

1
2 Appearances:

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16 ALSO PRESENT:

17 Pavel Ivanovich Lazarenko,
18 Defendant (Telephonically)

19 Oksana Teykova (Telephonically)
20 Interpreter

21 Bryan Earl, FBI Agent

22 Olga Rudenko, FBI Interpreter

23 Helen S. Marina, Defendant's Interpreter

24 David P. Agretelis, Agretelis Legal Consulting

25 Steven Gore, Gore/Litov Investigations

Sergey Bezdverny, Deposition Interpreter

Yevhen Kuzmin, Deposition Interpreter

David Ross, Videographer

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1 M. I. SIVULSKY
2 Deposition upon oral examination of MYKOLA
3 IVANOVYCH SIVULSKY, taken on behalf of the Defendant,
4 before Frances P. Zahn, RPR-RMR, a Notary Public for
5 the Commonwealth of Virginia at large, taken pursuant
6 to notice, commencing at 9:00 a.m. on October 16,
7 2003, at the United States Embassy in Kiev, Ukraine;
8 and this in accordance with the Federal Rules of Civil
9 Procedure.

10

11 THE VIDEOGRAPHER: Good morning. This is 09:01:23
12 the beginning of tape one volume one in the video 09:01:24
13 deposition of Mykola Ivanovych Sivulsky. This is 09:01:27
14 being taken at the U.S. Embassy in Kiev, Ukraine. 09:01:31
15 This is being taken on the 16th of October 2003 at 1 09:01:36
16 minute past 9 a.m. as indicated on the video screen. 09:01:40
17 This deposition is being taken in the 09:01:44
18 matter of the United States of America versus Pavel 09:01:45
19 Ivanovych Lazarenko. The case number is CR00-0284 09:01:47
20 (MJJ) being heard before the United States District 09:01:56
21 Court for the Northern District of California. 09:01:58
22 The court reporter is Frances Zahn of Zahn, 09:02:00
23 Hall & Zahn. The interpreters are Yevhen Kuzmin and 09:02:03
24 Sergey Bezdverney. The videographer is David Ross of 09:02:08
25 European Video Limited. 09:02:12

ZAHN, HALL & ZAHN, LTD.
Tel: (757) 627-6554 Fax: (757)625-7077
E-Mail: ZHZ@AOL.COM

1 M. I. SIVULSKY - DIRECT 09:02:12
2 Would counsel introduce themselves, please. 09:02:14
3 MR. HOROWITZ: Daniel Horowitz for 09:02:16
4 Mr. Lazarenko. 09:02:17
5 MS. BOERSCH: Martha Boersch for the United 09:02:17
6 States. 09:02:20
7 MR. AXELROD: Peter Axelrod for the United 09:02:20
8 States. 09:02:22
9 THE VIDEOGRAPHER: And would the court 09:02:22
10 reporter please swear in the witness. 09:02:47
11 THE WITNESS: Yes, I swear. 09:02:47
12 09:02:47
13 MYKOLA IVANOVYCH SIVULSKY, was sworn and 09:03:01
14 deposed on behalf of the Defendant, as follows: 09:03:01
15 DIRECT EXAMINATION 09:02:50
16 BY MR. HOROWITZ: 09:02:50
17 Q. Good morning. 09:02:50
18 A. Good morning. 09:02:51
19 Q. Can you state your name for our record, 09:02:53
20 please? 09:02:55
21 A. Sivulsky Mykola Ivanovych. 09:03:01
22 Q. Mr. Sivulsky, what is your present job 09:03:04
23 description? 09:03:09
24 A. I'm Professor of the Chair of Banking of 09:03:15
25 Kiev National Economic University. 09:03:19

1 M. I. SIVULSKY - DIRECT 09:03:19
2 Q. So you're a professor of banking at the 09:03:23
3 university? 09:03:26
4 A. Yes. 09:03:31
5 Q. And what is your educational background? 09:03:32
6 A. I have higher education. I'm a Doctor of 09:03:40
7 Economic Sciences and professor. 09:03:44
8 Q. And what was your doctorate thesis subject? 09:03:48
9 A. Money -- money turnover in the period of 09:04:00
10 transition to a market economy. 09:04:02
11 Q. I'm sorry. I didn't hear. Money turnover? 09:04:04
12 A. Money and money turnover in the period of 09:04:08
13 transition to a market economy. 09:04:10
14 Q. Is that the same as monetary policy? 09:04:13
15 A. Yes. Very close notions. 09:04:20
16 Q. Now, what year did you get your doctorate? 09:04:23
17 A. Excuse me? 09:04:29
18 MR. HOROWITZ: Let me just ask a question. 09:04:31
19 Are we translating in Russian or Ukrainian? 09:04:33
20 THE INTERPRETER: In Ukrainian. 09:04:37
21 MR. HOROWITZ: Okay. Is it a problem to do 09:04:39
22 it in Russian? 09:04:40
23 A. Yes, we can. 09:04:45
24 BY MR. HOROWITZ: 09:04:45
25 Q. Is that what you would prefer, 09:04:46

1 M. I. SIVULSKY - DIRECT 09:04:46
2 Mr. Sivulsky, Russian or Ukrainian? 09:04:47
3 A. I am fluent in both Russian and Ukrainian 09:04:59
4 languages, although in the late time, latest -- 09:05:02
5 recently, I am mostly speaking Ukrainian. 09:05:06
6 Q. Well, it's between the two of you. 09:05:09
7 Whatever. You tell the interpreter what language you 09:05:11
8 want it interpreted in, and we will accommodate you. 09:05:13
9 What year did you get your doctorate? 09:05:27
10 A. I have been working as a teacher in 09:05:43
11 International Financial and Economic Institute. In 09:05:46
12 1975, I defended my candidate thesis, and in 1991, I 09:05:52
13 defended my doctorate. I was the first doctorate of 09:06:06
14 Moscow Financial Institute. 09:06:15
15 Q. After 1991, what jobs have you held? 09:06:20
16 A. Starting from April 1992 until October 09:06:40
17 1992, I was working the First Deputy of the National 09:06:44
18 Bank. First Deputy Chairman of the Board of the 09:06:48
19 National Bank. 09:06:57
20 Starting from the end of October 1992 until 09:07:07
21 October 1993 -- starting from December 1994 also until 09:07:10
22 June 1996, I worked as the First Deputy Minister of 09:07:29
23 Finances of Ukraine. 09:07:35
24 In the period between these appointments, I 09:07:47
25 was working as the deputy head of the agency, 09:07:49

1 M. I. SIVULSKY - DIRECT 09:07:49
2 International Agency of Cooperation and Investments. 09:07:58
3 Starting from October 1996 until January 09:08:16
4 1997, I was adviser of the Prime Minister of Ukraine 09:08:21
5 in the matters over banking activity. 09:08:24
6 From January 1997 until the end of October 09:08:38
7 1998, I was the President of Ukrainian Gas Resource 09:08:43
8 Consortium. 09:08:52
9 Q. And then after the consortium? 09:08:56
10 A. After consortium, the criminal cases 09:09:03
11 started, and I worked as a leader of secretariat over 09:09:07
12 the Supreme Rada of Ukraine in the matters of budget, 09:09:22
13 from November 1999 until the 4th of January 2000. 09:09:35
14 Starting from 2001, I'm a professor of Kiev 09:09:52
15 National Economic University. 09:09:59
16 Q. And from January through March 1997, were 09:10:01
17 you employed at the Kiev office of UESU? 09:10:05
18 THE INTERPRETER: Excuse me. From what 09:10:14
19 period? 09:10:15
20 BY MR. HOROWITZ: 09:10:15
21 Q. January through March 1997, I believe. 09:10:16
22 A. Since Ukrainian legislation doesn't forbid 09:10:42
23 to work part-time, naturally starting from January 09:10:46
24 1997, until the end of -- until the end of February 09:10:56
25 that same year, I worked as a leader of Kiev branch of 09:11:08

1 M. I. SIVULSKY - DIRECT 09:11:08
2 UESU. 09:11:12
3 Q. And then you indicated that there was some 09:11:15
4 time when you had a criminal case started. Were you 09:11:17
5 actually put in jail for some period of time? 09:11:21
6 A. I was arrested twice. 09:11:32
7 Q. What periods of time were you in jail? 09:11:34
8 A. The first time I was arrested on the 17th 09:11:47
9 of September 1998. I was released from prison by the 09:11:51
10 decision of the General Prosecutor of Ukraine, 09:12:04
11 Mr. Poitobenko, on the 7th of October, 1998, in view 09:12:07
12 of my condition of my health. I had a brain attack 09:12:19
13 during my -- 09:12:19
14 MS. MARINA: Stroke. 09:12:30
15 A. Brain stroke during my imprisonment. 09:12:31
16 The second time I was imprisoned, I 09:12:37
17 was arrested on the 12th of June 2000, and released 09:12:41
18 from -- released from prison on the 12th of July 2001 09:12:51
19 by the decision of Kiev-Pechersk Court, which 09:13:03
20 acknowledged the decision taken against him to be 09:13:11
21 illegal. 09:13:14
22 Q. On these two times that you spent in jail, 09:13:17
23 had you ever gone to a trial? 09:13:19
24 MS. BOERSCH: Objection. Relevance. 09:13:28
25 BY MR. HOROWITZ: 09:13:33

1 M. I. SIVULSKY - DIRECT 09:13:33
2 Q. You can answer. 09:13:33
3 A. What do you mean, trial? 09:13:38
4 Q. By trial, we have two sides, like we have 09:13:41
5 here in this room, and they put on evidence, and then 09:13:44
6 somebody decides what the facts are. 09:13:47
7 MS. BOERSCH: And I'm going to object, 09:13:56
8 number one, to counsel telling the witness what a 09:13:57
9 trial is; and, number two, the two systems are 09:14:00
10 obviously not comparable, so I think the question is 09:14:02
11 an unfair question to the witness. It's leading, for 09:14:05
12 one thing. 09:14:08
13 A. There were some investigation -- action of 09:14:18
14 investigators with the participation of my advocates 09:14:21
15 and the representatives of prosecutors. 09:14:26
16 BY MR. HOROWITZ: 09:14:26
17 Q. Okay. It wasn't translated properly. It's 09:14:31
18 not when the prosecutor and defense get together. 09:14:33
19 A trial is when there is -- there are two 09:14:36
20 sides and evidence is presented before either a judge 09:14:38
21 or a jury that decides guilt or innocence. Did that 09:14:42
22 happen? 09:14:45
23 MS. BOERSCH: Same objection. 09:14:46
24 A. There was no trial. Investigation keeps 09:15:05
25 going on for the sixth year, and we hardly see the end 09:15:12

1 M. I. SIVULSKY - DIRECT 09:15:12
2 of it. 09:15:17
3 BY MR. HOROWITZ: 09:15:19
4 Q. How many times have you been interviewed by 09:15:19
5 the General Prosecutor's Office of Ukraine? 09:15:21
6 MS. BOERSCH: Objection. Irrelevant. 09:15:29
7 A. Many times. 09:15:31
8 BY MR. HOROWITZ: 09:15:31
9 Q. More than 50 times, or less than 50? If 09:15:32
10 you can guess? Or estimate? 09:15:35
11 MS. BOERSCH: Objection. Objection. Calls 09:15:37
12 for speculation. 09:15:42
13 A. More than 50. 09:15:43
14 MR. HOROWITZ: And the objection was called 09:15:46
15 for speculation in case it didn't get picked up. 09:15:48
16 BY MR. HOROWITZ: 09:15:51
17 Q. Let me talk to you about the gas situation 09:15:56
18 in Ukraine historically. In the course of your 09:16:02
19 employment with the government, did you come to know 09:16:10
20 what the situation was with respect to gas debt in 09:16:20
21 Ukraine from 1991 until the end of 1995? 09:16:24
22 A. Yes. 09:16:42
23 Q. What was the situation? 09:16:43
24 MS. BOERSCH: Objection. Lack of 09:16:50
25 foundation. 09:16:51

1 M. I. SIVULSKY - DIRECT 09:16:51
2 A. In accordance with the position I occupied 09:16:55
3 and the distribution of duties by that time, I had to 09:16:59
4 deal with the problems of debt that were formed in 09:17:06
5 view of supplies of gas to Ukraine. 09:17:15
6 That situation was as follows: Starting 09:17:19
7 from 1992, each year, a huge multimillion debt were 09:17:27
8 formed -- I mean, external debt, in view of supplies 09:17:37
9 of gas. 09:17:45
10 In accordance with the intergovernmental 09:17:47
11 agreements, supplies of gas from Russia and Turkmania 09:17:52
12 were made under the state guarantees, and they were 09:18:00
13 carried out on behalf of Ukraine, authorized by 09:18:07
14 Ukraine structures. As a rule, it was a joint stock 09:18:12
15 company, Ukr gasprom. It means there was a state 09:18:22
16 monopoly on the supply of imported gas to Ukraine. 09:18:30
17 It was absolutely irrational system, 09:18:37
18 antimarket system, which led to creation of state debt 09:18:43
19 amounting to \$2 billion. 09:18:56
20 MS. BOERSCH: And I'm going to move to 09:19:04
21 strike the answer as a narrative, lacking foundation, 09:19:05
22 and opinion. 09:19:08
23 BY MR. HOROWITZ: 09:19:08
24 Q. Do you know what the gas debt was in 1994? 09:19:10
25 A. Yes, I know. 09:19:17

1 M. I. SIVULSKY - DIRECT 09:19:17
2 Q. What was it? 09:19:18
3 A. Ukraine had a debt over \$1.5 billion only 09:19:29
4 to Gasprom Russian company. 09:19:35
5 Q. And was there additional debt in addition 09:19:38
6 to that? 09:19:40
7 A. Yes. We had also debts to Turkmenistan. 09:19:46
8 MS. BOERSCH: Move to strike the last two 09:19:51
9 answers for lack of foundation. 09:19:53
10 BY MR. HOROWITZ: 09:19:55
11 Q. And what was the total Ukraine budget 09:19:56
12 during that year, approximately? 09:19:59
13 A. Approximately 10 to \$12 billion. 09:20:09
14 Q. What is the effect on an economy of having 09:20:13
15 a gas debt that is approximately 10 percent of the 09:20:24
16 entire budget? 09:20:24
17 A. It had negative effect to Ukrainian 09:20:33
18 economy. And not only for economy, availability over 09:20:37
19 huge gas debt enabled Russia to press Ukraine 09:20:45
20 constantly and achieve a political and other step back 09:20:53
21 of Ukraine. 09:21:01
22 MR. HOROWITZ: Concessions. 09:21:03
23 THE INTERPRETER: Concessions, yes. 09:21:05
24 BY MR. HOROWITZ: 09:21:05
25 Q. And how would Russia being owed all that 09:21:07

1 M. I. SIVULSKY - DIRECT 09:21:07
2 money to the state gas company use that debt to 09:21:11
3 pressure Ukraine? 09:21:16
4 A. Constant threats not to sign certain 09:21:31
5 agreements and cancel supplies of gas in the middle of 09:21:37
6 winter. Thus, they made Ukrainian government to -- to 09:21:44
7 carry out the diplomacy without neckties. And that -- 09:22:00
8 get concessions regarding policies in various spheres. 09:22:09
9 MS. BOERSCH: Objection. Move to strike 09:22:14
10 the answer as a narrative, lacking foundation, calling 09:22:15
11 for opinion, voicing opinion. 09:22:19
12 BY MR. HOROWITZ: 09:22:23
13 Q. Did the International Monetary Fund take 09:22:26
14 any position with respect to the Ukraine gas debt? 09:22:29
15 MS. BOERSCH: Objection. Calls for 09:22:53
16 opinion, hearsay, lacking foundation. 09:22:53
17 A. So always before Ukraine signed agreements 09:22:56
18 with the International Monetary Fund, Ukraine 09:23:02
19 practically wasn't servicing its debts. And the debts 09:23:05
20 were just growing. And the first bank of the 09:23:11
21 International Monetary Fund is there to bring order in 09:23:20
22 the sphere of servicing its debts, to specify these 09:23:26
23 debts, and to start servicing them as a civilized 09:23:34
24 state. 09:23:42
25 I had to take part in the negotiations 09:23:46

1 M. I. SIVULSKY - DIRECT 09:23:46
2 regarding these matters, in particular regarding gas 09:23:50
3 debts. 09:23:54
4 Q. And you translated, specify these debts. 09:23:56
5 Was the real answer, fix these debts? 09:23:59
6 MS. BOERSCH: Objection. Leading. 09:24:03
7 MR. HOROWITZ: I was asking the 09:24:05
8 interpreter. I'm sorry. 09:24:05
9 THE INTERPRETER: Yes. It's a question to 09:24:07
10 me. Fixed. 09:24:08
11 BY MR. HOROWITZ: 09:24:13
12 Q. What was the role of the International 09:24:14
13 Monetary Fund such that they were able to tell Ukraine 09:24:18
14 how Ukraine should run its economy? 09:24:20
15 MS. BOERSCH: Objection. Calls for 09:24:35
16 hearsay, lack of foundation, calls for speculation, 09:24:36
17 and opinion. 09:24:38
18 A. Of course. Due to International Monetary 09:24:40
19 Fund, Ukraine enjoying profitable and very good 09:24:51
20 conditions, could restructure debts, gas debts to 09:24:56
21 Russian Gasprom company amounting to \$1.4 billion. 09:25:06
22 BY MR. HOROWITZ: 09:25:20
23 Q. And explain the relationship between the 09:25:21
24 International Monetary Fund and Ukraine because -- 09:25:23
25 MS. BOERSCH: Same objections. 09:25:32

1 M. I. SIVULSKY - DIRECT 09:25:32
2 BY MR. HOROWITZ: 09:25:33
3 Q. And in the sense that, why is this 09:25:33
4 international group even talking to Ukraine about 09:25:37
5 Ukraine internal economic policy? 09:25:43
6 MS. BOERSCH: Same objections. 09:25:47
7 A. The International Monetary Fund has its 09:26:00
8 standards of cooperation with the countries. The 09:26:03
9 state must conduct certain policy. It should be a 09:26:12
10 policy of financial stability. And also it must be 09:26:19
11 doubtless servicing over debts. 09:26:28
12 Since International Monetary Fund gives 09:26:34
13 credits, the first provision, the first condition 09:26:37
14 which is -- which is in the center of attention, is 09:26:44
15 that the country must service its debts. 09:26:50
16 The International Monetary Fund gives funds 09:27:00
17 in order to stabilize currency rate and cover 09:27:06
18 deficiency of payment balance. It was very important 09:27:24
19 for Ukraine, taking into account the inherent, by 09:27:28
20 Ukraine, dependency on Russia and Turkmenistan 09:27:39
21 energetic -- energetic -- energetic doubt. 09:27:44
22 Aside from this, the cooperation with the 09:27:55
23 International Monetary Fund is a signal for foreign 09:27:57
24 investors, is a positive signal, and such kind of 09:28:06
25 cooperation influenced -- influenced coming of 09:28:12

1 M. I. SIVULSKY - DIRECT 09:28:12
2 investments to Ukraine and objectively raised the 09:28:17
3 economy of Ukraine, so as a whole cooperation with the 09:28:23
4 International Monetary Fund is definitely very 09:28:29
5 positive for Ukraine step. 09:28:35
6 MR. BOERSCH: And I move to strike the 09:28:40
7 answer as a narrative, and for the same objections as 09:28:41
8 previously stated. 09:28:43
9 BY MR. HOROWITZ: 09:28:43
10 Q. And did the World Bank take a position on 09:28:45
11 this debt issue? 09:28:49
12 MS. BOERSCH: Same objections. And 09:28:52
13 irrelevant. 09:28:53
14 A. No. 09:29:00
15 THE INTERPRETER: You mean opposition to 09:29:02
16 the position? Excuse me. 09:29:04
17 MS. BOERSCH: A position. 09:29:06
18 THE INTERPRETER: A position, yes. 09:29:07
19 MR. HOROWITZ: Let me withdraw the question 09:29:08
20 because the translation was a problem. Let me 09:29:09
21 rephrase it. 09:29:12
22 BY MR. HOROWITZ: 09:29:12
23 Q. What was the World Bank's position on this 09:29:14
24 debt issue? Was it the same as the IMF? 09:29:18
25 MR. BOERSCH: Objection. Leading. 09:29:22

1 M. I. SIVULSKY - DIRECT 09:29:22
2 MR. HOROWITZ: I'll withdraw the question. 09:29:24
3 I'll withdraw the question. I was just 09:29:27
4 trying to help the translation. 09:29:30
5 BY MR. HOROWITZ: 09:29:31
6 Q. What was the World Bank's position on 09:29:32
7 this -- on the existence of Ukrainian gas debt? 09:29:35
8 MS. BOERSCH: Same objections. 09:29:42
9 A. As far as I remember, the position of World 09:29:53
10 Bank was the same as the position of International 09:29:58
11 Monetary Fund. Until the time when Ukraine as a state 09:30:09
12 didn't make order in their debts, and didn't start 09:30:09
13 servicing its debts, we couldn't talk about 09:30:14
14 cooperation of Ukraine with the World Bank. 09:30:22
15 The World Bank was offering its assistance 09:30:30
16 to Ukraine in reforming of certain spheres of 09:30:33
17 Ukrainian economy. Particular energetics, the 09:30:42
18 entrepreneur's sphere -- entrepreneurs -- banking 09:30:50
19 sphere. 09:30:59
20 MS. BOERSCH: I move to strike the 09:31:02
21 narrative answer and for the same objections as 09:31:03
22 previously stated. 09:31:05
23 BY MR. HOROWITZ: 09:31:09
24 Q. Now, at the end of 1995, was there a change 09:31:09
25 in the way that gas distribution and settlements was 09:31:13

1 M. I. SIVULSKY - DIRECT 09:31:13
2 conducted? 09:31:28
3 A. 1995 was the year when the economics 09:31:44
4 started -- when there were drastic changes. First of 09:31:47
5 all, we managed to form all the debts made with regard 09:31:58
6 to supplies of gas to Ukraine. 09:32:05
7 And the second issue that also appeared 09:32:11
8 immediately at the time is that, what to do in order 09:32:14
9 to avoid forming new debts. At the end of 1995, 09:32:21
10 Ukrainian government has taken a resolution which 09:32:31
11 glorified the transition over state monopoly on the 09:32:39
12 gas market into involvement of private companies into 09:32:44
13 the gas supply. It was made in the form of the 09:32:52
14 regional distribution attachment of certain gas 09:33:02
15 supplies in accordance with the different regions of 09:33:08
16 Ukraine. 09:33:13
17 I took part in the meetings over Ukrainian 09:33:18
18 government related to these matters. These sittings 09:33:21
19 -- these meetings were conducted by the Prime 09:33:28
20 Minister, Mr. Marchuk. 09:33:31
21 Q. Let me stop you right there. 09:33:33
22 MS. BOERSCH: And I move to strike the 09:33:35
23 answer as a narrative, lacking foundation. 09:33:36
24 MR. HOROWITZ: Can we -- I don't know what 09:33:39
25 number we're up to, but -- do you know? 09:33:41

1 M. I. SIVULSKY - DIRECT 09:33:41
2 MR. AGRETELIS: 1011. 09:33:45
3 MS. BOERSCH: 5011. 09:33:50
4 MR. AGRETELIS: 5011. 09:33:52
5 MR. HOROWITZ: Can we please take 1033. 09:33:55
6 MS. BOERSCH: 1033 is government exhibit 09:33:58
7 1022, just so you know. 09:34:00
8 MR. HOROWITZ: Thank you. Let's mark it as 09:34:03
9 5011 to this deposition. 09:34:04
10 MS. BOERSCH: I would just use our exhibit 09:34:07
11 numbers, wouldn't you? I mean, otherwise it gets 09:34:08
12 confusing. 09:34:10
13 MR. AXELROD: I would suggest where 09:34:11
14 possible use the same exhibit numbers because 09:34:13
15 otherwise it's going to be confusing to everyone. One 09:34:14
16 exhibit is the same thing. 09:34:18
17 MR. HOROWITZ: Very good. Okay. Let's use 09:34:20
18 government exhibit whatever that number was. 09:34:23
19 MS. BOERSCH: 1022. 09:34:26
20 MR. HOROWITZ: 1022. 09:34:28
21 And would you please show it to the 09:34:29
22 witness? 09:34:32
23 A. 1033. 09:34:36
24 BY MR. HOROWITZ: 09:34:36
25 Q. Is this the document that you were 09:34:36

1 M. I. SIVULSKY - DIRECT 09:34:36
2 referring to? 09:34:38
3 A. Yes. 09:34:39
4 MS. BOERSCH: You may want to have him 09:34:40
5 identify the Bates numbers at the bottom just so we 09:34:41
6 have a record that it's the same set of pages, because 09:34:44
7 he didn't actually pull that out of the government 09:34:47
8 exhibit binder, but there should be Bates numbers on 09:34:49
9 the page. 09:34:53
10 MR. HOROWITZ: Maybe, David, can you 09:34:55
11 identify the Bates numbers to make sure it's correct. 09:34:56
12 MR. AGRETELIS: A002883 to A002886. 09:34:59
13 BY MR. HOROWITZ: 09:35:06
14 Q. And who signed this document? 09:35:07
15 A. This document was signed by the Prime 09:35:17
16 Minister of Ukraine, Yevhen Marchuk, and Minister of 09:35:19
17 the Cabinet of Minister, Valeriy Pustovoytenko. 09:35:25
18 Q. Do you see Mr. Pavel Lazarenko's signature 09:35:31
19 on this document? 09:35:33
20 A. No. 09:35:36
21 Q. Okay. Now, what was the benefit of this 09:35:37
22 territorial gas trader system? 09:35:46
23 MS. BOERSCH: Objection. Calls for 09:35:50
24 speculation. 09:35:51
25 A. The benefit was that we exchange state 09:36:07

1 M. I. SIVULSKY - DIRECT 09:36:07
2 monopoly and introduced the first approaches into the 09:36:13
3 market -- market -- into introduction of market 09:36:25
4 elements at the gas market. 09:36:38
5 BY MR. HOROWITZ: 09:36:38
6 Q. Okay. Now, let me show you another 09:36:42
7 document. 09:36:48
8 MR. HOROWITZ: Can we show him 1539, 09:36:51
9 please. 09:36:54
10 And, David, if you would give us the 09:36:54
11 government -- 09:36:56
12 MS. BOERSCH: I think it's government 09:37:00
13 exhibit 1027. 09:37:01
14 MR. HOROWITZ: Okay. Government exhibit 09:37:03
15 1027. David, if you would read the Bates numbers. 09:37:05
16 MR. AGRETELIS: Bates 002887 through 09:37:10
17 A002890. 09:37:15
18 BY MR. HOROWITZ: 09:37:20
19 Q. Can you look at that document, please, and 09:37:20
20 tell me if you know what it is? 09:37:22
21 A. Yes, I do. 09:37:30
22 Q. Okay. What is that document? 09:37:31
23 A. It's a resolution of the Cabinet of 09:37:40
24 Ministers of 23rd of December 1996. It defines rules 09:37:43
25 of activity of the gas market of Ukraine for the year 09:37:53

1 M. I. SIVULSKY - DIRECT 09:37:53
2 of 1997. 09:37:58
3 MS. BOERSCH: And can I just correct the 09:38:00
4 record. That decree 1539 is actually government 09:38:01
5 exhibit 1024, not 1027, and it should be Bates range 09:38:04
6 A002887 through A002892, or 2890. 09:38:09
7 2890. 09:38:26
8 MR. HOROWITZ: Okay. Thank you. 09:38:28
9 BY MR. HOROWITZ: 09:38:28
10 Q. Did this document continue the regional gas 09:38:29
11 trader system, albeit in a different form? 09:38:36
12 A. In this foundation, this document continued 09:39:01
13 the process that was introduced during the -- during 09:39:05
14 the era of Marchuk. That is regional -- principle of 09:39:09
15 regional attachment over gas traders to separate 09:39:17
16 regions. However, the new step was also made in the 09:39:22
17 matter over forming of the gas market. 09:39:29
18 Q. You said reforming or forming? 09:39:34
19 A. It is more correct to say forming. 09:39:42
20 Q. Okay. 09:39:44
21 A. Part of the functions that was executed by 09:39:54
22 the State Committee of Oil, Gas, and the Oil 09:39:56
23 Processing Industry was transferred to the body formed 09:40:01
24 by the gas traders themselves who worked at the gas 09:40:14
25 market. That is the Ukrainian Gas Resource 09:40:18

1 M. I. SIVULSKY - DIRECT 09:40:18
2 Consortium. 09:40:25
3 Q. Now, who signed this document on behalf of 09:40:26
4 the Cabinet of Ministers? 09:40:29
5 A. It was signed by the Prime Minister of 09:40:39
6 Ukraine, Pavel Lazarenko. 09:40:41
7 Q. So tell me what functions of the State 09:40:46
8 Committee of Oil were taken out of state hands and put 09:40:50
9 under the control of private companies by this 09:41:01
10 document? 09:41:11
11 A. This decree only initiated transition to 09:41:31
12 regulating the gas market. It was foreseen that 09:41:35
13 certain functions of regulations parallel to the State 09:41:43
14 Committee of Oil and Gas Industry -- and the gas and 09:41:53
15 oil processing industry, were performed by the body of 09:41:54
16 -- by the consortium of gas traders of Ukraine. 09:42:06
17 MS. BOERSCH: And objection. Move to 09:42:11
18 strike the answer as a narrative, and lacking 09:42:12
19 foundation. 09:42:14
20 MR. HOROWITZ: Okay. I'm going to, not 09:42:15
21 move to strike, but indicate that as I'm looking at 09:42:16
22 it, I don't understand the answer. The translation is 09:42:19
23 totally confusing, so I'm going to go back on that 09:42:22
24 point. 09:42:24
25 MR. BOERSCH: Okay. 09:42:26

1 M. I. SIVULSKY - DIRECT 09:42:26
2 BY MR. HOROWITZ: 09:42:26
3 Q. Let me break it down. What were the 09:42:28
4 functions of the committee in 1996 -- and I mean the 09:42:31
5 state committee -- that then were taken over by this 09:42:39
6 private consortium in 1997? 09:42:44
7 A. The state committee was responsible for 09:43:00
8 supplies of gas of the socially vulnerable objects of 09:43:07
9 the market. That is, population, budgeting 09:43:13
10 organizations, communal matters. And to supply the -- 09:43:19
11 to ensure the balance of the gas; that is, concluding 09:43:29
12 agreements regarding supplies of necessary amount of 09:43:40
13 gas to Ukraine. Supply of gas is a system of 09:43:44
14 pressing -- these are the pipelines over high and low 09:43:52
15 pressure, and if you don't have the necessary amount 09:43:59
16 of gas, consumers won't be able to get it. 09:44:04
17 One of the missions of the state committee 09:44:11
18 is that to ensure supplies of the necessary amount of 09:44:13
19 gas, and it was just the function which was parallel 09:44:21
20 with the state committee was transferred to gas 09:44:34
21 consortium. And it refers to point 3 of the decree. 09:44:38
22 Q. Okay. Let me ask you this: Was there a 09:44:46
23 requirement in 1996 that these private gas trading 09:44:51
24 companies still supply gas to consumers who could not 09:44:59
25 afford to pay? 09:45:17

1 M. I. SIVULSKY - DIRECT 09:45:17
2 MS. BOERSCH: Objection. Leading, lack of 09:45:19
3 foundation. 09:45:21
4 BY MR. HOROWITZ: 09:45:31
5 Q. Let me withdraw that. Let me ask it a 09:45:32
6 different way. 09:45:34
7 Was there a problem with collecting 09:45:39
8 payments before this territorial gas trader system 09:45:41
9 went into effect? 09:45:50
10 MS. BOERSCH: Objection. Lack of 09:45:58
11 foundation. 09:45:58
12 A. Of course. 09:45:59
13 BY MR. HOROWITZ: 09:45:59
14 Q. What were the gas traders, as private 09:46:03
15 companies, able to do in order to collect these debts? 09:46:05
16 MS. BOERSCH: Objection. Vague, lack of 09:46:21
17 foundation, calls for speculation. 09:46:22
18 A. It's a matter of principle. The state 09:46:27
19 company cannot behave the way the private company can. 09:46:33
20 The leader of the -- of the state company is appointed 09:46:44
21 by the state. This leader is given an order not to 09:46:49
22 switch off the gas, and they fulfill this order, 09:46:59
23 because they are dependent upon the state. 09:47:04
24 The private company works for the profit, 09:47:09
25 and it is a matter of life and death to get the 09:47:17

1 M. I. SIVULSKY - DIRECT 09:47:17
2 profit, and the life and death of business as it is. 09:47:22
3 And transition to private companies enabled to improve 09:47:32
4 situation with the payment at the gas market of 09:47:41
5 Ukraine. 09:47:44
6 Q. Now, what was the gas debt in 1996? 09:47:45
7 A. We have got no state debt for supplies of 09:47:58
8 gas into Ukraine. As far as I know, the private 09:48:03
9 companies who were supplying gas from Russia also had 09:48:11
10 no debt to Russian Gasprom. 09:48:18
11 MS. BOERSCH: And I move to strike, 09:48:23
12 nonresponsive, lacks foundation. It calls for 09:48:24
13 hearsay. 09:48:27
14 BY MR. HOROWITZ: 09:48:29
15 Q. Same question as to 1997. 09:48:30
16 A. In 1997, the situation was similar. And in 09:48:43
17 1998, after the state monopoly was restored in the 09:48:53
18 form of national joint stock company Naftagas Ukraine, 09:48:57
19 the debts appeared again. It was not the debts of the 09:49:07
20 state as it is, but the debts of the state company. 09:49:17
21 Q. All right. Let me take -- 09:49:28
22 MS. BOERSCH: Move to strike the answer as 09:49:28
23 a narrative and lacking foundation, calling for 09:49:28
24 hearsay. 09:49:28
25 MR. HOROWITZ: Is this a good time to take 09:49:29

1 M. I. SIVULSKY - DIRECT 09:49:29
2 a quick break, or do you want to go a little longer? 09:49:30
3 MS. BOERSCH: That's fine. Whatever you 09:49:34
4 want. 09:49:35
5 MR. HOROWITZ: Let's take a five-minute 09:49:36
6 break and then we'll start with questions about the 09:49:37
7 formation of the consortium. 09:49:39
8 THE VIDEOGRAPHER: Going off the record at 09:49:48
9 9:49 a.m. 09:49:49
10 (Recess) 09:49:54
11 THE VIDEOGRAPHER: Back the record at 1 10:01:25
12 minute past 10 a.m. 10:01:53
13 MR. HOROWITZ: Thank you. 10:01:56
14 BY MR. HOROWITZ: 10:01:56
15 Q. Professor, what was your role in government 10:01:56
16 during the time that Resolution 1033 was being 10:02:00
17 debated? 10:02:04
18 A. I was the First Deputy Finance Minister. 10:02:17
19 And in accordance with the partition of functions 10:02:27
20 within the ministry, I was responsible for that area 10:02:31
21 of responsibilities. Therefore -- therefore, I was 10:02:34
22 reviewing all the documents related to those issues 10:02:42
23 and participated in the meetings devoted to those 10:02:49
24 issues. 10:02:54
25 Q. Did you make recommendations to the Cabinet 10:02:55

1 M. I. SIVULSKY - DIRECT 10:02:55
2 of Ministers? 10:03:03
3 MS. BOERSCH: Objection. Leading. 10:03:03
4 A. Yes. Undoubtedly. 10:03:04
5 BY MR. HOROWITZ: 10:03:04
6 Q. Okay. And with respect to 1033, what 10:03:06
7 recommendations did you make? 10:03:08
8 A. We sustained it. 10:03:19
9 Q. Okay. And what was Mr. Marchuk's position 10:03:21
10 on 1033? 10:03:26
11 MS. BOERSCH: Objection. Hearsay, calls 10:03:32
12 for speculation. 10:03:34
13 A. He initiated it. 10:03:37
14 BY MR. HOROWITZ: 10:03:37
15 Q. Okay. What other ministers were in support 10:03:39
16 of 1033 during the times that you worked on it in 10:03:46
17 government? 10:03:50
18 A. I was at one of the meetings on this issue. 10:04:03
19 And, as far as I remember, at this meeting conducted 10:04:10
20 under the chairmanship of Mr. Marchuk, the 10:04:21
21 representatives of all the ministries were present, 10:04:23
22 and there were no objections from their side. 10:04:27
23 Q. And with respect to resolution 1539, did 10:04:31
24 you also, in your role in government, provide advice 10:04:34
25 as to that? 10:04:37

1 M. I. SIVULSKY - DIRECT 10:04:37
2 A. I didn't take part directly in the 10:04:53
3 development of this -- in the preparation or 10:04:56
4 development of this document. 10:04:58
5 Q. Okay. 10:05:00
6 Now, after resolution 1539 went into 10:05:03
7 effect, you talked about the formation of a consortium 10:05:07
8 of gas traders, and I want to show you some documents 10:05:11
9 and ask you if these relate to that consortium. 10:05:14
10 And if -- I think -- and they are exhibits 10:05:21
11 1044 and then 1045 as previously marked. 10:05:25
12 A. The resolution 1539 was adopted after the 10:06:11
13 consortium was formed. 10:06:15
14 BY MR. HOROWITZ: 10:06:15
15 Q. And are these formation documents for the 10:06:17
16 consortium? 10:06:20
17 A. Yes. This is the statute of the Ukrainian 10:06:27
18 Consortium of Gas Resources. 10:06:32
19 Q. Okay. 10:06:33
20 A. And this is the document -- the agreement 10:06:37
21 on the incorporation. Formation. 10:06:40
22 MS. BOERSCH: Excuse me. Which exhibit is 10:06:44
23 the witness referring to? 1044 or 1045? 10:06:46
24 MR. HOROWITZ: The first one was 1044 and 10:06:54
25 the second one was 1045. 10:06:55

1 M. I. SIVULSKY - DIRECT 10:06:55
2 BY MR. HOROWITZ: 10:06:57
3 Q. Now, looking at the first document which we 10:06:57
4 have marked as 1044, at the last page, are there any 10:06:59
5 companies that are represented as signatories to this 10:07:05
6 document? 10:07:10
7 A. Yes. 10:07:26
8 Q. Can you tell us the names of the companies 10:07:27
9 that were signatories? 10:07:30
10 A. Yes. 10:07:40
11 MS. BOERSCH: Objection. Calls for 10:07:41
12 hearsay. 10:07:42
13 BY MR. HOROWITZ: 10:07:48
14 Q. Go ahead. 10:07:48
15 A. Name them? 10:07:51
16 Q. Yes. As they appear there. 10:07:52
17 A. I can name them in a different order 10:08:01
18 characterizing them, or as in the order as to their 10:08:04
19 state or non-state form of ownership. 10:08:10
20 Q. Okay. Actually, that was going to be my 10:08:15
21 next question. I was going to ask you if this is 10:08:17
22 accurate, but maybe I can ask you this: 10:08:19
23 Would you please tell me which company 10:08:28
24 signed this document, and please organize your answer 10:08:31
25 by first state and then non-state companies. 10:08:34

1 M. I. SIVULSKY - DIRECT 10:08:34
2 A. Yes, I can do this. 10:08:46
3 MS. BOERSCH: Objection. Lack of 10:08:49
4 foundation. 10:08:49
5 A. The state run company is the joint stock 10:08:57
6 company Ukrgasprom. 10:09:00
7 The state holding company Ukgas. 10:09:05
8 The state joint stock company Ukrresursy. 10:09:14
9 The National Energy Grade Center -- well, 10:09:23
10 dispatching center -- of the energy -- National Energy 10:09:28
11 Dispatching Center of Ukraine. 10:09:38
12 The open joint stock company Ukrnafta. 10:09:45
13 The state company -- the state enterprise 10:09:52
14 Derznaftagaz. 10:10:00
15 Private companies, private gas traders. 10:10:01
16 Industrial Financial Corporation, United 10:10:09
17 Energy Systems of Ukraine. 10:10:14
18 Joint stock bank Ukgasprombank. 10:10:18
19 Joint stock commercial bank, Uzhkombank. 10:10:26
20 Yes. 10:10:34
21 United Energy International firm. 10:10:37
22 Corporation Ukreximport. 10:10:43
23 BY MR. HOROWITZ: 10:10:43
24 Q. Now, what was your role with the consortium 10:10:49
25 at the time that this document was signed? 10:10:58

1 M. I. SIVULSKY - DIRECT 10:10:58
2 A. There was no role. 10:11:02
3 Q. And when did you actually occupy a role 10:11:04
4 with the consortium? When did you get a job with the 10:11:06
5 consortium? 10:11:17
6 A. Formally, I started working with -- at the 10:11:32
7 consortium on the 2nd of December, on December 2nd of 10:11:35
8 1996 when, upon the decision of the founders of the 10:11:40
9 consortium, I was elected the president of the 10:11:44
10 Ukrainian gas -- consortium of gas resources. 10:11:46
11 Q. And is this document that is in your hand 10:11:51
12 now, government exhibit 1044, a document that was kept 10:11:53
13 in the normal course of business of the consortium? 10:11:57
14 A. Yes. 10:12:10
15 Q. And is this a true and correct copy of the 10:12:11
16 document as you recognize it? 10:12:13
17 A. Yes. It is true. 10:12:24
18 Q. And the listing of companies that you 10:12:26
19 referred to earlier, is that a true and accurate list 10:12:28
20 of the companies that were members of the consortium? 10:12:31
21 A. Yes. 10:12:44
22 Q. And as to the second document that I showed 10:12:45
23 you, which is government exhibit 1045, is that also a 10:12:47
24 document that was kept in the normal course of 10:12:53
25 business of the consortium? 10:12:56

1 M. I. SIVULSKY - DIRECT 10:12:56
2 A. Yes. 10:13:15
3 Q. And, to your knowledge, is that a true and 10:13:16
4 accurate copy of the original? 10:13:18
5 A. Yes. 10:13:29
6 Q. And are these both business records of the 10:13:30
7 consortium? 10:13:33
8 A. Yes. 10:13:42
9 Q. Now, were there companies that did not join 10:13:50
10 the consortium, but still were involved in the trading 10:13:53
11 of gas? 10:13:58
12 A. Yes. 10:14:05
13 Q. Which companies were those? 10:14:06
14 A. There were two main companies, Itara 10:14:12
15 Ukraine and the closed joint stock company Intergaz. 10:14:18
16 Q. Now, were -- was Itara a completely Ukraine 10:14:30
17 owned company in 1996, December, when you were working 10:14:36
18 at the consortium? 10:14:44
19 MS. BOERSCH: Objection. Lack of 10:14:47
20 foundation. Calls for hearsay. 10:14:48
21 A. No. It was not completely Ukrainian. It 10:15:00
22 was operating in the gas market of Ukraine. 10:15:08
23 BY MR. HOROWITZ: 10:15:12
24 Q. How do you know it wasn't completely 10:15:12
25 Ukrainian owned? 10:15:15

1 M. I. SIVULSKY - DIRECT 10:15:15
2 A. Due to communication with the appropriate 10:15:27
3 corresponding persons. 10:15:31
4 MS. BOERSCH: Objection. Move to strike, 10:15:33
5 calls for hearsay. 10:15:35
6 BY MR. HOROWITZ: 10:15:39
7 Q. And was Intergaz completely Ukrainian 10:15:39
8 owned? 10:15:42
9 MS. BOERSCH: Same objections. 10:15:42
10 A. I'm not aware of that. 10:15:49
11 BY MR. HOROWITZ: 10:15:50
12 Q. And was UEIL, United Energy International, 10:15:52
13 completely Ukrainian owned? 10:15:57
14 A. I am not aware of that. That was a foreign 10:16:09
15 company registered abroad. 10:16:11
16 MS. BOERSCH: Same objections. Move to 10:16:14
17 strike. 10:16:15
18 BY MR. HOROWITZ: 10:16:15
19 Q. To your knowledge, at that time, was there 10:16:16
20 anything illegal about any gas trader company having 10:16:17
21 some ownership that was a foreign owner? 10:16:25
22 MS. BOERSCH: Objection. Vague. 10:16:32
23 MR. HOROWITZ: I'll withdraw it. 10:16:34
24 BY MR. HOROWITZ: 10:16:34
25 Q. Was there anything illegal, to your 10:16:35

1 M. I. SIVULSKY - DIRECT 10:16:35
2 knowledge, in 1997 about having a company operate in 10:16:37
3 the domestic gas market when that company had foreign 10:16:42
4 ownership? 10:16:47
5 MS. BOERSCH: Objection. Vague, calls for 10:16:48
6 speculation, and argumentative. 10:16:50
7 A. I have no information of that kind. 10:17:14
8 MR. HOROWITZ: Could we stop that noise, 10:17:14
9 please. 10:17:34
10 BY MR. HOROWITZ: 10:17:34
11 Q. Were you aware of any tax reasons at that 10:17:40
12 time, 1997, for companies in the Ukraine having 10:17:46
13 partial foreign ownership? 10:17:56
14 MS. BOERSCH: Objection. Lack of 10:18:00
15 foundation, calls for speculation, opinion, and 10:18:00
16 hearsay. 10:18:03
17 MR. HOROWITZ: Let me withdraw that. 10:18:04
18 BY MR. HOROWITZ: 10:18:04
19 Q. In your various roles in government, did 10:18:05
20 you become aware of the rules of taxation in Ukraine? 10:18:08
21 A. Yes. As far as my expertise permitted or 10:18:28
22 allowed for it, I was aware of that. 10:18:35
23 Q. Okay. And in 1996 and 1997, were there any 10:18:38
24 tax consequences of having partial ownership of a 10:18:45
25 company be through a foreign company or foreign 10:18:53

1 M. I. SIVULSKY - DIRECT 10:18:53
2 investor? 10:18:58
3 MS. BOERSCH: Same objections. 10:18:59
4 A. I didn't -- through? 10:19:02
5 Q. Through. 10:19:05
6 And in 1996 and 1997, were there any tax 10:19:06
7 consequences of having partial ownership of a company 10:19:10
8 be through a foreign company or foreign investor? 10:19:13
9 And then we had an objection to it, which 10:19:16
10 stands. 10:19:19
11 THE INTERPRETER: What does it mean, 10:19:38
12 through? 10:19:38
13 MR. HOROWITZ: Okay. I'll rephrase the 10:19:40
14 question. 10:19:41
15 BY MR. HOROWITZ: 10:19:41
16 Q. What were the tax implications in general 10:19:42
17 terms of having a domestic company also have foreign 10:19:45
18 ownership? 10:19:48
19 MS. BOERSCH: Same objections. 10:19:51
20 A. That was one of the serious problems of the 10:20:12
21 budget. Unfortunately, at the initial period of the 10:20:15
22 independence of Ukraine, the laws were adopted that 10:20:33
23 allowed for tremendous privileges and breaks, tax 10:20:35
24 breaks for the companies that were called the joint 10:20:40
25 ventures which were founded by the Ukrainians with the 10:20:46

1 M. I. SIVULSKY - DIRECT 10:20:46
2 foreign participation. They were relieved in total 10:20:52
3 from any taxes for the first five years of their 10:21:02
4 functioning. 10:21:07
5 As a result, via these companies, the main 10:21:15
6 volume of import operations into Ukraine were 10:21:20
7 conducted; and among the imported goods were those 10:21:29
8 goods that were most covered by the national taxes, 10:21:40
9 excise duties and the VAT, value added tax, subjected 10:21:46
10 to it. 10:21:52
11 As a result -- as a result, because of 10:22:02
12 this, a lot of money was -- a lot of revenue was lost 10:22:05
13 for the national budget. The national budget, in 10:22:11
14 fact, lost a lot of revenues because of that. 10:22:14
15 Billions of -- I remember that we put a lot of -- we 10:22:19
16 put some efforts to resolve this issue, because in 10:22:30
17 accordance with these laws those companies could not, 10:22:43
18 or would -- were able not to pay taxes the day those 10:22:49
19 companies were supposed to pay, being the subjects of 10:22:54
20 economic activities in Ukraine. That was the income 10:22:57
21 tax. 10:23:04
22 BY MR. HOROWITZ: 10:23:04
23 Q. Let me interrupt. Was that law ever 10:23:05
24 changed? 10:23:08
25 A. There were some attempts made in the 10:23:19

1 M. I. SIVULSKY - DIRECT 10:23:19
2 Parliament, but the parliamentary law didn't permit 10:23:21
3 that to occur, to take place. 10:23:25
4 Q. Let me show you another document. And I 10:23:28
5 have it marked with a Bates number of 1 through 988, 10:23:35
6 and it's order 256-1. 10:23:40
7 MR. HOROWITZ: Now, has this previously 10:24:00
8 been marked? Okay. Then can we please mark this as 10:24:01
9 5011, please. 10:24:05
10 (Joint Executive Order 256-1 10:24:05
11 Ukrainian Committee on Oil, Gas, and 10:24:50
12 Refinery Industry of Ukraine and the 10:24:51
13 Ukrainian Consortium of Gas Resources, 10:24:54
14 Bates 1 through 988, was marked 10:24:54
15 Exhibit No. 5011.) 10:24:57
16 BY MR. HOROWITZ: 10:24:25
17 Q. Do you recognize this document? 10:24:26
18 A. Yes. 10:24:27
19 Q. What is this document? 10:24:27
20 A. This is a joint executive order by the 10:24:40
21 Ukrainian gas -- by the Ukrainian Committee on Oil, 10:24:44
22 Gas, and Refinery Industry of Ukraine and the 10:24:50
23 Ukrainian Consortium of Gas Resources. 10:24:54
24 This document adopted or established the 10:25:01
25 conditions of -- for the operations for the activities 10:25:05

1 M. I. SIVULSKY - DIRECT 10:25:05
2 of the wholesale of gas traders. And it was enacted 10:25:08
3 -- it was adopted to the end of enacting the Cabinet 10:25:19
4 of Ministers resolution -- Cabinet of Ministers of 10:25:24
5 Ukraine resolution of December 23rd, 1996, paragraph 10:25:27
6 5. 10:25:35
7 Q. Now, do you recognize any of the signatures 10:25:35
8 on the bottom of this document? 10:25:38
9 A. Yes, I do. 10:25:45
10 Q. And what signatures do you recognize? 10:25:46
11 A. This document is signed by the head of the 10:25:55
12 National Committee for Oil, Gas and Refinery Industry, 10:25:58
13 Mr. Babij. And by myself in my capacity as the 10:26:03
14 president of the consortium. 10:26:08
15 Q. Were you present personally when Mr. Babij 10:26:12
16 signed this document? 10:26:15
17 A. I have no exact recollection of that, but 10:26:24
18 his signature is original. It is the original one. 10:26:28
19 Besides, while developing this document we have -- we 10:26:36
20 work in constant -- in permanent communication with 10:26:40
21 him. 10:26:44
22 Q. Now, is this a business record of the 10:26:45
23 consortium? Is this a government document? How would 10:26:46
24 you characterize this document? 10:26:49
25 A. This is the government document. It is 10:27:01

1 M. I. SIVULSKY - DIRECT 10:27:01
2 formally registered by the Ministry of Justice, and 10:27:10
3 this is an official document for the participants of 10:27:14
4 the gas market. 10:27:17
5 Q. Is that what that stamp means in the upper 10:27:18
6 right side of the page? 10:27:20
7 A. Yes, it is. 10:27:31
8 Q. And do you also recognize that this is a 10:27:32
9 true and accurate copy of the original document? 10:27:35
10 A. Yes, I do. 10:27:45
11 Q. During the entire time that you were 10:27:54
12 involved in government working on the gas distribution 10:27:57
13 system, did Pavel Lazarenko ever ask you to do a favor 10:28:03
14 for any particular gas trader? 10:28:09
15 MS. BOERSCH: Objection. Vague. 10:28:14
16 A. Not any single time in my -- when I was 10:28:40
17 present, it has never occurred. It never occurred. 10:28:44
18 BY MR. HOROWITZ: 10:28:44
19 Q. During the entire time that you were 10:28:48
20 involved in government working on the gas distribution 10:28:49
21 system, did Pavel Lazarenko ever ask you to do 10:28:52
22 anything that favored one gas trader over another in 10:28:57
23 any respect? Even a little bit? 10:29:03
24 MS. BOERSCH: Objection. Vague. 10:29:06
25 A. I'm not aware of that. I do not know any 10:29:32

1 M. I. SIVULSKY - DIRECT 10:29:32
2 facts of that kind in my -- during my incumbent -- 10:29:35
3 during my incumbency, there were no things like that. 10:29:41
4 BY MR. HOROWITZ: 10:29:41
5 Q. How frequently did you work in government 10:29:46
6 with Mr. Lazarenko during the years 1995 through 1998? 10:29:50
7 A. In 1998 I could not be working. In fact, I 10:30:14
8 met him at the beginning of 1998 in January right 10:30:26
9 before I was relieved of my duties. 10:30:31
10 In 1995 and in the consecutive years when I 10:30:40
11 was working at the Finance Ministry, my communication 10:30:43
12 with Mr. Lazarenko took place in the written form. I 10:30:53
13 was receiving his decrees from him, or executive 10:31:03
14 orders from him, via the Chancery of the Cabinet of 10:31:08
15 Ministers. And in accordance with my functions as the 10:31:17
16 First Deputy Minister, I executed them. 10:31:22
17 I was preparing the answers, the 10:31:32
18 information materials. 10:31:32
19 It's quite difficult for me, fairly 10:31:45
20 difficult for me to say how intensive that work was, 10:31:47
21 but I started every one of my working days with a pile 10:31:50
22 of incoming documents this high and ending -- I would 10:31:55
23 end my working day with a pile of outgoing documents 10:32:00
24 that high. 10:32:03
25 I was present at the sittings of the 10:32:07

1 M. I. SIVULSKY - DIRECT 10:32:07
2 Cabinet of Ministers, at the meetings, participated in 10:32:10
3 the discussions, in the -- in the debating of the 10:32:17
4 issues that were within my competence. And Mr. Pavel 10:32:23
5 Lazarenko was present there. As a prime -- as the 10:32:31
6 Prime Minister, he was chairing those meetings. 10:32:38
7 And naturally I had to answer the 10:32:49
8 questions, to prepare information, and to take floor. 10:32:53
9 When I passed to another position of the adviser of 10:33:03
10 the Prime Minister on the banks and banking 10:33:08
11 activities, I systematically was preparing pieces of 10:33:11
12 information for his knowledge on resolving different 10:33:21
13 problems. But, unfortunately, he was so busy that we 10:33:30
14 could see each other only rarely at that time, at that 10:33:34
15 period of time. 10:33:39
16 Q. Now, based upon these contacts with 10:33:40
17 Mr. Lazarenko and your expertise in the field, what is 10:33:42
18 your opinion of Mr. Lazarenko's grasp and 10:33:46
19 understanding of the economic issues involving gas 10:33:51
20 distribution? 10:33:56
21 THE INTERPRETER: What understanding? 10:33:58
22 Pardon. 10:33:59
23 MR. HOROWITZ: Mr. Lazarenko's 10:34:00
24 understanding. 10:34:01
25 THE INTERPRETER: Just understanding. I 10:34:02

1 M. I. SIVULSKY - DIRECT 10:34:02
2 think you used an adjective there. But -- okay. 10:34:03
3 MR. HOROWITZ: Of the economic issues 10:34:06
4 involving gas distribution. 10:34:08
5 A. It was a very high level of understanding. 10:34:26
6 He was a great professional and economist. 10:34:32
7 I myself have worked, or worked for a long 10:34:47
8 time as a professor, and I can -- I have the ability 10:34:51
9 to assess, to evaluate the level of Mr. Lazarenko's 10:34:55
10 capacity, and I should say that he was remarkably 10:34:59
11 professional, a remarkably professional person and a 10:35:05
12 remarkable expert. 10:35:10
13 BY MR. HOROWITZ: 10:35:12
14 Q. Now, do you know when Mr. Lazarenko left 10:35:12
15 the office of Prime Minister? 10:35:16
16 A. I do not remember it exactly, but it was 10:35:28
17 the middle of 1997. 10:35:30
18 Q. Okay. And after Mr. Lazarenko left the 10:35:33
19 office of Prime Minister, what happened to the 10:35:36
20 independent territorial gas trader system? 10:35:42
21 A. It was destroyed, and instead of that, the 10:36:01
22 state monopoly was established which -- under the name 10:36:05
23 Naftagaz Ukraine. 10:36:09
24 Q. And who was the head of that new state 10:36:12
25 owned monopoly company? 10:36:14

1 M. I. SIVULSKY - DIRECT 10:36:14
2 A. Mr. Ihor Mykhailovych Bakay who before that 10:36:28
3 had been the head of the Intergaz, and before -- still 10:36:32
4 before that, he had been the Respublika Company. 10:36:39
5 MS. BOERSCH: Objection, move to strike, 10:36:48
6 lack of foundation and hearsay. 10:36:49
7 BY MR. HOROWITZ: 10:36:49
8 Q. Had you ever had dealings with Ihor Bakay 10:36:52
9 prior to this date when he took over the new state 10:36:56
10 monopoly company? 10:37:02
11 MS. BOERSCH: Objection. 10:37:10
12 A. It would be -- it would not be enough if I 10:37:14
13 say that these were the contacts -- these were the 10:37:20
14 conflicts that I had with him. 10:37:22
15 MS. BOERSCH: Objection. Irrelevant. Move 10:37:25
16 to strike. And also under 403, Federal Rule of 10:37:26
17 Evidence 403. 10:37:30
18 MR. HOROWITZ: Let me just consult with 10:37:33
19 counsel. Are we reserving 403 objections? I think 10:37:34
20 so, because it's a trial objection. 10:37:38
21 MS. BOERSCH: I don't know. We actually 10:37:40
22 hadn't really discussed whether we were going to 10:37:42
23 reserve or not reserve. So -- do you want to do that? 10:37:44
24 MR. HOROWITZ: I think we have to. It's a 10:37:48
25 trial objection. 10:37:49

1 M. I. SIVULSKY - DIRECT 10:37:49
2 MS. BOERSCH: Okay. 10:37:50
3 A. If you need any clarifications, I can give 10:37:50
4 them. 10:37:53
5 MR. HOROWITZ: We were actually just 10:37:54
6 talking about one of our rules of evidence and whether 10:37:55
7 we have to raise that one in this proceeding or 10:37:57
8 whether we can waive. That's all. 10:37:59
9 A. That is the issue related directly to the 10:38:17
10 national debt of the country and that is the issue of 10:38:21
11 my professional activity. 10:38:24
12 BY MR. HOROWITZ: 10:38:26
13 Q. Okay. Let me go right to your contact with 10:38:27
14 that company. 10:38:30
15 MS. BOERSCH: And I'm going to object right 10:38:32
16 now and move to strike this whole line of questioning 10:38:34
17 as beyond the scope of the proffer that the defense 10:38:36
18 made to the U. S. District Court in San Francisco 10:38:40
19 which was the basis upon this -- upon which this 10:38:43
20 deposition was allowed to proceed, and on the grounds 10:38:46
21 it's irrelevant. 10:38:49
22 MR. HOROWITZ: And I understand that is a 10:38:54
23 standing objection to this area, which is about maybe 10:38:55
24 20 questions. 25 questions. 10:38:58
25 BY MR. HOROWITZ: 10:38:58

1 M. I. SIVULSKY - DIRECT 10:39:01
2 Q. Let me show you a document which is, in 10:39:01
3 English, Decree 303. 10:39:06
4 MS. BOERSCH: And let me just finish my 10:39:17
5 record here on this. The defense proffer with respect 10:39:18
6 to this witness was that the witness would be 10:39:21
7 testifying only with regard to the restructuring of 10:39:32
8 the natural gas market, decisions made in the course 10:39:32
9 of restructuring, meetings with Pushkin and Viakhirev 10:39:32
10 who recommended him supposedly to be head of the 10:39:32
11 consortium. 10:39:34
12 There was no proffer regarding any of the 10:39:34
13 areas that the defense is about to go into. And, 10:39:36
14 therefore, it wasn't approved by the District Court. 10:39:39
15 MR. HOROWITZ: I'm not trying to waste your 10:39:43
16 time. We are actually conforming this to the whole 10:39:44
17 history of the gas market and also to his bias and 10:39:47
18 interest and other factors that are relevant. 10:39:50
19 All right. So can we -- I don't think this 10:39:54
20 has previously been marked so may we please mark this 10:39:57
21 as -- 10:40:00
22 MR. AGRETELIS: 5012. 10:40:01
23 MR. HOROWITZ: -- 5012. 10:40:01
24 A. I understanding this. 10:40:57
25 (Discussion off the record) 10:40:57

1 M. I. SIVULSKY - DIRECT

2 (Resolution of the Cabinet of

3 Ministers Decree 303 was marked

4 Defendant's Exhibit No. 5012.)

5 BY MR. HOROWITZ:

6 Q. If you can please look at that document 10:41:14

7 and, when you have had enough time, please tell me if 10:41:15

8 you know what it is. 10:41:18

9 A. This is the Resolution of the Cabinet of 10:41:30

10 Ministers. 10:41:33

11 Q. And what does it resolve? 10:41:33

12 MS. BOERSCH: Objection. Hearsay. Lack of 10:41:40

13 foundation. 10:41:44

14 A. It does not resolute. It states that the 10:41:49

15 Respublika Corporation headed at the time by Mr. Bakay 10:41:57

16 inflicted tremendous losses upon the country. And it 10:42:03

17 contains specific rulings, or specific directives to 10:42:11

18 the functionaries to take the appropriate steps in 10:42:17

19 order to minimize and to compensate for the losses 10:42:36

20 inflicted. 10:42:41

21 MS. BOERSCH: Objection. Move to strike. 10:42:42

22 Hearsay. 10:42:43

23 MR. HOROWITZ: It's not offered -- it's 10:42:44

24 just offered to show his conduct. I'll tie it up in a 10:42:46

25 second. 10:42:49

1 M. I. SIVULSKY - DIRECT 10:42:49
2 BY MR. HOROWITZ: 10:42:51
3 Q. Who signed this document? 10:42:51
4 A. The acting Prime Minister, Mr. Yevhen 10:42:55
5 Marchuk. 10:43:01
6 MS. BOERSCH: Same objection. 10:43:03
7 A. And the Minister of the Cabinet of 10:43:04
8 Ministers, Mr. Valery Pustovoytenko. 10:43:06
9 BY MR. HOROWITZ: 10:43:06
10 Q. And did this document lead to any job or 10:43:10
11 role in government on your part? 10:43:16
12 MS. BOERSCH: Objection. Vague. 10:43:27
13 A. Certainly. 10:43:29
14 BY MR. HOROWITZ: 10:43:29
15 Q. And how did that -- 10:43:30
16 A. Paragraph 4 of this document authorizes me 10:43:42
17 directly to take necessary steps in order to 10:43:45
18 compensate for the losses inflicted by the Respublika 10:43:48
19 Corporation. 10:43:55
20 Q. Does it actually have your name in it? 10:43:56
21 MS. BOERSCH: Same objection. 10:44:01
22 A. Yes, it does. 10:44:02
23 BY MR. HOROWITZ: 10:44:02
24 Q. And is this a government resolution as you 10:44:03
25 recognize it? 10:44:08

1 M. I. SIVULSKY - DIRECT 10:44:08
2 A. Yes, I recognize it as the government. 10:44:14
3 Q. And was this document ever given to you by 10:44:17
4 any official person in some sort of official 10:44:22
5 transmittal of the order to you as the person to carry 10:44:26
6 it out? 10:44:30
7 MS. BOERSCH: Objection. Leading. Lack of 10:44:31
8 foundation. Argumentative. 10:44:32
9 A. Yes, it was. 10:44:43
10 BY MR. HOROWITZ: 10:44:43
11 Q. How did that happen? 10:44:44
12 A. As -- well, I received it in the way I 10:44:52
13 usually received the formal documents, the official 10:44:55
14 documents, via the Chancery of the Ministry of 10:45:02
15 Finances. 10:45:06
16 I was -- I had been aware of the existence 10:45:15
17 of this document before, and I was aware of what I was 10:45:17
18 supposed to do in advance because I had been present 10:45:23
19 at the meeting at which the contents of this 10:45:29
20 resolution had been discussed. 10:45:33
21 Q. Now, did you actually make an investigation 10:45:35
22 of Respublika? 10:45:38
23 A. Yes. Within the function -- within the 10:45:50
24 authority that I was given, I was vested in under this 10:45:52
25 resolution. 10:45:59

1 M. I. SIVULSKY - DIRECT 10:45:59
2 Q. I'm going to ask you a series of questions 10:46:01
3 which require first a yes or no answer, and then if 10:46:03
4 the answer is appropriate, I'll ask you to explain. 10:46:08
5 A. Okay. 10:46:24
6 Q. Did you find out who the owners were of 10:46:24
7 Respublika during your investigation? 10:46:26
8 MS. BOERSCH: Objection. Hearsay. 10:46:30
9 A. I cannot give an exhaustive answer on this 10:46:44
10 question. 10:46:48
11 BY MR. HOROWITZ: 10:46:48
12 Q. But you do know that Ihor Bakay was one of 10:46:50
13 the owners, because you said that earlier? 10:46:54
14 MS. BOERSCH: Objection. Leading. 10:46:56
15 And hearsay. 10:47:04
16 A. Yes, I was aware of that because he was 10:47:13
17 more than once present at the meetings related to the 10:47:16
18 implementation of this -- of this resolution 10:47:21
19 representing the interests of the Respublika 10:47:27
20 Corporation. And on the basis of that we had numerous 10:47:31
21 contacts with him personally. 10:47:40
22 MS. BOERSCH: Same objections. 10:47:44
23 BY MR. HOROWITZ: 10:47:44
24 Q. And who was the president of Ukraine at the 10:47:45
25 time Respublika started in business? 10:47:49

1 M. I. SIVULSKY - DIRECT 10:47:49
2 A. Mr. Leonid Kuchma. 10:47:54
3 Q. And during your investigation, did you 10:48:03
4 learn about an agreement made between the country 10:48:05
5 Ukraine and the corporation Respublika? 10:48:09
6 MS. BOERSCH: Objection. Hearsay. 10:48:27
7 A. Yes, I did. 10:48:29
8 BY MR. HOROWITZ: 10:48:29
9 Q. And what was the source of that 10:48:29
10 information? Or sources? 10:48:31
11 A. That was the source -- well, official. I 10:48:38
12 have had the whole set of documents related to the 10:48:48
13 activities of the corporation. These were official, 10:48:51
14 formal, governmental documents, contracts, and 10:48:57
15 information from the appropriate oversight control 10:49:04
16 authorities, controlling authorities. 10:49:09
17 Q. And these documents that made the agreement 10:49:10
18 between Ukraine and Respublika, were they signed by 10:49:14
19 any governmental official? 10:49:19
20 MS. BOERSCH: Objection. Vague. Calls for 10:49:34
21 hearsay and speculation. 10:49:35
22 A. Yes, they were. 10:49:37
23 BY MR. HOROWITZ: 10:49:37
24 Q. And what was the name of the person who 10:49:37
25 signed the agreement? 10:49:40

1 M. I. SIVULSKY - DIRECT 10:49:40
2 MS. BOERSCH: Same objections. 10:49:43
3 A. On the governmental part, there were 10:49:51
4 different persons, as there was more than one 10:49:55
5 document. There was a whole series of documents. 10:50:01
6 And there were the documents with the 10:50:07
7 person -- with the resolutions written personally by 10:50:10
8 Mr. Kravchuk. 10:50:13
9 There were the documents signed by the -- 10:50:19
10 we call it Provisionary Prime Minister. Mr. 10:50:23
11 Zvyahilskiy. He was never confirmed formally in 10:50:33
12 acting. 10:50:38
13 The signatures of the Prime Minister Masol, 10:50:39
14 Mr. Masol. 10:50:42
15 First Deputy Finance Minister 10:50:51
16 Mr. Hancharuk. 10:50:53
17 And some other people whose names I do not 10:50:57
18 remember now. 10:51:00
19 MS. BOERSCH: Move to strike. Hearsay. 10:51:02
20 BY MR. HOROWITZ: 10:51:03
21 Q. And what was the nature of -- I'll withdraw 10:51:04
22 that. 10:51:08
23 What was the agreement, as you understood 10:51:09
24 it, made between Ukraine and Respublika? 10:51:11
25 MS. BOERSCH: Same objections. 10:51:21

1 M. I. SIVULSKY - DIRECT 10:51:21
2 A. The very Resolution 303 established that. 10:51:28
3 The company with the statutory capital of \$5,000 was 10:51:40
4 authorized to exercise services of the external debt 10:51:57
5 of Ukraine, namely debt of Ukraine to Turkmenistan, 10:52:02
6 which amounted to \$700 million. As a result of that 10:52:07
7 work, the debts did not -- were not reduced, but in 10:52:15
8 fact they grew. And in accordance with the agreements 10:52:21
9 between Ukraine and Turkmenistan, Ukrainian side 10:52:34
10 was -- incurred the sanctions by the Turkmen side that 10:52:39
11 amounted to \$50,000,000. 10:52:44
12 MS. BOERSCH: Move to strike the narrative 10:52:48
13 and hearsay. 10:52:49
14 BY MR. HOROWITZ: 10:52:50
15 Q. When you say sanctions, more specifically 10:52:50
16 what do you mean by that? 10:52:54
17 A. It was envisaged that in the case of the 10:53:16
18 breach, or noted here, not abiding by the terms of the 10:53:19
19 debt repayment, the side that was not repaying the 10:53:25
20 debt was sanctioned in accordance with the rates 10:53:30
21 established by the agreements. 10:53:35
22 MS. BOERSCH: Move to strike. Hearsay. 10:53:39
23 BY MR. HOROWITZ: 10:53:40
24 Q. And was Respublika given the right to 10:53:41
25 engage in barter, and by that I mean the trade of 10:53:46

1 M. I. SIVULSKY - DIRECT 10:53:46
2 Ukraine goods in payment for gas? 10:53:49
3 A. Yes. 10:54:03
4 MS. BOERSCH: Objection. Lack of 10:54:04
5 foundation. Hearsay. Calls for speculation. And 10:54:05
6 vague. 10:54:07
7 BY MR. HOROWITZ: 10:54:08
8 Q. What did your investigation show with 10:54:08
9 respect to how Respublika handled the barter rights 10:54:10
10 given to them under this agreement. 10:54:17
11 MS. BOERSCH: Same objections. 10:54:21
12 A. Well, the company used those rights for 10:54:41
13 itself positive in that sense, but it inflicted huge 10:54:43
14 losses on the country. 10:54:51
15 BY MR. HOROWITZ: 10:54:54
16 Q. Now, did this agreement with Ukraine and 10:54:54
17 Respublika give Respublika the right to distribute 10:54:56
18 natural gas? 10:55:00
19 MS. BOERSCH: Same objections. 10:55:01
20 A. Yes, it did. 10:55:16
21 BY MR. HOROWITZ: 10:55:16
22 Q. So they were given the right to distribute 10:55:18
23 natural gas. Were they given the right to collect 10:55:20
24 payments from consumers? 10:55:24
25 MS. BOERSCH: Same objections. 10:55:26

1 M. I. SIVULSKY - DIRECT 10:55:26
2 A. Yes. But it -- that right only included 10:55:40
3 the Turkmen gas, the gas that came from Turkmenistan. 10:55:43
4 The natural gas imported from Russia was dealt with by 10:55:50
5 joint stock company Ukgasprom. 10:55:58
6 Q. Now, how long did Respublika operate under 10:56:02
7 this agreement? 10:56:05
8 MS. BOERSCH: Same objections. 10:56:14
9 A. It was in 1994. 10:56:16
10 BY MR. HOROWITZ: 10:56:19
11 Q. And at the end of 1994, what happened to 10:56:19
12 the debt owed to Turkmenistan by Ukraine for national 10:56:23
13 gas shipments? 10:56:31
14 A. It grew. The debt grew. In 1993, it grew 10:57:00
15 by the sum of the financial sanctions, or sanctions 10:57:05
16 that were exercised by the Turkmen side, and in 1994, 10:57:09
17 it increased by \$176.7 million. 10:57:13
18 The 1993 sanctions were exercised because 10:57:19
19 of the non-servicing of the debt that Ukraine had to 10:57:25
20 Turkmenistan. 10:57:29
21 Q. Now, with this debt incurred during the 10:57:31
22 time that this private company was in charge, the debt 10:57:35
23 had to fall upon the shoulders of some company or 10:57:42
24 entity. Which company or entity had to pay for these 10:57:48
25 debts? 10:57:53

1 M. I. SIVULSKY - DIRECT 10:57:53
2 MS. BOERSCH: Objection. Vague. Leading. 10:57:54
3 Lack of foundation. Hearsay. Calls for speculation. 10:57:56
4 A. Well, the brunt was borne by the -- well, 10:58:16
5 these were the shoulders of the state, of the country. 10:58:21
6 Of the national budget. 10:58:24
7 In 1995, in the first three quarters, the 10:58:38
8 quarters 1, 2, and 3 for the year 1995, Ukraine 10:58:41
9 managed to repay the whole amount of the debt that it 10:58:46
10 owed to Turkmenistan in the amount of \$176.7 million. 10:58:51
11 Q. Was that by the issuance of bonds? 10:58:58
12 MS. BOERSCH: Objection. Leading. Lack of 10:59:07
13 foundation. Hearsay. 10:59:09
14 A. No. The payment was done in foreign -- in 10:59:10
15 a foreign currency. 10:59:14
16 BY MR. HOROWITZ: 10:59:14
17 Q. Now, when the gas trader system came into 10:59:16
18 effect, if the gas traders lost money, were those 10:59:22
19 debts to become debts of the state the way that the 10:59:27
20 Respublika debt became the debt of the state? 10:59:30
21 A. Yes. At that period of time they were 10:59:49
22 similarly, because -- because the intergovernmental 10:59:54
23 agreements established the volumes of shipments of 11:00:07
24 gas, the debts were transferred upon the national 11:00:13
25 budget, upon the state. 11:00:17

1 M. I. SIVULSKY - DIRECT 11:00:17
2 Q. And then when 1033 went into effect, what 11:00:18
3 changes did take bring about? 11:00:22
4 A. The debts stopped to be transferred upon 11:00:36
5 the national budget servicing. When they merged, or 11:00:40
6 when they were created, incurred debt became a private 11:00:49
7 matter of a private company that was -- whose debts 11:00:56
8 these were. 11:01:02
9 Q. I have another document that I'm going to 11:01:04
10 show you, which is not Bates numbered. 11:01:08
11 MR. HOROWITZ: Which we can now Bates 11:01:43
12 number it as 5013. 11:01:45
13 MS. BOERSCH: Exhibit number. 11:01:45
14 MR. HOROWITZ: Exhibit No. 5013. Is that 11:01:49
15 right? As exhibit 5013. 11:01:51
16 (Act of the responsible 11:03:09
17 functionaries who were members of the 11:03:13
18 governmental commission and who were 11:03:34
19 establishing the owners of natural gas 11:03:34
20 was marked Exhibit No. 5013.) 11:03:34
21 BY MR. HOROWITZ: 11:02:05
22 Q. And can you look at that document, please, 11:02:05
23 and when you have had a chance to review it, let me 11:02:07
24 know what it is, if you can tell me. 11:02:10
25 A. I have looked through this document. 11:03:00

1 M. I. SIVULSKY - DIRECT 11:03:00
2 Q. And what is that document? 11:03:01
3 A. This is the act of the responsible 11:03:08
4 functionaries who were the members of the governmental 11:03:13
5 commission and who were establishing the owners of the 11:03:34
6 natural gas in the volume of 3.5 million cubic meters. 11:03:34
7 It was shipped -- well, imported from 11:03:43
8 Turkmenistan in 1994 and was paid for by the money, by 11:03:46
9 the funds from the national budget of Ukraine within 11:04:00
10 the first three quarters of 1995. 11:04:03
11 Q. Okay. And who signed this document? 11:04:07
12 A. This document is signed by myself in my 11:04:15
13 capacity as the head of the commission. At that time 11:04:18
14 I was the First Deputy Finance Minister. 11:04:24
15 It is also signed by the following members 11:04:32
16 of the commission: Klyuk, the head of the board -- 11:04:35
17 the chairman of the board of the joint stock company 11:04:44
18 Ukr gasprom, and by Mr. Grigorev, the deputy director 11:04:48
19 of the national -- the State Committee for Oil, Gas, 11:04:59
20 and Refinery Industry. 11:05:04
21 Q. And who was this document submitted to? 11:05:04
22 A. Initially, it was submitted for the 11:05:20
23 adoption to the first deputy -- or to the Deputy Prime 11:05:25
24 Minister who was responsible for the energy sector of 11:05:32
25 the country, Mr. Vasyl Evtukhov. 11:05:36

1 M. I. SIVULSKY - DIRECT 11:05:36
2 COURT REPORTER: I'm sorry. Who? 11:05:42
3 A. Vasyl Ivanovich Evtukhov. 11:05:42
4 After the document was cleared by 11:05:53
5 Mr. Evtukhov, it was transferred to the Cabinet of 11:05:57
6 Ministers for its implementation by the apparatus of 11:06:01
7 the Cabinet of Ministers. 11:06:05
8 MS. BOERSCH: Objection. Move to strike. 11:06:07
9 Lack of foundation. Hearsay. 11:06:08
10 BY MR. HOROWITZ: 11:06:08
11 Q. Is this document in front of you an 11:06:11
12 official -- a copy of an official government document? 11:06:12
13 MS. BOERSCH: Objection. Lack of 11:06:16
14 foundation. 11:06:17
15 A. Yes, it is. 11:06:25
16 BY MR. HOROWITZ: 11:06:25
17 Q. How do you know? 11:06:26
18 A. I can make sure of that because I 11:06:34
19 participated in the preparation, in the development of 11:06:37
20 this document, and it bears my signature. And I was 11:06:40
21 present at the -- in the office of Mr. Evtukhov when 11:06:49
22 he was reviewing and adopting this document. 11:06:53
23 Q. And is the copy you have there a true and 11:06:56
24 accurate copy of the original? 11:07:02
25 A. Yes, it is. 11:07:05

1 M. I. SIVULSKY - DIRECT 11:07:05
2 Q. And what recommendations did you make with 11:07:06
3 respect to this gas that was paid for by the 11:07:08
4 government and stored on by Respublika? 11:07:12
5 A. This account was paid for by the funds from 11:07:42
6 the national budget. And I am talking about 3.5 11:07:45
7 billion cubic meters of gas, of which 2.6 billion 11:07:52
8 cubic meters were in the gas storage facilities of 11:08:06
9 Ukgasprom Company, and another more than 800 million 11:08:11
10 in fact, to be exact, 874 million cubic meters were 11:08:35
11 used by the Respublika Corporation; meaning that the 11:08:40
12 gas was paid for by the national budget finances. In 11:08:50
13 other words, the money of the taxpayers, but it was 11:08:59
14 used by the Respublika Corporation. 11:09:02
15 MS. BOERSCH: Move to strike. 11:09:07
16 Nonresponsive and hearsay. 11:09:07
17 MR. HOROWITZ: We need to take a break to 11:09:10
18 change the tape. May I suggest we take just a five 11:09:11
19 minute break off the record and come back? 11:09:15
20 THE WITNESS: Yes, of course. 11:09:28
21 THE VIDEOGRAPHER: This is the end of tape 11:09:28
22 one volume one in the video deposition of 11:09:28
23 Mr. Sivulsky. We're going off the record at nine 11:09:28
24 minutes past 11 a.m. 11:09:31
25 (Recess) 11:09:31

1 M. I. SIVULSKY - DIRECT 11:23:41
2 THE VIDEOGRAPHER: This is the beginning 11:23:41
3 of tape two volume one of the video deposition of 11:23:57
4 Mr. Sivulsky. We are now back on the record at 11:24 11:24:01
5 a.m. 11:24:06
6 MR. HOROWITZ: I have another document 11:24:07
7 which we have had marked as 5014. 11:24:07
8 (Formal Letter from the Finance 11:24:19
9 Ministry to the Cabinet of Ministers 11:25:54
10 was marked Exhibit No. 5014.) 11:24:20
11 MR. HOROWITZ: And there is also a related 11:24:22
12 document, so can we please mark that as 5015. 11:24:23
13 (Formal letter of the Finance 11:24:38
14 Ministry to the Prime Minister 11:28:03
15 Mr. Pavel Lazarenko, was marked 11:28:04
16 Exhibit No. 5015.) 11:24:39
17 BY MR. HOROWITZ: 11:24:42
18 Q. And if the witness would please look at 11:24:42
19 both documents, and when there has been sufficient 11:24:44
20 time tell me if you know what these are. 11:24:48
21 A. I have looked through them. 11:25:32
22 Q. Okay. As for the first one that's marked 11:25:33
23 5014, and that's the one in your hand, tell me what 11:25:37
24 that is. 11:25:45
25 A. This is a formal letter from the Finance 11:25:52

1 M. I. SIVULSKY - DIRECT 11:25:52
2 Ministry to the Cabinet of Ministers which speaks 11:25:54
3 about the implementation of the corresponding 11:26:03
4 directives of the Cabinet of Ministers. And these 11:26:09
5 directives were in correspondence with -- were to -- 11:26:26
6 were done to the -- for the implementation of the 11:26:32
7 Resolution of the Cabinet of Ministers 303 on the 11:26:36
8 compensation of the losses inflicted by Respublika 11:26:41
9 Corporation. 11:26:48
10 Q. And who signed this document? 11:26:49
11 A. This document is signed by me in my 11:27:03
12 capacity of the Deputy Finance Minister because it was 11:27:06
13 me who was authorized directly by the directive 303 to 11:27:10
14 implement this within the -- as this was my area of 11:27:16
15 responsibility. 11:27:21
16 Q. And is this an official document? 11:27:22
17 A. Yes, it is. 11:27:26
18 Q. And is this a true and correct copy of the 11:27:27
19 original? 11:27:29
20 A. Yes, I'm sure of that. 11:27:36
21 Q. Can you look at the next document which we 11:27:38
22 have marked as 5015. Can you tell us what that is, 11:27:40
23 please. 11:27:50
24 A. This is a formal letter of the Finance 11:27:59
25 Ministry to the Prime Minister, Mr. Pavel Lazarenko. 11:28:03

- 1 M. I. SIVULSKY - DIRECT 11:28:03
- 2 Q. And who signed that letter? 11:28:07
- 3 A. I signed that letter in my capacity of the 11:28:14
- 4 First Deputy Minister of Finance of Ukraine. 11:28:17
- 5 Q. And is this a true and correct copy of the 11:28:20
- 6 original of that document? 11:28:22
- 7 A. Yes, I'm sure of that. 11:28:30
- 8 Q. And what recommendations do you make in 11:28:32
- 9 this letter? 11:28:35
- 10 A. In that letter I recommended to put into, 11:28:55
- 11 or to transfer into the national -- into the state 11:29:00
- 12 reserve the natural gas that was paid for by the money 11:29:04
- 13 from the national budget and was -- and that at the 11:29:08
- 14 time were in the gas storages of the Ukrgasprom joint 11:29:23
- 15 stock company. 11:29:33
- 16 MS. BOERSCH: Move to strike. Hearsay. 11:29:35
- 17 BY MR. HOROWITZ: 11:29:36
- 18 Q. And did you discuss in person these 11:29:37
- 19 recommendations with Mr. Lazarenko? 11:29:39
- 20 A. Not personally. Only by the Cabinet of 11:29:51
- 21 Ministers the -- it was organized that I was receiving 11:29:54
- 22 the letters and sending -- receiving directives and 11:29:58
- 23 through the letters that were sent to me. 11:30:03
- 24 Q. And what position was taken by 11:30:08
- 25 Mr. Lazarenko with respect to your recommendations, as 11:30:10

1 M. I. SIVULSKY - DIRECT 11:30:10
2 communicated to you? 11:30:13
3 MS. BOERSCH: Objection. Hearsay. 11:30:15
4 A. His position was purely pro statehood, 11:30:38
5 meaning that Mr. Lazarenko was acting as a person that 11:30:52
6 was not indifferent to the interests of the country. 11:30:58
7 But -- and the appropriate -- or the corresponding 11:31:17
8 steps were later on done by the Cabinet of Ministers, 11:31:20
9 but I personally didn't take part in them except for 11:31:25
10 this act of ownership for the gas that I mentioned 11:31:29
11 before. 11:31:32
12 BY MR. HOROWITZ: 11:31:32
13 Q. And did you -- 11:31:33
14 MS. BOERSCH: Excuse me. Move to strike. 11:31:34
15 Hearsay, speculation, opinion, argumentative. 11:31:36
16 BY MR. HOROWITZ: 11:31:38
17 Q. Did the gas paid for, in your opinion, by 11:31:39
18 Ukraine and stored by private companies ever get 11:31:43
19 returned to Ukraine? 11:31:48
20 MS. BOERSCH: Objection. Hearsay, calls 11:32:10
21 for opinion, speculation, vague. 11:32:11
22 A. That gas already was in the territory of 11:32:17
23 Ukraine and it was in the gas storage facilities, 11:32:19
24 underground gas storage facilities. And as far as I 11:32:26
25 remember, after having reviewed this information and 11:32:46

1 M. I. SIVULSKY - DIRECT 11:32:46
2 the act of the ownership of gas, the Cabinet of 11:32:50
3 Ministers enacted a decree to state, or directing the 11:32:56
4 transfer of the 2.6 billion cubic meters of gas into 11:33:02
5 the gas storage facilities of the national reserve, 11:33:07
6 thus a part of -- the part of the gas that was paid 11:33:17
7 for by the budgetary money, by the money from the 11:33:21
8 budget was returned to the -- into the national 11:33:25
9 ownership. 11:33:30
10 BY MR. HOROWITZ: 11:33:30
11 Q. And, as you recall, did Mr. Lazarenko 11:33:31
12 support this occurrence? 11:33:33
13 MS. BOERSCH: Objection. Hearsay, calls 11:33:39
14 for opinion. 11:33:40
15 A. Yes. He supported those actions, and he 11:33:44
16 signed an appropriate -- a corresponding directive. 11:34:00
17 BY MR. HOROWITZ: 11:34:00
18 Q. Did you ever approach anyone and ask that 11:34:00
19 criminal procedures be instituted with respect to what 11:34:00
20 happened with this gas? 11:34:04
21 A. Yes. I personally turned to the then 11:34:40
22 Prosecutor General of Ukraine, Mr. Vorsinov, who 11:34:44
23 called into his office his deputy, Ms. Kolinko, who 11:34:48
24 was responsible for that area, or for that sector, and 11:34:51
25 he asked her the question until what time will 11:34:56

1 M. I. SIVULSKY - DIRECT 11:34:56
2 Mr. Sivulsky be coming here with his request to 11:35:00
3 investigate the activities of the leadership of the 11:35:06
4 management of the Respublika Corporation and their 11:35:11
5 actions. 11:35:15
6 Q. And to your knowledge were criminal charges 11:35:17
7 ever brought against Mr. Bakay or any member of the 11:35:21
8 management with respect to this investigation that you 11:35:25
9 completed? 11:35:29
10 MS. BOERSCH: Objection. Hearsay. Lack of 11:35:31
11 foundation. Relevance. 11:35:32
12 A. According to my information there were no 11:35:56
13 such proceedings, and on the contrary he has been 11:36:00
14 permanently put forward for high level positions. At 11:36:05
15 the beginning, Mr. Bakay was appointed the director of 11:36:20
16 the state monopoly Naftagaz Ukraine. 11:36:25
17 Q. Let me stop you right there. 11:36:31
18 After this investigation was over, you -- 11:36:34
19 did you again run into Mr. Bakay in the gas business 11:36:39
20 with respect to Intergaz? 11:36:43
21 A. Yes. 11:36:59
22 Q. And was that in 1997 during the time that 11:36:59
23 you headed the consortium? 11:37:03
24 A. Yes. It was in 1997 and also at the end of 11:37:15
25 1996. 11:37:19

1 M. I. SIVULSKY - DIRECT 11:37:19
2 Q. Okay. Let's go to that time period then 11:37:21
3 and let's start talking about the formation of the 11:37:23
4 consortium and your role in the consortium. 11:37:27
5 First, can you just explain as background 11:37:40
6 what your understanding is of the reason that the 11:37:43
7 consortium was formed? 11:37:46
8 A. Well, the matter was that Russian joint 11:38:08
9 stock company Gasprom was not happy with the situation 11:38:19
10 as it was shaped at that time in the gas market of 11:38:24
11 Ukraine -- national gas market in Ukraine. 11:38:26
12 Before the resolution 1033 was adopted and 11:38:34
13 before the territorial principle was established, 11:38:38
14 every year colossal debts had been formed for the gas 11:38:51
15 that Ukraine imported from Russia. These debts were 11:38:57
16 guaranteed by the state. Therefore, were in such way, 11:39:05
17 in that way Gasprom joint company gained access to the 11:39:15
18 national budget of Ukraine and acquired certain 11:39:21
19 leverage to press the economic policy of Ukraine as a 11:39:35
20 country into certain directions. 11:39:39
21 MS. BOERSCH: Objection. Move to strike. 11:39:43
22 Nonresponsive. Opinion. 11:39:44
23 A. After the territorial principle was 11:39:54
24 introduced, the debts stopped to be piling up, to be 11:39:56
25 accumulating. The main form of settling of -- well, 11:40:00

1 M. I. SIVULSKY - DIRECT 11:40:00
2 the main form of payments adopted by the gas traders 11:40:09
3 at the time were the goods supplies into the Russian 11:40:13
4 federation either directly to the Gasprom joint 11:40:28
5 company facilities or to the other ministries like, 11:40:33
6 for example, the Defense Ministry and the others. 11:40:39
7 It was advantageous, very advantageous for 11:40:46
8 Ukraine because it enhanced the strengthening of the 11:40:50
9 economy of the country, the development of the economy 11:40:55
10 of the country. It stimulated certain -- well, yes -- 11:40:57
11 sectors of the economy whose goods, or the goods 11:41:09
12 produced in which goods were exported to Russia. But 11:41:14
13 specifically for that, it was not advantageous for the 11:41:20
14 Russian Federation. 11:41:25
15 Q. All right. Let me -- 11:41:25
16 MS. BOERSCH: And I move to strike as 11:41:26
17 hearsay, opinion, and narrative answer. 11:41:27
18 BY MR. HOROWITZ: 11:41:29
19 Q. And so with that understanding of the 11:41:30
20 function of the consortium or why it was formed, how 11:41:32
21 is it that you came to get that position as the head 11:41:42
22 of the consortium? 11:41:47
23 A. The consortium was conceived as an 11:42:02
24 organization that would unite all of the gas traders 11:42:05
25 that were operating at the time in the Ukrainian 11:42:08

1 M. I. SIVULSKY - DIRECT 11:42:08
2 natural gas market. It was the form of a self 11:42:12
3 organization. 11:42:18
4 Q. But my question -- 11:42:20
5 A. I was elected because of -- because for a 11:42:22
6 long time I was involved, or I was dealing with the 11:42:32
7 debts, with the debt problems and of the payment 11:42:38
8 settlement. 11:42:43
9 And at one of the meetings the director of 11:42:59
10 the joint stock company RAO Gasprom, Mr. Viakhirev, at 11:43:05
11 one of the meetings organized by the -- or at the 11:43:13
12 Ukgasprom company, the gas -- the Russian joint stock 11:43:16
13 company Gasprom's director Mr. Viakhirev said that he 11:43:21
14 was well aware of the problem and let him sort things 11:43:25
15 out in this situation. After which Mr. Bogdan Klyuk 11:43:37
16 and Mr. Taras Friyuk convinced me to uphold this 11:43:45
17 position. 11:43:49
18 MR. HOROWITZ: All right. Let me stop you 11:43:50
19 there. I have another document which I would ask be 11:43:51
20 marked as 5016. 11:43:54
21 (Product Number two of the 11:44:03
22 Meeting of the General Meeting of the 11:44:34
23 Participants of the Consortium, 11:44:38
24 December 2nd, 1996, was marked Exhibit 11:44:42
25 No. 5016.) 11:44:42

1 M. I. SIVULSKY - DIRECT 11:44:07
2 BY MR. HOROWITZ: 11:44:07
3 Q. Can you take a look at that document and 11:44:07
4 let me know if you recognize it? 11:44:15
5 A. Yes, I know this document. 11:44:19
6 Q. What is this document? 11:44:21
7 A. This is the product of number two of the 11:44:30
8 meeting of the participants to the consortium, general 11:44:34
9 meeting of the participants of the consortium of 11:44:38
10 December the 2nd, 1996. 11:44:42
11 Q. And is this a document that was kept in the 11:44:46
12 normal course of the business of the consortium? 11:44:49
13 A. Yes, it was. 11:45:02
14 Q. And turning the document over, there is 11:45:03
15 signatures on the bottom on the back. 11:45:06
16 Do you recognize those signatures? 11:45:17
17 A. Yes, I do. These are the signatures of 11:45:23
18 Mr. Bogdan Klyuk and of Mr. Taras Friyuk. 11:45:25
19 Q. And is this document a true and correct 11:45:33
20 copy of the original? 11:45:35
21 A. Yes, I'm sure it is. 11:45:42
22 Q. And does it accurately document to your 11:45:45
23 recollection what actually occurred as it purports to 11:45:48
24 represent? Or does -- that's a stupid question. Let 11:45:53
25 me withdraw it, please. 11:45:57

1 M. I. SIVULSKY - DIRECT 11:45:57
2 Does this document accurately reflect the 11:45:59
3 events that it pertains to, as far as you recall? 11:46:01
4 A. Yes. 11:46:14
5 Q. And what happened during that meeting? 11:46:15
6 A. Mr. Taras Friyuk put forward my candidacy 11:46:31
7 for the position of the president of the consortium 11:46:35
8 and my candidacy was sustained unanimously. 11:46:38
9 Q. All right. Now, let me just go back in 11:46:43
10 time a little bit and talk about some of the companies 11:46:49
11 in the gas business. 11:46:52
12 Have you ever heard of a company called 11:47:04
13 Kub? 11:47:06
14 A. I heard of the company while looking 11:47:18
15 through the press, but I have never had direct 11:47:21
16 contacts with the management of the company, and I 11:47:24
17 have no knowledge of its activities. 11:47:28
18 Q. Did Mr. Lazarenko ever tell you that he did 11:47:30
19 or did not have an interest in Kub? 11:47:33
20 A. No. Not once. Not even once. 11:47:48
21 Q. Did he ever ask you to do any favors for a 11:47:54
22 company called Kub? 11:47:56
23 MR. BOERSCH: Objection. Vague and 11:48:07
24 hearsay. 11:48:08
25 A. No. Not once. Never. 11:48:09

1 M. I. SIVULSKY - DIRECT 11:48:09
2 BY MR. HOROWITZ: 11:48:14
3 Q. Have you ever heard of a company called 11:48:14
4 UESU. United Energy -- 11:48:16
5 A. Systems of Ukraine. 11:48:20
6 Q. -- Systems of Ukraine. 11:48:21
7 A. Yes, I have heard of that company. 11:48:26
8 Q. Did Mr. Lazarenko ever ask you to do any 11:48:29
9 favors for UESU? 11:48:32
10 MS. BOERSCH: Objection. Vague. Hearsay. 11:48:36
11 A. No, never. 11:48:52
12 BY MR. HOROWITZ: 11:48:52
13 Q. Now, during the time that you actually 11:48:53
14 worked for UESU, as you mentioned earlier, those three 11:48:55
15 months, did Mr. Lazarenko ever act in any capacity 11:48:59
16 where he tried to get UESU a special benefit, as far 11:49:05
17 as you know? 11:49:13
18 MS. BOERSCH: Objection. Vague. 11:49:14
19 THE INTERPRETER: To do what? 11:49:30
20 BY MR. HOROWITZ: 11:49:31
21 Q. Any special benefit. 11:49:31
22 A. No. 11:49:39
23 Q. Now, before you came to head the consortium 11:49:41
24 -- before you came to head the consortium, the 11:49:47
25 territories had already been assigned to various 11:49:50

1 M. I. SIVULSKY - DIRECT 11:49:50
2 traders in 1996; is that correct? 11:49:53
3 A. It was done at the beginning of 1997 by the 11:50:20
4 decree of the national committee, or State Committee 11:50:25
5 for Oil, Gas and Refinery Industries. 11:50:28
6 Q. And before that, for the year before that, 11:50:32
7 how was the -- how were the territories worked out? 11:50:34
8 MS. BOERSCH: Objection. Vague. Lack of 11:50:46
9 foundation, and hearsay. 11:50:47
10 A. Also by the decrees of the State Committee 11:50:51
11 for Oil, Gas and Refinery Industries. 11:50:54
12 BY MR. HOROWITZ: 11:50:54
13 Q. What role, if any, did you play in the 11:50:57
14 assignment of territories for 1996? 11:51:00
15 A. As -- in my capacity of the director of a 11:51:18
16 consortium, I had no direct role in the apportionment 11:51:21
17 of the territories. 11:51:25
18 Q. How about for the year before you were the 11:51:26
19 head of the consortium, did you have any role then? 11:51:29
20 A. No. There were no actions on the part of 11:51:46
21 the consortium regarding the territorial apportioning. 11:51:48
22 Q. And how about you personally, not in your 11:51:55
23 role as the head of the consortium but as a person in 11:51:57
24 government. Did you have any role in assigning 11:52:02
25 territories in either 1996 or 1997? 11:52:04

1 M. I. SIVULSKY - DIRECT 11:52:04
2 A. No. No role. 11:52:23
3 Q. And just to be clear, what was the entity 11:52:25
4 or entities that had that responsibility for assigning 11:52:29
5 territories? 11:52:35
6 A. That was the State Committee for Oil, Gas, 11:52:50
7 and Oil Refining Industries. 11:52:52
8 Q. Now, let's go back to the consortium. Were 11:52:56
9 there certain gas traders who were in the gas trading 11:53:04
10 business who did not join the consortium when it was 11:53:07
11 formed? 11:53:11
12 A. Yes, there were. 11:53:18
13 Q. Which companies? 11:53:19
14 A. Itara Ukraine and Intergaz. 11:53:24
15 Q. Is Intergaz the company that you indicated 11:53:27
16 you believed had some ownership by Mr. Bakay? 11:53:30
17 MR. BOERSCH: Objection. Leading. 11:53:35
18 A. Yes. 11:53:47
19 BY MR. HOROWITZ: 11:53:47
20 Q. So that's the same Intergaz you have been 11:53:47
21 referring to throughout this testimony? 11:53:49
22 A. Yes. 11:54:00
23 Q. And did the refusal or failure or lack of 11:54:09
24 participation of Intergaz and Itara affect the success 11:54:16
25 of the consortium? 11:54:22

1 M. I. SIVULSKY - DIRECT 11:54:22
2 MS. BOERSCH: Objection. Vague. Calls 11:54:48
3 for opinion, speculation. 11:54:48
4 A. Yes. 11:54:48
5 BY MR. HOROWITZ: 11:54:48
6 Q. And in what way did it affect the success 11:54:48
7 of the consortium? 11:54:49
8 A. The matter is that the initial point of the 11:55:20
9 very ideology that underlying the creation -- the 11:55:25
10 establishment of the consortium was broken because of 11:55:29
11 that effect. 11:55:33
12 The better words that the main idea of the 11:55:35
13 establishment of the consortium was to unite all the 11:55:39
14 participants of gas trading business. 11:55:43
15 As far as the nonparticipation of Itara was 11:55:46
16 concerned, there were no problems as the consortium 11:55:50
17 was conceived as a counterweight to Itara, but with 11:55:53
18 the nonparticipation of Intergaz, the very idea of the 11:55:58
19 consortium, of the coordinate -- of the regulating -- 11:56:01
20 of the regulating function of the consortium was, 11:56:09
21 well, destroyed. 11:56:15
22 Q. Okay. And what solution, if any -- 11:56:17
23 THE INTERPRETER: Was breached, probably. 11:56:24
24 BY MR. HOROWITZ: 11:56:24
25 Q. What solution, if any, was arrived at in 11:56:25

1 M. I. SIVULSKY - DIRECT 11:56:25
2 order to make the consortium viable? 11:56:27
3 A. The main areas of activities of the 11:56:53
4 consortium are to be defined, or were defined by its 11:56:56
5 founders. And within the discussion of the situation 11:57:01
6 in the gas trading sector in 1996, and then at the 11:57:19
7 beginning of 1997, the idea was put forward that the 11:57:24
8 consortium itself should start playing the role of a 11:57:28
9 gas trader. In other words, to show its viability in 11:57:31
10 practice, in real activities, deeds. 11:57:39
11 MR. HOROWITZ: I have another document that 11:57:45
12 I will ask be marked as 5017. 11:57:47
13 (Agreement on Commissions Between 11:57:55
14 Ukr gasprom Joint Stock Company and 11:58:43
15 Ukrainian Gas Resources Consortium, 11:58:50
16 was marked Exhibit No. 5017.) 11:57:56
17 BY MR. HOROWITZ: 11:57:56
18 Q. And if you will look at this document and 11:58:17
19 let me know if you can tell me what it is? 11:58:19
20 A. This is the contract or the agreement on 11:58:37
21 commissions between the Ukr gasprom joint stock company 11:58:39
22 and the gas, Ukrainian Gas Resources Consortium. 11:58:47
23 Q. Who signed this document? 11:58:54
24 A. This document was signed on the part of the 11:59:01
25 consortium by myself. And on the part of the 11:59:05

1 M. I. SIVULSKY - DIRECT 11:59:05
2 Ukgasprom Company, joint stock company, it was signed 11:59:14
3 by the deputy chairman of the board of the company, 11:59:18
4 Mr. Povolokin. 11:59:22
5 Q. And before this was signed, was there a 11:59:35
6 discussion between yourself and people other than 11:59:38
7 Mr. Povolokin? 11:59:42
8 A. Yes. Certainly. 11:59:54
9 Q. Who else were parties to the discussion? 11:59:55
10 A. The decision was made by Mr. Bogdan Klyuk, 12:00:06
11 by the chairman of the board. After his directive, 12:00:11
12 that was Mr. Povolokin who started working on that 12:00:25
13 together with -- or along with all of the departments 12:00:30
14 of the company who were responsible for the areas or 12:00:33
15 responsibilities outlined or mentioned in the 12:00:38
16 document. 12:00:41
17 Q. Was Mr. Lazarenko part of the negotiation 12:00:42
18 process for this document? 12:00:45
19 A. No. 12:00:54
20 Q. Now, is this document a true and correct 12:00:57
21 copy of the original? 12:00:58
22 A. Yes. I'm sure of that. 12:01:06
23 Q. And you recognize both signatures on the 12:01:07
24 document? 12:01:11
25 A. Yes. Yes, I do. 12:01:14

1 M. I. SIVULSKY - DIRECT 12:01:14
2 Q. Is this a business record of the consortium 12:01:16
3 kept in the normal course of consortium business? 12:01:18
4 A. Yes. 12:01:32
5 Q. Okay. And -- and the Bates number on 12:01:32
6 this -- 12:01:38
7 MR. HOROWITZ: David, if you can read it 12:01:38
8 in, please. 12:01:39
9 MR. AGRETELIS: A002974 through A002978. 12:01:41
10 MR. HOROWITZ: Thank you. 12:01:51
11 BY MR. HOROWITZ: 12:01:51
12 Q. Can you summarize what this agreement was? 12:02:00
13 MS. BOERSCH: And if I could just real 12:02:04
14 quick, I'm objecting again to this line of questioning 12:02:05
15 as also beyond the scope of the proffer and the scope 12:02:08
16 of the Judge's order authorizing the deposition. 12:02:11
17 MR. HOROWITZ: Go ahead and translate my 12:02:18
18 question. 12:02:20
19 A. This document was done to the end of 12:02:32
20 performing the, or implementing the executive order 12:02:39
21 No. 1 of the State Committee for Oil and Gas. And 12:02:43
22 this document established the joint stock company 12:03:11
23 Ukgasprom as the largest shareholder in the 12:03:16
24 consortium to buy 10 billion, or rather the shipment 12:03:19
25 of 10 billion cubic meters of natural gas for its sale 12:03:27

1 M. I. SIVULSKY - DIRECT 12:03:27
2 into the Donetsk region. And some other regions too. 12:03:34
3 BY MR. HOROWITZ: 12:03:34
4 Q. And what was the consortium's role? 12:03:42
5 A. Well, the consortium's role was the one of 12:04:02
6 the commissioner, meaning that the -- it was that 12:04:06
7 joint stock company Ukrigasprom was a commissioner and 12:04:10
8 it was, the consortium was working on behalf of 12:04:15
9 Ukrigasprom joint stock company. 12:04:22
10 Q. And who had a responsibility for collecting 12:04:25
11 the debts, getting the bills paid? 12:04:27
12 A. The parties were responsible, were 12:04:46
13 considered responsible for the implementation of all 12:04:49
14 the commitments included into the document, the 12:04:53
15 parties being the Ukrainian Gas Resources Consortium 12:04:58
16 and the Joint Stock Company Ukrigasprom. 12:05:02
17 Q. Is there a particular territory that this 12:05:14
18 gas distribution was involved with? 12:05:14
19 A. Yes. That was Donetsk Oblast, or Donetsk 12:05:25
20 administrative region of Ukraine. 12:05:29
21 Q. Do you know what the Stinol Company is? 12:05:31
22 A. Yes. I know that -- I'm aware of this 12:05:39
23 company, the existence of this company. 12:05:43
24 Q. Is that company at all involved with the 12:05:46
25 Donetsk region that you just mentioned? 12:05:49

1 M. I. SIVULSKY - DIRECT 12:05:49
2 A. It certainly is. It is located in Gorlivka 12:05:52
3 town, Gorlivka, which is located in the Donetsk 12:06:07
4 oblast. 12:06:12
5 Q. And at the time that 39.2 was signed and 12:06:13
6 put into effect was Stirol Company a gas company in 12:06:16
7 the Donetsk region? 12:06:20
8 A. No. 12:06:35
9 Q. What region was that company in? 12:06:36
10 THE INTERPRETER: Pardon? 12:06:40
11 MR. HOROWITZ: What region was that company 12:06:41
12 in? 12:06:43
13 THE INTERPRETER: Stirol? 12:06:44
14 MR. HOROWITZ: Yes. 12:06:45
15 A. In Donetsk. 12:06:47
16 BY MR. HOROWITZ: 12:06:47
17 Q. So it was a translation issue because the 12:06:48
18 last answer was no. 12:06:51
19 But in any case -- 12:06:53
20 MS. BOERSCH: No. I think the problem -- 12:06:55
21 MR. HOROWITZ: Well, do we agree on the 12:07:00
22 answer. But the answer is, it was in Donetsk. We're 12:07:01
23 in agreement on that, I think. 12:07:05
24 BY MR. HOROWITZ: 12:07:05
25 Q. So let me ask this: In Donetsk, was Stirol 12:07:06

1 M. I. SIVULSKY - DIRECT 12:07:06
2 a big customer? 12:07:10
3 A. The company consumed up to one fifth of the 12:07:27
4 volumes of gas shipped into the oblast in total. 12:07:30
5 Q. And was it a good paying customer, because 12:07:34
6 after all -- 12:07:36
7 THE INTERPRETER: I'm just a bit tired. 12:07:39
8 It's nothing. 12:07:39
9 MR. HOROWITZ: I agree. We totally 12:07:41
10 appreciate what you are doing. 12:07:45
11 BY MR. HOROWITZ: 12:07:45
12 Q. Was this a good customer, because after all 12:07:49
13 it's one thing to consume the gas and another thing to 12:07:51
14 pay for what you consume? 12:07:54
15 MS. BOERSCH: Objection. Leading. 12:08:08
16 A. That was the best enterprise, the best 12:08:13
17 plant in the petrochemical -- in the chemical sector. 12:08:17
18 With the tremendous export potential, it constantly 12:08:24
19 generated foreign -- hard currency revenues. And 12:08:32
20 those companies who got the right to supply -- to 12:08:43
21 become a supplier, a natural gas supplier to that 12:08:49
22 company, had no problems whatsoever with the payments. 12:08:52
23 It could -- it would -- it was receiving 100 percent 12:09:02
24 payments, also with the possibility of advance 12:09:08
25 payments in hard currencies. 12:09:12

1 M. I. SIVULSKY - DIRECT 12:09:12
2 Q. Now, when the consortium got that territory 12:09:15
3 assigned to it, did it get this Stinol Company as one 12:09:19
4 of its customers? 12:09:24
5 A. Was Stinol a member of the consortium? 12:09:41
6 Q. No. Did they get this Stinol company as 12:09:45
7 one of its customers? 12:09:47
8 THE INTERPRETER: Customers. I'm sorry. 12:09:49
9 A. No. 12:09:57
10 BY MR. HOROWITZ: 12:09:57
11 Q. Do you have an understanding as to why the 12:09:58
12 Stinol Company, which was located in the Donetsk 12:10:02
13 region, did not get to be a customer of the 12:10:07
14 consortium? 12:10:11
15 A. In that case the territorial principle of 12:10:37
16 the appointment of the gas traders was violated. 12:10:40
17 With, or due to which the territorial principle itself 12:10:50
18 was, literally speaking, just crossed out. 12:10:54
19 Q. Now, based upon your experience -- 12:11:00
20 MS. BOERSCH: Objection. Nonresponsive. 12:11:02
21 BY MR. HOROWITZ: 12:11:03
22 Q. Based upon your experience -- 12:11:04
23 MS. BOERSCH: Move to strike. 12:11:07
24 BY MR. HOROWITZ: 12:11:07
25 Q. Based upon -- 12:11:08

1 M. I. SIVULSKY - DIRECT 12:11:08
2 MS. BOERSCH: Sorry. 12:11:09
3 BY MR. HOROWITZ: 12:11:10
4 Q. Based upon your experience in the gas 12:11:10
5 business, your experience in government, and your 12:11:15
6 contacts with this issue, what is your understanding 12:11:22
7 as to why Stiro Company was not assigned to the 12:11:26
8 consortium? 12:11:30
9 MS. BOERSCH: Objection. Hearsay. Calls 12:11:46
10 for speculation. 12:11:47
11 A. My understanding is that the -- somebody's 12:12:07
12 private interests overwhelmed the national interest 12:12:11
13 and that highly successful business became not -- was 12:12:14
14 not supplied, the consortium did not supply natural 12:12:22
15 gas to it but somebody else. 12:12:26
16 BY MR. HOROWITZ: 12:12:26
17 Q. And upon what facts do you base that 12:12:28
18 opinion? 12:12:30
19 MR. BOERSCH: Move to strike the prior 12:12:35
20 answer as hearsay and improper opinion. 12:12:35
21 A. The matter was that the very idea of the 12:12:59
22 consortium was that all the companies, all the 12:13:01
23 businesses, being them successful or not, were to be 12:13:05
24 appointed, or were to be fixed to -- tied to the 12:13:10
25 certain gas traders, and the -- when it happened, so 12:13:16

1 M. I. SIVULSKY - DIRECT 12:13:16
2 that you are given only the worst, and the best are 12:13:22
3 not using your services, what kind of work could this 12:13:26
4 one be. 12:13:31
5 Q. Okay. Let me show you another document. 12:13:34
6 MR. BOERSCH: I move to strike that last 12:13:37
7 answer as nonresponsive and improper opinion. 12:13:38
8 MR. HOROWITZ: And we'll ask to have that 12:13:48
9 marked as next in order, which, of course, is 5018. 12:13:50
10 And it has A013912 on the bottom. 12:14:09
11 (Letter from the Consortium to 12:14:21
12 the Chairman of the Board of the Joint 12:15:23
13 Stock Company Ukrgasprom, Bates 12:15:25
14 A013912, was marked Exhibit No. 5018.) 12:14:22
15 MR. HOROWITZ: If nobody objects, we'll 12:14:30
16 show mine to the witness, and mine has some writing on 12:14:31
17 it on the back, which is my idea of what it says, 12:14:34
18 but -- 12:14:46
19 BY MR. HOROWITZ: 12:14:46
20 Q. Can you look at that, and if you recognize 12:14:46
21 it tell me what it is? 12:14:46
22 A. Yes. I reviewed -- I looked through the 12:14:57
23 document. 12:15:00
24 Q. And what is this document? 12:15:01
25 A. This is the letter from the consortium to 12:15:21

1 M. I. SIVULSKY - DIRECT 12:15:21
2 the Chairman of the Board of the joint stock company 12:15:23
3 Ukgasprom. We are containing the proposal of the re 12:15:26
4 -- of the transfer of the receivables on -- rights to 12:15:32
5 collect receivables to the consortium. 12:15:38
6 So the -- I'm sorry. It contained the 12:15:54
7 proposal to transfer the rights to collect the 12:15:57
8 receivables for the gas supplied by the consortium to 12:16:01
9 the other company. In this case it's to the other 12:16:07
10 company. 12:16:10
11 Q. And which company is that? 12:16:11
12 A. Industrial Financial Corporation United 12:16:18
13 Energy systems of Ukraine. 12:16:21
14 Q. So, in other words, for the debts that were 12:16:24
15 owed to the consortium, the recommendation was to let 12:16:27
16 UESU collect those debts; is that right? 12:16:30
17 A. Yes, it is so. 12:16:52
18 Q. And who wrote this letter, and to whom was 12:16:54
19 it sent? 12:16:56
20 A. This letter is signed by me as by the 12:17:05
21 president of the consortium. And it is addressed to 12:17:09
22 the Chairman of the Board of the joint stock company 12:17:19
23 Ukgasprom, Mr. Klyuk. 12:17:23
24 Q. And is this a true and correct copy of the 12:17:26
25 original of the letter that you wrote? 12:17:28

1 M. I. SIVULSKY - DIRECT 12:17:28
2 A. Yes, it is. 12:17:37
3 Q. Was this proposal accepted? 12:17:39
4 A. Yes. 12:17:44
5 Q. And what was the reasoning behind this 12:17:44
6 proposal? Was it done to promote some purpose of the 12:17:48
7 consortium, or what was the reason? 12:17:53
8 A. The reason for this letter was to implement 12:18:19
9 the functions related to the optimization of the 12:18:25
10 payment settlement. So the task of the consortium was 12:18:32
11 not to get the money from those who already were 12:18:42
12 paying. In total, as of the whole of Ukraine it 12:18:46
13 was -- it amounted to 10 percent of the gas 12:18:55
14 consumption, so our task was to organize the payments 12:19:02
15 so that all the debts would be settled. 12:19:12
16 MR. HOROWITZ: We can stay on the record 12:19:36
17 with this. 12:19:37
18 Can I mark my copy with 5018 because we 12:19:38
19 don't have a clean copy, knowing that there is my 12:19:41
20 handwriting on the back, and later when we get a clean 12:19:44
21 copy make a substitution? 12:19:46
22 MS. BOERSCH: Yes. That's fine with me. 12:19:49
23 MR. HOROWITZ: Thank you. 12:19:52
24 THE INTERPRETER: May I continue? 12:20:17
25 MR. HOROWITZ: Yes. Thank you. 12:20:18

1 M. I. SIVULSKY - DIRECT 12:20:18
2 A. The appearance of that letter was preceded 12:20:29
3 by the intensive work of the specialists -- of the 12:20:30
4 experts of the consortium itself, of the joint stock 12:20:35
5 company Ukr gasprom, and in general the specialists 12:20:39
6 related to this area. 12:20:44
7 BY MR. HOROWITZ: 12:20:44
8 Q. Now, did you meet to consult, or couldn't 12:20:46
9 you have just made this decision just on your own if 12:20:48
10 you wanted to? 12:20:52
11 MS. BOERSCH: Objection. Vague. Consult 12:20:59
12 with who? 12:21:00
13 A. The consortium, according to the Ukrainian 12:21:17
14 legislation, was capable of doing it on its own 12:21:21
15 because it -- the legislation said that the consortium 12:21:27
16 was acting on behalf of and using the means of the 12:21:35
17 commissioner. 12:21:39
18 But the price of the -- the price of that 12:21:50
19 issue was so high that there was a need to permanently 12:21:59
20 conduct consultations, or rather agree to permanently 12:22:02
21 agreeing all the steps with the management of joint 12:22:06
22 stock company Ukr gasprom. 12:22:10
23 BY MR. HOROWITZ: 12:22:10
24 Q. Did Mr. Lazarenko have any input into this 12:22:12
25 entire consultation process on this issue? 12:22:18

1 M. I. SIVULSKY - DIRECT 12:22:18
2 MS. BOERSCH: Objection. Vague. Calls for 12:22:34
3 hearsay. 12:22:35
4 A. No, he didn't. 12:22:37
5 BY MR. HOROWITZ: 12:22:37
6 Q. Did Mr. Lazarenko ever talk to you at all 12:22:37
7 about the process of assigning the collection of debts 12:22:39
8 as reflected in that letter? 12:22:44
9 A. No. 12:22:59
10 Q. Did anybody ever, acting on behalf of 12:23:00
11 Mr. Lazarenko, ever attempt to influence this decision 12:23:03
12 in any manner? 12:23:08
13 THE INTERPRETER: Pardon? 12:23:14
14 BY MR. HOROWITZ: 12:23:14
15 Q. Did anybody acting on behalf of 12:23:15
16 Mr. Lazarenko ever attempt -- 12:23:17
17 MS. BOERSCH: Objection. Vague. Asked and 12:23:31
18 answered. 12:23:32
19 A. No. 12:23:33
20 MR. HOROWITZ: Now, I have another document 12:23:35
21 that I will ask to be marked next in order as 5019. 12:23:37
22 And this does not have a Bates number on it. 12:23:43
23 MS. BOERSCH: I don't have that one for 12:23:53
24 some reason. 12:23:54
25 MR. HOROWITZ: I know. 12:24:45

1 M. I. SIVULSKY - DIRECT 12:24:45
2 (Formal Letter of the Joint 12:26:23
3 Stock 12:26:24
4 Company Ukgasprom to the President of 12:26:24
5 the Consortium was marked Exhibit No. 12:26:35
6 5019.) 12:24:46
7 MR. HOROWITZ: Martha, just take mine 12:25:03
8 because I can't read them anyway. 12:25:04
9 So here's my originals and I'll put my 12:25:10
10 English translations right here next to me. 12:25:16
11 BY MR. HOROWITZ: 12:25:24
12 Q. Can you show that document to the witness. 12:25:25
13 Is it in his hand? 12:25:27
14 MR. AGRETELIS: Which document are you 12:25:29
15 talking about? 12:25:30
16 MR. HOROWITZ: The letter from Klyuk. From 12:25:32
17 Klyuk. The one we just marked. Right there. Yes. 12:25:39
18 That's it. 12:25:55
19 Are we all ready? 12:25:59
20 BY MR. HOROWITZ: 12:25:59
21 Q. Can you look at that document and if you 12:26:01
22 know what it is, tell me? 12:26:04
23 A. I have already looked through this 12:26:10
24 document. 12:26:13
25 Q. What is that document? 12:26:13

1 M. I. SIVULSKY - DIRECT 12:26:13
2 A. This is a formal letter of the joint stock 12:26:23
3 company Ukgasprom to the president of the consortium. 12:26:24
4 Q. And what is the subject matter of that 12:26:35
5 letter? 12:26:35
6 A. It's a proposal to finalize, to complete 12:26:38
7 the settlement of payments, to complete, rather, the 12:26:42
8 payments of the -- for the gas that was -- that had 12:26:47
9 been shipped. 12:26:53
10 Q. And who wrote that letter, and who received 12:26:54
11 it? 12:26:56
12 A. The letter was written by the Deputy 12:27:07
13 Chairman of the Board of Ukgasprom joint stock 12:27:10
14 company Mr. Povolokin. And the letter is addressed to 12:27:13
15 me in my capacity as the president of the Ukrainian 12:27:21
16 Gas Resources Consortium. 12:27:25
17 Q. And in response to that letter were certain 12:27:29
18 transfers of accounts made? 12:27:32
19 A. To the end of the implementation of the 12:27:51
20 letter, the contracts were signed between the 12:27:53
21 consortium and the joint stock company Ukgasprom that 12:28:03
22 provided for the finalizing of the payments between 12:28:09
23 the parties. 12:28:12
24 MR. HOROWITZ: Okay. I have two more 12:28:15
25 documents that I'd ask be marked as, I think 5020 and 12:28:16

1 M. I. SIVULSKY - DIRECT 12:28:16
2 5021; is that correct? 12:28:22
3 MR. AGRETELIS: Yes. And please pause for 12:28:24
4 Frances to do this. 12:28:25
5 MR. HOROWITZ: Yes. 12:28:25
6 MS. BOERSCH: Which is going to be marked 12:28:37
7 which? 12:28:38
8 MR. HOROWITZ: The 47/97 should be marked 12:28:39
9 first. 12:28:42
10 And then the 40 -- 12:28:42
11 MS. BOERSCH: They are both 48/97. 39160 12:28:43
12 or 39161. 12:28:48
13 MR. HOROWITZ: Don't look at the 12:28:49
14 translations because they have the wrong date. 12:28:51
15 MR. AGRETELIS: 39160 is going to be the 12:28:57
16 5020. 12:28:59
17 MR. HOROWITZ: Yes. They have the wrong 12:29:01
18 date on the transcripts. 12:29:02
19 MS. BOERSCH: No. I'm looking at the 12:29:03
20 agreement. 12:29:04
21 MR. HOROWITZ: You've got the originals 12:29:05
22 there. 12:29:06
23 MS. BOERSCH: So 5031 is going to be 5021. 12:29:06
24 Just while everybody is looking around, if 12:29:56
25 I didn't state it before, if this is a new topic, we 12:29:58

1 M. I. SIVULSKY - DIRECT 12:29:58
2 have the same objection to this line of questioning as 12:30:01
3 well. 12:30:04
4 (Agreement on the Transfer of 12:30:04
5 Claiming Rights Number 47/97 of August 12:31:05
6 22nd, 1997, was marked Exhibit No. 12:31:17
7 5020.) 12:31:17
8 (Second Agreement Under the 12:32:58
9 Transfer of the Factoring Agreement, 12:33:01
10 No. 48/97 of August 22nd, 1997, was 12:33:11
11 marked Exhibit No. 5021.) 12:33:16
12 THE INTERPRETER: Shall I translate that? 12:33:16
13 MR. HOROWITZ: No. 12:30:12
14 A. I looked through both documents. 12:30:22
15 BY MR. HOROWITZ: 12:30:24
16 Q. Okay. And what -- what are those 12:30:24
17 documents, starting with the one that is marked 5020? 12:30:26
18 A. The document marked with the number 5020 is 12:30:54
19 the contract, or an agreement on the transfer of 12:30:58
20 claiming rights under the number of 47/97 of August 12:31:05
21 22nd, 1997. 12:31:17
22 Q. And who signed that document? 12:31:20
23 A. This document is signed by Mr. Povolokin on 12:31:31
24 behalf of the Ukgasprom joint stock company. 12:31:34
25 And on the part of the consortium it is 12:31:43

1 M. I. SIVULSKY - DIRECT 12:31:43
2 signed by its Vice President Mr. Primostko, Olexandr 12:31:46
3 Primostko. He had the corresponding authority, and he 12:31:57
4 had the special stamp for the contracts, for the 12:32:07
5 agreements. 12:32:12
6 Q. And are these business records -- I'm 12:32:14
7 sorry. Excuse me? 12:32:15
8 A. The sign of which you can see on this 12:32:16
9 contract, or agreement. 12:32:19
10 Q. Are these business records of the 12:32:20
11 consortium? 12:32:21
12 A. Yes, they are. 12:32:25
13 Q. And is the document in your hands, 5020, a 12:32:26
14 true and correct copy of the original? 12:32:29
15 A. Yes, I'm sure of that. 12:32:41
16 Q. And please look at the next document, 5021. 12:32:42
17 What is that document? 12:32:49
18 A. This is the second agreement on the 12:32:57
19 transfer of the -- factoring agreement number 48/97, 12:33:01
20 also of August 22nd, 1997. 12:33:13
21 Q. And who signed this? 12:33:17
22 A. The same persons that signed the agreement 12:33:22
23 No. 47, the previous agreement. 12:33:26
24 Q. And is that also a business record of the 12:33:29
25 consortium? 12:33:31

1 M. I. SIVULSKY - DIRECT 12:33:31
2 A. Yes, it is. 12:33:38
3 Q. And is that a true and correct copy of the 12:33:39
4 original? 12:33:41
5 A. Yes. I'm convinced it is. 12:33:47
6 Q. And what was the intention, as you 12:33:50
7 understood it, at the time these documents were 12:33:55
8 signed, with respect to the effect of this -- these 12:33:59
9 factoring agreements on the outstanding debt that the 12:34:03
10 consortium owed? 12:34:07
11 A. Both these documents finalized the 12:34:28
12 payments, the settlement of payments between the 12:34:31
13 consortium and joint stock company Ukrgasprom. 12:34:34
14 In particular, the agreement No. 47 is 12:34:52
15 related to the factoring agreement for the sum of \$121 12:34:56
16 million for the gas consumed by the residential 12:35:09
17 consumers and utilities -- utility companies. 12:35:12
18 The agreement No. 48 for the amount of 12:35:22
19 \$64.8 million was a factoring agreement covering the 12:35:27
20 gas that was supplied to the -- via the industrial 12:35:44
21 union of Donbas to the industrial consumers of 12:35:52
22 Donetsk, of Donbas region. 12:35:56
23 The overall amount of these agreements is 12:36:00
24 the value of all the gas that was -- well, supplied by 12:36:09
25 the consortium -- by the Ukrgasprom joint stock 12:36:25

1 M. I. SIVULSKY - DIRECT 12:36:25
2 company to the consortium. Minus the sums that 12:36:31
3 were -- for which the payments were made. And minus 12:36:40
4 the commission fee that was taken by the consortium. 12:36:52
5 After the agreements were concluded, no 12:37:03
6 more debts were -- of the consortium to the -- the 12:37:08
7 consortium didn't have any more debts to the joint 12:37:31
8 stock company Ukrgasprom. So the payments between the 12:37:31
9 parties to the agreements were settled. 12:37:32
10 MR. HOROWITZ: Let me show you another 12:37:35
11 document which we can mark next in order as 5021. 12:37:36
12 MR. AGRETELIS: 22. 12:37:43
13 MR. HOROWITZ: 5022. Thank you. 12:37:45
14 (Resolution of the Court of 12:37:47
15 Arbitration of the City of Kiev, 12:39:03
16 number 19,360, was marked Exhibit No. 12:39:07
17 5022.) 12:37:48
18 BY MR. HOROWITZ: 12:37:50
19 Q. And if you will look at that document and 12:37:51
20 when you have had a chance to review it, let me know 12:37:55
21 if you can tell me what it is. 12:37:58
22 A. I have looked through that document. 12:38:49
23 Q. What is it? 12:38:50
24 A. This is the resolution of the Court of 12:38:58
25 Arbitration of the city of Kiev, number 19,360. 12:39:03

1 M. I. SIVULSKY - DIRECT 12:39:03
2 Q. And is that an actual copy, as far as you 12:39:10
3 understand it, of an official court decision? 12:39:13
4 MS. BOERSCH: Objection. Lack of 12:39:26
5 foundation. 12:39:26
6 A. Undoubtedly so. Undoubtedly so. 12:39:27
7 BY MR. HOROWITZ: 12:39:27
8 Q. And were you involved in that litigation? 12:39:30
9 A. On behalf of the consortium, Mr. Stefaniuk 12:39:47
10 who was the director of the legal department of the 12:39:50
11 consortium was taking part, but I was fully informed 12:39:53
12 of the proceedings. 12:40:00
13 Q. Okay. And what was the nature of the 12:40:01
14 proceedings? 12:40:03
15 MS. BOERSCH: Objection. Lack of 12:40:10
16 foundation. Relevance. Opinion. 12:40:11
17 A. The joint stock company Naftagaz decided to 12:40:35
18 appeal the -- or rather to -- oh, what's the -- well, 12:40:41
19 to protest, to lodge a protest regarding the agreement 12:40:48
20 No. 48 in accordance with which \$64 million of 12:40:53
21 payments for the gas supplied -- well, the subject of 12:41:01
22 the agreement was the transfer for -- of the right to 12:41:05
23 collect or to receive \$64 million as the payment for 12:41:09
24 the gas supplied. 12:41:13
25 The company asked to consider to make this, 12:41:18

1 M. I. SIVULSKY - DIRECT 12:41:18
2 or to consider this agreement null and void. The 12:41:23
3 court reviewed all the circumstances of the case and 12:41:30
4 fully confirmed the legality of the -- yes. The 12:41:40
5 legality of the actions of the consortium. And it 12:41:46
6 confirmed the agreement No. 48 to stay in force, to be 12:41:54
7 in force. 12:42:00
8 MS. BOERSCH: Objection. Move to strike. 12:42:01
9 Hearsay. 12:42:03
10 BY MR. HOROWITZ: 12:42:03
11 Q. Okay. Now, just to tell everybody, I only 12:42:04
12 have about half a page of questions so I'll see if I 12:42:06
13 can wrap it up before 1 o'clock. 12:42:09
14 Okay. What happened to Mr. Bakay? 12:42:12
15 Let me withdraw that. 12:42:20
16 When did the consortium end? 12:42:22
17 A. You mean in fact -- well, practically ended 12:42:33
18 its activities, or from the legal point of view? 12:42:39
19 Q. From the legal point of view. Thank you. 12:42:42
20 A. Legally speaking, at the beginning of -- at 12:42:57
21 the beginning of December of 1998, the founders of the 12:43:03
22 consortium took a decision to round up its activities. 12:43:08
23 After the corresponding procedures were announced in 12:43:23
24 the press were made public, the liquidation commission 12:43:29
25 was established and the process of the liquidation 12:43:32

1 M. I. SIVULSKY - DIRECT 12:43:32
2 started. Now only the liquidation commission 12:43:38
3 continues to exist. 12:43:41
4 Q. And what happened to Mr. Bakay in terms of 12:43:43
5 business? You indicated he went to another company. 12:43:46
6 What was -- what company is that? 12:43:49
7 MS. BOERSCH: Objection. Irrelevant. Lack 12:43:53
8 of foundation. Hearsay. Speculation. 12:43:54
9 A. Mr. Bakay headed the National Joint Stock 12:44:15
10 Company Naftagas Ukraine. 12:44:18
11 BY MR. HOROWITZ: 12:44:18
12 Q. And was that a monopoly company, or was 12:44:22
13 that one of a number of companies in the gas business? 12:44:25
14 MS. BOERSCH: Objection. Hearsay. 12:44:34
15 Compound. Calls for speculation. 12:44:35
16 A. That was the state monopoly company. 12:44:37
17 BY MR. HOROWITZ: 12:44:37
18 Q. And what happened to Mr. Lazarenko? 12:44:43
19 A. Well, he was relieved of the duties of the 12:44:58
20 Prime Minister -- 12:45:02
21 MS. BOERSCH: Same objections. 12:45:03
22 A. -- in July of 1997. 12:45:04
23 At the end of 1998, as far as I remember, 12:45:15
24 he headed the party of Gromada that was in opposite -- 12:45:19
25 the opposition party, and became a leader of the 12:45:25

1 M. I. SIVULSKY - DIRECT 12:45:25
2 corresponding faction in the Verhovna Rada in the 12:45:32
3 Parliament of Ukraine. 12:45:39
4 MS. BOERSCH: Objection. Move to strike. 12:45:40
5 Nonresponsive. Hearsay. 12:45:42
6 BY MR. HOROWITZ: 12:45:42
7 Q. And then what happened to him? 12:45:42
8 MS. BOERSCH: Objection. 12:45:46
9 Objection. Vague. Calls for hearsay. 12:45:49
10 Speculation. 12:45:50
11 A. After which the -- well, high profile case, 12:45:51
12 Lazarenko case emerged. 12:46:01
13 BY MR. HOROWITZ: 12:46:01
14 Q. And what happened to you? 12:46:04
15 MS. BOERSCH: Same objections. 12:46:10
16 A. I was arrested on September 17th of 1997, 12:46:18
17 and since that time I have been under investigation. 12:46:22
18 BY MR. HOROWITZ: 12:46:26
19 Q. And what were you arrested for? 12:46:26
20 MR. BOERSCH: Objection. Asked and 12:46:30
21 answered. 12:46:31
22 A. There are the factual reasons and there are 12:46:40
23 the reasons as they are established formally in the -- 12:46:42
24 in the charges act. Indictment, yes. 12:46:52
25 Which one should I tell you about? 12:47:00

1 M. I. SIVULSKY - DIRECT 12:47:00
2 Q. Let's start with what you were accused of. 12:47:03
3 A. On October the -- on September 19th the 12:47:45
4 accusation was put forward, or the charge was put 12:47:50
5 forward that \$10.4 million were -- were transferred 12:48:00
6 from the consortium accounts to the accounts of the 12:48:12
7 United Energy Systems Company. 12:48:16
8 And the second charge that was also put 12:48:19
9 forward was that 4 million hryvnias were put into a 12:48:21
10 deposit account in a bank and the consortium gained 12:48:29
11 the premium of 43,000 hryvnias. 12:48:32
12 Q. And were these charges true and correct? 12:48:37
13 MS. BOERSCH: Objection. Argumentative. 12:48:40
14 BY MR. HOROWITZ: 12:48:48
15 Q. Just yes or no. 12:48:48
16 A. No. 12:48:50
17 Q. Why not? 12:48:51
18 A. I can prove that. 12:48:53
19 Q. Go ahead, please. 12:48:58
20 A. I will show you one document now and the 12:49:03
21 other -- and another. 12:49:05
22 This is the factoring agreement No. 13/97 12:49:22
23 contributed between the consortium and the United 12:49:28
24 Energy Systems of Ukraine Company. Corporation. 12:49:33
25 Section 4.2 of this -- or paragraph 4.2 of 12:49:36

1 M. I. SIVULSKY - DIRECT 12:49:36
2 this agreement. As the document is in Russian, I will 12:49:41
3 read it in Russian. 12:49:48
4 MS. BOERSCH: I'm going to object to this 12:49:50
5 reading a hearsay into the record. Opinion. Vague. 12:49:51
6 Irrelevant. Hearsay. 12:49:54
7 A. May I continue? 12:49:59
8 BY MR. HOROWITZ: 12:49:59
9 Q. Yes. Let him see it. 12:50:00
10 A. Paragraph 2 says, in case when -- if a 12:50:24
11 debtor, before being warned of the act of factoring, 12:50:30
12 had performed its duties in the above-mentioned 12:50:40
13 agreement, or his commitments, his duties, his 12:50:48
14 commitments to the initial creditor -- in this case, 12:50:52
15 it's UESU. 12:51:01
16 The latter transfers the money received, or 12:51:03
17 the funds received, to the current account of the new 12:51:08
18 creditor. 12:51:15
19 This is another document that proves the 12:51:22
20 fully legal nature of the consortium's activities. 12:51:26
21 This is a directive to a commissioner. 12:51:33
22 Q. Let me stop you there. 12:51:36
23 MR. HOROWITZ: Can we please mark this 12:51:37
24 document as next in order, and I'd like you to show it 12:51:39
25 to counsel because -- 12:51:41

1 M. I. SIVULSKY - DIRECT 12:51:41
2 Let me take that from you now and show it 12:51:49
3 to counsel. 12:51:52
4 Maybe we can mark them both. Mark both 12:52:02
5 13/97 and the accounting. 12:52:05
6 MR. AGRETELIS: 13/97 will be 1523. 12:52:35
7 (Factoring agreement No. 13/97 12:49:23
8 Contributed Between the Consortium and 12:49:28
9 United Energy Systems of Ukraine 12:49:30
10 Corporation was marked Exhibit No. 12:49:30
11 1523.) 12:49:35
12 (Directive from the Ukrasprom 12:49:35
13 Joint Company as a Consignor to the 12:53:20
14 Consortium in its directive from the 12:53:25
15 Ukrasprom Joint Company as a 12:53:19
16 Consignor to the Consortium in Its 12:53:24
17 Capacity of the Consignee, was marked 12:53:27
18 Exhibit No. 5024.) 12:53:27
19 A. The document number 5024 is a directive 12:53:04
20 from the Ukrasprom joint company as a Consignor to 12:53:16
21 the consortium in its capacity of the commissioner -- 12:53:24
22 of the consignee, yes. 12:53:29
23 By this document, the consortium authorizes 12:53:41
24 the -- or rather the Ukrasprom authorizes the 12:53:45
25 consortium to let the claim, the claiming rights to 12:53:53

1 M. I. SIVULSKY - DIRECT 12:53:53
2 the financial and industrial company UESU providing 12:53:58
3 for these rights to be transferred not later than -- 12:54:08
4 not earlier than on the 10th of March of 1997 and not 12:54:15
5 later than -- we let the rights from that period on, 12:54:22
6 from the 10th of March of 1997. 12:54:32
7 BY MR. HOROWITZ: 12:54:32
8 Q. Now, are both of these documents business 12:54:35
9 records? 12:54:38
10 A. Yes, they are. 12:54:43
11 Q. Are they consortium business records? 12:54:43
12 A. Yes, they are the real documents of the 12:54:50
13 activities of the consortium. 12:54:54
14 Q. And are those documents that are kept in 12:54:56
15 the normal course of business of the consortium? 12:54:58
16 THE INTERPRETER: Are kept? 12:55:01
17 BY MR. HOROWITZ: 12:55:01
18 Q. Yes. In the normal course of business of 12:55:02
19 the consortium. 12:55:04
20 THE INTERPRETER: Kept in what sense? 12:55:09
21 MR. HOROWITZ: Maintained. 12:55:11
22 A. Yes. These documents were the basis for 12:55:20
23 the activities of the consortium. 12:55:22
24 Q. And are those true and correct copies of 12:55:24
25 the originals? 12:55:27

1 M. I. SIVULSKY - DIRECT 12:55:27
2 A. Yes, they are. 12:55:32
3 MR. HOROWITZ: I have another document that 12:55:33
4 I would ask be marked next in order. 12:55:34
5 (Information of the Commission 12:55:44
6 of 12:57:24
7 the Verhovna Rada on the Legislative 12:57:24
8 Support of the Law Enforcement 12:57:40
9 Activities in its Fight Against 12:57:42
10 Organized Crime and Corruption, was 12:57:47
11 marked Exhibit No. 5025.) 12:55:45
12 MR. AGRETELIS: 5025. 12:55:53
13 MR. HOROWITZ: 5025. 12:55:56
14 THE INTERPRETER: Mr. Sivulsky said that 12:56:18
15 he thinks that the tape was finished. 12:56:19
16 THE VIDEOGRAPHER: It's just a warning. 12:56:24
17 But thank you. 12:56:25
18 MS. BOERSCH: I'm looking for it. I know I 12:56:36
19 have it. 12:56:38
20 MR. HOROWITZ: Can you give that to the 12:56:45
21 witness so he can look it over while we -- 12:56:47
22 BY MR. HOROWITZ: 12:57:03
23 Q. Do you know what this document is? 12:57:04
24 A. Yes. I am familiar with this document. 12:57:06
25 Q. What is this document? 12:57:09

1 M. I. SIVULSKY - DIRECT 12:57:09
2 A. This is the information of the -- of a 12:57:19
3 Commission -- of the Commission of the Verhovna Rada, 12:57:23
4 the Parliament of Ukraine. The Commission -- the 12:57:28
5 Committee, rather, of the Verhovna Rada on the 12:57:33
6 legislative support of the law enforcement activities 12:57:39
7 and the fight against organized crime and corruption. 12:57:43
8 It is addressed to the speaker of the Verhovna Rada, 12:57:51
9 of the Parliament, on the implementation of the -- or 12:57:59
10 on the execution of the directive of the speaker of 12:58:12
11 the Parliament of Ukraine regarding the examination of 12:58:17
12 the facts of the breaches of the legislation 12:58:24
13 concerning Ukrainian Consortium of Gas Resources and 12:58:30
14 its president, Mr. Sivulsky. 12:58:43
15 Q. Now, is this an official government 12:58:43
16 document? 12:58:43
17 A. This is the official document, formal 12:58:45
18 document of the Verhovna Rada, the Parliament of 12:58:48
19 Ukraine. 12:58:52
20 Q. And is this document in your hands a true 12:58:53
21 and correct copy of the document that you have seen 12:58:55
22 issued by the Rada? 12:58:57
23 A. Yes. Yes. 12:59:09
24 MS. BOERSCH: And we move to strike all the 12:59:11
25 testimony related to this document as hearsay. 12:59:12

1 M. I. SIVULSKY - DIRECT 12:59:12
2 BY MR. HOROWITZ: 12:59:15
3 Q. Did you participate in this proceeding? 12:59:16
4 And by that I mean in the investigation that led to 12:59:23
5 this document? 12:59:25
6 A. Yes. I was present at the sittings of the 12:59:37
7 committee that was reviewing this issue. 12:59:39
8 Q. Now, is there a reference in that document 12:59:43
9 to some sort of accounting process? 12:59:45
10 MS. BOERSCH: Objection. Hearsay, vague. 12:59:58
11 A. Yes. 13:00:01
12 BY MR. HOROWITZ: 13:00:01
13 Q. Okay. And have you seen that accounting 13:00:02
14 document? 13:00:05
15 A. Yes. I saw these documents. 13:00:13
16 Q. Okay. When did you see those accounting 13:00:16
17 documents? 13:00:18
18 A. Accounting documents? 13:00:27
19 Q. Yes. 13:00:28
20 A. It's the beginning of 1999. 13:00:37
21 Q. Okay. And what were the circumstances 13:00:39
22 under which you saw those documents? 13:00:41
23 A. At the meetings of the committee. They 13:00:50
24 were handed out to all those who participated. 13:00:53
25 Q. And when you reviewed the accounting, what 13:00:57

1 M. I. SIVULSKY - DIRECT 13:00:57
2 did it show? 13:01:00
3 MS. BOERSCH: Objection. Hearsay. 13:01:08
4 A. They confirmed my previous position about 13:01:29
5 the finalization of -- or completion of all the 13:01:32
6 payments between the consortium and the joint stock 13:01:36
7 company Ukr gasprom, and about the lack of substance in 13:01:39
8 the accusations -- well, the lack of -- lack of -- how 13:01:45
9 we would call it, the lack of crime in my actions. 13:01:51
10 At the same time, the facts of the serious 13:02:08
11 violations of law on the part of the national -- or 13:02:14
12 the state tax administration and the Prosecutor 13:02:21
13 General's office were made public. 13:02:25
14 MS. BOERSCH: Objection. Move to strike. 13:02:27
15 Hearsay. Irrelevant. 13:02:28
16 BY MR. HOROWITZ: 13:02:28
17 Q. What is the date of the document in your 13:02:29
18 hands, the Rada document? 13:02:32
19 A. It's March 9, 1999. 13:02:42
20 Q. Okay. When did the government prosecutor's 13:02:45
21 office stop the prosecution of you for the crimes that 13:02:48
22 you mentioned? 13:02:55
23 MR. BOERSCH: Objection. Vague. Calls for 13:03:06
24 hearsay. 13:03:07
25 A. On the second episode, which was related to 13:03:20

1 M. I. SIVULSKY - DIRECT 13:03:20
2 the deposit money that were deposited into the bank or 13:03:25
3 put into the deposit account, they have not been 13:03:33
4 putting any charges, putting forward any charges since 13:03:36
5 2002. 13:03:42
6 2001; I am sorry. 13:03:46
7 MS. BOERSCH: Also assumes facts not in 13:03:48
8 evidence. 13:03:49
9 A. And regarding the first episode about the 13:04:06
10 allegedly illegal transfer of \$10.4 billion from the 13:04:09
11 consortium accounts, they -- 13:04:15
12 Q. He didn't say dollars. 13:04:18
13 A. Sorry. Hryvnias. 13:04:20
14 THE INTERPRETER: I'm sorry. 13:04:20
15 A. They still, the Prosecutor General's office 13:04:23
16 continues to insist and they do not take into 13:04:27
17 consideration any arguments or documents. They have 13:04:29
18 their own truth, so to say. There is the legislation 13:04:33
19 of Ukraine and there is the truth of the Prosecutor 13:04:38
20 General's office. 13:04:42
21 Q. Now are you still in fear of going to jail? 13:04:43
22 MS. BOERSCH: Objection. Argumentative, 13:04:51
23 assumes facts not in evidence, speculation, opinion, 13:04:52
24 irrelevant. 13:04:57
25 A. Undoubtedly 13:04:57

1 M. I. SIVULSKY - DIRECT 13:04:57
2 BY MR. HOROWITZ: 13:04:58
3 Q. What were the conditions like when you were 13:04:58
4 in jail? 13:04:59
5 MS. BOERSCH: Objection. Irrelevant. 13:05:00
6 A. Terrible. The conditions were terrible. 13:05:07
7 Should I explain it to you more in detail? 13:05:11
8 BY MR. HOROWITZ: 13:05:14
9 Q. Yes, please. 13:05:14
10 MS. BOERSCH: Same objection. 13:05:16
11 A. I was arrested on the 12th of June of -- 13:05:39
12 the year? Of the year 2000 in the -- how do we call 13:05:46
13 it, room number 21 of the Center of Neurology of the 13:05:54
14 Institute of Gerontology of Ukraine, which means that 13:05:57
15 I was arrested directly in a hospital. 13:06:01
16 MR. HOROWITZ: Let's stop right now. I'm 13:06:04
17 going on tell you why, he's tired. 13:06:05
18 MS. BOERSCH: He's very tired. 13:06:07
19 MR. HOROWITZ: And it's against the law in 13:06:09
20 Ukraine or in the U.S. Constitution to torture 13:06:10
21 interpreters. 13:06:16
22 THE INTERPRETER: You can invite my second 13:06:18
23 number. 13:06:21
24 MR. HOROWITZ: Your colleague. Can we take 13:06:22
25 a lunch break for half an hour. I've got only about 13:06:23

1 M. I. SIVULSKY - DIRECT 13:06:23
2 five minutes more questions, plus talking to Mr. 13:06:27
3 Lazarenko, and then you can have the whole rest of the 13:06:28
4 day. Is that okay? 13:06:30
5 MS. BOERSCH: I would rather have an hour 13:06:31
6 for lunch. Why don't you just finish then? 13:06:33
7 MR. HOROWITZ: Let's take -- I still have 13:06:37
8 to call Mr. Lazarenko either way. 13:06:39
9 MS. BOERSCH: Yes, but you could call him 13:06:42
10 -- finish what you think you have and we can take a 13:06:42
11 lunch break and you can call him on the lunch break. 13:06:45
12 And then if there is more after lunch -- 13:06:45
13 MR. HOROWITZ: Do you want a five minute 13:06:47
14 break or do you want to just finish? This is going to 13:06:48
15 be ten minutes. 13:06:51
16 THE INTERPRETER: It's up to you to decide. 13:06:52
17 I mean for the sake of quality, if you are interested 13:06:54
18 in better quality, it's better to take a five minute 13:06:55
19 break, take another ten minutes here. But it's up to 13:06:57
20 you. 13:07:00
21 MR. HOROWITZ: Let's take a break and then 13:07:00
22 finish up. Go off the record first. 13:07:12
23 THE VIDEOGRAPHER: Going off the record at 13:07:12
24 7 minutes past 1 p.m. 13:07:12
25 This is the end of tape two volume one in 13:08:09

1 M. I. SIVULSKY - DIRECT 13:08:09
2 the video deposition of Mr. Mykola Ivanovich Sivulsky. 13:08:12
3 We're still off the record at 8 minutes past 1 p.m. 13:08:17
4 (Recess) 13:16:14
5 THE VIDEOGRAPHER: This is the beginning of 13:16:39
6 tape three volume one in the video deposition of 13:17:01
7 Mr. Mykola Ivanovich Sivulsky. We're on the record 13:17:04
8 again at 17 minutes past 1 p.m. 13:17:07
9 BY MR. HOROWITZ: 13:17:10
10 Q. After you were taken out of the hospital to 13:17:11
11 jail, what conditions were you kept under? 13:17:13
12 MS. BOERSCH: Same objection. 13:17:26
13 A. When I was taken to the pretrial -- 13:17:37
14 MS. MARINA: Pretrial detention facility. 13:17:49
15 A. -- pretrial detention facility, I was 13:17:50
16 checked by a doctor who actually made a verdict. 13:17:53
17 Because they found the hypertonic crisis -- instead of 13:17:59
18 being placed into the medical part of the facility, I 13:18:19
19 was put into what was referred to as troynik, which 13:18:23
20 means the -- it's analog to -- well, three -- but it 13:18:30
21 means -- that name literally meant for three persons. 13:18:41
22 Room for three persons. 13:18:47
23 Q. Okay. And what was -- 13:18:47
24 A. Room for three persons. 13:18:49
25 Q. And how big was that room? 13:18:49

1 M. I. SIVULSKY - DIRECT 13:18:49
2 A. Which was the cell of 2.5 meters by 3 13:18:53
3 meters, the bars and what they called the -- I don't 13:18:59
4 remember the name of the musical document which is the 13:19:13
5 nickname for the -- the, yes, plate that prevented the 13:19:15
6 access -- the incoming daylight. The screen actually 13:19:21
7 that prevented. Two-storied beds. The -- well, the 13:19:26
8 open plan bathroom, toilet, with the corresponding 13:19:36
9 name for that used in prison slang, parasha, word, 13:19:44
10 slang word. The movements were restricted to two or 13:19:53
11 three steps forward and back. Back and forth. 13:20:03
12 Q. How long were you kept in a cell like that? 13:20:06
13 A. I will now answer -- 13:20:20
14 MS. BOERSCH: Same objection. 13:20:24
15 A. I will now answer that question, but before 13:20:24
16 I would like to state that all my medicines were taken 13:20:26
17 from me, and I was to take medicines all the times. 13:20:29
18 All the time. And I was kept in there until the 13:20:35
19 beginning of July, for about a month, from where I was 13:20:42
20 transferred to the medical facility after the blood 13:20:57
21 pressure grew so high that I developed the -- well, 13:21:01
22 yes. The sight problems, and the eyes were so much 13:21:10
23 under pressure that the vessels, the blood vessels 13:21:15
24 there started blowing in the eyes. 13:21:18
25 And the level of sugar in my blood, and I 13:21:25

1 M. I. SIVULSKY - DIRECT 13:21:25
2 was -- I suffered from diabetes -- it was -- it grew 13:21:29
3 three times higher than the norm for all the time 13:21:36
4 until I was released from prison, which was in April. 13:21:53
5 So until April I stayed in the Medical 13:21:58
6 Department, which was pompously called the prison 13:22:02
7 hospital. But there both medicines and the medical 13:22:07
8 instruments were lacking. Everything that was used 13:22:16
9 there was actually brought into by the relatives of 13:22:20
10 the imprisoned. 13:22:27
11 Q. What were the physical conditions? 13:22:28
12 A. The detainees. 13:22:30
13 Permanent pressure, psychological pressure. 13:22:43
14 We were all the time dealt with by the operative -- by 13:22:46
15 the operatives. They are referred to as the 13:22:52
16 operatives. 13:22:54
17 MS. BOERSCH: Same objection. 13:22:56
18 A. Operative functionaries. 13:22:57
19 And I was brought to such a condition that 13:23:05
20 I lost the ability to move. Every rapid movement 13:23:07
21 would cause the state of unconsciousness and also the 13:23:14
22 lost -- the loss of sight. 13:23:23
23 BY MR. HOROWITZ: 13:23:23
24 Q. Now, this facility where you were moved to 13:23:26
25 which they called the hospital, what were you in, a 13:23:28

1 M. I. SIVULSKY - DIRECT 13:23:28
2 private room with a television, or what was it like? 13:23:31
3 MS. BOERSCH: Same objections. 13:23:50
4 A. It was not a separate room. There were the 13:23:55
5 rooms with five to six people in them all the time. 13:23:58
6 The rotation of the detainees was also 13:24:05
7 permanent. The people were changing all the time. 13:24:09
8 Coming and going. 13:24:13
9 Q. What was the size of the room? 13:24:14
10 A. These were slightly larger. The first one 13:24:28
11 was 3.5 by 4 meters and the other one was still a bit 13:24:31
12 larger, it was 4.5 by 5 meters, square meters. 13:24:37
13 Meters. 13:24:43
14 Q. And what was the -- 13:24:44
15 A. Well, it was not -- it could not be 13:24:46
16 otherwise -- it could not be otherwise because all the 13:24:54
17 people there were suffering from illnesses and they 13:24:58
18 could not climb the second story of the beds. 13:25:03
19 Q. What was the sanitation like? 13:25:06
20 MS. BOERSCH: Same objection. 13:25:08
21 A. Terrible. 13:25:13
22 BY MR. HOROWITZ: 13:25:13
23 Q. Meaning what? 13:25:14
24 A. Meaning cockroaches. Then the -- what's 13:25:26
25 the name of the disease when somebody has 13:25:28

1 M. I. SIVULSKY - DIRECT 13:25:28
2 manifestations on the skin? Different infections. 13:25:33
3 Since that time I've suffered from the lung, different 13:25:42
4 lung dysfunctions. 13:25:46
5 Q. Now, during the times that you were in 13:25:48
6 custody, did the General Prosecutor's Office send 13:25:51
7 representatives to interrogate you? 13:26:02
8 MS. BOERSCH: Same objections. 13:26:02
9 A. Yes. They did. 13:26:10
10 BY MR. HOROWITZ: 13:26:10
11 Q. And during some of these interrogations did 13:26:11
12 they offer you a way to get out of this condition that 13:26:14
13 you were in? 13:26:18
14 MS. BOERSCH: Same objection. Vague. 13:26:29
15 Hearsay. 13:26:30
16 A. Yes. 13:26:32
17 BY MR. HOROWITZ: 13:26:32
18 Q. What was the offer? 13:26:32
19 A. It was done through those operatives who 13:26:48
20 were saying both directly, and also hinting 13:26:52
21 indirectly, that if I start cooperating with them they 13:26:55
22 will release me. 13:27:00
23 Q. And what does cooperating mean? What 13:27:02
24 cooperation were you asked to give in order to be 13:27:05
25 released? 13:27:07

1 M. I. SIVULSKY - DIRECT 13:27:07
2 MS. BOERSCH: Objection. Vague. Calls for 13:27:09
3 hearsay. And all the prior objections. 13:27:10
4 A. It meant that I was supposed to give the 13:27:28
5 proofs -- to provide the proofs against Mr. Lazarenko 13:27:35
6 and Ms. Yulia Tymoshenko. 13:27:39
7 Q. Did you do this? 13:27:42
8 MS. BOERSCH: Same objections. 13:27:45
9 A. No. 13:27:46
10 BY MR. HOROWITZ: 13:27:46
11 Q. And why would you not give these certain 13:27:46
12 testimonies that you were asked in order to get out of 13:27:49
13 jail? 13:27:52
14 MS. BOERSCH: Objection. Vague. Misstates 13:27:53
15 the testimony. Assumes facts not in evidence. And 13:27:54
16 all prior objections. 13:27:58
17 A. Because all of the activities of both 13:28:16
18 Mr. Lazarenko and Ms. Tymoshenko that I am aware of 13:28:19
19 were perfectly legal and they were trying to -- they 13:28:24
20 were seeking to obtain some compromising materials 13:28:26
21 against them. 13:28:29
22 MS. BOERSCH: Objection. Move to strike 13:28:31
23 the answer. Improper opinions. Speculation. 13:28:32
24 Argumentative. And for all the other reasons 13:28:36
25 previously stated. 13:28:38

1 M. I. SIVULSKY - DIRECT 13:28:38
2 BY MR. HOROWITZ: 13:28:40
3 Q. Now, let me move to another topic. 13:28:40
4 Previous to today, you and I have met 13:28:45
5 numerous times; is that right? 13:28:48
6 A. Yes. 13:28:55
7 Q. If -- in your opinion, do you believe that 13:28:56
8 if the -- let me withdraw that. 13:29:01
9 If the General Prosecutor's Office of 13:29:05
10 Ukraine finds out that you met with Mr. Lazarenko's 13:29:07
11 defense lawyer, do you have any fear that something 13:29:11
12 might happen to you? 13:29:16
13 MS. BOERSCH: Same objection. 13:29:36
14 A. I have no doubts in relation to this. 13:29:38
15 BY MR. HOROWITZ: 13:29:41
16 Q. In what sense? 13:29:41
17 MS. BOERSCH: Same objection. 13:29:43
18 A. In the sense that they will try again to 13:29:50
19 put me behind the bars. 13:29:52
20 BY MR. HOROWITZ: 13:29:54
21 Q. And if the GPOU, the General Prosecutor's 13:29:55
22 Office of Ukraine, finds out that you came to this 13:29:59
23 consulate voluntarily to testify and took an American 13:30:03
24 oath, do you have any fear that something might happen 13:30:08
25 to you? 13:30:12

1 M. I. SIVULSKY - DIRECT 13:30:12
2 MS. BOERSCH: Same objections. 13:30:12
3 A. I have such fears. 13:30:32
4 BY MR. HOROWITZ: 13:30:34
5 Q. Why then are you willing to come here and 13:30:34
6 voluntarily give this testimony? 13:30:38
7 MR. BOERSCH: Same objections. 13:30:40
8 A. Because those -- how do we call them, organ 13:31:00
9 stables should be once cleaned up and I hope that our 13:31:08
10 legal system, with the help of the American legal 13:31:13
11 system, will sometime go after the level which allows 13:31:16
12 it to be done. 13:31:21
13 MR. HOROWITZ: Thank you. 13:31:23
14 Okay. I think we now should, and have 13:31:24
15 agreed, that we should break for lunch for one hour. 13:31:26
16 I will speak to Mr. Lazarenko on the phone and see if 13:31:29
17 I have any further questions and then turn over the 13:31:31
18 floor to the prosecution. 13:31:34
19 Lunch for everybody now? Break. Off the 13:31:37
20 record. 13:31:39
21 THE VIDEOGRAPHER: Going off the record at 13:31:41
22 1:31 p.m. 13:31:42
23 (Luncheon recess) 13:31:42
24 THE VIDEOGRAPHER: Back on the record at 14:42:59
25 2:43 p.m. 14:43:17

1 M. I. SIVULSKY - CROSS 14:43:17
2 MR. HOROWITZ: Despite the fact that I'm 14:43:20
3 holding 10 pages in my hand, I have no further 14:43:21
4 questions. 14:43:25
5 14:43:31
6 CROSS-EXAMINATION 14:43:31
7 BY MS. BOERSCH: 14:43:34
8 Q. Good afternoon, Mr. Sivulsky. Are we 14:43:34
9 ready? We're ready. 14:43:38
10 A. Yes. 14:43:38
11 Q. I'd like to go through -- I was a little 14:43:39
12 confused about what positions you've occupied since 14:43:42
13 1991. If we could go through those again. 14:43:45
14 As I understand it, in 1991 you were the 14:43:59
15 First Deputy Chairman of the Board of the First 14:44:02
16 National Bank of Ukraine; is that correct? 14:44:04
17 A. I will answer the questions of such a 14:44:17
18 charming lady with great pleasure and apologize that 14:44:20
19 sometimes I will have to correct you. We must talk 14:44:26
20 about 1992, not 1991. 14:44:33
21 Q. I'm sorry. 1990 -- 14:44:36
22 A. 2. 14:44:38
23 Q. 2. Okay. 14:44:39
24 A. In 1991, I was working in the team of 14:44:49
25 public organization in the committee of the Verhovna 14:44:53

- 1 M. I. SIVULSKY - CROSS 14:44:53
- 2 Rada in the matters of economic reform. And the team 14:45:03
- 3 was dealing with the matter over money -- monetary 14:45:09
- 4 reform in Ukraine. The results of the reforms made me 14:45:13
- 5 become the -- made me become the member of the -- into 14:45:25
- 6 the board of the National Bank of Ukraine. 14:45:34
- 7 Q. And what month exactly did you start in 14:45:36
- 8 that position? 14:45:39
- 9 A. In April 1992. 14:45:45
- 10 Q. All right. And how long did you work in 14:45:48
- 11 that position? 14:45:49
- 12 A. Until October 1992. 14:45:55
- 13 Q. And in October of 1992, where did you work? 14:45:59
- 14 A. In the Minister of Finances of Ukraine, the 14:46:09
- 15 First Deputy Minister. 14:46:12
- 16 Q. And who was the Minister of Finance at that 14:46:14
- 17 time? 14:46:24
- 18 A. Mr. Valery Pustovoytenko. 14:46:24
- 19 Q. And was he the Minister of Finance the 14:46:24
- 20 entire time you were the Deputy, First Deputy? 14:46:26
- 21 A. Yes. 14:46:32
- 22 Q. And how long were you a First Deputy Prime 14:46:33
- 23 Minister, or First Deputy -- First Deputy Minister of 14:46:36
- 24 Finance? 14:46:40
- 25 A. I don't remember exact dates. Probably in 14:46:47

1 M. I. SIVULSKY - CROSS 14:46:47
2 October 1993. I was hired and appointed with a decree 14:46:56
3 of the president, was appointed to that same position 14:47:08
4 in December 1994. 14:47:11
5 Q. Okay. And I -- I don't think I understood. 14:47:14
6 I don't think I understood the translation. Could you 14:47:17
7 repeat that, please. 14:47:20
8 THE INTERPRETER: He was fired from that 14:47:22
9 position, and again reappointed to that same position 14:47:24
10 the First Deputy Minister of the Minister of Finances 14:47:28
11 by the decree of the Ukrainian president. 14:47:31
12 Q. Okay. So you were fired from that position 14:47:34
13 in October of 1993. 14:47:36
14 A. Approximately in October. 14:47:42
15 Q. And who terminated you from that position? 14:47:44
16 A. It was resolution of the Cabinet of 14:47:52
17 Ministers. It is possible to find out, to find this 14:47:56
18 resolution. 14:48:03
19 Q. And why were you dismissed from that 14:48:04
20 position? 14:48:06
21 A. So it could be an illustration or 14:48:16
22 explanation of this, because here I give you an 14:48:32
23 excerpt from the newspaper, from the newspaper Dilo, 14:48:34
24 number 85 of 27th/29th of October 1993. Here is an 14:48:43
25 article, Position of Mykola Sivulsky will cost him his 14:48:54

- 1 M. I. SIVULSKY - CROSS 14:48:54
2 position. 14:49:00
- 3 Q. All right. What I need you to do, because 14:49:01
4 of the rules that apply in the American court, is tell 14:49:02
5 me in your own words why you believe you were 14:49:05
6 terminated from that position, because newspaper 14:49:08
7 articles are not admissible. 14:49:11
- 8 A. I was fired -- I was from this position due 14:49:24
9 to some misunderstandings between me and the Minister 14:49:29
10 of Finances regarding the key matters of the policy of 14:49:33
11 the state. 14:49:39
- 12 The first is that I made a revolution in 14:49:41
13 the system over execution of budget and cancelled the 14:49:51
14 image of the great Minister of Finances, whom 14:50:00
15 Mr. Pustovoytenko imagined himself to be. The essence 14:50:05
16 of the problem -- 14:50:10
- 17 Q. Well, let me -- I don't think I want to get 14:50:12
18 into a whole discussion about a policy debate right 14:50:15
19 now. 14:50:20
- 20 Let me ask you this: In October of '93 you 14:50:25
21 were terminated. What did you do after you were 14:50:28
22 terminated from that position? 14:50:30
- 23 A. I worked as a Deputy Chairman for Agency of 14:50:38
24 International Cooperation and Investments. 14:50:45
- 25 Q. And who was the chairman? 14:50:49

- 1 M. I. SIVULSKY - CROSS 14:50:49
- 2 A. Vice Prime Minister of Ukraine, Mr. Landek. 14:50:58
- 3 Q. Was that a government position or was that 14:51:02
- 4 a private position? 14:51:04
- 5 A. It was a government position. 14:51:06
- 6 Q. All right. And you worked in that position 14:51:07
- 7 until what date? 14:51:10
- 8 A. Until the end of November 1994. 14:51:16
- 9 Q. Okay. And where did you work beginning in 14:51:19
- 10 November of 1994? 14:51:22
- 11 A. Special -- I was fired on the 30th of 14:51:29
- 12 November, and on the 1st of December I was appointed, 14:51:39
- 13 reappointed to my new position. 14:51:42
- 14 Q. Which was back -- the First Deputy Minister 14:51:47
- 15 of Finance? 14:51:50
- 16 A. Yes. I was referred on the 1st of December 14:51:53
- 17 1994 by the decree of the president. 14:52:00
- 18 Q. Who was the president at that time? 14:52:03
- 19 A. Mr. Kuchma, Leonid Danilovich. 14:52:06
- 20 Q. And how long then were you a First Deputy 14:52:11
- 21 Minister of finance? 14:52:15
- 22 A. Until the beginning of June 1996. 14:52:20
- 23 Q. And where did you work beginning in June of 14:52:28
- 24 1996? 14:52:30
- 25 A. Sometime I didn't work. And in October, or 14:52:36

1 M. I. SIVULSKY - CROSS 14:52:36
2 probably November 1996, I was appointed -- I was 14:52:45
3 appointed in the position of the adviser of the 14:52:52
4 president of Ukraine in the matters of bank, banking 14:52:55
5 activities. 14:52:59
6 Q. Who was the president of Ukraine at the 14:53:00
7 time? 14:53:08
8 A. Mr. Kuchma remains. 14:53:08
9 MR. HOROWITZ: Did we make a mistake 14:53:09
10 between President and Prime Minister? 14:53:11
11 MS. MARINA: Prime Minister. 14:53:17
12 MS. BOERSCH: I asked who was the 14:53:19
13 president. He said he was an adviser to the 14:53:20
14 president. 14:53:22
15 A. Adviser of the Prime Minister. 14:53:24
16 BY MS. BOERSCH: 14:53:24
17 Q. Adviser of the Prime Minister. 14:53:26
18 A. Yes. 14:53:27
19 Q. Okay. Who was the Prime Minister at that 14:53:28
20 time? 14:53:30
21 A. Pavel Ivanovich Lazarenko. 14:53:32
22 Q. And so who appointed you to that position, 14:53:35
23 Mr. Lazarenko? 14:53:37
24 A. Yes. 14:53:40
25 Q. Why were you, when you stopped for the 14:53:41

1 M. I. SIVULSKY - CROSS 14:53:41
2 second time being the First Deputy Minister of 14:53:43
3 Finance, why did you stop being the -- why did you end 14:53:46
4 that position in June of '96? 14:53:50
5 A. Officially, because I was shifted to 14:54:06
6 another position. Unofficially, in view of my 14:54:09
7 position which I took exercising Resolution 303 14:54:16
8 regarding cooperation of republics. They didn't -- 14:54:25
9 they didn't forgive him because he returned to the 14:54:35
10 state of Ukraine, 2.6, not to say I myself, but with 14:54:37
11 my help, we returned 2.6 billion cubic meters of gas 14:54:46
12 to Ukraine. 14:55:00
13 Q. All right. So in November of 1996, 14:55:00
14 Mr. Lazarenko appoints you as adviser, as his adviser 14:55:00
15 on banking activities. 14:55:01
16 A. I don't remember exact date, but it was in 14:55:08
17 the autumn or fall 1996. 14:55:11
18 Q. And in January of '97, as I understand it, 14:55:14
19 you became the head of the consortium? 14:55:18
20 A. No. I became the head of this consortium 14:55:26
21 in December 1996. And this -- in view of this I write 14:55:30
22 down a statement, dismiss me from the position over 14:55:39
23 adviser so that I could officially occupy a position 14:55:42
24 of the leader of consortium. 14:55:48
25 Q. Okay. So you -- and you worked at the 14:55:52

1 M. I. SIVULSKY - CROSS 14:55:52
2 consortium as the head of the consortium until October 14:55:54
3 of 1998; is that correct? 14:55:59
4 A. Yes. That's right. Until the end of 14:56:07
5 October of 1998. 14:56:09
6 Q. And then, as I understand it, in 1998 you 14:56:10
7 worked as the leader of the secretariat for Yulia 14:56:12
8 Tymoshenko in the Verhovna Rada; is that correct? 14:56:18
9 A. No. I wasn't working anywhere at that 14:56:30
10 time. It means that my records, my labor record book 14:56:33
11 was at my hands. And I worked in the committee of 14:56:40
12 Verhovna Rada Ukraine without -- without -- as a 14:56:50
13 volunteer. And first I was volunteer and then 14:56:56
14 starting from October 1998 I was appointed to be 14:57:14
15 officially as a leader of secretariat, of the 14:57:19
16 committee in the matters of budget. 14:57:24
17 Q. And in that position, did you work with 14:57:26
18 Yulia Tymoshenko? 14:57:28
19 A. Yes. 14:57:31
20 Q. And did you work for Yulia Tymoshenko? 14:57:32
21 A. No. I worked for Verhovna Rada. One of 14:57:38
22 them, the best achievements of our work was to prepare 14:57:47
23 the budget products -- 14:57:59
24 THE COURT REPORTER: I can't hear you when 14:57:59
25 you speak at the same time. Was to prepare what? 14:57:59

1 M. I. SIVULSKY - CROSS 14:58:02
2 THE INTERPRETER: The budget products. 14:58:02
3 Sorry; code. 14:58:02
4 A. -- which introduced the rules of play in 14:58:06
5 these -- in these relations. 14:58:11
6 Q. Okay. Now, as I understand it also, 14:58:13
7 between January and approximately March of 1997, you 14:58:18
8 worked for Ms. Tymoshenko at UESU; is that correct? 14:58:23
9 A. I didn't work for Yulia Tymoshenko. I 14:58:37
10 worked in the branch, in the Kiev branch of Industrial 14:58:43
11 and Finance Corporation, UESU. It is not similar. 14:58:48
12 Q. And the -- 14:58:56
13 A. Not the same. 14:58:58
14 Q. So you were working at UESU at the branch 14:58:58
15 office at the same time that you were serving as the 14:59:02
16 president of the consortium? 14:59:04
17 A. Yes. 14:59:10
18 Q. Okay. What was Yulia Tymoshenko's 14:59:10
19 relationship to UESU? 14:59:16
20 A. As far as I know, she was the President of 14:59:26
21 UESU before she became the Parliament Member of 14:59:30
22 Ukraine. 14:59:35
23 Q. So between 1991 and 1998, you never worked 14:59:40
24 at the State Committee on Oil and Gas? From '91 to 14:59:46
25 '98? 15:00:04

1 M. I. SIVULSKY - CROSS 15:00:04
2 A. I have never worked in this committee. 15:00:05
3 Q. Okay. And similarly you never worked at 15:00:06
4 Ukgasprom? 15:00:09
5 A. I have never worked in these structures. 15:00:14
6 Q. And before becoming the head of the 15:00:17
7 consortium, you had not worked at all in the oil and 15:00:19
8 gas industry of Ukraine, correct? 15:00:23
9 A. No. 15:00:30
10 Q. All right. Now, how long have you known 15:00:30
11 Mr. Lazarenko? 15:00:43
12 A. I have known Mr. Lazarenko since the period 15:00:54
13 he was the Governor of Dnipropetrovsk Province. 15:00:56
14 Q. And how did you know him when he was the 15:00:59
15 Governor of Dnipropetrovsk? 15:01:01
16 A. I took part in the meetings conducted by 15:01:15
17 the President -- conducted by the President of 15:01:19
18 Ukraine, and Pavel Lazarenko was also there at the 15:01:22
19 meetings, although I wasn't communicating with him. 15:01:27
20 Q. Why were you present at these meetings? 15:01:31
21 THE INTERPRETER: Sorry. 15:01:34
22 BY MS. BOERSCH: 15:01:34
23 Q. Why were you present at these meetings? 15:01:35
24 A. Representatives of various ministers and 15:01:48
25 departments were present at these meetings who 15:01:50

1 M. I. SIVULSKY - CROSS 15:01:50
2 represented the government in the matters of those 15:01:58
3 issues that were discussed at the meetings. 15:02:02
4 Q. And what year was this when you first met 15:02:07
5 him. Do you recall? 15:02:10
6 THE INTERPRETER: Excuse me? 15:02:12
7 MS. BOERSCH: What year was it when he 15:02:13
8 first met Mr. Lazarenko? 15:02:15
9 A. It's difficult for me to say. It was 15:02:18
10 either the end of 1994 or the beginning of 1995, just 15:02:27
11 before Mr. Lazarenko became the member of Ukrainian 15:02:33
12 government. 15:02:37
13 BY MS. BOERSCH: 15:02:37
14 Q. Did you have any contacts with 15:02:38
15 Mr. Lazarenko when he was the First Vice Prime 15:02:39
16 Minister. 15:02:43
17 A. Only business. I was receiving his orders 15:02:51
18 through the office and was performing them. 15:02:57
19 Q. Did you ever have any meetings alone with 15:03:01
20 Mr. Lazarenko? 15:03:04
21 A. No. 15:03:09
22 Q. Did you ever have any social meetings with 15:03:10
23 Mr. Lazarenko? 15:03:13
24 A. Never. Only at work. 15:03:18
25 Q. And how -- approximately how many work- 15:03:21

1 M. I. SIVULSKY - CROSS 15:03:21
2 related meetings do you think you had with 15:03:25
3 Mr. Lazarenko? 15:03:27
4 A. There were many, many sittings of the 15:03:40
5 Cabinet of Ministers. Sometimes several of them per 15:03:43
6 month. 15:03:49
7 Q. And at those meetings, approximately how 15:03:50
8 many people would be present? 15:03:53
9 A. Present at this, all the staff of the 15:04:02
10 Cabinet of Ministers, involving -- involving all those 15:04:04
11 staff members of the cabinet -- of the ministers and 15:04:13
12 departments that were not the body of the Cabinet of 15:04:16
13 Ministers. 15:04:20
14 And if there were not meetings of the 15:04:23
15 Cabinet of Ministers, but workshops, it was a narrow, 15:04:26
16 narrow circle, more narrow circle where the experts on 15:04:35
17 different issues were invited. 15:04:39
18 Q. And you mentioned that when you were 15:04:41
19 working, when Mr. Lazarenko was the first Vice Prime 15:04:43
20 Minister and the Prime Minister, that you executed his 15:04:50
21 decrees. 15:04:53
22 Are the positions that he held at that 15:05:05
23 time, were they powerful positions in Ukraine? 15:05:07
24 A. I was fulfilling orders of Mr. Lazarenko as 15:05:23
25 the First Deputy Prime Minister, as well as the Prime 15:05:35

1 M. I. SIVULSKY - CROSS 15:05:35
2 Minister as orders over the governmental figure in the 15:05:48
3 line of -- with those orders that I was receiving 15:05:54
4 every day. 15:05:58
5 THE INTERPRETER: And I apologize. I 15:06:03
6 forgot the second part of your question. 15:06:05
7 MS. BOERSCH: Well, my question was whether 15:06:08
8 or not the positions that he held at the time were 15:06:09
9 powerful positions. 15:06:13
10 A. We have our own notions as a power, 15:06:29
11 ministers and the power figures. That concerns the 15:06:33
12 representatives of law -- of legislative bodies. Of 15:06:37
13 course, Mr. Lazarenko wasn't referred to that 15:06:45
14 category. 15:06:49
15 However, if we treat the word power as the 15:06:59
16 possibility to use his position in order to solve this 15:07:04
17 matter, of course, he occupied power position. 15:07:08
18 Q. You also testified earlier that you believe 15:07:16
19 that Mr. Lazarenko had a very high level of 15:07:19
20 understanding of the economic issues involved in the 15:07:21
21 gas industry in Ukraine; is that correct? 15:07:29
22 A. Yes. And not only in these spheres. He 15:07:39
23 was a very intelligent economy man. He knew all 15:07:45
24 the -- from inside the problems of each -- of each 15:07:55
25 sphere, each branch, and in my view he worked very 15:08:01

1 M. I. SIVULSKY - CROSS 15:08:01
2 efficiently in every position here he occupied. Very 15:08:09
3 efficiently for our state. 15:08:14
4 Q. So with respect to the gas industry in 15:08:18
5 which you worked, he knew how much gas, for instance, 15:08:20
6 Ukraine consumed on a yearly basis? 15:08:23
7 A. Yes. I think he knew. 15:08:36
8 Q. He knew what the cost of the gas was? 15:08:38
9 A. Yes. I think he did. 15:08:43
10 Q. He knew who the suppliers of gas were in 15:08:44
11 Ukraine? 15:08:47
12 A. He should have known, or taking into 15:08:52
13 consideration his position. 15:08:55
14 Q. And he knew when there were debts for gas? 15:08:56
15 A. I think he did. 15:09:03
16 Q. Now, you testified earlier that you were 15:09:07
17 familiar with Cabinet of Ministers Decree 1033; is 15:09:09
18 that correct? 15:09:14
19 A. Yes, I am. 15:09:21
20 Q. But you didn't have anything to do with 15:09:23
21 negotiating or preparing that decree; correct? 15:09:25
22 MR. HOROWITZ: And I object as vague as to 15:09:36
23 negotiating and preparing. 15:09:39
24 A. No. I didn't say it. I took part in 15:09:43
25 elaboration of these documents as a representative of 15:09:50

1 M. I. SIVULSKY - CROSS 15:09:50
2 the Ministry of Finance, and I was constantly dealing 15:09:55
3 with this matter. And certainly I couldn't initiate 15:10:00
4 this document. 15:10:08
5 BY MS. BOERSCH: 15:10:10
6 Q. Let me -- I want to show you what's been 15:10:10
7 previously marked as government exhibit 1027 and ask 15:10:12
8 you, have you ever seen that document before? 15:10:24
9 A. Probably I have seen it, but I am not sure. 15:10:44
10 Q. And is that document a document from the 15:10:49
11 State Committee of Oil and Gas? 15:10:51
12 A. Yes. I understand that this is an exhibit 15:11:01
13 to the order which attaches gas traders to their 15:11:02
14 specific regions. 15:11:14
15 Q. Did you play any role in preparing this 15:11:16
16 document? 15:11:17
17 A. Probably, but I do not remember exactly 15:11:22
18 because we had so many documents. If we had a chance 15:11:26
19 to receive from the Cabinet of Ministers the working 15:11:40
20 documents, there were signatures made by us, by those 15:11:45
21 who took part in preparation of the document, I would 15:11:49
22 be able to tell you for sure whether I worked to 15:11:52
23 prepare this document or not. 15:11:55
24 I could have taken part on behalf of 15:12:01
25 Minister of Finances in this work because it's a part 15:12:03

1 M. I. SIVULSKY - CROSS 15:12:03
2 of my duties in the Ministry of Finances. But we have 15:12:07
3 a system of replacements. If one of the staff members 15:12:14
4 of the cabinet -- of the Ministry of Finances was on a 15:12:22
5 business mission, then there are some other staff 15:12:27
6 members could take his position, or temporary take his 15:12:30
7 position and perform the duties of the person who is 15:12:36
8 missing. 15:12:38

9 Therefore, I cannot say for sure whether I 15:12:41
10 was taking part in the preparation of the document or 15:12:45
11 not. 15:12:48

12 Q. Why don't you hold on to that for a second. 15:12:49

13 You mentioned that that document 15:12:51
14 establishes the companies -- I believe you said the 15:12:53
15 companies that are allowed to be gas traders; is that 15:13:03
16 correct? 15:13:03

17 A. Yes. It defines what companies are 15:13:09
18 attached to what regions. 15:13:11

19 Q. And what companies were -- 15:13:13

20 MR. HOROWITZ: I'm going to ask -- can I 15:13:15
21 just bring up a point? 15:13:17

22 MS. BOERSCH: Yes. 15:13:19

23 MR. HOROWITZ: I think your question was, 15:13:20
24 does that show who the traders are, and the answer 15:13:21
25 was, that shows what traders are attached to what 15:13:24

1 M. I. SIVULSKY - CROSS 15:13:24
2 region. 15:13:27
3 MS. BOERSCH: The question was, does the 15:13:28
4 document establish which companies are allowed to be 15:13:29
5 traders. 15:13:31
6 MR. HOROWITZ: Okay. And the answer didn't 15:13:32
7 seem to mesh, so I'm just pointing that out. 15:13:33
8 MR. BOERSCH: Is your objection 15:13:37
9 nonresponsive? 15:13:39
10 MR. HOROWITZ: No. I don't think it was 15:13:41
11 translated right. 15:13:42
12 A. And the answer was, what region is attached 15:13:44
13 to what trader, gas trader. 15:13:46
14 BY MS. BOERSCH: 15:13:46
15 Q. So the document sets out certain regions of 15:13:48
16 Ukraine and says which gas trader will be supplying 15:13:51
17 gas to that region; correct? 15:13:55
18 A. Yes. 15:14:02
19 Q. And as I understood Decree 1033, only the 15:14:02
20 companies that are identified in that document are 15:14:07
21 allowed to be gas traders in Ukraine; is that correct? 15:14:09
22 MR. HOROWITZ: I object to the question as 15:14:18
23 argumentative, and vague and ambiguous as phrased. 15:14:22
24 A. Not only those. It's the document which is 15:14:32
25 on the entrance. It was defining the entrance 15:14:41

1 M. I. SIVULSKY - CROSS 15:14:41
2 position, initial position. And then it was -- it was 15:14:45
3 defined. Probably one of the gas traders could have 15:14:53
4 enough sufficient amount of gas and the others could 15:14:58
5 not have this amount; and, in this case, the state 15:15:01
6 committee could take decision to exclude one of those 15:15:10
7 gas traders and replace it with some other. 15:15:15
8 BY MS. BOERSCH: 15:15:15
9 Q. But the decision would have to be made by 15:15:17
10 the State Committee of Oil and Gas too? 15:15:20
11 A. Yes. 15:15:29
12 Q. Okay. And what companies are identified as 15:15:30
13 the companies that are allowed to trade gas for that 15:15:33
14 year? 15:15:36
15 MR. HOROWITZ: Object. It assumes facts 15:15:44
16 not in evidence, that that document is the whole 15:15:46
17 universe. 15:15:48
18 A. Judging from that document, these are -- 15:15:51
19 UESU, Intergaz, Itara, Interpipe, Olgaz, Ukrrosgaz, 15:15:59
20 Pravex, and Spivdruzhnist, Russian or Ukrainian. 15:16:22
21 BY MS. BOERSCH: 15:16:22
22 Q. Now, with respect to UESU you testified 15:16:31
23 that Yulia Tymoshenko was the president of UESU until 15:16:33
24 she joined the Verhovna Rada; is that correct? 15:16:37
25 A. Yes. As far as I remember it. 15:16:49

1 M. I. SIVULSKY - CROSS 15:16:49
2 Q. Who owned UESU? 15:16:51
3 A. I am not aware of it. 15:16:58
4 Q. Do you know what, if any, relationship 15:16:59
5 Mr. Lazarenko had with UESU? 15:17:01
6 A. I can't say anything in this respect. I 15:17:12
7 have got no information. 15:17:15
8 Q. Did he ever tell you whether or not he had 15:17:17
9 a financial interest in UESU? 15:17:18
10 A. Never. 15:17:26
11 Q. Did he ever say at any of the meetings that 15:17:26
12 you attended that he had a financial interest in UESU? 15:17:28
13 A. No. 15:17:37
14 Q. And at the meetings that you attended 15:17:38
15 regarding the restructuring of the gas market, did 15:17:40
16 Mr. Lazarenko support UESU's participation in the gas 15:17:44
17 market? 15:17:49
18 MR. HOROWITZ: Objection. Vague, 15:18:02
19 ambiguous, overbroad. 15:18:02
20 A. In general, the question is put in such a 15:18:06
21 manner that it is very difficult to answer, because 15:18:13
22 Mr. Lazarenko, during the meetings related to this 15:18:24
23 issue in 1995, Mr. Lazarenko was one of the members of 15:18:28
24 the government of Ukraine, and the person who was 15:18:33
25 conducting these meetings was Prime Minister, 15:18:43

1 M. I. SIVULSKY - CROSS 15:18:43
2 Mr. Marchuk, and the discussion was in the official 15:18:46
3 manner. 15:18:52
4 The Prime Minister was giving a word to 15:18:58
5 somebody, listen to the speaker, and took some 15:19:01
6 decisions. It was such an order. I don't remember 15:19:04
7 whether Mr. Pavel Ivanovich Lazarenko ever spoke with 15:19:10
8 regard to these matters. And the principal ethics of 15:19:18
9 business relations on such a level is built in such a 15:19:26
10 manner that the deputy cannot be -- it cannot be that 15:19:33
11 the Deputy Prime Minister could approach any of the 15:19:39
12 persons and start talking to him. Prime Minister, or 15:19:42
13 Deputy Prime Minister. 15:19:51
14 Q. Did -- at these meetings, did Mr. Lazarenko 15:19:53
15 ever voice any opposition to UESU's participation in 15:19:56
16 the gas market? 15:20:00
17 A. At the meetings where I was present, these 15:20:13
18 issues were not discussed at all. I believe this 15:20:16
19 document appeared only after the document number 1033 15:20:26
20 appeared. I was present at the meetings devoted to 15:20:30
21 resolution 1033. 15:20:39
22 As far as I understand, this document was 15:20:47
23 prepared by the apparatus of the state committee, and 15:20:58
24 I'm not sure whether it was ever in the rules of the 15:21:01
25 Minister of Finances because it wasn't -- it wasn't 15:21:05

1 M. I. SIVULSKY - CROSS 15:21:05
2 directed to us. 15:21:09
3 Q. So at the meetings that you attended, was 15:21:14
4 UESU and its role in the gas market ever discussed? 15:21:18
5 A. UESU and -- excuse me? 15:21:32
6 MS. BOERSCH: Just UESU. 15:21:35
7 MR. HOROWITZ: And its role in the gas 15:21:37
8 market. 15:21:39
9 A. Nothing -- nothing of the kind. We talked 15:21:39
10 about preparation of the resolution of the Cabinet of 15:21:46
11 Ministers, which has foreseen the principle of 15:21:49
12 distribution over suppliers to regions of Ukraine. I 15:21:58
13 don't remember whether there was ever any mentioning 15:22:07
14 about the UESU. 15:22:10
15 I remember for sure that it concerned -- 15:22:19
16 there was -- they were saying about Ukrainian gas 15:22:22
17 industry because the opposite meeting was Mr. Marchuk. 15:22:27
18 Sorry. Mr. Klyuk. 15:22:33
19 MR. HOROWITZ: You said gas industry, and I 15:22:35
20 think you meant to say Gasprom. 15:22:36
21 THE INTERPRETER: Yes. I just translated 15:22:41
22 it. 15:22:42
23 A. They talked that Gasprom is not capable to 15:22:50
24 settle all the debts, and again will be accumulating 15:22:58
25 debts. I don't remember any mention about UESU. 15:23:03

1 M. I. SIVULSKY - CROSS 15:23:03
2 BY MS. BOERSCH: 15:23:10
3 Q. So at the meetings you attended, UESU's 15:23:10
4 role in the gas industry was simply not discussed? 15:23:16
5 A. Yes. I don't remember it to be discussed. 15:23:30
6 Q. Now, were you familiar with the company 15:23:40
7 United Energy International? 15:23:41
8 MR. HOROWITZ: Objection. Vague as to 15:23:45
9 time. 15:23:46
10 A. I am familiar with the leader of this 15:23:51
11 company, and met him in 1996 somewhere close to the 15:23:53
12 end of the year. I don't remember exact dates. 15:24:03
13 BY MS. BOERSCH: 15:24:07
14 Q. And who was the leader of that company? 15:24:07
15 A. Pan Aksoy. Mr. Aksoy. I apologize. 15:24:14
16 Q. That's okay. We know by now what it means. 15:24:20
17 How many times did you meet with Mr. Aksoy? 15:24:25
18 A. At least once. 15:24:31
19 Q. What was -- 15:24:33
20 A. It's for sure. Probably more times, but I 15:24:34
21 don't remember exactly. 15:24:38
22 Q. What was the purpose -- why did you meet 15:24:42
23 him the first time, this meeting? 15:24:44
24 A. At that time we were solving the matter of 15:24:54
25 establishment of consortium, and Mr. Aksoy was one of 15:24:58

1 M. I. SIVULSKY - CROSS 15:24:58
2 the founding members of consortium. Evidently, it is 15:25:04
3 connected with this matter, but I cannot say for sure. 15:25:10
4 Q. And how many people were at this meeting 15:25:14
5 when you first met Mr. Aksoy? 15:25:20
6 A. I don't remember. Quite a number. Quite 15:25:29
7 many. 15:25:34
8 Q. Was Yulia Tymoshenko present? 15:25:36
9 A. Probably. 15:25:40
10 Q. Was Mr. Lazarenko present? 15:25:42
11 A. No. Exactly, no. 15:25:45
12 Q. Why was Mr. Aksoy present at the meeting to 15:25:53
13 discuss the founding of the consortium? 15:25:55
14 A. I'm not sure whether it was at the meeting. 15:26:06
15 It was quite long ago, and I don't remember the 15:26:09
16 details. 15:26:14
17 Q. Why was Mr. Aksoy and his company a member 15:26:15
18 of the consortium? 15:26:19
19 A. It is not -- this question is not related 15:26:26
20 to me. It is not I who decided that. It is 15:26:29
21 Mr. Minchenko, the State Minister, who planned -- who 15:26:39
22 planned what companies will be there in the 15:26:49
23 consortium, as well as management of the State 15:26:51
24 Committee on Oil and Gas. 15:26:58
25 BY MS. BOERSCH: 15:27:04

1 M. I. SIVULSKY - CROSS 15:27:04
2 Q. What was -- what exactly was the company 15:27:04
3 UEIL as far as you understood? 15:27:14
4 MR. HOROWITZ: Objection. Vague, 15:27:19
5 ambiguous. 15:27:20
6 THE INTERPRETER: Martha, I don't 15:27:25
7 understand the abbreviation. 15:27:26
8 BY MS. BOERSCH: 15:27:26
9 Q. UEIL, United Energy International. 15:27:27
10 And maybe -- let me take this up -- 15:27:30
11 A. I know only its documents which I have 15:27:36
12 seen. I cannot say for sure anything about the 15:27:38
13 company. 15:27:44
14 Q. So you indicated at one point that you 15:27:46
15 thought Mr. Aksoy might have been present at a meeting 15:27:48
16 to discuss the founding of the consortium; is that 15:27:52
17 correct? 15:27:55
18 A. Aksoy? 15:27:56
19 Q. Aksoy, yes. 15:27:58
20 A. Yes, he could. 15:28:03
21 Q. The meeting to discuss the founding of the 15:28:06
22 consortium, what topics were discussed at that 15:28:08
23 meeting? 15:28:12
24 A. There were a number of meetings. What -- 15:28:20
25 and I wasn't present at all of them. 15:28:26

1 M. I. SIVULSKY - CROSS 15:28:26
2 Q. And -- 15:28:29
3 A. It is only Minchenko who conducted five or 15:28:33
4 six meetings. And also the state committee was 15:28:37
5 working quite hard. 15:28:42
6 Q. I'm going to show you what you have already 15:28:46
7 looked at, which I think is government's exhibit 1045. 15:28:48
8 A. 1045, yes. 15:29:00
9 Q. And if you could look at the last page. 15:29:09
10 And, first of all, were you -- did you play any role 15:29:20
11 in the drafting of this document? 15:29:25
12 A. Yes. I took it, certain part. I was 15:29:37
13 involved to do this work. 15:29:41
14 Q. And what exactly was your role in the 15:29:44
15 preparation of this document? 15:29:46
16 A. As an expert who has been dealing with 15:30:01
17 these matters, starting from 1992, meaning 15:30:03
18 organization over -- who was dealing with 1992 over 15:30:07
19 the matters of gas debt, and the matters of 15:30:20
20 settlement, and I took part in all the governmental 15:30:26
21 meetings regarding settlements of the debts, and I 15:30:35
22 knew this problem very well. Therefore, I was invited 15:30:43
23 to take part in the preparation of the draft document. 15:30:46
24 I was working at that time as an advisory 15:30:54
25 of the Prime Minister. 15:30:56

1 M. I. SIVULSKY - CROSS 15:30:56
2 Q. And as I understand it, then, you didn't 15:31:00
3 have any say in who would be members of the 15:31:02
4 consortium; is that correct? 15:31:05
5 A. It was decided by those who worked at the 15:31:18
6 gas market of Ukraine, and I didn't have any relation 15:31:22
7 to it. I remember that at one of the meetings 15:31:24
8 Mr. Bakay was categorically against this kind of 15:31:31
9 consortium. 15:31:37
10 Q. So you just said that the participants of 15:31:42
11 the gas market in Ukraine decided who would be members 15:31:47
12 of the consortium; correct? 15:31:51
13 A. Yes. Although Minchenko insisted that all 15:32:02
14 the parties, all the members of the gas market of 15:32:16
15 Ukraine must be members of the consortium. 15:32:18
16 Q. Were all the participants of the gas market 15:32:23
17 of Ukraine members of the consortium? 15:32:25
18 THE INTERPRETER: Excuse me? 15:32:33
19 BY MS. BOERSCH: 15:32:33
20 Q. Were all the members of the gas industry of 15:32:34
21 Ukraine members of the consortium? 15:32:37
22 A. Not all of them. 15:32:48
23 Q. If we look at this list at the end, you 15:32:49
24 mentioned earlier that Ukrgasprom was a state entity, 15:32:52
25 a government entity. 15:32:56

1 M. I. SIVULSKY - CROSS 15:32:56
2 A. Yes. It's economy subject, which by 100 15:33:07
3 percent belonged to the state. 15:33:14
4 Q. And Ukrgas was similarly a state entity? 15:33:15
5 A. It is -- it is -- it can be seen from the 15:33:23
6 title. The state shareholders -- joint stock 15:33:28
7 shareholders company. 15:33:35
8 MR. HOROWITZ: Can we agree, by the way, 15:33:38
9 that when economy subject was translated the last 15:33:39
10 question, a better translation would have been 15:33:43
11 business entity? 15:33:45
12 MS. BOERSCH: I didn't hear it, actually. 15:33:49
13 I don't know. 15:33:50
14 MS. RUDENKO: I suggest business entity 15:33:53
15 instead of economic subject. 15:33:55
16 MS. BOERSCH: Let me repeat the question. 15:34:01
17 MR. HOROWITZ: I read it. It didn't make 15:34:08
18 sense. 15:34:10
19 BY MS. BOERSCH: 15:34:10
20 Q. Let me repeat the question then. 15:34:10
21 So Ukrgas -- was Ukrgas a state entity or a 15:34:13
22 private commercial entity? 15:34:17
23 A. State entity. 15:34:21
24 Q. And Ukrresursy, was it a state entity or a 15:34:22
25 private entity? 15:34:26

1 M. I. SIVULSKY - CROSS 15:34:26
2 A. State. 15:34:30
3 Q. And United Energy Systems of Ukraine? 15:34:31
4 A. I'm not aware of it. 15:34:39
5 MS. RUDENKO: I didn't know about it. 15:34:42
6 A. I didn't know about it by that time. 15:34:44
7 BY MS. BOERSCH: 15:34:44
8 Q. United Energy Systems of Ukraine? 15:34:45
9 A. Yes. I didn't know about it by that time. 15:34:48
10 Q. I guess I don't understand the answer. 15:34:51
11 MR. HOROWITZ: Wait a minute. Can I 15:34:55
12 interrupt. 15:34:56
13 That translation was wrong. Wait a minute. 15:34:56
14 Wait, wait, wait, wait. When I say wait, please, 15:34:59
15 you've got to wait. 15:35:02
16 THE INTERPRETER: Yes. Of course. 15:35:04
17 MR. HOROWITZ: Now, we have two people 15:35:06
18 here, the interpreter for the government and my 15:35:07
19 interpreter, making the same comment on the last 15:35:09
20 answer saying the interpretation was wrong. 15:35:12
21 And then Ms. Boersch said that she didn't 15:35:15
22 understand the answer. So we have got a mess going 15:35:18
23 on. 15:35:20
24 MS. BOERSCH: Let me ask the question 15:35:21
25 again. 15:35:22

1 M. I. SIVULSKY - CROSS 15:35:22

2 BY MS. BOERSCH: 15:35:23

3 Q. United Energy Systems of Ukraine, was it a 15:35:23
4 state entity or private commercial entity? 15:35:25

5 A. I know that Gazprom and Ukrresursy are real 15:35:49
6 state institutions, state entities, because I worked 15:35:53
7 with them, and I know for sure that these are state 15:35:56
8 owned. 15:35:59

9 Regarding -- regarding United -- UESU, I 15:36:02
10 believe it is nonstate -- nonstate entity, because I 15:36:11
11 remember the protocol of their founders. I remember I 15:36:22
12 saw it one time, and it concerned my appointment of 15:36:26
13 the director of Kiev branch, and several companies 15:36:37
14 were named, and I believe these companies were not 15:36:44
15 state companies. 15:36:48

16 Q. Who represented the interests of United 15:36:49
17 Energy Systems of Ukraine? 15:36:53

18 A. There were many representatives. Not one 15:37:00
19 person only. The lawyer was working there constantly, 15:37:03
20 his name was Butok Victor Miykoloyovych. I also saw 15:37:14
21 other representatives. 15:37:23

22 Q. Who signed this document on behalf of 15:37:26
23 United Energy Systems of Ukraine? 15:37:27

24 A. I cannot say it. I wasn't present at that 15:37:34
25 time, and I can't define whose signature it is. 15:37:40

- 1 M. I. SIVULSKY - CROSS 15:37:40
- 2 Q. Have you ever met Gennadiy Tymoshenko? 15:37:59
- 3 A. Yes. Many times. 15:37:59
- 4 Q. And who is Gennadiy Tymoshenko? 15:37:59
- 5 A. He's a general director over a corporation, 15:38:04
- 6 UESU. 15:38:09
- 7 Q. And what's his relationship to Yulia 15:38:10
- 8 Tymoshenko? 15:38:14
- 9 A. As far as I understand, he is Yulia 15:38:19
- 10 Tymoshenko's father-in-law. 15:38:23
- 11 Q. Did you ever meet Olexandr Tymoshenko? 15:38:25
- 12 A. Several times. 15:38:30
- 13 Q. And who is Olexandr Tymoshenko? 15:38:32
- 14 A. As far as I am informed, he is Ms. Yulia 15:38:40
- 15 Tymoshenko's husband. 15:38:46
- 16 Q. And what's his relationship to United 15:38:48
- 17 Energy Systems of Ukraine? 15:38:51
- 18 A. I know that he was the one through whom the 15:38:59
- 19 transportation issues were solved, because there were 15:39:02
- 20 some other people who were dealing with gas matters. 15:39:10
- 21 Q. When you say transportation issues, what do 15:39:13
- 22 you mean by that? 15:39:16
- 23 A. I mean that when I needed to get to Kiev 15:39:31
- 24 from Dnipropetrovsk, sometimes I would go to him and 15:39:35
- 25 ask him to give me a car, and the car would take me to 15:39:38

- 1 M. I. SIVULSKY - CROSS 15:39:38
- 2 Kiev. And when the work of consortium started, he 15:39:43
- 3 never -- he never dealt with any issues, any questions 15:39:57
- 4 of this consortium. It was done by other people. 15:40:01
- 5 Q. By another person. And who did -- who did 15:40:07
- 6 deal with the issues? 15:40:10
- 7 A. Excuse me. You mean gas issues? 15:40:16
- 8 Q. Well, he said -- you said that Olexandr 15:40:20
- 9 Tymoshenko never dealt with any of these issues, I 15:40:22
- 10 assume relating to the consortium. So my question 15:40:25
- 11 was, then who did deal with the issues relating to the 15:40:28
- 12 consortium? 15:40:32
- 13 A. On the contrary, I mean that he has some 15:40:43
- 14 relations to transport. I mean to cars. 15:40:47
- 15 MR. HOROWITZ: I think we have a 15:40:51
- 16 translation issue. 15:40:53
- 17 MS. RUDENKO: Yes. 15:40:55
- 18 If you could continue with who exactly 15:40:58
- 19 dealt with gas issues. 15:41:01
- 20 BY MS. BOERSCH: 15:41:03
- 21 Q. Well, let me restate the question. 15:41:04
- 22 So who from United Energy Systems of 15:41:07
- 23 Ukraine dealt with the issues related to the 15:41:09
- 24 consortium? 15:41:15
- 25 A. No one personally. Only by those persons 15:41:27

1 M. I. SIVULSKY - CROSS 15:41:27
2 whose responsibilities was -- one is concerned gas 15:41:35
3 issues. These were Mr. Bepaloy and Mr. Stepanenko. 15:41:43
4 Legal issues were under-- probably I confused the 15:41:50
5 surname. I don't remember the exact name of the 15:41:58
6 leader of legal department. 15:42:06
7 Q. Who at UESU then made decisions regarding 15:42:09
8 the gas trading business of UESU? 15:42:13
9 A. As far as issues concerning the matters 15:42:30
10 over supplying gas, within the framework of 15:42:34
11 consortium, these were issues that were made by 15:42:38
12 Mr. Bepaloy, Mr. Stepanenko, Ms. Tymoshenko, 15:43:00
13 Gennadiy, and Shago. 15:43:06
14 Q. Did you have any -- you personally have any 15:43:18
15 contacts with representatives of United Energy Systems 15:43:21
16 of Ukraine before you became the president of the 15:43:23
17 consortium. 15:43:26
18 A. Only businesslike. 15:43:41
19 Q. With whom did you meet? 15:43:42
20 A. I know only too well all the leaders of the 15:43:50
21 state entities. Mr. Klyuk, Ukgasprom. Mr. Rozsylny, 15:43:54
22 Mr. Demchenko. I know a little bit -- Mr. Minchenko 15:44:01
23 and Mr. Batalov. 15:44:10
24 Q. And my question was, before you became the 15:44:11
25 president of the consortium, did you have any contacts 15:44:13

1 M. I. SIVULSKY - CROSS 15:44:13
2 with representatives of UESU? 15:44:16
3 A. That's what I mean. In doing my work at 15:44:29
4 the Minister of Finances I met all of them because we 15:44:33
5 had permanent relations with these organizations. 15:44:37
6 Q. Did you meet with Yulia Tymoshenko? 15:44:41
7 A. Yes. I also met Yulia Tymoshenko. 15:44:48
8 Q. Was she representing the interests of UESU? 15:44:53
9 MR. HOROWITZ: Vague as to time. 15:44:57
10 BY MS. BOERSCH: 15:44:58
11 Q. Before you became president of the 15:44:59
12 consortium? 15:45:01
13 A. Yes, I knew about it. I knew that she 15:45:09
14 represented UESU. 15:45:14
15 Q. Now, if we go back to this document 1045 15:45:17
16 and the members of the consortium, what was United 15:45:22
17 Energy International? 15:45:26
18 A. I can't give a reply to this question. 15:45:38
19 Q. You don't know what sort of entity United 15:45:40
20 Energy International is? 15:45:44
21 A. I know all information that was discussed 15:45:53
22 at the meetings where I was present. 15:45:55
23 Q. And what was discussed with respect to 15:45:58
24 United Energy International? 15:45:59
25 MR. HOROWITZ: Objection. Vague and 15:46:11

1 M. I. SIVULSKY - CROSS 15:46:11
2 overbroad. 15:46:11
3 A. As far as I remember, it was one of the 15:46:15
4 suppliers of gas to Ukraine. 15:46:17
5 BY MS. BOERSCH: 15:46:17
6 Q. So your understanding was that UEIL was one 15:46:19
7 of the suppliers of gas to Ukraine. 15:46:22
8 No. No. No. 15:46:28
9 MS. RUDENKO: United Energy -- 15:46:31
10 A. Sorry. Sorry. United Energy 15:46:32
11 International. Yes, as far as I understand. As far 15:46:34
12 as I understand, that was right. 15:46:42
13 BY MS. BOERSCH: 15:46:42
14 Q. Did you -- you mentioned that you met -- 15:46:45
15 MR. HOROWITZ: Could we just take one quick 15:46:49
16 break. 15:46:51
17 THE VIDEOGRAPHER: Going off the record. 15:46:54
18 (Recess) 15:46:54
19 BY MS. BOERSCH: 15:47:08
20 Q. You mentioned earlier that you met only one 15:47:08
21 time, I believe, with a representative of United 15:47:12
22 Energy International. Is that correct? 15:47:16
23 A. I remember exactly that I met him at least 15:47:27
24 once. We shook hands, and I was introduced to him. 15:47:32
25 Q. How many times did the members of the 15:47:37

1 M. I. SIVULSKY - CROSS 15:47:37
2 consortium meet after it was formed? 15:47:39
3 A. I believe they met pretty frequent -- 15:47:59
4 often, for the working meetings, but in a general -- 15:48:03
5 on a general scale they met quite rare. And besides, 15:48:09
6 in order to conduct a meeting, they didn't need 100 15:48:18
7 percent of everybody present. It is sufficient to 15:48:22
8 have two-thirds. It is sufficient to have all the 15:48:27
9 state entities plus one private, and that's it. 15:48:37
10 Q. Were you present at -- were you required to 15:48:42
11 be present at all the meetings of the consortium as 15:48:44
12 the president of the consortium? 15:48:47
13 A. In principle, yes. 15:48:55
14 Q. And did -- at any of those meetings was 15:48:57
15 there any representative of UEIL besides the first 15:49:01
16 meeting you talked about, or the one meeting you 15:49:06
17 talked about? 15:49:09
18 A. I remember that one of the representatives 15:49:17
19 had a power of attorney from this organization. In 15:49:19
20 particular, when the matter of cancellation of 15:49:27
21 consortium was discussed, the representative worked 15:49:31
22 upon the power of attorney. 15:49:34
23 Q. Who was the representative that worked 15:49:36
24 under a power of attorney. 15:49:37
25 A. It was Mr. Sverdlov Oleksandr 15:49:43

1 M. I. SIVULSKY - CROSS 15:49:43
2 Oleksandrovich. 15:49:47
3 Q. And who was Mr. Sverdlov? 15:49:49
4 A. For a long time he was working as a head of 15:49:57
5 Department of the State Committee of Oil and Gas of 15:50:00
6 Ukraine. And later he worked as a vice president of 15:50:04
7 consortium. And later he was the head of cancellation 15:50:12
8 committee. 15:50:19
9 Q. Did you ever meet any representatives of 15:50:25
10 United Energy International other than Mr. Aksoy? 15:50:26
11 A. No. 15:50:34
12 Q. Do you know what relationship, if any, 15:50:35
13 Mr. Lazarenko had to United Energy International? 15:50:36
14 MR. HOROWITZ: Object to relationship as 15:50:47
15 vague. 15:50:48
16 A. I don't have such information. 15:50:49
17 BY MS. BOERSCH: 15:50:49
18 Q. Do you know whether or not he had a 15:50:51
19 financial interest in United Energy International? 15:50:52
20 A. I don't know about it. 15:51:01
21 Q. With regards to United Energy Systems of 15:51:08
22 Ukraine, did you have any knowledge of -- let me 15:51:12
23 withdraw that and restate it. 15:51:20
24 Did you have any knowledge in 1997 of the 15:51:32
25 transfer of sums of money from UESU to an account 15:51:35

1 M. I. SIVULSKY - CROSS 15:51:35
2 controlled by a company called Orphin? 15:51:54
3 MR. HOROWITZ: Objection. Assumes facts 15:51:56
4 not in evidence. Argumentative. 15:51:58
5 Q. O-r-p-h-i-n. 15:52:02
6 THE INTERPRETER: O-r-p-h-r -- 15:52:10
7 MR. HOROWITZ: I-n. 15:52:12
8 Q. Orphin. I-n. 15:52:13
9 A. I heard of such a company for the first 15:52:16
10 time. 15:52:18
11 BY MS. BOERSCH: 15:52:18
12 Q. So you have never previously heard of the 15:52:19
13 company, Orphin? 15:52:21
14 A. No. 15:52:24
15 Q. You don't know whether or not Mr. Lazarenko 15:52:25
16 had any financial interest in the company Orphin? 15:52:27
17 MR. HOROWITZ: Objection. Argumentative. 15:52:35
18 A. No. I don't know. 15:52:37
19 BY MS. BOERSCH: 15:52:37
20 Q. You're not aware of any reason why UESU 15:52:37
21 would pay money to Orphin? 15:52:40
22 MR. HOROWITZ: Objection. Argumentative, 15:52:43
23 assumes facts not in evidence. 15:52:45
24 A. It's a matter of the company. I don't know 15:52:51
25 about the reasons. 15:52:54

1 M. I. SIVULSKY - CROSS 15:52:54
2 BY MS. BOERSCH: 15:52:56
3 Q. Were you familiar with a company called 15:52:57
4 Somolli Enterprises? 15:52:58
5 MR. HOROWITZ: Objection. Outside the 15:53:05
6 scope of direct. 15:53:06
7 A. I have heard this name for the first time 15:53:12
8 from the newspapers, which constantly publishes 15:53:15
9 accusing commentaries and articles regarding 15:53:26
10 Mrs. Tymoshenko and Mr. Lazarenko; and as far as I 15:53:32
11 remember these publications, the GPO accuses all the 15:53:37
12 persons -- all the persons related to this company. 15:53:47
13 The company was sending money to the account of -- was 15:53:58
14 sending money to the account of Mr. Lazarenko, and 15:54:10
15 this was -- and that it was a bribe. 15:54:13
16 Before I read these publications I even 15:54:20
17 didn't know about the existence of such a company. 15:54:23
18 BY MS. BOERSCH: 15:54:23
19 Q. Did -- and similarly with respect to 15:54:27
20 Orphin, Mr. Lazarenko never told you that he had any 15:54:33
21 financial interest in the company Orphin? 15:54:36
22 MR. HOROWITZ: Same objection. 15:54:43
23 A. No. I didn't know. 15:54:46
24 BY MS. BOERSCH: 15:54:46
25 Q. What about a company called Wilnorth? 15:54:47

1 M. I. SIVULSKY - CROSS 15:54:47
2 MR. HOROWITZ: Same objection continues. 15:54:50
3 THE INTERPRETER: Will -- 15:54:50
4 BY MS. BOERSCH: 15:54:52
5 Q. Wilnorth. W-i-l-n-o-r-t-h. 15:54:53
6 A. I heard it for the first -- I hear it for 15:54:59
7 the first time. 15:55:02
8 Q. So you are not aware, I take it, then, of 15:55:03
9 any transfers of money from Somolli Enterprises to 15:55:06
10 those two companies, Orphin and Wilnorth? 15:55:09
11 MR. HOROWITZ: Same objection. 15:55:13
12 A. No. I have never heard of it. 15:55:19
13 BY MS. BOERSCH: 15:55:21
14 Q. Now, you are familiar with a company Itara, 15:55:21
15 correct? 15:55:24
16 A. Of course, I am familiar with it. 15:55:29
17 Q. And have you ever met with any 15:55:32
18 representatives of Itara? 15:55:33
19 A. Yes. When I took part in Turkmenistan, at 15:55:40
20 the meeting with this company I met Mr. Makarov. 15:55:57
21 Probably this name. I'm not sure. I was asked to 15:56:01
22 make a provision that we have a number of companies 15:56:05
23 having the same name Itara. As far as I remember, one 15:56:11
24 of them was incorporated in the United States. One 15:56:18
25 more in the Russian Federation in Moscow. And also we 15:56:23

1 M. I. SIVULSKY - CROSS 15:56:23
2 had Itara Ukraine. 15:56:29
3 I met Mr. Makarov from Moscow as a 15:56:37
4 representative of Russia Itara. 15:56:43
5 And also I met representative of Itara 15:56:48
6 Ukraine. 15:56:51
7 As far as I remember, at one time he worked 15:56:58
8 for Mr. Rozsylny. And his name was probably 15:57:02
9 Volkovsky, or something like this. 15:57:11
10 Q. How many times did you meet with 15:57:18
11 Mr. Makarov? 15:57:19
12 A. Only once. During negotiations -- during 15:57:22
13 negotiations conducted by the Ukrainian party, and 15:57:29
14 then in a way Mr. Makarov rushed to be there. And I 15:57:33
15 remember we had a very intense, intense situation 15:57:42
16 during his visit. 15:57:48
17 Q. Where was that visit? 15:57:50
18 THE INTERPRETER: Excuse me? 15:57:52
19 BY MS. BOERSCH: 15:57:52
20 Q. Where was the meeting? 15:57:52
21 A. In Ashgabar. 15:57:57
22 Q. What was the topic of the meeting? 15:57:59
23 A. Gas supplies to Ukraine for the current 15:58:10
24 period and the debt settlement. 15:58:13
25 Q. What year was that? 15:58:16

1 M. I. SIVULSKY - CROSS 15:58:16
2 THE INTERPRETER: Sorry? 15:58:20
3 BY MS. BOERSCH: 15:58:20
4 Q. What year was the meeting? 15:58:20
5 A. It's difficult to say. I don't remember. 15:58:25
6 It could be in the period when I was the First Deputy 15:58:36
7 or the Minister of Finances or adviser to a Prime 15:58:39
8 Minister. 15:58:44
9 Q. And do you recall whether or not 15:58:44
10 Mr. Lazarenko was also at that meeting? 15:58:45
11 A. No. He wasn't there. By the time I was in 15:58:53
12 Turkmenistan, Mr. Minchenko was the leader. And 15:59:05
13 before him, there was Mr. Yukhnovsky. I don't 15:59:12
14 remember. Probably somebody else. Yes. Or 15:59:18
15 Mr. Poitobenko as well. 15:59:22
16 It's difficult to recollect. But 15:59:26
17 Mr. Lazarenko definitely wasn't there. 15:59:30
18 MS. BOERSCH: Why don't we take a real 15:59:35
19 quick break right now and we can talk about what to do 15:59:37
20 about translation issues. 15:59:40
21 THE VIDEOGRAPHER: Going off the record at 15:59:45
22 3:59 p.m. Actually, this is the end of tape three 15:59:46
23 volume one. 15:59:51
24 (Recess) 15:59:51
25 THE VIDEOGRAPHER: This is the beginning of 16:11:19

1 M. I. SIVULSKY - CROSS 16:11:19
2 tape four volume one in the video deposition of 16:11:20
3 Mr. Sivulsky. We're back on the record at 11 minutes 16:11:22
4 past 4 p.m. 16:11:26
5 BY MS. BOERSCH: 16:11:31
6 Q. Mr. Sivulsky, do you know whether or not 16:11:33
7 Mr. Lazarenko had any financial interest in Itara? 16:11:35
8 A. No. I don't know about it. 16:11:47
9 Q. Are you familiar with a company called 16:11:50
10 Bainfield Limited? 16:11:51
11 A. I hear it the first time. 16:11:56
12 Q. Did Mr. Lazarenko ever indicate to you 16:12:01
13 whether or not he had a financial interest in 16:12:04
14 Bainfield Limited? 16:12:05
15 A. The matter is I have never heard and 16:12:18
16 couldn't have such talks with Mr. Lazarenko. We 16:12:20
17 talked with him only in official environment and only 16:12:29
18 respecting -- regarding the state matters. 16:12:32
19 Q. And at any of those official meetings did 16:12:36
20 he ever indicate whether or not he had a financial 16:12:39
21 interest in Bainfield Limited? 16:12:40
22 A. No. I don't remember it. 16:12:50
23 Q. In your dealings as president of the 16:12:53
24 consortium, do you know what relationship there was 16:12:56
25 between United Energy Systems of Ukraine and United 16:12:59

1 M. I. SIVULSKY - CROSS 16:12:59
2 Energy International? 16:13:04
3 A. I don't know about it. 16:13:21
4 Q. Do you know what, if any, relationship 16:13:25
5 Yulia Tymoshenko had to United Energy International? 16:13:27
6 A. No. I don't know. 16:13:36
7 Q. Do you know what, if any, relationship 16:13:38
8 Yulia Tymoshenko had to Uzhkombank? 16:13:41
9 THE INTERPRETER: Uzhkombank, yes? 16:13:47
10 BY MS. BOERSCH: 16:13:48
11 Q. Uzhkombank. 16:13:50
12 A. No. I don't know about this, because I was 16:13:56
13 communicating only with Mr. Reshetka who was the 16:14:00
14 president of Uzhkombank. 16:14:04
15 Q. And Uzhkombank was a member of the 16:14:09
16 consortium, correct? 16:14:16
17 A. Yes. 16:14:20
18 Q. Why was Uzhkombank a member of the 16:14:21
19 consortium? 16:14:34
20 A. I wasn't taking this decision. The 16:14:34
21 decision was taken by the founding members. 16:14:34
22 Q. Was Uzhkombank one of the gas traders in 16:14:36
23 Ukraine? 16:14:39
24 A. No. However, if we see the agreement, the 16:14:44
25 founding members, it concerns about distribution of 16:14:50

1 M. I. SIVULSKY - CROSS 16:14:50
2 duties among the members and what part the work is 16:14:58
3 going to do. Here it is. Page 6.4 and 5. Uzhkombank 16:15:06
4 is responsible for financial program of consortium. 16:15:23
5 Since the mission of consortium was not only to 16:15:36
6 supply -- to ensure supplies of gas, but also there 16:15:41
7 were two also important issues. That is optimization 16:15:47
8 of settlements and insurance of company settlements 16:15:56
9 for gas and oil, and implementation over energy 16:16:01
10 programs in order to ensure independent -- economic 16:16:11
11 independence of Ukraine. These were the main duties 16:16:15
12 in which all the members of consortiums should take 16:16:26
13 place, as per the protocol. 16:16:31
14 Q. Now, it's correct, isn't it, that at some 16:16:58
15 point you became a member of Mr. Lazarenko's political 16:17:05
16 party? 16:17:09
17 A. At a certain stage, Mr. Lazarenko was 16:17:20
18 heading the Hromada party, and I was definitely the 16:17:23
19 member of this party. 16:17:30
20 Q. And the consortium gave office space to the 16:17:31
21 Hromada party; is that correct? 16:17:37
22 A. No. No. It is not right. They officially 16:17:41
23 applied to the consortium with the request to offer 16:17:58
24 them certain premises in order to store their 16:18:02
25 materials, and later some employees of this company 16:18:05

1 M. I. SIVULSKY - CROSS 16:18:05
2 were working there, of this party were working there. 16:18:11
3 And Mr. Lazarenko's office was in some other place, 16:18:21
4 and he had no relations, no attitude to this 16:18:25
5 consortium. 16:18:29
6 MR. HOROWITZ: No add -- 16:18:29
7 THE INTERPRETER: No attitude to this 16:18:31
8 consortium. 16:18:37
9 MS. RUDENKO: No. No. Had nothing to do 16:18:39
10 with them. 16:18:40
11 BY MS. BOERSCH: 16:18:47
12 Q. Now, you testified I think on direct exam 16:18:47
13 that at the end of 1996, the end of 1996, there was, 16:18:49
14 as far as you knew, no debt on the part of the private 16:18:57
15 gas traders to RAO Gasprom; is that correct? 16:19:01
16 MR. HOROWITZ: Wait a minute. 16:19:20
17 MS. BOERSCH: That he testified that there 16:19:21
18 was no -- as far as he knew, there was no debt. 16:19:22
19 A. Yes. Yes. That's right. 16:19:30
20 BY MS. BOERSCH: 16:19:32
21 Q. But isn't it true that at the end of 1996 16:19:32
22 at a meeting in Paris, Russia in fact accused Ukraine 16:19:36
23 of nonpayment for gas? 16:19:42
24 MR. HOROWITZ: Objection. Assumes facts 16:19:59
25 not in evidence, argumentative. 16:20:00

1 M. I. SIVULSKY - CROSS 16:20:00
2 A. Yes. That is true. I was in Paris at that 16:20:02
3 time. I think it was probably the end of 1995. It 16:20:04
4 was a meeting devoted to the energy problems, and at 16:20:16
5 that time -- and at that time the representative of 16:20:26
6 Russian Gasprom was accusing Ukraine in their 16:20:28
7 indebting huge amount of money for the gas. But, as 16:20:36
8 an example, they stated Turkmenistan's nonpayments, 16:20:46
9 but not Ukraine. 16:20:52
10 Probably there were no arguments towards 16:20:56
11 concerning Russia. And the essence of -- and the 16:21:00
12 essence of the matter is as follows: Russia wasn't 16:21:14
13 interested in the transferring of debt from the state 16:21:16
14 level into the level of consumers. 16:21:22
15 The leaders of Gasprom were accustomed to 16:21:29
16 solve all the matters through the governmental 16:21:33
17 structures, and they wanted to save the situation so 16:21:38
18 that it would last longer. They protested against 16:21:45
19 regional scheme and demanded that Ukraine totally open 16:21:55
20 their gas market and give it the possibility to choose 16:22:04
21 those enterprises to whom it wants to supply its gas, 16:22:15
22 and the rest, let Ukrainian government itself solve 16:22:21
23 the matters with the rest of them. 16:22:27
24 From the point of view of the state 16:22:35
25 industry of Ukraine, it was the best characteristics 16:22:38

1 M. I. SIVULSKY - CROSS 16:22:38
2 of the policy of Ukraine in the introduction of 16:22:41
3 original scheme. 16:22:47
4 MS. BOERSCH: I'm just going to move to 16:22:49
5 strike all that as nonresponsive and let me go back. 16:22:51
6 MR. HOROWITZ: Wait a minute. You don't 16:22:55
7 translate the objections. 16:22:55
8 THE INTERPRETER: I'm sorry. 16:22:58
9 BY MS. BOERSCH: 16:22:58
10 Q. Didn't you just say that in fact at a 16:22:59
11 meeting held in Paris at the end of '96 Russia accused 16:23:01
12 Ukraine of nonpayment for the gas? 16:23:06
13 MR. HOROWITZ: Objection. Argumentative, 16:23:08
14 assumes facts not in evidence. 16:23:09
15 A. At the meeting where I was -- and I don't 16:23:23
16 remember the exact date -- there was such an 16:23:25
17 accusation. If I had my diplomatic passport, I could 16:23:28
18 have seen the signs of the border man and would be 16:23:38
19 able to answer it for sure. 16:23:43
20 BY MS. BOERSCH: 16:23:43
21 Q. Well, isn't it true that -- 16:23:45
22 A. It was -- and it was definitely in reality 16:23:46
23 and I heard of it. 16:23:55
24 Q. Let me just show you some documents and ask 16:24:01
25 if you have ever seen them before. I'm going to show 16:24:06

1 M. I. SIVULSKY - CROSS 16:24:06
2 you -- 16:24:12
3 MS. BOERSCH: Where is the other binder, 16:24:24
4 Bryan? Oh, I've got it upside down. 16:24:26
5 And, Dan, I'm going to show him 857 through 16:24:39
6 865. 16:24:44
7 BY MS. BOERSCH: 16:24:44
8 Q. And ask you, have you ever seen -- let's 16:25:02
9 take 857 first. Have you ever seen that document 16:25:05
10 before? 16:25:08
11 A. No. I haven't seen it. I read it quite 16:26:02
12 attentatively, and I see it for the first time. 16:26:05
13 Q. What about 858? 16:26:08
14 A. Let me see. 16:26:17
15 Q. 858. Exhibit 858. And it's got a number 16:26:18
16 in the bottom corner that is A022156. 16:26:26
17 A. I also didn't see this document, because by 16:27:54
18 that time I was dismissed from my position, and I 16:27:58
19 didn't see the document. 16:28:02
20 Q. And exhibit 859, which is A022159 through 16:28:04
21 A022160. 16:28:12
22 A. I see the document for the first time. At 16:29:23
23 this time I wasn't working in the government. 16:29:27
24 Q. And government exhibit 860, which is 16:29:30
25 A022161. 16:29:34

- 1 M. I. SIVULSKY - CROSS 16:29:34
- 2 MR. HOROWITZ: Do you mind if I just say 16:29:42
- 3 basically what it is in English just for the people on 16:29:43
- 4 the phone? 16:29:46
- 5 MR. BOERSCH: Sure. I mean, no, I don't 16:29:48
- 6 mind. 16:29:50
- 7 MR. HOROWITZ: Okay. 8/13/96, letter 16:29:51
- 8 regarding UESU's gas debt. Rodionov/Lazarenko. 16:29:53
- 9 Thank you. 16:29:53
- 10 A. Yes. I also see it for the first time. 16:30:34
- 11 BY MS. BOERSCH: 16:31:42
- 12 Q. And you are now looking at which document? 16:31:42
- 13 A. 861. 16:31:52
- 14 Q. Still 861. 16:31:54
- 15 A. I see it for the first time. Shall I look 16:32:20
- 16 through the next one? 16:32:25
- 17 Q. So the next one is 862, which is A022164 16:32:26
- 18 through A022165. It's an August 21, 1996 letter 16:32:31
- 19 between Pushkin and Tymoshenko. 16:32:37
- 20 A. I haven't seen this document before. 16:33:39
- 21 Q. So the next would be 863, which is A022166, 16:33:41
- 22 which is a letter between Mr. Chernomydin and 16:33:49
- 23 Mr. Lazarenko. 16:33:55
- 24 A. I haven't seen this document before. 16:34:28
- 25 Q. And government exhibit 864 which is A022 -- 16:34:30

1 M. I. SIVULSKY - CROSS 16:34:30
2 A022167. 16:34:37
3 A. Also I didn't see this document before. 16:35:07
4 Are these all the documents? 16:35:42
5 Q. Yes. You're looking at -- you should now 16:35:45
6 be looking at 864. 16:35:48
7 A. And 65. 16:35:54
8 Q. 65. Okay. There's a number of telegrams. 16:35:55
9 That's right. 16:36:00
10 A. There's a number of telegrams. I haven't 16:36:00
11 seen the first one. 16:36:05
12 I haven't seen the second one as well. 16:36:37
13 I haven't seen the third too. 16:37:03
14 I haven't seen the fourth. 16:37:18
15 I haven't seen the fifth. 16:37:47
16 I haven't seen the next one. 16:38:22
17 I haven't seen the next one too. 16:39:16
18 I also haven't seen it. 16:40:02
19 Nothing is known to me about this document 16:40:42
20 as well. 16:40:44
21 No, I haven't seen it. 16:41:42
22 And the last one also I haven't seen. 16:42:24
23 Q. Okay. Thank you. 16:42:37
24 A. Probably you'd like to listen to my 16:42:45
25 comment. 16:42:47

1 M. I. SIVULSKY - CROSS 16:42:47
2 Q. No. 16:42:50
3 A. No. Okay. 16:42:53
4 Q. All right. Now -- and I apologize for 16:43:34
5 having to go through all of these documents one at a 16:43:37
6 time like this, but I'm going to show you a document 16:43:40
7 that was marked as defense exhibit 5022. 16:43:43
8 A. I have seen this document today. 16:44:04
9 Q. That document was not prepared or written 16:44:06
10 by the consortium, correct? 16:44:08
11 A. Yes. Yes. That's true. But it concerns 16:44:15
12 activities of consortium. 16:44:18
13 Q. I'm now going to show you what's marked as 16:44:22
14 defense exhibit -- 16:44:24
15 MR. AGRETELIS: Are you going to -- 16:44:26
16 BY MS. BOERSCH: 16:44:27
17 Q. -- 5012. And that -- well, I'll wait until 16:44:28
18 you get it. 5012. 16:44:46
19 A. Yes. 16:44:55
20 Q. And that document was not prepared or 16:44:55
21 written by the consortium, correct? 16:44:57
22 A. Yes. 16:45:04
23 Q. Okay. And defense exhibit 5013. That 16:45:05
24 document was not prepared or written by the 16:45:38
25 consortium, correct? 16:45:42

- 1 M. I. SIVULSKY - CROSS 16:45:42
- 2 A. Yes. 16:45:47
- 3 Q. Defense exhibit 5015. This document is 16:45:50
- 4 also not a document of the consortium, correct? 16:46:11
- 5 A. No. It is not the document about 16:46:20
- 6 consortium. 16:46:22
- 7 Q. Or it's not a document prepared by the 16:46:23
- 8 consortium? 16:46:25
- 9 A. Yes. 16:46:30
- 10 Q. And defense exhibit 5019. 16:46:33
- 11 THE INTERPRETER: Oh, 19? Sorry. 16:46:49
- 12 BY MS. BOERSCH: 16:46:53
- 13 Q. That document also was not prepared by the 16:46:54
- 14 consortium, correct? 16:46:55
- 15 A. It was prepared by Gasprom and it concerned 16:47:06
- 16 consortium. 16:47:19
- 17 Q. Okay. And defense exhibit 5025. That 16:47:19
- 18 document was also not prepared by the consortium, 16:47:50
- 19 correct? 16:47:53
- 20 A. It was prepared by the committee of 16:48:02
- 21 Verhovna Rada Ukraine and concerned consortium. 16:48:05
- 22 Q. All right. How many times -- well, have 16:48:10
- 23 you met with Mr. Horowitz before today? 16:48:14
- 24 A. Yes. 16:48:20
- 25 Q. Approximately how many times? 16:48:21

1 M. I. SIVULSKY - CROSS 16:48:21
2 A. Three. 16:48:25
3 Q. And when was the first time you met with 16:48:25
4 him? 16:48:27
5 A. I don't remember. Probably two, or maybe 16:48:31
6 three weeks ago. 16:48:36
7 Q. And what was the purpose of the meeting? 16:48:37
8 A. He had certain questions as to the former 16:48:50
9 leader of consortium, and he wanted me to answer 16:48:53
10 several questions of him. 16:48:56
11 Q. And were those questions similar to the 16:48:58
12 questions he asked you today? 16:49:00
13 A. No. 16:49:05
14 Q. When was the second time you met with him? 16:49:08
15 A. Probably in a week's time or less. I don't 16:49:18
16 remember exactly. 16:49:20
17 MS. RUDENKO: A week later. 16:49:22
18 BY MS. BOERSCH: 16:49:22
19 Q. What was the purpose of that meeting? 16:49:24
20 A. We specified certain issues. 16:49:30
21 Q. What do you mean by we specified certain 16:49:33
22 issues. 16:49:36
23 MS. RUDENKO: Clarified. 16:49:37
24 BY MS. BOERSCH: 16:49:37
25 Q. Clarified certain issues? 16:49:38

1 M. I. SIVULSKY - CROSS 16:49:38
2 THE INTERPRETER: Clarified, yes. 16:49:41
3 BY MS. BOERSCH: 16:49:41
4 Q. What do you mean by, we clarified certain 16:49:42
5 issues? 16:49:44
6 A. We couldn't discuss all the questions 16:50:04
7 because there were so many of them and, therefore, 16:50:06
8 Mr. Horowitz asked me to make a break, and he had more 16:50:11
9 questions. He asked me to meet him again. 16:50:16
10 Q. And when was the third time you met with 16:50:19
11 him? 16:50:21
12 A. The last time it was yesterday. 16:50:26
13 Q. What was the purpose of that meeting? 16:50:30
14 A. It was a very short meeting and he asked me 16:50:42
15 to clarify whether he understood me right regarding 16:50:51
16 the questions he asked me. 16:50:54
17 Q. And how long were the -- how long was the 16:50:55
18 first meeting? 16:50:57
19 A. I don't remember, but probably two hours. 16:51:01
20 Q. And the second meeting? 16:51:04
21 A. Approximately the same time. 16:51:08
22 Q. And you also met with Mr. Horowitz over the 16:51:11
23 lunch break; is that correct? 16:51:17
24 MR. HOROWITZ: I'm going to object to the 16:51:20
25 word, met. 16:51:22

1 M. I. SIVULSKY - CROSS 16:51:22
2 A. No. We didn't have any lunch. We met in 16:51:23
3 the evening. 16:51:25
4 MR. HOROWITZ: I object to the word, met. 16:51:26
5 I represent to counsel that during lunch he sat at the 16:51:27
6 table, but we strictly did not talk about anything 16:51:31
7 relating to the case. 16:51:34
8 MS. BOERSCH: I appreciate that. How about 16:51:35
9 if the witness answers the question? 16:51:36
10 MR. HOROWITZ: I understand, but I wanted 16:51:39
11 to represent that to you. 16:51:40
12 BY MS. BOERSCH: 16:51:40
13 Q. So did you have lunch with Mr. Horowitz? 16:51:41
14 A. No. 16:51:46
15 Q. Were you in the same room with Mr. Horowitz 16:51:47
16 during lunch? 16:51:49
17 A. Our meeting took place in the evening. We 16:51:57
18 didn't have any lunch. 16:52:00
19 Q. Today. I mean today. During the break. 16:52:02
20 Lunch today. 16:52:08
21 THE INTERPRETER: Could you say it again. 16:52:10
22 BY MS. BOERSCH: 16:52:14
23 Q. Yes. 16:52:14
24 A. I was telling Mr. Horowitz about the higher 16:52:21
25 education in Ukraine and how it was destroyed -- how 16:52:24

1 M. I. SIVULSKY - CROSS 16:52:24
2 it was destroyed and being destroyed, and how Ukraine 16:52:27
3 is losing its sanity potential. That means the 16:52:35
4 questions didn't relate to our meeting. I was the one 16:52:41
5 who was talking and Mr. Horowitz was just nodding his 16:52:48
6 head. 16:52:52
7 Q. Have you met previously with Mr. Gore? 16:52:59
8 THE INTERPRETER: Gore? 16:53:03
9 BY MS. BOERSCH: 16:53:04
10 Q. Mr. Gore. Steve Gore. 16:53:04
11 A. Yes. 16:53:09
12 Q. How many times? 16:53:10
13 A. Probably more. Because the first time I 16:53:18
14 met Mr. Gore when Mr. Horowitz wasn't here. 16:53:23
15 Q. And when was that? 16:53:27
16 A. Long ago. Probably two months ago. 16:53:32
17 Q. And how long was that meeting? 16:53:34
18 A. Probably two or three hours. Hardly more. 16:53:43
19 Depending upon the condition of my health. 16:53:47
20 Q. And what was the subject of that meeting? 16:53:49
21 A. I was asked -- I was asked whether I met 16:53:58
22 Mr. Pavel Lazarenko, whether I knew him, or what was 16:54:05
23 my assessment of Mr. Lazarenko; and I answered to him 16:54:09
24 saying, as I answered today, this meeting. 16:54:14
25 Q. Did Mr. Gore take notes during the meeting? 16:54:17

1 M. I. SIVULSKY - CROSS 16:54:17
2 A. Yes. He was writing something. 16:54:26
3 MS. BOERSCH: How about if we take just 16:54:54
4 like a five-minute break. I think I'm probably done, 16:54:56
5 but if I could take a break to talk to counsel. 16:54:59
6 THE VIDEOGRAPHER: Going off the record at 16:55:06
7 4:55 p.m. 16:55:09
8 (Recess) 17:02:42
9 THE VIDEOGRAPHER: Stand by, everybody. 17:02:44
10 We're about to go back on the record. 17:03:20
11 Back on the record at three minutes past 5 17:03:28
12 p.m. 17:03:31
13 MS. BOERSCH: Okay. 17:03:33
14 BY MS. BOERSCH: 17:03:35
15 Q. Mr. Gore, you said you met with an 17:03:39
16 additional time besides the time you met with 17:03:44
17 Mr. Horowitz. Is that correct? 17:03:46
18 A. Yes. In fact, that was the first, the very 17:04:06
19 first meeting with the representatives of 17:04:08
20 Mr. Lazarenko who represent his interests. 17:04:10
21 Q. And who was present at that meeting besides 17:04:15
22 Mr. Gore? 17:04:18
23 A. An interpreter. And there was one more 17:04:24
24 person whose name I regretfully, but to my regret, I 17:04:32
25 didn't remember because I was mainly looking to the 17:04:37

1 M. I. SIVULSKY - CROSS 17:04:37
2 interpreter and to Mr. Gore. 17:04:47
3 Q. Was it a man or a woman? 17:04:47
4 A. As far as I remember, that was a man. 17:04:47
5 Q. A lawyer, or not a lawyer? 17:04:51
6 A. It's difficult for me to say. He was 17:05:00
7 printing something on a computer. 17:05:02
8 Q. American or Ukrainian? 17:05:05
9 A. My understanding was he was American. 17:05:09
10 Q. Was it Mr. Agretelis? 17:05:12
11 A. I might be mistaken. It's difficult for me 17:05:15
12 to say because faces of the people who were coming in 17:05:26
13 and out were difficult to memorize. If he was in 17:05:29
14 there permanently, it would be easier, but now -- but 17:05:32
15 I remember. Probably. 17:05:37
16 Q. Have you ever met with a representative of 17:05:42
17 Mr. Lazarenko named Ms. Marina Dalgopolaya? 17:05:44
18 A. Yes. I met her when I came for a meeting, 17:06:01
19 but I didn't talk to her as I was talking to Mr. Gore 17:06:05
20 and Mr. Horowitz. 17:06:08
21 Q. And what about a lawyer by the name of 17:06:11
22 Ms. Korotka? 17:06:13
23 A. I have no recollection of that. 17:06:25
24 Possibly -- I might have met her, but I am not sure. 17:06:27
25 Q. When was your last contact with 17:06:31

1 M. I. SIVULSKY - CROSS 17:06:31
2 Mr. Lazarenko? 17:06:33
3 A. That was '98, or probably -- might have 17:06:56
4 been -- might also be the beginning of the year 17:07:02
5 1991 -- 1999. But that was a brief contact at the 17:07:05
6 Parliament. The end of the year 1998, or probably 17:07:09
7 also the beginning of the year of 1999. 17:07:20
8 Q. Have you had any contact with him since he 17:07:28
9 left Ukraine? 17:07:30
10 A. No. 17:07:35
11 MS. BOERSCH: Okay. I don't have any 17:07:40
12 other, further questions. 17:07:41
13 MR. HOROWITZ: I have a few. 17:07:46
14 17:07:48
15 REDIRECT EXAMINATION 17:07:48
16 BY MR. HOROWITZ: 17:07:49
17 Q. You were asked some questions about the 17:07:50
18 Paris claims of Russia that in 1996 there was money 17:07:52
19 owed for gas deliveries from Russia to Ukraine. Were 17:08:03
20 those assertions true? 17:08:11
21 MR. BOERSCH: Well, objection. Lack of 17:08:16
22 foundation. 17:08:17
23 THE INTERPRETER: You said Paris? 17:08:20
24 BY MR. HOROWITZ: 17:08:20
25 Q. Paris. 17:08:22

1 M. I. SIVULSKY - REDIRECT 17:08:22
2 A. Oh, pardon. Can you repeat it. Claims 17:08:44
3 of -- 17:08:47
4 Q. I'm going to start all over. I'll withdraw 17:08:48
5 that question. 17:08:50
6 Drawing your attention to the questions of 17:08:51
7 the prosecution regarding the claims made in Paris 17:08:52
8 about Ukraine gas debt. 17:08:58
9 THE INTERPRETER: Gas debt? 17:09:02
10 BY MR. HOROWITZ: 17:09:02
11 Q. Yes. Just translate that part and then 17:09:03
12 I'll ask the question. 17:09:05
13 I'm just asking you, yes or no, was such 17:09:19
14 claims true or not true? 17:09:22
15 MS. BOERSCH: And the objection is the 17:09:24
16 same. Plus vague and argumentative. 17:09:25
17 A. I consider these allegations -- these 17:09:39
18 accusations not true, because the state of Ukraine was 17:09:42
19 not engaged in any transactions, and these were the 17:10:02
20 private companies that were engaged in them, and the 17:10:09
21 Russian joint stock company Gasprom was always trying 17:10:12
22 to drive the government into these issues of the 17:10:16
23 settlement of the payments. 17:10:22
24 And I memorize -- well, I was -- well, one 17:10:31
25 of their arguments that stuck in my memory in 17:10:37

1 M. I. SIVULSKY - REDIRECT 17:10:37
2 particular was their accusations that the Ukraine's -- 17:10:40
3 rather, Ukraine led to the starvation situation in 17:10:45
4 Turkmenistan, because they were aware of some promises 17:10:49
5 made to supply to Turkmenistan, obviously, some 17:10:58
6 cereals -- well, some grain and flour, but they were 17:11:02
7 not accomplished. Delivered. 17:11:07
8 BY MR. HOROWITZ: 17:11:07
9 Q. Let me ask you this: What would the 17:11:12
10 relationship between Ukraine and Turkmenistan have to 17:11:13
11 do with Russia's claim that Ukraine as a country owed 17:11:16
12 money for gas to Russia? 17:11:21
13 A. The matter is that Russia is very 17:11:45
14 masterfully exploiting our relationship with 17:11:48
15 Turkmenistan, that gas, natural gas from Turkmenistan 17:11:51
16 is physically going to supply the needs of -- or gas 17:12:02
17 supplies go to the regions of Russia -- of the Russian 17:12:10
18 Federation in Siberia and the Urals area. Therefore, 17:12:15
19 there are actually no -- there is no actually such a 17:12:33
20 thing as transit of the Turkmenistan gas into Ukraine. 17:12:36
21 It's the Russian gas that is being imported in 17:12:40
22 Ukraine, but they are taking -- they charge money for 17:12:43
23 the transit from Ukraine, the countryside. 17:12:47
24 Well, and in their relations with 17:12:58
25 Turkmenistan they pretend, or they claim the role of 17:13:00

1 M. I. SIVULSKY - REDIRECT 17:13:00
2 the protector, the defender of Turkmenistan's 17:13:04
3 interests, including in the part related to the 17:13:09
4 Turkmenistan's relations with Ukraine -- 17:13:11
5 Q. Has Russia -- 17:13:14
6 A. -- which was sounded out then. But the 17:13:25
7 most interesting thing was that they -- when they said 17:13:28
8 that the company that was supposed to be -- or was to 17:13:32
9 be selected as a supplier, or as a gas trader for 17:13:36
10 Ukraine was to be Itara. 17:13:40
11 We understood at that time that we were to 17:13:59
12 confront the duopoly, so to say -- or double 17:13:59
13 monopoly -- that Turkmenistan united its efforts with 17:13:59
14 Russia. It was at that time that the Ukrainian 17:14:04
15 government put forward their idea of saying, okay, let 17:14:19
16 it be the company, but let it be our company, the 17:14:23
17 Ukrainian company. And then the consortium was 17:14:27
18 established that was supposed to be a main supplier of 17:14:30
19 that gas for Ukraine. 17:14:34
20 Q. Let me ask you a question about this. The 17:14:35
21 Ukraine has one bargaining chip, which is the pipeline 17:14:39
22 that Russia relies upon to supply gas to Poland and 17:14:44
23 other countries, correct? 17:14:48
24 MS. BOERSCH: Objection. Leading. 17:14:50
25 MR. HOROWITZ: I'll withdraw it. 17:14:51

1 M. I. SIVULSKY - REDIRECT 17:14:51
2 BY MR. HOROWITZ: 17:14:52
3 Q. What bargaining power, if any, does Ukraine 17:14:52
4 have with respect to its pipeline that runs from 17:14:57
5 Russia through Ukraine? 17:15:01
6 A. It's very difficult. Ukraine was using, 17:15:29
7 and has used, the argument that the Russian side was 17:15:47
8 also dependent on the Ukrainian system of pipelines in 17:15:53
9 as far as it was used for the transit of the natural 17:15:59
10 gas from the Russian Federation, so it depended also 17:16:05
11 on how effectively or efficiently the Ukrainian gas 17:16:08
12 pipeline system functions. 17:16:12
13 Q. Okay. Let me ask you this: Has Russia 17:16:13
14 ever tried to convert gas debt from Ukraine into an 17:16:16
15 ownership interest in Ukraine's pipeline? 17:16:20
16 MS. BOERSCH: And I'm going to -- let me 17:16:46
17 just get an objection in. Lack of foundation, calls 17:16:47
18 for hearsay. 17:16:50
19 A. Without any doubt, this has been 17:16:52
20 permanently used -- such attempts have been 17:16:54
21 permanently made. 17:16:58
22 Well, I was -- I personally participated in 17:17:50
23 1994 in the negotiations between the joint stock 17:17:54
24 company Ukrgasprom and the Russian joint stock company 17:17:58
25 Gasprom. That was rather at the beginning of 1995. 17:18:03

1 M. I. SIVULSKY - REDIRECT 17:18:03
2 And at these negotiations, numerous attempts were made 17:18:09
3 to gain access in any form to the Ukrainian pipeline 17:18:13
4 system, joint pipeline system, and to the system of 17:18:19
5 the natural gas storage facilities. This was the idea 17:18:23
6 that was raised many times. It was -- they tried to 17:18:28
7 raise that idea on a permanent basis. 17:18:32
8 They were also putting forward the idea of 17:18:35
9 establishing a structure that would -- to establish -- 17:18:38
10 that was the idea to establish an entity, a structure 17:18:48
11 in any form that would use -- that would put the 17:18:53
12 Russian side in the controlling position. For 17:19:03
13 example, the Gastransit entity establishment idea 17:19:07
14 was -- now the idea of the consortium for gas 17:19:13
15 transportation with the participation of Ukraine, 17:19:23
16 Russia, and possibly Germany and France is being 17:19:25
17 discussed. 17:19:28
18 MS. BOERSCH: And let me just -- 17:20:09
19 MR. HOROWITZ: Let him translate first. 17:20:11
20 He'll die. 17:20:13
21 A. So if you -- it's a strict line that they 17:20:14
22 are following, and if you look, by the way, at the 17:20:17
23 documents that I supplied you with you can see that 17:20:21
24 that idea of putting this system under control of the 17:20:24
25 Gasprom was debated, or was advanced, put forward more 17:20:29

1 M. I. SIVULSKY - REDIRECT 17:20:29
2 than once. 17:20:36
3 They were not happy with the Intergaz being 17:20:36
4 the entity that serves the debt, or -- Intergaz -- 17:20:40
5 they wanted -- it's about the debts. They didn't want 17:21:00
6 Intergaz, for example, or UESU to be responsible for 17:21:03
7 debt settlement, but rather they wanted Intergaz -- 17:21:10
8 Russian Gasprom to be -- Ukrainian Gasprom to be 17:21:13
9 responsible for that because both companies, Intergaz 17:21:17
10 and UESU, they had some debts. And by Ukrgasprom, 17:21:22
11 Russia Gasprom could gain access to the resources that 17:21:32
12 Gasprom had. 17:21:36
13 It's a strategy and they wanted the access 17:21:38
14 to the resources. And good for them. I only wish 17:21:41
15 that Ukrainians were as good in doing that as the 17:21:44
16 Russian side was. 17:21:48
17 Q. Okay. Now, Ms. -- 17:21:50
18 MR. HOROWITZ: Go ahead. Make an 17:21:51
19 objection. 17:21:52
20 MS. BOERSCH: Yes. Just move to strike the 17:21:53
21 answer as a narrative and hearsay. Lack of 17:21:56
22 foundation. 17:21:58
23 MR. HOROWITZ: I have a document I'd like 17:22:00
24 to show the witness. And I'll show it to counsel. 17:22:01
25 And can we mark it as whatever the next one is. 17:22:11

1 M. I. SIVULSKY - REDIRECT 17:22:11
2 MR. AGRETELIS: 5026, I believe. 17:22:16
3 BY MR. HOROWITZ: 17:22:42
4 Q. And after you have had a chance to look at 17:22:42
5 this, if you know, can you tell me, please, what this 17:22:44
6 is. 17:22:47
7 (Act of Comparison of Settlement 17:23:05
8 of Payments Between RAO Gasprom and 17:23:23
9 UESU was marked Exhibit No. 5026.) 17:23:34
10 A. This is the copy of an act of the 17:23:14
11 comparison of the results of payments, of settlement 17:23:19
12 of payments between RAO Gasprom and the corporation of 17:23:23
13 -- or industrial financial corporation UESU. 17:23:30
14 BY MR. HOROWITZ: 17:23:30
15 Q. Okay. And have you ever seen this document 17:23:44
16 before today? 17:23:44
17 A. Not until today. I haven't -- I had never 17:23:45
18 seen it until I saw it today. 17:23:47
19 Q. Okay. 17:23:50
20 A. But I knew of the fact that there were no 17:23:58
21 debts of the UESU Corporation owed to RAO Gasprom. I 17:24:06
22 said about that before, and I say that now. 17:24:13
23 This document confirms that as of January 17:24:38
24 1, 1997, there were no debts of the UESU Corporation 17:24:43
25 to -- owed to Russian Gasprom Corporation. 17:24:49

1 M. I. SIVULSKY - REDIRECT 17:24:49
2 Q. Look at -- 17:24:54
3 A. Even the advance payment was made for the 17:24:55
4 purchase of gas for the total of \$175 million. 17:24:57
5 MS. BOERSCH: I'm going to move to strike 17:25:05
6 the answer as consisting of hearsay and lacking 17:25:07
7 foundation. 17:25:10
8 BY MR. HOROWITZ: 17:25:10
9 Q. Now, look at the last page and tell me if 17:25:12
10 you recognize the seals on the last page of this 17:25:17
11 document? 17:25:20
12 A. The -- on the last page there is the 17:25:36
13 clearly seen stamp -- seal of the Russian Joint Stock 17:25:38
14 Company Gasprom and the signature of its 17:25:44
15 representative. And on the part of the UESU the 17:25:46
16 signature is also clearly seen, but the stamp is 17:25:56
17 blurred. 17:25:59
18 Q. Okay. 17:26:00
19 And do you recognize any of the signatures 17:26:01
20 on the document? 17:26:08
21 A. No. It is difficult for me to do it. 17:26:14
22 Q. And the placing of the seals, what legal 17:26:17
23 significance do you understand these seals mean on a 17:26:20
24 document of this type? 17:26:23
25 MS. BOERSCH: Objection. Lack of 17:26:26

1 M. I. SIVULSKY - REDIRECT 17:26:26
2 foundation. Hearsay. 17:26:27
3 A. It confirms the signature of a person that 17:26:42
4 signed the document. 17:26:44
5 BY MR. HOROWITZ: 17:26:45
6 Q. And -- 17:26:46
7 A. The fact that it is an authorized person 17:26:52
8 that has official authorization or official authority 17:26:55
9 to do this. 17:26:59
10 Q. And in the course of your duties in 17:27:01
11 government, did you frequently get documents with 17:27:03
12 people's signature where you didn't recognize the 17:27:06
13 signature, but you recognize the seal as being the 17:27:08
14 official seal of the entity sending the document? 17:27:11
15 A. I mainly dealt with the governmental 17:27:48
16 documents, and the governmental documents were usually 17:27:51
17 only signed, and the signature was the best guarantee 17:27:54
18 that the -- the best guarantee that this document was 17:27:58
19 signed by an authorized person. This stamp, though, 17:28:04
20 was an evidence that -- I'm sorry. The signature 17:28:08
21 itself was -- yes. 17:28:17
22 The signature in itself was a guarantee 17:28:25
23 that this document was produced within the 17:28:28
24 governmental system and it didn't need any other signs 17:28:32
25 or indications of its origin. 17:28:36

1 M. I. SIVULSKY - REDIRECT 17:28:36
2 The signatures are needed for the private 17:28:47
3 companies for them to confirm that they are operating 17:28:50
4 as the legal entities with an appropriate legal 17:28:54
5 status. 17:28:58
6 But I remember that when Mr. Rem Viakhirev 17:29:13
7 came to Kiev to resolve a number of issues and to sign 17:29:20
8 a number of documents with the government of Ukraine, 17:29:24
9 his signature was also enough, though -- because the 17:29:26
10 other side was the -- the other party to the treaty -- 17:29:35
11 to those agreements was the government of Ukraine. 17:29:39
12 MR. HOROWITZ: Okay. What I'm going to do, 17:29:41
13 if I may, is take a break. I don't need to take long. 17:29:43
14 I'd just like to call Mr. Lazarenko and see if there 17:29:47
15 is anything else that I need to cover. 17:29:49
16 MS. BOERSCH: Okay. 17:29:53
17 MR. HOROWITZ: So we may go off the record. 17:29:56
18 THE VIDEOGRAPHER: Yes. Going off the 17:29:59
19 record at 5:30 p.m. 17:30:00
20 (Recess) 17:30:07
21 THE VIDEOGRAPHER: Back on the record at 17:38:17
22 5:38 p.m. 17:38:42
23 MR. HOROWITZ: We have no further 17:38:45
24 questions. 17:38:46
25 MS. BOERSCH: I just have a couple. 17:38:50

1 M. I. SIVULSKY - RE CROSS 17:38:50
2 Looking again at that document that they 17:38:58
3 just handed you, was that marked? 17:38:59
4 MR. AGRETELIS: Yes. 17:39:03
5 MS. BOERSCH: As what? 17:39:03
6 MR. AGRETELIS: 5026. 17:39:04
7 MS. BOERSCH: 5026.

8
9

10 RE CROSS-EXAMINATION

11 BY MS. BOERSCH:

12 Q. You have never seen this document before 17:39:10
13 today you just testified? 17:39:12
14 A. No. 17:39:18
15 Q. And you didn't prepare this document? 17:39:19
16 A. Of course not. 17:39:24
17 Q. You don't recognize the signatures on that 17:39:26
18 document? 17:39:28
19 A. Of course not. 17:39:33
20 Q. And you personally can't confirm whether or 17:39:34
21 not those seals are legitimate seals or not? 17:39:36
22 A. I cannot do that. 17:39:47
23 Q. You don't have any personal knowledge of 17:39:50
24 any of the information in this document; is that 17:39:51
25 correct? 17:39:54

1 M. I. SIVULSKY - RE CROSS 17:39:54
2 MR. HOROWITZ: Objection. Overbroad and 17:40:02
3 vague as to any. 17:40:03
4 A. I have the information that there was -- 17:40:12
5 that there were no debts by the UESU Corporation, and 17:40:17
6 I knew of that debt there in 1997. And when earlier 17:40:22
7 today I was saying that the national -- well, the 17:40:41
8 state was relieved of those debts and the commercial 17:40:44
9 companies took over that debt, I meant specifically 17:40:49
10 this -- well, the situation as outlined in this 17:40:53
11 document. 17:40:57
12 BY MS. BOERSCH: 17:40:57
13 Q. Well, you didn't work at UESU, right? 17:40:58
14 MR. HOROWITZ: Objection. Vague as to 17:41:03
15 time. 17:41:04
16 A. Well, I did work in the UESU, and I was 17:41:09
17 working at the time as the director of the Kiev branch 17:41:24
18 of the corporation. I was present at the meetings 17:41:24
19 that were conducted at the corporation -- in the 17:41:25
20 corporation regarding -- or at which the payments 17:41:27
21 issues were considered. 17:41:31
22 BY MS. BOERSCH: 17:41:38
23 Q. You didn't work at -- 17:41:39
24 A. And I also get the knowledge of the 17:41:40
25 mechanism of their work, and that was a unique 17:41:43

1 M. I. SIVULSKY - RE CROSS 17:41:43
2 mechanism. 17:41:47
3 I saw it for myself that UESU was doing 17:41:54
4 the -- was pursuing the cause of the national scale 17:41:59
5 importance, and it was doing this very professionally. 17:42:08
6 Q. You didn't work as a bookkeeper at UESU, 17:42:14
7 did you? 17:42:17
8 A. I'm a financier. And though I have not 17:42:23
9 been working as the UESU accounting officer, I was 17:42:43
10 receiving the general information about the financial 17:42:49
11 situation in the corporation. And I was getting that 17:42:52
12 information, being present at the meetings, and I got 17:43:11
13 100 percent of the information on the implementation 17:43:14
14 of what was referred to as the industrial financial 17:43:17
15 plan that the company was pursuing, and I saw every 17:43:22
16 step in the company -- in the corporation's efforts to 17:43:27
17 settle the debts. 17:43:30
18 Q. You heard the information from other people 17:43:35
19 based on what other people told you, correct? 17:43:38
20 A. Yes. That information was sounded out at 17:43:53
21 the meetings and also was permanently published, or 17:43:55
22 was constantly published in the press. 17:43:59
23 Q. This document that you have never seen 17:44:02
24 before today, and that you did not prepare, you don't 17:44:04
25 know when it was prepared, correct? 17:44:06

- 1 M. I. SIVULSKY - RE CROSS 17:44:06
- 2 A. Unfortunately, not. I do not know. 17:44:19
- 3 Q. The document was not prepared in your 17:44:23
- 4 presence? 17:44:25
- 5 A. No. 17:44:27
- 6 Q. What were the dates that you worked at 17:44:39
- 7 UESU? 17:44:40
- 8 A. After I left the Cabinet of Ministers and 17:44:54
- 9 until the end of February 1997. 17:44:56
- 10 Q. So you only worked there for a month or 17:45:01
- 11 two; is that correct? 17:45:04
- 12 A. Yes. That's correct. 17:45:10
- 13 Q. So you didn't work there in January of 17:45:12
- 14 1996? 17:45:15
- 15 A. In January 1996, not. But this is the 17:45:30
- 16 document that shows the settlement of payments as of 17:45:33
- 17 January 1st, 1997. 17:45:38
- 18 Q. You didn't work there in February of 1996, 17:45:42
- 19 correct? 17:45:45
- 20 A. Certainly not. 17:45:51
- 21 Q. You didn't work there in March of 1996? 17:45:52
- 22 A. No, I did not. 17:45:59
- 23 Q. You didn't work there in April of 1996? 17:46:00
- 24 A. No. 17:46:05
- 25 Q. You didn't work there in June, or in May of 17:46:05

1 M. I. SIVULSKY - RE CROSS 17:46:05
2 1996? 17:46:07
3 A. No. 17:46:13
4 Q. You didn't work there in July of 1996? 17:46:13
5 A. No. 17:46:19
6 Q. You didn't work there in August of 1996? 17:46:20
7 A. No. 17:46:25
8 Q. You didn't work there in September of 1996? 17:46:26
9 A. No. 17:46:29
10 Q. You didn't work there in October of 1996? 17:46:30
11 A. No. 17:46:34
12 Q. Nor in November of '96? 17:46:35
13 A. In November, in fact, the decision was made 17:47:16
14 by the founders to establish the branch of the 17:47:20
15 corporation in Kiev, and since that time I was 17:47:23
16 appointed the director of the Kiev branch, but as I 17:47:29
17 continued to work at the Cabinet of Ministers, the 17:47:40
18 functions of the director were performed by the First 17:47:43
19 Deputy Director who had all appropriate authorities 17:47:48
20 and had the -- which were vested in him with a letter 17:47:51
21 of attorney. And he was taking all of the decisions. 17:48:02
22 Rather, he was making all the directives within the 17:48:06
23 branch at that time. 17:48:10
24 Q. Who was that? 17:48:11
25 A. Mr. Lutsyk Oleksandr Oleksiyovych. 17:48:15

1 M. I. SIVULSKY - RE CROSS 17:48:15
2 Q. But you did not work there in November of 17:48:19
3 1996, correct? 17:48:21
4 A. No. All director functions were performed 17:48:27
5 by Mr. Lutsyk. 17:48:33
6 Q. And you didn't work there in December of 17:48:34
7 1996? 17:48:36
8 A. I was present at the time when decisions 17:48:46
9 were made, but I was not signing any documents, 17:48:50
10 agreement, contracts, and so on. 17:48:54
11 Q. Well, you didn't work there in December of 17:48:59
12 1996? Correct. 17:49:01
13 A. In December 1996 all the director functions 17:49:17
14 were performed by Mr. Lutsyk. I only started 17:49:22
15 executing my duties in January 1997. 17:49:26
16 Q. Were you paid for your work at UESU? 17:49:33
17 A. Yes. After I was relieved from the Cabinet 17:49:45
18 of Ministers in January and in February. 17:49:49
19 Q. And how much were you paid for working at 17:49:54
20 UESU for those two months? 17:49:56
21 A. I'm -- well, to my regret, I do not 17:50:09
22 remember exactly, but it was -- well, the magnitude, 17:50:12
23 as they say, can be of about 1,000 hryvnias plus or 17:50:21
24 minus something. But I cannot remember the amount of 17:50:42
25 that. 17:50:42

1 M. I. SIVULSKY - RE CROSS 17:50:42
2 Q. Did you receive any other benefits from 17:50:42
3 UESU when you worked there? 17:50:42
4 A. None. 17:50:48
5 Q. Well, you earlier testified that you would 17:50:50
6 ask -- occasionally ask Olexandr Tymoshenko for rides 17:50:51
7 between Dnipropetrovsk and Kiev, correct? 17:50:57
8 A. The weather was extremely bad and I needed 17:51:10
9 to get in there. 17:51:13
10 Q. So there were occasional benefits that you 17:51:16
11 received from UESU in addition to your pay, correct? 17:51:19
12 MR. HOROWITZ: Objection. That 17:51:23
13 mischaracterizes his testimony. It's argumentative. 17:51:23
14 A. Oh, if you consider -- if one considers a 17:51:38
15 privilege -- a benefit; I'm sorry -- that I was given 17:51:41
16 a ride, then I did receive benefits. 17:51:45
17 MS. BOERSCH: Hold on just a second. I may 17:51:56
18 have a couple more. 17:51:57
19 BY MS. BOERSCH: 17:52:08
20 Q. And, again, you were working at UESU at the 17:52:08
21 same time you were working at the consortium, correct? 17:52:11
22 A. I worked at the Kiev branch of UESU. I 17:52:24
23 still distinguish between the notions of working in 17:52:34
24 the organization, or working for the organization. 17:52:37
25 Or in an organization and for an organization. 17:52:43

1 M. I. SIVULSKY - RE CROSS 17:52:43
2 Q. And what is that distinction? 17:52:46
3 A. The difference is that is when one works in 17:52:59
4 an organization, one works in accordance with the -- 17:53:02
5 with the given legislation. And one does not take any 17:53:07
6 steps that would not only be the -- would not only 17:53:22
7 constitute the breach of law, but hint at any breach 17:53:28
8 of law is not done. Are not done. 17:53:34
9 One can work for an organization without 17:53:41
10 working in it. The main thing is to make it so that 17:53:43
11 this organization receives any benefits or privileges, 17:53:57
12 income, revenues, and so on. I worked at the Kiev 17:54:02
13 branch, but my work was in strict correspondence to 17:54:15
14 the legislation that was in force, and it never went 17:54:18
15 out of the framework of the legislation. 17:54:23
16 The truthful nature of this statement can 17:54:41
17 be confirmed by the fact that never mind the 17:54:44
18 Prosecutor General's Office has been investigating my 17:54:49
19 activities as of the director of the Kiev branch for 17:54:52
20 six years now, they have never been able to found any 17:54:56
21 pretext to -- for litigation, yes. Pretext or any 17:55:01
22 indication of such violations. 17:55:10
23 The matter is the concrete deeds, or the 17:55:20
24 specific deeds, rather than the slogans, like if you 17:55:26
25 worked there, then you were working for this 17:55:30

1 M. I. SIVULSKY - RE CROSS 17:55:30
2 organizational structure. 17:55:39
3 Q. When was the last time you had any contact 17:55:45
4 with Yulia Tymoshenko? 17:55:47
5 MR. HOROWITZ: Oh, that's way outside the 17:55:51
6 scope of cross -- of redirect, or anything else. So I 17:55:52
7 object. 17:55:57
8 A. Speaking about the contacts, I last met her 17:56:11
9 about a couple of months ago, but I cannot say more 17:56:14
10 exactly. More precisely. 17:56:18
11 BY MS. BOERSCH: 17:56:18
12 Q. What was the purpose of that meeting? 17:56:20
13 MR. HOROWITZ: Same objection. Way outside 17:56:23
14 the scope. And also irrelevant to this deposition. 17:56:24
15 A. I continue working on the nonprofit basis 17:56:42
16 as an adviser to Ms. Tymoshenko, an adviser on the 17:56:44
17 financial issues, and she appreciates -- or she values 17:56:49
18 my professionalism. My proposals, I think, are useful 17:56:53
19 for her as for a leader -- as for the leader of the 17:57:02
20 faction. 17:57:02
21 BY MS. BOERSCH: 17:57:07
22 Q. So you continue today to work for Julia 17:57:08
23 Tymoshenko on a voluntary basis? 17:57:12
24 MR. HOROWITZ: Same objection. Outside the 17:57:15
25 scope. New area. Outside the scope of my entire 17:57:16

1 M. I. SIVULSKY - RE CROSS 17:57:16
2 exam. 17:57:20
3 A. Yes. Regardless of Mr. Poitobenko's 17:57:37
4 request at the end of 1998 when I was released from 17:57:42
5 prison to step aside from Ms. Tymoshenko, never mind 17:57:47
6 this, I didn't do that. 17:57:55
7 BY MS. BOERSCH: 17:57:55
8 Q. So how much work do you do for 17:57:57
9 Ms. Tymoshenko? 17:57:59
10 MR. HOROWITZ: Same objection. 17:58:01
11 A. In accordance with the legislation, it's 17:58:16
12 the work related to finances, to -- well, cash. 17:58:18
13 Financial turnover. And economic -- and general 17:58:27
14 economic issues. As all the economic issues in -- 17:58:34
15 well, to a larger or smaller extent are related to the 17:58:47
16 financial issues. And now it's a hot season as the 17:58:51
17 budget for the next year is being adopted. 17:59:01
18 Q. So how much time per week do you think you 17:59:04
19 spend working for Ms. Tymoshenko? 17:59:07
20 MR. HOROWITZ: Same objection. Outside the 17:59:10
21 scope of this deposition. Outside the scope of cross. 17:59:12
22 Outside the scope of redirect, and so on. 17:59:14
23 A. It differs. When it was hot to -- when 17:59:26
24 these were -- when there were hot periods, we could 17:59:36
25 work overnight, through the whole night until morning 17:59:42

1 M. I. SIVULSKY - RE CROSS 17:59:42
2 hours. Recently, once or twice a month. 17:59:47
3 Q. And do you know what Ms. Tymoshenko's 17:59:55
4 relationship is with Mr. Lazarenko? 17:59:57
5 MR. HOROWITZ: Same objection. 18:00:00
6 A. Oh, I'm not aware of any of that. 18:00:09
7 BY MS. BOERSCH: 18:00:13
8 Q. Did she ever discuss with you payments made 18:00:14
9 to Mr. Lazarenko? 18:00:25
10 MR. HOROWITZ: Same objection. Counsel, 18:00:25
11 this is so outside, it's going to open -- we're going 18:00:25
12 to be going for another couple of hours. 18:00:25
13 MS. BOERSCH: Well -- 18:00:25
14 A. No. I'm not aware of that. 18:00:30
15 BY MS. BOERSCH: 18:00:32
16 Q. So are you aware of any payments made by 18:00:33
17 UESU to Mr. Lazarenko? 18:00:35
18 MR. HOROWITZ: Same objection. Way outside 18:00:38
19 the scope. Asked and answered. 18:00:40
20 BY MS. BOERSCH: 18:00:42
21 Q. Payments made by EUSU to Lazarenko? 18:00:43
22 A. Again, nothing. I know nothing about that. 18:00:52
23 MS. BOERSCH: Nothing further. 18:01:04
24 MR. HOROWITZ: I have a few. 18:01:08
25 18:01:08

1 M. I. SIVULSKY - FURTHER REDIRECT 18:01:08
2 FURTHER REDIRECT EXAMINATION 18:01:10
3 BY MR. HOROWITZ: 18:01:10
4 Q. Is there something illegal about you 18:01:10
5 working with Ms. Tymoshenko? 18:01:12
6 MS. BOERSCH: Objection. Argumentative. 18:01:14
7 A. Nothing. 18:01:22
8 BY MR. HOROWITZ: 18:01:22
9 Q. Is there some sort of rule in Ukraine that 18:01:22
10 she's somebody that you're not allowed to work for? 18:01:27
11 MR. BOERSCH: Objection. Argumentative and 18:01:30
12 leading. 18:01:32
13 A. There is no such law. 18:01:45
14 BY MR. HOROWITZ: 18:01:45
15 Q. Does she work? Does she have a job? 18:01:46
16 A. Yes. She's the Parliamentary faction 18:01:57
17 leader, and she has the working office at Institutska 18:02:01
18 Street. 18:02:05
19 Q. She's a member of Parliament? 18:02:06
20 MS. BOERSCH: Objection. Leading. 18:02:10
21 A. Yes. 18:02:11
22 BY MR. HOROWITZ: 18:02:11
23 Q. And you work for a member of Parliament? 18:02:11
24 A. Certainly. 18:02:15
25 Q. Now, this Mr. Poitobenko, is that the man 18:02:16

1 M. I. SIVULSKY - FURTHER REDIRECT 18:02:16
2 who is the Prosecutor General of Ukraine? In the 18:02:20
3 past, I mean. 18:02:26
4 A. He was at the time when I was released from 18:02:36
5 prison, and a lot of people said that this was a rare 18:02:40
6 occasion when the Prosecutor General himself came to 18:02:43
7 the prison just to release, you know, another 18:02:49
8 prisoner. 18:02:55
9 MS. BOERSCH: Move to strike the hearsay. 18:02:55
10 Excuse me. Did you get that, Frances? 18:03:02
11 Move to strike the hearsay. 18:03:02
12 A. And he only did that to warn me in a 18:03:05
13 fatherly way, you know, paternal way, to warn me that 18:03:11
14 I would not do work for -- I would not do that any 18:03:15
15 longer. 18:03:22
16 MR. BOERSCH: I move to strike the hearsay. 18:03:23
17 BY MR. HOROWITZ: 18:03:24
18 Q. I have a question about your advice to her 18:03:25
19 that counsel talked about. 18:03:26
20 Let me withdraw that. 18:03:29
21 I have a question about your advice 18:03:30
22 presently to Ms. Tymoshenko that was addressed in some 18:03:33
23 of the prosecutor's questions. 18:03:37
24 Do you advise her on monetary policy? 18:03:51
25 A. Undoubtedly. 18:04:00

1 M. I. SIVULSKY - FURTHER REDIRECT 18:04:00
2 Q. Do you advise her on finance and economics? 18:04:02
3 A. Yes. 18:04:09
4 Q. And do you support or oppose the concept of 18:04:09
5 opening Ukraine to be a full, fair market economy? 18:04:12
6 MS. BOERSCH: Objection. Argumentative. 18:04:18
7 A. I brought my health to -- well, to the 18:04:32
8 altar for that, for that cause. All my chronic 18:04:37
9 diseases started at the time when I started working -- 18:04:42
10 I began my work for the government. 18:04:48
11 Q. And was it worth it to push forward with 18:04:51
12 this modernization to give up your health? 18:04:54
13 A. I do not regret anything, but if I had to 18:05:14
14 do it once again, I would make this same path once 18:05:17
15 again, but probably would do it more effectively, 18:05:23
16 taking into account my experience. 18:05:30
17 Q. Now, just going back to Mr. Olekselovich, 18:05:32
18 did he ever tell you that RAO Gasprom was owed any 18:05:39
19 money by UESU? 18:05:45
20 MS. BOERSCH: Objection. Hearsay. 18:05:47
21 MS. RUDENKO: You just used the patronymic 18:05:55
22 without the last name. 18:05:57
23 MR. HOROWITZ: I'm sorry. What's the last 18:05:57
24 name? 18:06:01
25 MS. MARINA: You mean this one? Lutsyk? 18:06:01

1 M. I. SIVULSKY - FURTHER REDIRECT 18:06:01
2 MR. HOROWITZ: That's the name. Thank you. 18:06:06
3 BY MR. HOROWITZ: 18:06:06
4 Q. Did he ever make that statement to you? 18:06:08
5 A. To the best of my knowledge, he didn't make 18:06:22
6 such a statement. It wouldn't -- nothing was said 18:06:24
7 about that today. 18:06:29
8 Q. And whenever you were at UESU, did you ever 18:06:31
9 see any papers that showed that in 1996 UESU owed 18:06:35
10 money to RAO Gasprom? 18:06:39
11 MS. BOERSCH: Objection. Hearsay. 18:06:53
12 A. I didn't see such documents. 18:06:55
13 MR. HOROWITZ: All right. 18:06:58
14 I'm going to see if Mr. Lazarenko has any 18:06:59
15 other questions and probably stop. All right? 18:07:02
16 MS. BOERSCH: Are we going off the record 18:07:08
17 or are we just -- 18:07:10
18 MR. HOROWITZ: Maybe we can go off the 18:07:12
19 record just a brief second. I mean you can wait here. 18:07:13
20 I mean, we can go off the record, but I won't be long. 18:07:17
21 THE VIDEOGRAPHER: Going off the record at 18:07:21
22 7 minutes past 6 p.m. 18:07:22
23 (Recess) 18:07:22
24 THE VIDEOGRAPHER: Back on record at 6:13 18:11:42
25 p.m. 18:13:11

1 M. I. SIVULSKY - FURTHER REDIRECT 18:13:11
2 MR. HOROWITZ: We have no further 18:13:14
3 questions. 18:13:14
4 MS. BOERSCH: That's all. 18:13:22
5 THE VIDEOGRAPHER: This is the end of tape 18:13:26
6 four volume one of the video deposition of Mr. Mykola 18:13:27
7 Ivanovych Sivulsky. We're going off the record now at 18:13:35
8 6:13 p.m. 18:13:36
9 THE INTERPRETER: May I turn to the 18:13:41
10 representative of the government? 18:13:42
11 MS. BOERSCH: You can always address the 18:13:44
12 representative of the government. 18:13:46
13 MR. HOROWITZ: Do you want to go on or off 18:13:51
14 the record? 18:13:52
15 MS. BOERSCH: Off the record. 18:13:54
16 (Discussion off the record)
17 (Witness excused.)
18
19 MS. BOERSCH: I just want to quickly put on
20 the record. I want to reiterate the government's
21 request that we be given all exhibits for the
22 witnesses before the witness testifies and I note for
23 the record that the government was not given one
24 exhibit until I think redirect. And the exhibit was,
25 I think, 5026.

1 M. I. SIVULSKY - FURTHER REDIRECT
2 5026.

3 I want to reiterate, as I said, a request
4 that we be given the documents in advance of the
5 witness's deposition rather than being surprised with
6 a document on redirect examination.

7 MR. HOROWITZ: I totally agree with that;
8 and just so you know, I had never seen that document
9 before today. I probably skimmed it through my
10 reading of things, but that wasn't something that I
11 had knowledge of. I had to go outside and read it,
12 and we only brought it out because you raised some
13 issue that we responded to.

14 MS. BOERSCH: Well, actually, the issue of
15 the debt was raised on the direct examination, and the
16 document could have been produced before the
17 deposition.

18 MR. HOROWITZ: I just --

19 MS. BOERSCH: I don't want to argue over
20 that, just please give us the document in advance of
21 the deposition.

22 MR. HOROWITZ: This is very important,
23 though, because if I intended to use it, I would have
24 given it to you, and there should never be any
25 question about that, so I told you exactly what

1 M. I. SIVULSKY - FURTHER REDIRECT
2 happened, and that's really how it happened, so there
3 will never be a time when I would deliberately not
4 give you something.

5 MS. BOERSCH: Good. Excellent.

6 MR. AXELROD: I think the thing I wanted to
7 address was the practical one of trying to get us the
8 documents in advance. It is now 6, whatever, time.
9 6:20. We're going to have witnesses tomorrow. I
10 don't know what exhibits you're planning on using, but
11 obviously we'll look at them, but if we can get them,
12 you know, a day in advance, that would facilitate the
13 process for everybody. So I just ask that you try to
14 do that on a going forward basis.

15 MR. HOROWITZ: You're entitled to that,
16 too, and unfortunately this examination took a lot of
17 my time, so I have got to work tonight getting that
18 ready, but I'm intending to try to be two days in
19 advance with all witnesses, so you will get that.

20 MR. AXELROD: All right. That's it.

21 MR. HOROWITZ: All right. Thank you.

22

23 (Whereupon, the deposition was concluded at 18:15:24

24 6:20 p.m.) 18:15:24

25

1

2 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

3 I, Frances P. Zahn, RPR-RMR, a Notary
 4 Public for the Commonwealth of Virginia at large, of
 5 qualification in the Circuit Court of the City of
 6 Norfolk, Virginia, and whose commission expires April
 7 30, 2007, do hereby certify that the within named
 8 deponent, MYKOLA IVANOVYCH SIVULSKY, appeared before
 9 me at the United States Embassy, in Kiev, Ukraine, as
 10 hereinbefore set forth, and after being first duly
 11 sworn by me, was thereupon examined upon his oath by
 12 counsel for the parties; that his examination was
 13 recorded in Stenotype by me and reduced to computer
 14 printout under my direction; and that the foregoing
 15 constitutes a true, accurate and complete transcript
 16 of such examination.

17 I further certify that I am not related to
 18 nor otherwise associated with any counsel or party to
 19 this proceeding, nor otherwise interested in the event
 20 thereof.

21 Given under my hand and notarial seal this
 22 ___ day of November, 2003, at Norfolk, Virginia.

23

24 -----

25 Notary Public