

Friday, 18 November 2011

(1.30 pm)

MRS JUSTICE GLOSTER: Yes.

MR SUMPTION: My Lady, three short procedural points. First of all, Mr Stanley is here on behalf of Mr Deripaska, sitting behind me, primarily as I understand it with a view to protecting his interests on privilege.

MRS JUSTICE GLOSTER: Right.

MR SUMPTION: It is common ground, as I understand it, that the matters ventilated in the two memoranda that your Ladyship has received will not need to be attended to this afternoon.

MRS JUSTICE GLOSTER: No.

MR SUMPTION: Secondly, your Ladyship has I think been given the letter from Quinn Emanuel explaining why it is that Mr Deripaska has had to give evidence by video-link. Plainly if he had been able to he would have preferred to be here, but these things happen.

MRS JUSTICE GLOSTER: Yes. I've got that, but I've not got it with me, I've just left it on my desk. I don't think I need it. I've read it.

MR SUMPTION: I don't think the details matter. It was a matter of courtesy for your Ladyship.

There is, or there has been, a question about one of the translators who apparently has some involvement as

an expert in other litigation in which Mr Deripaska is engaged. We don't want to have an argument about that. The simplest approach seemed to be to approach Mr Prokofiev, the other translator, and to ask him whether it was feasible for him to do the whole of the translation for Mr Deripaska. He has said that it is but on the understanding that, if he feels that he is getting, in his own word, overheated, he will be at liberty to signal the fact to your Ladyship and we will have a break.

MRS JUSTICE GLOSTER: Yes, you can certainly do that,

Mr Prokofiev, thank you. Thank you for your assistance.

MR SUMPTION: My Lady, I call at a distance of 3,000 miles Mr Deripaska.

MR RABINOWITZ: My Lady, before we take Mr Deripaska, can I just deal with an issue that arose yesterday in the context of Mr Sumption's re-examination of Mr Tenenbaum. Your Ladyship will recall that there was some question about the date upon which Rusal Holding was incorporated and the bearer shares in the BVI companies transferred into the new holding structure. Your Ladyship may recall that you asked to be clear on the dates, that was Day 28, page 140, line 9.

MRS JUSTICE GLOSTER: Yes, I remember that.

MR RABINOWITZ: My Lady, this is in fact dealt with in some

detail in Ms Panchenko's second witness statement,  
I don't propose to turn it up now. The references are  
at paragraphs 111 to 113, E2, tab 7, page 194  
E2/07/194.

In summary, Ms Panchenko confirms that although  
Rusal Holding Limited was incorporated on 7 May 2003, it  
wasn't until 29 September 2003 that the relevant share  
transfers took place, and it follows that, as at  
25 August 2003, the date of the meeting recorded in the  
Curtis notes, the shares in Rusal were still held by the  
six BVI bearer share companies. Your Ladyship can see  
that in her evidence.

MRS JUSTICE GLOSTER: Right, thank you. That's helpful.

Right, is the video-link on or is it muted?

MR RABINOWITZ: I'm told he doesn't want to see me, he only  
wants to see your Ladyship. I don't mind that.

MRS JUSTICE GLOSTER: Right. It's been ascertained that the  
witness can hear the court, has it?

MR SUMPTION: Perhaps we can confirm that.

Mr Deripaska, can you hear us?

MR DERIPASKA: Yes.

MRS JUSTICE GLOSTER: Let the witness be sworn then, please.

MR OLEG DERIPASKA (affirmed)

MRS JUSTICE GLOSTER: Yes, Mr Sumption.

Examination-in-chief by MR SUMPTION

MR SUMPTION: Good afternoon, Mr Deripaska, or good morning where you are. My name is Jonathan Sumption and I appear for Mr Abramovich.

I wonder if you can -- do you have your witness statement there?

A. Yes, indeed.

Q. Is that a witness statement dated 8 July 2011 which is signed by you on the fourth page of the statement?

A. It is indeed.

Q. Is that statement true, Mr Deripaska?

A. It does -- it is.

MR SUMPTION: Thank you. There will now be some questions.

Cross-examination by MR MALEK

MR MALEK: Mr Deripaska, my name is Ali Malek, I appear on behalf of Mr Anisimov. I've got one question for you, or a couple of questions in fact.

Could you please be provided with bundle F1. Do you have bundle F1 in front of you?

A. I can see it on the screen but it would be much better to have it in hard copy.

Q. I'm sorry, Mr Deripaska, I thought that a hard copy was available.

A. What I'm saying is I can see it on the screen but it would be much better for me to have the hard copy.

Q. I don't know whether one is available. Apparently it's

not, and so could I ask you then to turn on screen to bundle F1, 01, at 47 F1/01/47. Please tell me once that passage appears in front of you.

The English equivalent, for those following in the English, is at F1/01/19.

Mr Deripaska, is it in front of you now?

A. Yes, I have some text now.

Q. Thank you. This is part of the witness statement of Mr Anisimov in these proceedings, and what I'd like you to do, Mr Deripaska, is read paragraph 71 to yourself and, when you've done that, please tell us. (Pause)

A. Yes, I have read this.

Q. Mr Anisimov refers to a couple of discussions with you. The first one is in which you asked whether Badri, Mr Patarkatsishvili was the only principal involved.

Can you tell us whether you agree or disagree that you had a discussion with Mr Anisimov on this matter?

A. I have no recollection of that.

Q. And then the second point that he makes in his witness statement, which you will see in paragraph 71, where he says:

"I recall that I told Mr Deripaska that I would confirm the position with Mr Patarkatsishvili who assured me that Berezovsky was not anywhere near the deal, and I duly informed Mr Deripaska of this fact."

My question, Mr Deripaska, is do you recall having a discussion with Mr Anisimov to that effect?

A. I have already answered that question.

Q. And the answer is that you do not recall having a discussion?

A. That is correct.

MR MALEK: I've no further questions.

MRS JUSTICE GLOSTER: Yes, Mr Rabinowitz.

Cross-examination by MR RABINOWITZ

MR RABINOWITZ: Good morning, Mr Deripaska. My name is Laurence Rabinowitz and I'm counsel for Mr Berezovsky in this case.

A. Good morning.

Q. Mr Deripaska, in paragraph 1 of your witness statement 04/08/150, you indicate that you became the first CEO of Rusal in accordance with the preliminary agreement of February 2000, that you agreed with Mr Abramovich, is that right?

A. Yes, together with Mr --

THE INTERPRETER: I'm so sorry, my Lady, I was telling Mr Deripaska that I can hardly hear him.

A. I, together with Mr Abramovich, put together -- I created Rusal together with him and I became the first general director of that company.

MR RABINOWITZ: Can Mr Deripaska please be given

bundle H(A)16 opened at page 47 in the Russian  
H(A)16/47, 47T in the English H(A)16/47T.

Do you have that document in front of you,  
Mr Deripaska?

THE INTERPRETER: I'm afraid I cannot hear Mr Deripaska.

MR RABINOWITZ: He said "da".

THE INTERPRETER: He said "da", but I could hear it from the  
room, not from the feed. I cannot hear him.

A. Yes, I can see that document.

MR RABINOWITZ: Now, you see that this document is described  
as a preliminary agreement but it is undated,  
Mr Deripaska?

Can you confirm that this is the agreement that you  
have referred to as the preliminary agreement  
of February 2000?

A. Yes, it is.

Q. Mr Abramovich's evidence is that this agreement was  
concluded in early March 2000. What is your best  
recollection of when this agreement was signed and  
concluded?

A. It was in early March.

Q. So the agreement that you call the preliminary agreement  
of February 2000 is in fact a March 2000 agreement, is  
that right?

A. This document was signed in early March.

Q. Now, I want to ask you first about your relationship with Mr Abramovich. You became business partners with Mr Abramovich in March 2000 in relation to Rusal, that is correct, is it not?

A. Not, it is not. Not entirely, not exactly.

Q. That is what you say at paragraph 6 of your own witness statement, Mr Deripaska E4/08/151.

THE INTERPRETER: I'm so sorry.

A. You're not entirely correct in the sense that Rusal was incorporated a little bit later.

Q. You also went into other business ventures with Mr Abramovich, did you not?

A. Yes, later we incorporated several joint businesses. We created them.

MRS JUSTICE GLOSTER: Mr Deripaska, it would assist me if you could look at me when you're giving your answers. If that means you have to move your chair, please do so. Thank you.

MR RABINOWITZ: Can you identify for us, please, the several joint businesses that you say you created with Mr Abramovich, please.

A. My apologies, my Lady, but I need to speak much closer to the microphone so I will need to lean towards the microphone.

MRS JUSTICE GLOSTER: That's fine.



A. Those were an energy joint business and in automobile construction.

MR RABINOWITZ: And in the process, did you become friends with Mr Abramovich?

A. Yes.

Q. Would you regard Mr Abramovich as a friend now?

A. Yes.

Q. Turning to Mr Berezovsky then, is it correct that by March 2000, you disliked him?

A. Mr Berezovsky owed me a large amount of money for a sufficiently long period of time and he was in no hurry to repay, and also he did not fulfil or perform the obligations that, by that time, he had assumed, and he had not fully performed those.

Q. Is the answer to my question, Mr Deripaska, that by March 2000 you therefore disliked Mr Berezovsky?

A. I have answered your question in the way in which I answered it.

Q. Can you answer it in the way in which I've asked it, please.

Is it fair to say that by March 2000 you disliked Mr Berezovsky?

A. Yes.

Q. And is that still your attitude to Mr Berezovsky?

A. At this point in time, he's absolutely indifferent to

me.

Q. Now, at paragraph 4 of your witness statement, Mr Deripaska, that's at page 151 for those here E4/08/151, you refer to the claim that Mr Chernoi has brought against you, and I understand your sensitivity about not wanting this trial to trespass on matters in dispute in that claim, and to the extent that I can avoid doing so, I will avoid doing so. But I would like to ask just a few questions about the nature of the claim being made in that action, Mr Deripaska.

Mr Deripaska, it is correct, is it not, that in that action Mr Chernoi claims that he was your partner in SibAl, the Russian aluminium company? That is the allegation, is it not?

A. I would like to ask my Lady whether or not -- I would like to ask my Lady whether I have to answer these questions because this question will be addressed in court a little bit later.

MRS JUSTICE GLOSTER: You have to answer questions that are in the public domain. I will take each question one by one and decide whether you have to answer it, okay?

In this question, you're just being asked about whether, in general terms, that is the allegation that Mr Chernoi is making against you. Russian aluminium

A. Thank you, my Lady. Then, with your permission, I would

like to ask for the question to be repeated.

MRS JUSTICE GLOSTER: Yes. Put the question again,  
Mr Rabinowitz.

MR RABINOWITZ: It is correct, is it not, Mr Deripaska, that  
in that action, Mr Chernoi claims that he was your  
partner in SibAl, the Russian aluminium company? That  
is what he alleges, is it not?

A. Yes, he's trying to portray the matter in exactly that  
way.

Q. Does he also claim that, upon the merger of SibAl's  
assets, with those that he says were contributed by  
Mr Abramovich, Mr Patarkatsishvili and Mr Berezovsky to  
create Rusal, he became entitled to 40 per cent of your  
50 per cent interest in Rusal?

A. I do not believe that he really understands what he's  
talking about, but he is attempting to bring the matter  
around to exactly that.

MRS JUSTICE GLOSTER: Mr Deripaska, if your barrister  
objects to any of the questions that Mr Rabinowitz is  
putting to you, he will get up and object. Okay?

MR RABINOWITZ: And is it right that Mr Chernoi's claim is  
for around \$4.35 billion?

A. I've not seen that.

Q. Well, according to a judgment produced by Mr Justice  
Christopher Clarke, that is what he has described as

being the value of the claim, Mr Deripaska.

It is correct, is it not, that the meeting at the Dorchester Hotel on 13 March 2000 features in the claim that Mr Chernoi brings against you?

MR STANLEY: My Lady, I only rise to say --

A. I do not recall that --

MRS JUSTICE GLOSTER: Just a second.

MR STANLEY: When we get to this point of detail, unless Mr Rabinowitz has a document to show Mr Deripaska about it, he should bear in mind Mr Deripaska may not have that sort of detail at his fingertips.

MR RABINOWITZ: It's a central part of the claim but let's just see if he remembers it, my Lady.

MRS JUSTICE GLOSTER: Mr Rabinowitz, again, I don't want to go into the detail of the claim by Mr Chernoi against Mr Deripaska because I can't see its relevance, but if you're referring to a particular paragraph in a particular pleading or case statement, then put it by all means.

MR RABINOWITZ: Well, this is a part of that claim, my Lady, and what I'd like to do is to see whether Mr Deripaska acknowledges that this is part of the claim.

MRS JUSTICE GLOSTER: Is it part of the evidence supporting the claim?

MR RABINOWITZ: It's part of Mr Justice Christopher Clarke's

judgment where he describes this and explains its relevance.

MRS JUSTICE GLOSTER: Do you have a copy of that?

MR RABINOWITZ: We've all got a copy of that. That's at bundle O2/5, tab 79, at paragraph 82 O2/5.079/20. It's page 20 of the bundle, internal page 352.

MRS JUSTICE GLOSTER: When you say internal page 352, do you mean 352 in the printed copy of the --

MR RABINOWITZ: In the printed copy. I think it's page 20 of Magnum.

MRS JUSTICE GLOSTER: What is the context of this judgment, Mr Rabinowitz, please?

MR RABINOWITZ: This is the jurisdiction judgment.

MRS JUSTICE GLOSTER: Right. Continue.

MR RABINOWITZ: It is correct, is it not, Mr Deripaska, that the meeting at the Dorchester Hotel on 13 March features in the claim Mr Chernoi brings against you?

A. I do not recall that.

Q. Well, I can tell you, Mr Deripaska, and perhaps you remember this, that it's right, is it not, that in the course of Mr Chernoi's application to serve his claim against you out of the jurisdiction, Mr Berezovsky gave evidence on behalf of Mr Chernoi? That's right, isn't it?

A. Yes.

Q. And Mr Berezovsky's evidence, served on behalf of Mr Chernoi, was that at the Dorchester meeting and thereafter you did not hide the fact that Mr Chernoi was your partner. That's correct, is it not?

MRS JUSTICE GLOSTER: Well, I think you've got to be clear that what you're putting to the witness is that that was the evidence given by Mr Berezovsky rather than suggesting to the witness that that is the case, ie that Mr Deripaska did not hide the fact that Mr Chernoi was your partner.

MR RABINOWITZ: I thought I had, my Lady, but I'll try to rephrase it.

Mr Berezovsky's evidence is that, at the Dorchester Hotel meeting and thereafter, you did not hide the fact that Mr Chernoi was your partner. That is his evidence, is it not?

A. Mr Rabinowitz is counsel for Mr Berezovsky and I'm sure he understands correctly that this is his evidence. Now, so far as I'm concerned, this is totally untrue. Emphatically untrue.

Q. We understand that that is what you say, Mr Deripaska.

It is also the case, is it not, that Mr Berezovsky has been named by Mr Chernoi as one of the ten witnesses that he intends to call in his litigation early next year, one of the witnesses to give evidence at that

trial?

- A. It's difficult for me to comment in any way because, to be honest, it appeared to me that I would be providing evidence with respect to the Abramovich proceedings, and I did not really prepare for such a wide-ranging consideration of matters, to be honest with you.

But I want to say that I do not know who and how will be summoned by the court within the framework of the proceedings that will take place in April.

- Q. On the basis of the fact that Mr Berezovsky has already given evidence in your proceedings, Mr Deripaska, you would anticipate, would you not, that Mr Berezovsky will be giving evidence for Mr Chernoi at this trial in which the Dorchester Hotel meeting is likely, once again, to feature?

- A. I would not like to speculate.

- Q. You see, I suggest that you are well aware, Mr Deripaska, that Mr Berezovsky is to be one of Mr Chernoi's witnesses and that, unless he goes back on his earlier evidence, he will be referring to the Dorchester Hotel meeting at which you and he were both present, and he will be giving evidence which will be supportive of Mr Chernoi. That is right, is it not?

- A. My answer remains unchanged.

- Q. You see, Mr Deripaska, even though you say at

paragraph 4 of your witness statement E4/08/151 that Mr Chernoi's claim against you is not relevant to this case, I suggest it is really rather clear that you have a real personal financial interest in seeking to show that Mr Berezovsky's account of the Dorchester Hotel meeting is wrong. That is right, is it not?

A. At this point in time, my position is to speak the truth and only the truth.

Q. You see, I suggest, Mr Deripaska, that you obviously understand that your position in your own litigation, that is your litigation with Mr Chernoi, would be strengthened if Mr Berezovsky's evidence as regards the Dorchester Hotel meeting were rejected and his credibility impugned. That is right, is it not?

A. I believe that if someone does not say the truth, that will remain untrue no matter how much fancy verbal footwork that person uses for that.

Q. Mr Deripaska, I want to ask you some questions about the events leading up to the Dorchester Hotel meeting on 13 March 2000, but before I do that, can I just make sure I understand your evidence as to what you say was or was not discussed at the Dorchester Hotel meeting.

Now, do I understand it to be your evidence that at the meeting at the Dorchester Hotel there was no discussion by Mr Abramovich and you of the merger of the



aluminium assets that you had agreed about in the preliminary agreement?

A. Could you kindly repeat your question?

Q. Do I understand it to be your evidence that at the meeting at the Dorchester Hotel there was no discussion by Mr Abramovich and you of the merger of the aluminium assets that you had agreed in the preliminary agreement?

A. My agreements with Mr Abramovich were reached more than a week prior to that.

Q. Can you answer my question, Mr Deripaska.

Do I understand it to be your evidence that at the meeting at the Dorchester Hotel there was no discussion by Mr Abramovich and you of the merger of the aluminium assets that you had agreed in the preliminary agreement?

A. Would you like to read out my evidence to me and I will repeat my evidence.

Q. Do you have any recollection of this at all, Mr Deripaska?

A. I do recall that we did not discuss the matters related to the merger of the assets in the course of the Dorchester Hotel meeting.

Q. And you are sure about that, are you?

A. I'm sure, based on the fact that all the main matters related to the merger of the assets had been discussed and agreed upon one week prior to that.

Q. Very well.

Now, Mr Deripaska, I want to go back in time a little bit to ask you a few questions about the events prior to the Dorchester Hotel meeting. Can you tell me, to the best of your recollection, when did you first learn that Mr Abramovich was purchasing the aluminium assets at KrAZ, Bratsk and Achinsk?

A. Most likely in the first half of February.

Q. Can I ask that you please be provided with bundle H(A)17, opened at page 33, please H(A)17/33. There is a Russian version of this at page 38, Mr Deripaska H(A)17/38.

Do you have that document, Mr Deripaska?

A. What I can see is the 10 February 2000 contract.

Q. Although it is dated 10 February, Mr Abramovich says that it was backdated from 15 February. And under this contract, Mr Deripaska, Mr Abramovich, Mr Shvidler and Mr Patarkatsishvili, if you look at the first line, are described as "Party 1", do you see that?

A. Yes.

Q. They are said to acquire, from the persons described as parties 2 to 5, various interests in KrAZ, Bratsk and Achinsk.

Can I ask you to look at clauses 4 and 5 of this contract, please. (Pause)

Have you read clauses 4 and 5?

A. Yes.

Q. Now, have you seen this agreement before, Mr Deripaska?

A. I saw -- I first saw this contract about two weeks ago.

Q. In what context were you shown this contract two weeks ago, Mr Deripaska?

A. My lawyers gave them to me as a bundle of materials in the run-up to my witness statement today.

MR STANLEY: My Lady, it might be desirable to remind

Mr Deripaska that he doesn't have to provide evidence as to --

THE INTERPRETER: I'm so sorry, my Lady, I can't hear the counsel.

MR STANLEY: I'm sorry, that he doesn't have to discuss anything that he's discussed with his lawyers. It didn't stop at that point, and I don't think it's gone too far so far, but he's not obliged to give evidence as to what he's discussed with his lawyers.

MRS JUSTICE GLOSTER: I will remind him.

Mr Deripaska, you are not obliged to give any evidence relating to discussions which you have had with your lawyers. It was legitimate for Mr Rabinowitz to ask what the context was in which you first saw this document, but you don't have to give any evidence about what you discussed with your lawyers or what advice or

information they gave you.

Yes, Mr Rabinowitz.

MR RABINOWITZ: Thank you.

In the discussions you had with Mr Abramovich leading up to the merger of your aluminium assets in March 2000, I take it that Mr Abramovich would have told you about this agreement even if he did not show it to you, is that right?

A. Mr Abramovich assured me that he had purchased those assets.

Q. Now, you tell us that you first learnt of the acquisition of these aluminium assets some time in February, is that right?

A. Yes.

Q. And the acquisition or the proposed acquisition of these assets was a matter also widely reported in the newspapers in February 2000, do you remember that?

A. It's hard for me to recollect what took place ten years ago.

Q. Very well. Well, I'll show you one or two of those newspaper reports about this, Mr Deripaska.

Can you go to bundle H(A)18 at page 14, please H(A)18/14.

Have you been given that, Mr Deripaska?

A. There is material from The Moscow Times.com here.

Q. Thank you.

It's an article dated 12 February, and can you see that the title of the article is:

"Berezovsky & Co Buy Up 3 Smelters", Mr Deripaska?

A. Yes.

Q. And do you see the first paragraph which says:

"In what looks to be a power play to buy a large slice of Russia's aluminium industry, it was announced Friday that three major aluminium producers have been snapped up by companies with firm ties to tycoon Boris Berezovsky."

Do you see that?

A. Yes.

Q. And you would have been aware of reports such as this at the time, in February 2000?

A. It's difficult to recollect what happened ten years ago and, therefore, my answer remains unchanged. I do not remember.

Q. I'm going to show you, if I may, just one or two short articles, Mr Deripaska, in the hope that it will trigger some recollection for you.

Can you go next, please, in the same bundle to page 36 H(A)18/36.

Do you have that yet, Mr Deripaska?

A. (Untranslated).

Q. It sounds like you have the right one. It's an article from Vedomosti on 17 February 2000.

THE INTERPRETER: I'm so sorry, my Lady, I think I just pressed the wrong button and I missed it, I did not translate what Mr Deripaska said.

A. It says -- it says that -- what it says here is:

"Aluminium for half a billion.

"Abramovich is buying the company as well, creating a gigantic holding company."

And this is what I see [said Mr Deripaska. My apologies].

MRS JUSTICE GLOSTER: Thank you.

Ask the question again, please, Mr Rabinowitz.

MR RABINOWITZ: It's an article from Vedomosti dated 17 February 2000 and, Mr Deripaska, the first bold paragraph says this:

"'Vedomosti' has managed to break through the information blockade surrounding the change of ownership at the Bratsk Aluminium Factory and the whole aluminium complex of the Krasnoyarsk Territory. Yesterday direct participants in the negotiations with the shareholders of 'Sibneft' Oil Company, the purchasers of these enterprises, talked about some of the details of the transaction."

Then just following that, the journalist,

Ms Rozhkova says:

"We have managed to find out that Roman Abramovich and his partners are planning to build a gigantic vertically integrated [plant]."

Do you see, Mr Deripaska, that Ms Rozhkova is reporting this as an acquisition by Mr Abramovich and his partners?

A. So what's your question?

Q. Do you see that?

A. What I can see is the article and I see what it says.

I do not recall what it writes about, I do not recall that information and, for me, it really seems a little bit laughable, you know, all the information that is described here.

Q. Okay. I'm going to show you one last article, Mr Deripaska, in the hope that this will assist your recollection. Can you go, please, to page 51 H(A)18/51. This is another article which appeared at the time, this one in the American Metal Market journal. Can I ask you to look at the first three paragraphs.

Would it help if I read it out or do you want to read it to yourself?

A. Please read it out.

Q. Very well.

"Three major Russian aluminium producers have been

bought up in less than a week by oil giant Sibneft in what looks like another major power play involving two of the country's most powerful businessmen -- oil tycoon Boris Berezovsky and State Duma Deputy Roman Abramovich.

"A Sibneft spokesman announced that Sibneft had acquired controlling stakes in the Krasnoyarsk KrAZ) and Bratsk aluminium plants from British metals trader Trans World Group. The two smelters, along with the Sayansk smelter, produce 70 per cent of Russia's aluminium.

"Dmitry Bosov, spokesman for Lev and Mikhail Chyorny, major shareholders in Bratsk and until recently leading figures at Trans World Group, confirmed that TWG had transferred its controlling stakes in the Krasnoyarsk and Bratsk aluminium plants to Sibneft shareholders."

A. I do not recall that article.

Q. Mr Deripaska, you were really steeped in the Russian aluminium business at the time, were you not?

I'll put that slightly differently. You were deeply involved in the Russian aluminium industry at the time, were you not?

A. Well, I can help you by saying that, by that time, I had created a rather successful group, Sibirsky Alyuminiy, which employed over 17,000 people.



Q. You were one of the leading players in the Russian aluminium industry at that time, were you not?

A. Yes, I was the person who had created and was managing the company that was at the cutting edge of the Russian aluminium industry.

Q. Do you seriously say that you were unaware of all the newspaper and industry reports suggesting that Mr Berezovsky had acquired these aluminium industry interests with Mr Abramovich?

Or do you say you really can't recall.

A. What I want to say is that out of the three materials that have been referenced, two are in rather a cul de sac kind of situation. It's really different to find them unless you really scour the internet.

Vedomosti, as a press outlet, is something that I do not trust in terms of the quality of its materials even today, and therefore I would have hardly been reviewing those materials even in those days.

Q. Would you have been reviewing the Financial Times, Mr Deripaska, or would you say that is also something which would not attract your attention?

A. Financial Times at that time was not received by us at regular intervals. We did not have regular sight of that newspaper in those years.

Q. You see, Mr Deripaska, what I would suggest to you is

that you were fully aware at this time that Mr Abramovich had acquired the aluminium assets with partners and that those partners included Mr Berezovsky. And that is right, is it not?

A. You are mistaken.

Q. Very well.

Can I then move on to the meetings that you had with Mr Abramovich which led to what you have called the preliminary agreement of February 2000. Can you recall the first occasion on which you and Mr Abramovich met, when you discussed a possible merger of your aluminium assets?

A. The meeting -- could you be more specific, please, because I believe there is one inaccuracy in your question. Would you mind repeating, please?

Q. If you identify for me the inaccuracy I can eliminate it when I ask you the question again.

What do you say was inaccurate?

A. I'm just asking you to repeat the question, please.

Q. Very well.

I want to ask you whether you recall the first occasion on which you and Mr Abramovich met to discuss a possible merger of the aluminium assets?

A. Yes.

Q. And can you tell me where that was?

- A. We were meeting in order to discuss the merger of aluminium assets, which were problem assets, and which, in that problem condition, had been purchased by Mr Abramovich at the Baltschug Kempinski Hotel.
- Q. Can you tell me who was involved in those talks? Was it just you and Mr Abramovich or were other people involved as well?
- A. Mr Bulygin was there with me and, on Mr Abramovich's side, there was Mr Shvidler.
- Q. And in the course of the meetings that you had with Mr Bulygin, Mr Shvidler and Mr Abramovich, did you agree the key terms of the merger that you were discussing?
- A. In the course of which meetings?
- Q. Well, you have described a meeting in the Kempinski Hotel. Mr Abramovich's evidence is that --
- A. I was speaking about the meeting, not numerous meetings in the plural. It was -- the meeting to which I was making reference did take place at the Baltschug Hotel.
- You're asking me about meetings in the plural and that's why I'm trying to be clear. I'm asking you to confirm what meetings you are referring to.
- Q. And I will do that for you, Mr Deripaska.
- Mr Abramovich's evidence is that, after you met at the --
- A. And also, if I may, I would like to correct the

transcript that I can see here.

Q. Is that a transcript in English, Mr Deripaska?

A. Yes.

MRS JUSTICE GLOSTER: Yes, you may correct the transcript.

A. The name of the hotel is Baltschug Kempinski.

MR RABINOWITZ: Mr Deripaska, thank you. Things like that will be picked up by the transcript writers so don't worry about that sort of point.

You asked me to clarify the meetings.

Mr Abramovich's evidence is that the meeting started at the Baltschug Hotel, Kempinski Hotel, and then carried on at his house, Mr Abramovich's house, at Sareevo Village in Moscow, straight after the Baltschug Hotel meeting. Is that your evidence as well?

A. Our meeting at the Baltschug Hotel finished in the early hours of the morning so I went to get some sleep, and it was not before late in the afternoon of the next day that we met with Mr Abramovich at his place in order to sign our agreement.

Q. I follow. So is it your evidence that the meeting at the Baltschug Hotel broke up late at night and then the meeting reconvened during the day the following day?

A. Well, if this is your understanding in English then that's right. But for me it was a different meeting, a distinct meeting.

Q. I'm grateful for that, Mr Deripaska.

And is it right then that Mr Bulygin also left the Baltschug Kempinski Hotel and reconvened the following day at Mr Abramovich's home in Sareevo Village?

A. Yes. The meeting finished, Mr Bulygin and myself and also Shvidler and Abramovich left Kempinski and went our separate ways.

Q. And then reconvened the following day at Mr Abramovich's home, correct?

A. Correct, outside of the city, in the suburbs.

Q. And by the end of the reconvened meeting at Mr Abramovich's home, do you agree that the key terms of the merger had been agreed?

A. Well, I believe that you are mistaken in the sense that it was agreed the next day. I tried to finalise all the negotiations while we were still meeting at the Baltschug, and next day we reconvened to sign the document that had been prepared by Alexander Bulygin.

Q. And is it the case that the key terms, which you say you'd agreed at the Baltschug Hotel -- sorry, that you were keen to have those key terms put into a written document straightaway?

A. Could you kindly repeat your question?

Q. Is it the case that the key terms having been agreed, you were keen to have those terms put into a written

document straightaway?

- A. Well, if it's not inconsistent with what I have just said, I would like to repeat that we agreed on the merger of part of the assets that had been declared by Abramovich as the assets that he had purchased in order to create a joint business, and that was in the Baltschug -- at the Baltschug.
- Q. Yes, but that's not the question I asked you, Mr Deripaska. My question to you was: is it the case that you were keen to have those terms put into a written document as soon as possible?
- A. In principle, yes.
- Q. Well, was it not because you were keen to have the written documents -- sorry, you were keen to have these terms put into a written document as soon as possible that Mr Bulygin prepared the document on his laptop while you were at the meeting?
- A. This is not the case.
- Q. Can you tell me what you say the case is then, please?
- A. Bulygin prepared the document the next day.
- Q. Are you saying he prepared it between the Kempinski Hotel meeting and meeting again at Mr Abramovich's house the following day?
- A. I believe that now you're right. You are now referring to two meetings.

- Q. Very well. And Mr Bulygin tells us that the parties discussed each of the terms of the preliminary agreement, is that correct?
- A. I really do not know what Bulygin has conveyed.
- Q. What's your recollection? Do you think the parties discussed all of the terms?
- A. I believe that we agreed on everything at the Baltschug, everything that was necessary in order to put in place the joint business.
- Q. Can I ask you, please, if you still have bundle H(A)16 at page 47 in the Russian H(A)16/47, 47T in the English H(A)16/47T, to go back to the agreement that you made on that occasion.

I'd like you to look at page 48 H(A)16/48, 48T in the English H(A)16/48T.

I want you to look in particular, Mr Deripaska, at clause 4.1 of the agreement.

You see it reads:

"Parties 1 [that's Mr Abramovich] and 2 [that's you] warrant that, together with their partners (not including TWG or any companies and/or individuals related thereto or affiliated therewith), they own the assets and that the stated assets have not been pledged as security for the obligations of Parties 1 and 2 and are not subject to any third party rights, disputes or

attachments."

Now, I do not want to trespass on your action with Mr Chernoi by asking you about the reference here to your partners, I just want to ask you about the position of Mr Abramovich. Do you agree, Mr Deripaska, that by clause 4.1 Mr Abramovich is indicating that he does have partners which do not include the TWG group?

A. No.

Q. Is that not what the clause says, Mr Deripaska?

A. Bulygin was drafting this document in a hurry and I believe that it would have been much more appropriate to say "interested parties or stakeholders", judging from the context of this paragraph.

Q. You see, Mr Deripaska, I suggest to you that this clause was of particular importance to you because you wanted to ensure that you would not end up in a merger deal with your rival Trans-World Group, that is right, is it not?

A. I want to thank you very much for your concern but I would ask you to allow me to be what I am and to remain what I am, and to recall what I did and what I'm doing.

Q. You see, Mr Deripaska, Mr Bulygin's recollection is that each term was discussed. Are you saying that he is wrong about that?



A. Would you mind showing me the witness evidence that you are now referring to?

Q. Yes, it's at bundle E4, tab 1, page 5, paragraph 11 E4/01/5.

A. Would you like to read this out to me or shall I read it to myself?

Q. Well, why don't I read you what Mr Bulygin says here, Mr Deripaska. He says:

"The discussions [and he's talking about the Kempinski Hotel discussions] concluded by around 4.00 am or 5.00 am. Mr Abramovich then proposed that we should all travel to his home in Sareevo Village to celebrate the merger. I very much had the impression that, so far as Mr Abramovich was concerned, the deal had now been reached and there was no need to document our agreement straightaway. He seemed to think that a handshake was enough. Throughout the discussions he appeared calm and relaxed, despite the intensity of the discussions.

I drove with Mr Deripaska to Mr Abramovich's house where Mr Deripaska made it clear to me that, in view of its significance, he wanted to have the agreement we had just reached memorialised immediately in writing.

Accordingly, at Mr Abramovich's house we went back over the terms of the agreement, and, as we discussed each term, I typed in my laptop computer in Russian the

various provisions of the document which I titled the 'Preliminary Agreement'."

He then explains that he doesn't have the computer or the original version of that.

Does that help your recollection, Mr Deripaska?

A. Today I would be hard put to recall that Bulygin was typing away something on his computer.

Q. Very well.

Can I ask you, please, to look at clause 4.2 of the preliminary agreement H(A)16/48T.

"Party 1 [that's Mr Abramovich] --"

Sorry, I'll wait for you to get that.

"Party 1 [Mr Abramovich] warrants its and its partners' concerted will to sign the Agreement on the terms determined herein, and shall be fully liable to Party 2 for any action (omission) by its partners associated with the performance hereof."

Is it right that you were most anxious to ensure that Mr Abramovich warranted that his partners would consent to the transaction, Mr Deripaska?

A. No, and I can explain that in greater detail if that is of interest.

Q. Please do.

A. You see, the assets that Abramovich had acquired at that time were in a rather complex -- complicated condition.

All those factories were on the brink of bankruptcy, including the Achinsk plant, which had already been put under external management, was in administration. And unless swift action had been started, almost immediately, in order to achieve a recovery from the crisis -- and this is a production that cannot be stopped, this is a continuous production -- even if for one day they had fallen short of feedstock the assets would have been greatly damaged and harmed.

I was interested, I had a vested interest in making sure that everything that we had agreed upon be implemented very, very accurately and clearly in order to save those plants. Now, for that, all the interested persons had to act together, and that means the suppliers, the managers of those plants, those people who had trade relations with those plants. And this is exactly what I asked Mr Abramovich to ensure that it happened, to the extent that that was under his influence.

- Q. Mr Deripaska, none of those people were going to sign the merger agreement with you, that's right, isn't it?
- A. Well, if you allow me, I'd like to read the translation of what I've just said into English to make sure it was properly translated and then we can continue our discussion, with your permission.

MRS JUSTICE GLOSTER: Yes, please do. (Pause)

A. Thank you, thank you.

Would you mind repeating your question, please?

MR RABINOWITZ: Very well.

None of those people were going to sign the merger agreement with you and Mr Abramovich, that's right, is it not?

A. There was no need for this. Mr Abramovich assured me that he had total control of those assets, I mean with those people who were related to that.

Q. You see, Mr Deripaska, clause 4.2 H(A)16/48T is a clause directed to ensuring that it was Mr Abramovich and his partners' concerted will to sign the agreements on the terms set out herein.

But none of the people supplying feedstock and the like would have been party to this agreement at all, would they?

A. Could you ask a specific focused question?

Q. I thought I had, Mr Deripaska, and I'm not going to repeat it.

I'm going to ask you a different question.

Mr Shvidler signed this agreement and Mr Bulygin tells us that he assumed that Mr Shvidler was Mr Abramovich's partner in this enterprise. Did you also understand Mr Shvidler to be Mr Abramovich's

partner?

A. It's difficult for me to comment on what Mr Bulygin has said.

Q. That isn't what I asked you, Mr Deripaska. I asked you whether you understood Mr Shvidler to be Mr Abramovich's partner?

A. May I just comment again? You have asked me about what Bulygin knew, and my answer was that it's difficult for me to comment on what Bulygin knew.

So far as Mr Shvidler is concerned, it was probably the first time in my life that I had seen him at the Baltschug.

Q. Well, did you understand him to be Mr Abramovich's partner for the purpose of this transaction?

A. Mr Shvidler was very businesslike, very sure of himself, very tough.

MRS JUSTICE GLOSTER: The question is: did you think that Mr Shvidler, who signed the agreement, was a partner of Mr Abramovich at that time?

A. At that point in time it was very difficult for me to make any judgment. It was the first time that I was seeing the person. But he was very sure of himself. The way he conducted himself was very, very self-assured.

MR RABINOWITZ: Very well, I'm going to ask you a different

question then, Mr Deripaska.

It's right, is it not, that Mr Paul Hauser of the solicitors Bryan Cave assisted you between 11 March 2000 and 15 March 2000 in connection with the merger of your and Mr Abramovich's aluminium interests into what subsequently became Rusal?

A. Can I ask you two questions?

MRS JUSTICE GLOSTER: Yes. Put them, Mr Deripaska.

A. Number 1, what do you mean when you refer to Rusal?

Because there were very many legal entities at that time and it's important for me to make sure that we're talking about the same legal person, legal entity.

MR RABINOWITZ: I follow your concern, and let me slightly rephrase the question so we don't get hung up on the definition of Rusal or Rusal Holdings.

Is it right that Mr Paul Hauser of the solicitors Bryan Cave assisted you with your negotiations with Mr Abramovich in the period between 11 March 2000 and 15 March 2000? That is the period leading up to your merger agreement, sale and purchase agreement with Mr Abramovich. So I'm asking you about Mr Paul Hauser.

A. I was negotiating with Abramovich, one on one. It was between me and him. He was assisted by Mr Shvidler, I was assisted by Mr Bulygin.

Sorry, can I just adjust the translation. I did not

mean one on one, I meant on my own. I was negotiating with him on my own.

Q. You see, according to Mr Hauser, he has acted for you for many years and he was involved in assisting you in the merger of your aluminium interests with Mr Abramovich in what was later to become the Russian aluminium company, Rusal. That is what he says in his evidence, Mr Deripaska --

MR SUMPTION: My Lady, that has been put to Mr Deripaska as a statement by Mr Hauser. It's in fact taken from our witness summary of what we expect Mr Hauser to say. It really shouldn't be put as something that Mr Hauser has attached his own authority to.

MRS JUSTICE GLOSTER: Mr Deripaska, just to cut through this, what was Mr Hauser's role in this period so far as you were concerned? In what capacity was he acting for you, if he was?

A. Mr Hauser -- so far as I can recall, Mr Hauser was a legal adviser for my people in the sense that at that time I had a large corporate department of Sibirski Aluminium and he was one of the lawyers who was assisting them with legal matters.

MR RABINOWITZ: And he was assisting them with legal matters in relation to the transaction which took place in March 2000, correct?

A. Well, to be exact, I do not recall exactly what his role was. The person who was in charge of my corporate department was Stalbek Mishakov, and it was he who decided who would take part in the preparation of the documents and to what extent and how.

Q. Right. And Mr Mishakov, was he a lawyer? What was he?

A. He was head of the corporate department.

Q. And was he a qualified lawyer?

A. I think he was.

Q. And for how long had he been acting for you as at March 2000?

A. I have no exact recollection but at that time he was responsible for corporate matters.

Q. Very well.

Now, can I ask you next, please, to go to bundle H(A)83 at page 236 H(A)83/236.

Mr Deripaska, do you recognise this agreement?

A. No, I do not.

Q. Right. Well, it's a sale and purchase agreement, as you can see, dated 20 July 2004. If you go to page 244 H(A)83/244, you can see who the vendor and purchaser companies are.

So the vendor company is Cliren Investments Ltd and the purchaser company is Eagle Capital Group, formerly Baufinanz. Baufinanz or Eagle Capital Group is one of



your companies, is it not?

A. Yes, I recall there was such a company, Eagle, yes.

Q. And this is the agreement, Mr Deripaska, by which your company, Eagle Capital Group, acquired the outstanding 25 per cent of shares in Rusal Holding Limited that it did not already own in July 2004 for \$450 million. Do you remember this now?

A. What I'd like to say is that I get the feeling that I have never seen this agreement.

Could you formulate your question, please?

Q. Well, as I say, this was the agreement by which your company acquired the outstanding 25 per cent of shares in Rusal Holding Limited that it did not already own. But if you don't remember this agreement, I'm not going to take you to any particular provision.

Do you recall, Mr Deripaska, that before this acquisition by Eagle of the shares from Cliren, there was a document by which Mr Abramovich's company, Madison, transferred these 25 per cent of shares to Cliren so that they could be sold on to your company, or do you not recall that either?

I can show you the document but I don't expect it's going to help you very much.

A. What is your question?

Q. Well, do you recall that other transaction by which

Mr Abramovich's company, Madison, transferred the shares to Cliren so that they could be transferred by Cliren to your company?

A. Which shares? What is Cliren company?

Q. I can see I'm not going to get much assistance from you with these documents.

Can I ask you, please -- you can put that away -- to go to a document at H(A)76, page 106 H(A)76/106. Do you have that document in front of you, Mr Deripaska?

You should have in front of you, Mr Deripaska, a memorandum from Mr Hauser to Mr Mishakov, Stalbek Mishakov, dated 18 June 2004, in other words shortly before your purchase of the second tranche of Rusal shares, the second 25 per cent tranche.

Now, these were your two lawyers, Mr Mishakov was your corporate lawyer and Mr Hauser was the person that he had engaged. You probably have not seen this before, and I'm not suggesting you have, but as you can see Mr Hauser has produced this memo shortly after a telephone conversation he's had with Mr Mishakov, and he says:

"As I understand the position, Madison is today holding the 25%... in [Rusal Holding Limited] ... on behalf of B Company or that company's ultimate owners ('B')."

Read that first paragraph, if you would, to yourself, Mr Deripaska, unless you want me to read it to you?

A. Well, if you read it out to me, it will be easier for me to understand because the interpreter will translate it.

Q. He says:

"As I understand the position ..."

So this is Mr Hauser to Mr Mishakov obviously.

"... further to our telephone conversations ... today.

"As I understand the position, Madison [that's Mr Abramovich's company] is today holding the 25% shareholding in [Rusal Holdings Limited] (the 'Shares') on behalf of B Company or that company's ultimate owners ('B'). Madison (and perhaps thus [Mr Abramovich] himself) is therefore a trustee for B with respect to the Shares. As a trustee, Madison (and [Mr Abramovich]) are subject to the highest standards of responsibility and conduct which the law imposes (so-called 'fiduciary obligations'). Relations between [Mr Abramovich] and B have apparently broken down, and [Mr Abramovich] no longer wishes to deal directly with B. It also is assumed that [Mr Abramovich] would prefer to discontinue serving as B's trustee and so wishes to divest Madison of the Shares."

I'm not going to read the whole memo to you, Mr Deripaska, because what I want to ask you is this: are you able to offer an explanation as to how both Mr Hauser and Mr Mishakov, the lawyers who were working for you on this transaction --

MRS JUSTICE GLOSTER: Just a second, Mr Stanley, let him ask the question.

Don't answer the question until I've ruled on it, okay?

Right, please put the question again.

MR RABINOWITZ: Lots of people are going to jump up but I'll put the question anyway.

Are you able to offer an explanation, Mr Deripaska, as to how it is that both Mr Hauser and Mr Mishakov, two lawyers acting for you in this transaction, could have reached that understanding of the position as Mr Hauser refers to it?

MRS JUSTICE GLOSTER: Do you want to object to that?

MR STANLEY: Yes, I do, my Lady. I'll object on the basis of privilege though there might be other objections that one can make to it. It is asking this witness to speculate about how his lawyers could have reached a conclusion without -- if one wants to ask whether he had information which was relevant to that, that's a legitimate question. But to ask a witness how his

lawyers have reached a conclusion must, quite apart from the problems of speculation that it involves, and quite apart from the problems of asking him about someone else's document, it must involve asking, if it's to serve any purpose, prying into matters which are privileged.

MR RABINOWITZ: My Lady, he can say he doesn't know, and if he says he doesn't know, I can move on.

I can put the question differently, I can put the question in this way, I can ask him whether this information came from him.

MRS JUSTICE GLOSTER: Well, why don't you start --

MR STANLEY: No, my Lady. With respect, my learned friend cannot ask whether information to lawyers came from the client. That is absolutely a privileged matter. That is precisely the question that my learned friend cannot ask.

MRS JUSTICE GLOSTER: Right. Mr Rabinowitz, ask the witness whether he's seen the document before.

MR RABINOWITZ: I'll ask him that.

Have you seen this document before, Mr Deripaska?

A. No.

MRS JUSTICE GLOSTER: You can ask him, I think, Mr Rabinowitz, whether he had any knowledge about the contents of what is in this document, and I'm going to

allow you to explore that with him.

MR RABINOWITZ: Thank you.

Mr Deripaska, can you tell us whether you had any knowledge about the matters which Mr Mishakov and Mr Hauser are referring to here, or Mr Hauser is referring to here?

A. As I've already said, I've not seen this document.

Q. I'm going to move on, my Lady.

MRS JUSTICE GLOSTER: What's the answer?

MR RABINOWITZ: His answer to the second question was that he hadn't seen the document, which of course was the answer to the first question as well.

MRS JUSTICE GLOSTER: Mr Deripaska, in this first paragraph the suggestion is made that Madison, that's Mr Abramovich's company, is holding the 25 per cent shareholding in Rusal Holdings Limited on behalf of another company, called B Company, or that company's ultimate owners, B.

Is that something, or is that issue something that you knew anything about at that time?

A. No, I was not aware of that in any way.

MRS JUSTICE GLOSTER: Is that something you discussed at any time with Mr Abramovich, that his company, Madison, was holding the 25 per cent in Rusal Holdings Limited on behalf of a B Company or the company's ultimate owners,

B?

A. Could you assume who is meant here, whom they're talking about?

MRS JUSTICE GLOSTER: Do you assume that anyone is meant here as a result of your knowledge now or at the time?

A. My objective, my purposes, my objective was to do business with Mr Abramovich, and Mr Abramovich was -- and it was one of my conditions that we discussed at the meeting at the Baltschug, and I believe, and it appears to me, that it would be difficult for Mr Abramovich some time after that to start telling me that he might be having some other position with respect to those assets.

MRS JUSTICE GLOSTER: Right. Well, Mr Rabinowitz, I'm going to allow you to continue on the basis of what knowledge this witness had, if any, of these matters at the time. I'm permitting you to ask questions along that line but that's a matter for you, not the court, to do.

MR RABINOWITZ: My Lady, I am really reticent to get into matters where someone is going to claim privilege. We've got other witnesses we can ask about this.

MRS JUSTICE GLOSTER: Okay. All I'm saying is I'm permitting you, if you wish to do so, to continue cross-examining along those lines.

MR RABINOWITZ: He's answered your question, and I am actually concerned about the time because we're going

incredibly, incredibly slowly.

On that, I don't know whether your Ladyship is content to move on without a break. It is incredibly hot in here.

MRS JUSTICE GLOSTER: Mr Prokofiev, the interpreter, are you able to continue? You would like ten minutes?

THE INTERPRETER: If at all possible, my Lady, ten minutes would be helpful.

MRS JUSTICE GLOSTER: Ten minutes I'm going to take for the break.

MR RABINOWITZ: My Lady, he should probably be told --

MRS JUSTICE GLOSTER: Yes, Mr Deripaska, don't discuss your evidence with anybody, do you understand? And no telephone calls or anything of that sort, or texting.

Okay.

(3.12 pm)

(A short break)

(3.27 pm)

MR RABINOWITZ: Mr Deripaska, can I now ask you, please, about the meeting at the Dorchester Hotel on 13 March 2000. As I understand it, you were in London on 10 March 2000, is that correct?

A. I was in London in early May.

Q. But you were also in London on 10 March 2000, were you not?



- A. It's difficult for me to recall the dates, but in early May, at the beginning of May, I was in London, yes.
- Q. You see, according to evidence that Mr Abramovich's solicitors have been told Mr Hauser will give, you were in London at a meeting to discuss the merger with Mr Abramovich in the week including 10 March. Do you not recall that?
- A. Could I review the document that you're referring to?
- Q. You can certainly have a look at what I was referring to. That's at bundle E3, tab 15 at page 128 E3/15/128.

Mr Hauser, who is one of the lawyers who was working for you on this transaction, says this -- or has said that he's going to say this:

"On Saturday 11 March 2000 Mr Hauser attended a meeting at the Four Seasons Hotel on Park Lane with one of his partners [that's Mr Walter White], Mr Stalbek Mishakov ... Mr Eugene Tenenbaum ... Mr Hauser was informed that Mr Mishakov had attended meetings in London on the previous day, attended by Mr Deripaska, Mr Tenenbaum and Mr Abramovich..."

Do you see that?

- A. Which paragraph is this?
- Q. It's paragraph 2, Mr Deripaska.

A. And so what's the question?

Q. Well, I've asked whether you were in London on 10 March.

Perhaps I can help you in this way --

A. I was in London at the beginning of May, I have answered that question.

Q. It may be a translation problem. Can we be clear that Mr Deripaska understands the difference between March and May because he keeps answering my question about March by talking about being in London in May, Mr Translator.

A. You may have misheard. I was saying that I was in early March -- I was in London in early March, that's the third month of the year. May is the fifth month of the year.

Q. In fact, Mr Deripaska, you were in London on 10 March or are you disagreeing with that?

A. Once again, I recall that I was there at the beginning of March.

Q. You see, Mr Deripaska, in evidence that you have given in the proceedings that you have with Mr Chernoi, you have told the court that on 10 March you flew to London in a chartered plane from Moscow -- and that's, for anyone who wants to find this reference, at paragraph 95 of Mr Justice Christopher Clarke's judgment O2/5.079/23 -- and that you attended a meeting at the

Lanesborough Hotel that day.

MR STANLEY: No, my Lady, that's 2001. That's a completely different period. That's a crucial meeting for the Chernoi case, nothing to do with this case at all, and I think that is May 2001 -- March 2001, sorry.

MR RABINOWITZ: Thank you.

MRS JUSTICE GLOSTER: Forget that question, Mr Deripaska.

MR RABINOWITZ: Forget that question.

So you think you were there in early March. Do you say that you didn't attend meetings to discuss your merger with Mr Abramovich at the beginning of March in London?

A. You have confused me a little bit. Could you kindly focus on this and ask your question in specific terms and ask me -- and tell me what is it exactly that I have to forget from what you have been saying prior to this point in time?

Q. You have to forget nothing at all, Mr Deripaska. I'm asking you to remember.

Do you remember whether you were at a meeting in London in early March 2000 to discuss your merger with Mr Abramovich?

A. In early March I do recall being in London in order to realise and implement what we had agreed upon at the Baltschug Hotel.

Q. And then you fly back to Moscow and you tell us that you -- when you were back in Moscow -- were asked by Mr Abramovich to accompany him to London to meet Mr Berezovsky, correct?

A. You're referring to my witness evidence or to something else?

Q. I'm referring to your evidence, Mr Deripaska. Do you not remember this?

A. I do remember this, I'm just trying to understand because you keep jumping back and forth between various documents and I would like to hear a more specific question from you.

Q. Well, I'm trying my very hardest, Mr Deripaska. I'll ask the question again.

You were asked by Mr Abramovich to accompany him to London to meet Mr Berezovsky, is that correct?

A. When? When was that?

Q. Well, can you tell me whether you have ever been asked by Mr Abramovich to fly to London to meet Mr Berezovsky?

A. Yes, he did ask me to meet with him.

Q. And you tell me, please --

THE INTERPRETER: I'm so sorry, I'm not sure I understood whether it was the 12th or the 13th.

Mr Deripaska has just repeated it. It's 13 March.

MR RABINOWITZ: You say that on 13 March he asked you, or

that you flew back with him on 13 March? When do you say he asked you to fly back?

A. On the 13th. I believe that he asked me on the eve.

Q. So that would be 12 March because you flew on the 13th?

A. On the 11th or on the 12th, on the eve -- in Russian it means prior to that.

Q. So that would have been on the 12th because you flew on the 13th, okay?

MRS JUSTICE GLOSTER: Well, is that right, Mr Deripaska?

I mean, maybe you can't remember, but did Mr Abramovich ask you the 12th, the day before you flew on the 13th?

A. I do remember that he asked me prior to that. Whether it was in the evening of the 11th or on the 12th, I am afraid I cannot recollect now.

MRS JUSTICE GLOSTER: Okay.

MR RABINOWITZ: Now, can you recall what Mr Abramovich said to you when he asked you whether you would fly back with him to London to meet Mr Berezovsky?

A. He asked me to fly to London in order to meet with Berezovsky and with him.

Q. And that's all he said, is it, or did he say something else?

A. I am afraid I remember the principal theme.

MRS JUSTICE GLOSTER: What was the reason why he wanted you to fly back to London to meet Mr Berezovsky?

A. He asked me to do him a favour.

MR RABINOWITZ: Did Mr Abramovich tell you, when asking you to fly to meet Mr Berezovsky, that he had spoken to Mr Patarkatsishvili, and that it was Mr Patarkatsishvili who had asked him to fly to London to meet Mr Berezovsky?

A. I do not recall that, but it's hardly possible that he would have told me about Patarkatsishvili.

Q. Sorry, Mr Deripaska, can you just be clear in what you're saying. You say it's hardly possible that he would have told you about Mr Patarkatsishvili. Are you saying he didn't tell you that he'd had in fact two conversations with Mr Patarkatsishvili and that is why he was going back to London to meet Mr Berezovsky?

A. I have no recollection of that.

Q. And, again, just to be clear about this, are you saying you simply do not recall clearly, or are you saying you do recall clearly and Mr Abramovich did not tell you about his conversations with Mr Patarkatsishvili?

A. Once again, I apologise, it's very difficult for me to recollect such specific details ten years on, ten years after the events.

Q. Well, are you saying then that you don't have a clear recollection of this, but he might have mentioned Mr Patarkatsishvili?

A. If I may, I'd like to say what I want to say.

MRS JUSTICE GLOSTER: Yes, go on.

A. And I would like to say that I do not recall Abramovich saying anything about Patarkatsishvili.

MR RABINOWITZ: You see, Mr Deripaska, Mr Abramovich's evidence is that he called you after having two telephone conversations with Mr Patarkatsishvili, the first one in which he told Mr Patarkatsishvili about the merger agreement that he was making with you, and the second one in which Mr Patarkatsishvili told Mr Abramovich that Mr Berezovsky wanted to see him in London.

Are you saying that none of that was passed on to you by Mr Abramovich?

A. Most likely, yes.

Q. Most likely, yes, none of that was passed on to you?

A. What I want to say is that that kind of details would have been hardly appropriate for discussion at that time, and much less today, particularly today I cannot recollect those details.

Q. Well, you say those kind of details would have been hardly appropriate for discussion at that time. Which kind of details do you say would have been hardly appropriate for discussion at that time?

A. Why speculate? Please move on to the question.

Q. That was the question, Mr Deripaska. Tell me which details you say would have been hardly appropriate for discussion at that time?

A. The details of what, could you be more specific? The details of what?

Q. Mr Deripaska, in your answer to my question, earlier question, you said:

"What I want to say is that that kind of details would have been hardly appropriate for discussion at that time, and much less today..."

What I'm asking you is which details do you say would have been hardly appropriate for discussion at that time or today?

A. Well, maybe this was not entirely properly translated but I'll try to explain.

I believe that it stands to reason that the person who had been doing something prior to making calls to someone, he had had lunch or breakfast, went for a walk, he would not have been -- he would not be sharing that with the other person, the more so since the substance of the matter under discussion was entirely different, was something entirely different.

Q. Well, Mr Deripaska, your agreement with Mr Abramovich was subject to a confidentiality agreement, do you remember that?



A. Which one of the agreements?

Q. The preliminary agreement that you'd made with Mr Abramovich at the Baltshug Hotel, Kempinski Hotel, and at his house contained a confidentiality agreement, do you recall that?

A. If you don't mind, could I have sight of the agreement?

Q. It's at bundle H(A)16 at page 49 in the Russian H(A)16/49 and 49T in the English H(A)16/49T.

MRS JUSTICE GLOSTER: It is clause 13.

A. Yes, there is a provision to that effect there.

MR RABINOWITZ: And Mr Abramovich's evidence was that you were very concerned to keep this confidential. Was that right?

A. At that time I believed that the less information there is about my agreements with Abramovich with respect to those assets that were proposed to become part of the partnership, the better would it be for me to achieve a recovery from the crisis for those assets.

Q. You see, if Mr Abramovich was going to tell --

A. I would suggest that the interpreter uses the term "turnaround".

THE INTERPRETER: It's a very good term, we can use that. That's the interpreter's comment.

MR RABINOWITZ: If Mr Abramovich was going to tell Mr Patarkatsishvili and indeed Mr Berezovsky about your

agreement, he could not do so under this contract without your permission. Do you see?

A. Well, it's hard to speculate.

Q. Well, it may be hard to speculate but these were not inappropriate matters for Mr Abramovich to mention to you as to why you were going to London if, as he says, he had told Mr Patarkatsishvili about the merger agreement and Mr Berezovsky wanted to meet to hear about it in person. That must be right, must it not?

MRS JUSTICE GLOSTER: I think that's too long a question, Mr Rabinowitz.

MR RABINOWITZ: Do you agree that if Mr Abramovich was going to tell Mr Patarkatsishvili about your preliminary agreement, and that the reason he was flying to London to see Mr Berezovsky was to tell him about the agreement, then that was something that he would need to tell you about because of clause 13.

A. It's hard to speculate at this point in time.

Q. All right.

Now, on the next day, that's the 13th, because your conversation, you tell us, with Mr Abramovich was on the 12th, you got on a plane to see Mr Berezovsky in London. Did Mr Abramovich give you any explanation as to why the meeting with Mr Berezovsky was one which needed to be done at that time in London?

A. I do not recall that.

Q. Mr Berezovsky at that time lived in Moscow but Mr Abramovich was, having just returned from London, flying back to London to see Mr Berezovsky. But you say he didn't tell you why it was necessary to make that flight in a hurry in that way?

A. Could I (sic) repeat your question?

Q. I'm just asking you whether you understood from Mr Abramovich why it was necessary to fly to London to see Mr Berezovsky on the 13th when Mr Berezovsky lived in Moscow and would be returning to Moscow?

A. I do not recall where Berezovsky was living at that point in time.

Q. Is not the obvious reason why you were flying to London then because you needed to talk to your fellow merger partners, including Mr Berezovsky and Mr Patarkatsishvili, before 15 March when you hoped to complete the merger?

A. Ah, this is wrong.

Q. Mr Deripaska, can I consider with you the reasons that you give as to why you say you agreed to meet Mr Berezovsky by taking this 12- or 13-hour round trip to London, please.

The first reason you give, this is at paragraph 6 in your witness statement E4/08/151, is that you say you

were:

"... keen to build [up] a good relationship with Mr Abramovich ..."

And you thought that this would be:

"... a good opportunity to get to know Mr Abramovich and Mr Shvidler better."

Is that right?

A. Yes, that was one of the reasons.

Q. But, of course, you could always spend time with Mr Abramovich and Mr Shvidler in Moscow rather than having to fly all the way back to London to attend a meeting with people who you did not like. That's right, isn't it?

A. Well, number one, number one, I had not been informed about the fact that apart from Berezovsky there was going to be anyone else there.

Number two, Abramovich and Shvidler were very busy people, and I want to tell you that very often we met during nighttime because they had their own large chunk of business and they were dealing -- they were working in the oil business.

Number three, we had by that time spent a week working very diligently with respect to the merger of the assets, and it was necessary for me to spend some time with Abramovich because we had agreed that we would

be resolving all the matters that arose one on one, and he had an opportunity to influence the resolution of various matters, and I had to explain to him what the conditions were, how I had resolved the issue of the supply of feedstock, what we were going to do with respect to the outstanding debt, the payables of those plants, what we will be doing with respect to the marketing and distribution of the products produced by those plants. So I needed to spend some time with him because, after that, it would have been much easier for me to implement the things that we had been planning to implement.

Q. However busy they were, Mr --

A. Would you allow me to read the translation first, if I may?

MRS JUSTICE GLOSTER: Yes, please do. (Pause)

A. (Not interpreted) Number three, after number three.

(Interpreted) "We" refers to me and my people, my managers.

(Not interpreted) Supply not "feedstock", supply raw material.

(Interpreted) And in the last line, "I had been planning to implement", not "we".

Thank you.

MR RABINOWITZ: Thank you, Mr Deripaska.

If you and Mr Abramovich and Mr Shvidler needed to spend time together, you were both in London the previous week, were you not, the week including the day of 10 March?

- A. If I recall correctly, that visit, the time that I had spent in London before the 13th, I had spent a lot of time speaking with the suppliers of raw materials, with world traders, who worked on marketing matters. And if we had been discussing anything between Abramovich and myself then we definitely had not had enough time to take all the significantly important decisions.

But I would like to emphasise once again that the trip to London on the 13th was, let's say, a favour I was doing to Mr Abramovich at his personal request.

- Q. Well, you give a second reason in your witness statement as to why you say you wanted to -- or why you were willing to take this 13-hour round trip to meet someone who you didn't like, and that, you say, is because you were owed money by Mr Berezovsky. You say that was £8.5 million together with interest, is that right?
- A. What I want to say is that the party that you act for had been shirking from any conversation for over a year about how and when he would be repaying his debt.
- Q. Are you saying, Mr Deripaska, that you had previously asked Mr Berezovsky to repay this money and that he'd

failed to do so?

- A. What I want to say is that he had been trying to avoid a repayment of the debt for a long time. He knew that under the contract he had to repay the debt and when he had to repay the debt.
- Q. Are you saying you had asked him to repay the debt, on which you were getting interest, and that he had failed to do so?
- A. What I want to say is that he had been avoiding to have a meeting with me. How could I have asked him?
- Q. Well, Mr Deripaska, I'm sure that you had a fax, a telephone, even perhaps an email through which you could have contacted Mr Berezovsky. Isn't that right?
- A. I'm not sure that Mr Berezovsky knows how to use email.
- Q. Well, whether or not Mr Berezovsky knows how to use email, assuming you do, Mr Deripaska, you could have contacted one of his people, could you not?
- A. You may not be aware, but the person you act for did not have employees or people who worked for him. He was solo, he was a loner.
- Q. You see, Mr Deripaska, for all you knew, all it would have taken to sort out repayment was a phone call to Mr Berezovsky asking him to repay you. You didn't have to do anything as dramatic as to fly back to London on this 12-hour round trip to ask him for the money, did

you?

- A. I believe that when a borrower borrows money he is perfectly aware that there is a date of maturity, the time by which he has to repay the debt. All it takes is read the contract for that. And if that person is aware of what he's doing, he must be acting in accordance with that, he must be acting accordingly.

This is all I want to say.

- Q. Well, can I ask you this then. You see, Mr Berezovsky's evidence about this debt is that he was surprised that it hadn't been repaid. And your own evidence, this is at paragraph 9 E4/08/152, is that the question of your debt was only discussed very briefly and it was agreed that Mr Abramovich would take care of the debt, is that correct?

- A. I am not sure I understand what you mean when you say "surprised".

- Q. He was surprised that it hadn't been repaid. That is what his evidence is. Your evidence is that it was discussed --

- A. I would like to reiterate once again that the person had borrowed money from me several years prior to that, he had had to -- he should have repaid the money for a long time prior to that, and you believe he was surprised? It's not a small amount of money, it's not 10p.



- Q. No, it isn't, Mr Deripaska, nor would you have needed 10p, you had just done a transaction with Mr Abramovich which involved you agreeing to pay him around half a billion dollars, that's right, isn't it?
- A. I'd like to remind you that he had borrowed the money in 1997 and he should have repaid the money much earlier than this accidental meeting that took place at the Dorchester, and this is all I want to say.
- Q. What I have to suggest to you, Mr Deripaska, is that this question of the debt was a matter that was easily resolved and it was certainly not something that would have required a short notice flight by you back to London in order to deal with it. That is right, is it not?
- A. I believe that Berezovsky has a track record, a practice of forgetting about his personal liabilities and commitments and obligations. And I would like to call your attention to the fact that he -- when he was borrowing the money, he knew that he had to repay the money and he had to pay the interest. He was doing neither of those two.
- Q. Can we --
- A. And also when he had asked me about that, when he was asking me to lend him money, he was pleading with me because he needed that for his personal objectives. He

needed to buy some property, some real estate, and that was really touching, it was quite touching.

Q. Can we --

A. Just for the interpreter, once again the word was "pleading".

Q. Can we please look at your travel arrangements --

THE INTERPRETER: Mr Deripaska agrees with that term.

MR RABINOWITZ: Can you go to bundle H(A)18 at page 113, please H(A)18/113.

This is the itinerary which was prepared for this trip by Global Jet, and just taking you through this, it suggests that you took off from Moscow at around 11.00 am local time and that the flight would be for three and a half hours. Is that your recollection, Mr Deripaska?

A. I do not recall exactly when the departure time was.

Q. Right. And you see that you were flying on a Gulfstream V jet. Mr Abramovich tells us it's a very comfortable plane.

You were flying over lunchtime, were you served lunch on the plane?

MRS JUSTICE GLOSTER: What's the relevance of that,

Mr Rabinowitz?

MR RABINOWITZ: Your Ladyship will see in due course, I hope.

A. I would like to clarify that this is a draft, this is not a flight report from what I can see here. The date is 12 March.

Q. Do you recall whether you were served lunch on the plane? You may not recall it. And if you don't recall it just say so, please.

A. I -- unfortunately I'm afraid I cannot recall.

Q. According to this itinerary, you can tell us if this isn't your recollection, after arriving at Luton you then got a helicopter from Luton to Battersea in order to arrive there at 12 noon, is that your recollection? You may not have a precise recollection.

A. I'm afraid I cannot recall those details at this point in time.

Q. Well, we can pick up some of these details if you go to paragraph 7 of your witness statement E4/08/152.

You see at paragraph 7 you say that you travelled to London on Mr Abramovich's plane along with Mr Abramovich and Mr Shvidler on the morning of Monday 13 March 2000.

You then say this:

"We then went in separate cars to the Dorchester Hotel in Park Lane, where we were due to meet Mr Berezovsky some time in the early afternoon."

Is that right? You were due to meet him in the early afternoon?

A. Possibly.

Q. Well, that's what you say here.

According to that itinerary, you would have arrived at the Dorchester Hotel at around 12.30, possibly a little later, if you were coming from Battersea. Can you recall?

A. Unfortunately it's very difficult for me to recall the exact time. I apologise. I beg your indulgence.

Q. Don't apologise. If you can't remember, you can't remember.

Do you remember this, when you arrived at the lobby of the hotel, that's the Dorchester Hotel, did Mr Abramovich call up to the suite where Mr Patarkatsishvili was staying?

If you don't remember, just say so, Mr Deripaska.

A. I'm not sure that I will be able to recollect now. And, so far as I can remember, we used different cars.

Q. That's what you said in your witness statement and I'm content to accept that.

A. Maybe, possibly he arrived -- he and Shvidler arrived a little bit earlier.

Q. And Mr Patarkatsishvili was obviously content that you should go up to his suite, is that right, when you arrived?

A. I have no recollection of any of what you're referring

to.

Q. All right. Now, you tell us that the meeting took place in the early afternoon at Mr Patarkatsishvili's suite, that's what you say at paragraph 7. Does it follow that that meeting would have been, what, around 1.30/2 o'clock?

A. I will not speculate. I do not have a specific recollection but it was in the afternoon.

Q. Well, in the early afternoon you tell us.

When you arrived at the suite, you tell us that you found Mr Patarkatsishvili was there but that Mr Berezovsky turned up an hour or so late, is that right?

A. Yes, he appeared in a hour.

Q. And can you just tell us this, did you know that Mr Patarkatsishvili was going to be at the meeting with Mr Berezovsky or not?

A. I did not know that.

Q. So is the position this, that you flew with Mr Abramovich in the hope that you were going to build a relationship with him and that you arrived at the hotel to be met by someone who you did not like?

A. Can I let you know what I was thinking at that time?

MRS JUSTICE GLOSTER: Yes, please do.

MR RABINOWITZ: Please do.

A. I thought that I could use that time in order to resolve some issues which, as partners, we needed to discuss with Mr Abramovich, and I was thinking that I was doing him a favour which he asked me to do him by meeting with Berezovsky, and that I was doing -- I was trying to accommodate him.

Patarkatsishvili, whom I saw in the room, for me really he was a surprise.

Q. And how do you say you reacted when you arrived to find Mr Patarkatsishvili there, Mr Deripaska?

A. I do not recall myself reacting in any way.

Q. Now, I think you and Mr Abramovich both say Mr Berezovsky arrived an hour late. How do you say that Mr Berezovsky was dressed when he came into the part of Mr Patarkatsishvili's suite where you were waiting, Mr Deripaska?

A. Well, once again, I'd like to remind you of what I have already said.

I had been invited by Abramovich to attend a meeting with Berezovsky. I had had to spend an hour, almost an hour, waiting in that suite, and obviously I was speaking on the phone and doing other things with a person who was not very pleasant to me. I'm talking about Badri.

Now, an hour later Berezovsky, somewhat ruffled and

a little bit confused, turned up. When I say ruffled, I mean he was panting, his hair was not properly done. That's what I meant.

Q. My question to you was how do you say Mr Berezovsky was dressed, Mr Deripaska?

A. What do you mean?

Q. Well, was he wearing clothes?

A. Well, he was not naked.

Q. Was there anything about what he was wearing which was particularly striking to you?

A. I don't think he was wearing a tie, and I think there was a shirt, and above the shirt there was like a dressing gown or something like that.

Q. So you think he was wearing a shirt, what, trousers?

A. To be honest, I do not recall those details.

And I'm looking at the translation here. I'd like to ask the translator, what is a dressing gown?

THE INTERPRETER: My Lady, I've been explaining to Mr Deripaska what exactly a dressing gown is and he now agrees with my translation and my description. Thank you.

MR RABINOWITZ: Do you say that Mr Berezovsky was wearing trousers, Mr Deripaska?

MRS JUSTICE GLOSTER: If you don't remember, say so.

A. I do not remember.

MR RABINOWITZ: You see, Mr Deripaska, I have to suggest to you that all of this is just absurd and that you are making it up. Is that right?

MRS JUSTICE GLOSTER: I think you've got to be specific, what you're alleging he's making up.

MR RABINOWITZ: That he was wearing a dressing gown.

The suggestion that Mr Berezovsky was wearing a dressing gown is just nonsense, isn't it?

A. Well, I think that I know the person that you act for sufficiently well, and if he wants to portray himself as a businessman now is really overstating what the actual position was in the 1990s. He might have turned up in any form, even in the nude. That would have been quite in his character.

Q. You see, Mr Deripaska, you say nothing at all about this in your witness statement, do you?

A. My witness statement is the resume of what I have been telling my lawyers.

Q. You see, we know Mr Berezovsky's movements on the morning of 13 March 2000 and they are fully accounted for. Mr Berezovsky had come straight from the House of Lords and was running late for this meeting.

Did he tell you when he came in that he'd been in the House of Lords that morning?

A. No, nothing of the kind was said. More than that,



I think the fact that he was confused, and also what Badri said, to the best of my recollection, to the effect that "Boris is here, he's a little bit busy," and there was a snicker on his face.

Q. You said earlier that it would have been in

Mr Berezovsky's character to turn up in the nude. Did you ever see him in the nude, Mr Deripaska, or is this just an attempt on your part to smear Mr Berezovsky?

A. It's a Russian figure of speech.

Q. You see, I suggest to you, Mr Deripaska, that what you're saying is not true and you are simply saying this in order to try and smear Mr Berezovsky. Do you want to comment on that?

A. You are not right. Berezovsky has done enough smearing himself.

Q. Now, I want to move on from the more sensational aspects of your evidence to focus on the more substantial question that the court has to decide, namely what you say was discussed at the Dorchester Hotel.

THE INTERPRETER: I'm so sorry, I will repeat that in Russian. My apologies, my Lady.

MR RABINOWITZ: Now, you describe what you say was discussed during the meeting at paragraph 9 of your witness statement. Can you have a look at that? E4/08/152

You say that the meeting was very general, it lasted

less than an hour, and that you were content to say very little. Is that correct?

A. Yes, the meeting involving Berezovsky was also not a long one.

Q. Then if you go to paragraph 10 of your witness statement E4/08153, you say there that:

"We did not discuss the combining by Mr Abramovich and me of various of our aluminium assets ..."

Is that true?

A. Yes, this had all been resolved prior to that, one week -- more than a week prior to that meeting.

Q. Mr Deripaska, I have to suggest to you that that is simply not true.

Can I ask you, please, to go to bundle E1, tab 3 at page 85 E1/03/85. If you would prefer to read it in Russian, it's at page 186 E1/03/186.

We're looking at paragraph 166 of Mr Abramovich's statement. Do you have that, Mr Deripaska? Has someone given you that?

A. Yes, I have a document in front of me. If you don't mind I will read it. Is it 166? Prior to that there is a subheading "Meeting", "Dorchester Hotel Meeting", right?

Q. What I'm particularly interested in, Mr Deripaska, about nine lines down is Mr Abramovich's evidence was that his

understanding from Mr Patarkatsishvili was that:

"... Mr Berezovsky wanted to hear from me [that is Mr Abramovich] directly about the merger."

That is the reason Mr Abramovich explained he was flying back to London to see Mr Berezovsky, because Mr Berezovsky wanted to hear directly from him about the merger. Do you see that?

A. Yes, I have read this.

Q. And if the very purpose of the meeting, and the reason Mr Abramovich was flying back to London, was so that Mr Abramovich could tell Mr Berezovsky about the merger. It was inevitable, was it not, that the merger would be discussed, contrary to what you say in your witness statement?

A. I cannot comment on another person's witness statement. He writes what he -- the way he wants to write it. If you're interested, I'd like to recall once again that we had spent six or seven hours, about six or seven hours over the previous eight or nine days discussing all the necessary things and acts that we, and I mean myself and Abramovich, we had to undertake in order to put in place the partnership. And I think that I've done a good job explaining to Abramovich what aluminium business is all about, because neither himself nor Shvidler had had any profound understanding of that at the time we were

meeting, about the difficulties that might arise, that the plants can stop unless the raw materials are supplied regularly and unless all the other necessary materials are procured.

Therefore, your assumption that over 30 minutes one can discuss anything seriously I think, as of today, seems naive. And when you keep saying to me that I'm wrong or I am misled, you do it wittingly, you do it on purpose.

Q. Very well. You see, Mr Deripaska, I suggest to you that that was why you attended the meeting at short notice, not as a favour to Mr Abramovich or as a debt collector but to talk to Mr Berezovsky and Mr Patarkatsishvili about the merger. That is correct, is it not?

A. You are mistaken.

Q. Well, can I ask you, still looking at Mr Abramovich's witness statement, to go to paragraph 170, so it's just a page on in the English E1/03/86. Do you see at paragraph 170, Mr Abramovich says that:

"Once Mr Berezovsky arrived, it was a an informal meeting --"

MRS JUSTICE GLOSTER: I think you should read the previous sentence as well, the previous clause.

MR RABINOWITZ: "We met with Mr Patarkatsishvili in his hotel suite --"

MRS JUSTICE GLOSTER: Sorry, I mean all of paragraph 170,  
Mr Rabinowitz.

MR RABINOWITZ: "Once Mr Berezovsky arrived, it was an  
informal meeting, and did not involve business  
negotiations. We talked about the completed merger and  
our hopes that this would see an end to the bloody  
aluminium wars."

So Mr Abramovich says that you talked about the  
merger, but you say that's wrong, do you?

A. Well, maybe we're reading the -- we're reading different  
paragraphs. I see that Abramovich says here that it was  
awkward because we had spent one hour waiting, and it  
was awkward vis-a-vis myself, and I'm glad that ten  
years on this is the way he sees that situation.

Are we talking about the same paragraph?

Q. The next paragraph, paragraph 170, Mr Deripaska.

A. Oh, my apologies.

I do not recall that.

Q. Mr Deripaska, I have to suggest to you that the meeting  
at the Dorchester Hotel was a meeting of principals  
involved in the aluminium merger at which the topic of  
each side's respective partners was discussed. That is  
the truth, is it not?

A. You're profoundly, deeply wrong. Or you are  
deliberately saying something which is wrong.

Q. And what happened at that meeting, Mr Deripaska, was this. It was agreed that Mr Abramovich would hold 50 per cent of his interest in what was to become Rusal on trust for Mr Berezovsky and Mr Patarkatsishvili. Do you agree with that?

A. No.

Q. And it was also agreed that the trust under which Mr Abramovich would hold these shares or these interests would be governed by English law, the same law that you had agreed should govern the Rusal merger relationship? Do you agree with that?

A. No.

Q. And it was also agreed that none of the parties would sell their interests without the consent of the other parties, that is right, is it not?

A. Can I ask you?

MRS JUSTICE GLOSTER: Well, do you want elucidation of the question, because otherwise --

A. Yes, I just want to say who was it who could have formulated those assertions, the way you see it?

MR RABINOWITZ: This was agreed at that meeting, Mr Deripaska, between you, Mr Berezovsky, Mr Abramovich and Mr Patarkatsishvili, that none of you would sell without the consent of the others?

A. You know, when there is a business meeting, someone

offers something or makes an assertion, makes an affirmation.

Now, in your question I would like to be more clear about who you are saying could have offered something or who could have spoken about this in those terms or in the form in which you are now setting it out.

Q. Is that going to affect your answer to my question, Mr Deripaska? If I were to say Mr Abramovich formulated it in those terms, would you say "Yes, I remember it was agreed"?

A. No, it would have been clear that it just doesn't make any sense at all and it's totally absurd.

Q. So your question to me is a rhetorical one, is that right?

MRS JUSTICE GLOSTER: Don't let's go into that.

Put the question again if you want to,  
Mr Rabinowitz.

A. No, in this case --

MRS JUSTICE GLOSTER: Just put the question again,  
Mr Rabinowitz, and let the witness answer it.

MR RABINOWITZ: I'm going to ask the question once more,  
Mr Deripaska. See if you can answer it.

Do you accept that at this meeting it was agreed that none of the parties who were there would sell their interests in Rusal without the consent of the others?

A. That meeting did not discuss -- those matters were not even discussed at that meeting, and that's why I'm asking you who, in your opinion, could have submitted those proposals?

Q. My opinion doesn't matter, Mr Deripaska, it's your evidence which matters.

I'm going to move on --

A. Well, I think it does matter because this will immediately show you how absurd your position is and I just want to help you.

Q. That's very kind of you, Mr Deripaska.

MRS JUSTICE GLOSTER: Mr Deripaska, he's not asking you whether or not Mr Abramovich or you or Mr Patarkatsishvili or Mr Berezovsky put forward this proposal. His only question to you is, was it agreed? You've answered that question. Okay.

MR RABINOWITZ: There's just one other matter I would like to ask you about and that is your purchase from Mr Abramovich of a 25 per cent interest in Rusal on 17 September 2003 for \$1.568 billion. Do you recall that, Mr Deripaska?

A. Well, that was part of a large transaction which saw the end of our partnership with Roman.

Q. So you do recall it, do you?

A. I do recall that that was part of a larger -- a large



transaction which put an end to my partnership with Abramovich.

- Q. Can I ask you just to look at a document, it's at bundle H(A)64, page 27, please H(A)64/27. This is one of the share purchase agreements dated 17 September 2003 under which you acquired the 25 per cent interest from Mr Abramovich at that time.

If you go to page 35 H(A)64/35, you can see at the bottom of the page the purchase price of 1.568 billion that you were paying for those interests. Do you see that?

- A. I do not recall this document, and the amount is probably the one that we had agreed upon with Roman, give or take a few. But I do not recall, do not remember this document.

- Q. I want to show you another document if I may. Can you be given bundle H(A)65 and go to page 172, please H(A)65/172. Now, if you have page 172 it's called a "Deed of Pre-Emption and Option", and the purpose of this agreement --

THE INTERPRETER: I'm so sorry, Mr Rabinowitz, could you give me a second, please, I need to open -- which page did you say it was?

MR RABINOWITZ: H(A)65, page 172.

THE INTERPRETER: 172, thank you very much.

Thank you very much, Mr Rabinowitz.

MR RABINOWITZ: If you look at the recitals to this agreement, Mr Deripaska, you can see the purpose of this deed had been:

"... agreed by the Parties [the parties were Mr Abramovich's corporation Madison and your corporation Baufinanz] as of the Effective Date that the Grantor [that's Mr Abramovich's company] granted to [your company] a right of first refusal to purchase the entirety of the business interests [that was the remaining 25 per cent of Rusal] in the event that the Grantor proposes any transfer of [those interests] to any other Person."

Do you remember agreeing that?

A. I do not recall that document.

Q. I'll just show you one other provision, which is the second recital:

"It was further agreed by the Parties as of the Effective Date that in the event of a contemplated change of Ownership Rights, [your company] should be entitled to purchase the entirety of the Business Interests --"

A. I'm sorry, which paragraph are you referring to now?

MRS JUSTICE GLOSTER: Recital B, under "Whereas".

A. Yes.

MR RABINOWITZ: Do you want me to read that again,

Mr Deripaska?

"It was further agreed by the Parties as of the Effective Date that in the event of a contemplated change of Ownership Rights, the Option Holder should be entitled to purchase the entirety of the Business Interests in accordance with the terms of this Deed."

So the other thing that this agreement was doing was giving your company the right to acquire the remaining 25 per cent interest in Rusal if there was a change in the ownership rights in respect of the 25 per cent that Madison still held, do you understand that?

A. I can hear you reading it out.

Q. So this deed of pre-emption did not in fact grant you, Mr Deripaska, or your companies, an unrestricted option to purchase the remaining 25 per cent. It merely granted you a right of pre-emption or a right to acquire that arose in certain limited circumstances. That's correct, is it not?

A. Once again, I'd like to remind you that I did not remember this document and the chances are I've never seen it.

Could you be more specific in your question based on my position?

Q. Well, if you don't remember this document all I can do

is show you the provisions and ask you whether you remember them. But let me put this question to you, Mr Deripaska. This is the agreement -- this is one of the agreements that you entered into with Mr Abramovich in September 2003, okay? You can take that from me, please.

- A. Well, it is probably part of the large transaction that was implemented by my employees.
- Q. Very well. And what this agreement provides is that you have an option or a right of pre-emption that arises in limited circumstances, but what you do not have here is an unrestricted option to acquire these 25 per cent of shares at a fixed price. That is what this agreement provides? Do you recall this at all?
- A. It's very difficult for me to comment. I've already told you that I most probably have never seen this document, and I can see that it's signed by my employees, not even by myself.
- Q. You see, Mr Deripaska, what this document shows is that in September 2003 you had certainly not entered into any agreement with Mr Abramovich under which you were entitled to purchase the full 50 per cent of Rusal shares that he held at a fixed price. And that reflects the agreement you made with Mr Abramovich, does it not?
- A. I think that you are deliberately confusing the

situation. Could you simplify the question based on the understanding that, as I said to you, I've not seen this document. And please can you explain to me, on the whole, in general, what is it exactly that you want me -- what you want to find out from me.

Q. In September 2003, you had simply acquired from Mr Abramovich 25 per cent of the Rusal shares at a fixed price of around \$1.5 billion together with a right of pre-emption, which may or may not have arisen, to purchase the other 25 per cent of the shares at a price that had not been fixed. Is that correct?

A. I believe that it would be wrong to pluck just part of a transaction out of a larger transaction, the general transaction. If you want I can give you some comment on what happened and how it happened when we decided to put an end to our joint business between myself and Mr Abramovich.

MRS JUSTICE GLOSTER: Well, tell me in headline terms what the deal was.

A. In about the middle of 2003, Roman said that he would like to focus only on the oil business because there was a major transaction that he was working on at that time. And, in general, he suggested to me that we should put an end to our partnership. We spent a long time discussing what the price might be based on the

understanding that at that time we had three partnered businesses: we had one joint production of automobiles, of cars, car manufacturing business; we had a joint business in energy, power business; and we had a joint aluminium business.

The price that he wanted to get was quite high. I spoke with him and we discussed that and I took some time out in order to be able for me to discuss with the banks the possibility of raising finance for that.

These were amongst the largest of the transactions that were being implemented at that time in Russia and I decided on the amount which, in principle, I could raise with the banks. And I got back to him, I reverted to him, and it all happened in the second half of the summer 2003.

And after that, we came to an agreement as to how and in what way we were going to terminate that partnership. Now, after that, I instructed my people to draft those contracts that Mr Rabinowitz is referring to.

MRS JUSTICE GLOSTER: Right. Thank you.

A. So this is the description in headline -- in a headline form.

MRS JUSTICE GLOSTER: Thank you.

MR RABINOWITZ: Mr Deripaska, I suggest to you that that's

not quite right and that you did not agree to sell the full -- sorry, you did not seek to -- you did not at that stage enter into an agreement with respect to the full 50 per cent of the shares that Mr Abramovich held.

Do you dispute that?

A. Well, once again I'd like to remind you, if I may, that I went to talk to the banks and I realised, after that, that I can raise 1.9 -- about \$1.9 billion.

Q. I suggest to you also that the reason that you only acquired 25 --

A. Sorry, and the total amount, the total price of the transaction, if I remember correctly, for all the businesses was about \$2.3 billion, a little bit more than that, a little bit more than \$2.3 billion.

And so, therefore, those were difficult negotiations in terms of what assets will be bought out by myself at the initial stage and that's why it was structured the way it was done.

Q. Mr Deripaska, I suggest to you the reason that at that stage you did not acquire a full 50 per cent from Mr Abramovich was because you were told that only 25 per cent was available. Do you dispute that?

A. No, the reason is that I simply did not have sufficient funds available to me, I did not find sufficient funds immediately, and I can say that because I was actually

handling that transaction.

Q. All right. Can you go, please, to HG, tab 17 at page 158 H(G)17/158.

A. Would you allow me to suggest to the translator that he uses "deal" instead of "transaction". "Transaction" is usually something that you do in furtherance of the main deal. If the translator uses the word "deal" that will be more clearly understood.

THE INTERPRETER: That's his suggestion to the interpreter.

I fully agree, my Lady.

MRS JUSTICE GLOSTER: Right. What paragraph?

MR RABINOWITZ: Paragraph 52.

Just so you know what this is, Mr Deripaska, it's your own evidence contained in a witness statement that you yourself have made for the English court in your litigation dated 15 February 2008. Do you want to look at what you say at paragraph 52 in relation to the deal that was done in September 2003?

"Originally I made an offer in 2003 for Mr Abramovich's full 50 per cent interest, but I was told that only 25 per cent was available."

Was that true, Mr Deripaska?

A. Could you formulate your question again, please?

Q. I'm asking you whether the evidence that you gave to the English court in this witness statement was true?



- A. This witness statement definitely was true. I would just like to say that that statement, with respect to the jurisdiction matter only, and all the other events here, are described in the form of a resume only. What I'm giving you now is giving you a fuller explanation in response to your question.
- Q. However full your explanation may be now, Mr Deripaska, the reason you didn't buy the full 50 per cent was because you were told that only 25 per cent was available. That is right, is it not?
- A. Well, what I can do is only reiterate that, for me, the negotiations with banks were very difficult and, as a result of that, I was able to raise about 1.9 -- almost \$1.9 billion, and Abramovich then asked me to first put an end to our relationship with respect to the power business and the car manufacturing business because they were highly politically sensitive businesses and plants, if I can put it that way. And when he entered that complex oil-related deal he did not want to have any conflict of interest with the authorities.
- Q. Mr Deripaska, if that was the case, why did you not take an unrestricted option in respect of the 25 per cent remaining shares that Mr Abramovich held at a fixed price?

A. Which option?

Q. The option to acquire the remaining 25 per cent of shares from Mr Abramovich at a fixed price.

Let me start that somewhere else.

If the deal was that you were going to buy or that you agreed to buy the full 50 per cent of shares from Mr Abramovich in September 2003 at a fixed price, why did you not, in respect of the 25 per cent of shares that you were not buying at that time, take an unrestricted option to acquire those other shares at a fixed price at a time when you could afford to pay for those shares?

A. Well, first of all, you have to realise that this deal, and I'm reiterating that, that agreement between us was not just the sale and purchase of shares by some companies, we were putting an end to the partnership. And, in that case, when I received the full rider, the full freedom of action to build my business, it was very important for me at that time, and that, at the end of the day, resulted in the creation of the global company Rusal. The beginning was -- the beginning for that was the putting an end to the partnership with Roman. And, for me, it was sufficient to get those promises which he was giving to me.

MR RABINOWITZ: Thank you very much, Mr Deripaska. I don't

have any more questions for you.

MRS JUSTICE GLOSTER: Thank you, Mr Rabinowitz.

MR ADKIN: No questions.

MRS JUSTICE GLOSTER: Mr Sumption.

MR SUMPTION: No re-examination.

MRS JUSTICE GLOSTER: Thank you very much, Mr Deripaska, for giving your evidence by video-link. Thank you very much. You may be released.

THE WITNESS: Thank you.

(The witness withdrew)

MRS JUSTICE GLOSTER: Right, Mr Rabinowitz, Mr Sumption, Monday the witness will be? So I can read the statements.

MR SUMPTION: The next witness is Mr De Cort.

MRS JUSTICE GLOSTER: Yes, and he'll take all Monday, will he?

MR RABINOWITZ: My Lady, he certainly would have. My learned friend told me about five minutes ago, well, before we started the afternoon session, that some further disclosure has to be made in relation to Mr De Cort and that I'm likely to get those documents later today.

That may affect both the amount of time we need for Mr De Cort and indeed precisely when we can start because, at the moment, no one is very clear how many

documents there are or how significant they are. Now,

I will start as soon on Monday as I can --

MRS JUSTICE GLOSTER: Well, you've got the weekend,

Mr Rabinowitz.

MR RABINOWITZ: Well your Ladyship says that, and your

Ladyship can tell my wife that.

MRS JUSTICE GLOSTER: I think I'd rather leave that to you.

MR RABINOWITZ: I'd rather you did than I did.

MR SUMPTION: My learned friend can show his wife the

transcript.

MRS JUSTICE GLOSTER: Anyway see how you go.

I would quite like to know for various reasons how you see the timetable panning out in the light of the recent letter that you gave me, the parties sent me.

MR RABINOWITZ: Indeed. What the parties had hoped, my

Lady, is that at the end of Monday we would be able to have a fully informed discussion about it.

MRS JUSTICE GLOSTER: About scheduling?

MR RABINOWITZ: About scheduling.

MRS JUSTICE GLOSTER: Fine.

MR SUMPTION: Your Ladyship, will your Ladyship say 10.15

unless my learned friend asks for a slightly later start?

MRS JUSTICE GLOSTER: Yes, very well. 10.15 unless

Mr Rabinowitz asks for a later start. Very well.

(4.55 pm)

(The hearing adjourned until  
Monday, 21 November 2011 at 10.15 am)

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