version that is on the screen whether this is the
case. In case you have the slightest doubt, you
mention it.

Would that be agreeable with you, Claimants?

DR. HEISKANEN: Mr. President, we are in the
process of e-mailing the index to the Claimants'
counsel and also providing a hard copy, but again I
can--it's the same exhibits that you will be on the
screen, the three binders only contain exhibits that
are on record.

MR. GREENWALD: I think we should wait until
the index is provided in hard copy to proceed.

    MR. LEW: Yes.

PRESIDENT TERCIER: In hard copy?

    MR. GREENWALD: A hard copy of the index.

PRESIDENT TERCIER: Oh, the index. I thought the binders--

    MR. GREENWALD: It can't be more than a couple pages, it should be not more than a few minutes for them to print it.

    DR. HEISKANEN: We suggest then we have a short break.

    PRESIDENT TERCIER: Yes.

You tell us when this is done.

    MR. LEW: Thank you.

    (Brief recess.)
PRESIDENT TERCIER: Yeah.

CROSS-EXAMINATION

BY DR. HEISKANEN:

Q. Good morning, Mr. Tănase.
A. Good morning.

Q. My name is Veijo Heiskanen, counsel for the Respondent. I will be asking you a few questions this morning, and then my colleague, Ms. Radjai, will have a few further questions on another subject.

You should have now the documents in front of you, but, as we explained, they will also be available on the screen. So, if you find it more convenient to look at the document on the screen, you can also do that.

Now, as you have explained in your Witness Statement, you joined RMGC in January 2008?
A. I believe it was February, but that's correct. Yeah. January 2008. Yeah, that's correct.

Q. And you began as general manager in April of 2008?
A. That's correct.

Q. You were not involved in the Project before
AFTERNOON SESSION

PRESIDENT TERCIER: So, ladies and gentlemen, good afternoon. I suggest that we resume.

Before that, everything now is fine now with the list of documents that will be used? It's okay? You have received it?

MR. VASQUEZ: If you're referring to the documents for the next witness, counsel for Respondent said that we would get a binder before the break, so we're expecting that when the Witness takes the stand, that we'll be handed a binder.

PRESIDENT TERCIER: You have it?

(Comment off microphone.)

PRESIDENT TERCIER: Yes, but do you have a copy for counsel for Respondent?

MS. RADJAI: I believe we're talking about the next witness.

PRESIDENT TERCIER: I understand. But for the next you will have it?

MR. GUIBERT de BRUET: That's what I understand.

PRESIDENT TERCIER: Okay, good. Fine.
No further point?

MS. COHEN SMUTNY: I'm sorry, I need to make a correction from before. This is about the attendance in the room. I misunderstood, and Ms. Ruth Teitelbaum, since we last had spoken, she has not been in the room. She is only an advisor to the Arbitration Committee, and for that reason she's not any longer at the Hearing.

PRESIDENT TERCIER: Good. Thank you very much.

Fine. Please, Ms. Radjai, you have the floor.

MS. RADJAI: Thank you, Mr. President.

CONTINUED CROSS-EXAMINATION
QUESTIONS FROM THE TRIBUNAL
PRESIDENT TERCIER: Good. Mr. Tanase, so we are at the end of your examination. I would like to thank you.

I would like to have a few minutes, one or two points that we should address before going forth.

First, the time, Ms. Secretary Marzal, can you give the time, the result.

SECRETARY MARZAL YETANO: Yes.

THE WITNESS: Thank you, everybody. I will go.

PRESIDENT TERCIER: Yes, of course.

(Witness steps down.)

SECRETARY MARZAL YETANO: So the total times are for Claimants' remaining 28 hours and 15 minutes; for Respondent--

PRESIDENT TERCIER: Can you also say the time that has been used?

SECRETARY MARZAL YETANO: Well, I can do the subtractions.
PRESIDENT TERCIER: Okay, you can do it tomorrow.

SECRETARY MARZAL YETANO: I can send an e-mail tonight.

PRESIDENT TERCIER: Yeah.

SECRETARY MARZAL YETANO: I just need to do the subtractions. But Claimants, 28 hours, 15 minutes; Respondent, 23 hours and 6 minutes; Tribunal, 3 hours and 35 minutes.

I believe that Respondent spent today 5 hours and 24 minutes, and I need to do the subtraction for Claimants.

PRESIDENT TERCIER: Okay. Good. That's Points Number 1.

Point Number 2, I recall that, in line with the decision that was taken, you should prepare the list of exhibits and the issues for the--we have it already from Mr. Avram, but from Mr. Gligor, from Ms. Lorincz, and on your side you should do the same for Mr. Găman.

Third point concerning the program, we will, of course, start with Mr. Avram, then Mr. Gligor, then
Mrs. Lorincz. The goal should be really to have still room for the first part of the examination of Mr. Găman, so I hope—not only I hope, I urge really that this should be possible.

I would like to recall you that as far as I'm informed Mr. Avram, Mr. Gligor, and Mrs. Lorincz will be—will need an interpreter, so it will take a bit more time, as we all know by experience.

The fourth point, you remember that I asked the Parties to make a few comments concerning their requests and your requests or the request of the EC. We have already received Claimants' position. I would be happy to have your position whether you can do that so the Arbitral Tribunal could take its Decision.

Yes, Dr. Heiskanen?

DR. HEISKANEN: We will communicate it tomorrow morning.

PRESIDENT TERCIER: Good. Very good.

These are the points that I had on my list. Have you another point you would like to raise?

MS. COHEN SMUTNY: I think that Claimants think there maybe should be some clarity about the
direct for Mr. Avram because he will not be speaking about new so-called "rebuttal documents" but only these most recent exhibits. I forget the number now, 215 and 655, he will only make some comments about that, that will be the only thing.

So, the question is, it seems to us that this does not warrant Ms. Mocanu to be in the room for direct. I don't know if that was what the Respondent expected. We just think that we should at least be clear so that we don't have a disagreement about that tomorrow.

And if there's any difference of view on this issue, that maybe we should just discuss that briefly now what the expectation is.

PRESIDENT TERCIER: Dr. Heiskanen?

DR. HEISKANEN: Certainly if there is any new evidence or comments on these new exhibits, Ms. Mocanu would have to be able to participate and attend the Hearing.

MS. COHEN SMUTNY: The challenge is that Ms. Mocanu is also presumably going to say something new about the document that Respondent put in, and so
now I think the Parties are entirely in an equal position on this Issue and, I think that--but yet Mr. Avram is going to be examined first, and it just doesn't seem that it's appropriate in this circumstance for Ms. Mocanu to have the advantage to hear whatever it is that Mr. Avram is going to say, and then say something else.

It's just not in the same circumstance as we were for the other categories.

PRESIDENT TERCIER: Dr. Heiskanen?

DR. HEISKANEN: You know, in our view, it's exactly the same situation. It's rebuttal evidence.

MS. COHEN SMUTNY: Well, it's not rebuttal evidence.

PRESIDENT TERCIER: Okay. So, the Arbitral Tribunal will decide and communicate the decision to you.

It would be for Mrs. Mocanu?

MS. COHEN SMUTNY: I don't know if--because Mr. Avram is not providing any rebuttal in his direct, we don't see any need for any of Respondent's Experts to sit in on the limited direct he will be giving.
PRESIDENT TERCIER: Okay. The Arbitral Tribunal will decide and communicate its Decision after this meeting.

Do you have another point? Do you have another point?

MR. GREENWALD: If it's possible to have clarification--I understand the Tribunal's preference would be to have Mr. Gäman start tomorrow in the late afternoon, if possible, and what we're asking is if the Respondent's position is if that's going to happen realistically. We would like to know.

DR. HEISKANEN: Fair enough. We will be seeing where we are after the Hearing, and we will communicate by e-mail to the Tribunal and counsel for the Claimants as to where we are for tomorrow.

PRESIDENT TERCIER: Good.

MR. GREENWALD: Thank you.

PRESIDENT TERCIER: Do you have on your side other points you would like to raise?

DR. HEISKANEN: There is just one, if I could get a minute.

MS. COHEN SMUTNY: If I used the word
"expert," I did not mean to do so.

DR. HEISKANEN: Can I confer for a moment?

(Discussion off the record.)

DR. HEISKANEN: Yes, Mr. President, we just wanted to confirm our understanding of what the Claimants' counsel just said about the rebuttal evidence that Mr. Avram is going to produce tomorrow morning, so I understand now that he's not going to comment on the evidence of Ms. Serban or Ms. Mocanu on direct examination.

MS. COHEN SMUTNY: That is correct because we understand the Tribunal to be saying that rebuttal evidence can only be comments on new rebuttal documents, and we are to indicate in advance what those documents would be. And so, although we don't consider them rebuttal documents, we identified the three basically those exhibits that are about 215 and 655, that's it, and so Mr. Avram necessarily is not going to be giving any testimony that would be characterized as "rebuttal."

DR. HEISKANEN: Okay. That confirms our understanding, and that is fine, thank you very much
for the clarification.

    PRESIDENT TERCIER: Does it change the
    position that you had?

    DR. HEISKANEN: No--well, it means that we
    have no longer a pending request to allow Ms. Mocanu
    and Ms. Serban to attend the direct examination of
    Mr. Avram tomorrow morning, except for the issue of
    the new--two new exhibits for which the Tribunal is
    now going to take a decision, as you indicated a few
    minutes ago.

    PRESIDENT TERCIER: Ah-ha. I thought it was
    the answer to our--okay. Fine.

    Okay. Otherwise, do you have another?

    DR. HEISKANEN: No issues on our side. Thank
    you very much.

    PRESIDENT TERCIER: Thank you very much.

    I have a very important point is to thank you
    all for a long day, especially our Court Reporters
    that are still in front of the Tribunal, and I look
    whether they are still smiling or not. I think they
    are. I wish you all a very pleasant evening, and we
    will meet tomorrow morning at 9:00.
(Whereupon, at 6:22 p.m., the Hearing was adjourned until 9:00 a.m. the following day.)
CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, 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.

[Signature]

DAVID A. KASDAN

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CERTIFICATE OF REPORTER

I, Margie Dauster, RMR-CRR, 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.

_________________________
MARGIE DAUSTER

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