

DISCOVERY IN AID OF A FOREIGN PROCEEDING AND FREEDOM OF INFORMATION ACT

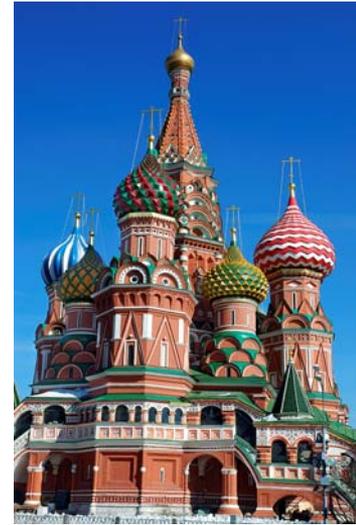
PRESENTATION BY **BRUCE S. MARKS**



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**BAKU, AZERBAIJAN
JUNE 20-22, 2007**



28 U.S.C. § 1782

§ 1782. Assistance to foreign and international tribunals and to litigants before such tribunals

(a) The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court. By virtue of his appointment, the person appointed has power to administer any necessary oath and take the testimony or statement. The order may prescribe the practice and procedure, which may be in whole or part the practice and procedure of the foreign country or the international tribunal, for taking the testimony or statement or producing the document or other thing. To the extent that the order does not prescribe otherwise, the testimony or statement shall be taken, and the document or other thing produced, in accordance with the Federal Rules of Civil Procedure.

A person may not be compelled to give his testimony or statement or to produce a document or other thing in violation of any legally applicable privilege.

INTERESTED PERSONS



ASSISTANCE TO FOREIGN AND INTERNATIONAL TRIBUNALS AND TO LITIGANTS BEFORE SUCH TRIBUNALS



COURT
Proceedings



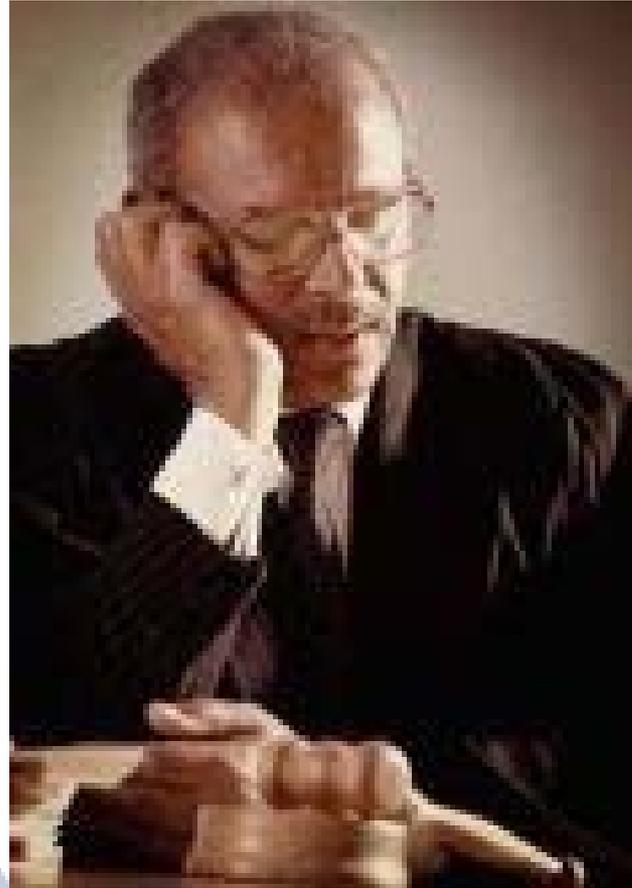
ADMINISTRATIVE
Proceedings



ARBITRATION



NO REQUIREMENT THAT EVIDENCE BE ADMISSIBLE IN FOREIGN PROCEEDING



FOUND IN THE DISTRICT



DOCUMENTS ARE DISCOVERABLE

OUTSIDE U.S.
MAYBE

INSIDE U.S.
YES



5 U.S.C. § 552 (2) AND (3)

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying--

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register;

(C) administrative staff manuals and instructions to staff that affect a member of the public;

(D) copies of all records, regardless of form or format, which have been released to any person under paragraph (3) and which, because of the nature of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(E) a general index of the records referred to under subparagraph (D);

(3) (A) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, and except as provided in subparagraph (E), each agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(B) In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.

(C) In responding under this paragraph to a request for records, an agency shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(D) For purposes of this paragraph, the term "search" means to review, manually or by automated means, agency records for the purpose of locating those records which are responsive to a request.

(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 ([50 U.S.C. 401a\(4\)](#))) shall not make any record available under this paragraph to--

(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or

(ii) a representative of a government entity described in clause (i).

CIA



Central Intelligence Agency



Washington, D.C. 20505

JUL 12 2006

John M. Mason, Esq.
Marks & Sokolov
1835 Market Street, 28th Floor
Philadelphia, PA 19103

Reference: F-2003-00964

Dear Mr. Mason:

This is in response to your letter dated 15 October 2003 in which you appealed the 2 September 2003 determination of this Agency in response to your Freedom of Information Act (FOIA) request to the Export Import Bank for documents related to allegations of violations of Russian laws by TNK. The Export Import Bank located one CIA document and referred it to us for review and direct response to you. Specifically, you appealed our determination to deny you access to portions of one document on the basis of FOIA exemptions (b)(1) and (b)(3).

We have determined that the withheld portion of the document may be released. Therefore, in accordance with Agency regulations, the Agency Release Panel has granted your appeal. For your information, Agency regulations are set forth in part 1900 and part 1901 of title 32, of the Code of Federal Regulations.

A copy of the document as approved for release is enclosed.

Sincerely,

Scott Koch
Executive Secretary
Agency Release Panel

RECEIVED JUL 19 2006



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others

Alleged Violations in the Chernogorneft Bankruptcy Process

- TNK President Kukes said that he bribed local officials.
- Sputnik said that they were not permitted to participate in the Chernogorneft auction. They said that Chernogorneft did not provide them with the proper materials needed to bid on the auction.
- Following an appeal by Sputnik to the Nizhnevartovsk court, the court on 23 November granted an injunction stopping the Chernogorneft sale. The same court reversed itself two days later.
- Sidanko shareholders tried to stop the auction by filing suits in several Russian courts. Sidanko shareholders said that the auction organizers' armed guards did not allow bailiffs to deliver court orders postponing the sale from Moscow and Kemerovo district courts.
- Although the mechanics of the Chernogorneft auction did comply with the letter of the Russian law, according to a Russian company that examined the procedure, some aspects of the sale seem questionable.
 - Tyumen's winning bid of \$176 million—about one-third of Chernogorneft's value according to oil analysts—was below the starting price of \$200 million but well above the minimum allowable bid of \$104 million.
 - Two of the four bidders did not appear to have the financial resources to participate. Neftegaz is a tiny oil firm that produces 0.1 of Russia's total oil and gas condensate, and another participant was a bank that the Central Bank had decided to allow to go bankrupt.
- The Federal Service for Financial Reconstruction and Bankruptcy (FSFO) revoked Gorshkov's license as bankruptcy manager, but an arbitration court in Moscow set aside the FSFO order. In October, head of the FSFO Georgiy Tal appealed the decision to the Supreme Arbitration Court and asked for revocation of the original order installing external management in Sidanko.
- Former trustee manager at Sidanko, Sergey Kitin, disputed the legitimacy of a creditors meeting where Gorshkov was nominated for external manager at Chernogorneft. An arbitration court in Khanty-Mansiysk named Gorshkov the manager in August. Kitin argues that former manager at Chernogorneft, Vasily Bikin, altered the register of creditors of Chernogorneft. The EBRD appealed the registry ruling to then-Premier Stepashin.

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APPROVED FOR RELEASE
DATE: JUN 2006