

Yukos shareholders win on all substantive grounds of Russia’s appeal to Dutch Supreme Court and are confident the Court of Appeal will confirm \$50 billion Arbitral Awards

5 November, The Hague

The former Yukos majority shareholders today won on all substantive grounds of Russia’s appeal to the Dutch Supreme Court. However, the Dutch Supreme Court decided that certain factual allegations need to be reviewed in full (having been decided previously by the Court of Appeal on purely procedural grounds). Therefore, the Supreme Court has referred the case to the Court of Appeal in Amsterdam, which will review this one limited issue.

Tim Osborne, Chief Executive of GML, the holding company of the former Yukos majority shareholders, said: “We will study the Supreme Court ruling, but are confident that the Court of Appeal in Amsterdam will dismiss the baseless allegations raised by the Russian Federation, and the Arbitral Awards will be upheld.”

In 2014, an independent international Arbitral Tribunal in The Hague [ruled unanimously](#) that the Russian state unlawfully expropriated Yukos Oil, the country’s most successful company and largest taxpayer. The Tribunal found that “Russian courts bent to the will of Russian executive authorities to bankrupt Yukos, assign its assets to a state-controlled company [Rosneft] and incarcerate a man [Mikhail Khodorkovsky] who gave signs of becoming a political competitor.”

In February 2020, The Hague Court of Appeal [reinstated the Arbitral Awards](#), overturning a 2016 decision of The Hague District Court to set them aside. The Court of Appeal found that the Arbitral Tribunal had jurisdiction to hear the shareholders’ claims since the Russian Federation, whilst it had signed but not ratified the Energy Charter Treaty (ECT), had provisionally applied the ECT, including its provisions regarding dispute resolution. The Court of Appeal dismissed the Russian Federation’s other grounds for setting aside the Arbitral Awards.

Note to the editor:

GML, through its wholly-owned subsidiaries, Yukos Universal Limited and Hulley Enterprises Limited, together with Veteran Petroleum Limited were the majority shareholders of the former Yukos Oil Company. In 2005, they commenced arbitration proceedings against the Russian Federation pursuant to the Energy Charter Treaty, seeking compensation for the illegal expropriation of their investments.

In its [Final Awards](#) of 2014, the Arbitral Tribunal sitting in The Hague concluded that:

- “Russian courts bent to the will of Russian executive authorities to bankrupt Yukos, assign its assets to a State-controlled company, and incarcerated a man who gave signs of becoming a political competitor;
- the State’s campaign of intimidation and harassment not only disrupted the operations of Yukos but also contributed to its demise;
- the primary objective of the Russian Federation was not to collect taxes but rather to bankrupt Yukos and appropriate its valuable assets.”

The Russian Federation applied to the Dutch courts to have the Arbitral Awards set aside. National courts in The Netherlands have jurisdiction over the set-aside process since The Hague was the seat of the arbitration. In 2016, the District Court of The Hague decided to set aside the Arbitral Awards. It ruled that the Arbitral Tribunal did not have jurisdiction to hear the claims since the Russian Federation had signed but not ratified the Energy Charter Treaty (ECT), the legal basis for the arbitral proceedings.

In February 2020, in a [detailed 134-page judgment](#), the Court of Appeal of The Hague quashed the decision of the District Court and reinstated the Arbitral Awards. The Court of Appeal found that the Arbitral Tribunal did have jurisdiction to hear the claims brought by the former shareholders on the basis that the Russian Federation, whilst it had signed but not ratified the ECT, had provisionally applied the ECT, including its provisions regarding dispute resolution.

You can find more information on our website: www.gmllimited.com

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